CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6661

Chapter 330, Laws of 2006

59th Legislature
2006 Regular Session

WASHINGTON BEER COMMISSION

EFFECTIVE DATE: 6/7/06 - Except section 26, which becomes effective 7/1/06.

Passed by the Senate March 4, 2006
YEAS 40  NAYS 0

BRAD OWEN
President of the Senate

Passed by the House March 1, 2006
YEAS 95  NAYS 3

FRANK CHOPP
Speaker of the House of Representatives

Approved March 29, 2006.

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is ENGROSSED SENATE BILL 6661 as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN
Secretary

FILED
March 29, 2006 - 4:46 p.m.

CHRISTINE GREGOIRE
Governor of the State of Washington

SECRETARY OF STATE
State of Washington
AN ACT Relating to establishing the Washington beer commission; amending RCW 66.44.800, 15.04.200, 42.17.31907, 42.56.380, and 43.23.033; reenacting and amending RCW 66.28.010; adding a new section to chapter 66.12 RCW; adding a new chapter to Title 15 RCW; providing an effective date; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. The legislature declares that:

(1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy;

(2) The sale in this state and export to other states and abroad of beer made in this state contribute substantial benefits to the economy of the state and provide a large number of jobs and sizeable tax revenues;

(3) The production of beer in this state is a new and important segment of Washington agriculture that has potential for greater contribution to the economy of the state if it undergoes continued development; and

(4) The general welfare of the people of this state will be served by continued development of the activities of the production of beer,
that will improve the tax bases of local communities where agricultural
land and processing facilities are located, and reduce the need for
state and federal funding of local services. The industries are
therefore affected with the public interest.

NEW SECTION. Sec. 2. The definitions in this section apply
throughout this chapter unless the context clearly requires otherwise.
(1) "Affected producer" means any producer who is subject to this
chapter.
(2) "Beer" means any malt beverage or malt liquor as the terms are
defined in chapter 66.04 RCW.
(3) "Commission" means the Washington beer commission.
(4) "Department" means the department of agriculture.
(5) "Director" means the director of the department or the
director's duly authorized representative.
(6) "Fiscal year" means the twelve-month period beginning with
January 1st of any year and ending December 31st.
(7) "Producer" means any person or other entity licensed under
Title 66 RCW to produce beer within Washington state and who produces
less than one hundred thousand barrels of beer annually per location.
(8) "Referendum" means a vote by affected producers that is
conducted by secret ballot.

NEW SECTION. Sec. 3. The history, economy, culture, and future of
Washington state's agriculture involve the beer industry. In order to
develop and promote beer as part of an existing comprehensive scheme to
regulate those products, the legislature declares that:
(1) It is vital to the continued economic well-being of the
citizens of this state and their general welfare that beer produced in
Washington state be properly promoted;
(2) It is in the overriding public interest that support for the
Washington beer industry be clearly expressed and that beer be promoted
individually, and as part of a comprehensive industry to:
(a) Enhance the reputation and image of Washington state's
agriculture industry;
(b) Protect the public by educating the public in reference to the
quality, care, and methods used in the production of beer;
(c) Increase the knowledge of the qualities and value of Washington's beer; and

(d) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of beer;

(3) This chapter is enacted in the exercise of the police powers of this state to protect the health, peace, safety, and general welfare of the people of this state; and

(4) The production and marketing of beer is a highly regulated industry and this chapter and the rules adopted under it are only one aspect of the regulated industry. Other laws applicable to the beer industry include:

(a) The organic food products act, chapter 15.86 RCW;
(b) The wholesale distributors and suppliers of malt beverages, chapter 19.126 RCW;
(c) Weights and measures, chapter 19.94 RCW;
(d) Title 66 RCW, alcoholic beverage control;
(e) Title 69 RCW, food, drugs, cosmetics, and poisons;
(f) 21 C.F.R. as it relates to general manufacturing practices, food labeling, food standards, food additives, and pesticide tolerances;
(g) Chapter 69.07 RCW, Washington food processing act;
(h) 27 U.S.C. Secs. 201 through 211, 213 through 219a, and 122A;
(i) 27 C.F.R. Parts 1, 6, 9, 10, 12, 16, 240, 251, and 252; and
(j) Rules under Title 314 WAC.

