
HOUSE BILL 1762

State of Washington

65th Legislature

2017 Regular Session

By Representatives Kirby and Johnson

Read first time 01/27/17. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to the performance of personal services by
2 members of the liquor industry to retailers; and amending RCW
3 66.28.310.

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

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

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

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

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

1 (iii) May be provided by industry members only to retailers and
2 their employees and may not be provided by or through retailers or
3 their employees to retail customers; and

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

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

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

24 (2) Nothing in RCW 66.28.305 prohibits:

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

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

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

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

35 (b) Special occasion licensees from paying for beer, wine, or
36 spirits immediately following the end of the special occasion event;
37 or

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

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

9 (4) Nothing in RCW 66.28.305 prohibits:

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

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

17 (c) Industry members and retailers from producing, jointly or
18 together with regional, state, or local industry associations,
19 brochures and materials promoting tourism in Washington state which
20 contain information regarding retail licensees, industry members, and
21 their products.

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

1 sampling may not be borne, directly or indirectly, by any domestic
2 winery or certificate of approval holder or any distributor. Nothing
3 in this section prohibits wineries, breweries, microbreweries,
4 certificate of approval holders, and retail licensees from
5 identifying the producers on private labels authorized under RCW
6 66.24.400, 66.24.425, 66.24.450, 66.24.360, and 66.24.371.

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

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

28 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a
29 domestic winery and a restaurant licensed under RCW 66.24.320 or
30 66.24.400 to waive a corkage fee.

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

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

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

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

17 (11) Nothing in RCW 66.28.305 prohibits the performance of
18 personal services offered from time to time by a distiller, importer,
19 manufacturer of spirits, or spirits importer to retailers when the
20 personal services are (a) conducted at a licensed premises, and (b)
21 intended to inform, educate, or enhance customers' knowledge or
22 experience of the manufacturer's products. The performance of
23 personal services may include participation and pouring, bottle
24 signing events, and other similar informational or educational
25 activities at the premises of a grocery store with a spirits retail
26 license and a tasting endorsement or a beer and/or wine specialty
27 shop with a spirits retail license. Any spirit sampling at such an
28 event must be conducted pursuant to RCW 66.24.670. A distiller,
29 importer, manufacturer of spirits, or spirits importer is not
30 obligated to perform any such personal services, and a retail
31 licensee may not require a distiller, importer, manufacturer of
32 spirits, or spirits importer to conduct any personal service as a
33 condition for selling any alcohol to the retail licensee, or as a
34 condition for including any product of the distiller, importer,
35 manufacturer of spirits, or spirits importer in any tasting conducted
36 by the licensee. Except as provided in RCW 66.28.150, the cost of
37 sampling may not be borne, directly or indirectly, by any distiller,
38 importer, manufacturer of spirits, or spirits importer.

1 (12) The personal services provided by an industry member to a
2 retailer under subsections (5), (7), and (11) of this section may be
3 provided by an agent of the industry member.

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