
SUBSTITUTE SENATE BILL 5353

State of Washington **64th Legislature** **2015 Regular Session**

By Senate Commerce & Labor (originally sponsored by Senator Angel)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to marketing opportunities for spirits produced
2 in Washington by craft and general licensed distilleries; amending
3 RCW 66.24.140, 66.24.145, 66.24.175, and 66.20.010; adding a new
4 section to chapter 66.20 RCW; and adding a new section to chapter
5 66.24 RCW.

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

7 **Sec. 1.** RCW 66.24.140 and 2014 c 92 s 4 are each amended to read
8 as follows:

9 (1) There (~~shall be~~) is a license to distillers, including
10 blending, rectifying, and bottling; fee two thousand dollars per
11 annum, unless provided otherwise as follows:

12 (a) For distillers producing one hundred fifty thousand gallons
13 or less of spirits with at least half of the raw materials used in
14 the production grown in Washington, the license fee must be reduced
15 to one hundred dollars per annum;

16 (b) The board must license stills used and to be used solely and
17 only by a commercial chemist for laboratory purposes, and not for the
18 manufacture of liquor for sale, at a fee of twenty dollars per annum;

19 (c) The board must license stills used and to be used solely and
20 only for laboratory purposes in any school, college, or educational
21 institution in the state, without fee; and

1 (d) The board must license stills that have been duly licensed as
2 fruit and/or wine distilleries by the federal government, used and to
3 be used solely as fruit and/or wine distilleries in the production of
4 fruit brandy and wine spirits, at a fee of two hundred dollars per
5 annum.

6 (2) Any distillery licensed under this section may:

7 (a) Sell spirits of its own production for consumption off the
8 premises. A distillery selling spirits under this subsection must
9 comply with the applicable laws and rules relating to retailers;

10 (b) Contract distilled spirits for, and sell contract distilled
11 spirits to, holders of distillers' or manufacturers' licenses,
12 including licenses issued under RCW 66.24.520, or for export; and

13 (c) Provide free or for a charge one-half ounce or less samples
14 of spirits of its own production to persons on the premises of the
15 distillery. The maximum total per person per day is two ounces. Every
16 person who participates in any manner in the service of samples must
17 obtain a class 12 alcohol server permit. Spirits samples may be
18 adulterated with water and/or ice.

19 **Sec. 2.** RCW 66.24.145 and 2014 c 92 s 1 are each amended to read
20 as follows:

21 (1)(a) Any craft distillery may sell spirits of its own
22 production for consumption off the premises.

23 (b) A craft distillery selling spirits under this subsection must
24 comply with the applicable laws and rules relating to retailers.

25 (2) Any craft distillery may contract distilled spirits for, and
26 sell contract distilled spirits to, holders of distillers' or
27 manufacturers' licenses, including licenses issued under RCW
28 66.24.520, or for export.

29 (3) Any craft distillery licensed under this section may provide,
30 free or for a charge, one-half ounce or less samples of spirits of
31 its own production to persons on the premises of the distillery. The
32 maximum total per person per day is two ounces. Every person who
33 participates in any manner in the service of samples must obtain a
34 class 12 alcohol server permit. Spirits samples may be adulterated
35 with water and/or ice.

36 (4)(a) A distillery or craft distillery licensee may apply to the
37 board for an endorsement to sell spirits of its own production at
38 retail for off-premises consumption at a qualifying farmers market.
39 The annual fee for this endorsement is seventy-five dollars.

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

7 (c) Each approved location in a qualifying farmers market is
8 deemed to be part of the distillery or craft distillery license for
9 the purpose of this title. The approved locations under an
10 endorsement granted under this subsection include tasting or sampling
11 privileges subject to the conditions pursuant to RCW 66.24.175. The
12 distillery or craft distillery may not store spirits at a farmers
13 market beyond the hours that the bottled spirits are offered for
14 sale. The distillery or craft distillery may not act as a distributor
15 from a farmers market location.

16 (d) Before a distillery or craft distillery may sell bottled
17 spirits at a qualifying farmers market, the farmers market must apply
18 to the board for authorization for any distillery or craft distillery
19 with an endorsement approved under this subsection to sell bottled
20 spirits at retail at the farmers market. This application must
21 include, at a minimum: (i) A map of the farmers market showing all
22 booths, stalls, or other designated locations at which an approved
23 distillery or craft distillery may sell bottled spirits; and (ii) the
24 name and contact information for the on-site market managers who may
25 be contacted by the board or its designee to verify the locations at
26 which bottled spirits may be sold. Before authorizing a qualifying
27 farmers market to allow an approved distillery or craft distillery to
28 sell bottled spirits at retail at its farmers market location, the
29 board must notify the persons or entities of such application for
30 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization
31 granted under this subsection (4)(d) may be withdrawn by the board
32 for any violation of this title or any rules adopted under this
33 title.

