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**HOUSE BILL 2686**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Orwall, MacEwen, DeBolt, Blake, Fey, Vick, and Springer

Read first time 01/17/20. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to excluding the common carrier licensees from  
2 the definition of retailer for the purposes of the three-tier system;  
3 and amending RCW 66.28.285.

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

5 **Sec. 1.** RCW 66.28.285 and 2009 c 506 s 2 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout RCW 66.28.280  
8 through 66.28.315 unless the context clearly requires otherwise.

9 (1) "Adverse impact on public health and safety" means that an  
10 existing or proposed practice or occurrence has resulted or is more  
11 likely than not to result in alcohol being made significantly more  
12 attractive or available to minors than would otherwise be the case or  
13 has resulted or is more likely than not to result in overconsumption,  
14 consumption by minors, or other harmful or abusive forms of  
15 consumption.

16 (2) "Affiliate" means any one of two or more persons if one of  
17 those persons has actual or legal control, directly or indirectly,  
18 whether by stock ownership or otherwise, of the other person or  
19 persons and any one of two or more persons subject to common control,  
20 actual or legal, directly or indirectly, whether by stock ownership  
21 or otherwise.

1 (3) "Industry member" means a licensed manufacturer, producer,  
2 supplier, importer, wholesaler, distributor, authorized  
3 representative, certificate of approval holder, warehouse, and any  
4 affiliates, subsidiaries, officers, directors, partners, agents,  
5 employees, and representatives of any industry member. "Industry  
6 member" does not include the board or any of the board's employees.

7 (4) "Person" means any individual, partnership, joint stock  
8 company, business trust, association, corporation, or other form of  
9 business enterprise, including a receiver, trustee, or liquidating  
10 agent and includes any officer or employee of a retailer or industry  
11 member.

12 (5) "Retailer" means the holder of a license issued by the board  
13 to allow for the sale of alcoholic beverages to consumers for  
14 consumption on or off premises and any of the retailer's agents,  
15 officers, directors, shareholders, partners, or employees. "Retailer"  
16 does not include the board or any of the board's employees. A license  
17 issued under RCW 66.24.395 does not constitute a retail license for  
18 the purposes of this section.

19 (6) "Undue influence" means one retailer or industry member  
20 directly or indirectly influencing the purchasing, marketing, or  
21 sales decisions of another retailer or industry member by any  
22 agreement written or unwritten or any other business practices or  
23 arrangements such as but not limited to the following:

24 (a) Any form of coercion between industry members and retailers  
25 or between retailers and industry members through acts or threats of  
26 physical or economic harm, including threat of loss of supply or  
27 threat of curtailment of purchase;

28 (b) A retailer on an involuntary basis purchasing less than it  
29 would have of another industry member's product;

30 (c) Purchases made by a retailer or industry member as a  
31 prerequisite for purchase of other items;

32 (d) A retailer purchasing a specific or minimum quantity or type  
33 of a product or products from an industry member;

34 (e) An industry member requiring a retailer to take and dispose  
35 of a certain product type or quota of the industry member's products;

36 (f) A retailer having a continuing obligation to purchase or  
37 otherwise promote or display an industry member's product;

38 (g) An industry member having a continuing obligation to sell a  
39 product to a retailer;

1           (h) A retailer having a commitment not to terminate its  
2 relationship with an industry member with respect to purchase of the  
3 industry member's products or an industry member having a commitment  
4 not to terminate its relationship with a retailer with respect to the  
5 sale of a particular product or products;

6           (i) An industry member being involved in the day-to-day  
7 operations of a retailer or a retailer being involved in the day-to-  
8 day operations of an industry member in a manner that violates the  
9 provisions of this section;

10          (j) Discriminatory pricing practices as prohibited by law or  
11 other practices that are discriminatory in that product is not  
12 offered to all retailers in the local market on the same terms.

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