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**SUBSTITUTE HOUSE BILL 2561**

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**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Wood, Kessler, Hunter, Simpson, Fromhold and Condotta; by request of Liquor Control Board)

READ FIRST TIME 01/30/06.

1       AN ACT Relating to the shipment of wine from wine manufacturers  
2 directly to Washington consumers; amending RCW 66.24.210; adding new  
3 sections to chapter 66.20 RCW; repealing RCW 66.12.190, 66.12.200,  
4 66.12.210, and 66.12.220; and declaring an emergency.

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

6       NEW SECTION. **Sec. 1.** The holder of a license to manufacture wine  
7 issued by this state or another state may ship its wine to a person who  
8 is a resident of Washington and is twenty-one years of age or older for  
9 that person's personal use and not for resale.

10       NEW SECTION. **Sec. 2.** Before wine may be shipped by a domestic  
11 winery or an out-of-state winery to a person who is a resident of  
12 Washington, the winery must:

13       (1) Obtain a wine shipper's permit under procedures prescribed by  
14 the board by rule and pay a fee established by the board, if the winery  
15 is located outside the state; or

16       (2) Be licensed as a domestic winery by the board and have paid the  
17 annual license fee.

1        NEW SECTION.    **Sec. 3.**    (1) An applicant for a wine shipper's permit  
2 under section 2 of this act must:

3            (a) Operate a winery located in the United States;

4            (b) Provide the board a copy of its valid license to manufacture  
5 wine issued by another state;

6            (c) Certify that it holds all state and federal licenses and  
7 permits necessary to operate a winery; and

8            (d) Register with the department of revenue under RCW 82.32.030.

9            (2) Holders of a winery certificate of approval under RCW  
10 66.24.206(1)(a) are deemed to hold a wine shipper's permit without  
11 further application or fee, if the holder meets all requirements for a  
12 wine shipper's permit. A winery certificate of approval holder who  
13 wants to ship wine under its wine shipper's permit privilege must  
14 notify the liquor control board in a manner determined by the board  
15 before shipping any wine to a Washington consumer.

16            (3) Holders of a wine shipper's permit must:

17            (a) Pay the tax under RCW 66.24.210 for sales of wine to Washington  
18 state residents; and

19            (b) Collect and remit to the department of revenue all applicable  
20 state and local sales and use taxes imposed by or under the authority  
21 of chapters 82.08, 82.12, and 82.14 RCW on all sales of wine delivered  
22 to buyers in this state, regardless of whether the permit holder has a  
23 physical presence in this state.

24        NEW SECTION.    **Sec. 4.**    (1) A domestic winery or a wine shipper's  
25 permit holder must clearly label all wine cases or outside shipping  
26 packages of wine sent into or out of this state under this act to  
27 indicate that the package cannot be delivered to a person under twenty-  
28 one years of age or to an intoxicated person.

29            (2) A domestic winery or a wine shipper's permit holder must ensure  
30 that the private carrier used to deliver wine (a) obtains the signature  
31 of the person who receives the wine upon delivery, (b) verifies the age  
32 of the recipient, and (c) verifies that the recipient does not appear  
33 intoxicated at the time of delivery.

34        NEW SECTION.    **Sec. 5.**    (1) A wine shipper's permit holder and a  
35 domestic winery must report to the board, on or before the twentieth  
36 day of each month, all shipments of wine made during the preceding

1 calendar month directly to Washington consumers under a wine shipper's  
2 permit or a domestic winery license in effect for all or any portion of  
3 the preceding year. All reports will be on forms prescribed by the  
4 board.

5 (2) A wine shipper's permit holder, a winery certificate of  
6 approval holder, or domestic winery who advertises or offers wine for  
7 direct shipment to customers within this state must clearly and  
8 conspicuously display the permit or license number in its advertising.

9 NEW SECTION. **Sec. 6.** A fee for a wine shipper's permit may be  
10 established by the board.

11 NEW SECTION. **Sec. 7.** (1) Holders of a wine shipper's permit are  
12 deemed to have consented to the jurisdiction of Washington concerning  
13 enforcement of this act and all laws, rules, and regulations related to  
14 the shipment of wine from wine manufacturers directly to consumers.

15 (2)(a) A permit issued under this act to a wine manufacturer  
16 located outside this state who fails to comply with the provisions of  
17 this act shall be suspended or revoked.

18 (b) The privilege to ship wine directly to Washington consumers  
19 under a domestic winery license shall be suspended or revoked if the  
20 domestic winery fails to comply with the provisions of this act.

