

**ESSB 6477** - H AMD 1284

By Representative Hunt

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

3       "**Sec. 1.** RCW 66.28.310 and 2011 c 119 s 101 and 2011 c 66 s 3 are  
4 each reenacted and amended to read as follows:

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

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

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

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

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

22       (b) An industry member is not obligated to provide any such branded  
23 promotional items, and a retailer may not require an industry member to  
24 provide such branded promotional items as a condition for selling any  
25 alcohol to the retailer.

26       (c) Any industry member or retailer or any other person asserting  
27 that the provision of branded promotional items as allowed in (a) of  
28 this subsection has resulted or is more likely than not to result in  
29 undue influence or an adverse impact on public health and safety, or is  
30 otherwise inconsistent with the criteria in (a) of this subsection may

1 file a complaint with the board. Upon receipt of a complaint the board  
2 may conduct such investigation as it deems appropriate in the  
3 circumstances. If the investigation reveals the provision of branded  
4 promotional items has resulted in or is more likely than not to result  
5 in undue influence or has resulted or is more likely than not to result  
6 in an adverse impact on public health and safety or is otherwise  
7 inconsistent with (a) of this subsection the board may issue an  
8 administrative violation notice to the industry member, to the  
9 retailer, or both. The recipient of the administrative violation  
10 notice may request a hearing under chapter 34.05 RCW.

11 (2) Nothing in RCW 66.28.305 prohibits:

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

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

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

17 (iii) Pouring or dispensing of spirits by a licensed domestic  
18 distiller or the accredited representative of a distiller,  
19 manufacturer, importer, or distributor of spirituous liquor licensed  
20 under RCW 66.24.310; or

21 (b) Special occasion licensees from paying for beer or wine  
22 immediately following the end of the special occasion event; or

23 (c) Wineries or breweries that are participating in a special  
24 occasion event from paying reasonable booth fees to the special  
25 occasion licensee.

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

34 (4) Nothing in RCW 66.28.305 prohibits:

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

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

4 (c) Industry members and retailers from producing, jointly or  
5 together with regional, state, or local industry associations,  
6 brochures and materials promoting tourism in Washington state which  
7 contain information regarding retail licensees, industry members, and  
8 their products.

9 (5) Nothing in RCW 66.28.305 prohibits the performance of personal  
10 services offered from time to time by a domestic winery or certificate  
11 of approval holder to retailers when the personal services are (a)  
12 conducted at a licensed premises, and (b) intended to inform, educate,  
13 or enhance customers' knowledge or experience of the manufacturer's  
14 products. The performance of personal services may include  
15 participation and pouring, bottle signing events, and other similar  
16 informational or educational activities at the premises of a retailer  
17 holding a spirits, beer, and wine restaurant license, a wine and/or  
18 beer restaurant license, a specialty wine shop license, a special  
19 occasion license, a grocery store license with a tasting endorsement,  
20 or a private club license. A domestic winery or certificate of  
21 approval holder is not obligated to perform any such personal services,  
22 and a retail licensee may not require a domestic winery or certificate  
23 of approval holder to conduct any personal service as a condition for  
24 selling any alcohol to the retail licensee, or as a condition for  
25 including any product of the domestic winery or certificate of approval  
26 holder in any tasting conducted by the licensee. Except as provided in  
27 RCW 66.28.150, the cost of sampling may not be borne, directly or  
28 indirectly, by any domestic winery or certificate of approval holder or  
29 any distributor. Nothing in this section prohibits wineries,  
30 breweries, microbreweries, certificate of approval holders, and retail  
31 licensees from identifying the producers on private labels authorized  
32 under RCW 66.24.400, 66.24.425, ((and)) 66.24.450, 66.24.360, and  
33 66.24.371.

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

1 (7) Nothing in RCW 66.28.305 prohibits the performance of personal  
2 services offered from time to time by a domestic brewery, microbrewery,  
3 or beer certificate of approval holder to grocery store licensees with  
4 a tasting endorsement when the personal services are (a) conducted at  
5 a licensed premises in conjunction with a tasting event, and (b)  
6 intended to inform, educate, or enhance customers' knowledge or  
7 experience of the manufacturer's products. The performance of personal  
8 services may include participation and pouring, bottle signing events,  
9 and other similar informational or educational activities. A domestic  
10 brewery, microbrewery, or beer certificate of approval holder is not  
11 obligated to perform any such personal services, and a grocery store  
12 licensee may not require the performance of any personal service as a  
13 condition for including any product in any tasting conducted by the  
14 licensee.

