
SUBSTITUTE SENATE BILL 6655

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Commerce & Trade (originally sponsored by Senators Hewitt, Keiser and Rasmussen)

READ FIRST TIME 02/09/04.

1 AN ACT Relating to certificates of approval for authorized
2 representatives of beer and wine manufacturers and distributors;
3 amending RCW 66.04.010, 66.24.200, 66.24.203, 66.24.206, 66.24.230,
4 66.24.250, 66.24.261, 66.24.270, 66.28.010, 66.28.030, 66.28.040,
5 66.28.042, 66.28.043, 66.28.150, 66.28.155, 66.28.160, 66.28.170,
6 66.28.180, and 19.126.020; and providing an effective date.

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

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

10 In this title, unless the context otherwise requires:

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

1 (2) "Authorized representative" means a person who:

2 (a) Is required to have a federal basic permit issued pursuant to
3 the federal alcohol administration act, 27 U.S.C. Sec. 204;

4 (b) Has its business located in the United States outside of the
5 state of Washington;

6 (c) Acquires ownership of beer or wine for transportation into and
7 resale in the state of Washington; and which beer or wine is produced
8 anywhere outside Washington by a brewery or winery which does not hold
9 a certificate of approval issued by the board; and

10 (d) Is appointed by the brewery or winery referenced in (c) of this
11 subsection as its exclusive authorized representative for marketing and
12 selling its products within the United States in accordance with a
13 written agreement between the authorized representative and such
14 brewery or winery pursuant to this title. The board may waive the
15 requirement for the written agreement of exclusivity in situations
16 consistent with the normal marketing practices of certain products,
17 such as classified growths.

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

20 ((+3)) (4) "Beer distributor" means a person who buys beer from a
21 ((~~brewer or~~)) domestic brewery ((~~located either within or beyond the~~
22 boundaries of the state)), microbrewery, beer certificate of approval
23 holder, or beer importers, or who acquires foreign produced beer from
24 a source outside of the ((~~state of Washington~~)) United States, for the
25 purpose of selling the same pursuant to this title, or who represents
26 such brewer or brewery as agent.

27 ((+4)) (5) "Beer importer" means a person or business within
28 Washington who purchases beer from a ((~~United States brewery holding~~
29 a)) beer certificate of approval ((+B5)) holder or who acquires
30 foreign produced beer from a source outside of the ((~~state of~~
31 ~~Washington~~)) United States for the purpose of selling the same pursuant
32 to this title.

33 ((+5)) (6) "Brewer" or "brewery" means any person engaged in the
34 business of manufacturing beer and malt liquor. Brewer includes a
35 brand owner of malt beverages who holds a brewer's notice with the
36 federal bureau of alcohol, tobacco, and firearms at a location outside
37 the state and whose malt beverage is contract-produced by a licensed

1 in-state brewery, and who may exercise within the state, under a
2 domestic brewery license, only the privileges of storing, selling to
3 licensed beer distributors, and exporting beer from the state.

4 ~~((6))~~ (7) "Board" means the liquor control board, constituted
5 under this title.

6 ~~((7))~~ (8) "Club" means an organization of persons, incorporated
7 or unincorporated, operated solely for fraternal, benevolent,
8 educational, athletic or social purposes, and not for pecuniary gain.

9 ~~((8))~~ (9) "Consume" includes the putting of liquor to any use,
10 whether by drinking or otherwise.

11 ~~((9))~~ (10) "Dentist" means a practitioner of dentistry duly and
12 regularly licensed and engaged in the practice of his profession within
13 the state pursuant to chapter 18.32 RCW.

14 ~~((10))~~ (11) "Distiller" means a person engaged in the business of
15 distilling spirits.

16 ~~((11))~~ (12) "Domestic brewery" means a place where beer and malt
17 liquor are manufactured or produced by a brewer within the state.

18 ~~((12))~~ (13) "Domestic winery" means a place where wines are
19 manufactured or produced within the state of Washington.

20 ~~((13))~~ (14) "Druggist" means any person who holds a valid
21 certificate and is a registered pharmacist and is duly and regularly
22 engaged in carrying on the business of pharmaceutical chemistry
23 pursuant to chapter 18.64 RCW.

24 ~~((14))~~ (15) "Drug store" means a place whose principal business
25 is, the sale of drugs, medicines and pharmaceutical preparations and
26 maintains a regular prescription department and employs a registered
27 pharmacist during all hours the drug store is open.

28 ~~((15))~~ (16) "Employee" means any person employed by the board,
29 including a vendor, as hereinafter in this section defined.

30 ~~((16))~~ (17) "Fund" means 'liquor revolving fund.'

31 ~~((17))~~ (18) "Hotel" means every building or other structure kept,
32 used, maintained, advertised or held out to the public to be a place
33 where food is served and sleeping accommodations are offered for pay to
34 transient guests, in which twenty or more rooms are used for the
35 sleeping accommodation of such transient guests and having one or more
36 dining rooms where meals are served to such transient guests, such
37 sleeping accommodations and dining rooms being conducted in the same
38 building and buildings, in connection therewith, and such structure or

1 structures being provided, in the judgment of the board, with adequate
2 and sanitary kitchen and dining room equipment and capacity, for
3 preparing, cooking and serving suitable food for its guests: PROVIDED
4 FURTHER, That in cities and towns of less than five thousand
5 population, the board shall have authority to waive the provisions
6 requiring twenty or more rooms.

7 ~~((+18+))~~ (19) "Importer" means a person who buys distilled spirits
8 from a distillery outside the state of Washington and imports such
9 spirituous liquor into the state for sale to the board or for export.

10 ~~((+19+))~~ (20) "Imprisonment" means confinement in the county jail.

11 ~~((+20+))~~ (21) "Liquor" includes the four varieties of liquor herein
12 defined (alcohol, spirits, wine and beer), and all fermented,
13 spirituous, vinous, or malt liquor, or combinations thereof, and mixed
14 liquor, a part of which is fermented, spirituous, vinous or malt
15 liquor, or otherwise intoxicating; and every liquid or solid or
16 semisolid or other substance, patented or not, containing alcohol,
17 spirits, wine or beer, and all drinks or drinkable liquids and all
18 preparations or mixtures capable of human consumption, and any liquid,
19 semisolid, solid, or other substance, which contains more than one
20 percent of alcohol by weight shall be conclusively deemed to be
21 intoxicating. Liquor does not include confections or food products
22 that contain one percent or less of alcohol by weight.