NEW SECTION. Sec. 4. (1) Subject to the referendum conducted under section 5 of this act, there is created an agricultural commodity commission, to be known as the Washington beer commission. The commission shall be comprised of seven voting members; six members shall be producers and one voting member shall be the director.

(2) Five voting members of the commission constitute a quorum for the transaction of any commission business.

(3) Each producer member shall be a citizen and resident of this state and over the age of twenty-one. Each producer member must be engaged in producing beer, and must, during his or her term of office, derive a substantial portion of income from the production of beer, or have a substantial investment in the production of beer as an owner, lessee, partner, or the manager or executive officer of such a
corporation. No more than one board member may be part of the same
person as defined by RCW 15.04.010. These qualifications apply
throughout each member's term of office but do not apply to the
director.

(4) The producer members shall serve three-year terms. Of the
initial voting members, two members shall be appointed for a one-year
term, two members shall be appointed for a two-year term, and two
members shall be appointed for a three-year term.

NEW SECTION. Sec. 5. (1) Upon receipt of a petition containing
the signatures of five beer producers from a statewide Washington state
craft brewing trade association or other affected producers to
implement this chapter and to determine producer participation in the
commission and assessment under this chapter, the director shall:

(a) Conduct a referendum of beer producers. The requirements of
assent or approval of the referendum are met if:

(i) At least fifty-one percent by numbers of affected producers
participating in the referendum vote affirmatively; and

(ii) Thirty percent of the affected producers and thirty percent of
the production have been represented in the referendum to determine
assent or approval of participation and assessment. The referendum
shall be conducted within sixty days of receipt of the petition; and

(b) Establish a list of beer producers from information provided by
the petitioners, by obtaining information on beer producers from
applicable producer organizations or associations or other sources
identified as maintaining the information. In establishing a current
list of beer producers and their individual production, the director
shall use the beer producer's name, mailing address, and production by
the producer in the preceding fiscal year. Information on each
producer shall be mailed to each beer producer on record with the
director for verification. All corrections shall be filed with the
director within twenty days from the date of mailing. The list of
affected producers shall be kept in a file by the director. The list
shall be certified as a true representation of the referendum mailing
list. Inadvertent failure to notify an affected producer does not
invalidate a proceeding conducted under this chapter. The director
shall provide the commission the list of affected producers after
assent in a referendum as provided in this section.
(2) If the director determines that the requisite assent has been given in the referendum conducted under subsection (1) of this section, the director shall:

(a) Within sixty days after assent of the referendum held, appoint the members of the commission; and

(b) Direct the commission to put into force the assessment as provided for in section 14 of this act.

(3) If the director determines that the requisite assent has not been given in the referendum conducted under subsection (1) of this section, the director shall take no further action to implement or enforce this chapter.

(4) Upon completion of the referendum conducted under subsection (1) of this section, the department shall tally the results of the vote and provide the results to affected producers. If an affected producer disputes the results of a vote, that producer within sixty days from the announced results, shall provide in writing a statement of why the vote is disputed and request a recount. Once the vote is tallied and distributed, all disputes are resolved, and all matters in a vote are finalized, the individual ballots may be destroyed.

(5) Before conducting the referendum provided for in subsection (1) of this section, the director may require the petitioners to deposit with him or her an amount of money as the director deems necessary to defray the expenses of conducting the referendum. The director shall provide the petitioners an estimate of expenses that may be incurred to conduct a referendum before any service takes place. Petitioners shall deposit funds with the director to pay for expenses incurred by the department. The commission shall reimburse petitioners the amount paid to the department when funds become available. However, if for any reason the referendum process is discontinued, the petitioners shall reimburse the department for expenses incurred by the department up until the time the process is discontinued.

(6) The director is not required to hold a referendum under subsection (1) of this section more than once in any twelve-month period.
director shall call for recommendations for commission member positions, and the director shall take into consideration recommendations made by a statewide Washington state craft brewing trade association or other affected producers. In appointing persons to the commission, the director shall seek a balanced representation on the commission that reflects the composition of the beer producers throughout the state on the basis of beer produced and geographic location. Information on beer production by geographic location shall be provided by the commission upon the director's request.

