CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5367

Chapter 271, Laws of 2009

61st Legislature
2009 Regular Session

SPIRIT, BEER, AND WINE NIGHTCLUB LICENSE

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 19, 2009
YEAS 34  NAYS 12

BRAD OWEN
President of the Senate

Passed by the House April 14, 2009
YEAS 97  NAYS 0

FRANK CHOPP
Speaker of the House of Representatives

Approved April 29, 2009, 10:21 a.m.

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SUBSTITUTE SENATE BILL 5367 as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN
Secretary

FILED
April 29, 2009

CHRISTINE GREGOIRE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to a spirits, beer, and wine nightclub license; amending RCW 66.04.010, 66.08.180, 66.08.220, 66.24.010, 66.24.440, 66.40.030, and 66.40.130; reenacting and amending RCW 66.20.310, 66.24.420, and 68.50.107; and adding a new section to chapter 66.24 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 66.24 RCW to read as follows:

(1) There shall be a spirits, beer, and wine nightclub license to sell spirituous liquor by the drink, beer, and wine at retail, for consumption on the licensed premises.

(2) The license may be issued only to a person whose business includes the sale and service of alcohol to the person's customers, has food sales and service incidental to the sale and service of alcohol, and has primary business hours between 9:00 p.m. and 2:00 a.m.

(3) Minors may be allowed on the licensed premises but only in areas where alcohol is not served or consumed.

(4) The annual fee for this license is two thousand dollars. The fee for the license shall be reviewed from time to time and set at such
(...)

(5) Local governments may petition the board to request that further restrictions be imposed on a spirits, beer, and wine nightclub license in the interest of public safety. Examples of further restrictions a local government may request are: No minors allowed on the entire premises, submitting a security plan, or signing a good neighbor agreement with the local government.

(6) The total number of spirits, beer, and wine nightclub licenses are subject to the requirements of RCW 66.24.420(4). However, the board shall refuse a spirits, beer, and wine nightclub license to any applicant if the board determines that the spirits, beer, and wine nightclub licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(7) The board may adopt rules to implement this section.

Sec. 2. RCW 66.04.010 and 2008 c 94 s 4 are each amended to read as follows:

In this title, unless the context otherwise requires:

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

(2) "Authorized representative" means a person who:
   (a) Is required to have a federal basic permit issued pursuant to the federal alcohol administration act, 27 U.S.C. Sec. 204;
   (b) Has its business located in the United States outside of the state of Washington;
   (c) Acquires ownership of beer or wine for transportation into and resale in the state of Washington; and which beer or wine is produced...
anywhere outside Washington by a brewery or winery which does not hold a certificate of approval issued by the board; and

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

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

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

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

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

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

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

(9) "Confection" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, dairy products, or flavorings, in the form of bars, drops, or pieces.
(10) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

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

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

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

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

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

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

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

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

(19) "Employee" means any person employed by the board.

(20) "Flavored malt beverage" means:

(a) A malt beverage containing six percent or less alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than forty-nine percent of the beverage's overall alcohol content; or

(b) A malt beverage containing more than six percent alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than one and one-half percent of the beverage's overall alcohol content.

(21) "Fund" means 'liquor revolving fund.'

