
SENATE BILL 6823

State of Washington

59th Legislature

2006 Regular Session

By Senator Kohl-Welles; by request of Liquor Control Board

Read first time 01/25/2006. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to the distribution of beer and wine by wineries
2 and breweries located inside and outside Washington state to Washington
3 retail liquor licensees; amending RCW 66.24.170, 66.24.240, 66.24.206,
4 66.24.210, 66.24.270, 66.24.290, 66.28.180, and 42.56.270; reenacting
5 and amending RCW 66.24.244, 66.28.070, 66.28.180, and 42.17.310;
6 providing effective dates; providing an expiration date; and declaring
7 an emergency.

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

9 **Sec. 1.** RCW 66.24.170 and 2003 c 44 s 1 are each amended to read
10 as follows:

11 (1) There shall be a license for domestic wineries; fee to be
12 computed only on the liters manufactured: Less than two hundred fifty
13 thousand liters per year, one hundred dollars per year; and two hundred
14 fifty thousand liters or more per year, four hundred dollars per year.

15 (2) The license allows for the manufacture of wine in Washington
16 state from grapes or other agricultural products.

17 (3) Any domestic winery licensed under this section may also act as
18 a (~~distributor and/or~~) retailer of wine of its own production. Any
19 domestic winery licensed under this section may act as a distributor

1 for five thousand cases or less annually of its own production. A
2 domestic winery acting as a distributor of its own production may use
3 a common carrier to deliver to a Washington retailer. Any winery
4 operating as a distributor and/or retailer under this subsection shall
5 comply with the applicable laws and rules relating to distributors
6 and/or retailers.

7 (4) A domestic winery licensed under this section, at locations
8 separate from any of its production or manufacturing sites, may serve
9 samples of its own products, with or without charge, and sell wine of
10 its own production at retail for off-premise consumption, provided
11 that: (a) Each additional location has been approved by the board
12 under RCW 66.24.010; (b) the total number of additional locations does
13 not exceed two; and (c) a winery may not act as a distributor at any
14 such additional location. Each additional location is deemed to be
15 part of the winery license for the purpose of this title. Nothing in
16 this subsection shall be construed to prevent a domestic winery from
17 holding multiple domestic winery licenses.

18 (5)(a) A domestic winery licensed under this section may apply to
19 the board for an endorsement to sell wine of its own production at
20 retail for off-premises consumption at a qualifying farmers market.
21 The annual fee for this endorsement is seventy-five dollars. An
22 endorsement issued pursuant to this subsection does not count toward
23 the two additional retail locations limit specified in this section.

24 (b) For each month during which a domestic winery will sell wine at
25 a qualifying farmers market, the winery must provide the board or its
26 designee a list of the dates, times, and locations at which bottled
27 wine may be offered for sale. This list must be received by the board
28 before the winery may offer wine for sale at a qualifying farmers
29 market.

30 (c) The wine sold at qualifying farmers markets must be made
31 entirely from grapes grown in a recognized Washington appellation or
32 from other agricultural products grown in this state.

33 (d) Each approved location in a qualifying farmers market is deemed
34 to be part of the winery license for the purpose of this title. The
35 approved locations under an endorsement granted under this subsection
36 do not include the tasting or sampling privilege of a winery. The
37 winery may not store wine at a farmers market beyond the hours that the

1 winery offers bottled wine for sale. The winery may not act as a
2 distributor from a farmers market location.

3 (e) Before a winery may sell bottled wine at a qualifying farmers
4 market, the farmers market must apply to the board for authorization
5 for any winery with an endorsement approved under this subsection to
6 sell bottled wine at retail at the farmers market. This application
7 shall include, at a minimum: (i) A map of the farmers market showing
8 all booths, stalls, or other designated locations at which an approved
9 winery may sell bottled wine; and (ii) the name and contact information
10 for the on-site market managers who may be contacted by the board or
11 its designee to verify the locations at which bottled wine may be sold.
12 Before authorizing a qualifying farmers market to allow an approved
13 winery to sell bottled wine at retail at its farmers market location,
14 the board shall notify the persons or entities of such application for
15 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization
16 granted under this subsection (5)(e) may be withdrawn by the board for
17 any violation of this title or any rules adopted under this title.

