
SENATE BILL 5771

State of Washington

58th Legislature

2003 Regular Session

By Senators Shin, Hewitt, Keiser, Franklin, Kastama, Honeyford, Prentice and Mulliken

Read first time 02/11/2003. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to regulation of the sale of beer containing more
2 than five and seven-tenths percent of alcohol by weight; amending RCW
3 66.04.010, 66.24.360, and 66.24.371; and adding a new section to
4 chapter 66.08 RCW.

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

6 **Sec. 1.** RCW 66.04.010 and 2000 c 142 s 1 are each amended to read
7 as follows:

8 In this title, unless the context otherwise requires:

9 (1) "Alcohol" is that substance known as ethyl alcohol, hydrated
10 oxide of ethyl, or spirit of wine, which is commonly produced by the
11 fermentation or distillation of grain, starch, molasses, or sugar, or
12 other substances including all dilutions and mixtures of this
13 substance. The term "alcohol" does not include alcohol in the
14 possession of a manufacturer or distiller of alcohol fuel, as described
15 in RCW 66.12.130, which is intended to be denatured and used as a fuel
16 for use in motor vehicles, farm implements, and machines or implements
17 of husbandry.

18 (2) "Beer" means any malt beverage or malt liquor as these terms
19 are defined in this chapter.

1 (3) "Beer distributor" means a person who buys beer from a brewer
2 or brewery located either within or beyond the boundaries of the state,
3 beer importers, or foreign produced beer from a source outside the
4 state of Washington, for the purpose of selling the same pursuant to
5 this title, or who represents such brewer or brewery as agent.

6 (4) "Beer importer" means a person or business within Washington
7 who purchases beer from a United States brewery holding a certificate
8 of approval (B5) or foreign produced beer from a source outside the
9 state of Washington for the purpose of selling the same pursuant to
10 this title.

11 (5) "Brewer" means any person engaged in the business of
12 manufacturing beer and malt liquor. Brewer includes a brand owner of
13 malt beverages who holds a brewer's notice with the federal bureau of
14 alcohol, tobacco, and firearms at a location outside the state and
15 whose malt beverage is contract-produced by a licensed in-state
16 brewery, and who may exercise within the state, under a domestic
17 brewery license, only the privileges of storing, selling to licensed
18 beer distributors, and exporting beer from the state.

19 (6) "Board" means the liquor control board, constituted under this
20 title.

21 (7) "Club" means an organization of persons, incorporated or
22 unincorporated, operated solely for fraternal, benevolent, educational,
23 athletic or social purposes, and not for pecuniary gain.

24 (8) "Consume" includes the putting of liquor to any use, whether by
25 drinking or otherwise.

26 (9) "Dentist" means a practitioner of dentistry duly and regularly
27 licensed and engaged in the practice of his profession within the state
28 pursuant to chapter 18.32 RCW.

29 (10) "Distiller" means a person engaged in the business of
30 distilling spirits.

31 (11) "Domestic brewery" means a place where beer and malt liquor
32 are manufactured or produced by a brewer within the state.

33 (12) "Domestic winery" means a place where wines are manufactured
34 or produced within the state of Washington.

35 (13) "Druggist" means any person who holds a valid certificate and
36 is a registered pharmacist and is duly and regularly engaged in
37 carrying on the business of pharmaceutical chemistry pursuant to
38 chapter 18.64 RCW.

1 (14) "Drug store" means a place whose principal business is, the
2 sale of drugs, medicines and pharmaceutical preparations and maintains
3 a regular prescription department and employs a registered pharmacist
4 during all hours the drug store is open.

5 (15) "Employee" means any person employed by the board, including
6 a vendor, as hereinafter in this section defined.

7 (16) "Fund" means 'liquor revolving fund.'

8 (17) "Hotel" means every building or other structure kept, used,
9 maintained, advertised or held out to the public to be a place where
10 food is served and sleeping accommodations are offered for pay to
11 transient guests, in which twenty or more rooms are used for the
12 sleeping accommodation of such transient guests and having one or more
13 dining rooms where meals are served to such transient guests, such
14 sleeping accommodations and dining rooms being conducted in the same
15 building and buildings, in connection therewith, and such structure or
16 structures being provided, in the judgment of the board, with adequate
17 and sanitary kitchen and dining room equipment and capacity, for
18 preparing, cooking and serving suitable food for its guests: PROVIDED
19 FURTHER, That in cities and towns of less than five thousand
20 population, the board shall have authority to waive the provisions
21 requiring twenty or more rooms.

