
SENATE BILL 5709

State of Washington

61st Legislature

2009 Regular Session

By Senators Murray, Honeyford, King, and Marr

Read first time 01/29/09. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to craft winery development; amending RCW
2 66.04.010; and adding a new section to chapter 66.24 RCW.

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

4 **Sec. 1.** RCW 66.04.010 and 2008 c 94 s 4 are each amended to read
5 as follows:

6 In this title, unless the context otherwise requires:

7 (1) "Alcohol" is that substance known as ethyl alcohol, hydrated
8 oxide of ethyl, or spirit of wine, which is commonly produced by the
9 fermentation or distillation of grain, starch, molasses, or sugar, or
10 other substances including all dilutions and mixtures of this
11 substance. The term "alcohol" does not include alcohol in the
12 possession of a manufacturer or distiller of alcohol fuel, as described
13 in RCW 66.12.130, which is intended to be denatured and used as a fuel
14 for use in motor vehicles, farm implements, and machines or implements
15 of husbandry.

16 (2) "Authorized representative" means a person who:

17 (a) Is required to have a federal basic permit issued pursuant to
18 the federal alcohol administration act, 27 U.S.C. Sec. 204;

1 (b) Has its business located in the United States outside of the
2 state of Washington;

3 (c) Acquires ownership of beer or wine for transportation into and
4 resale in the state of Washington; and which beer or wine is produced
5 anywhere outside Washington by a brewery or winery which does not hold
6 a certificate of approval issued by the board; and

7 (d) Is appointed by the brewery or winery referenced in (c) of this
8 subsection as its exclusive authorized representative for marketing and
9 selling its products within the United States in accordance with a
10 written agreement between the authorized representative and such
11 brewery or winery pursuant to this title. The board may waive the
12 requirement for the written agreement of exclusivity in situations
13 consistent with the normal marketing practices of certain products,
14 such as classified growths.

15 (3) "Beer" means any malt beverage, flavored malt beverage, or malt
16 liquor as these terms are defined in this chapter.

17 (4) "Beer distributor" means a person who buys beer from a domestic
18 brewery, microbrewery, beer certificate of approval holder, or beer
19 importers, or who acquires foreign produced beer from a source outside
20 of the United States, for the purpose of selling the same pursuant to
21 this title, or who represents such brewer or brewery as agent.

22 (5) "Beer importer" means a person or business within Washington
23 who purchases beer from a beer certificate of approval holder or who
24 acquires foreign produced beer from a source outside of the United
25 States for the purpose of selling the same pursuant to this title.

26 (6) "Brewer" or "brewery" means any person engaged in the business
27 of manufacturing beer and malt liquor. Brewer includes a brand owner
28 of malt beverages who holds a brewer's notice with the federal bureau
29 of alcohol, tobacco, and firearms at a location outside the state and
30 whose malt beverage is contract-produced by a licensed in-state
31 brewery, and who may exercise within the state, under a domestic
32 brewery license, only the privileges of storing, selling to licensed
33 beer distributors, and exporting beer from the state.

34 (7) "Board" means the liquor control board, constituted under this
35 title.

36 (8) "Club" means an organization of persons, incorporated or
37 unincorporated, operated solely for fraternal, benevolent, educational,
38 athletic or social purposes, and not for pecuniary gain.

1 (9) "Confection" means a preparation of sugar, honey, or other
2 natural or artificial sweeteners in combination with chocolate, fruits,
3 nuts, dairy products, or flavorings, in the form of bars, drops, or
4 pieces.

5 (10) "Consume" includes the putting of liquor to any use, whether
6 by drinking or otherwise.

7 (11) "Contract liquor store" means a business that sells liquor on
8 behalf of the board through a contract with a contract liquor store
9 manager.

10 (12) "Craft distillery" means a distillery that pays the reduced
11 licensing fee under RCW 66.24.140.

12 (13) "Craft wine" means the product fermented at a craft winery and
13 regulated as wine by the federal tax and trade bureau under 27 CFR part
14 4.

15 (14) "Craft winery" means a facility described in a federal basic
16 permit as a bonded winery or bonded wine cellar and producing from zero
17 to twenty-five thousand gallons, inclusively, in any calendar year,
18 alone or in combination with other facilities required to be aggregated
19 under federal law for purposes of the federal small producer tax credit
20 in 26 U.S.C. Sec. 5041 of the internal revenue code of 1986 as amended,
21 as of the effective date of this act.

22 (15) "Dentist" means a practitioner of dentistry duly and regularly
23 licensed and engaged in the practice of his profession within the state
24 pursuant to chapter 18.32 RCW.

25 ((+14+)) (16) "Distiller" means a person engaged in the business of
26 distilling spirits.

27 ((+15+)) (17) "Domestic brewery" means a place where beer and malt
28 liquor are manufactured or produced by a brewer within the state.

29 ((+16+)) (18) "Domestic winery" means a place where wines are
30 manufactured or produced within the state of Washington.

