

FINAL BILL REPORT

2SSB 6823

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Synopsis as Enacted

Brief Description: Modifying provisions relating to the distribution of beer and wine.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Kohl-Welles; by request of Liquor Control Board).

Senate Committee on Labor, Commerce, Research & Development

Senate Committee on Ways & Means

House Committee on Commerce & Labor

House Committee on Appropriations

Background: Domestic wineries, breweries, and micro breweries can distribute their own products directly to retailers in this state; they do not have to use a distributor. Out-of-state wineries and breweries, on the other hand, must use a licensed distributor to distribute their products to retailers in this state.

In-state wineries, breweries, and micro breweries who choose to distribute their own products to retailers cannot use a common carrier to do so. Either the retailer must pick up the products directly from the manufacturer or the manufacturer must directly deliver the product to the retailer.

Any out-of-state winery or brewery must obtain a certificate of approval from the Liquor Control Board (LCB) before being able to sell its product to an in-state distributor.

Distributors of wine or beer must report to the LCB by the 20th of every month all purchases during the preceding calendar month. Retail beer and wine licensees may purchase beer or wine only from licensed distributors or the LCB. Distributors may only purchase beer or wine from other licensed distributors or importers.

The distributor must deliver beer and wine to the retailer by delivering it to either the retailer's licensed premises (the store) or by having the retailer pick up the product at the distributor's warehouse.

The prices filed by the brewery or winery or certificate of approval holder must be uniform prices to all distributors. All in-state wineries and breweries who distribute their products to retailers must pay required taxes.

On December 21, 2005, in the matter of *Costco Wholesale Corp. v. Roger Hoen, et al.*, federal district court judge Marsha Pechman ruled that Washington's statute permitting in-state wineries and breweries to distribute their own products to in-state retailers while not allowing out-of-state wineries and breweries to do the same was unconstitutional as a violation of the Commerce Clause of the United States Constitution. Judge Pechman stayed her order until April 14, 2006, to allow the Legislature to take action.

Summary: An in-state or out-of-state winery, brewery, or microbrewery may act as a distributor of its production. Out-of-state producers may distribute their product directly to the retailer, use a distributor, or a retailer may hire a common carrier to pick up the product from the producer and deliver it to the retailer (these are the current delivery options permitted for in-state producers).

Out-of-state wineries and breweries who distribute their products directly to retailers are responsible to pay the same taxes that in-state wineries and breweries currently pay when they distribute their products directly to retailers.

A retailer who is authorized to purchase wine or beer from an out-of-state winery must make monthly reports to the LCB on wine or beer purchased during the preceding calendar month. Beer or wine retail licensees may only purchase beer or wine from licensed distributors, in-state wineries or breweries, certificate of approval holders (out-of-state wineries or breweries) or the LCB. Breweries, wineries, and beer or wine distributors may only buy beer or wine from another duly licensed distributor or importer or certificate of approval holder.

Prices filed by an in-state brewery or winery or out-of-state brewery or winery must be uniform to all distributors and retailers.

The Public Disclosure Act is amended to exempt from disclosure financial or proprietary information relating to sales to retailers from producers and amounts producers have shipped to Washington.

The LCB must conduct a study of the current three tier and tied house systems and whether the systems should be modified or updated. The LCB must work closely with stakeholders in conducting the study, and report to the Legislature on its findings and recommendations by December 15, 2006.

The act expires on June 30, 2008.

Votes on Final Passage:

Senate	48	0
House	98	0

Effective: April 14, 2006
July 1, 2006 (Sections 10 and 12)