(22) "Hotel" means buildings, structures, and grounds, having facilities for preparing, cooking, and serving food, that are kept, used, maintained, advertised, or held out to the public to be a place
where food is served and sleeping accommodations are offered for pay to
transient guests, in which twenty or more rooms are used for the
sleeping accommodation of such transient guests. The buildings,
structures, and grounds must be located on adjacent property either
owned or leased by the same person or persons.
(23) "Importer" means a person who buys distilled spirits from a
distillery outside the state of Washington and imports such spirituous
liquor into the state for sale to the board or for export.
(24) "Imprisonment" means confinement in the county jail.
(25) "Liquor" includes the four varieties of liquor herein defined
(alcohol, spirits, wine and beer), and all fermented, spirituous,
vinous, or malt liquor, or combinations thereof, and mixed liquor, a
part of which is fermented, spirituous, vinous or malt liquor, or
otherwise intoxicating; and every liquid or solid or semisolid or other
substance, patented or not, containing alcohol, spirits, wine or beer,
and all drinks or drinkable liquids and all preparations or mixtures
capable of human consumption, and any liquid, semisolid, solid, or
other substance, which contains more than one percent of alcohol by
weight shall be conclusively deemed to be intoxicating. Liquor does
not include confections or food products that contain one percent or
less of alcohol by weight.
(26) "Manufacturer" means a person engaged in the preparation of
liquor for sale, in any form whatsoever.
(27) "Malt beverage" or "malt liquor" means any beverage such as
beer, ale, lager beer, stout, and porter obtained by the alcoholic
fermentation of an infusion or decoction of pure hops, or pure extract
of hops and pure barley malt or other wholesome grain or cereal in pure
water containing not more than eight percent of alcohol by weight, and
not less than one-half of one percent of alcohol by volume. For the
purposes of this title, any such beverage containing more than eight
percent of alcohol by weight shall be referred to as "strong beer."
(28) "Nightclub" means an establishment that provides entertainment
and has as its primary source of revenue (a) the sale of alcohol for
consumption on the premises, (b) cover charges, or (c) both, and has an
occupancy load of one hundred or more.
(29) "Package" means any container or receptacle used for holding
liquor.
"Passenger vessel" means any boat, ship, vessel, barge, or other floating craft of any kind carrying passengers for compensation.

"Permit" means a permit for the purchase of liquor under this title.

"Person" means an individual, copartnership, association, or corporation.

"Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.71 RCW.

"Prescription" means a memorandum signed by a physician and given by him to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

"Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

"Regulations" means regulations made by the board under the powers conferred by this title.

"Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

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

"Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

"Spirits" means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.

"Store" means a state liquor store established under this title.

"Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

"Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

"Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" shall not include: (i) Wines that are both sealed or capped by cork closure and aged two years or more; and (ii) wines that contain more than fourteen percent alcohol
by volume solely as a result of the natural fermentation process and
that have not been produced with the addition of wine spirits, brandy,
or alcohol.

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

"Wine distributor" means a person who buys wine from
a domestic winery, wine certificate of approval holder, or wine
importer, or who acquires foreign produced wine from a source outside
of the United States, for the purpose of selling the same not in
violation of this title, or who represents such vintner or winery as
agent.

"Wine importer" means a person or business within
Washington who purchases wine from a wine certificate of approval
holder or who acquires foreign produced wine from a source outside of
the United States for the purpose of selling the same pursuant to this
title.

Sec. 3. RCW 66.08.180 and 2007 c 370 s 14 are each amended to read
as follows:

Except as provided in RCW 66.24.290(1), moneys in the liquor
revolving fund shall be distributed by the board at least once every
three months in accordance with RCW 66.08.190, 66.08.200 and 66.08.210:
PROVIDED, That the board shall reserve from distribution such amount
not exceeding five hundred thousand dollars as may be necessary for the
proper administration of this title.

(1) All license fees, penalties, and forfeitures derived under
chapter 13, Laws of 1935 from spirits, beer, and wine restaurant;
spirits, beer, and wine private club; hotel; spirits, beer, and wine
nightclub; and sports entertainment facility licenses ((or spirits,
beer, and wine restaurant; spirits, beer, and wine private club; and
sports entertainment facility licensees)) shall every three months be
disbursed by the board as follows:

(a) Three hundred thousand dollars per biennium, to the death
investigations account for the state toxicology program pursuant to RCW
68.50.107; and

(b) Of the remaining funds:

(i) 6.06 percent to the University of Washington and 4.04 percent
(ii) 89.9 percent to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96A.050;

(2) The first fifty-five dollars per license fee provided in RCW 66.24.320 and 66.24.330 up to a maximum of one hundred fifty thousand dollars annually shall be disbursed every three months by the board to the general fund to be used for juvenile alcohol and drug prevention programs for kindergarten through third grade to be administered by the superintendent of public instruction;

(3) Twenty percent of the remaining total amount derived from license fees pursuant to RCW 66.24.320, 66.24.330, 66.24.350, and 66.24.360, shall be transferred to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96A.050; and

(4) One-fourth cent per liter of the tax imposed by RCW 66.24.210 shall every three months be disbursed by the board to Washington State University solely for wine and wine grape research, extension programs related to wine and wine grape research, and resident instruction in both wine grape production and the processing aspects of the wine industry in accordance with RCW 28B.30.068. The director of financial management shall prescribe suitable accounting procedures to ensure that the funds transferred to the general fund to be used by the department of social and health services and appropriated are separately accounted for.

