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**SUBSTITUTE HOUSE BILL 2342**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Commerce & Gaming (originally sponsored by Representative Hurst)

READ FIRST TIME 01/25/16.

1       AN ACT Relating to performance of personal services by members of  
2 the liquor industry to retailers; and amending RCW 66.28.310 and  
3 66.24.670.

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

5       **Sec. 1.** RCW 66.28.310 and 2015 c 94 s 1 are each amended to read  
6 as follows:

7       (1)(a) Nothing in RCW 66.28.305 prohibits an industry member from  
8 providing retailers branded promotional items which are of nominal  
9 value, singly or in the aggregate. Such items include but are not  
10 limited to: Trays, lighters, blotters, postcards, pencils, coasters,  
11 menu cards, meal checks, napkins, clocks, mugs, glasses, bottles or  
12 can openers, corkscrews, matches, printed recipes, shirts, hats,  
13 visors, and other similar items. Branded promotional items:

14       (i) Must be used exclusively by the retailer or its employees in  
15 a manner consistent with its license;

16       (ii) Must bear imprinted advertising matter of the industry  
17 member only, except imprinted advertising matter of the industry  
18 member can include the logo of a professional sports team which the  
19 industry member is licensed to use;

1 (iii) May be provided by industry members only to retailers and  
2 their employees and may not be provided by or through retailers or  
3 their employees to retail customers; and

4 (iv) May not be targeted to or appeal principally to youth.

5 (b) An industry member is not obligated to provide any such  
6 branded promotional items, and a retailer may not require an industry  
7 member to provide such branded promotional items as a condition for  
8 selling any alcohol to the retailer.

9 (c) Any industry member or retailer or any other person asserting  
10 that the provision of branded promotional items as allowed in (a) of  
11 this subsection has resulted or is more likely than not to result in  
12 undue influence or an adverse impact on public health and safety, or  
13 is otherwise inconsistent with the criteria in (a) of this subsection  
14 may file a complaint with the board. Upon receipt of a complaint the  
15 board may conduct such investigation as it deems appropriate in the  
16 circumstances. If the investigation reveals the provision of branded  
17 promotional items has resulted in or is more likely than not to  
18 result in undue influence or has resulted or is more likely than not  
19 to result in an adverse impact on public health and safety or is  
20 otherwise inconsistent with (a) of this subsection the board may  
21 issue an administrative violation notice to the industry member, to  
22 the retailer, or both. The recipient of the administrative violation  
23 notice may request a hearing under chapter 34.05 RCW.

24 (2) Nothing in RCW 66.28.305 prohibits:

25 (a) An industry member from providing to a special occasion  
26 licensee and a special occasion licensee from receiving services for:

27 (i) Installation of draft beer dispensing equipment or  
28 advertising;

29 (ii) Advertising, pouring, or dispensing of beer or wine at a  
30 beer or wine tasting exhibition or judging event; or

31 (iii) Pouring or dispensing of spirits by a licensed domestic  
32 distiller or the accredited representative of a distiller,  
33 manufacturer, importer, or distributor of spirituous liquor licensed  
34 under RCW 66.24.310; or

35 (b) Special occasion licensees from paying for beer, wine, or  
36 spirits immediately following the end of the special occasion event;  
37 or

38 (c) Wineries, breweries, or distilleries that are participating  
39 in a special occasion event from paying reasonable booth fees to the  
40 special occasion licensee.

1 (3) Nothing in RCW 66.28.305 prohibits industry members from  
2 performing, and retailers from accepting the service of building,  
3 rotating, and restocking displays and stockroom inventories; rotating  
4 and rearranging can and bottle displays of their own products;  
5 providing point of sale material and brand signs; pricing case goods  
6 of their own brands; and performing such similar business services  
7 consistent with board rules, or personal services as described in  
8 subsection (5) of this section.