31 ((+17+)) (19) "Druggist" means any person who holds a valid
32 certificate and is a registered pharmacist and is duly and regularly
33 engaged in carrying on the business of pharmaceutical chemistry
34 pursuant to chapter 18.64 RCW.

35 ((+18+)) (20) "Drug store" means a place whose principal business
36 is, the sale of drugs, medicines and pharmaceutical preparations and
37 maintains a regular prescription department and employs a registered
38 pharmacist during all hours the drug store is open.

1 (~~(19)~~) (21) "Employee" means any person employed by the board.
2 (~~(20)~~) (22) "Flavored malt beverage" means:
3 (a) A malt beverage containing six percent or less alcohol by
4 volume to which flavoring or other added nonbeverage ingredients are
5 added that contain distilled spirits of not more than forty-nine
6 percent of the beverage's overall alcohol content; or
7 (b) A malt beverage containing more than six percent alcohol by
8 volume to which flavoring or other added nonbeverage ingredients are
9 added that contain distilled spirits of not more than one and one-half
10 percent of the beverage's overall alcohol content.
11 (~~(21)~~) (23) "Fund" means 'liquor revolving fund.'
12 (~~(22)~~) (24) "Hotel" means buildings, structures, and grounds,
13 having facilities for preparing, cooking, and serving food, that are
14 kept, used, maintained, advertised, or held out to the public to be a
15 place where food is served and sleeping accommodations are offered for
16 pay to transient guests, in which twenty or more rooms are used for the
17 sleeping accommodation of such transient guests. The buildings,
18 structures, and grounds must be located on adjacent property either
19 owned or leased by the same person or persons.
20 (~~(23)~~) (25) "Importer" means a person who buys distilled spirits
21 from a distillery outside the state of Washington and imports such
22 spirituous liquor into the state for sale to the board or for export.
23 (~~(24)~~) (26) "Imprisonment" means confinement in the county jail.
24 (~~(25)~~) (27) "Liquor" includes the four varieties of liquor herein
25 defined (alcohol, spirits, wine and beer), and all fermented,
26 spirituous, vinous, or malt liquor, or combinations thereof, and mixed
27 liquor, a part of which is fermented, spirituous, vinous or malt
28 liquor, or otherwise intoxicating; and every liquid or solid or
29 semisolid or other substance, patented or not, containing alcohol,
30 spirits, wine or beer, and all drinks or drinkable liquids and all
31 preparations or mixtures capable of human consumption, and any liquid,
32 semisolid, solid, or other substance, which contains more than one
33 percent of alcohol by weight shall be conclusively deemed to be
34 intoxicating. Liquor does not include confections or food products
35 that contain one percent or less of alcohol by weight.
36 (~~(26)~~) (28) "Manufacturer" means a person engaged in the
37 preparation of liquor for sale, in any form whatsoever.

1 ~~((27))~~ (29) "Malt beverage" or "malt liquor" means any beverage
2 such as beer, ale, lager beer, stout, and porter obtained by the
3 alcoholic fermentation of an infusion or decoction of pure hops, or
4 pure extract of hops and pure barley malt or other wholesome grain or
5 cereal in pure water containing not more than eight percent of alcohol
6 by weight, and not less than one-half of one percent of alcohol by
7 volume. For the purposes of this title, any such beverage containing
8 more than eight percent of alcohol by weight shall be referred to as
9 "strong beer."

10 ~~((28))~~ (30) "Package" means any container or receptacle used for
11 holding liquor.

12 ~~((29))~~ (31) "Passenger vessel" means any boat, ship, vessel,
13 barge, or other floating craft of any kind carrying passengers for
14 compensation.

15 ~~((30))~~ (32) "Permit" means a permit for the purchase of liquor
16 under this title.

17 ~~((31))~~ (33) "Person" means an individual, copartnership,
18 association, or corporation.

19 ~~((32))~~ (34) "Physician" means a medical practitioner duly and
20 regularly licensed and engaged in the practice of his profession within
21 the state pursuant to chapter 18.71 RCW.

22 ~~((33))~~ (35) "Prescription" means a memorandum signed by a
23 physician and given by him to a patient for the obtaining of liquor
24 pursuant to this title for medicinal purposes.

25 ~~((34))~~ (36) "Public place" includes streets and alleys of
26 incorporated cities and towns; state or county or township highways or
27 roads; buildings and grounds used for school purposes; public dance
28 halls and grounds adjacent thereto; those parts of establishments where
29 beer may be sold under this title, soft drink establishments, public
30 buildings, public meeting halls, lobbies, halls and dining rooms of
31 hotels, restaurants, theatres, stores, garages and filling stations
32 which are open to and are generally used by the public and to which the
33 public is permitted to have unrestricted access; railroad trains,
34 stages, and other public conveyances of all kinds and character, and
35 the depots and waiting rooms used in conjunction therewith which are
36 open to unrestricted use and access by the public; publicly owned
37 bathing beaches, parks, and/or playgrounds; and all other places of

1 like or similar nature to which the general public has unrestricted
2 right of access, and which are generally used by the public.