Sec. 4. RCW 66.08.220 and 2007 c 370 s 15 are each amended to read as follows:

The board shall set aside in a separate account in the liquor revolving fund an amount equal to ten percent of its gross sales of liquor to spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; hotel; and sports entertainment facility licensees collected from these licensees pursuant to the provisions of RCW 82.08.150, less the fifteen percent discount provided for in RCW 66.24.440; and the moneys in said separate account shall be distributed in accordance with the provisions of RCW 66.08.190, 66.08.200 and 66.08.210. No election unit in which the sale
of liquor under spirits, beer, and wine restaurant; spirits, beer, and
wine private club; spirits, beer, and wine nightclub; and sports
entertainment facility licenses is unlawful shall be entitled to share
in the distribution of moneys from such separate account.

Sec. 5. RCW 66.20.310 and 2008 c 94 s 11 and 2008 c 41 s 3 are
each reenacted and amended to read as follows:

(1)(a) There shall be an alcohol server permit, known as a class 12
permit, for a manager or bartender selling or mixing alcohol, spirits,
wines, or beer for consumption at an on-premises licensed facility.
(b) There shall be an alcohol server permit, known as a class 13
permit, for a person who only serves alcohol, spirits, wines, or beer
for consumption at an on-premises licensed facility.
(c) As provided by rule by the board, a class 13 permit holder may
be allowed to act as a bartender without holding a class 12 permit.
(2)(a) Effective January 1, 1997, except as provided in (d) of this
subsection, every alcohol server employed, under contract or otherwise,
at a retail licensed premise shall (have) be issued (to them) a
class 12 or class 13 permit.
(b) Every class 12 and class 13 permit issued shall be issued in
the name of the applicant and no other person may use the permit of
another permit holder. The holder shall present the permit upon
request to inspection by a representative of the board or a peace
officer. The class 12 or class 13 permit shall be valid for employment
at any retail licensed premises described in (a) of this subsection.
(c) Except as provided in (d) of this subsection, no licensee
holding a license as authorized by RCW 66.24.320, 66.24.330, 66.24.350,
66.24.400, 66.24.425, 66.24.450, ((and)) 66.24.570, and section 1 of
this act may employ or accept the services of any person without the
person first having a valid class 12 or class 13 permit.
(d) Within sixty days of initial employment, every person whose
duties include the compounding, sale, service, or handling of liquor
shall have a class 12 or class 13 permit.
(e) No person may perform duties that include the sale or service
of alcoholic beverages on a retail licensed premises without possessing
a valid alcohol server permit.
(3) A permit issued by a training entity under this section is
valid for employment at any retail licensed premises described in subsection (2)(a) of this section for a period of five years unless suspended by the board.

(4) The board may suspend or revoke an existing permit if any of the following occur:
   (a) The applicant or permittee has been convicted of violating any of the state or local intoxicating liquor laws of this state or has been convicted at any time of a felony; or
   (b) The permittee has performed or permitted any act that constitutes a violation of this title or of any rule of the board.

(5) The suspension or revocation of a permit under this section does not relieve a licensee from responsibility for any act of the employee or agent while employed upon the retail licensed premises. The board may, as appropriate, revoke or suspend either the permit of the employee who committed the violation or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(6)(a) After January 1, 1997, it is a violation of this title for any retail licensee or agent of a retail licensee as described in subsection (2)(a) of this section to employ in the sale or service of alcoholic beverages, any person who does not have a valid alcohol server permit or whose permit has been revoked, suspended, or denied.
   (b) It is a violation of this title for a person whose alcohol server permit has been denied, suspended, or revoked to accept employment in the sale or service of alcoholic beverages.

(7) Grocery stores licensed under RCW 66.24.360, the primary commercial activity of which is the sale of grocery products and for which the sale and service of beer and wine for on-premises consumption with food is incidental to the primary business, and employees of such establishments, are exempt from RCW 66.20.300 through 66.20.350.

Sec. 6. RCW 66.24.010 and 2007 c 473 s 1 are each amended to read as follows:

(1) Every license shall be issued in the name of the applicant, and the holder thereof shall not allow any other person to use the license.