23 ~~((+21+))~~ (22) "Manufacturer" means a person engaged in the
24 preparation of liquor for sale, in any form whatsoever.

25 ~~((+22+))~~ (23) "Malt beverage" or "malt liquor" means any beverage
26 such as beer, ale, lager beer, stout, and porter obtained by the
27 alcoholic fermentation of an infusion or decoction of pure hops, or
28 pure extract of hops and pure barley malt or other wholesome grain or
29 cereal in pure water containing not more than eight percent of alcohol
30 by weight, and not less than one-half of one percent of alcohol by
31 volume. For the purposes of this title, any such beverage containing
32 more than eight percent of alcohol by weight shall be referred to as
33 "strong beer."

34 ~~((+23+))~~ (24) "Package" means any container or receptacle used for
35 holding liquor.

36 ~~((+24+))~~ (25) "Permit" means a permit for the purchase of liquor
37 under this title.

1 ~~((+25+))~~ (26) "Person" means an individual, copartnership,
2 association, or corporation.

3 ~~((+26+))~~ (27) "Physician" means a medical practitioner duly and
4 regularly licensed and engaged in the practice of his profession within
5 the state pursuant to chapter 18.71 RCW.

6 ~~((+27+))~~ (28) "Prescription" means a memorandum signed by a
7 physician and given by him to a patient for the obtaining of liquor
8 pursuant to this title for medicinal purposes.

9 ~~((+28+))~~ (29) "Public place" includes streets and alleys of
10 incorporated cities and towns; state or county or township highways or
11 roads; buildings and grounds used for school purposes; public dance
12 halls and grounds adjacent thereto; those parts of establishments where
13 beer may be sold under this title, soft drink establishments, public
14 buildings, public meeting halls, lobbies, halls and dining rooms of
15 hotels, restaurants, theatres, stores, garages and filling stations
16 which are open to and are generally used by the public and to which the
17 public is permitted to have unrestricted access; railroad trains,
18 stages, and other public conveyances of all kinds and character, and
19 the depots and waiting rooms used in conjunction therewith which are
20 open to unrestricted use and access by the public; publicly owned
21 bathing beaches, parks, and/or playgrounds; and all other places of
22 like or similar nature to which the general public has unrestricted
23 right of access, and which are generally used by the public.

24 ~~((+29+))~~ (30) "Regulations" means regulations made by the board
25 under the powers conferred by this title.

26 ~~((+30+))~~ (31) "Restaurant" means any establishment provided with
27 special space and accommodations where, in consideration of payment,
28 food, without lodgings, is habitually furnished to the public, not
29 including drug stores and soda fountains.

30 ~~((+31+))~~ (32) "Sale" and "sell" include exchange, barter, and
31 traffic; and also include the selling or supplying or distributing, by
32 any means whatsoever, of liquor, or of any liquid known or described as
33 beer or by any name whatever commonly used to describe malt or brewed
34 liquor or of wine, by any person to any person; and also include a sale
35 or selling within the state to a foreign consignee or his agent in the
36 state. "Sale" and "sell" shall not include the giving, at no charge,
37 of a reasonable amount of liquor by a person not licensed by the board
38 to a person not licensed by the board, for personal use only. "Sale"

1 and "sell" also does not include a raffle authorized under RCW
2 9.46.0315: PROVIDED, That the nonprofit organization conducting the
3 raffle has obtained the appropriate permit from the board.

4 ~~((+32+))~~ (33) "Soda fountain" means a place especially equipped
5 with apparatus for the purpose of dispensing soft drinks, whether mixed
6 or otherwise.

7 ~~((+33+))~~ (34) "Spirits" means any beverage which contains alcohol
8 obtained by distillation, including wines exceeding twenty-four percent
9 of alcohol by volume.

10 ~~((+34+))~~ (35) "Store" means a state liquor store established under
11 this title.

12 ~~((+35+))~~ (36) "Tavern" means any establishment with special space
13 and accommodation for sale by the glass and for consumption on the
14 premises, of beer, as herein defined.

15 ~~((+36+))~~ (37) "Vendor" means a person employed by the board as a
16 store manager under this title.

17 ~~((+37+))~~ (38) "Winery" means a business conducted by any person for
18 the manufacture of wine for sale, other than a domestic winery.

19 ~~((+38+))~~ (39) "Wine" means any alcoholic beverage obtained by
20 fermentation of fruits (grapes, berries, apples, et cetera) or other
21 agricultural product containing sugar, to which any saccharine
22 substances may have been added before, during or after fermentation,
23 and containing not more than twenty-four percent of alcohol by volume,
24 including sweet wines fortified with wine spirits, such as port,
25 sherry, muscatel and angelica, not exceeding twenty-four percent of
26 alcohol by volume and not less than one-half of one percent of alcohol
27 by volume. For purposes of this title, any beverage containing no more
28 than fourteen percent of alcohol by volume when bottled or packaged by
29 the manufacturer shall be referred to as "table wine," and any beverage
30 containing alcohol in an amount more than fourteen percent by volume
31 when bottled or packaged by the manufacturer shall be referred to as
32 "fortified wine." However, "fortified wine" shall not include: (a)
33 Wines that are both sealed or capped by cork closure and aged two years
34 or more; and (b) wines that contain more than fourteen percent alcohol
35 by volume solely as a result of the natural fermentation process and
36 that have not been produced with the addition of wine spirits, brandy,
37 or alcohol.

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

3 ~~((+39+))~~ (40) "Wine distributor" means a person who buys wine from
4 a ~~((vintner or))~~ domestic winery ~~((located either within or beyond the~~
5 ~~boundaries of the state))~~, wine certificate of approval holder, or wine
6 importer, or who acquires foreign produced wine from a source outside
7 of the United States, for the purpose of selling the same not in
8 violation of this title, or who represents such vintner or winery as
9 agent.

