

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1465

Chapter 195, Laws of 2011

62nd Legislature
2011 Regular Session

LIQUOR LICENSES--CONDITIONS AND RESTRICTIONS

EFFECTIVE DATE: 07/22/11

Passed by the House April 13, 2011
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 5, 2011
Yeas 47 Nays 2

BRAD OWEN

President of the Senate

Approved April 29, 2011, 3:34 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1465** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 29, 2011

**Secretary of State
State of Washington**

HOUSE BILL 1465

AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

State of Washington **62nd Legislature** **2011 Regular Session**

By Representatives Hunt, Taylor, McCoy, Appleton, Condotta, Miloscia, and Dunshee; by request of Liquor Control Board

Read first time 01/21/11. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to conditions and restrictions for liquor licenses;
2 amending RCW 66.24.010, 66.24.410, 66.24.371, and 66.24.240; and
3 reenacting and amending RCW 66.04.010 and 66.24.244.

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

5 **Sec. 1.** RCW 66.24.010 and 2009 c 271 s 6 are each amended to read
6 as follows:

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

9 (2) For the purpose of considering any application for a license,
10 or the renewal of a license, the board may cause an inspection of the
11 premises to be made, and may inquire into all matters in connection
12 with the construction and operation of the premises. For the purpose
13 of reviewing any application for a license and for considering the
14 denial, suspension, revocation, or renewal or denial thereof, of any
15 license, the liquor control board may consider any prior criminal
16 conduct of the applicant including an administrative violation history
17 record with the board and a criminal history record information check.
18 The board may submit the criminal history record information check to
19 the Washington state patrol and to the identification division of the

1 federal bureau of investigation in order that these agencies may search
2 their records for prior arrests and convictions of the individual or
3 individuals who filled out the forms. The board shall require
4 fingerprinting of any applicant whose criminal history record
5 information check is submitted to the federal bureau of investigation.
6 The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply
7 to such cases. Subject to the provisions of this section, the board
8 may, in its discretion, grant or deny the renewal or license applied
9 for. Denial may be based on, without limitation, the existence of
10 chronic illegal activity documented in objections submitted pursuant to
11 subsections (8)(d) and (12) of this section. Authority to approve an
12 uncontested or unopposed license may be granted by the board to any
13 staff member the board designates in writing. Conditions for granting
14 such authority shall be adopted by rule. No retail license of any kind
15 may be issued to:

16 (a) A person doing business as a sole proprietor who has not
17 resided in the state for at least one month prior to receiving a
18 license, except in cases of licenses issued to dining places on
19 railroads, boats, or aircraft;

20 (b) A copartnership, unless all of the members thereof are
21 qualified to obtain a license, as provided in this section;

22 (c) A person whose place of business is conducted by a manager or
23 agent, unless such manager or agent possesses the same qualifications
24 required of the licensee;

25 (d) A corporation or a limited liability company, unless it was
26 created under the laws of the state of Washington or holds a
27 certificate of authority to transact business in the state of
28 Washington.

29 (3)(a) The board may, in its discretion, subject to the provisions
30 of RCW 66.08.150, suspend or cancel any license; and all rights of the
31 licensee to keep or sell liquor thereunder shall be suspended or
32 terminated, as the case may be.

33 (b) The board shall immediately suspend the license or certificate
34 of a person who has been certified pursuant to RCW 74.20A.320 by the
35 department of social and health services as a person who is not in
36 compliance with a support order. If the person has continued to meet
37 all other requirements for reinstatement during the suspension,
38 reissuance of the license or certificate shall be automatic upon the

1 board's receipt of a release issued by the department of social and
2 health services stating that the licensee is in compliance with the
3 order.

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

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

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

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

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

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

10 (6) Every license issued under this section shall be subject to all
11 conditions and restrictions imposed by this title or by rules adopted
12 by the board. All conditions and restrictions imposed by the board in
13 the issuance of an individual license (~~shall~~) may be listed on the
14 face of the individual license along with the trade name, address, and
15 expiration date. Conditions and restrictions imposed by the board may
16 also be included in official correspondence separate from the license.

