

**HB 2240 - S AMD 419**

By Senator Kohl-Welles

ADOPTED 04/10/2007

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 66.28.010 and 2006 c 330 s 28, 2006 c 92 s 1, and  
4 2006 c 43 s 1 are each reenacted and amended to read as follows:

5 (1)(a) No manufacturer, importer, distributor, or authorized  
6 representative, or person financially interested, directly or  
7 indirectly, in such business; whether resident or nonresident, shall  
8 have any financial interest, direct or indirect, in any licensed retail  
9 business, unless the retail business is owned by a corporation in which  
10 a manufacturer or importer has no direct stock ownership and there are  
11 no interlocking officers and directors, the retail license is held by  
12 a corporation that is not owned directly or indirectly by a  
13 manufacturer or importer, the sales of liquor are incidental to the  
14 primary activity of operating the property as a hotel, alcoholic  
15 beverages produced by the manufacturer or importer or their  
16 subsidiaries are not sold at the licensed premises, and the board  
17 reviews the ownership and proposed method of operation of all involved  
18 entities and determines that there will not be an unacceptable level of  
19 control or undue influence over the operation or the retail licensee;  
20 nor shall any manufacturer, importer, distributor, or authorized  
21 representative own any of the property upon which such licensed persons  
22 conduct their business; nor shall any such licensed person, under any  
23 arrangement whatsoever, conduct his or her business upon property in  
24 which any manufacturer, importer, distributor, or authorized  
25 representative has any interest unless title to that property is owned  
26 by a corporation in which a manufacturer has no direct stock ownership  
27 and there are no interlocking officers or directors, the retail license  
28 is held by a corporation that is not owned directly or indirectly by  
29 the manufacturer, the sales of liquor are incidental to the primary  
30 activity of operating the property either as a hotel or as an

1 amphitheater offering live musical and similar live entertainment  
2 activities to the public, alcoholic beverages produced by the  
3 manufacturer or any of its subsidiaries are not sold at the licensed  
4 premises, and the board reviews the ownership and proposed method of  
5 operation of all involved entities and determines that there will not  
6 be an unacceptable level of control or undue influence over the  
7 operation of the retail licensee. Except as provided in subsection (3)  
8 of this section, no manufacturer, importer, distributor, or authorized  
9 representative shall advance moneys or moneys' worth to a licensed  
10 person under an arrangement, nor shall such licensed person receive,  
11 under an arrangement, an advance of moneys or moneys' worth. "Person"  
12 as used in this section only shall not include those state or federally  
13 chartered banks, state or federally chartered savings and loan  
14 associations, state or federally chartered mutual savings banks, or  
15 institutional investors which are not controlled directly or indirectly  
16 by a manufacturer, importer, distributor, or authorized representative  
17 as long as the bank, savings and loan association, or institutional  
18 investor does not influence or attempt to influence the purchasing  
19 practices of the retailer with respect to alcoholic beverages. Except  
20 as otherwise provided in this section, no manufacturer, importer,  
21 distributor, or authorized representative shall be eligible to receive  
22 or hold a retail license under this title, nor shall such manufacturer,  
23 importer, distributor, or authorized representative sell at retail any  
24 liquor as herein defined. A corporation granted an exemption under  
25 this subsection may use debt instruments issued in connection with  
26 financing construction or operations of its facilities.

27 (b) Nothing in this section shall prohibit a licensed domestic  
28 brewery or microbrewery from being licensed as a retailer pursuant to  
29 chapter 66.24 RCW for the purpose of selling beer or wine at retail on  
30 the brewery premises and nothing in this section shall prohibit a  
31 domestic winery from being licensed as a retailer pursuant to chapter  
32 66.24 RCW for the purpose of selling beer or wine at retail on the  
33 winery premises. Such beer and wine so sold at retail shall be subject  
34 to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting  
35 and bonding requirements as prescribed by regulations adopted by the  
36 board pursuant to chapter 34.05 RCW, and beer and wine that is not  
37 produced by the brewery or winery shall be purchased from a licensed  
38 beer or wine distributor.

