
SENATE BILL 5674

State of Washington

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By Senators Kohl-Welles, Smith, Hatfield, Conway, Schoesler, King, Hobbs, Murray, Keiser, Ranker, Harper, Hewitt, and Rolfes

Read first time 02/07/13. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to wine and beer sampling at farmers markets;
2 amending RCW 66.24.170 and 66.24.244; adding a new section to chapter
3 66.24 RCW; and repealing 2011 c 62 s 1 (uncodified).

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

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

7 (1) A qualifying farmers market authorized to allow wineries to
8 sell bottled wine at retail under RCW 66.24.170 or microbreweries to
9 sell bottled beer at retail under RCW 66.24.244, or both, may apply to
10 the liquor control board for an endorsement to allow sampling of wine
11 or beer or both. A winery or microbrewery offering samples under this
12 section must have an endorsement from the board to sell wine or beer,
13 as the case may be, of its own production at a qualifying farmers
14 market under RCW 66.24.170 or 66.24.244, respectively.

15 (2) Samples may be offered only under the following conditions:

16 (a) No more than three wineries or microbreweries combined may
17 offer samples at a qualifying farmers market per day.

18 (b) Samples must be two ounces or less. A winery or microbrewery

1 may provide a maximum of two ounces of wine or beer to a customer per
2 day.

3 (c) A winery or microbrewery may advertise that it offers samples
4 only at its designated booth, stall, or other designated location at
5 the farmers market.

6 (d) Customers must remain at the designated booth, stall, or other
7 designated location while sampling beer or wine.

8 (e) Winery and microbrewery licensees and employees who are
9 involved in sampling activities under this section must hold a class 12
10 or class 13 alcohol server permit.

11 (f) A winery or microbrewery must have food available for customers
12 to consume while sampling beer or wine, or must be adjacent to a vendor
13 offering prepared food.

14 (3) The board may establish additional requirements to ensure that
15 persons under twenty-one years of age and apparently intoxicated
16 persons may not possess or consume alcohol under the authority granted
17 in this section.

18 (4) The board may prohibit sampling at a farmers market that is
19 within the boundaries of an alcohol impact area recognized by
20 resolution of the board if the board finds that the sampling activities
21 at the farmers market have an adverse effect on the reduction of
22 chronic public inebriation in the area.

23 (5) If a winery or microbrewery is found to have committed a public
24 safety violation in conjunction with tasting activities, the board may
25 suspend the licensee's farmers market endorsement and not reissue the
26 endorsement for up to two years from the date of the violation. If
27 mitigating circumstances exist, the board may offer a monetary penalty
28 in lieu of suspension during a settlement conference.

29 **Sec. 2.** RCW 66.24.170 and 2009 c 373 s 4 are each amended to read
30 as follows:

31 (1) There shall be a license for domestic wineries; fee to be
32 computed only on the liters manufactured: Less than two hundred fifty
33 thousand liters per year, one hundred dollars per year; and two hundred
34 fifty thousand liters or more per year, four hundred dollars per year.

35 (2) The license allows for the manufacture of wine in Washington
36 state from grapes or other agricultural products.

1 (3) Any domestic winery licensed under this section may also act as
2 a retailer of wine of its own production. Any domestic winery licensed
3 under this section may act as a distributor of its own production.
4 Notwithstanding any language in this title to the contrary, a domestic
5 winery may use a common carrier to deliver up to one hundred cases of
6 its own production, in the aggregate, per month to licensed Washington
7 retailers. A domestic winery may not arrange for any such common
8 carrier shipments to licensed retailers of wine not of its own
9 production. Except as provided in this section, any winery operating
10 as a distributor and/or retailer under this subsection shall comply
11 with the applicable laws and rules relating to distributors and/or
12 retailers, except that a winery operating as a distributor may maintain
13 a warehouse off the premises of the winery for the distribution of wine
14 of its own production provided that: (a) The warehouse has been
15 approved by the board under RCW 66.24.010; and (b) the number of
16 warehouses off the premises of the winery does not exceed one.

17 (4) A domestic winery licensed under this section, at locations
18 separate from any of its production or manufacturing sites, may serve
19 samples of its own products, with or without charge, and sell wine of
20 its own production at retail, provided that: (a) Each additional
21 location has been approved by the board under RCW 66.24.010; (b) the
22 total number of additional locations does not exceed two; (c) a winery
23 may not act as a distributor at any such additional location; and (d)
24 any person selling or serving wine at an additional location for on-
25 premise consumption must obtain a class 12 or class 13 alcohol server
26 permit. Each additional location is deemed to be part of the winery
27 license for the purpose of this title. At additional locations
28 operated by multiple wineries under this section, if the board cannot
29 connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee,
30 the board may hold all licensees operating the additional location
31 jointly liable. Nothing in this subsection shall be construed to
32 prevent a domestic winery from holding multiple domestic winery
33 licenses.

34 (5)(a) A domestic winery licensed under this section may apply to
35 the board for an endorsement to sell wine of its own production at
36 retail for off-premises consumption at a qualifying farmers market.
37 The annual fee for this endorsement is seventy-five dollars. An

1 endorsement issued pursuant to this subsection does not count toward
2 the two additional retail locations limit specified in this section.

