

SSB 5145 - S AMD 82
By Senator Liias

ADOPTED 03/08/2017

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

3 "Sec. 1. RCW 66.28.310 and 2015 c 94 s 1 are each amended to
4 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
10 can openers, corkscrews, matches, printed recipes, shirts, hats,
11 visors, and other similar items. Branded promotional items:

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

14 (ii) Must bear imprinted advertising matter of the industry
15 member only, except imprinted advertising matter of the industry
16 member can include the logo of a professional sports team which the
17 industry 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
23 branded promotional items, and a retailer may not require an industry
24 member to provide such branded promotional items as a condition for
25 selling any 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
30 is otherwise inconsistent with the criteria in (a) of this subsection
31 may file a complaint with the board. Upon receipt of a complaint the
32 board may conduct such investigation as it deems appropriate in the

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

9 (2) Nothing in RCW 66.28.305 prohibits:

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

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

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

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

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

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

38 (b) Retailers from listing on their internet web sites
39 information related to industry members whose products those

1 retailers sell or promote, including direct links to the industry
2 members' web sites; or

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

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

29 (6) Nothing in (~~this section~~) RCW 66.28.305 prohibits wineries,
30 breweries, microbreweries, distillers, craft distilleries,
31 manufacturer's licensees, certificate of approval holders, and retail
32 licensees from identifying the producers on private labels
33 (~~authorized under RCW 66.24.400, 66.24.425, 66.24.450, 66.24.360,~~
34 ~~and 66.24.371~~)).

35 ~~((+6))~~ (7) Nothing in RCW 66.28.305 prohibits an industry member
36 from entering into an arrangement with any holder of a sports
37 entertainment facility license or an affiliated business for brand
38 advertising at the licensed facility or promoting events held at the
39 sports entertainment facility as authorized under RCW 66.24.570.

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

15 ~~((8))~~ (9) Nothing in RCW 66.28.305 prohibits an arrangement
16 between a domestic winery and a restaurant licensed under RCW
17 66.24.320 or 66.24.400 to waive a corkage fee.

18 ~~((9))~~ (10) Nothing in this section prohibits professional
19 sports teams who hold a retail liquor license or their agents from
20 accepting bona fide liquor advertising from manufacturers, importers,
21 distributors, or their agents for use in the sporting arena.
22 Professional sports teams who hold a retail liquor license or their
23 agents may license the manufacturer, importer, distributor, or their
24 agents to use the name and trademarks of the professional sports team
25 in their advertising and 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
28 rate or at a reasonable fair market value.

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

35 ~~((10))~~ (11) Nothing in RCW 66.28.305 prohibits a licensed
36 domestic brewery or microbrewery from providing branded promotional
37 items which are of nominal value, singly or in the aggregate, to a
38 nonprofit charitable corporation or association exempt from taxation
39 under 26 U.S.C. Sec. 501(c)(3) of the internal revenue code as it

1 existed on July 24, 2015, for use consistent with the purpose or
2 purposes entitling it to such exemption.

3 (12) Beer, wine, or spirits private label items may be produced,
4 distributed, or sold by any person to the same extent that person is
5 otherwise properly licensed to produce, distribute, or sell beer,
6 wine, or spirits generally.

7 **Sec. 2.** RCW 66.24.140 and 2015 c 194 s 1 are each amended to
8 read as follows:

9 (1) There is a license to distillers, including blending,
10 rectifying, and bottling; fee two thousand dollars per annum, unless
11 provided otherwise as follows:

12 (a) For distillers producing one hundred fifty thousand gallons
13 or less of spirits with at least half of the raw materials used in
14 the production grown in Washington, the license fee must be reduced
15 to one hundred dollars per annum;

16 (b) The board must license stills used and to be used solely and
17 only by a commercial chemist for laboratory purposes, and not for the
18 manufacture of liquor for sale, at a fee of twenty dollars per annum;

19 (c) The board must license stills used and to be used solely and
20 only for laboratory purposes in any school, college, or educational
21 institution in the state, without fee; and

22 (d) The board must license stills that have been duly licensed as
23 fruit and/or wine distilleries by the federal government, used and to
24 be used solely as fruit and/or wine distilleries in the production of
25 fruit brandy and wine spirits, at a fee of two hundred dollars per
26 annum.