9 (4) Nothing in RCW 66.28.305 prohibits:

10 (a) Industry members from listing on their internet web sites  
11 information related to retailers who sell or promote their products,  
12 including direct links to the retailers' internet web sites; and

13 (b) Retailers from listing on their internet web sites  
14 information related to industry members whose products those  
15 retailers sell or promote, including direct links to the industry  
16 members' web sites; or

17 (c) Industry members and retailers from producing, jointly or  
18 together with regional, state, or local industry associations,  
19 brochures and materials promoting tourism in Washington state which  
20 contain information regarding retail licensees, industry members, and  
21 their products.

22 (5) Nothing in RCW 66.28.305 prohibits the performance of  
23 personal services offered from time to time by a domestic winery or  
24 certificate of approval holder to retailers when the personal  
25 services are (a) conducted at a licensed premises, and (b) intended  
26 to inform, educate, or enhance customers' knowledge or experience of  
27 the manufacturer's products. The performance of personal services may  
28 include participation and pouring, bottle signing events, and other  
29 similar informational or educational activities at the premises of a  
30 retailer holding a spirits, beer, and wine restaurant license, a wine  
31 and/or beer restaurant license, a specialty wine shop license, a  
32 special occasion license, a grocery store license with a tasting  
33 endorsement, or a private club license. A domestic winery or  
34 certificate of approval holder is not obligated to perform any such  
35 personal services, and a retail licensee may not require a domestic  
36 winery or certificate of approval holder to conduct any personal  
37 service as a condition for selling any alcohol to the retail  
38 licensee, or as a condition for including any product of the domestic  
39 winery or certificate of approval holder in any tasting conducted by  
40 the licensee. Except as provided in RCW 66.28.150, the cost of

1 sampling may not be borne, directly or indirectly, by any domestic  
2 winery or certificate of approval holder or any distributor. Nothing  
3 in this section prohibits wineries, breweries, microbreweries,  
4 certificate of approval holders, and retail licensees from  
5 identifying the producers on private labels authorized under RCW  
6 66.24.400, 66.24.425, 66.24.450, 66.24.360, and 66.24.371.

7 (6) Nothing in RCW 66.28.305 prohibits an industry member from  
8 entering into an arrangement with any holder of a sports  
9 entertainment facility license or an affiliated business for brand  
10 advertising at the licensed facility or promoting events held at the  
11 sports entertainment facility as authorized under RCW 66.24.570.

12 (7) Nothing in RCW 66.28.305 prohibits the performance of  
13 personal services offered from time to time by a domestic brewery,  
14 microbrewery, or beer certificate of approval holder to grocery store  
15 licensees with a tasting endorsement or to beer and/or wine specialty  
16 shop licensees when the personal services are (a) conducted at a  
17 licensed premises in conjunction with a tasting event, and (b)  
18 intended to inform, educate, or enhance customers' knowledge or  
19 experience of the manufacturer's products. The performance of  
20 personal services may include participation and pouring, bottle  
21 signing events, and other similar informational or educational  
22 activities. A domestic brewery, microbrewery, or beer certificate of  
23 approval holder is not obligated to perform any such personal  
24 services, and a grocery store or beer and/or wine specialty shop  
25 licensee may not require the performance of any personal service as a  
26 condition for including any product in any tasting conducted by the  
27 licensee.

28 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a  
29 domestic winery and a restaurant licensed under RCW 66.24.320 or  
30 66.24.400 to waive a corkage fee.

31 (9) Nothing in this section prohibits professional sports teams  
32 who hold a retail liquor license or their agents from accepting bona  
33 fide liquor advertising from manufacturers, importers, distributors,  
34 or their agents for use in the sporting arena. Professional sports  
35 teams who hold a retail liquor license or their agents may license  
36 the manufacturer, importer, distributor, or their agents to use the  
37 name and trademarks of the professional sports team in their  
38 advertising and promotions, under the following conditions:

1 (a) Such advertising must be paid for by said manufacturer,  
2 importer, distributor, or their agent at the published advertising  
3 rate or at a reasonable fair market value.

