

# FINAL BILL REPORT

## ESB 6537

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#### Synopsis as Enacted

**Brief Description:** Modifying requirements for the direct sale of wine to Washington state consumers.

**Sponsors:** Senators Kohl-Welles, Parlette, Hewitt, Honeyford, Keiser and McAuliffe; by request of Liquor Control Board.

**Senate Committee on Labor, Commerce, Research & Development**

**House Committee on Commerce & Labor**

**House Committee on Appropriations**

**Background:** Out-of-state wineries can ship two cases of wine per year to a Washington resident who is 21 or older but only if the state in which the winery is located has a reciprocal shipping agreement with Washington. Out-of-state wineries must first obtain a license from the Liquor Control Board (LCB) before they can ship wine to Washington residents. No taxes are collected on these shipments.

The shipping container used to ship wine from an out-of-state winery must be clearly labeled to indicate that the package cannot be delivered to a person under 21 years of age or to an intoxicated person.

The LCB must revoke an out-of-state winery's shipper license if the winery, shipper, or person in this state advertises for or solicits consumers to buy its wine.

In May 2005, the United States Supreme Court, in *Granholm v. Heald*, ruled that a state cannot prohibit out-of-state wineries from delivering wine to a resident of a state if it allows in-state wineries to do so. To allow otherwise violates the Commerce Clause of the U.S. Constitution.

**Summary:** Any properly licensed wine manufacturer, whether licensed by Washington or another state, may ship its wine to a Washington resident who is 21 or older. However, before the wine can be shipped, the winery must obtain a wine shipper's permit or be licensed as a domestic winery.

To qualify for a wine shipper's permit, the winery must meet the following requirements: (1) operate a winery located in the United States; (2) provide the LCB a copy of its valid license to manufacture wine; (3) certify that it holds all necessary state and federal licenses; and (4) register with the Department of Revenue (DOR). The LCB may charge a fee to issue the permit. Wineries that hold a certificate of approval are deemed to hold a wine shipper's permit.

Holders of a wine shipper's permit must pay the wine liter tax and collect and remit to DOR all applicable state and local taxes on all sales of wine delivered to buyers in this state. The prior requirements regarding packaging are continued for holders of wine shippers permits.

Out-of-state wineries selling to Washington residents must pay the same taxes on wine that are paid by distributors, but only on wine sold and shipped directly to Washington residents.

Domestic wineries are included in the requirement that out-of-state wineries must file a monthly report with LCB on the previous month's shipments. Wineries may advertise but the advertisement must include either the wine shipper's permit number, the certificate of approval number, or the in-state winery's license number.

**Votes on Final Passage:**

Senate	47	0
House	97	1

**Effective:** June 7, 2006