27 (2) Any distillery licensed under this section may:

28 (a) Sell spirits of its own production for consumption off the
29 premises. A distillery selling spirits under this subsection must
30 comply with the applicable laws and rules relating to retailers;

31 (b) Contract distilled spirits for, and sell contract distilled
32 spirits to, holders of distillers' or manufacturers' licenses,
33 including licenses issued under RCW 66.24.520, or for export; ~~(and)~~

34 (c) Provide free or for a charge one-half ounce or less samples
35 of spirits of its own production to persons on the premises of the
36 distillery. The maximum total per person per day is two ounces. Every
37 person who participates in any manner in the service of samples must
38 obtain a class 12 alcohol server permit. Spirits samples may be
39 adulterated with nonalcoholic mixers, water, and/or ice; and

1 (d) Produce and sell spirits carrying a private label exclusive
2 to a restaurant or private club holding a license under RCW
3 66.24.400, 66.24.425, or 66.24.450, or a spirits retail licensee
4 holding a license under RCW 66.24.630.

5 **Sec. 3.** RCW 66.24.145 and 2015 c 194 s 2 are each amended to
6 read as follows:

7 (1)(a) Any craft distillery may sell spirits of its own
8 production for consumption off the premises.

9 (b) A craft distillery selling spirits under this subsection must
10 comply with the applicable laws and rules relating to retailers.

11 (2) Any craft distillery may contract distilled spirits for, and
12 sell contract distilled spirits to, holders of distillers' or
13 manufacturers' licenses, including licenses issued under RCW
14 66.24.520, or for export.

15 (3) Any craft distillery licensed under this section may provide,
16 free or for a charge, one-half ounce or less samples of spirits of
17 its own production to persons on the premises of the distillery. The
18 maximum total per person per day is two ounces. Every person who
19 participates in any manner in the service of samples must obtain a
20 class 12 alcohol server permit. Spirits samples may be adulterated
21 with nonalcoholic mixers, water, and/or ice.

22 (4)(a) A distillery or craft distillery licensee may apply to the
23 board for an endorsement to sell spirits of its own production at
24 retail for off-premises consumption at a qualifying farmers market.
25 The annual fee for this endorsement is seventy-five dollars.

26 (b) For each month during which a distillery or craft distillery
27 will sell spirits at a qualifying farmers market, the distillery or
28 craft distillery must provide the board or its designee a list of the
29 dates, times, and locations at which bottled spirits may be offered
30 for sale. This list must be received by the board before the spirits
31 may be offered for sale at a qualifying farmers market.

32 (c) Each approved location in a qualifying farmers market is
33 deemed to be part of the distillery or craft distillery license for
34 the purpose of this title. The approved locations under an
35 endorsement granted under this subsection do not include tasting or
36 sampling privileges. The distillery or craft distillery may not store
37 spirits at a farmers market beyond the hours that the bottled spirits
38 are offered for sale. The distillery or craft distillery may not act
39 as a distributor from a farmers market location.

1 (d) Before a distillery or craft distillery may sell bottled
2 spirits at a qualifying farmers market, the farmers market must apply
3 to the board for authorization for any distillery or craft distillery
4 with an endorsement approved under this subsection to sell bottled
5 spirits at retail at the farmers market. This application must
6 include, at a minimum: (i) A map of the farmers market showing all
7 booths, stalls, or other designated locations at which an approved
8 distillery or craft distillery may sell bottled spirits; and (ii) the
9 name and contact information for the on-site market managers who may
10 be contacted by the board or its designee to verify the locations at
11 which bottled spirits may be sold. Before authorizing a qualifying
12 farmers market to allow an approved distillery or craft distillery to
13 sell bottled spirits at retail at its farmers market location, the
14 board must notify the persons or entities of such application for
15 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization
16 granted under this subsection (4)(d) may be withdrawn by the board
17 for any violation of this title or any rules adopted under this
18 title.