(2) If a position on the commission becomes vacant due to resignation, disqualification, death, or for any other reason, the commission shall notify the director and the unexpired term shall immediately be filled by appointment by the director.

(3) Each member or employee of the commission shall be reimbursed for actual travel expenses incurred in carrying out this chapter as defined by the commission in rule. Otherwise if not defined in rule, reimbursement for travel expenses shall be at the rates allowed by RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 7. Obligations incurred by the commission and any other liabilities or claims against the commission shall be enforced only against the assets of the commission and, except to the extent of such assets, no liability for the debts or actions of the commission exists against either the state of Washington or any subdivision or instrumentality thereof or against any member, employee, or agent of the commission or the state of Washington in his or her individual capacity. Except as otherwise provided in this chapter, neither the commission members, nor its employees, may be held individually responsible for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No person or employee may be held individually responsible for any act or omission of any other commission members. The liability of the commission members shall be several and not joint, and no member is liable for the default of any other member. This provision confirms that commission members have been and continue to be, state officers or volunteers for purposes of RCW 4.92.075 and are entitled to the
defenses, indemnifications, limitations of liability, and other protections and benefits of chapter 4.92 RCW.

NEW SECTION. Sec. 8. The commission shall:
(1) Elect a chair and officers. The officers must include a
treasurer who is responsible for all receipts and disbursements by the
commission and the faithful discharge of whose duties shall be
guaranteed by a bond at the sole expense of the commission. The
commission must adopt rules for its own governance that provide for the
holding of an annual meeting for the election of officers and the
transaction of other business and for other meetings the commission may
direct;
(2) Do all things reasonably necessary to effect the purposes of
this chapter. However, the commission has no rule-making power except
as provided in this chapter;
(3) Employ and discharge managers, secretaries, agents, attorneys,
and employees and engage the services of independent contractors;
(4) Retain, as necessary, the services of private legal counsel to
conduct legal actions on behalf of the commission. The retention of a
private attorney is subject to review by the office of the attorney
general;
(5) Receive donations of beer from producers for promotional
purposes under subsections (6) and (7) of this section and for fund-
raising purposes under subsection (8) of this section. Donations of
beer for promotional purposes may only be disseminated without charge;
(6) Engage directly or indirectly in the promotion of Washington
beer, including, without limitation, the acquisition in any lawful
manner and the dissemination without charge of beer. This
dissemination is not deemed a sale for any purpose and the commission
is not deemed a producer, supplier, or manufacturer, or the clerk,
servant, or agent of a producer, supplier, distributor, or
manufacturer. This dissemination without charge shall be for
agricultural development or trade promotion, and not for fund-raising
purposes under subsection (8) of this section. Dissemination for
promotional purposes may include promotional hosting and must in the
good faith judgment of the commission be in the aid of the marketing,
advertising, sale of beer, or of research related to such marketing,
advertising, or sale;
(7) Promote Washington beer by conducting unique beer tastings without charge;

(8) Beginning July 1, 2007, fund the Washington beer commission through sponsorship of up to twelve beer festivals annually at which beer may be sold to festival participants. For this purpose, the commission would qualify for issue of a special occasion license as an exception to WAC 314-05-020 but must comply with laws under Title 66 RCW and rules adopted by the liquor control board under which such events may be conducted;

(9) Participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, regulation, distribution, sale, or use of beer including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission;

(10) Acquire and transfer personal and real property, establish offices, incur expenses, and enter into contracts, including contracts for the creation and printing of promotional literature. The contracts are not subject to chapter 43.78 RCW, and are cancelable by the commission unless performed under conditions of employment that substantially conform to the laws of this state and the rules of the department of labor and industries. The commission may create debt and other liabilities that are reasonable for proper discharge of its duties under this chapter;

(11) Maintain accounts with one or more qualified public depositories as the commission may direct, for the deposit of money, and expend money for purposes authorized by this chapter by drafts made by the commission upon such institutions or by other means;

(12) Cause to be kept and annually closed, in accordance with generally accepted accounting principles, accurate records of all receipts, disbursements, and other financial transactions, available for audit by the state auditor;

(13) Create and maintain a list of producers and disseminate information among and solicit the opinions of producers with respect to the discharge of the duties of the commission, directly or by arrangement with trade associations or other instrumentalities;