(2) For the purpose of considering any application for a license, or the renewal of a license, the board may cause an inspection of the premises to be made, and may inquire into all matters in connection
with the construction and operation of the premises. For the purpose
of reviewing any application for a license and for considering the
denial, suspension, revocation, or renewal or denial thereof, of any
license, the liquor control board may consider any prior criminal
conduct of the applicant including an administrative violation history
record with the board and a criminal history record information check.
The board may submit the criminal history record information check to
the Washington state patrol and to the identification division of the
federal bureau of investigation in order that these agencies may search
their records for prior arrests and convictions of the individual or
individuals who filled out the forms. The board shall require
fingerprinting of any applicant whose criminal history record
information check is submitted to the federal bureau of investigation.
The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply
to such cases. Subject to the provisions of this section, the board
may, in its discretion, grant or deny the renewal or license applied
for. Denial may be based on, without limitation, the existence of
chronic illegal activity documented in objections submitted pursuant to
subsections (8)(d) and (12) of this section. Authority to approve an
uncontested or unopposed license may be granted by the board to any
staff member the board designates in writing. Conditions for granting
such authority shall be adopted by rule. No retail license of any kind
may be issued to:
   (a) A person doing business as a sole proprietor who has not
resided in the state for at least one month prior to receiving a
license, except in cases of licenses issued to dining places on
railroads, boats, or aircraft;
   (b) A copartnership, unless all of the members thereof are
qualified to obtain a license, as provided in this section;
   (c) A person whose place of business is conducted by a manager or
agent, unless such manager or agent possesses the same qualifications
required of the licensee;
   (d) A corporation or a limited liability company, unless it was
created under the laws of the state of Washington or holds a
certificate of authority to transact business in the state of
Washington.
   (3)(a) The board may, in its discretion, subject to the provisions
of RCW 66.08.150, suspend or cancel any license; and all rights of the
licensee to keep or sell liquor thereunder shall be suspended or
terminated, as the case may be.

(b) The board shall immediately suspend the license or certificate
of a person who has been certified pursuant to RCW 74.20A.320 by the
department of social and health services as a person who is not in
compliance with a support order. If the person has continued to meet
all other requirements for reinstatement during the suspension,
reissuance of the license or certificate shall be automatic upon the
board's receipt of a release issued by the department of social and
health services stating that the licensee is in compliance with the
order.

(c) The board may request the appointment of administrative law
judges under chapter 34.12 RCW who shall have power to administer
oaths, issue subpoenas for the attendance of witnesses and the
production of papers, books, accounts, documents, and testimony,
examine witnesses, and to receive testimony in any inquiry,
investigation, hearing, or proceeding in any part of the state, under
such rules and regulations as the board may adopt.

(d) Witnesses shall be allowed fees and mileage each way to and
from any such inquiry, investigation, hearing, or proceeding at the
rate authorized by RCW 34.05.446((, as now or hereafter amended)).
Fees need not be paid in advance of appearance of witnesses to testify
or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order
of the board or a subpoena issued by the board, or any of its members,
or administrative law judges, or on the refusal of a witness to testify
to any matter regarding which he or she may be lawfully interrogated,
the judge of the superior court of the county in which the person
resides, on application of any member of the board or administrative
law judge, shall compel obedience by contempt proceedings, as in the
case of disobedience of the requirements of a subpoena issued from said
court or a refusal to testify therein.

(4) Upon receipt of notice of the suspension or cancellation of a
license, the licensee shall forthwith deliver up the license to the
board. Where the license has been suspended only, the board shall
return the license to the licensee at the expiration or termination of
the period of suspension. The board shall notify all vendors in the
city or place where the licensee has its premises of the suspension or
cancellation of the license; and no employee may allow or cause any
liquor to be delivered to or for any person at the premises of that
licensee.

(5)(a) At the time of the original issuance of a spirits, beer, and
wine restaurant license, the board shall prorate the license fee
charged to the new licensee according to the number of calendar
quarters, or portion thereof, remaining until the first renewal of that
license is required.

(b) Unless sooner canceled, every license issued by the board shall
expire at midnight of the thirtieth day of June of the fiscal year for
which it was issued. However, if the board deems it feasible and
desirable to do so, it may establish, by rule pursuant to chapter 34.05
RCW, a system for staggering the annual renewal dates for any and all
licenses authorized by this chapter. If such a system of staggered
annual renewal dates is established by the board, the license fees
provided by this chapter shall be appropriately prorated during the
first year that the system is in effect.