19 (e) For the purposes of this subsection (4), "qualifying farmers
20 market" has the same meaning as defined in RCW 66.24.170.

21 (5) The board must adopt rules to implement the alcohol server
22 permit requirement and may adopt additional rules to implement this
23 section.

24 (6) Distilling is an agricultural practice.

25 (7) A craft distillery may produce and sell spirits carrying a
26 private label exclusive to a restaurant or private club holding a
27 license under RCW 66.24.400, 66.24.425, or 66.24.450, or a spirits
28 retail licensee holding a license under RCW 66.24.630.

29 **Sec. 4.** RCW 66.24.150 and 1997 c 321 s 2 are each amended to
30 read as follows:

31 (1) There shall be a license to manufacturers of liquor,
32 including all kinds of manufacturers except those licensed as
33 distillers, domestic brewers, microbreweries, wineries, and domestic
34 wineries, authorizing such licensees to manufacture, import, sell,
35 and export liquor from the state; fee five hundred dollars per annum.

36 (2) A licensee manufacturing spirits pursuant to this section may
37 produce and sell spirits carrying a private label exclusive to a
38 restaurant or private club holding a license under RCW 66.24.400,

1 66.24.425, or 66.24.450, or a spirits retail licensee holding a
2 license under RCW 66.24.630.

3 **Sec. 5.** RCW 66.24.055 and 2013 2nd sp.s. c 12 s 1 are each
4 amended to read as follows:

5 (1) There is a license for spirits distributors to (a) sell
6 spirits purchased from manufacturers, distillers, or suppliers
7 including, without limitation, licensed Washington distilleries,
8 licensed spirits importers, other Washington spirits distributors, or
9 suppliers of foreign spirits located outside of the United States, to
10 spirits retailers including, without limitation, spirits retail
11 licensees, special occasion license holders, interstate common
12 carrier license holders, restaurant spirits retailer license holders,
13 spirits, beer, and wine private club license holders, hotel license
14 holders, sports entertainment facility license holders, and spirits,
15 beer, and wine nightclub license holders, and to other spirits
16 distributors; and (b) export the same from the state.

17 (2) By January 1, 2012, the board must issue spirits distributor
18 licenses to all applicants who, upon December 8, 2011, have the right
19 to purchase spirits from a spirits manufacturer, spirits distiller,
20 or other spirits supplier for resale in the state, or are agents of
21 such supplier authorized to sell to licensees in the state, unless
22 the board determines that issuance of a license to such applicant is
23 not in the public interest.

24 (3)(a) As limited by (b) of this subsection and subject to (c) of
25 this subsection, each spirits distributor licensee must pay to the
26 board, for deposit into the liquor revolving fund, a license issuance
27 fee calculated as follows:

28 (i) In each of the first twenty-seven months of licensure, ten
29 percent of the total revenue from all the licensee's sales of spirits
30 made during the month for which the fee is due, respectively; and

31 (ii) In the twenty-eighth month of licensure and each month
32 thereafter, five percent of the total revenue from all the licensee's
33 sales of spirits made during the month for which the fee is due,
34 respectively.

35 (b) The fee required under this subsection (3) is calculated only
36 on sales of items which the licensee was the first spirits
37 distributor in the state to have received:

38 (i) In the case of spirits manufactured in the state, from the
39 distiller; or

1 (ii) In the case of spirits manufactured outside the state, from
2 an authorized out-of-state supplier.

3 (c) By March 31, 2013, all persons holding spirits distributor
4 licenses on or before March 31, 2013, must have paid collectively one
5 hundred fifty million dollars or more in spirits distributor license
6 fees. If the collective payment through March 31, 2013, totals less
7 than one hundred fifty million dollars, the board must, according to
8 rules adopted by the board for the purpose, collect by May 31, 2013,
9 as additional spirits distributor license fees the difference between
10 one hundred fifty million dollars and the actual receipts, allocated
11 among persons holding spirits distributor licenses at any time on or
12 before March 31, 2013, ratably according to their spirits sales made
13 during calendar year 2012. Any amount by which such payments exceed
14 one hundred fifty million dollars by March 31, 2013, must be credited
15 to future license issuance fee obligations of spirits distributor
16 licensees according to rules adopted by the board.