17 (7) Every licensee shall post and keep posted its license, or
18 licenses, and any additional correspondence containing conditions and
19 restrictions imposed by the board in a conspicuous place on the
20 premises.

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

28 (b) If the application for a special occasion license is for an
29 event held during a county, district, or area fair as defined by RCW
30 15.76.120, and the county, district, or area fair is located on
31 property owned by the county but located within an incorporated city or
32 town, the county legislative authority shall be the entity notified by
33 the board under (a) of this subsection. The board shall send a
34 duplicate notice to the incorporated city or town within which the fair
35 is located.

36 (c) The incorporated city or town through the official or employee
37 selected by it, or the county legislative authority or the official or
38 employee selected by it, shall have the right to file with the board

1 within twenty days after the date of transmittal of such notice for
2 applications, or at least thirty days prior to the expiration date for
3 renewals, written objections against the applicant or against the
4 premises for which the new or renewal license is asked. The board may
5 extend the time period for submitting written objections.

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

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

29 (9)(a) Before the board issues any license to any applicant, it
30 shall give (i) due consideration to the location of the business to be
31 conducted under such license with respect to the proximity of churches,
32 schools, and public institutions and (ii) written notice, with receipt
33 verification, of the application to public institutions identified by
34 the board as appropriate to receive such notice, churches, and schools
35 within five hundred feet of the premises to be licensed. The board
36 shall not issue a liquor license for either on-premises or off-premises
37 consumption covering any premises not now licensed, if such premises
38 are within five hundred feet of the premises of any tax-supported

1 public elementary or secondary school measured along the most direct
2 route over or across established public walks, streets, or other public
3 passageway from the main entrance of the school to the nearest public
4 entrance of the premises proposed for license, and if, after receipt by
5 the school of the notice as provided in this subsection, the board
6 receives written objection, within twenty days after receiving such
7 notice, from an official representative or representatives of the
8 school within five hundred feet of said proposed licensed premises,
9 indicating to the board that there is an objection to the issuance of
10 such license because of proximity to a school. The board may extend
11 the time period for submitting objections. For the purpose of this
12 section, "church" means a building erected for and used exclusively for
13 religious worship and schooling or other activity in connection
14 therewith. For the purpose of this section, "public institution" means
15 institutions of higher education, parks, community centers, libraries,
16 and transit centers.

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

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

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

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

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

11 (c) Refusal by the board to issue or extend a temporary license
12 shall not entitle the applicant to request a hearing. A temporary
13 license may be canceled or suspended summarily at any time if the board
14 determines that good cause for cancellation or suspension exists. RCW
15 66.08.130 applies to temporary licenses.

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

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

1 **Sec. 2.** RCW 66.24.410 and 2007 c 370 s 18 are each amended to read
2 as follows:

3 (1) "Spirituous liquor," as used in RCW 66.24.400 to 66.24.450,
4 inclusive, means "liquor" as defined in RCW 66.04.010, except "wine"
5 and "beer" sold as such.

6 (2) "Restaurant" as used in RCW 66.24.400 to 66.24.450, inclusive,
7 means an establishment provided with special space and accommodations
8 where, in consideration of payment, food, without lodgings, is
9 habitually furnished to the public, not including drug stores and soda
10 fountains: PROVIDED, That such establishments shall be approved by the
11 board and that the board shall be satisfied that such establishment is
12 maintained in a substantial manner as a place for preparing, cooking
13 and serving of complete meals. (~~The service of only fry orders or~~
14 ~~such food and victuals as sandwiches, hamburgers, or salads shall not~~
15 ~~be deemed in compliance with this definition)) Requirements for
16 complete meals shall be determined by the board in rules adopted
17 pursuant to chapter 34.05 RCW.~~

18 (3) "Hotel," "clubs," "wine" and "beer" are used in RCW 66.24.400
19 to 66.24.450, inclusive, with the meaning given in chapter 66.04 RCW.