10 ~~((+40+))~~ (41) "Wine importer" means a person or business within
11 Washington who purchases wine from a ~~((United States winery holding a))~~
12 wine certificate of approval ~~((+W7+))~~ holder or who acquires foreign
13 produced wine from a source outside of the ~~((state of Washington))~~
14 United States for the purpose of selling the same pursuant to this
15 title.

16 **Sec. 2.** RCW 66.24.200 and 1997 c 321 s 5 are each amended to read
17 as follows:

18 There shall be a license for wine distributors to sell wine,
19 purchased from licensed Washington wineries, wine certificate of
20 approval holders ~~((+W7+))~~, licensed wine importers, or suppliers of
21 foreign wine located outside of the ~~((state of Washington))~~ United
22 States, to licensed wine retailers and other wine distributors and to
23 export the same from the state; fee six hundred sixty dollars per year
24 for each distributing unit.

25 **Sec. 3.** RCW 66.24.203 and 1997 c 321 s 6 are each amended to read
26 as follows:

27 There shall be a license for wine importers that authorizes the
28 licensee to import wine ~~((manufactured within the United States by))~~
29 purchased from certificate of approval holders ~~((+W7+))~~ into the state
30 of Washington. The licensee may also import, from suppliers located
31 outside of the United States, wine manufactured outside the United
32 States.

33 (1) Wine so imported may be sold to licensed wine distributors or
34 exported from the state.

35 (2) Every person, firm, or corporation licensed as a wine importer

1 shall establish and maintain a principal office within the state at
2 which shall be kept proper records of all wine imported into the state
3 under this license.

4 (3) No wine importer's license shall be granted to a nonresident of
5 the state nor to a corporation whose principal place of business is
6 outside the state until such applicant has established a principal
7 office and agent within the state upon which service can be made.

8 (4) As a requirement for license approval, a wine importer shall
9 enter into a written agreement with the board to furnish on or before
10 the twentieth day of each month, a report under oath, detailing the
11 quantity of wine sold or delivered to each licensed wine distributor.
12 Failure to file such reports may result in the suspension or
13 cancellation of this license.

14 (5) Wine imported under this license must conform to the provisions
15 of RCW 66.28.110 and have received label approval from the board. The
16 board shall not certify wines labeled with names that may be confused
17 with other nonalcoholic beverages whether manufactured or produced from
18 a domestic winery or imported nor wines that fail to meet quality
19 standards established by the board.

20 (6) The license fee shall be one hundred sixty dollars per year.

21 **Sec. 4.** RCW 66.24.206 and 1997 c 321 s 7 are each amended to read
22 as follows:

23 (1)(a) A United States winery or manufacturer of wine(~~(τ)~~) located
24 outside the state of Washington(~~(τ)~~) must hold a certificate of
25 approval (~~((W7))~~) to allow sales and shipment of the certificate of
26 approval holder's wine to licensed Washington wine distributors or
27 importers.

28 (b) Authorized representatives must hold a certificate of approval
29 to allow sales and shipment of United States produced wine to licensed
30 Washington wine distributors or importers.

31 (c) Authorized representatives must also hold a certificate of
32 approval to allow sales and shipments of foreign produced wine to
33 licensed Washington wine distributors or importers.

34 (2) The certificate of approval shall not be granted unless and
35 until such winery or manufacturer of wine or authorized representative
36 shall have made a written agreement with the board to furnish to the
37 board, on or before the twentieth day of each month, a report under

1 oath, on a form to be prescribed by the board, showing the quantity of
2 wine sold or delivered to each licensed wine distributor or importer,
3 during the preceding month, and shall further have agreed with the
4 board, that such wineries (~~(or)~~), manufacturers, or authorized
5 representatives, and all general sales corporations or agencies
6 maintained by them, and all of their trade representatives, shall and
7 will faithfully comply with all laws of the state of Washington
8 pertaining to the sale of intoxicating liquors and all rules and
9 regulations of the Washington state liquor control board. A violation
10 of the terms of this agreement will cause the board to take action to
11 suspend or revoke such certificate.

12 (3) The fee for the certificate of approval, issued pursuant to the
13 provisions of this title, shall be (~~(one)~~) two hundred dollars per
14 year, per each privilege outlined in subsection (1)(a), (b), and (c) of
15 this section, which sum shall accompany the application for such
16 certificate.

17 **Sec. 5.** RCW 66.24.230 and 1997 c 321 s 10 are each amended to read
18 as follows:

19 Every domestic winery, wine certificate of approval holder, wine
20 importer, and wine distributor licensed under this title shall make
21 monthly reports to the board pursuant to the regulations. Such
22 domestic winery, wine certificate of approval holder, wine importer,
23 and wine distributor shall make no sales of wine within the state of
24 Washington except to the board, or as otherwise provided in this title.

25 **Sec. 6.** RCW 66.24.250 and 2003 c 167 s 2 are each amended to read
26 as follows:

27 There shall be a license for beer distributors to sell beer and
28 strong beer, purchased from licensed Washington breweries, beer
29 certificate of approval holders (~~((B5))~~), licensed beer importers, or
30 suppliers of foreign beer located outside of the (~~(state of~~
31 ~~Washington))~~ United States, to licensed beer retailers and other beer
32 distributors and to export same from the state of Washington; fee six
33 hundred sixty dollars per year for each distributing unit.

34 **Sec. 7.** RCW 66.24.261 and 2003 c 167 s 3 are each amended to read
35 as follows:

1 There shall be a license for beer importers that authorizes the
2 licensee to import beer and strong beer (~~(manufactured within the~~
3 ~~United States by))~~ purchased from beer certificate of approval holders
4 (~~((B5))~~) into the state of Washington. The licensee may also import,
5 from suppliers located outside of the United States, beer and strong
6 beer manufactured outside the United States.

7 (1) Beer and strong beer so imported may be sold to licensed beer
8 distributors or exported from the state.

9 (2) Every person, firm, or corporation licensed as a beer importer
10 shall establish and maintain a principal office within the state at
11 which shall be kept proper records of all beer and strong beer imported
12 into the state under this license.