18 (f) The board may adopt rules establishing the application and
19 approval process under this section and such additional rules as may be
20 necessary to implement this section.

21 (g) For the purposes of this subsection:

22 (i) "Qualifying farmers market" means an entity that sponsors a
23 regular assembly of vendors at a defined location for the purpose of
24 promoting the sale of agricultural products grown or produced in this
25 state directly to the consumer under conditions that meet the following
26 minimum requirements:

27 (A) There are at least five participating vendors who are farmers
28 selling their own agricultural products;

29 (B) The total combined gross annual sales of vendors who are
30 farmers exceeds the total combined gross annual sales of vendors who
31 are processors or resellers;

32 (C) The total combined gross annual sales of vendors who are
33 farmers, processors, or resellers exceeds the total combined gross
34 annual sales of vendors who are not farmers, processors, or resellers;

35 (D) The sale of imported items and secondhand items by any vendor
36 is prohibited; and

37 (E) No vendor is a franchisee.

1 (ii) "Farmer" means a natural person who sells, with or without
2 processing, agricultural products that he or she raises on land he or
3 she owns or leases in this state or in another state's county that
4 borders this state.

5 (iii) "Processor" means a natural person who sells processed food
6 that he or she has personally prepared on land he or she owns or leases
7 in this state or in another state's county that borders this state.

8 (iv) "Reseller" means a natural person who buys agricultural
9 products from a farmer and resells the products directly to the
10 consumer.

11 (6) Wine produced in Washington state by a domestic winery licensee
12 may be shipped out-of-state for the purpose of making it into sparkling
13 wine and then returned to such licensee for resale. Such wine shall be
14 deemed wine manufactured in the state of Washington for the purposes of
15 RCW 66.24.206, and shall not require a special license.

16 **Sec. 2.** RCW 66.24.240 and 2003 c 154 s 1 are each amended to read
17 as follows:

18 (1) There shall be a license for domestic breweries; fee to be two
19 thousand dollars for production of sixty thousand barrels or more of
20 malt liquor per year.

21 (2) Any domestic brewery, except for a brand owner of malt
22 beverages under RCW 66.04.010(~~(+5)~~) (6), licensed under this section
23 may also act as a (~~distributor and/or~~) retailer for beer of its own
24 production. Any domestic brewery licensed under this section may act
25 as a distributor for two thousand five hundred barrels or less annually
26 of beer of its own production. A domestic brewery acting as a
27 distributor of its own production may use a common carrier to deliver
28 to a Washington retailer. Any domestic brewery operating as a
29 distributor and/or retailer under this subsection shall comply with the
30 applicable laws and rules relating to distributors and/or retailers.

31 (3) Any domestic brewery licensed under this section may contract-
32 produce beer for a brand owner of malt beverages defined under RCW
33 66.04.010(~~(+5)~~) (6), and this contract-production is not a sale for
34 the purposes of RCW 66.28.170 and 66.28.180.

35 (4)(a) A domestic brewery licensed under this section and qualified
36 for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may
37 apply to the board for an endorsement to sell bottled beer of its own

1 production at retail for off-premises consumption at a qualifying
2 farmers market. The annual fee for this endorsement is seventy-five
3 dollars.

4 (b) For each month during which a domestic brewery will sell beer
5 at a qualifying farmers market, the domestic brewery must provide the
6 board or its designee a list of the dates, times, and locations at
7 which bottled beer may be offered for sale. This list must be received
8 by the board before the domestic brewery may offer beer for sale at a
9 qualifying farmers market.

10 (c) The beer sold at qualifying farmers markets must be produced in
11 Washington.

12 (d) Each approved location in a qualifying farmers market is deemed
13 to be part of the domestic brewery license for the purpose of this
14 title. The approved locations under an endorsement granted under this
15 subsection do not include the tasting or sampling privilege of a
16 domestic brewery. The domestic brewery may not store beer at a farmers
17 market beyond the hours that the domestic brewery offers bottled beer
18 for sale. The domestic brewery may not act as a distributor from a
19 farmers market location.