20 **Sec. 3.** RCW 66.04.010 and 2009 c 373 s 1 and 2009 c 271 s 2 are
21 each reenacted and amended to read as follows:

22 In this title, unless the context otherwise requires:

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

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

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

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

1 (c) Acquires ownership of beer or wine for transportation into and
2 resale in the state of Washington; and which beer or wine is produced
3 by a brewery or winery in the United States outside of the state of
4 Washington; and

5 (d) Is appointed by the brewery or winery referenced in (c) of this
6 subsection as its authorized representative for marketing and selling
7 its products within the United States in accordance with a written
8 agreement between the authorized representative and such brewery or
9 winery pursuant to this title.

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

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

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

21 (6) "Board" means the liquor control board, constituted under this
22 title.

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

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

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

- 1 (10) "Consume" includes the putting of liquor to any use, whether
2 by drinking or otherwise.
- 3 (11) "Contract liquor store" means a business that sells liquor on
4 behalf of the board through a contract with a contract liquor store
5 manager.
- 6 (12) "Craft distillery" means a distillery that pays the reduced
7 licensing fee under RCW 66.24.140.
- 8 (13) "Dentist" means a practitioner of dentistry duly and regularly
9 licensed and engaged in the practice of his profession within the state
10 pursuant to chapter 18.32 RCW.
- 11 (14) "Distiller" means a person engaged in the business of
12 distilling spirits.
- 13 (15) "Domestic brewery" means a place where beer and malt liquor
14 are manufactured or produced by a brewer within the state.
- 15 (16) "Domestic winery" means a place where wines are manufactured
16 or produced within the state of Washington.
- 17 (17) "Drug store" means a place whose principal business is, the
18 sale of drugs, medicines and pharmaceutical preparations and maintains
19 a regular prescription department and employs a registered pharmacist
20 during all hours the drug store is open.
- 21 (18) "Druggist" means any person who holds a valid certificate and
22 is a registered pharmacist and is duly and regularly engaged in
23 carrying on the business of pharmaceutical chemistry pursuant to
24 chapter 18.64 RCW.
- 25 (19) "Employee" means any person employed by the board.
- 26 (20) "Flavored malt beverage" means:
- 27 (a) A malt beverage containing six percent or less alcohol by
28 volume to which flavoring or other added nonbeverage ingredients are
29 added that contain distilled spirits of not more than forty-nine
30 percent of the beverage's overall alcohol content; or
- 31 (b) A malt beverage containing more than six percent alcohol by
32 volume to which flavoring or other added nonbeverage ingredients are
33 added that contain distilled spirits of not more than one and one-half
34 percent of the beverage's overall alcohol content.
- 35 (21) "Fund" means 'liquor revolving fund.'
- 36 (22) "Hotel" means buildings, structures, and grounds, having
37 facilities for preparing, cooking, and serving food, that are kept,
38 used, maintained, advertised, or held out to the public to be a place

1 where food is served and sleeping accommodations are offered for pay to
2 transient guests, in which twenty or more rooms are used for the
3 sleeping accommodation of such transient guests. The buildings,
4 structures, and grounds must be located on adjacent property either
5 owned or leased by the same person or persons.

6 (23) "Importer" means a person who buys distilled spirits from a
7 distillery outside the state of Washington and imports such spirituous
8 liquor into the state for sale to the board or for export.

9 (24) "Imprisonment" means confinement in the county jail.

10 (25) "Liquor" includes the four varieties of liquor herein defined
11 (alcohol, spirits, wine and beer), and all fermented, spirituous,
12 vinous, or malt liquor, or combinations thereof, and mixed liquor, a
13 part of which is fermented, spirituous, vinous or malt liquor, or
14 otherwise intoxicating; and every liquid or solid or semisolid or other
15 substance, patented or not, containing alcohol, spirits, wine or beer,
16 and all drinks or drinkable liquids and all preparations or mixtures
17 capable of human consumption, and any liquid, semisolid, solid, or
18 other substance, which contains more than one percent of alcohol by
19 weight shall be conclusively deemed to be intoxicating. Liquor does
20 not include confections or food products that contain one percent or
21 less of alcohol by weight.

22 (26) "Malt beverage" or "malt liquor" means any beverage such as
23 beer, ale, lager beer, stout, and porter obtained by the alcoholic
24 fermentation of an infusion or decoction of pure hops, or pure extract
25 of hops and pure barley malt or other wholesome grain or cereal in pure
26 water containing not more than eight percent of alcohol by weight, and
27 not less than one-half of one percent of alcohol by volume. For the
28 purposes of this title, any such beverage containing more than eight
29 percent of alcohol by weight shall be referred to as "strong beer."

