
SENATE BILL 6655

State of Washington 58th Legislature 2004 Regular Session

By Senators Hewitt, Keiser and Rasmussen

Read first time 01/28/2004. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to certificates of approval for authorized
2 representatives of beer and wine manufacturers and distributors; and
3 amending RCW 66.04.010, 66.24.206, 66.24.270, 66.28.010, 66.28.030,
4 66.28.040, 66.28.042, 66.28.043, 66.28.150, 66.28.155, 66.28.160,
5 66.28.170, 66.28.180, and 19.126.020.

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

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

9 In this title, unless the context otherwise requires:

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

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

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

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

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

9 (d) Is appointed by the brewery or winery referenced in (c) of this
10 subsection as its exclusive authorized representative for marketing and
11 selling its products within the United States in accordance with a
12 written agreement between the authorized representative and such
13 brewery or winery pursuant to this title.

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

16 ~~((3))~~ (4) "Beer distributor" means a person who buys beer from a
17 brewer or brewery located either within or beyond the boundaries of the
18 state, beer importers, or foreign produced beer from a source outside
19 the state of Washington, for the purpose of selling the same pursuant
20 to this title, or who represents such brewer or brewery as agent.

21 ~~((4))~~ (5) "Beer importer" means a person or business within
22 Washington who purchases beer from a United States brewery holding a
23 certificate of approval (B5) or foreign produced beer from a source
24 outside the state of Washington for the purpose of selling the same
25 pursuant to this title.

26 ~~((5))~~ (6) "Brewer" or "brewery" means any person engaged in the
27 business of manufacturing beer and malt liquor. Brewer includes a
28 brand owner of malt beverages who holds a brewer's notice with the
29 federal bureau of alcohol, tobacco, and firearms at a location outside
30 the state and whose malt beverage is contract-produced by a licensed
31 in-state brewery, and who may exercise within the state, under a
32 domestic brewery license, only the privileges of storing, selling to
33 licensed beer distributors, and exporting beer from the state.

34 ~~((6))~~ (7) "Board" means the liquor control board, constituted
35 under this title.

36 ~~((7))~~ (8) "Club" means an organization of persons, incorporated
37 or unincorporated, operated solely for fraternal, benevolent,
38 educational, athletic or social purposes, and not for pecuniary gain.

1 (~~(8)~~) (9) "Consume" includes the putting of liquor to any use,
2 whether by drinking or otherwise.

3 (~~(9)~~) (10) "Dentist" means a practitioner of dentistry duly and
4 regularly licensed and engaged in the practice of his profession within
5 the state pursuant to chapter 18.32 RCW.

6 (~~(10)~~) (11) "Distiller" means a person engaged in the business of
7 distilling spirits.

8 (~~(11)~~) (12) "Domestic brewery" means a place where beer and malt
9 liquor are manufactured or produced by a brewer within the state.

10 (~~(12)~~) (13) "Domestic winery" means a place where wines are
11 manufactured or produced within the state of Washington.

12 (~~(13)~~) (14) "Druggist" means any person who holds a valid
13 certificate and is a registered pharmacist and is duly and regularly
14 engaged in carrying on the business of pharmaceutical chemistry
15 pursuant to chapter 18.64 RCW.

16 (~~(14)~~) (15) "Drug store" means a place whose principal business
17 is, the sale of drugs, medicines and pharmaceutical preparations and
18 maintains a regular prescription department and employs a registered
19 pharmacist during all hours the drug store is open.

20 (~~(15)~~) (16) "Employee" means any person employed by the board,
21 including a vendor, as hereinafter in this section defined.

22 (~~(16)~~) (17) "Fund" means 'liquor revolving fund.'