20 (e) Before a domestic brewery may sell bottled beer at a qualifying
21 farmers market, the farmers market must apply to the board for
22 authorization for any domestic brewery with an endorsement approved
23 under this subsection to sell bottled beer at retail at the farmers
24 market. This application shall include, at a minimum: (i) A map of
25 the farmers market showing all booths, stalls, or other designated
26 locations at which an approved domestic brewery may sell bottled beer;
27 and (ii) the name and contact information for the on-site market
28 managers who may be contacted by the board or its designee to verify
29 the locations at which bottled beer may be sold. Before authorizing a
30 qualifying farmers market to allow an approved domestic brewery to sell
31 bottled beer at retail at its farmers market location, the board shall
32 notify the persons or entities of such application for authorization
33 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under
34 this subsection (4)(e) may be withdrawn by the board for any violation
35 of this title or any rules adopted under this title.

36 (f) The board may adopt rules establishing the application and
37 approval process under this section and such additional rules as may be
38 necessary to implement this section.

1 (g) For the purposes of this subsection:

2 (i) "Qualifying farmers market" means an entity that sponsors a
3 regular assembly of vendors at a defined location for the purpose of
4 promoting the sale of agricultural products grown or produced in this
5 state directly to the consumer under conditions that meet the following
6 minimum requirements:

7 (A) There are at least five participating vendors who are farmers
8 selling their own agricultural products;

9 (B) The total combined gross annual sales of vendors who are
10 farmers exceeds the total combined gross annual sales of vendors who
11 are processors or resellers;

12 (C) The total combined gross annual sales of vendors who are
13 farmers, processors, or resellers exceeds the total combined gross
14 annual sales of vendors who are not farmers, processors, or resellers;

15 (D) The sale of imported items and secondhand items by any vendor
16 is prohibited; and

17 (E) No vendor is a franchisee.

18 (ii) "Farmer" means a natural person who sells, with or without
19 processing, agricultural products that he or she raises on land he or
20 she owns or leases in this state or in another state's county that
21 borders this state.

22 (iii) "Processor" means a natural person who sells processed food
23 that he or she has personally prepared on land he or she owns or leases
24 in this state or in another state's county that borders this state.

25 (iv) "Reseller" means a natural person who buys agricultural
26 products from a farmer and resells the products directly to the
27 consumer.

28 **Sec. 3.** RCW 66.24.244 and 2003 c 167 s 1 and 2003 c 154 s 2 are
29 each reenacted and amended to read as follows:

30 (1) There shall be a license for microbreweries; fee to be one
31 hundred dollars for production of less than sixty thousand barrels of
32 malt liquor, including strong beer, per year.

33 (2) Any microbrewery license under this section may also act as a
34 distributor and/or retailer for beer and strong beer of its own
35 production. Any microbrewery licensed under this section may act as a
36 distributor for two thousand five hundred barrels or less annually of
37 beer of its own production. A microbrewery acting as a distributor of

1 its own production may use a common carrier to deliver to a Washington
2 retailer. Strong beer may not be sold at a farmers market or under any
3 endorsement which may authorize microbreweries to sell beer at farmers
4 markets. Any microbrewery operating as a distributor and/or retailer
5 under this subsection shall comply with the applicable laws and rules
6 relating to distributors and/or retailers.

7 (3) The board may issue an endorsement to this license allowing for
8 on-premises consumption of beer, including strong beer, wine, or both
9 of other manufacture if purchased from a Washington state-licensed
10 distributor. Each endorsement shall cost two hundred dollars per year,
11 or four hundred dollars per year allowing the sale and service of both
12 beer and wine.

13 (4) The microbrewer obtaining such endorsement must determine, at
14 the time the endorsement is issued, whether the licensed premises will
15 be operated either as a tavern with persons under twenty-one years of
16 age not allowed as provided for in RCW 66.24.330, or as a beer and/or
17 wine restaurant as described in RCW 66.24.320.

18 (5)(a) A microbrewery licensed under this section may apply to the
19 board for an endorsement to sell bottled beer of its own production at
20 retail for off-premises consumption at a qualifying farmers market.
21 The annual fee for this endorsement is seventy-five dollars.