4 (b) Such advertising may carry with it no express or implied  
5 offer on the part of the manufacturer, importer, distributor, or  
6 their agent, or promise on the part of the retail licensee whose  
7 operation is directly or indirectly part of the sporting arena, to  
8 stock or list any particular brand of liquor to the total or partial  
9 exclusion of any other brand.

10 (10) Nothing in RCW 66.28.305 prohibits a licensed domestic  
11 brewery or microbrewery from providing branded promotional items  
12 which are of nominal value, singly or in the aggregate, to a  
13 nonprofit charitable corporation or association exempt from taxation  
14 under 26 U.S.C. Sec. 501(c)(3) of the internal revenue code as it  
15 existed on July 24, 2015, for use consistent with the purpose or  
16 purposes entitling it to such exemption.

17 (11) Nothing in RCW 66.28.305 prohibits the performance of  
18 personal services offered from time to time by a distiller, importer,  
19 manufacturer of spirits, or spirits importer to a beer and/or wine  
20 specialty shop with a spirits retail license when the personal  
21 services are (a) conducted at a licensed premises, and (b) intended  
22 to inform, educate, or enhance customers' knowledge or experience of  
23 the manufacturer's products. The performance of personal services may  
24 include participation in pouring for tastings, bottle signing events,  
25 personalized bottle engraving, embroidery of fabric bottle bags, and  
26 other similar informational or educational activities at the premises  
27 of a beer and/or wine specialty shop with a spirits retail license.  
28 Any spirit sampling at such an event must be conducted pursuant to  
29 RCW 66.24.670. A distiller, importer, manufacturer of spirits, or  
30 spirits importer is not obligated to perform any such personal  
31 services, and a retail licensee may not require a distiller,  
32 importer, manufacturer of spirits, or spirits importer to conduct any  
33 personal service as a condition for selling any alcohol to the retail  
34 licensee, or as a condition for including any product of the  
35 distiller, importer, manufacturer of spirits, or spirits importer in  
36 any tasting conducted by the licensee. Except as provided in RCW  
37 66.28.150, the cost of sampling may not be borne, directly or  
38 indirectly, by any distiller, importer, manufacturer of spirits,  
39 spirits importer, certificate of approval holder, or distributor.  
40 Nothing in this section prohibits a certificate of approval holder,

1 distiller, importer, manufacturer of spirits, or spirits importer  
2 from identifying the producers on private labels authorized under RCW  
3 66.24.360, 66.24.371, 66.24.400, 66.24.425, and 66.24.450.

4 (12) The personal services under subsection (11) of this section  
5 may be provided by an agent of the distiller, importer, manufacturer  
6 of spirits, or spirits importer that is not also a distributor.

7 (13) Any promotional value of personal services authorized under  
8 this section must meet state and federal requirements for labeling,  
9 pricing, moneys' worth under RCW 66.28.305, and undue influence under  
10 this section.

11 **Sec. 2.** RCW 66.24.670 and 2013 c 234 s 1 are each amended to  
12 read as follows:

13 (1) The holder of a spirits retail license that is also a  
14 participant in the responsible vendor program, created under RCW  
15 66.24.630, may provide, free or for a charge, single-serving samples  
16 of one-half ounce or less of spirits, and no more than a total of one  
17 and one-half ounces in spirits samples per person, for the purpose of  
18 sale promotion. Servers who provide spirit samples must hold a class  
19 12 alcohol server permit. Sampling conducted under this section must  
20 be conducted in accordance with rules established for sampling  
21 activities in beer and wine specialty shops and grocery stores.

22 (2) Sampling activities under this section are subject to RCW  
23 66.28.305 and 66.28.040 and the cost of sampling under this section  
24 may not be borne, directly or indirectly, by any manufacturer,  
25 importer, distiller, or distributor of spirits. However, personal  
26 service costs may be provided by a manufacturer, importer, distiller,  
27 or certificate of approval holder as authorized under RCW  
28 66.28.310(11).

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