34 (e) For the purposes of this subsection (4), "qualifying farmers
35 market" has the same meaning as defined in RCW 66.24.170.

36 (5) The board must adopt rules to implement the alcohol server
37 permit requirement and may adopt additional rules to implement this
38 section.

39 ~~((+5))~~ (6) Distilling is an agricultural practice.

1 **Sec. 3.** RCW 66.24.175 and 2014 c 105 s 2 are each amended to
2 read as follows:

3 (1) A qualifying farmers market authorized to allow wineries to
4 sell bottled wine at retail under RCW 66.24.170 ~~((or))~~,
5 microbreweries to sell bottled beer at retail under RCW 66.24.244,
6 ~~((or both,))~~ distilleries to sell bottled spirits at retail under RCW
7 66.24.140, or craft distilleries to sell bottled spirits at retail
8 under RCW 66.24.145 may apply to the liquor control board for an
9 endorsement to allow sampling of wine ~~((or))~~, beer, ~~((both))~~
10 spirits. A winery ~~((or))~~, microbrewery, distillery, or craft
11 distillery offering samples under this section must have an
12 endorsement from the board to sell wine ~~((or))~~, beer, or spirits, as
13 the case may be, of its own production at a qualifying farmers market
14 under RCW 66.24.170 ~~((or))~~, 66.24.244, 66.24.140, or 66.24.145,
15 respectively.

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

17 (a) No more than three wineries ~~((or))~~, microbreweries,
18 distilleries, or craft distilleries combined may offer samples at a
19 qualifying farmers market per day.

20 (b) Samples of wine or beer must be two ounces or less. A winery
21 or microbrewery may provide a maximum of two ounces of wine or beer
22 to a customer per day. A distillery or craft distillery may provide
23 one-half ounce or less samples of spirits, with a maximum total per
24 person per day of two ounces and such samples may be adulterated with
25 water and/or ice.

26 (c) A winery ~~((or))~~, microbrewery, distillery, or craft
27 distillery may advertise that it offers samples only at its
28 designated booth, stall, or other designated location at the farmers
29 market.

30 (d) Customers must remain at the designated booth, stall, or
31 other designated location while sampling beer ~~((or))~~, wine, or
32 spirits.

33 (e) Winery ~~((and))~~, microbrewery, distillery, or craft distillery
34 licensees and employees who are involved in sampling activities under
35 this section must hold a class 12 or class 13 alcohol server permit.

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

39 (3) The board may establish additional requirements to ensure
40 that persons under twenty-one years of age and apparently intoxicated

1 persons may not possess or consume alcohol under the authority
2 granted in this section.

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

8 (5) If a winery ((~~œ~~)), microbrewery, distillery, or craft
9 distillery is found to have committed a public safety violation in
10 conjunction with tasting activities, the board may suspend the
11 licensee's farmers market endorsement and not reissue the endorsement
12 for up to two years from the date of the violation. If mitigating
13 circumstances exist, the board may offer a monetary penalty in lieu
14 of suspension during a settlement conference.

15 (6) For the purposes of this section, a "qualifying farmers
16 market" has the same meaning as defined in RCW 66.24.170.

17 **Sec. 4.** RCW 66.20.010 and 2013 c 59 s 1 are each amended to read
18 as follows:

19 Upon application in the prescribed form being made to any
20 employee authorized by the board to issue permits, accompanied by
21 payment of the prescribed fee, and upon the employee being satisfied
22 that the applicant should be granted a permit under this title, the
23 employee must issue to the applicant under such regulations and at
24 such fee as may be prescribed by the board a permit of the class
25 applied for, as follows:

26 (1) Where the application is for a special permit by a physician
27 or dentist, or by any person in charge of an institution regularly
28 conducted as a hospital or sanatorium for the care of persons in ill
29 health, or as a home devoted exclusively to the care of aged people,
30 a special liquor purchase permit, except that the governor may waive
31 the requirement for a special liquor purchase permit under this
32 subsection pursuant to an order issued under RCW 43.06.220(2);

33 (2) Where the application is for a special permit by a person
34 engaged within the state in mechanical or manufacturing business or
35 in scientific pursuits requiring alcohol for use therein, or by any
36 private individual, a special permit to purchase alcohol for the
37 purpose named in the permit, except that the governor may waive the
38 requirement for a special liquor purchase permit under this
39 subsection pursuant to an order issued under RCW 43.06.220(2);

1 (3) Where the application is for a special permit to consume
2 liquor at a banquet, at a specified date and place, a special permit
3 to purchase liquor for consumption at such banquet, to such
4 applicants as may be fixed by the board;

5 (4) Where the application is for a special permit to consume
6 liquor on the premises of a business not licensed under this title, a
7 special permit to purchase liquor for consumption thereon for such
8 periods of time and to such applicants as may be fixed by the board;