22 (b) For each month during which a microbrewery will sell beer at a
23 qualifying farmers market, the microbrewery must provide the board or
24 its designee a list of the dates, times, and locations at which bottled
25 beer may be offered for sale. This list must be received by the board
26 before the microbrewery may offer beer for sale at a qualifying farmers
27 market.

28 (c) The beer sold at qualifying farmers markets must be produced in
29 Washington.

30 (d) Each approved location in a qualifying farmers market is deemed
31 to be part of the microbrewery license for the purpose of this title.
32 The approved locations under an endorsement granted under this
33 subsection (5) do not constitute the tasting or sampling privilege of
34 a microbrewery. The microbrewery may not store beer at a farmers
35 market beyond the hours that the microbrewery offers bottled beer for
36 sale. The microbrewery may not act as a distributor from a farmers
37 market location.

1 (e) Before a microbrewery may sell bottled beer at a qualifying
2 farmers market, the farmers market must apply to the board for
3 authorization for any microbrewery with an endorsement approved under
4 this subsection (5) to sell bottled beer at retail at the farmers
5 market. This application shall include, at a minimum: (i) A map of
6 the farmers market showing all booths, stalls, or other designated
7 locations at which an approved microbrewery may sell bottled beer; and
8 (ii) the name and contact information for the on-site market managers
9 who may be contacted by the board or its designee to verify the
10 locations at which bottled beer may be sold. Before authorizing a
11 qualifying farmers market to allow an approved microbrewery to sell
12 bottled beer at retail at its farmers market location, the board shall
13 notify the persons or entities of the application for authorization
14 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under
15 this subsection (5)(e) may be withdrawn by the board for any violation
16 of this title or any rules adopted under this title.

17 (f) The board may adopt rules establishing the application and
18 approval process under this section and any additional rules necessary
19 to implement this section.

20 (g) For the purposes of this subsection (5):

21 (i) "Qualifying farmers market" means an entity that sponsors a
22 regular assembly of vendors at a defined location for the purpose of
23 promoting the sale of agricultural products grown or produced in this
24 state directly to the consumer under conditions that meet the following
25 minimum requirements:

26 (A) There are at least five participating vendors who are farmers
27 selling their own agricultural products;

28 (B) The total combined gross annual sales of vendors who are
29 farmers exceeds the total combined gross annual sales of vendors who
30 are processors or resellers;

31 (C) The total combined gross annual sales of vendors who are
32 farmers, processors, or resellers exceeds the total combined gross
33 annual sales of vendors who are not farmers, processors, or resellers;

34 (D) The sale of imported items and secondhand items by any vendor
35 is prohibited; and

36 (E) No vendor is a franchisee.

37 (ii) "Farmer" means a natural person who sells, with or without

1 processing, agricultural products that he or she raises on land he or
2 she owns or leases in this state or in another state's county that
3 borders this state.

4 (iii) "Processor" means a natural person who sells processed food
5 that he or she has personally prepared on land he or she owns or leases
6 in this state or in another state's county that borders this state.

7 (iv) "Reseller" means a natural person who buys agricultural
8 products from a farmer and resells the products directly to the
9 consumer.

10 **Sec. 4.** RCW 66.24.206 and 2004 c 160 s 4 are each amended to read
11 as follows:

12 (1)(a) A United States winery (~~(or manufacturer of wine)~~) located
13 outside the state of Washington must hold a certificate of approval to
14 allow sales and shipment of the certificate of approval holder's wine
15 to licensed Washington wine distributors (~~(or)~~), importers, or
16 retailers. A certificate of approval holder with a direct shipment
17 endorsement may act as a distributor of five thousand cases of wine
18 annually of its own production. A certificate of approval holder
19 acting as a distributor of its own production may use a common carrier
20 to deliver to a Washington retailer.