(14) Employ, designate as an agent, act in concert with, and enter into contracts with any person, council, commission, or other entity to promote the general welfare of the beer industry and particularly to
assist in the sale and distribution of Washington beer in domestic and
foreign commerce. The commission shall expend money necessary or
advisable for this purpose and to pay its proportionate share of the
cost of any program providing direct or indirect assistance to the sale
and distribution of Washington beer in domestic or foreign commerce,
employing and paying for vendors of professional services of all kinds;
(15) Sue and be sued as a commission, without individual liability
for acts of the commission within the scope of the powers conferred
upon it by this chapter; and
(16) Serve as liaison with the liquor control board on behalf of
the commission and not for any individual producer.

NEW SECTION. Sec. 9. (1) The commission shall develop and submit
to the director for approval any plans, programs, and projects
concerning the following:
   (a) The establishment, issuance, effectuation, and administration
of appropriate programs or projects for advertising, promotion, and
education programs related to beer; and
   (b) The establishment and effectuation of market research projects,
market development projects, or both to the end that the marketing of
beer may be encouraged, expanded, improved, or made more efficient.
   (2) The director shall review the commission's advertising or
promotion program to ensure that no false claims are being made
concerning beer.
   (3) The commission, before the beginning of its fiscal year, shall
prepare and submit to the director for approval its research plan, its
commodity-related education and training plan, and its budget on a
fiscal period basis.
   (4) The director shall strive to review and make a determination of
all submissions described in this section in a timely manner.

NEW SECTION. Sec. 10. The commission exists primarily for the
benefit of the people of the state of Washington and its economy. The
legislature hereby charges the commission, with oversight by the
director, to speak on behalf of the Washington state government with
regard to the marketing and promotion of Washington produced beer.
NEW SECTION.  **Sec. 11.** The commission may create, provide for, and conduct a comprehensive and extensive research, promotional, and educational campaign as sales and market conditions reasonably require. It shall investigate and ascertain the needs of producers, conditions of markets, and degree of public awareness of products, and take into account this information in the discharge of its duties under this chapter.

NEW SECTION.  **Sec. 12.** The commission shall adopt as major objectives of its research, promotional, and educational campaign goals that serve the needs of producers. The goals may include efforts to:

1. Establish Washington beer as a major factor in markets everywhere;
2. Promote Washington breweries as tourist attractions;
3. Encourage favorable reporting of Washington beer and breweries in the press throughout the world;
4. Establish Washington beer in markets everywhere as a major source of premium beer;
5. Encourage favorable legislative and regulatory treatment of Washington beer in markets everywhere;
6. Encourage promotion of Washington agriculture related to beer production, specifically hops, malting barley, and wheat grown in the state; and
7. Foster economic conditions favorable to investment in the production of Washington beer.

NEW SECTION.  **Sec. 13.** (1) The commission shall prepare a list of all affected producers from information available from the liquor control board, the department, or the producers' association. This list must contain the names and addresses of affected producers within this state and the amount, by barrelage, of beer produced during the period designated by the commission. A qualified person may, at any time, have his or her name placed upon the list by delivering or mailing the information to the commission. This list shall be corrected and brought up-to-date in accordance with evidence and information available to the commission by December 31st of each year. For the purposes of giving notice and holding referendums, the list updated before the date for issuing notices or ballots is the list of
(2) It is the responsibility of affected producers to ensure that their correct address is filed with the commission. It is also the responsibility of affected producers to submit production data to the commission as prescribed by this chapter.

(3) The commission shall develop a reporting system to document that the affected producers in this state are reporting quantities of beer produced and are paying the assessment as provided in section 14 of this act.

NEW SECTION. Sec. 14. (1) Pursuant to referendum in accordance with section 5 of this act, there is levied, and the commission shall collect, upon beer produced by an affected producer, an annual assessment of ten cents per barrel of beer produced, up to ten thousand barrels per location.

(2) The commission shall adopt rules prescribing the time, place, and method for payment and collection of this assessment and provide for the collection of assessments from affected producers who ship directly out-of-state.

(3) The commission may reduce the assessment per affected producer based upon in-kind contributions to the commission.