(6) Every license issued under this section shall be subject to all
conditions and restrictions imposed by this title or by rules adopted
by the board. All conditions and restrictions imposed by the board in
the issuance of an individual license shall be listed on the face of
the individual license along with the trade name, address, and
expiration date.

(7) Every licensee shall post and keep posted its license, or
licenses, in a conspicuous place on the premises.

(8)(a) Unless (b) of this subsection applies, before the board
issues a new or renewal license to an applicant it shall give notice of
such application to the chief executive officer of the incorporated
city or town, if the application is for a license within an
incorporated city or town, or to the county legislative authority, if
the application is for a license outside the boundaries of incorporated
cities or towns.

(b) If the application for a special occasion license is for an
event held during a county, district, or area fair as defined by RCW
15.76.120, and the county, district, or area fair is located on
property owned by the county but located within an incorporated city or
town, the county legislative authority shall be the entity notified by
the board under (a) of this subsection. The board shall send a
duplicate notice to the incorporated city or town within which the fair
is located.

(c) The incorporated city or town through the official or employee
selected by it, or the county legislative authority or the official or
employee selected by it, shall have the right to file with the board
within twenty days after the date of transmittal of such notice for
applications, or at least thirty days prior to the expiration date for
renewals, written objections against the applicant or against the
premises for which the new or renewal license is asked. The board may
extend the time period for submitting written objections.

(d) The written objections shall include a statement of all facts
upon which such objections are based, and in case written objections
are filed, the city or town or county legislative authority may request
and the liquor control board may in its discretion hold a hearing
subject to the applicable provisions of Title 34 RCW. If the board
makes an initial decision to deny a license or renewal based on the
written objections of an incorporated city or town or county
legislative authority, the applicant may request a hearing subject to
the applicable provisions of Title 34 RCW. If such a hearing is held
at the request of the applicant, liquor control board representatives
shall present and defend the board's initial decision to deny a license
or renewal.

(e) Upon the granting of a license under this title the board shall
send written notification to the chief executive officer of the
incorporated city or town in which the license is granted, or to the
county legislative authority if the license is granted outside the
boundaries of incorporated cities or towns. When the license is for a
special occasion license for an event held during a county, district,
or area fair as defined by RCW 15.76.120, and the county, district, or
area fair is located on county-owned property but located within an
incorporated city or town, the written notification shall be sent to
both the incorporated city or town and the county legislative
authority.

(9)(a) Before the board issues any license to any applicant, it
shall give (i) due consideration to the location of the business to be
conducted under such license with respect to the proximity of churches,
schools, and public institutions and (ii) written notice, with receipt
verification, of the application to public institutions identified by
the board as appropriate to receive such notice, churches, and schools
within five hundred feet of the premises to be licensed. The board
shall not issue (no beer retailer) a liquor license for either on-
premises or off-premises consumption (or wine retailer license for
either on-premises or off-premises consumption or spirits, beer, and
wine restaurant license) covering any premises not now licensed, if
such premises are within five hundred feet of the premises of any tax-
supported public elementary or secondary school measured along the most
direct route over or across established public walks, streets, or other
public passageway from the main entrance of the school to the nearest
public entrance of the premises proposed for license, and if, after
receipt by the school of the notice as provided in this subsection, the
board receives written objection, within twenty days after receiving
such notice, from an official representative or representatives of the
school within five hundred feet of said proposed licensed premises,
indicating to the board that there is an objection to the issuance of
such license because of proximity to a school. The board may extend
the time period for submitting objections. For the purpose of this
section, "church" (shall) means a building erected for and used
exclusively for religious worship and schooling or other activity in
connection therewith. For the purpose of this section, "public
institution" (shall) means institutions of higher education, parks,
community centers, libraries, and transit centers.

(b) No liquor license may be issued or reissued by the board to any
motor sports facility or licensee operating within the motor sports
facility unless the motor sports facility enforces a program reasonably
calculated to prevent alcohol or alcoholic beverages not purchased
within the facility from entering the facility and such program is
approved by local law enforcement agencies.