30 (27) "Manufacturer" means a person engaged in the preparation of
31 liquor for sale, in any form whatsoever.

32 (28) "Nightclub" means an establishment that provides entertainment
33 and has as its primary source of revenue (a) the sale of alcohol for
34 consumption on the premises, (b) cover charges, or (c) both(~~(, and has~~
35 ~~an occupancy load of one hundred or more))~~).

36 (29) "Package" means any container or receptacle used for holding
37 liquor.

1 (30) "Passenger vessel" means any boat, ship, vessel, barge, or
2 other floating craft of any kind carrying passengers for compensation.

3 (31) "Permit" means a permit for the purchase of liquor under this
4 title.

5 (32) "Person" means an individual, copartnership, association, or
6 corporation.

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

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

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

28 (36) "Regulations" means regulations made by the board under the
29 powers conferred by this title.

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

34 (38) "Sale" and "sell" include exchange, barter, and traffic; and
35 also include the selling or supplying or distributing, by any means
36 whatsoever, of liquor, or of any liquid known or described as beer or
37 by any name whatever commonly used to describe malt or brewed liquor or
38 of wine, by any person to any person; and also include a sale or

1 selling within the state to a foreign consignee or his agent in the
2 state. "Sale" and "sell" shall not include the giving, at no charge,
3 of a reasonable amount of liquor by a person not licensed by the board
4 to a person not licensed by the board, for personal use only. "Sale"
5 and "sell" also does not include a raffle authorized under RCW
6 9.46.0315: PROVIDED, That the nonprofit organization conducting the
7 raffle has obtained the appropriate permit from the board.

8 (39) "Soda fountain" means a place especially equipped with
9 apparatus for the purpose of dispensing soft drinks, whether mixed or
10 otherwise.

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

14 (41) "Store" means a state liquor store established under this
15 title.

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

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

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

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

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

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

14 **Sec. 4.** RCW 66.24.371 and 2009 c 373 s 6 are each amended to read
15 as follows:

16 (1) There shall be a beer and/or wine retailer's license to be
17 designated as a beer and/or wine specialty shop license to sell beer,
18 strong beer, and/or wine at retail in bottles, cans, and original
19 containers, not to be consumed upon the premises where sold, at any
20 store other than the state liquor stores. Licensees obtaining a
21 written endorsement from the board may also sell malt liquor in kegs or
22 other containers capable of holding four gallons or more of liquid.
23 The annual fee for the beer and/or wine specialty shop license is one
24 hundred dollars for each store. The sale of any container holding four
25 gallons or more must comply with RCW 66.28.200 and 66.28.220.

26 (2) Licensees under this section may provide, free or for a charge,
27 single-serving samples of two ounces or less to customers for the
28 purpose of sales promotion. Sampling activities of licensees under
29 this section are subject to RCW 66.28.010 and 66.28.040 and the cost of
30 sampling under this section may not be borne, directly or indirectly,
31 by any manufacturer, importer, or distributor of liquor.

32 (3) Upon approval by the board, the beer and/or wine specialty shop
33 licensee that exceeds fifty percent beer and/or wine sales may also
34 receive an endorsement to permit the sale of beer to a purchaser in a
35 sanitary container brought to the premises by the purchaser, or
36 provided by the licensee or manufacturer, and fill at the tap by the
37 licensee at the time of sale. If the beer and/or wine specialty shop

1 licensee does not exceed fifty percent beer and/or wine sales, the
2 board may waive the fifty percent beer and/or wine sale criteria if the
3 beer and/or wine specialty shop maintains alcohol inventory that
4 exceeds fifteen thousand dollars.