13 (3) No beer importer's license shall be granted to a nonresident of
14 the state nor to a corporation whose principal place of business is
15 outside the state until such applicant has established a principal
16 office and agent within the state upon which service can be made.

17 (4) As a requirement for license approval, a beer importer shall
18 enter into a written agreement with the board to furnish on or before
19 the twentieth day of each month, a report under oath, detailing the
20 quantity of beer and strong beer sold or delivered to each licensed
21 beer distributor. Failure to file such reports may result in the
22 suspension or cancellation of this license.

23 (5) Beer and strong beer imported under this license must conform
24 to the provisions of RCW 66.28.120 and have received label approval
25 from the board. The board shall not certify beer or strong beer
26 labeled with names which may be confused with other nonalcoholic
27 beverages whether manufactured or produced from a domestic brewery or
28 imported nor shall it certify beer or strong beer which fails to meet
29 quality standards established by the board.

30 (6) The license fee shall be one hundred sixty dollars per year.

31 **Sec. 8.** RCW 66.24.270 and 2003 c 167 s 4 are each amended to read
32 as follows:

33 (1) Every person, firm or corporation, holding a license to
34 manufacture malt liquors or strong beer within the state of Washington,
35 shall, on or before the twentieth day of each month, furnish to the
36 Washington state liquor control board, on a form to be prescribed by

1 the board, a statement showing the quantity of malt liquors and strong
2 beer sold for resale during the preceding calendar month to each beer
3 distributor within the state of Washington.

4 (2)(a) A United States brewery or manufacturer of beer or strong
5 beer, located outside the state of Washington, must hold a certificate
6 of approval (~~((B5))~~) to allow sales and shipment of the certificate of
7 approval holder's beer or strong beer to licensed Washington beer
8 distributors or importers.

9 (b) Authorized representatives must hold a certificate of approval
10 to allow sales and shipment of United States produced beer or strong
11 beer to licensed Washington beer distributors or importers.

12 (c) Authorized representatives must also hold a certificate of
13 approval to allow sales and shipments of foreign produced beer or
14 strong beer to licensed Washington beer distributors or importers.

15 (3) The certificate of approval shall not be granted unless and
16 until such brewer or manufacturer of beer or strong beer or authorized
17 representative shall have made a written agreement with the board to
18 furnish to the board, on or before the twentieth day of each month, a
19 report under oath, on a form to be prescribed by the board, showing the
20 quantity of beer and strong beer sold or delivered to each licensed
21 beer distributor or importer during the preceding month, and shall
22 further have agreed with the board, that such brewer or manufacturer of
23 beer or strong beer or authorized representative and all general sales
24 corporations or agencies maintained by them, and all of their trade
25 representatives, corporations, and agencies, shall and will faithfully
26 comply with all laws of the state of Washington pertaining to the sale
27 of intoxicating liquors and all rules and regulations of the Washington
28 state liquor control board. A violation of the terms of this agreement
29 will cause the board to take action to suspend or revoke such
30 certificate.

31 (~~((3))~~) (4) The fee for the certificate of approval, issued
32 pursuant to the provisions of this title, shall be (~~((one))~~) two hundred
33 dollars per year, per each privilege outlined in subsection (2)(a),
34 (b), and (c) of this section, which sum shall accompany the application
35 for such certificate.

36 **Sec. 9.** RCW 66.28.010 and 2002 c 109 s 1 are each amended to read
37 as follows:

1 (1)(a) No manufacturer, importer, (~~(or)~~) distributor, or authorized
2 representative, or person financially interested, directly or
3 indirectly, in such business; whether resident or nonresident, shall
4 have any financial interest, direct or indirect, in any licensed retail
5 business, unless the retail business is owned by a corporation in which
6 a manufacturer or importer has no direct stock ownership and there are
7 no interlocking officers and directors, the retail license is held by
8 a corporation that is not owned directly or indirectly by a
9 manufacturer or importer, the sales of liquor are incidental to the
10 primary activity of operating the property as a hotel, alcoholic
11 beverages produced by the manufacturer or importer or their
12 subsidiaries are not sold at the licensed premises, and the board
13 reviews the ownership and proposed method of operation of all involved
14 entities and determines that there will not be an unacceptable level of
15 control or undue influence over the operation or the retail licensee;
16 nor shall any manufacturer, importer, (~~(or)~~) distributor, or authorized
17 representative own any of the property upon which such licensed persons
18 conduct their business; nor shall any such licensed person, under any
19 arrangement whatsoever, conduct his or her business upon property in
20 which any manufacturer, importer, (~~(or)~~) distributor, or authorized
21 representative has any interest unless title to that property is owned
22 by a corporation in which a manufacturer has no direct stock ownership
23 and there are no interlocking officers or directors, the retail license
24 is held by a corporation that is not owned directly or indirectly by
25 the manufacturer, the sales of liquor are incidental to the primary
26 activity of operating the property either as a hotel or as an
27 amphitheater offering live musical and similar live entertainment
28 activities to the public, alcoholic beverages produced by the
29 manufacturer or any of its subsidiaries are not sold at the licensed
30 premises, and the board reviews the ownership and proposed method of
31 operation of all involved entities and determines that there will not
32 be an unacceptable level of control or undue influence over the
33 operation of the retail licensee. Except as provided in subsection (3)
34 of this section, no manufacturer, importer, (~~(or)~~) distributor, or
35 authorized representative shall advance moneys or moneys' worth to a
36 licensed person under an arrangement, nor shall such licensed person
37 receive, under an arrangement, an advance of moneys or moneys' worth.
38 "Person" as used in this section only shall not include those state or

1 federally chartered banks, state or federally chartered savings and
2 loan associations, state or federally chartered mutual savings banks,
3 or institutional investors which are not controlled directly or
4 indirectly by a manufacturer, importer, ~~((or))~~ distributor, or
5 authorized representative as long as the bank, savings and loan
6 association, or institutional investor does not influence or attempt to
7 influence the purchasing practices of the retailer with respect to
8 alcoholic beverages. Except as otherwise provided in this section, no
9 manufacturer, importer, ~~((or))~~ distributor, or authorized
10 representative shall be eligible to receive or hold a retail license
11 under this title, nor shall such manufacturer, importer, ~~((or))~~
12 distributor, or authorized representative sell at retail any liquor as
13 herein defined. A corporation granted an exemption under this
14 subsection may use debt instruments issued in connection with financing
15 construction or operations of its facilities.