23 (~~(17)~~) (18) "Hotel" means every building or other structure kept,
24 used, maintained, advertised or held out to the public to be a place
25 where food is served and sleeping accommodations are offered for pay to
26 transient guests, in which twenty or more rooms are used for the
27 sleeping accommodation of such transient guests and having one or more
28 dining rooms where meals are served to such transient guests, such
29 sleeping accommodations and dining rooms being conducted in the same
30 building and buildings, in connection therewith, and such structure or
31 structures being provided, in the judgment of the board, with adequate
32 and sanitary kitchen and dining room equipment and capacity, for
33 preparing, cooking and serving suitable food for its guests: PROVIDED
34 FURTHER, That in cities and towns of less than five thousand
35 population, the board shall have authority to waive the provisions
36 requiring twenty or more rooms.

37 (~~(18)~~) (19) "Importer" means a person who buys distilled spirits

1 from a distillery outside the state of Washington and imports such
2 spirituous liquor into the state for sale to the board or for export.

3 ~~((+19+))~~ (20) "Imprisonment" means confinement in the county jail.

4 ~~((+20+))~~ (21) "Liquor" includes the four varieties of liquor herein
5 defined (alcohol, spirits, wine and beer), and all fermented,
6 spirituous, vinous, or malt liquor, or combinations thereof, and mixed
7 liquor, a part of which is fermented, spirituous, vinous or malt
8 liquor, or otherwise intoxicating; and every liquid or solid or
9 semisolid or other substance, patented or not, containing alcohol,
10 spirits, wine or beer, and all drinks or drinkable liquids and all
11 preparations or mixtures capable of human consumption, and any liquid,
12 semisolid, solid, or other substance, which contains more than one
13 percent of alcohol by weight shall be conclusively deemed to be
14 intoxicating. Liquor does not include confections or food products
15 that contain one percent or less of alcohol by weight.

16 ~~((+21+))~~ (22) "Manufacturer" means a person engaged in the
17 preparation of liquor for sale, in any form whatsoever.

18 ~~((+22+))~~ (23) "Malt beverage" or "malt liquor" means any beverage
19 such as beer, ale, lager beer, stout, and porter obtained by the
20 alcoholic fermentation of an infusion or decoction of pure hops, or
21 pure extract of hops and pure barley malt or other wholesome grain or
22 cereal in pure water containing not more than eight percent of alcohol
23 by weight, and not less than one-half of one percent of alcohol by
24 volume. For the purposes of this title, any such beverage containing
25 more than eight percent of alcohol by weight shall be referred to as
26 "strong beer."

27 ~~((+23+))~~ (24) "Package" means any container or receptacle used for
28 holding liquor.

29 ~~((+24+))~~ (25) "Permit" means a permit for the purchase of liquor
30 under this title.

31 ~~((+25+))~~ (26) "Person" means an individual, copartnership,
32 association, or corporation.

33 ~~((+26+))~~ (27) "Physician" means a medical practitioner duly and
34 regularly licensed and engaged in the practice of his profession within
35 the state pursuant to chapter 18.71 RCW.

36 ~~((+27+))~~ (28) "Prescription" means a memorandum signed by a
37 physician and given by him to a patient for the obtaining of liquor
38 pursuant to this title for medicinal purposes.

1 ~~((28))~~ (29) "Public place" includes streets and alleys of
2 incorporated cities and towns; state or county or township highways or
3 roads; buildings and grounds used for school purposes; public dance
4 halls and grounds adjacent thereto; those parts of establishments where
5 beer may be sold under this title, soft drink establishments, public
6 buildings, public meeting halls, lobbies, halls and dining rooms of
7 hotels, restaurants, theatres, stores, garages and filling stations
8 which are open to and are generally used by the public and to which the
9 public is permitted to have unrestricted access; railroad trains,
10 stages, and other public conveyances of all kinds and character, and
11 the depots and waiting rooms used in conjunction therewith which are
12 open to unrestricted use and access by the public; publicly owned
13 bathing beaches, parks, and/or playgrounds; and all other places of
14 like or similar nature to which the general public has unrestricted
15 right of access, and which are generally used by the public.