3 (b) For each month during which a domestic winery will sell wine at
4 a qualifying farmers market, the winery must provide the board or its
5 designee a list of the dates, times, and locations at which bottled
6 wine may be offered for sale. This list must be received by the board
7 before the winery may offer wine for sale at a qualifying farmers
8 market.

9 (c) The wine sold at qualifying farmers markets must be made
10 entirely from grapes grown in a recognized Washington appellation or
11 from other agricultural products grown in this state.

12 (d) Each approved location in a qualifying farmers market is deemed
13 to be part of the winery license for the purpose of this title. The
14 approved locations under an endorsement granted under this subsection
15 ~~((do not))~~ include ~~((the))~~ tasting or sampling privileges ~~((of a~~
16 winery)) subject to the conditions pursuant to section 1 of this act.
17 The winery may not store wine at a farmers market beyond the hours that
18 the winery offers bottled wine for sale. The winery may not act as a
19 distributor from a farmers market location.

20 (e) Before a winery may sell bottled wine at a qualifying farmers
21 market, the farmers market must apply to the board for authorization
22 for any winery with an endorsement approved under this subsection to
23 sell bottled wine at retail at the farmers market. This application
24 shall include, at a minimum: (i) A map of the farmers market showing
25 all booths, stalls, or other designated locations at which an approved
26 winery may sell bottled wine; and (ii) the name and contact information
27 for the on-site market managers who may be contacted by the board or
28 its designee to verify the locations at which bottled wine may be sold.
29 Before authorizing a qualifying farmers market to allow an approved
30 winery to sell bottled wine at retail at its farmers market location,
31 the board shall notify the persons or entities of such application for
32 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization
33 granted under this subsection (5)(e) may be withdrawn by the board for
34 any violation of this title or any rules adopted under this title.

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

38 (g) For the purposes of this subsection:

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

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

8 (B) The total combined gross annual sales of vendors who are
9 farmers exceeds the total combined gross annual sales of vendors who
10 are processors or resellers;

11 (C) The total combined gross annual sales of vendors who are
12 farmers, processors, or resellers exceeds the total combined gross
13 annual sales of vendors who are not farmers, processors, or resellers;

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

16 (E) No vendor is a franchisee.

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

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

24 (iv) "Reseller" means a natural person who buys agricultural
25 products from a farmer and resells the products directly to the
26 consumer.

27 (6) Wine produced in Washington state by a domestic winery licensee
28 may be shipped out-of-state for the purpose of making it into sparkling
29 wine and then returned to such licensee for resale. Such wine shall be
30 deemed wine manufactured in the state of Washington for the purposes of
31 RCW 66.24.206, and shall not require a special license.

32 **Sec. 3.** RCW 66.24.244 and 2011 c 195 s 5 are each amended to read
33 as follows:

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

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

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

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

26 (5) A microbrewery that holds a tavern license, spirits, beer, and
27 wine restaurant license, or a beer and/or wine restaurant license shall
28 hold the same privileges and endorsements as permitted under RCW
29 66.24.320, 66.24.330, and 66.24.420.

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

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

1 before the microbrewery may offer beer for sale at a qualifying farmers
2 market.

3 (c) Any person selling or serving beer must obtain a class 12 or
4 class 13 alcohol server permit.

5 (d) The beer sold at qualifying farmers markets must be produced in
6 Washington.

7 ~~((d))~~ (e) Each approved location in a qualifying farmers market
8 is deemed to be part of the microbrewery license for the purpose of
9 this title. The approved locations under an endorsement granted under
10 this subsection (6) ~~((do not constitute the))~~ include tasting or
11 sampling privileges ~~((of a microbrewery))~~ subject to the conditions
12 pursuant to section 1 of this act. The microbrewery may not store beer
13 at a farmers market beyond the hours that the microbrewery offers
14 bottled beer for sale. The microbrewery may not act as a distributor
15 from a farmers market location.

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

32 ~~((f))~~ (g) The board may adopt rules establishing the application
33 and approval process under this section and any additional rules
34 necessary to implement this section.

35 ~~((g))~~ (h) For the purposes of this subsection (6):

36 (i) "Qualifying farmers market" means an entity that sponsors a
37 regular assembly of vendors at a defined location for the purpose of

1 promoting the sale of agricultural products grown or produced in this
2 state directly to the consumer under conditions that meet the following
3 minimum requirements:

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

6 (B) The total combined gross annual sales of vendors who are
7 farmers exceeds the total combined gross annual sales of vendors who
8 are processors or resellers;

9 (C) The total combined gross annual sales of vendors who are
10 farmers, processors, or resellers exceeds the total combined gross
11 annual sales of vendors who are not farmers, processors, or resellers;

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

14 (E) No vendor is a franchisee.

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

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

22 (iv) "Reseller" means a natural person who buys agricultural
23 products from a farmer and resells the products directly to the
24 consumer.

25 (7) Any microbrewery licensed under this section may
26 contract-produce beer for another microbrewer. This contract-
27 production is not a sale for the purposes of RCW 66.28.170 and
28 66.28.180.

29 NEW SECTION. **Sec. 4.** 2011 c 62 s 1 (uncodified) is repealed.

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