5 (4) The board shall issue a restricted beer and/or wine specialty
6 shop license, authorizing the licensee to sell beer and only table
7 wine, if the board finds upon issuance or renewal of the license that
8 the sale of strong beer or fortified wine would be against the public
9 interest. In determining the public interest, the board shall consider
10 at least the following factors:

11 (a) The likelihood that the applicant will sell strong beer or
12 fortified wine to persons who are intoxicated;

13 (b) Law enforcement problems in the vicinity of the applicant's
14 establishment that may arise from persons purchasing strong beer or
15 fortified wine at the establishment; and

16 (c) Whether the sale of strong beer or fortified wine would be
17 detrimental to or inconsistent with a government-operated or funded
18 alcohol treatment or detoxification program in the area.

19 If the board receives no evidence or objection that the sale of
20 strong beer or fortified wine would be against the public interest, it
21 shall issue or renew the license without restriction, as applicable.
22 The burden of establishing that the sale of strong beer or fortified
23 wine by the licensee would be against the public interest is on those
24 persons objecting.

25 ~~((4))~~ (5) Licensees holding a beer and/or wine specialty shop
26 license must maintain a minimum three thousand dollar wholesale
27 inventory of beer, strong beer, and/or wine.

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

29 **Sec. 5.** RCW 66.24.244 and 2008 c 248 s 2 and 2008 c 41 s 9 are
30 each reenacted and amended to read as follows:

31 (1) There shall be a license for microbreweries; fee to be one
32 hundred dollars for production of less than sixty thousand barrels of
33 malt liquor, including strong beer, per year.

34 (2) Any microbrewery licensed under this section may also act as a
35 distributor and/or retailer for beer and strong beer of its own
36 production. Strong beer may not be sold at a farmers market or under
37 any endorsement which may authorize microbreweries to sell beer at

1 farmers markets. Any microbrewery operating as a distributor and/or
2 retailer under this subsection shall comply with the applicable laws
3 and rules relating to distributors and/or retailers, except that a
4 microbrewery operating as a distributor may maintain a warehouse off
5 the premises of the microbrewery for the distribution of beer provided
6 that (a) the warehouse has been approved by the board under RCW
7 66.24.010 and (b) the number of warehouses off the premises of the
8 microbrewery does not exceed one. A microbrewery holding a spirits,
9 beer, and wine restaurant license may sell beer of its own production
10 for off-premises consumption from its restaurant premises in kegs or in
11 a sanitary container brought to the premises by the purchaser or
12 furnished by the licensee and filled at the tap by the licensee at the
13 time of sale.

14 (3) Any microbrewery licensed under this section may also sell beer
15 produced by another microbrewery or a domestic brewery for on and off-
16 premises consumption from its premises as long as the other breweries'
17 brands do not exceed twenty-five percent of the microbrewery's on-tap
18 offering of its own brands.

19 (4) The board may issue up to two retail licenses allowing a
20 microbrewery to operate an on or off-premise tavern, beer and/or wine
21 restaurant, or spirits, beer, and wine restaurant.

22 ((+4)) (5) A microbrewery that holds a tavern license, spirits,
23 beer, and wine restaurant license, or a beer and/or wine restaurant
24 license shall hold the same privileges and endorsements as permitted
25 under RCW 66.24.320, 66.24.330, and 66.24.420.

26 ((+5)) (6)(a) A microbrewery licensed under this section may apply
27 to the board for an endorsement to sell bottled beer of its own
28 production at retail for off-premises consumption at a qualifying
29 farmers market. The annual fee for this endorsement is seventy-five
30 dollars.

31 (b) For each month during which a microbrewery will sell beer at a
32 qualifying farmers market, the microbrewery must provide the board or
33 its designee a list of the dates, times, and locations at which bottled
34 beer may be offered for sale. This list must be received by the board
35 before the microbrewery may offer beer for sale at a qualifying farmers
36 market.

37 (c) The beer sold at qualifying farmers markets must be produced in
38 Washington.

1 (d) Each approved location in a qualifying farmers market is deemed
2 to be part of the microbrewery license for the purpose of this title.
3 The approved locations under an endorsement granted under this
4 subsection (~~((+5+))~~) (6) do not constitute the tasting or sampling
5 privilege of a microbrewery. The microbrewery may not store beer at a
6 farmers market beyond the hours that the microbrewery offers bottled
7 beer for sale. The microbrewery may not act as a distributor from a
8 farmers market location.