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

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

27 (2) The certificate of approval shall not be granted unless and
28 until such winery or manufacturer of wine or authorized representative
29 shall have made a written agreement with the board to furnish to the
30 board, on or before the twentieth day of each month, a report under
31 oath, on a form to be prescribed by the board, showing the quantity of
32 wine sold or delivered to each licensed wine distributor (~~(or)~~),
33 importer, or retailer, during the preceding month, and shall further
34 have agreed with the board, that such wineries, manufacturers, or
35 authorized representatives, and all general sales corporations or
36 agencies maintained by them, and all of their trade representatives,
37 shall and will faithfully comply with all laws of the state of

1 Washington pertaining to the sale of intoxicating liquors and all rules
2 and regulations of the Washington state liquor control board. A
3 violation of the terms of this agreement will cause the board to take
4 action to suspend or revoke such certificate.

5 (3) The fee for the certificate of approval and related
6 endorsements, issued pursuant to the provisions of this title, shall be
7 from time to time established by the board at a level that is
8 sufficient to defray the costs of administering the certificate of
9 approval program. The fee shall be fixed by rule by the board in
10 accordance with the provisions of the administrative procedure act,
11 chapter 34.05 RCW.

12 (4) Certificate of approval holders are deemed to have consented to
13 the jurisdiction of Washington concerning enforcement of this chapter
14 and all laws and rules related to the sale and shipment of wine.

15 **Sec. 5.** RCW 66.24.210 and 2001 c 124 s 1 are each amended to read
16 as follows:

17 (1) There is hereby imposed upon all wines except cider sold to
18 wine distributors and the Washington state liquor control board, within
19 the state a tax at the rate of twenty and one-fourth cents per liter.
20 Any domestic winery or certificate of approval holder acting as a
21 distributor of its own production shall pay taxes imposed by this
22 section. There is hereby imposed on all cider sold to wine
23 distributors and the Washington state liquor control board within the
24 state a tax at the rate of three and fifty-nine one-hundredths cents
25 per liter: PROVIDED, HOWEVER, That wine sold or shipped in bulk from
26 one winery to another winery shall not be subject to such tax.

27 (a) The tax provided for in this section shall be collected by
28 direct payments based on wine purchased by wine distributors.

29 (b) Every person purchasing wine under the provisions of this
30 section shall on or before the twentieth day of each month report to
31 the board all purchases during the preceding calendar month in such
32 manner and upon such forms as may be prescribed by the board, and with
33 such report shall pay the tax due from the purchases covered by such
34 report unless the same has previously been paid. Any such purchaser of
35 wine whose applicable tax payment is not postmarked by the twentieth
36 day following the month of purchase will be assessed a penalty at the
37 rate of two percent a month or fraction thereof. The board may require

1 that every such person shall execute to and file with the board a bond
2 to be approved by the board, in such amount as the board may fix,
3 securing the payment of the tax. If any such person fails to pay the
4 tax when due, the board may forthwith suspend or cancel the license
5 until all taxes are paid.

6 (c) Any licensed retailer authorized to purchase wine from a
7 certificate of approval holder with a direct shipment endorsement shall
8 make monthly reports to the liquor control board on wine purchased
9 during the preceding calendar month in the manner and upon such forms
10 as may be prescribed by the board.

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

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

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

33 (5)(a) An additional tax is imposed on all cider subject to tax
34 under subsection (1) of this section. The additional tax is equal to
35 two and four one-hundredths cents per liter of cider sold after June
36 30, 1996, and before July 1, 1997, and is equal to four and seven one-
37 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 **Sec. 6.** RCW 66.24.270 and 2004 c 160 s 8 are each amended to read
11 as follows:

12 (1) Every person, firm or corporation, holding a license to
13 manufacture malt liquors or strong beer within the state of Washington,
14 shall, on or before the twentieth day of each month, furnish to the
15 Washington state liquor control board, on a form to be prescribed by
16 the board, a statement showing the quantity of malt liquors and strong
17 beer sold for resale during the preceding calendar month to each beer
18 distributor within the state of Washington.

19 (2)(a) A United States brewery or manufacturer of beer or strong
20 beer, located outside the state of Washington, must hold a certificate
21 of approval to allow sales and shipment of the certificate of approval
22 holder's beer or strong beer to licensed Washington beer distributors
23 ~~((or)), importers, or retailers.~~ A certificate of approval holder with
24 a direct shipment endorsement may act as a distributor for two thousand
25 five hundred barrels or less annually of beer of its own production.
26 A certificate of approval holder acting as a distributor of its own
27 production may use a common carrier to deliver to a Washington
28 retailer.