9 (5) Where the application is for a special permit by a
10 manufacturer to import or purchase within the state alcohol, malt,
11 and other materials containing alcohol to be used in the manufacture
12 of liquor, or other products, a special permit;

13 (6) Where the application is for a special permit by a person
14 operating a drug store to purchase liquor at retail prices only, to
15 be thereafter sold by such person on the prescription of a physician,
16 a special liquor purchase permit, except that the governor may waive
17 the requirement for a special liquor purchase permit under this
18 subsection pursuant to an order issued under RCW 43.06.220(2);

19 (7) Where the application is for a special permit by an
20 authorized representative of a military installation operated by or
21 for any of the armed forces within the geographical boundaries of the
22 state of Washington, a special permit to purchase liquor for use on
23 such military installation;

24 (8) Where the application is for a special permit by a vendor
25 that manufactures or sells a product which cannot be effectively
26 presented to potential buyers without serving it with liquor or by a
27 manufacturer, importer, or distributor, or representative thereof, to
28 serve liquor without charge to delegates and guests at a convention
29 of a trade association composed of licensees of the board, when the
30 said liquor is served in a hospitality room or from a booth in a
31 board-approved suppliers' display room at the convention, and when
32 the liquor so served is for consumption in the said hospitality room
33 or display room during the convention, anything in this title to the
34 contrary notwithstanding. Any such spirituous liquor must be
35 purchased from a spirits retailer or distributor, and any such liquor
36 is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

37 (9) Where the application is for a special permit by a
38 manufacturer, importer, or distributor, or representative thereof, to
39 donate liquor for a reception, breakfast, luncheon, or dinner for
40 delegates and guests at a convention of a trade association composed

1 of licensees of the board, when the liquor so donated is for
2 consumption at the said reception, breakfast, luncheon, or dinner
3 during the convention, anything in this title to the contrary
4 notwithstanding. Any such spirituous liquor must be purchased from a
5 spirits retailer or distributor, and any such liquor is subject to
6 the taxes imposed by RCW 66.24.290 and 66.24.210;

7 (10) Where the application is for a special permit by a
8 manufacturer, importer, or distributor, or representative thereof, to
9 donate and/or serve liquor without charge to delegates and guests at
10 an international trade fair, show, or exposition held under the
11 auspices of a federal, state, or local governmental entity or
12 organized and promoted by a nonprofit organization, anything in this
13 title to the contrary notwithstanding. Any such spirituous liquor
14 must be purchased from a liquor spirits retailer or distributor, and
15 any such liquor is subject to the taxes imposed by RCW 66.24.290 and
16 66.24.210;

17 (11) Where the application is for an annual special permit by a
18 person operating a bed and breakfast lodging facility to donate or
19 serve wine or beer without charge to overnight guests of the facility
20 if the wine or beer is for consumption on the premises of the
21 facility. "Bed and breakfast lodging facility," as used in this
22 subsection, means a facility offering from one to eight lodging units
23 and breakfast to travelers and guests;

24 (12) Where the application is for a special permit to allow
25 tasting of alcohol by persons at least eighteen years of age under
26 the following circumstances:

27 (a) The application is from a community or technical college as
28 defined in RCW 28B.50.030;

29 (b) The person who is permitted to taste under this subsection is
30 enrolled as a student in a required or elective class that is part of
31 a culinary, wine technology, beer technology, or spirituous
32 technology-related degree program;

33 (c) The alcohol served to any person in the degree-related
34 programs under (b) of this subsection is tasted but not consumed for
35 the purposes of educational training as part of the class curriculum
36 with the approval of the educational provider;

37 (d) The service and tasting of alcoholic beverages is supervised
38 by a faculty or staff member of the educational provider who is
39 twenty-one years of age or older. The supervising faculty or staff

1 member shall possess a class 12 or 13 alcohol server permit under the
2 provisions of RCW 66.20.310;

3 (e) The enrolled student permitted to taste the alcoholic
4 beverages does not purchase the alcoholic beverages; and

5 (f) The permit fee for the special permit provided for in this
6 subsection (12) (~~shall~~) must be waived by the board;

7 (13) Where the application is for a special permit by a
8 distillery or craft distillery for an event not open to the general
9 public to be held or conducted at a specific place, including at the
10 licensed premise of the applying distillery or craft distillery, upon
11 a specific date for the purpose of tasting and selling spirits of its
12 own production. The distillery or craft distillery must obtain a
13 permit for a fee of ten dollars per event. An application for the
14 permit must be submitted via the board's online web portal for
15 private banquet permits prior to the event and, once issued, must be
16 posted in a conspicuous place at the premises for which the permit
17 was issued during all times the permit is in use.