9 (e) Before a microbrewery may sell bottled beer at a qualifying
10 farmers market, the farmers market must apply to the board for
11 authorization for any microbrewery with an endorsement approved under
12 this subsection (~~((+5+))~~) (6) to sell bottled beer at retail at the
13 farmers market. This application shall include, at a minimum: (i) A
14 map of the farmers market showing all booths, stalls, or other
15 designated locations at which an approved microbrewery may sell bottled
16 beer; and (ii) the name and contact information for the on-site market
17 managers who may be contacted by the board or its designee to verify
18 the locations at which bottled beer may be sold. Before authorizing a
19 qualifying farmers market to allow an approved microbrewery to sell
20 bottled beer at retail at its farmers market location, the board shall
21 notify the persons or entities of the application for authorization
22 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under
23 this subsection (~~((+5+))~~) (6)(e) may be withdrawn by the board for any
24 violation of this title or any rules adopted under this title.

25 (f) The board may adopt rules establishing the application and
26 approval process under this section and any additional rules necessary
27 to implement this section.

28 (g) For the purposes of this subsection (~~((+5+))~~) (6):

29 (i) "Qualifying farmers market" means an entity that sponsors a
30 regular assembly of vendors at a defined location for the purpose of
31 promoting the sale of agricultural products grown or produced in this
32 state directly to the consumer under conditions that meet the following
33 minimum requirements:

34 (A) There are at least five participating vendors who are farmers
35 selling their own agricultural products;

36 (B) The total combined gross annual sales of vendors who are
37 farmers exceeds the total combined gross annual sales of vendors who
38 are processors or resellers;

1 (C) The total combined gross annual sales of vendors who are
2 farmers, processors, or resellers exceeds the total combined gross
3 annual sales of vendors who are not farmers, processors, or resellers;

4 (D) The sale of imported items and secondhand items by any vendor
5 is prohibited; and

6 (E) No vendor is a franchisee.

7 (ii) "Farmer" means a natural person who sells, with or without
8 processing, agricultural products that he or she raises on land he or
9 she owns or leases in this state or in another state's county that
10 borders this state.

11 (iii) "Processor" means a natural person who sells processed food
12 that he or she has personally prepared on land he or she owns or leases
13 in this state or in another state's county that borders this state.

14 (iv) "Reseller" means a natural person who buys agricultural
15 products from a farmer and resells the products directly to the
16 consumer.

17 (~~(+6+)~~) (7) Any microbrewery licensed under this section may
18 contract-produce beer for another microbrewer. This contract-
19 production is not a sale for the purposes of RCW 66.28.170 and
20 66.28.180.

21 **Sec. 6.** RCW 66.24.240 and 2008 c 41 s 7 are each amended to read
22 as follows:

23 (1) There shall be a license for domestic breweries; fee to be two
24 thousand dollars for production of sixty thousand barrels or more of
25 malt liquor per year.

26 (2) Any domestic brewery, except for a brand owner of malt
27 beverages under RCW 66.04.010(~~(+6+)~~) (7), licensed under this section
28 may also act as a distributor and/or retailer for beer of its own
29 production. Any domestic brewery operating as a distributor and/or
30 retailer under this subsection shall comply with the applicable laws
31 and rules relating to distributors and/or retailers. A domestic
32 brewery holding a spirits, beer, and wine restaurant license may sell
33 beer of its own production for off-premises consumption from its
34 restaurant premises in kegs or in a sanitary container brought to the
35 premises by the purchaser or furnished by the licensee and filled at
36 the tap by the licensee at the time of sale.

1 (3) Any domestic brewery licensed under this section may also sell
2 beer produced by another domestic brewery or a microbrewery for on and
3 off-premises consumption from its premises as long as the other
4 breweries' brands do not exceed twenty-five percent of the domestic
5 brewery's on-tap offering of its own brands.

6 (4) A domestic brewery may hold up to two retail licenses to
7 operate an on or off-premise tavern, beer and/or wine restaurant, or
8 spirits, beer, and wine restaurant. This retail license is separate
9 from the brewery license. A brewery that holds a tavern license, a
10 spirits, beer, and wine restaurant license, or a beer and/or wine
11 restaurant license shall hold the same privileges and endorsements as
12 permitted under RCW 66.24.320, 66.24.330, and 66.24.420.