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

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

35 (3) The certificate of approval shall not be granted unless and
36 until such brewer or manufacturer of beer or strong beer or authorized
37 representative shall have made a written agreement with the board to

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

14 (4) The fee for the certificate of approval and related
15 endorsements, issued pursuant to the provisions of this title, shall be
16 from time to time established by the board at a level that is
17 sufficient to defray the costs of administering the certificate of
18 approval program. The fee shall be fixed by rule by the board in
19 accordance with the provisions of the administrative procedure act,
20 chapter 34.05 RCW.

21 (5) Certificate of approval holders are deemed to have consented to
22 the jurisdiction of Washington concerning enforcement of this chapter
23 and all laws and rules related to the sale and shipment of beer.

24 **Sec. 7.** RCW 66.24.290 and 2003 c 167 s 5 are each amended to read
25 as follows:

26 (1) Any microbrewer or domestic brewery or beer distributor
27 licensed under this title may sell and deliver beer and strong beer to
28 holders of authorized licenses direct, but to no other person, other
29 than the board(~~(+and)~~). Any certificate of approval holder authorized
30 to act as a distributor under RCW 66.24.270 shall pay the taxes imposed
31 by this section.

32 (a) Every such brewery or beer distributor shall report all sales
33 to the board monthly, pursuant to the regulations, and shall pay to the
34 board as an added tax for the privilege of manufacturing and selling
35 the beer and strong beer within the state a tax of one dollar and
36 thirty cents per barrel of thirty-one gallons on sales to licensees
37 within the state and on sales to licensees within the state of bottled

1 and canned beer, including strong beer, shall pay a tax computed in
2 gallons at the rate of one dollar and thirty cents per barrel of
3 thirty-one gallons.

4 (b) Any brewery or beer distributor whose applicable tax payment is
5 not postmarked by the twentieth day following the month of sale will be
6 assessed a penalty at the rate of two percent per month or fraction
7 thereof. Beer and strong beer shall be sold by breweries and
8 distributors in sealed barrels or packages.

9 (c) The moneys collected under this subsection shall be distributed
10 as follows: ~~((a))~~ (i) Three-tenths of a percent shall be distributed
11 to border areas under RCW 66.08.195; and ~~((b))~~ (ii) of the remaining
12 moneys: ~~((i))~~ (A) Twenty percent shall be distributed to counties in
13 the same manner as under RCW 66.08.200; and ~~((i))~~ (B) eighty percent
14 shall be distributed to incorporated cities and towns in the same
15 manner as under RCW 66.08.210.

16 (d) Any licensed retailer authorized to purchase beer from a
17 certificate of approval holder with a direct shipment endorsement shall
18 make monthly reports to the liquor control board on beer purchased
19 during the preceding calendar month in the manner and upon such forms
20 as may be prescribed by the board.

21 (2) An additional tax is imposed on all beer and strong beer
22 subject to tax under subsection (1) of this section. The additional
23 tax is equal to two dollars per barrel of thirty-one gallons. All
24 revenues collected during any month from this additional tax shall be
25 deposited in the violence reduction and drug enforcement account under
26 RCW 69.50.520 by the twenty-fifth day of the following month.

27 (3)(a) An additional tax is imposed on all beer and strong beer
28 subject to tax under subsection (1) of this section. The additional
29 tax is equal to ninety-six cents per barrel of thirty-one gallons
30 through June 30, 1995, two dollars and thirty-nine cents per barrel of
31 thirty-one gallons for the period July 1, 1995, through June 30, 1997,
32 and four dollars and seventy-eight cents per barrel of thirty-one
33 gallons thereafter.

34 (b) The additional tax imposed under this subsection does not apply
35 to the sale of the first sixty thousand barrels of beer each year by
36 breweries that are entitled to a reduced rate of tax under 26 U.S.C.
37 Sec. 5051, as existing on July 1, 1993, or such subsequent date as may

1 be provided by the board by rule consistent with the purposes of this
2 exemption.