16 (b) Nothing in this section shall prohibit a licensed domestic
17 brewery or microbrewery from being licensed as a retailer pursuant to
18 chapter 66.24 RCW for the purpose of selling beer or wine at retail on
19 the brewery premises and nothing in this section shall prohibit a
20 domestic winery from being licensed as a retailer pursuant to chapter
21 66.24 RCW for the purpose of selling beer or wine at retail on the
22 winery premises. Such beer and wine so sold at retail shall be subject
23 to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting
24 and bonding requirements as prescribed by regulations adopted by the
25 board pursuant to chapter 34.05 RCW, and beer and wine that is not
26 produced by the brewery or winery shall be purchased from a licensed
27 beer or wine distributor.

28 (c) Nothing in this section shall prohibit a licensed distiller,
29 domestic brewery, microbrewery, domestic winery, or a lessee of a
30 licensed domestic brewer, microbrewery, or domestic winery, from being
31 licensed as a spirits, beer, and wine restaurant pursuant to chapter
32 66.24 RCW for the purpose of selling liquor at a spirits, beer, and
33 wine restaurant premises on the property on which the primary
34 manufacturing facility of the licensed distiller, domestic brewer,
35 microbrewery, or domestic winery is located or on contiguous property
36 owned or leased by the licensed distiller, domestic brewer,
37 microbrewery, or domestic winery as prescribed by rules adopted by the
38 board pursuant to chapter 34.05 RCW.

1 (2) Financial interest, direct or indirect, as used in this
2 section, shall include any interest, whether by stock ownership,
3 mortgage, lien, or through interlocking directors, or otherwise.
4 Pursuant to rules promulgated by the board in accordance with chapter
5 34.05 RCW manufacturers, distributors, and importers may perform, and
6 retailers may accept the service of building, rotating and restocking
7 case displays and stock room inventories; rotating and rearranging can
8 and bottle displays of their own products; provide point of sale
9 material and brand signs; price case goods of their own brands; and
10 perform such similar normal business services as the board may by
11 regulation prescribe.

12 (3)(a) This section does not prohibit a manufacturer, importer, or
13 distributor from providing services to a special occasion licensee for:
14 (i) Installation of draft beer dispensing equipment or advertising,
15 (ii) advertising, pouring, or dispensing of beer or wine at a beer or
16 wine tasting exhibition or judging event, or (iii) a special occasion
17 licensee from receiving any such services as may be provided by a
18 manufacturer, importer, or distributor. Nothing in this section shall
19 prohibit a retail licensee, or any person financially interested,
20 directly or indirectly, in such a retail licensee from having a
21 financial interest, direct or indirect, in a business which provides,
22 for a compensation commensurate in value to the services provided,
23 bottling, canning or other services to a manufacturer, so long as the
24 retail licensee or person interested therein has no direct financial
25 interest in or control of said manufacturer.

26 (b) A person holding contractual rights to payment from selling a
27 liquor distributor's business and transferring the license shall not be
28 deemed to have a financial interest under this section if the person
29 (i) lacks any ownership in or control of the distributor, (ii) is not
30 employed by the distributor, and (iii) does not influence or attempt to
31 influence liquor purchases by retail liquor licensees from the
32 distributor.

33 (c) The board shall adopt such rules as are deemed necessary to
34 carry out the purposes and provisions of subsection (3)(a) of this
35 section in accordance with the administrative procedure act, chapter
36 34.05 RCW.

37 (4) A license issued under RCW 66.24.395 does not constitute a
38 retail license for the purposes of this section.

1 (5) A public house license issued under RCW 66.24.580 does not
2 violate the provisions of this section as to a retailer having an
3 interest directly or indirectly in a liquor-licensed manufacturer.

4 **Sec. 10.** RCW 66.28.030 and 1997 c 321 s 47 are each amended to
5 read as follows:

6 Every ((~~licensed brewer,~~)) domestic ((~~brewer~~)) brewery and
7 ((~~microbrewer~~)) microbrewery, domestic winery, ((~~manufacturer holding~~
8 a)) certificate of approval holder, licensed wine importer, and
9 licensed beer importer shall be responsible for the conduct of any
10 licensed beer or wine distributor in selling, or contracting to sell,
11 to retail licensees, beer or wine manufactured by such ((~~brewer,~~))
12 domestic ((~~brewer and microbrewer~~)) brewery, microbrewery, domestic
13 winery, manufacturer holding a certificate of approval, sold by an
14 authorized representative holding a certificate of approval, or
15 imported by such beer or wine importer. Where the board finds that any
16 licensed beer or wine distributor has violated any of the provisions of
17 this title or of the regulations of the board in selling or contracting
18 to sell beer or wine to retail licensees, the board may, in addition to
19 any punishment inflicted or imposed upon such distributor, prohibit the
20 sale of the brand or brands of beer or wine involved in such violation
21 to any or all retail licensees within the trade territory usually
22 served by such distributor for such period of time as the board may
23 fix, irrespective of whether the brewer manufacturing such beer or the
24 beer importer importing such beer or the domestic winery manufacturing
25 such wine or the wine importer importing such wine or the certificate
26 of approval holder manufacturing such beer or wine or acting as
27 authorized representative actually participated in such violation.