13 ~~((4))~~ (5) Any domestic brewery licensed under this section may
14 contract-produce beer for a brand owner of malt beverages defined under
15 RCW 66.04.010~~((6))~~ (7), and this contract-production is not a sale
16 for the purposes of RCW 66.28.170 and 66.28.180.

17 ~~((5))~~ (6)(a) A domestic brewery licensed under this section and
18 qualified for a reduced rate of taxation pursuant to RCW
19 66.24.290(3)(b) may apply to the board for an endorsement to sell
20 bottled beer of its own production at retail for off-premises
21 consumption at a qualifying farmers market. The annual fee for this
22 endorsement is seventy-five dollars.

23 (b) For each month during which a domestic brewery will sell beer
24 at a qualifying farmers market, the domestic brewery must provide the
25 board or its designee a list of the dates, times, and locations at
26 which bottled beer may be offered for sale. This list must be received
27 by the board before the domestic brewery may offer beer for sale at a
28 qualifying farmers market.

29 (c) The beer sold at qualifying farmers markets must be produced in
30 Washington.

31 (d) Each approved location in a qualifying farmers market is deemed
32 to be part of the domestic brewery license for the purpose of this
33 title. The approved locations under an endorsement granted under this
34 subsection do not include the tasting or sampling privilege of a
35 domestic brewery. The domestic brewery may not store beer at a farmers
36 market beyond the hours that the domestic brewery offers bottled beer
37 for sale. The domestic brewery may not act as a distributor from a
38 farmers market location.

1 (e) Before a domestic brewery may sell bottled beer at a qualifying
2 farmers market, the farmers market must apply to the board for
3 authorization for any domestic brewery with an endorsement approved
4 under this subsection to sell bottled beer at retail at the farmers
5 market. This application shall include, at a minimum: (i) A map of
6 the farmers market showing all booths, stalls, or other designated
7 locations at which an approved domestic brewery may sell bottled beer;
8 and (ii) the name and contact information for the on-site market
9 managers who may be contacted by the board or its designee to verify
10 the locations at which bottled beer may be sold. Before authorizing a
11 qualifying farmers market to allow an approved domestic brewery to sell
12 bottled beer at retail at its farmers market location, the board shall
13 notify the persons or entities of such application for authorization
14 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under
15 this subsection (~~((5))~~) (6)(e) may be withdrawn by the board for any
16 violation of this title or any rules adopted under this title.

17 (f) The board may adopt rules establishing the application and
18 approval process under this section and such additional rules as may be
19 necessary to implement this section.

20 (g) For the purposes of this subsection:

21 (i) "Qualifying farmers market" means an entity that sponsors a
22 regular assembly of vendors at a defined location for the purpose of
23 promoting the sale of agricultural products grown or produced in this
24 state directly to the consumer under conditions that meet the following
25 minimum requirements:

26 (A) There are at least five participating vendors who are farmers
27 selling their own agricultural products;

28 (B) The total combined gross annual sales of vendors who are
29 farmers exceeds the total combined gross annual sales of vendors who
30 are processors or resellers;

31 (C) The total combined gross annual sales of vendors who are
32 farmers, processors, or resellers exceeds the total combined gross
33 annual sales of vendors who are not farmers, processors, or resellers;

34 (D) The sale of imported items and secondhand items by any vendor
35 is prohibited; and

36 (E) No vendor is a franchisee.

37 (ii) "Farmer" means a natural person who sells, with or without

1 processing, agricultural products that he or she raises on land he or
2 she owns or leases in this state or in another state's county that
3 borders this state.

4 (iii) "Processor" means a natural person who sells processed food
5 that he or she has personally prepared on land he or she owns or leases
6 in this state or in another state's county that borders this state.

7 (iv) "Reseller" means a natural person who buys agricultural
8 products from a farmer and resells the products directly to the
9 consumer.

Passed by the House April 13, 2011.

Passed by the Senate April 5, 2011.

Approved by the Governor April 29, 2011.

Filed in Office of Secretary of State April 29, 2011.