(c) It is the intent under this subsection (9) that a retail
license shall not be issued by the board where doing so would, in the
judgment of the board, adversely affect a private school meeting the
requirements for private schools under Title 28A RCW, which school is
within five hundred feet of the proposed licensee. The board shall
fully consider and give substantial weight to objections filed by
private schools. If a license is issued despite the proximity of a
private school, the board shall state in a letter addressed to the private school the board's reasons for issuing the license.

(10) The restrictions set forth in subsection (9) of this section shall not prohibit the board from authorizing the assumption of existing licenses now located within the restricted area by other persons or licenses or relocations of existing licensed premises within the restricted area. In no case may the licensed premises be moved closer to a church or school than it was before the assumption or relocation.

(11)(a) Nothing in this section prohibits the board, in its discretion, from issuing a temporary retail or distributor license to an applicant to operate the retail or distributor premises during the period the application for the license is pending. The board may establish a fee for a temporary license by rule.

(b) A temporary license issued by the board under this section shall be for a period not to exceed sixty days. A temporary license may be extended at the discretion of the board for additional periods of sixty days upon payment of an additional fee and upon compliance with all conditions required in this section.

(c) Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing. A temporary license may be canceled or suspended summarily at any time if the board determines that good cause for cancellation or suspension exists. RCW 66.08.130 applies to temporary licenses.

(d) Application for a temporary license shall be on such form as the board shall prescribe. If an application for a temporary license is withdrawn before issuance or is refused by the board, the fee which accompanied such application shall be refunded in full.

(12) In determining whether to grant or deny a license or renewal of any license, the board shall give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations,
assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

Sec. 7. RCW 66.24.420 and 2007 c 370 s 19 and 2007 c 370 s 8 are each reenacted and amended to read as follows:

(1) The spirits, beer, and wine restaurant license shall be issued in accordance with the following schedule of annual fees:

(a) The annual fee for a spirits, beer, and wine restaurant license shall be graduated according to the dedicated dining area and type of service provided as follows:

<table>
<thead>
<tr>
<th>Dedicated Dining Area</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 50%</td>
<td>$2,000</td>
</tr>
<tr>
<td>50% or more</td>
<td>$1,600</td>
</tr>
<tr>
<td>Service bar only</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

(b) The annual fee for the license when issued to any other spirits, beer, and wine restaurant licensee outside of incorporated cities and towns shall be prorated according to the calendar quarters, or portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

(c) Where the license shall be issued to any corporation, association or person operating a bona fide restaurant in an airport terminal facility providing service to transient passengers with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a restaurant in an airport terminal facility must maintain in a substantial manner at least one place on the premises for preparing,
cooking, and serving of complete meals, and such food service shall be available on request in other licensed places on the premises. An additional license fee of twenty-five percent of the annual master license fee shall be required for such duplicate licenses.

(d) Where the license shall be issued to any corporation, association, or person operating dining places at a publicly or privately owned civic or convention center with facilities for sports, entertainment, or conventions, or a combination thereof, with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a dining place at such a publicly or privately owned civic or convention center must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and food service shall be available on request in other licensed places on the premises. An additional license fee of ten dollars shall be required for such duplicate licenses.

(2) The board, so far as in its judgment is reasonably possible, shall confine spirits, beer, and wine restaurant licenses to the business districts of cities and towns and other communities, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

(3) The board shall have discretion to issue spirits, beer, and wine restaurant licenses outside of cities and towns in the state of Washington. The purpose of this subsection is to enable the board, in its discretion, to license in areas outside of cities and towns and other communities, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers, and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

(4) The combined total number of spirits, beer, and wine nightclub licenses, and spirits, beer, and wine restaurant licenses issued in the state of Washington by the board, not including spirits, beer, and wine private club licenses, shall not in the aggregate at any time exceed

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one license for each one thousand (three) two hundred of population in the state, determined according to the yearly population determination developed by the office of financial management pursuant to RCW 43.62.030.

(5) Notwithstanding the provisions of subsection (4) of this section, the board shall refuse a spirits, beer, and wine restaurant license to any applicant if in the opinion of the board the spirits, beer, and wine restaurant licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(6) (a) The board may issue a caterer's endorsement to this license to allow the licensee to remove the liquor stocks at the licensed premises, for use as liquor for sale and service at event locations at a specified date and, except as provided in subsection (7) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with a catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A
duplicate license may be issued for each additional premises. A
license fee of twenty dollars shall be required for such duplicate
licenses.