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

6 (4) An additional tax is imposed on all beer and strong beer that
7 is subject to tax under subsection (1) of this section that is in the
8 first sixty thousand barrels of beer and strong beer by breweries that
9 are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as
10 existing on July 1, 1993, or such subsequent date as may be provided by
11 the board by rule consistent with the purposes of the exemption under
12 subsection (3)(b) of this section. The additional tax is equal to one
13 dollar and forty-eight and two-tenths cents per barrel of thirty-one
14 gallons. By the twenty-fifth day of the following month, three percent
15 of the revenues collected from this additional tax shall be distributed
16 to border areas under RCW 66.08.195 and the remaining moneys shall be
17 transferred to the state general fund.

18 (5) The board may make refunds for all taxes paid on beer and
19 strong beer exported from the state for use outside the state.

20 (6) The board may require filing with the board of a bond to be
21 approved by it, in such amount as the board may fix, securing the
22 payment of the tax. If any licensee fails to pay the tax when due, the
23 board may forthwith suspend or cancel his or her license until all
24 taxes are paid.

25 **Sec. 8.** RCW 66.28.070 and 1994 c 201 s 5 and 1994 c 63 s 2 are
26 each reenacted and amended to read as follows:

27 (1) Except as provided in subsection (2) of this section, it shall
28 be unlawful for any retail beer or wine licensee to purchase beer or
29 wine, except from a duly licensed (~~wholesaler~~) distributor, domestic
30 winery, domestic brewer, certificate of approval holder, or the
31 board(~~, and~~). It shall be unlawful for any brewer, winery, or beer
32 or wine (~~wholesaler~~) distributor to purchase beer or wine, except
33 from a duly licensed beer or wine (~~wholesaler~~) distributor, or
34 importer or certificate of approval holder with a direct shipment
35 endorsement.

36 (2) A beer or wine retailer licensee may purchase beer or wine from
37 a government agency which has lawfully seized beer or wine from a

1 licensed beer or wine retailer, or from a board-authorized retailer, or
2 from a licensed retailer which has discontinued business if the
3 (~~wholesaler~~) distributor has refused to accept beer or wine from that
4 retailer for return and refund. Beer and wine purchased under this
5 subsection shall meet the quality standards set by its manufacturer.

6 (3) Special occasion licensees holding either a (~~class G or J~~)
7 special occasion license may only purchase beer or wine from a beer or
8 wine retailer duly licensed to sell beer or wine for off-premises
9 consumption, the board, or from a duly licensed beer or wine
10 (~~wholesaler~~) distributor.

11 **Sec. 9.** RCW 66.28.180 and 2004 c 269 s 1 and 2004 c 160 s 18 are
12 each reenacted and amended to read as follows:

13 It is unlawful for a person, firm, or corporation holding a
14 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer
15 distributor's license, a domestic brewery license, a microbrewery
16 license, a beer importer's license, a beer distributor's license, a
17 domestic winery license, a wine importer's license, or a wine
18 distributor's license within the state of Washington to modify any
19 prices without prior notification to and approval of the board.

20 (1) Intent. This section is enacted, pursuant to the authority of
21 this state under the twenty-first amendment to the United States
22 Constitution, to promote the public's interest in fostering the orderly
23 and responsible distribution of malt beverages and wine towards
24 effective control of consumption; to promote the fair and efficient
25 three-tier system of distribution of such beverages; and to confirm
26 existing board rules as the clear expression of state policy to
27 regulate the manner of selling and pricing of wine and malt beverages
28 by licensed suppliers and distributors.

29 (2) Beer and wine distributor price posting.

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

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

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

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

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

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

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

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

34 (g) Prior to the effective date of the posted prices, all price
35 postings filed as required by this section constitute investigative
36 information and shall not be subject to disclosure, pursuant to RCW
37 42.17.310(1)(d).

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

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

11 (ii) Beer and wine sold as provided in this section shall be
12 delivered by the distributor or an authorized employee either to the
13 retailer's licensed premises or directly to the retailer at the
14 distributor's licensed premises. A distributor's prices to retail
15 licensees shall be the same at both such places of delivery. A
16 licensed retailer with multiple retail locations in Washington that is
17 receiving shipment from a certificate of approval holder with a direct
18 shipment endorsement may accept delivery at the retailer's warehouse or
19 a single retail location upon approval from the liquor control board.