NEW SECTION. Sec. 15. The commission shall deposit money collected under section 14 of this act in a separate account in the name of the commission in any bank that is a state depositary. All expenditures and disbursements made from this account under this chapter may be made without the necessity of a specific legislative appropriation. RCW 43.01.050 does not apply to this account or to the money received, collected, or expended as provided in this chapter.

NEW SECTION. Sec. 16. An assessment levied in an amount determined by the commission under section 14 of this act constitutes a personal debt of every person assessed or who otherwise owes the assessment, and the assessment is due and payable to the commission when payment is called for by the commission. If a producer fails to pay the commission the full amount of the assessment by the date due,
the commission may add to the unpaid assessment an amount not exceeding
ten percent of the assessment to defray the cost of enforcing its
collection. If the person fails to pay an assessment, the commission
may bring a civil action for collection against the person or persons
in a court of competent jurisdiction. The action shall be tried and
judgment rendered as in any other cause of action for a debt due and
payable.

NEW SECTION. Sec. 17. (1) Under RCW 42.56.380, certain
agricultural business records, commission records, and department of
agriculture records relating to the commission and producers of
agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to
either the department or the commission for the purpose of
administering this chapter may be shared between the department and the
commission. They may also be used, if required, in any suit or
administrative hearing involving this chapter.

(3) This section does not prohibit:

(a) The issuance of general statements based upon the reports of
persons subject to this chapter as long as the statements do not
identify the information furnished by any person; or

(b) The publication by the director or the commission of the name
of any person violating this chapter and a statement of the manner of
the violation by that person.

NEW SECTION. Sec. 18. (1) All costs incurred by the department,
including the adoption of rules and other actions necessary to carry
out this chapter, shall be reimbursed by the commission.

(2) The director may provide by rule for a method to fund staff
support for all commodity boards or commissions in accordance with RCW
43.23.033 if a position is not directly funded by the legislature and
costs are related to the specific activity undertaken on behalf of an
individual commodity board or commission. The commission shall provide
funds to the department according to the rules adopted by the director.

NEW SECTION. Sec. 19. County and state law enforcement officers,
the liquor control board and its enforcement agents, and employees of
the department shall enforce this chapter.
NEW SECTION. Sec. 20. (1) Any prosecution brought under this chapter may be instituted in any county in which the defendant or any defendant resides, or in which the violation was committed, or in which the defendant or any defendant has his or her principal place of business.

(2) The superior courts may enforce this chapter and the rules and regulations of the commission issued hereunder, and may prevent and restrain violations thereof.

NEW SECTION. Sec. 21. This act shall be liberally construed to effectuate its purposes.

Sec. 22. RCW 66.44.800 and 1987 c 452 s 17 are each amended to read as follows:

(1) Nothing contained in chapter 15.88 RCW shall affect the compliance by the Washington wine commission with this chapter.

(2) Nothing contained in chapter 15.-- RCW (sections 1 through 21 of this act) shall affect the compliance by the Washington beer commission with this chapter.

NEW SECTION. Sec. 23. A new section is added to chapter 66.12 RCW to read as follows:

The Washington beer commission created under section 4 of this act may purchase or receive donations of beer or malt beverages from any brewery, in any state, or in any country and may use such beer or malt beverages for any promotional purposes as outlined in section 8 of this act. Beer and malt beverages that are furnished to the commission under this section that are used within the state are subject to the taxes imposed under RCW 66.24.290. No license, permit, or bond is required of the Washington beer commission under this title for promotional activities conducted under chapter 15.-- RCW (sections 1 through 21 of this act).

Sec. 24. RCW 15.04.200 and 1987 c 452 s 16 are each amended to read as follows:

(1) Under the authority of Article VIII of the state Constitution as amended, agricultural commodity commission expenditures for agricultural development or trade promotion and promotional hosting by
an agricultural commodities commission under chapters 15.24, 15.28, 15.44, 15.65, 15.66, 15.88, 15.-- (sections 1 through 21 of this act), and 16.67 RCW shall be pursuant to specific budget items as approved by the agricultural commodity commission at the annual public hearings on the agricultural commodity commission budget.