16 ~~((29))~~ (30) "Regulations" means regulations made by the board
17 under the powers conferred by this title.

18 ~~((30))~~ (31) "Restaurant" means any establishment provided with
19 special space and accommodations where, in consideration of payment,
20 food, without lodgings, is habitually furnished to the public, not
21 including drug stores and soda fountains.

22 ~~((31))~~ (32) "Sale" and "sell" include exchange, barter, and
23 traffic; and also include the selling or supplying or distributing, by
24 any means whatsoever, of liquor, or of any liquid known or described as
25 beer or by any name whatever commonly used to describe malt or brewed
26 liquor or of wine, by any person to any person; and also include a sale
27 or selling within the state to a foreign consignee or his agent in the
28 state. "Sale" and "sell" shall not include the giving, at no charge,
29 of a reasonable amount of liquor by a person not licensed by the board
30 to a person not licensed by the board, for personal use only. "Sale"
31 and "sell" also does not include a raffle authorized under RCW
32 9.46.0315: PROVIDED, That the nonprofit organization conducting the
33 raffle has obtained the appropriate permit from the board.

34 ~~((32))~~ (33) "Soda fountain" means a place especially equipped
35 with apparatus for the purpose of dispensing soft drinks, whether mixed
36 or otherwise.

37 ~~((33))~~ (34) "Spirits" means any beverage which contains alcohol

1 obtained by distillation, including wines exceeding twenty-four percent
2 of alcohol by volume.

3 ~~((+34+))~~ (35) "Store" means a state liquor store established under
4 this title.

5 ~~((+35+))~~ (36) "Tavern" means any establishment with special space
6 and accommodation for sale by the glass and for consumption on the
7 premises, of beer, as herein defined.

8 ~~((+36+))~~ (37) "Vendor" means a person employed by the board as a
9 store manager under this title.

10 ~~((+37+))~~ (38) "Winery" means a business conducted by any person for
11 the manufacture of wine for sale, other than a domestic winery.

12 ~~((+38+))~~ (39) "Wine" means any alcoholic beverage obtained by
13 fermentation of fruits (grapes, berries, apples, et cetera) or other
14 agricultural product containing sugar, to which any saccharine
15 substances may have been added before, during or after fermentation,
16 and containing not more than twenty-four percent of alcohol by volume,
17 including sweet wines fortified with wine spirits, such as port,
18 sherry, muscatel and angelica, not exceeding twenty-four percent of
19 alcohol by volume and not less than one-half of one percent of alcohol
20 by volume. For purposes of this title, any beverage containing no more
21 than fourteen percent of alcohol by volume when bottled or packaged by
22 the manufacturer shall be referred to as "table wine," and any beverage
23 containing alcohol in an amount more than fourteen percent by volume
24 when bottled or packaged by the manufacturer shall be referred to as
25 "fortified wine." However, "fortified wine" shall not include: (a)
26 Wines that are both sealed or capped by cork closure and aged two years
27 or more; and (b) wines that contain more than fourteen percent alcohol
28 by volume solely as a result of the natural fermentation process and
29 that have not been produced with the addition of wine spirits, brandy,
30 or alcohol.

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

33 ~~((+39+))~~ (40) "Wine distributor" means a person who buys wine from
34 a vintner or winery located either within or beyond the boundaries of
35 the state for the purpose of selling the same not in violation of this
36 title, or who represents such vintner or winery as agent.

37 ~~((+40+))~~ (41) "Wine importer" means a person or business within
38 Washington who purchases wine from a United States winery holding a

1 certificate of approval (W7) or foreign produced wine from a source
2 outside the state of Washington for the purpose of selling the same
3 pursuant to this title.

4 **Sec. 2.** RCW 66.24.206 and 1997 c 321 s 7 are each amended to read
5 as follows:

6 (1)(a) A United States winery or manufacturer of wine(~~(τ)~~) located
7 outside the state of Washington(~~(τ)~~) must hold a certificate of
8 approval (~~((W7))~~) to allow sales and shipment of the certificate of
9 approval holder's wine to licensed Washington wine distributors or
10 importers.