3 ~~((35))~~ (37) "Regulations" means regulations made by the board
4 under the powers conferred by this title.

5 ~~((36))~~ (38) "Restaurant" means any establishment provided with
6 special space and accommodations where, in consideration of payment,
7 food, without lodgings, is habitually furnished to the public, not
8 including drug stores and soda fountains.

9 ~~((37))~~ (39) "Sale" and "sell" include exchange, barter, and
10 traffic; and also include the selling or supplying or distributing, by
11 any means whatsoever, of liquor, or of any liquid known or described as
12 beer or by any name whatever commonly used to describe malt or brewed
13 liquor or of wine, by any person to any person; and also include a sale
14 or selling within the state to a foreign consignee or his agent in the
15 state. "Sale" and "sell" shall not include the giving, at no charge,
16 of a reasonable amount of liquor by a person not licensed by the board
17 to a person not licensed by the board, for personal use only. "Sale"
18 and "sell" also does not include a raffle authorized under RCW
19 9.46.0315: PROVIDED, That the nonprofit organization conducting the
20 raffle has obtained the appropriate permit from the board.

21 ~~((38))~~ (40) "Soda fountain" means a place especially equipped
22 with apparatus for the purpose of dispensing soft drinks, whether mixed
23 or otherwise.

24 ~~((39))~~ (41) "Spirits" means any beverage which contains alcohol
25 obtained by distillation, except flavored malt beverages, but including
26 wines exceeding twenty-four percent of alcohol by volume.

27 ~~((40))~~ (42) "Store" means a state liquor store established under
28 this title.

29 ~~((41))~~ (43) "Tavern" means any establishment with special space
30 and accommodation for sale by the glass and for consumption on the
31 premises, of beer, as herein defined.

32 ~~((42))~~ (44) "Winery" means a business conducted by any person for
33 the manufacture of wine for sale, other than a domestic winery.

34 ~~((43))~~ (45)(a) "Wine" means any alcoholic beverage, other than
35 craft wine, obtained by fermentation of fruits (grapes, berries,
36 apples, et cetera) or other agricultural product containing sugar, to
37 which any saccharine substances may have been added before, during or
38 after fermentation, and containing not more than twenty-four percent of

1 alcohol by volume, including sweet wines fortified with wine spirits,
2 such as port, sherry, muscatel and angelica, not exceeding twenty-four
3 percent of alcohol by volume and not less than one-half of one percent
4 of alcohol by volume. For purposes of this title, any beverage
5 containing no more than fourteen percent of alcohol by volume when
6 bottled or packaged by the manufacturer shall be referred to as "table
7 wine," and any beverage containing alcohol in an amount more than
8 fourteen percent by volume when bottled or packaged by the manufacturer
9 shall be referred to as "fortified wine." However, "fortified wine"
10 shall not include: (i) Wines that are both sealed or capped by cork
11 closure and aged two years or more; and (ii) wines that contain more
12 than fourteen percent alcohol by volume solely as a result of the
13 natural fermentation process and that have not been produced with the
14 addition of wine spirits, brandy, or alcohol.

15 (b) This subsection shall not be interpreted to require that any
16 wine be labeled with the designation "table wine" or "fortified wine."

17 ~~((44))~~ (46) "Wine distributor" means a person who buys wine from
18 a domestic winery, wine certificate of approval holder, or wine
19 importer, or who acquires foreign produced wine from a source outside
20 of the United States, for the purpose of selling the same not in
21 violation of this title, or who represents such vintner or winery as
22 agent.

23 ~~((45))~~ (47) "Wine importer" means a person or business within
24 Washington who purchases wine from a wine certificate of approval
25 holder or who acquires foreign produced wine from a source outside of
26 the United States for the purpose of selling the same pursuant to this
27 title.

28 NEW SECTION. **Sec. 2.** A new section is added to chapter 66.24 RCW
29 to read as follows:

30 (1) There shall be a license for a craft winery. The fee is one
31 hundred dollars per year.

32 (2) A craft winery licensed under this section may do all things
33 necessary and convenient for the manufacture, distribution, and sale of
34 craft wine, subject to compliance with the general antitrust laws and
35 the general commercial laws of sales. The craft winery license does
36 not exempt the holder from compliance with any other chapter of this
37 title.

1 (3) Craft wine is deemed wine for the purposes of:
2 (a) RCW 66.12.020, 66.12.180, 66.20.300 through 66.20.350,
3 66.24.185, and 66.24.210 and chapters 66.16, 66.32, 66.36, and 66.44
4 RCW, and is not "wine" or "liquor" for any other purpose under this
5 title;
6 (b) License privileges of retail, importer, and wine distributor
7 licensees, other than craft wineries, and for the purposes of conduct
8 of retail and wholesale licensed premises, other than craft winery
9 premises, except that craft wine is not wine for the purposes of RCW
10 66.28.170.

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