18 NEW SECTION. Sec. 5. A new section is added to chapter 66.20
19 RCW to read as follows:

20 (1) The holder of a license to operate a distillery or craft
21 distillery issued under RCW 66.24.140 or 66.24.145 may accept orders
22 for spirits from, and deliver spirits to, customers if all of the
23 following conditions are met for each sale:

24 (a) Spirits are not used for resale;

25 (b) Spirits come directly from the distillery's or craft
26 distillery's possession prior to shipment or delivery. All
27 transactions are to be treated as if they were conducted in the
28 retail location of the distillery or craft distillery regardless of
29 how they are received or processed;

30 (c) Spirits may be ordered in person at a licensed location, by
31 mail, telephone, or internet, or by other similar methods; and

32 (d) Only a distillery or craft distillery licensee or a
33 licensee's direct employees may accept and process orders and
34 payments. A contractor may not do so on behalf of a distillery or
35 craft distillery licensee, except for transmittal of payment through
36 a third-party service. A third-party service may not solicit customer
37 business on behalf of a distillery or craft distillery licensee.

1 (2) All orders and payments must be fully processed before
2 spirits transfers ownership or, in the case of delivery, leaves a
3 licensed distillery's or craft distillery's possession.

4 (3) Payment methods include, but are not limited to: Cash, credit
5 or debit card, check or money order, electronic funds transfer, or an
6 existing prepaid account. An existing prepaid account may not have a
7 negative balance.

8 (4) To sell spirits via the internet, a new distillery or craft
9 distillery license applicant must request internet-sales privileges
10 in his or her application. An existing distillery or craft distillery
11 licensee must notify the board prior to beginning internet sales. A
12 corporate entity representing multiple licensees may notify the board
13 in a single letter on behalf of affiliated distillery or craft
14 distillery licensees, as long as the liquor license numbers of all
15 licensee locations utilizing internet sales privileges are clearly
16 identified.

17 (5) Delivery may be made only to a residence or business that has
18 an address recognized by the United States postal service; however,
19 the board may grant an exception to this rule at its discretion. A
20 residence includes a hotel room, a motel room, marina, or other
21 similar lodging that temporarily serves as a residence.

22 (6) Spirits may be delivered each day of the week between the
23 hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by
24 2:00 a.m.

25 (7) Under chapter 66.44 RCW, any person under twenty-one years of
26 age is prohibited from purchasing, delivering, or accepting delivery
27 of liquor.

28 (a) A delivery person must verify the age of the person accepting
29 delivery before handing over liquor.

30 (b) If no person twenty-one years of age or older is present to
31 accept a liquor order at the time of delivery, the liquor must be
32 returned.

33 (8) Intoxication. Delivery of liquor is prohibited to any person
34 who shows signs of intoxication.

35 (9)(a) Individual units of spirits must be factory sealed in
36 bottles. For the purposes of this subsection, "factory sealed" means
37 that a unit is in one hundred percent resalable condition, with all
38 manufacturer's seals intact.

39 (b) The outermost surface of a liquor package, delivered by a
40 third party, must have language stating that:

1 (i) The package contains liquor;
2 (ii) The recipient must be twenty-one years of age or older; and
3 (iii) Delivery to intoxicated persons is prohibited.
4 (10) Required information.
5 (a) Records and files must be retained at the licensed premises.
6 Each delivery sales record must include the following:
7 (i) Name of the purchaser;
8 (ii) Name of the person who accepts delivery;
9 (iii) Street addresses of the purchaser and the delivery
10 location; and
11 (iv) Time and date of purchase and delivery.
12 (b) A private carrier must obtain the signature of the person who
13 receives liquor upon delivery.
14 (c) A sales record does not have to include the name of the
15 delivery person, but it is encouraged.
16 (11) Web site requirements. When selling over the internet, all
17 web site pages associated with the sale of liquor must display the
18 distillery or craft distillery licensee's registered trade name.
19 (12) Accountability. A distillery or craft distillery licensee is
20 accountable for all deliveries of liquor made on its behalf.
21 (13) Violations. The board may impose administrative enforcement
22 action upon a licensee, or suspend or revoke a licensee's delivery
23 privileges, or any combination thereof, should a licensee violate any
24 condition, requirement, or restriction.

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

27 (1) Any licensee authorized to sell at retail under this chapter
28 may sell gift certificates and gift cards intended to be exchanged
29 for consumer goods, including alcohol, produced and sold by the
30 licensee. The licensee may also sell the gift certificates and gift
31 cards to or through a third-party retailer for resale to the public.
32 Gift certificates and gift cards may not be redeemed for alcohol by
33 persons under the age of twenty-one.

34 (2) For the purposes of this section, "gift certificate" and
35 "gift cards" have the same meaning as provided in RCW 19.240.010.

--- END ---