28 **Sec. 11.** RCW 66.28.040 and 2000 c 179 s 1 are each amended to read
29 as follows:

30 Except as permitted by the board under RCW 66.20.010, no domestic
31 brewery, microbrewery, distributor, distiller, domestic winery,
32 importer, rectifier, certificate of approval holder, or other
33 manufacturer of liquor shall, within the state of Washington, give to
34 any person any liquor; but nothing in this section nor in RCW 66.28.010
35 shall prevent a domestic brewery, microbrewery, distributor, domestic
36 winery, distiller, certificate of approval holder, or importer from

1 furnishing samples of beer, wine, or spirituous liquor to authorized
2 licensees for the purpose of negotiating a sale, in accordance with
3 regulations adopted by the liquor control board, provided that the
4 samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210,
5 and in the case of spirituous liquor, any product used for samples must
6 be purchased at retail from the board; nothing in this section shall
7 prevent the furnishing of samples of liquor to the board for the
8 purpose of negotiating the sale of liquor to the state liquor control
9 board; nothing in this section shall prevent a domestic brewery,
10 microbrewery, domestic winery, distillery, certificate of approval
11 holder, or distributor from furnishing beer, wine, or spirituous liquor
12 for instructional purposes under RCW 66.28.150 ((and 66.28.155));
13 nothing in this section shall prevent a domestic winery, certificate of
14 approval holder, or distributor from furnishing wine without charge,
15 subject to the taxes imposed by RCW 66.24.210, to a not-for-profit
16 group organized and operated solely for the purpose of enology or the
17 study of viticulture which has been in existence for at least six
18 months and that uses wine so furnished solely for such educational
19 purposes or a domestic winery, or an out-of-state certificate of
20 approval holder, from furnishing wine without charge or a domestic
21 brewery, or an out-of-state certificate of approval holder, from
22 furnishing beer without charge, subject to the taxes imposed by RCW
23 66.24.210 or 66.24.290, to a nonprofit charitable corporation or
24 association exempt from taxation under section 501(c)(3) of the
25 internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) for use
26 consistent with the purpose or purposes entitling it to such exemption;
27 nothing in this section shall prevent a ((~~brewer~~)) domestic brewery or
28 microbrewery from serving beer without charge, on the brewery premises;
29 nothing in this section shall prevent donations of wine for the
30 purposes of RCW 66.12.180; and nothing in this section shall prevent a
31 domestic winery from serving wine without charge, on the winery
32 premises.

33 **Sec. 12.** RCW 66.28.042 and 1990 c 125 s 1 are each amended to read
34 as follows:

35 A liquor manufacturer, importer, authorized representative holding
36 a certificate of approval, or ((~~wholesaler~~)) distributor may provide to
37 licensed retailers and their employees food and beverages for

1 consumption at a meeting at which the primary purpose is the discussion
2 of business, and may provide local ground transportation to and from
3 such meetings. The value of the food, beverage, or transportation
4 provided under this section shall not be considered the advancement of
5 moneys or moneys' worth within the meaning of RCW 66.28.010, nor shall
6 it be considered the giving away of liquor within the meaning of RCW
7 68.28.040. The board may adopt rules for the implementation of this
8 section.

9 **Sec. 13.** RCW 66.28.043 and 1990 c 125 s 2 are each amended to read
10 as follows:

11 A liquor manufacturer, importer, authorized representative holding
12 a certificate of approval, or (~~wholesaler~~) distributor may provide to
13 licensed retailers and their employees tickets or admission fees for
14 athletic events or other forms of entertainment occurring within the
15 state of Washington, if the manufacturer, importer, (~~wholesaler~~)
16 distributor, authorized representative holding a certificate of
17 approval, or any of their employees accompanies the licensed retailer
18 or its employees to the event. A liquor manufacturer, importer,
19 authorized representative holding a certificate of approval, or
20 (~~wholesaler~~) distributor may also provide to licensed retailers and
21 their employees food and beverages for consumption at such events, and
22 local ground transportation to and from activities allowed under this
23 section. The value of the food, beverage, transportation, or admission
24 to events provided under this section shall not be considered the
25 advancement of moneys or moneys' worth within the meaning of RCW
26 66.28.010, nor shall it be considered the giving away of liquor within
27 the meaning of RCW 68.28.040. The board may adopt rules for the
28 implementation of this section.

29 **Sec. 14.** RCW 66.28.150 and 1997 c 39 s 2 are each amended to read
30 as follows:

31 A domestic brewery, microbrewery, domestic winery, distillery,
32 (~~wholesaler~~) distributor, certificate of approval holder, or its
33 licensed agent may, without charge, instruct licensees and their
34 employees, or conduct courses of instruction for licensees and their
35 employees, on the subject of beer, wine, or spirituous liquor,
36 including but not limited to, the history, nature, values, and

1 characteristics of beer, wine, or spirituous liquor, the use of wine
2 lists, and the methods of presenting, serving, storing, and handling
3 beer, wine, or spirituous liquor. The domestic brewery, microbrewery,
4 domestic winery, distillery, (~~wholesaler~~) distributor, certificate of
5 approval holder, or its licensed agent may furnish beer, wine, or
6 spirituous liquor and such other equipment, materials, and utensils as
7 may be required for use in connection with the instruction or courses
8 of instruction. The instruction or courses of instruction may be given
9 at the premises of the domestic brewery, microbrewery, domestic winery,
10 distillery, or (~~wholesaler~~) authorized representative holding a
11 certificate of approval, at the premises of a retail licensee, or
12 elsewhere within the state of Washington.

13 **Sec. 15.** RCW 66.28.155 and 1997 c 39 s 3 are each amended to read
14 as follows:

15 A domestic brewery, microbrewery, domestic winery, distillery,
16 (~~wholesaler~~) distributor, certificate of approval holder, or its
17 licensed agent may conduct educational activities or provide product
18 information to the consumer on the licensed premises of a retailer.
19 Information on the subject of wine, beer, or spirituous liquor,
20 including but not limited to, the history, nature, quality, and
21 characteristics of a wine, beer, or spirituous liquor, methods of
22 harvest, production, storage, handling, and distribution of a wine,
23 beer, or spirituous liquor, and the general development of the wine,
24 beer, and spirituous liquor industry may be provided by a domestic
25 brewery, microbrewery, domestic winery, distillery, (~~wholesaler~~)
26 distributor, certificate of approval holder, or its licensed agent to
27 the public on the licensed premises of a retailer. The retailer
28 requesting such activity shall attempt to schedule a series of brewery,
29 winery, authorized representative, or distillery and (~~wholesaler~~)
30 distributor appearances in an effort to equitably represent the
31 industries. Nothing in this section permits a domestic brewery,
32 microbrewery, domestic winery, distillery, (~~wholesaler~~) distributor,
33 certificate of approval holder, or its licensed agent to receive
34 compensation or financial benefit from the educational activities or
35 product information presented on the licensed premises of a retailer.
36 The promotional value of such educational activities or product

1 information shall not be considered advancement of moneys or of moneys'
2 worth within the meaning of RCW 66.28.010.