1 (c) Nothing in this section shall prohibit a licensed distiller,  
2 domestic brewery, microbrewery, domestic winery, or a lessee of a  
3 licensed domestic brewer, microbrewery, or domestic winery, from being  
4 licensed as a spirits, beer, and wine restaurant pursuant to chapter  
5 66.24 RCW for the purpose of selling liquor at a spirits, beer, and  
6 wine restaurant premises on the property on which the primary  
7 manufacturing facility of the licensed distiller, domestic brewer,  
8 microbrewery, or domestic winery is located or on contiguous property  
9 owned or leased by the licensed distiller, domestic brewer,  
10 microbrewery, or domestic winery as prescribed by rules adopted by the  
11 board pursuant to chapter 34.05 RCW.

12 (d) Nothing in this section prohibits retail licensees with a  
13 caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from  
14 operating on a domestic winery premises.

15 (e) Nothing in this section prohibits an organization qualifying  
16 under RCW 66.24.375 formed for the purpose of constructing and  
17 operating a facility to promote Washington wines from holding retail  
18 licenses on the facility property or leasing all or any portion of such  
19 facility property to a retail licensee on the facility property if the  
20 members of the board of directors or officers of the board for the  
21 organization include officers, directors, owners, or employees of a  
22 licensed domestic winery. Financing for the construction of the  
23 facility must include both public and private money.

24 (f) Nothing in this section prohibits a bona fide charitable  
25 nonprofit society or association registered as a 501(c)(3) under the  
26 internal revenue code and having an officer, director, owner, or  
27 employee of a licensed domestic winery or a wine certificate of  
28 approval holder on its board of directors from holding a special  
29 occasion license under RCW 66.24.380.

30 (g)(i) Nothing in this section prohibits domestic wineries and  
31 retailers licensed under chapter 66.24 RCW from (~~jointly~~) producing  
32 jointly or together with regional, state, or local wine industry  
33 associations, brochures and materials promoting tourism in Washington  
34 state which contain information regarding retail licensees, domestic  
35 wineries, and their products.

36 (ii) Nothing in this section prohibits: (A) Domestic wineries,  
37 domestic breweries, microbreweries, and certificate of approval holders  
38 licensed under this chapter from listing on their internet web sites

1 information related to retailers who sell or promote their products,  
2 including direct links to the retailers' internet web sites; and (B)  
3 retailers licensed under this chapter from listing on their internet  
4 web sites information related to domestic wineries, domestic breweries,  
5 microbreweries, and certificate of approval holders whose products  
6 those retailers sell or promote, including direct links to the domestic  
7 wineries', domestic breweries', microbreweries', and certificate of  
8 approval holders' web sites.

9 (h) Nothing in this section prohibits the performance of personal  
10 services offered from time to time by a domestic winery or certificate  
11 of approval holder licensed under RCW 66.24.206(1)(a) for or on behalf  
12 of a licensed retail business when the personal services are (i)  
13 conducted at a licensed premises, and (ii) intended to inform, educate,  
14 or enhance customers' knowledge or experience of the manufacturer's  
15 products. The performance of personal services may include  
16 participation and pouring at the premises of a retailer holding a  
17 spirits, beer, and wine restaurant license, a wine and/or beer  
18 restaurant license, or a speciality wine shop license; bottle signings;  
19 and other similar informational or educational activities. A domestic  
20 winery or certificate of approval holder is not obligated to perform  
21 any such personal services, and a retail licensee may not require a  
22 domestic winery or certificate of approval holder to conduct any  
23 personal service as a condition for selling any alcohol to the retail  
24 licensee. Except as provided in RCW 66.28.150, the cost of sampling  
25 may not be borne, directly or indirectly, by any liquor manufacturer,  
26 importer, or distributor. Nothing in this section prohibits domestic  
27 wineries and retail licensees from identifying the wineries on private  
28 labels authorized under RCW 66.24.400, 66.24.425, and 66.24.450.

