

SB 6615 - S AMD 229

By Senators Harper, Kohl-Welles, Murray

WITHDRAWN 03/03/2012

1 On page 9, after line 3, insert

2 "Sec. 16. RCW 66.28.310 and 2011 c 119 s 101 and 2011 c 66 s 3
3 are each reenacted and amended to read as follows:

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

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

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

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

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

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

25 (c) Any industry member or retailer or any other person asserting
26 that the provision of branded promotional items as allowed in (a) of
27 this subsection has resulted or is more likely than not to result in

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

13 (2) Nothing in RCW 66.28.305 prohibits:

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

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

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

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

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

26 (c) Wineries or breweries that are participating in a special
27 occasion event from paying reasonable booth fees to the special
28 occasion licensee.

29 (3) Nothing in RCW 66.28.305 prohibits industry members from
30 performing, and retailers from accepting the service of building,
31 rotating, and restocking displays and stockroom inventories; rotating
32 and rearranging can and bottle displays of their own products;
33 providing point of sale material and brand signs; pricing case goods
34 of their own brands; and performing such similar business services

1 consistent with board rules, or personal services as described in
2 subsection (5) of this section.

3 (4) Nothing in RCW 66.28.305 prohibits:

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

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

10 (c) Industry members and retailers from producing, jointly or
11 together with regional, state, or local industry associations,
12 brochures and materials promoting tourism in Washington state which
13 contain information regarding retail licensees, industry members, and
14 their products.

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

1 certificate of approval holder or any distributor. Nothing in this
2 section prohibits wineries, breweries, microbreweries, certificate of
3 approval holders, and retail licensees from identifying the producers
4 on private labels authorized under RCW 66.24.400, 66.24.425, ((and))
5 66.24.450, 66.24.360, and 66.24.371.

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

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

25 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a
26 domestic winery and a restaurant licensed under RCW 66.24.320 or
27 66.24.400 to waive a corkage fee.

28 (9) Nothing in this section prohibits professional sports teams
29 who hold a retail liquor license or their agents from accepting bona
30 fide liquor advertising from manufacturers, importers, distributors,
31 or their agents for use in the sporting arena. Professional sports
32 teams who hold a retail liquor license or their agents may license the
33 manufacturer, importer, distributor, or their agents to use the name
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1 and trademarks of the professional sports team in their advertising
2 and promotions, under the following conditions:

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

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

12 Renumber the remaining sections consecutively and correct any
13 internal references accordingly.

14 Correct the title.

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