17 (d) A retail licensee selling for resale must pay a distributor
18 license fee under the terms and conditions in this section on resales
19 of spirits the licensee has purchased on which no other distributor
20 license fee has been paid. The board must establish rules setting
21 forth the frequency and timing of such payments and reporting of
22 sales dollar volume by the licensee, with payments due quarterly in
23 arrears.

24 (e) No spirits inventory may be subject to calculation of more
25 than a single spirits distributor license issuance fee.

26 (4) In addition to the payment set forth in subsection (3) of
27 this section, each spirits distributor licensee renewing its annual
28 license must pay an annual license renewal fee of one thousand three
29 hundred twenty dollars for each licensed location.

30 (5) There is no minimum facility size or capacity for spirits
31 distributor licenses, and no limit on the number of such licenses
32 issued to qualified applicants. License applicants must provide
33 physical security of the product that is substantially as effective
34 as the physical security of the distribution facilities currently
35 operated by the board with respect to preventing pilferage. License
36 issuances and renewals are subject to RCW 66.24.010 and the
37 regulations promulgated thereunder, including without limitation
38 rights of cities, towns, county legislative authorities, the public,
39 churches, schools, and public institutions to object to or prevent
40 issuance of local liquor licenses. However, existing distributor

1 premises licensed to sell beer and/or wine are deemed to be premises
2 "now licensed" under RCW 66.24.010(9)(a) for the purpose of
3 processing applications for spirits distributor licenses.

4 (6) A distributor licensed under this section must, to the extent
5 it is reasonably practicable for the distributor to do so, make any
6 product the distributor acquires for resale available to any person
7 legally entitled to purchase such product.

8 **Sec. 6.** RCW 66.24.200 and 2004 c 160 s 2 are each amended to
9 read as follows:

10 (1) There shall be a license for wine distributors to sell wine,
11 purchased from licensed Washington wineries, wine certificate of
12 approval holders, licensed wine importers, or suppliers of foreign
13 wine located outside of the United States, to licensed wine retailers
14 and other wine distributors and to export the same from the state;
15 fee six hundred sixty dollars per year for each distributing unit.

16 (2) A distributor licensed under this section must, to the extent
17 it is reasonably practicable for the distributor to do so, make any
18 product the distributor acquires for resale available to any person
19 legally entitled to purchase such product.

20 **Sec. 7.** RCW 66.24.250 and 2004 c 160 s 6 are each amended to
21 read as follows:

22 (1) There shall be a license for beer distributors to sell beer
23 and strong beer, purchased from licensed Washington breweries, beer
24 certificate of approval holders, licensed beer importers, or
25 suppliers of foreign beer located outside of the United States, to
26 licensed beer retailers and other beer distributors and to export
27 same from the state of Washington; fee six hundred sixty dollars per
28 year for each distributing unit.

29 (2) A distributor licensed under this section must, to the extent
30 it is reasonably practicable for the distributor to do so, make any
31 product the distributor acquires for resale available to any person
32 legally entitled to purchase such product."

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1 On page 1, line 3 of the title, after "label;" strike the
2 remainder of the title and insert "and amending RCW 66.28.310,
3 66.24.140, 66.24.145, 66.24.150, 66.24.055, 66.24.200, and
4 66.24.250."

EFFECT: Provides that beer, wine, or spirits private label items may be produced, distributed, or sold by any person to the same extent that person is otherwise properly licensed to produce, distribute, or sell beer, wine, or spirits generally. Establishes that a distributor may not, to the extent that it is reasonably practicable for the distributor to do so, make any product the distributor acquires for resale available to any person legally entitled to purchase the product.

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