(2) Agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission employees, agents or commissioners. The rules shall identify officials and agents authorized to make expenditures and the objectives of the expenditures. Individual agricultural commodity commission commissioners shall make promotional hosting expenditures, or seek reimbursements for these expenditures, only in those instances where the expenditures have been approved by the agricultural commodity commission. All payments and reimbursements shall be identified and supported on vouchers.

(3) Agricultural commodity commissions shall be exempt from the requirements of RCW 43.01.090 and 43.19.500 and chapter 43.82 RCW.

Sec. 25. RCW 42.17.31907 and 2002 c 313 s 66 are each amended to read as follows:

The following agricultural business records and commodity board and commission records are exempt from the disclosure requirements of this chapter:

(1) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act), and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;

(2) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture; and

(3) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of
conducting a referendum for the potential establishment of a commodity board or commission; (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act), or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information.

Sec. 26. RCW 42.56.380 and 2005 c 274 s 418 are each amended to read as follows:

The following information relating to agriculture and livestock is exempt from disclosure under this chapter:

(1) Business-related information under RCW 15.86.110;

(2) Information provided under RCW 15.54.362;

(3) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act), and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;

(4) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture;

(5) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act), or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information;

(6) Except under RCW 15.19.080, information obtained regarding the purchases, sales, or production of an individual American ginseng grower or dealer;
(7) Information that can be identified to a particular business and that is collected under section 3(1), chapter 235, Laws of 2002; and
(8) Financial statements provided under RCW 16.65.030(1)(d).

Sec. 27. RCW 43.23.033 and 2002 c 313 s 78 are each amended to read as follows:

(1) The director may provide by rule for a method to fund staff support for all commodity boards and commissions if a position is not directly funded by the legislature.

(2) Staff support funded under this section and RCW 15.65.047(1)(c), 15.66.055(3), 15.24.215, 15.26.265, 15.28.320, 15.44.190, 15.88.180, section 18 of this act, and 16.67.190 shall be limited to one-half full-time equivalent employee for all commodity boards and commissions.

Sec. 28. RCW 66.28.010 and 2004 c 160 s 9 and 2004 c 62 s 1 are each reenacted and amended to read as follows:

(1)(a) No manufacturer, importer, distributor, or authorized representative, or person financially interested, directly or indirectly, in such business; whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, unless the retail business is owned by a corporation in which a manufacturer or importer has no direct stock ownership and there are no interlocking officers and directors, the retail license is held by a corporation that is not owned directly or indirectly by a manufacturer or importer, the sales of liquor are incidental to the primary activity of operating the property as a hotel, alcoholic beverages produced by the manufacturer or importer or their subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation or the retail licensee; nor shall any manufacturer, importer, distributor, or authorized representative own any of the property upon which such licensed persons conduct their business; nor shall any such licensed person, under any arrangement whatsoever, conduct his or her business upon property in which any manufacturer, importer, distributor, or authorized representative has any interest unless title to that property is owned
by a corporation in which a manufacturer has no direct stock ownership
and there are no interlocking officers or directors, the retail license
is held by a corporation that is not owned directly or indirectly by
the manufacturer, the sales of liquor are incidental to the primary
activity of operating the property either as a hotel or as an
amphitheater offering live musical and similar live entertainment
activities to the public, alcoholic beverages produced by the
manufacturer or any of its subsidiaries are not sold at the licensed
premises, and the board reviews the ownership and proposed method of
operation of all involved entities and determines that there will not
be an unacceptable level of control or undue influence over the
operation of the retail licensee. Except as provided in subsection (3)
of this section, no manufacturer, importer, distributor, or authorized
representative shall advance moneys or moneys' worth to a licensed
person under an arrangement, nor shall such licensed person receive,
under an arrangement, an advance of moneys or moneys' worth. "Person"
as used in this section only shall not include those state or federally
chartered banks, state or federally chartered savings and loan
associations, state or federally chartered mutual savings banks, or
institutional investors which are not controlled directly or indirectly
by a manufacturer, importer, distributor, or authorized representative
as long as the bank, savings and loan association, or institutional
investor does not influence or attempt to influence the purchasing
practices of the retailer with respect to alcoholic beverages. Except
as otherwise provided in this section, no manufacturer, importer,
distributor, or authorized representative shall be eligible to receive
or hold a retail license under this title, nor shall such manufacturer,
importer, distributor, or authorized representative sell at retail any
liquor as herein defined. A corporation granted an exemption under
this subsection may use debt instruments issued in connection with
financing construction or operations of its facilities.