(7) Licensees under this section that hold a caterer's endorsement
are allowed to use this endorsement on a domestic winery premises or on
the premises of a passenger vessel and may store liquor at such
premises under conditions established by the board under the following
conditions:

(a) Agreements between the domestic winery or passenger vessel, as
the case may be, and the retail licensee shall be in writing, contain
no exclusivity clauses regarding the alcoholic beverages to be served,
and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be,
and the retail licensee shall be separately contracted and compensated
by the persons sponsoring the event for their respective services.

Sec. 8. RCW 66.24.440 and 2007 c 370 s 20 are each amended to read
as follows:

Each spirits, beer, and wine restaurant, spirits, beer, and wine
private club, hotel, spirits, beer, and wine nightclub, and sports
entertainment facility licensee shall be entitled to purchase any
spirituous liquor items salable under such license from the board at a
discount of not less than fifteen percent from the retail price fixed
by the board, together with all taxes.

Sec. 9. RCW 66.40.030 and 1999 c 281 s 8 are each amended to read
as follows:

Within any unit referred to in RCW 66.40.010, there may be held a
separate election upon the question of whether the sale of liquor under
spirits, beer, and wine restaurant; spirits, beer, and wine private
club; spirits, beer, and wine nightclub; and sports entertainment
facility licenses, shall be permitted within such unit. The conditions
and procedure for holding such election shall be those prescribed by
RCW 66.40.020, 66.40.040, 66.40.100, 66.40.110 and 66.40.120. Whenever
a majority of qualified voters voting upon said question in any such
unit shall have voted "against the sale of liquor under spirits, beer,
and wine restaurant; spirits, beer, and wine private club; spirits,
beer, and wine nightclub; and sports entertainment facility licenses",
the county auditor shall file with the liquor control board a certificate showing the result of the canvass at such election; and after ninety days from and after the date of the canvass, it shall not be lawful for licensees to maintain and operate premises within the election unit licensed under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses. The addition after an election under this section of new territory to a city, town, or county, by annexation, disincorporation, or otherwise, shall not extend the prohibition against the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses to the new territory. Elections held under RCW 66.40.010, 66.40.020, 66.40.040, 66.40.100, 66.40.110, 66.40.120 and 66.40.140, shall be limited to the question of whether the sale of liquor by means other than under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses shall be permitted within such election unit.

**Sec. 10.** RCW 66.40.130 and 1999 c 281 s 9 are each amended to read as follows:

Ninety days after December 2, 1948, spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses may be issued in any election unit in which the sale of liquor is then lawful. No spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility license shall be issued in any election unit in which the sale of liquor is forbidden as the result of an election held under RCW 66.40.010, 66.40.020, 66.40.040, 66.40.100, 66.40.110, 66.40.120 and 66.40.140, unless a majority of the qualified electors in such election unit voting upon this initiative at the general election in November, 1948, vote in favor of this initiative, or unless at a subsequent general election in which the question of whether the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses shall be permitted within such unit is
submitted to the electorate, as provided in RCW 66.40.030, a majority of the qualified electors voting upon such question vote "for the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses."

Sec. 11. RCW 68.50.107 and 1999 c 281 s 13 and 1999 c 40 s 8 are each reenacted and amended to read as follows:
There shall be established in conjunction with the chief of the Washington state patrol and under the authority of the state forensic investigations council a state toxicological laboratory under the direction of the state toxicologist whose duty it will be to perform all necessary toxicologic procedures requested by all coroners, medical examiners, and prosecuting attorneys. The state forensic investigations council, after consulting with the chief of the Washington state patrol and director of the bureau of forensic laboratory services, shall appoint a toxicologist as state toxicologist, who shall report to the director of the bureau of forensic laboratory services and the office of the chief of the Washington state patrol. Toxicological services shall be funded by disbursement from the spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility license fees as provided in RCW 66.08.180 and by appropriation from the death investigations account as provided in RCW 43.79.445.
Passed by the Senate April 19, 2009.
Passed by the House April 14, 2009.
Approved by the Governor April 29, 2009.
Filed in Office of Secretary of State April 29, 2009.