22 (18) "Importer" means a person who buys distilled spirits from a
23 distillery outside the state of Washington and imports such spirituous
24 liquor into the state for sale to the board or for export.

25 (19) "Imprisonment" means confinement in the county jail.

26 (20) "Liquor" includes the four varieties of liquor herein defined
27 (alcohol, spirits, wine and beer), and all fermented, spirituous,
28 vinous, or malt liquor, or combinations thereof, and mixed liquor, a
29 part of which is fermented, spirituous, vinous or malt liquor, or
30 otherwise intoxicating; and every liquid or solid or semisolid or other
31 substance, patented or not, containing alcohol, spirits, wine or beer,
32 and all drinks or drinkable liquids and all preparations or mixtures
33 capable of human consumption, and any liquid, semisolid, solid, or
34 other substance, which contains more than one percent of alcohol by
35 weight shall be conclusively deemed to be intoxicating. Liquor does
36 not include confections or food products that contain one percent or
37 less of alcohol by weight.

1 (21) "Manufacturer" means a person engaged in the preparation of
2 liquor for sale, in any form whatsoever.

3 (22) "Malt beverage" or "malt liquor" means any beverage such as
4 beer, ale, lager beer, stout, and porter obtained by the alcoholic
5 fermentation of an infusion or decoction of pure hops, or pure extract
6 of hops and pure barley malt or other wholesome grain or cereal in pure
7 water containing not more than eight percent of alcohol by weight, and
8 not less than one-half of one percent of alcohol by volume. For the
9 purposes of this title, any such beverage containing between five and
10 seven-tenths percent up to and including eight percent of alcohol by
11 weight shall be referred to as "mid-strength beer" except for microbrew
12 produced by a microbrewery that qualifies for a tax exemption under RCW
13 66.24.290(3)(b) and is not approved for an alternation of operations
14 under 27 C.F.R. Sec. 25.81, and any such beverage containing more than
15 eight percent of alcohol by weight shall be referred to as "strong
16 beer."

17 (23) "Package" means any container or receptacle used for holding
18 liquor.

19 (24) "Permit" means a permit for the purchase of liquor under this
20 title.

21 (25) "Person" means an individual, copartnership, association, or
22 corporation.

23 (26) "Physician" means a medical practitioner duly and regularly
24 licensed and engaged in the practice of his profession within the state
25 pursuant to chapter 18.71 RCW.

26 (27) "Prescription" means a memorandum signed by a physician and
27 given by him to a patient for the obtaining of liquor pursuant to this
28 title for medicinal purposes.

29 (28) "Public place" includes streets and alleys of incorporated
30 cities and towns; state or county or township highways or roads;
31 buildings and grounds used for school purposes; public dance halls and
32 grounds adjacent thereto; those parts of establishments where beer may
33 be sold under this title, soft drink establishments, public buildings,
34 public meeting halls, lobbies, halls and dining rooms of hotels,
35 restaurants, theatres, stores, garages and filling stations which are
36 open to and are generally used by the public and to which the public is
37 permitted to have unrestricted access; railroad trains, stages, and
38 other public conveyances of all kinds and character, and the depots and

1 waiting rooms used in conjunction therewith which are open to
2 unrestricted use and access by the public; publicly owned bathing
3 beaches, parks, and/or playgrounds; and all other places of like or
4 similar nature to which the general public has unrestricted right of
5 access, and which are generally used by the public.

6 (29) "Regulations" means regulations made by the board under the
7 powers conferred by this title.

8 (30) "Restaurant" means any establishment provided with special
9 space and accommodations where, in consideration of payment, food,
10 without lodgings, is habitually furnished to the public, not including
11 drug stores and soda fountains.

