

CERTIFICATION OF ENROLLMENT

SENATE BILL 5674

Chapter 238, Laws of 2013

63rd Legislature
2013 Regular Session

BEER AND WINE--SAMPLING--FARMERS MARKETS

EFFECTIVE DATE: 07/28/13

Passed by the Senate April 23, 2013
YEAS 40 NAYS 8

BRAD OWEN

President of the Senate

Passed by the House April 9, 2013
YEAS 81 NAYS 12

FRANK CHOPP

Speaker of the House of Representatives

Approved May 14, 2013, 11:37 a.m.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5674** as passed by the Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

May 14, 2013

**Secretary of State
State of Washington**

SENATE BILL 5674

AS AMENDED BY THE HOUSE

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

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 (6) For the purposes of this section, a "qualifying farmers market"
30 has the same meaning as defined in RCW 66.24.170. However, if a
31 farmers market does not satisfy RCW 66.24.170(5)(g)(i)(B), which
32 requires that the total combined gross annual sales of vendors who are
33 farmers exceed the total combined gross annual sales of vendors who are
34 processors or resellers, a farmers market is still considered a
35 "qualifying farmers market" if the total combined gross annual sales of
36 vendors at the farmers market is one million dollars or more.

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

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

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

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

25 (4) A domestic winery licensed under this section, at locations
26 separate from any of its production or manufacturing sites, may serve
27 samples of its own products, with or without charge, and sell wine of
28 its own production at retail, provided that: (a) Each additional
29 location has been approved by the board under RCW 66.24.010; (b) the
30 total number of additional locations does not exceed two; (c) a winery
31 may not act as a distributor at any such additional location; and (d)
32 any person selling or serving wine at an additional location for on-
33 premise consumption must obtain a class 12 or class 13 alcohol server
34 permit. Each additional location is deemed to be part of the winery
35 license for the purpose of this title. At additional locations
36 operated by multiple wineries under this section, if the board cannot
37 connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee,
38 the board may hold all licensees operating the additional location

1 jointly liable. Nothing in this subsection shall be construed to
2 prevent a domestic winery from holding multiple domestic winery
3 licenses.

4 (5)(a) A domestic winery licensed under this section may apply to
5 the board for an endorsement to sell wine of its own production at
6 retail for off-premises consumption at a qualifying farmers market.
7 The annual fee for this endorsement is seventy-five dollars. An
8 endorsement issued pursuant to this subsection does not count toward
9 the two additional retail locations limit specified in this section.

10 (b) For each month during which a domestic winery will sell wine at
11 a qualifying farmers market, the winery must provide the board or its
12 designee a list of the dates, times, and locations at which bottled
13 wine may be offered for sale. This list must be received by the board
14 before the winery may offer wine for sale at a qualifying farmers
15 market.

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

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

27 (e) Before a winery may sell bottled wine at a qualifying farmers
28 market, the farmers market must apply to the board for authorization
29 for any winery with an endorsement approved under this subsection to
30 sell bottled wine at retail at the farmers market. This application
31 shall include, at a minimum: (i) A map of the farmers market showing
32 all booths, stalls, or other designated locations at which an approved
33 winery may sell bottled wine; and (ii) the name and contact information
34 for the on-site market managers who may be contacted by the board or
35 its designee to verify the locations at which bottled wine may be sold.
36 Before authorizing a qualifying farmers market to allow an approved
37 winery to sell bottled wine at retail at its farmers market location,
38 the board shall notify the persons or entities of such application for

1 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization
2 granted under this subsection (5)(e) may be withdrawn by the board for
3 any violation of this title or any rules adopted under this title.

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

7 (g) For the purposes of this subsection:

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

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

15 (B) The total combined gross annual sales of vendors who are
16 farmers exceeds the total combined gross annual sales of vendors who
17 are processors or resellers;

18 (C) The total combined gross annual sales of vendors who are
19 farmers, processors, or resellers exceeds the total combined gross
20 annual sales of vendors who are not farmers, processors, or resellers;

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

23 (E) No vendor is a franchisee.

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

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

31 (iv) "Reseller" means a natural person who buys agricultural
32 products from a farmer and resells the products directly to the
33 consumer.

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

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

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

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

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

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

31 (5) A microbrewery that holds a tavern license, spirits, beer, and
32 wine restaurant license, or a beer and/or wine restaurant license shall
33 hold the same privileges and endorsements as permitted under RCW
34 66.24.320, 66.24.330, and 66.24.420.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (E) No vendor is a franchisee.

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

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

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

28 (7) Any microbrewery licensed under this section may
29 contract-produce beer for another microbrewer. This contract-
30 production is not a sale for the purposes of RCW 66.28.170 and
31 66.28.180.

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

Passed by the Senate April 23, 2013.

Passed by the House April 9, 2013.

Approved by the Governor May 14, 2013.

Filed in Office of Secretary of State May 14, 2013.