3 **Sec. 16.** RCW 66.28.160 and 1985 c 352 s 20 are each amended to
4 read as follows:

5 No liquor manufacturer, importer, (~~wholesaler~~) distributor,
6 retailer, authorized representative holding a certificate of approval,
7 agent thereof, or campus representative of any of the foregoing, may
8 conduct promotional activities for any liquor product on the campus of
9 any college or university nor may any such entities engage in
10 activities that facilitate or promote the consumption of alcoholic
11 beverages by the students of the college or university at which the
12 activity takes place. This section does not prohibit the following:

13 (1) The sale of alcoholic beverages, by retail licensees on their
14 licensed premises, to persons of legal age and condition to consume
15 alcoholic beverages;

16 (2) Sponsorship of broadcasting services for events on a college or
17 university campus;

18 (3) Liquor advertising in campus publications; or

19 (4) Financial assistance to an activity and acknowledgment of the
20 source of the assistance, if the assistance, activity, and
21 acknowledgment are each approved by the college or university
22 administration.

23 **Sec. 17.** RCW 66.28.170 and 1997 c 321 s 50 are each amended to
24 read as follows:

25 It is unlawful for a manufacturer of wine or malt beverages holding
26 a certificate of approval issued under RCW 66.24.270 or 66.24.206 or
27 the manufacturer's authorized representative, a brewery (~~license~~), or
28 a domestic winery (~~license~~) to discriminate in price in selling to
29 any purchaser for resale in the state of Washington.

30 **Sec. 18.** RCW 66.28.180 and 1997 c 321 s 51 are each amended to
31 read as follows:

32 It is unlawful for a person, firm, or corporation holding a
33 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer
34 distributor's license, a domestic (~~brewer's~~) brewery license, a
35 (~~microbrewer's~~) microbrewery license, a beer importer's license, a

1 beer distributor's license, a domestic winery license, a wine
2 importer's license, or a wine distributor's license within the state of
3 Washington to modify any prices without prior notification to and
4 approval of the board.

5 (1) Intent. This section is enacted, pursuant to the authority of
6 this state under the twenty-first amendment to the United States
7 Constitution, to promote the public's interest in fostering the orderly
8 and responsible distribution of malt beverages and wine towards
9 effective control of consumption; to promote the fair and efficient
10 three-tier system of distribution of such beverages; and to confirm
11 existing board rules as the clear expression of state policy to
12 regulate the manner of selling and pricing of wine and malt beverages
13 by licensed suppliers and distributors.

14 (2) Beer and wine distributor price posting.

15 (a) Every beer or wine distributor shall file with the board at its
16 office in Olympia a price posting showing the wholesale prices at which
17 any and all brands of beer and wine sold by such beer and/or wine
18 distributor shall be sold to retailers within the state.

19 (b) Each price posting shall be made on a form prepared and
20 furnished by the board, or a reasonable facsimile thereof, and shall
21 set forth:

22 (i) All brands, types, packages, and containers of beer offered for
23 sale by such beer and/or wine distributor;

24 (ii) The wholesale prices thereof to retail licensees, including
25 allowances, if any, for returned empty containers.

26 (c) No beer and/or wine distributor may sell or offer to sell any
27 package or container of beer or wine to any retail licensee at a price
28 differing from the price for such package or container as shown in the
29 price posting filed by the beer and/or wine distributor and then in
30 effect, according to rules adopted by the board.

31 (d) Quantity discounts are prohibited. No price may be posted that
32 is below acquisition cost plus ten percent of acquisition cost.
33 However, the board is empowered to review periodically, as it may deem
34 appropriate, the amount of the percentage of acquisition cost as a
35 minimum mark-up over cost and to modify such percentage by rule of the
36 board, except such percentage shall be not less than ten percent.

37 (e) Distributor prices on a "close-out" item shall be accepted by
38 the board if the item to be discontinued has been listed on the state

1 market for a period of at least six months, and upon the further
2 condition that the distributor who posts such a close-out price shall
3 not restock the item for a period of one year following the first
4 effective date of such close-out price.

5 (f) The board may reject any price posting that it deems to be in
6 violation of this section or any rule, or portion thereof, or that
7 would tend to disrupt the orderly sale and distribution of beer and
8 wine. Whenever the board rejects any posting, the licensee submitting
9 the posting may be heard by the board and shall have the burden of
10 showing that the posting is not in violation of this section or a rule
11 or does not tend to disrupt the orderly sale and distribution of beer
12 and wine. If the posting is accepted, it shall become effective at the
13 time fixed by the board. If the posting is rejected, the last
14 effective posting shall remain in effect until such time as an amended
15 posting is filed and approved, in accordance with the provisions of
16 this section.

17 (g) All price postings filed as required by this section shall at
18 all times be open to inspection to all trade buyers within the state of
19 Washington and shall not in any sense be considered confidential.

20 (h) Any beer and/or wine distributor or employee authorized by the
21 distributor-employer may sell beer and/or wine at the distributor's
22 posted prices to any annual or special occasion retail licensee upon
23 presentation to the distributor or employee at the time of purchase of
24 a special permit issued by the board to such licensee.

25 (i) Every annual or special occasion retail licensee, upon
26 purchasing any beer and/or wine from a distributor, shall immediately
27 cause such beer or wine to be delivered to the licensed premises, and
28 the licensee shall not thereafter permit such beer to be disposed of in
29 any manner except as authorized by the license.

30 (ii) Beer and wine sold as provided in this section shall be
31 delivered by the distributor or an authorized employee either to the
32 retailer's licensed premises or directly to the retailer at the
33 distributor's licensed premises. A distributor's prices to retail
34 licensees shall be the same at both such places of delivery.

35 (3) Beer and wine suppliers' price filings, contracts, and
36 memoranda.