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

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

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

32 (3) The fee for the certificate of approval, issued pursuant to the
33 provisions of this title, shall be one hundred dollars per year, per
34 each privilege outlined in subsection (1)(a), (b), and (c) of this
35 section, which sum shall accompany the application for such
36 certificate.

1 **Sec. 3.** RCW 66.24.270 and 2003 c 167 s 4 are each amended to read
2 as follows:

3 (1) Every person, firm or corporation, holding a license to
4 manufacture malt liquors or strong beer within the state of Washington,
5 shall, on or before the twentieth day of each month, furnish to the
6 Washington state liquor control board, on a form to be prescribed by
7 the board, a statement showing the quantity of malt liquors and strong
8 beer sold for resale during the preceding calendar month to each beer
9 distributor within the state of Washington.

10 (2)(a) A United States brewery or manufacturer of beer or strong
11 beer, located outside the state of Washington, must hold a certificate
12 of approval (~~((B5))~~) to allow sales and shipment of the certificate of
13 approval holder's beer or strong beer to licensed Washington beer
14 distributors or importers.

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

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

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

37 (~~((3))~~) (4) The fee for the certificate of approval, issued
38 pursuant to the provisions of this title, shall be one hundred dollars

1 per year, per each privilege outlined in subsection (2)(a), (b), and
2 (c) of this section, which sum shall accompany the application for such
3 certificate.

4 **Sec. 4.** RCW 66.28.010 and 2002 c 109 s 1 are each amended to read
5 as follows:

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

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

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

34 (c) Nothing in this section shall prohibit a licensed distiller,
35 domestic brewery, microbrewery, domestic winery, or a lessee of a
36 licensed domestic brewer, microbrewery, or domestic winery, from being
37 licensed as a spirits, beer, and wine restaurant pursuant to chapter
38 66.24 RCW for the purpose of selling liquor at a spirits, beer, and

1 wine restaurant premises on the property on which the primary
2 manufacturing facility of the licensed distiller, domestic brewer,
3 microbrewery, or domestic winery is located or on contiguous property
4 owned or leased by the licensed distiller, domestic brewer,
5 microbrewery, or domestic winery as prescribed by rules adopted by the
6 board pursuant to chapter 34.05 RCW.

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

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

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

1 (c) The board shall adopt such rules as are deemed necessary to
2 carry out the purposes and provisions of subsection (3)(a) of this
3 section in accordance with the administrative procedure act, chapter
4 34.05 RCW.

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

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

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

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

34 **Sec. 6.** RCW 66.28.040 and 2000 c 179 s 1 are each amended to read
35 as follows:

36 Except as permitted by the board under RCW 66.20.010, no domestic

1 brewery, microbrewery, distributor, distiller, domestic winery,
2 importer, rectifier, certificate of approval holder, or other
3 manufacturer of liquor shall, within the state, give to any person any
4 liquor; but nothing in this section nor in RCW 66.28.010 shall prevent
5 a domestic brewery, microbrewery, distributor, domestic winery,
6 distiller, certificate of approval holder, or importer from furnishing
7 samples of beer, wine, or spirituous liquor to authorized licensees for
8 the purpose of negotiating a sale, in accordance with regulations
9 adopted by the liquor control board, provided that the samples are
10 subject to taxes imposed by RCW 66.24.290 and 66.24.210, and in the
11 case of spirituous liquor, any product used for samples must be
12 purchased at retail from the board; nothing in this section shall
13 prevent the furnishing of samples of liquor to the board for the
14 purpose of negotiating the sale of liquor to the state liquor control
15 board; nothing in this section shall prevent a domestic brewery,
16 microbrewery, domestic winery, distillery, certificate of approval
17 holder, or distributor from furnishing beer, wine, or spirituous liquor
18 for instructional purposes under RCW 66.28.150 and 66.28.155; nothing
19 in this section shall prevent a domestic winery, certificate of
20 approval holder, or distributor from furnishing wine without charge,
21 subject to the taxes imposed by RCW 66.24.210, to a not-for-profit
22 group organized and operated solely for the purpose of enology or the
23 study of viticulture which has been in existence for at least six
24 months and that uses wine so furnished solely for such educational
25 purposes or a domestic winery, or an out-of-state certificate of
26 approval holder, from furnishing wine without charge or a domestic
27 brewery, or an out-of-state certificate of approval holder, from
28 furnishing beer without charge, subject to the taxes imposed by RCW
29 66.24.210 or 66.24.290, to a nonprofit charitable corporation or
30 association exempt from taxation under section 501(c)(3) of the
31 internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) for use
32 consistent with the purpose or purposes entitling it to such exemption;
33 nothing in this section shall prevent a (~~brewer~~) domestic brewery or
34 microbrewery from serving beer without charge, on the brewery premises;
35 nothing in this section shall prevent donations of wine for the
36 purposes of RCW 66.12.180; and nothing in this section shall prevent a
37 domestic winery from serving wine without charge, on the winery
38 premises.

1 (~~wholesaler~~) distributor, certificate of approval holder, or its
2 licensed agent may, without charge, instruct licensees and their
3 employees, or conduct courses of instruction for licensees and their
4 employees, on the subject of beer, wine, or spirituous liquor,
5 including but not limited to, the history, nature, values, and
6 characteristics of beer, wine, or spirituous liquor, the use of wine
7 lists, and the methods of presenting, serving, storing, and handling
8 beer, wine, or spirituous liquor. The domestic brewery, microbrewery,
9 domestic winery, distillery, (~~wholesaler~~) distributor, certificate of
10 approval holder, or its licensed agent may furnish beer, wine, or
11 spirituous liquor and such other equipment, materials, and utensils as
12 may be required for use in connection with the instruction or courses
13 of instruction. The instruction or courses of instruction may be given
14 at the premises of the domestic brewery, microbrewery, domestic winery,
15 distillery, or (~~wholesaler~~) authorized representative holding a
16 certificate of approval, at the premises of a retail licensee, or
17 elsewhere.

18 **Sec. 10.** RCW 66.28.155 and 1997 c 39 s 3 are each amended to read
19 as follows:

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

1 domestic winery, distillery, ((wholesaler)) distributor, authorized
2 representative holding a certificate of approval, or its licensed agent
3 to receive compensation or financial benefit from the educational
4 activities or product information presented on the licensed premises of
5 a retailer. The promotional value of such educational activities or
6 product information shall not be considered advancement of moneys or of
7 moneys' worth within the meaning of RCW 66.28.010.

8 **Sec. 11.** RCW 66.28.160 and 1985 c 352 s 20 are each amended to
9 read as follows:

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

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

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

23 (3) Liquor advertising in campus publications; or

24 (4) Financial assistance to an activity and acknowledgment of the
25 source of the assistance, if the assistance, activity, and
26 acknowledgment are each approved by the college or university
27 administration.

28 **Sec. 12.** RCW 66.28.170 and 1997 c 321 s 50 are each amended to
29 read as follows:

30 It is unlawful for a manufacturer or authorized representative of
31 wine or malt beverages holding a certificate of approval issued under
32 RCW 66.24.270 or 66.24.206, a brewery license, or a domestic winery
33 license to discriminate in price in selling to any purchaser for resale
34 in the state.

1 **Sec. 13.** RCW 66.28.180 and 1997 c 321 s 51 are each amended to
2 read as follows:

3 It is unlawful for a person, firm, or corporation holding a
4 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer
5 distributor's license, a domestic (~~brewer's~~) brewery license, a
6 (~~microbrewer's~~) microbrewery license, a beer importer's license, a
7 beer distributor's license, a domestic winery license, a wine
8 importer's license, or a wine distributor's license within the state of
9 Washington to modify any prices without prior notification to and
10 approval of the board.