12 (31) "Sale" and "sell" include exchange, barter, and traffic; and
13 also include the selling or supplying or distributing, by any means
14 whatsoever, of liquor, or of any liquid known or described as beer or
15 by any name whatever commonly used to describe malt or brewed liquor or
16 of wine, by any person to any person; and also include a sale or
17 selling within the state to a foreign consignee or his agent in the
18 state. "Sale" and "sell" shall not include the giving, at no charge,
19 of a reasonable amount of liquor by a person not licensed by the board
20 to a person not licensed by the board, for personal use only. "Sale"
21 and "sell" also does not include a raffle authorized under RCW
22 9.46.0315: PROVIDED, That the nonprofit organization conducting the
23 raffle has obtained the appropriate permit from the board.

24 (32) "Soda fountain" means a place especially equipped with
25 apparatus for the purpose of dispensing soft drinks, whether mixed or
26 otherwise.

27 (33) "Spirits" means any beverage which contains alcohol obtained
28 by distillation, including wines exceeding twenty-four percent of
29 alcohol by volume.

30 (34) "Store" means a state liquor store established under this
31 title.

32 (35) "Tavern" means any establishment with special space and
33 accommodation for sale by the glass and for consumption on the
34 premises, of beer, as herein defined.

35 (36) "Vendor" means a person employed by the board as a store
36 manager under this title.

37 (37) "Winery" means a business conducted by any person for the
38 manufacture of wine for sale, other than a domestic winery.

1 (38) "Wine" means any alcoholic beverage obtained by fermentation
2 of fruits (grapes, berries, apples, et cetera) or other agricultural
3 product containing sugar, to which any saccharine substances may have
4 been added before, during or after fermentation, and containing not
5 more than twenty-four percent of alcohol by volume, including sweet
6 wines fortified with wine spirits, such as port, sherry, muscatel and
7 angelica, not exceeding twenty-four percent of alcohol by volume and
8 not less than one-half of one percent of alcohol by volume. For
9 purposes of this title, any beverage containing no more than fourteen
10 percent of alcohol by volume when bottled or packaged by the
11 manufacturer shall be referred to as "table wine," and any beverage
12 containing alcohol in an amount more than fourteen percent by volume
13 when bottled or packaged by the manufacturer shall be referred to as
14 "fortified wine." However, "fortified wine" shall not include: (a)
15 Wines that are both sealed or capped by cork closure and aged two years
16 or more; and (b) wines that contain more than fourteen percent alcohol
17 by volume solely as a result of the natural fermentation process and
18 that have not been produced with the addition of wine spirits, brandy,
19 or alcohol.

20 This subsection shall not be interpreted to require that any wine
21 be labeled with the designation "table wine" or "fortified wine."

22 (39) "Wine distributor" means a person who buys wine from a vintner
23 or winery located either within or beyond the boundaries of the state
24 for the purpose of selling the same not in violation of this title, or
25 who represents such vintner or winery as agent.

26 (40) "Wine importer" means a person or business within Washington
27 who purchases wine from a United States winery holding a certificate of
28 approval (W7) or foreign produced wine from a source outside the state
29 of Washington for the purpose of selling the same pursuant to this
30 title.

31 **Sec. 2.** RCW 66.24.360 and 1997 c 321 s 22 are each amended to read
32 as follows:

33 There shall be a beer and/or wine retailer's license to be
34 designated as a grocery store license to sell beer and/or wine at
35 retail in bottles, cans, and original containers, not to be consumed
36 upon the premises where sold, at any store other than the state liquor
37 stores.

1 (1) Licensees obtaining a written endorsement from the board may
2 also sell malt liquor in kegs or other containers capable of holding
3 less than five and one-half gallons of liquid.

4 (2) The annual fee for the grocery store license is one hundred
5 fifty dollars for each store.

6 (3) The board shall issue a restricted grocery store license
7 authorizing the licensee to sell only beer containing under five and
8 seven-tenths percent of alcohol by weight and microbrew produced by a
9 microbrewery that qualifies for a tax exemption under RCW
10 66.24.290(3)(b) and is not approved for an alternation of operations
11 under 27 C.F.R. Sec. 25.81 and only table wine, if the board finds upon
12 issuance or renewal of the license that the sale of fortified wine or
13 mid-strength beer as defined in RCW 66.04.010(22) would be against the
14 public interest. In determining the public interest, the board shall
15 consider at least the following factors:

16 (a) The likelihood that the applicant will sell fortified wine or
17 mid-strength beer to persons who are intoxicated;

18 (b) Law enforcement problems in the vicinity of the applicant's
19 establishment that may arise from persons purchasing fortified wine or
20 mid-strength beer at the establishment; and

21 (c) Whether the sale of fortified wine or mid-strength beer would
22 be detrimental to or inconsistent with a government-operated or funded
23 alcohol treatment or detoxification program in the area.