(b) Nothing in this section shall prohibit a licensed domestic
brewery or microbrewery from being licensed as a retailer pursuant to
chapter 66.24 RCW for the purpose of selling beer or wine at retail on
the brewery premises and nothing in this section shall prohibit a
domestic winery from being licensed as a retailer pursuant to chapter
66.24 RCW for the purpose of selling beer or wine at retail on the
winery premises. Such beer and wine so sold at retail shall be subject
to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting
and bonding requirements as prescribed by regulations adopted by the
board pursuant to chapter 34.05 RCW, and beer and wine that is not
produced by the brewery or winery shall be purchased from a licensed
beer or wine distributor.

(c) Nothing in this section shall prohibit a licensed distiller,
 domestic brewery, microbrewery, domestic winery, or a lessee of a
licensed domestic brewer, microbrewery, or domestic winery, from being
licensed as a spirits, beer, and wine restaurant pursuant to chapter
66.24 RCW for the purpose of selling liquor at a spirits, beer, and
wine restaurant premises on the property on which the primary
manufacturing facility of the licensed distiller, domestic brewer,
microbrewery, or domestic winery is located or on contiguous property
owned or leased by the licensed distiller, domestic brewer,
microbrewery, or domestic winery as prescribed by rules adopted by the
board pursuant to chapter 34.05 RCW.

(d) Nothing in this section prohibits retail licensees with a
caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from
operating on a domestic winery premises.

(e) Until July 1, 2007, nothing in this section prohibits a
nonprofit statewide organization of microbreweries formed for the
purpose of promoting Washington's craft beer industry as a trade
association registered as a 501(c) with the internal revenue service
from holding a special occasion license to conduct up to six beer
festivals.

(2) Financial interest, direct or indirect, as used in this
section, shall include any interest, whether by stock ownership,
mortgage, lien, or through interlocking directors, or otherwise.
Pursuant to rules promulgated by the board in accordance with chapter
34.05 RCW manufacturers, distributors, and importers may perform, and
retailers may accept the service of building, rotating and restocking
case displays and stock room inventories; rotating and rearranging can
and bottle displays of their own products; provide point of sale
material and brand signs; price case goods of their own brands; and
perform such similar normal business services as the board may by
regulation prescribe.

(3)(a) This section does not prohibit a manufacturer, importer, or
distributor from providing services to a special occasion licensee for:
(i) Installation of draft beer dispensing equipment or advertising, (ii) advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, or (iii) a special occasion licensee from receiving any such services as may be provided by a manufacturer, importer, or distributor. Nothing in this section shall prohibit a retail licensee, or any person financially interested, directly or indirectly, in such a retail licensee from having a financial interest, direct or indirect, in a business which provides, for a compensation commensurate in value to the services provided, bottling, canning or other services to a manufacturer, so long as the retail licensee or person interested therein has no direct financial interest in or control of said manufacturer.

(b) A person holding contractual rights to payment from selling a liquor distributor's business and transferring the license shall not be deemed to have a financial interest under this section if the person (i) lacks any ownership in or control of the distributor, (ii) is not employed by the distributor, and (iii) does not influence or attempt to influence liquor purchases by retail liquor licensees from the distributor.

(c) The board shall adopt such rules as are deemed necessary to carry out the purposes and provisions of subsection (3)(a) of this section in accordance with the administrative procedure act, chapter 34.05 RCW.

(4) A license issued under RCW 66.24.395 does not constitute a retail license for the purposes of this section.

(5) A public house license issued under RCW 66.24.580 does not violate the provisions of this section as to a retailer having an interest directly or indirectly in a liquor-licensed manufacturer.

NEW SECTION. Sec. 29. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 30. Sections 1 through 21 of this act constitute a new chapter in Title 15 RCW.
NEW SECTION. Sec. 31. Section 25 of this act expires July 1, 2006.

NEW SECTION. Sec. 32. Section 26 of this act takes effect July 1, 2006.

Passed by the Senate March 4, 2006.
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