29 (i) Until July 1, 2007, nothing in this section prohibits a  
30 nonprofit statewide organization of microbreweries formed for the  
31 purpose of promoting Washington's craft beer industry as a trade  
32 association registered as a 501(c) with the internal revenue service  
33 from holding a special occasion license to conduct up to six beer  
34 festivals.

35 (2) Financial interest, direct or indirect, as used in this  
36 section, shall include any interest, whether by stock ownership,  
37 mortgage, lien, or through interlocking directors, or otherwise.  
38 Pursuant to rules promulgated by the board in accordance with chapter

1 34.05 RCW manufacturers, distributors, and importers may perform, and  
2 retailers may accept the service of building, rotating and restocking  
3 case displays and stock room inventories; rotating and rearranging can  
4 and bottle displays of their own products; provide point of sale  
5 material and brand signs; price case goods of their own brands; and  
6 perform such similar normal business services as the board may by  
7 regulation prescribe.

8 (3)(a) This section does not prohibit a manufacturer, importer, or  
9 distributor from providing services to a special occasion licensee for:  
10 (i) Installation of draft beer dispensing equipment or advertising,  
11 (ii) advertising, pouring, or dispensing of beer or wine at a beer or  
12 wine tasting exhibition or judging event, or (iii) a special occasion  
13 licensee from receiving any such services as may be provided by a  
14 manufacturer, importer, or distributor. Nothing in this section shall  
15 prohibit a retail licensee, or any person financially interested,  
16 directly or indirectly, in such a retail licensee from having a  
17 financial interest, direct or indirect, in a business which provides,  
18 for a compensation commensurate in value to the services provided,  
19 bottling, canning or other services to a manufacturer, so long as the  
20 retail licensee or person interested therein has no direct financial  
21 interest in or control of said manufacturer.

22 (b) A person holding contractual rights to payment from selling a  
23 liquor distributor's business and transferring the license shall not be  
24 deemed to have a financial interest under this section if the person  
25 (i) lacks any ownership in or control of the distributor, (ii) is not  
26 employed by the distributor, and (iii) does not influence or attempt to  
27 influence liquor purchases by retail liquor licensees from the  
28 distributor.

29 (c) The board shall adopt such rules as are deemed necessary to  
30 carry out the purposes and provisions of subsections (1)(g) and (h) and  
31 (3)(a) of this section in accordance with the administrative procedure  
32 act, chapter 34.05 RCW.

33 (4) A license issued under RCW 66.24.395 does not constitute a  
34 retail license for the purposes of this section.

35 (5) A public house license issued under RCW 66.24.580 does not  
36 violate the provisions of this section as to a retailer having an  
37 interest directly or indirectly in a liquor-licensed manufacturer.

1       **Sec. 2.** RCW 66.28.150 and 2004 c 160 s 14 are each amended to read  
2 as follows:

3       A domestic brewery, microbrewery, domestic winery, distillery,  
4 distributor, certificate of approval holder, or its licensed agent may,  
5 without charge, instruct licensees and their employees, or conduct  
6 courses of instruction for licensees and their employees, including  
7 chefs, on the subject of beer, wine, or spirituous liquor, including  
8 but not limited to, the history, nature, values, and characteristics of  
9 beer, wine, or spirituous liquor, the use of wine lists, and the  
10 methods of presenting, serving, storing, and handling beer, wine, or  
11 spirituous liquor, and what wines go well with different types of food.  
12 The domestic brewery, microbrewery, domestic winery, distillery,  
13 distributor, certificate of approval holder, or its licensed agent may  
14 furnish beer, wine, or spirituous liquor and such other equipment,  
15 materials, and utensils as may be required for use in connection with  
16 the instruction or courses of instruction. The instruction or courses  
17 of instruction may be given at the premises of the domestic brewery,  
18 microbrewery, domestic winery, distillery, or authorized representative  
19 holding a certificate of approval, at the premises of a retail  
20 licensee, or elsewhere within the state of Washington."

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21       On page 1, line 3 of the title, after "wine;" strike the remainder  
22 of the title and insert "amending RCW 66.28.150; and reenacting and  
23 amending RCW 66.28.010."

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