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

20 (2) Beer and wine distributor price posting.

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

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

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

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

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

37 (d) Quantity discounts are prohibited. No price may be posted that
38 is below acquisition cost plus ten percent of acquisition cost.

1 However, the board is empowered to review periodically, as it may deem
2 appropriate, the amount of the percentage of acquisition cost as a
3 minimum mark-up over cost and to modify such percentage by rule of the
4 board, except such percentage shall be not less than ten percent.

5 (e) Distributor prices on a "close-out" item shall be accepted by
6 the board if the item to be discontinued has been listed on the state
7 market for a period of at least six months, and upon the further
8 condition that the distributor who posts such a close-out price shall
9 not restock the item for a period of one year following the first
10 effective date of such close-out price.

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

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

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

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

36 (ii) Beer and wine sold as provided in this section shall be
37 delivered by the distributor or an authorized employee either to the

1 retailer's licensed premises or directly to the retailer at the
2 distributor's licensed premises. A distributor's prices to retail
3 licensees shall be the same at both such places of delivery.

4 (3) Beer and wine suppliers' price filings, contracts, and
5 memoranda.

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

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

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

1 of acquisition/production cost as a minimum mark-up over cost and to
2 modify such percentage by rule of the board, except such percentage
3 shall be not less than ten percent.

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

9 (d) No domestic brewery (~~((\otimes))~~), microbrewery, domestic winery, or
10 certificate of approval holder may sell or offer to sell any package or
11 container of beer or wine to any distributor at a price differing from
12 the price for such package or container as shown in the schedule of
13 prices filed by the domestic brewery (~~((\otimes))~~), microbrewery, domestic
14 winery, or certificate of approval holder and then in effect, according
15 to rules adopted by the board.

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

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

36 **Sec. 14.** RCW 19.126.020 and 2003 c 59 s 2 are each amended to read
37 as follows:

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

3 (1) "Agreement of distributorship" means any contract, agreement,
4 commercial relationship, license, association, or any other
5 arrangement, for a definite or indefinite period, between a supplier
6 and distributor.

7 (2) "Distributor" means any person, including but not limited to a
8 component of a supplier's distribution system constituted as an
9 independent business, importing or causing to be imported into this
10 state, or purchasing or causing to be purchased within this state, any
11 malt beverage for sale or resale to retailers licensed under the laws
12 of this state, regardless of whether the business of such person is
13 conducted under the terms of any agreement with a malt beverage
14 manufacturer.

15 (3) "Supplier" means any malt beverage manufacturer or importer who
16 enters into or is a party to any agreement of distributorship with a
17 wholesale distributor. "Supplier" does not include: (a) Any domestic
18 (~~(brewer)~~) brewery or (~~(microbrewer)~~) microbrewery licensed under RCW
19 66.24.240 and producing less than fifty thousand barrels of malt liquor
20 annually; (~~(or)~~) (b) any brewer or manufacturer of malt liquor
21 producing less than fifty thousand barrels of malt liquor annually and
22 holding a certificate of approval issued under RCW 66.24.270; or (c)
23 any authorized representative of malt liquor manufacturers who holds an
24 appointment from one or more malt liquor manufacturers which, in the
25 aggregate, produce less than fifty thousand barrels of malt liquor.

26 (4) "Malt beverage manufacturer" means every brewer, fermenter,
27 processor, bottler, or packager of malt beverages located within or
28 outside this state, or any other person, whether located within or
29 outside this state, who enters into an agreement of distributorship for
30 the resale of malt beverages in this state with any wholesale
31 distributor doing business in the state of Washington.

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

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

37 (7) "Person" means any natural person, corporation, partnership,

1 trust, agency, or other entity, as well as any individual officers,
2 directors, or other persons in active control of the activities of such
3 entity.

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