21 **Sec. 8.** RCW 66.24.210 and 2001 c 124 s 1 are each amended to read  
22 as follows:

23 (1) There is hereby imposed upon all wines except cider sold to  
24 wine distributors and the Washington state liquor control board, within  
25 the state a tax at the rate of twenty and one-fourth cents per liter.  
26 There is hereby imposed on all cider sold to wine distributors and the  
27 Washington state liquor control board within the state a tax at the  
28 rate of three and fifty-nine one-hundredths cents per liter: PROVIDED,  
29 HOWEVER, That wine sold or shipped in bulk from one winery to another  
30 winery shall not be subject to such tax. The tax provided for in this  
31 section shall be collected by direct payments based on wine purchased  
32 by wine distributors. Except as provided in subsection (7) of this  
33 section, every person purchasing wine under the provisions of this  
34 section shall on or before the twentieth day of each month report to  
35 the board all purchases during the preceding calendar month in such

1 manner and upon such forms as may be prescribed by the board, and with  
2 such report shall pay the tax due from the purchases covered by such  
3 report unless the same has previously been paid. Any such purchaser of  
4 wine whose applicable tax payment is not postmarked by the twentieth  
5 day following the month of purchase will be assessed a penalty at the  
6 rate of two percent a month or fraction thereof. The board may require  
7 that every such person shall execute to and file with the board a bond  
8 to be approved by the board, in such amount as the board may fix,  
9 securing the payment of the tax. If any such person fails to pay the  
10 tax when due, the board may forthwith suspend or cancel the license  
11 until all taxes are paid.

12 (2) An additional tax is imposed equal to the rate specified in RCW  
13 82.02.030 multiplied by the tax payable under subsection (1) of this  
14 section. All revenues collected during any month from this additional  
15 tax shall be transferred to the state general fund by the twenty-fifth  
16 day of the following month.

17 (3) An additional tax is imposed on wines subject to tax under  
18 subsection (1) of this section, at the rate of one-fourth of one cent  
19 per liter for wine sold after June 30, 1987. After June 30, 1996, such  
20 additional tax does not apply to cider. An additional tax of five one-  
21 hundredths of one cent per liter is imposed on cider sold after June  
22 30, 1996. All revenues collected under this subsection (3) shall be  
23 disbursed quarterly to the Washington wine commission for use in  
24 carrying out the purposes of chapter 15.88 RCW.

25 (4) An additional tax is imposed on all wine subject to tax under  
26 subsection (1) of this section. The additional tax is equal to twenty-  
27 three and forty-four one-hundredths cents per liter on fortified wine  
28 as defined in RCW 66.04.010(~~(+38)~~) (39) when bottled or packaged by  
29 the manufacturer, one cent per liter on all other wine except cider,  
30 and eighteen one-hundredths of one cent per liter on cider. All  
31 revenues collected during any month from this additional tax shall be  
32 deposited in the violence reduction and drug enforcement account under  
33 RCW 69.50.520 by the twenty-fifth day of the following month.

34 (5)(a) An additional tax is imposed on all cider subject to tax  
35 under subsection (1) of this section. The additional tax is equal to  
36 two and four one-hundredths cents per liter of cider sold after June  
37 30, 1996, and before July 1, 1997, and is equal to four and seven one-  
38 hundredths cents per liter of cider sold after June 30, 1997.

1 (b) All revenues collected from the additional tax imposed under  
2 this subsection (5) shall be deposited in the health services account  
3 under RCW 43.72.900.

4 (6) For the purposes of this section, "cider" means table wine that  
5 contains not less than one-half of one percent of alcohol by volume and  
6 not more than seven percent of alcohol by volume and is made from the  
7 normal alcoholic fermentation of the juice of sound, ripe apples or  
8 pears. "Cider" includes, but is not limited to, flavored, sparkling,  
9 or carbonated cider and cider made from condensed apple or pear must.

10 (7) For the purposes of this section, out-of-state wineries shall  
11 pay taxes under this section on wine sold and shipped directly to  
12 Washington state residents in a manner consistent with the requirements  
13 of a wine distributor under subsections (1) through (4) of this  
14 section, except wineries shall be responsible for the tax and not the  
15 resident purchaser.

16 NEW SECTION. Sec. 9. Sections 1 through 7 of this act are each  
17 added to chapter 66.20 RCW.

18 NEW SECTION. Sec. 10. The following acts or parts of acts are  
19 each repealed:

20 (1) RCW 66.12.190 (Wine shipments from out of state--Limitations)  
21 and 1991 c 149 s 1;

22 (2) RCW 66.12.200 (Out-of-state wine shipments--Labeling) and 1991  
23 c 149 s 2;

24 (3) RCW 66.12.210 (Wine shipments from out of state from unlicensed  
25 shipper--Penalties) and 1994 c 70 s 1 & 1991 c 149 s 3; and

26 (4) RCW 66.12.220 (Out-of-state wine shipper's license--Revocation)  
27 and 1991 c 149 s 4.

28 NEW SECTION. Sec. 11. This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of the  
30 state government and its existing public institutions, and takes effect  
31 immediately.

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