37 (a) Every domestic brewery, microbrewery, and domestic winery
38 offering beer and/or wine for sale within the state shall file with the

1 board at its office in Olympia a copy of every written contract and a
2 memorandum of every oral agreement which such brewery or winery may
3 have with any beer or wine distributor, which contracts or memoranda
4 shall contain a schedule of prices charged to distributors for all
5 items and all terms of sale, including all regular and special
6 discounts; all advertising, sales and trade allowances, and incentive
7 programs; and all commissions, bonuses or gifts, and any and all other
8 discounts or allowances. Whenever changed or modified, such revised
9 contracts or memoranda shall forthwith be filed with the board as
10 provided for by rule. The provisions of this section also apply to
11 certificate of approval holders, beer and/or wine importers, and beer
12 and/or wine distributors who sell to other beer and/or wine
13 distributors.

14 Each price schedule shall be made on a form prepared and furnished
15 by the board, or a reasonable facsimile thereof, and shall set forth
16 all brands, types, packages, and containers of beer or wine offered for
17 sale by such licensed brewery or winery; all additional information
18 required may be filed as a supplement to the price schedule forms.

19 (b) Prices filed by a domestic brewery (~~(or)~~), microbrewery,
20 domestic winery, or certificate of approval holder shall be uniform
21 prices to all distributors on a statewide basis less bona fide
22 allowances for freight differentials. Quantity discounts are
23 prohibited. No price shall be filed that is below
24 acquisition/production cost plus ten percent of that cost, except that
25 acquisition cost plus ten percent of acquisition cost does not apply to
26 sales of beer or wine between a beer or wine importer who sells beer or
27 wine to another beer or wine importer or to a beer or wine distributor,
28 or to a beer or wine distributor who sells beer or wine to another beer
29 or wine distributor. However, the board is empowered to review
30 periodically, as it may deem appropriate, the amount of the percentage
31 of acquisition/production cost as a minimum mark-up over cost and to
32 modify such percentage by rule of the board, except such percentage
33 shall be not less than ten percent.

34 (c) No domestic brewery, microbrewery, domestic winery, certificate
35 of approval holder, beer or wine importer, or beer or wine distributor
36 may sell or offer to sell any beer or wine to any persons whatsoever in
37 this state until copies of such written contracts or memoranda of such
38 oral agreements are on file with the board.

1 (d) No domestic brewery (~~((or))~~), microbrewery, domestic winery, or
2 certificate of approval holder may sell or offer to sell any package or
3 container of beer or wine to any distributor at a price differing from
4 the price for such package or container as shown in the schedule of
5 prices filed by the domestic brewery (~~((or))~~), microbrewery, domestic
6 winery, or certificate of approval holder and then in effect, according
7 to rules adopted by the board.

8 (e) The board may reject any supplier's price filing, contract, or
9 memorandum of oral agreement, or portion thereof that it deems to be in
10 violation of this section or any rule or that would tend to disrupt the
11 orderly sale and distribution of beer or wine. Whenever the board
12 rejects any such price filing, contract, or memorandum, the licensee
13 submitting the price filing, contract, or memorandum may be heard by
14 the board and shall have the burden of showing that the price filing,
15 contract, or memorandum is not in violation of this section or a rule
16 or does not tend to disrupt the orderly sale and distribution of beer
17 or wine. If the price filing, contract, or memorandum is accepted, it
18 shall become effective at a time fixed by the board. If the price
19 filing, contract, or memorandum, or portion thereof, is rejected, the
20 last effective price filing, contract, or memorandum shall remain in
21 effect until such time as an amended price filing, contract, or
22 memorandum is filed and approved, in accordance with the provisions of
23 this section.

24 (f) All prices, contracts, and memoranda filed as required by this
25 section shall at all times be open to inspection to all trade buyers
26 within the state of Washington and shall not in any sense be considered
27 confidential.

28 **Sec. 19.** RCW 19.126.020 and 2003 c 59 s 2 are each amended to read
29 as follows:

30 The definitions set forth in this section apply throughout this
31 chapter unless the context clearly requires otherwise.

32 (1) "Agreement of distributorship" means any contract, agreement,
33 commercial relationship, license, association, or any other
34 arrangement, for a definite or indefinite period, between a supplier
35 and distributor.

36 (2) "Distributor" means any person, including but not limited to a
37 component of a supplier's distribution system constituted as an

1 independent business, importing or causing to be imported into this
2 state, or purchasing or causing to be purchased within this state, any
3 malt beverage for sale or resale to retailers licensed under the laws
4 of this state, regardless of whether the business of such person is
5 conducted under the terms of any agreement with a malt beverage
6 manufacturer.

7 (3) "Supplier" means any malt beverage manufacturer or importer who
8 enters into or is a party to any agreement of distributorship with a
9 wholesale distributor. "Supplier" does not include: (a) Any domestic
10 (~~brewer~~) brewery or (~~microbrewer~~) microbrewery licensed under RCW
11 66.24.240 and producing less than fifty thousand barrels of malt liquor
12 annually; (~~or~~) (b) any brewer or manufacturer of malt liquor
13 producing less than fifty thousand barrels of malt liquor annually and
14 holding a certificate of approval issued under RCW 66.24.270; or (c)
15 any authorized representative of malt liquor manufacturers who holds an
16 appointment from one or more malt liquor manufacturers which, in the
17 aggregate, produce less than fifty thousand barrels of malt liquor.

18 (4) "Malt beverage manufacturer" means every brewer, fermenter,
19 processor, bottler, or packager of malt beverages located within or
20 outside this state, or any other person, whether located within or
21 outside this state, who enters into an agreement of distributorship for
22 the resale of malt beverages in this state with any wholesale
23 distributor doing business in the state of Washington.

24 (5) "Importer" means any distributor importing beer into this state
25 for sale to retailer accounts or for sale to other (~~wholesalers~~)
26 distributors designated as "subjobbers" for resale.

27 (6) "Authorized representative" has the same meaning as "authorized
28 representative" as defined in RCW 66.04.010.

29 (7) "Person" means any natural person, corporation, partnership,
30 trust, agency, or other entity, as well as any individual officers,
31 directors, or other persons in active control of the activities of such
32 entity.

33 NEW SECTION. **Sec. 20.** This act takes effect January 1, 2005.

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