15 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a  
16 domestic winery and a restaurant licensed under RCW 66.24.320 or  
17 66.24.400 to waive a corkage fee.

18 (9) Nothing in this section prohibits professional sports teams who  
19 hold a retail liquor license or their agents from accepting bona fide  
20 liquor advertising from manufacturers, importers, distributors, or  
21 their agents for use in the sporting arena. Professional sports teams  
22 who hold a retail liquor license or their agents may license the  
23 manufacturer, importer, distributor, or their agents to use the name  
24 and trademarks of the professional sports team in their advertising and  
25 promotions, under the following conditions:

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

29 (b) Such advertising may carry with it no express or implied offer  
30 on the part of the manufacturer, importer, distributor, or their agent,  
31 or promise on the part of the retail licensee whose operation is  
32 directly or indirectly part of the sporting arena, to stock or list any  
33 particular brand of liquor to the total or partial exclusion of any  
34 other brand.

35 NEW SECTION. **Sec. 2.** A new section is added to chapter 66.16 RCW  
36 to read as follows:

37 (1) The liquor control board must allow spirits sampling in former

1 contract liquor stores for the purpose of promoting spirits products.  
2 Stores may apply for an endorsement to offer spirits tastings under  
3 this section.

4 (a) No store may hold more than two spirits samplings per month.

5 (b) The locations shall be approved by the board. Before the board  
6 determines which stores will be eligible to participate, it shall give:

7 (i) Due consideration to the location of the store with respect to  
8 the proximity of places of worship, schools, and public institutions;

9 (ii) Due consideration to motor vehicle accident data in the  
10 proximity of the store; and

11 (iii) Written notice by certified mail of the proposed spirits  
12 sampling to places of worship, schools, and public institutions within  
13 five hundred feet of the store proposed to offer spirits sampling.

14 (c) Sampling must be conducted under the following conditions:

15 (i) Sampling may take place only in an area of a store in which  
16 access to persons under twenty-one years of age is prohibited;

17 (ii) Samples may be provided free of charge;

18 (iii) Only persons twenty-one years of age or over may sample  
19 spirits;

20 (iv) Each sample must be one-quarter ounce or less, with no more  
21 than one ounce of samples provided per person per day;

22 (v) Tasting activities are subject to RCW 66.28.305 and 66.28.040  
23 and the cost of sampling may not be borne, directly or indirectly, by  
24 any liquor manufacturer, importer, or distributor;

25 (vi) Any person involved in the serving of such samples must have  
26 completed a mandatory alcohol server training program;

27 (vii) No person who is apparently intoxicated may sample spirits;

28 (viii) The product provided for sampling must be available for sale  
29 at the store where the sampling occurs at the time of the sampling; and

30 (ix) Customers must remain on the store premise while consuming  
31 samples.

32 (d) The liquor control board may prohibit sampling at a location  
33 that is within the boundaries of an alcohol impact area recognized by  
34 resolution of the board if the board finds that the sampling activities  
35 at the location are having an adverse effect on the reduction of  
36 chronic public inebriation in the area.

37 (e) A store may advertise a tasting event only within the store, on  
38 a store web site, in-store newsletters and flyers, and via e-mail and

1 mail to customers who have requested notice of events. Advertising  
2 under this subsection may not be targeted to or appeal principally to  
3 youth.

4 (f) All other criteria must be determined by the board.

5 (2) The liquor control board may adopt rules to implement this  
6 section.

7 (3) For the purposes of this section, "store" means a former  
8 contract liquor store premises as of May 31, 2012.

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

15 (b) RCW 66.08.150 applies to the suspension or revocation of an  
16 endorsement."

17 Correct the title.

EFFECT: (1) Strikes provisions that:

(a) Created a day spa permit allowing the holder to offer or supply, without charge, a single glass of wine or beer to a customer for consumption on the premises.

(b) Created a senior center license allowing the retail sale of spirits, beer, and wine for consumption on the premises.

(c) Authorized the Liquor Control Board to adjust the gross sales percentage of grocery products required in order for a grocery store licensee to obtain an endorsement to offer beer and wine tastings.

(2) Retains provisions that:

(a) Allow spirits sampling in former contract liquor stores, but changes the number of samplings allowed from no more than one per week to no more than two per month.

(b) Permit breweries and microbreweries to identify the producer of the beer on private labels without running afoul of prohibitions on advancing or receiving moneys or moneys' worth.

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