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**SENATE BILL 5394**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators King, Conway, Palumbo, and Keiser

Read first time 01/18/19. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to liquor licensees' use of web sites and social  
2 media to promote authorized events; and amending RCW 66.28.310.

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

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

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

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

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

19 (iii) May be provided by industry members only to retailers and  
20 their employees and may not be provided by or through retailers or  
21 their employees to retail customers; and

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

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

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

21 (2) Nothing in RCW 66.28.305 prohibits:

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

24 (i) Installation of draft beer dispensing equipment or  
25 advertising;

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

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

32 (b) Special occasion licensees from paying for beer, wine, or  
33 spirits immediately following the end of the special occasion event;  
34 or

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

38 (3) Nothing in RCW 66.28.305 prohibits industry members from  
39 performing, and retailers from accepting the service of building,  
40 rotating, and restocking displays and stockroom inventories; rotating

1 and rearranging can and bottle displays of their own products;  
2 providing point of sale material and brand signs; pricing case goods  
3 of their own brands; and performing such similar business services  
4 consistent with board rules, or personal services as described in  
5 subsection (5) of this section.

6 (4) Nothing in RCW 66.28.305 prohibits:

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

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

14 (c) Industry members from posting, reposting, or sharing  
15 information and images related to authorized events at another  
16 retailer's location or licensed special occasion event, including  
17 links to purchase event tickets, on web sites and social media  
18 accounts owned by an industry member or its authorized  
19 representative. Industry members may not pay for posts related to  
20 events at another retailer's location or at licensed special occasion  
21 events. Industry members are not obligated to provide social media  
22 posts related to an authorized event and a retailer may not require  
23 an industry member to provide social media posts as a condition of  
24 participating in another retailer's event; or

25 (d) Industry members and retailers from producing, jointly or  
26 together with regional, state, or local industry associations,  
27 brochures and materials promoting tourism in Washington state which  
28 contain information regarding retail licensees, industry members, and  
29 their products.

30 (5) Nothing in RCW 66.28.305 prohibits the performance of  
31 personal services offered from time to time by a domestic winery or  
32 certificate of approval holder to retailers when the personal  
33 services are (a) conducted at a licensed premises, and (b) intended  
34 to inform, educate, or enhance customers' knowledge or experience of  
35 the manufacturer's products. The performance of personal services may  
36 include participation and pouring, bottle signing events, and other  
37 similar informational or educational activities at the premises of a  
38 retailer holding a spirits, beer, and wine restaurant license, a wine  
39 and/or beer restaurant license, a specialty wine shop license, a  
40 special occasion license, a grocery store license with a tasting

1 endorsement, or a private club license. A domestic winery or  
2 certificate of approval holder is not obligated to perform any such  
3 personal services, and a retail licensee may not require a domestic  
4 winery or certificate of approval holder to conduct any personal  
5 service as a condition for selling any alcohol to the retail  
6 licensee, or as a condition for including any product of the domestic  
7 winery or certificate of approval holder in any tasting conducted by  
8 the licensee. Except as provided in RCW 66.28.150, the cost of  
9 sampling may not be borne, directly or indirectly, by any domestic  
10 winery or certificate of approval holder or any distributor. Nothing  
11 in this section prohibits wineries, breweries, microbreweries,  
12 certificate of approval holders, and retail licensees from  
13 identifying the producers on private labels authorized under RCW  
14 66.24.400, 66.24.425, 66.24.450, 66.24.360, and 66.24.371.

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

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

34 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a  
35 domestic winery and a restaurant licensed under RCW 66.24.320 or  
36 66.24.400 to waive a corkage fee.

37 (9) Nothing in this section prohibits professional sports teams  
38 who hold a retail liquor license or their agents from accepting bona  
39 fide liquor advertising from manufacturers, importers, distributors,  
40 or their agents for use in the sporting arena. Professional sports

1 teams who hold a retail liquor license or their agents may license  
2 the manufacturer, importer, distributor, or their agents to use the  
3 name and trademarks of the professional sports team in their  
4 advertising and promotions, under the following conditions:

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

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

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

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