24 If the board receives no evidence or objection that the sale of
25 fortified wine or mid-strength beer would be against the public
26 interest, it shall issue or renew the license without restriction, as
27 applicable. The burden of establishing that the sale of fortified wine
28 or mid-strength beer by the licensee would be against the public
29 interest is on those persons objecting.

30 (4) Licensees holding a grocery store license must maintain a
31 minimum three thousand dollar inventory of food products for human
32 consumption, not including pop, beer, or wine.

33 (5) Upon approval by the board, the grocery store licensee may also
34 receive an endorsement to permit the international export of beer and
35 wine.

36 (a) Any beer or wine sold under this endorsement must have been
37 purchased from a licensed beer or wine distributor licensed to do
38 business within the state of Washington.

1 (b) Any beer and wine sold under this endorsement must be intended
2 for consumption outside the state of Washington and the United States
3 and appropriate records must be maintained by the licensee.

4 (c) A holder of this special endorsement to the grocery store
5 license shall be considered not in violation of RCW 66.28.010.

6 (d) Any beer or wine sold under this license must be sold at a
7 price no less than the acquisition price paid by the holder of the
8 license.

9 (e) The annual cost of this endorsement is five hundred dollars and
10 is in addition to the license fees paid by the licensee for a grocery
11 store license.

12 **Sec. 3.** RCW 66.24.371 and 1997 c 321 s 23 are each amended to read
13 as follows:

14 (1) There shall be a beer and/or wine retailer's license to be
15 designated as a beer and/or wine specialty shop license to sell beer
16 and/or wine at retail in bottles, cans, and original containers, not to
17 be consumed upon the premises where sold, at any store other than the
18 state liquor stores. Licensees obtaining a written endorsement from
19 the board may also sell malt liquor in kegs or other containers capable
20 of holding less than five and one-half gallons of liquid. The annual
21 fee for the beer and/or wine specialty shop license is one hundred
22 dollars for each store.

23 (2) Licensees under this section may provide, free or for a charge,
24 single-serving samples of two ounces or less to customers for the
25 purpose of sales promotion. Sampling activities of licensees under
26 this section are subject to RCW 66.28.010 and 66.28.040 and the cost of
27 sampling under this section may not be borne, directly or indirectly,
28 by any manufacturer, importer, or distributor of liquor.

29 (3) The board shall issue a restricted beer and/or wine specialty
30 shop license, authorizing the licensee to sell only beer containing
31 under five and seven-tenths percent of alcohol by weight and microbrew
32 produced by a microbrewery licensed under RCW 66.24.244 and only table
33 wine, if the board finds upon issuance or renewal of the license that
34 the sale of fortified wine or mid-strength beer as defined in RCW
35 66.04.010(22) would be against the public interest. In determining the
36 public interest, the board shall consider at least the following
37 factors:

1 (a) The likelihood that the applicant will sell fortified wine or
2 mid-strength beer to persons who are intoxicated;

3 (b) Law enforcement problems in the vicinity of the applicant's
4 establishment that may arise from persons purchasing fortified wine or
5 mid-strength beer at the establishment; and

6 (c) Whether the sale of fortified wine or mid-strength beer would
7 be detrimental to or inconsistent with a government-operated or funded
8 alcohol treatment or detoxification program in the area.

9 If the board receives no evidence or objection that the sale of
10 fortified wine would be against the public interest, it shall issue or
11 renew the license without restriction, as applicable. The burden of
12 establishing that the sale of fortified wine or mid-strength beer by
13 the licensee would be against the public interest is on those persons
14 objecting.

15 (4) Licensees holding a beer and/or wine specialty shop license
16 must maintain a minimum three thousand dollar wholesale inventory of
17 beer and/or wine.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 66.08 RCW
19 to read as follows:

20 Prior to a government subdivision establishing boundaries by
21 ordinance to create an alcohol impact area, it shall petition the board
22 to issue a restricted license under RCW 66.24.360 or 66.24.371.

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