20 (3) Beer and wine suppliers' price filings, contracts, and
21 memoranda.

22 (a) Every domestic brewery, microbrewery, and domestic winery
23 offering beer and/or wine for sale within the state shall file with the
24 board at its office in Olympia a copy of every written contract and a
25 memorandum of every oral agreement which such brewery or winery may
26 have with any beer or wine distributor, which contracts or memoranda
27 shall contain a schedule of prices charged to distributors for all
28 items and all terms of sale, including all regular and special
29 discounts; all advertising, sales and trade allowances, and incentive
30 programs; and all commissions, bonuses or gifts, and any and all other
31 discounts or allowances. Whenever changed or modified, such revised
32 contracts or memoranda shall forthwith be filed with the board as
33 provided for by rule. The provisions of this section also apply to
34 certificate of approval holders, beer and/or wine importers, and beer
35 and/or wine distributors who sell to other beer and/or wine
36 distributors.

37 Each price schedule shall be made on a form prepared and furnished
38 by the board, or a reasonable facsimile thereof, and shall set forth

1 all brands, types, packages, and containers of beer or wine offered for
2 sale by such licensed brewery or winery; all additional information
3 required may be filed as a supplement to the price schedule forms.

4 (b) Prices filed by a domestic brewery, microbrewery, domestic
5 winery, or certificate of approval holder shall be uniform prices to
6 all distributors or retailers on a statewide basis less bona fide
7 allowances for freight differentials. Quantity discounts are
8 prohibited. No price shall be filed that is below
9 acquisition/production cost plus ten percent of that cost, except that
10 acquisition cost plus ten percent of acquisition cost does not apply to
11 sales of beer or wine between a beer or wine importer who sells beer or
12 wine to another beer or wine importer or to a beer or wine distributor,
13 or to a beer or wine distributor who sells beer or wine to another beer
14 or wine distributor. However, the board is empowered to review
15 periodically, as it may deem appropriate, the amount of the percentage
16 of acquisition/production cost as a minimum mark-up over cost and to
17 modify such percentage by rule of the board, except such percentage
18 shall be not less than ten percent.

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

24 (d) No domestic brewery, microbrewery, domestic winery, or
25 certificate of approval holder may sell or offer to sell any package or
26 container of beer or wine to any distributor at a price differing from
27 the price for such package or container as shown in the schedule of
28 prices filed by the domestic brewery, microbrewery, domestic winery, or
29 certificate of approval holder and then in effect, according to rules
30 adopted by the board.

31 (e) The board may reject any supplier's price filing, contract, or
32 memorandum of oral agreement, or portion thereof that it deems to be in
33 violation of this section or any rule or that would tend to disrupt the
34 orderly sale and distribution of beer or wine. Whenever the board
35 rejects any such price filing, contract, or memorandum, the licensee
36 submitting the price filing, contract, or memorandum may be heard by
37 the board and shall have the burden of showing that the price filing,
38 contract, or memorandum is not in violation of this section or a rule

1 or does not tend to disrupt the orderly sale and distribution of beer
2 or wine. If the price filing, contract, or memorandum is accepted, it
3 shall become effective at a time fixed by the board. If the price
4 filing, contract, or memorandum, or portion thereof, is rejected, the
5 last effective price filing, contract, or memorandum shall remain in
6 effect until such time as an amended price filing, contract, or
7 memorandum is filed and approved, in accordance with the provisions of
8 this section.

9 (f) Prior to the effective date of the posted prices, all prices,
10 contracts, and memoranda filed as required by this section constitute
11 investigative information and shall not be subject to disclosure,
12 pursuant to RCW 42.17.310(1)(d).

13 **Sec. 10.** RCW 66.28.180 and 2005 c 274 s 327 are each amended to
14 read as follows:

15 It is unlawful for a person, firm, or corporation holding a
16 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer
17 distributor's license, a domestic brewery license, a microbrewery
18 license, a beer importer's license, a beer distributor's license, a
19 domestic winery license, a wine importer's license, or a wine
20 distributor's license within the state of Washington to modify any
21 prices without prior notification to and approval of the board.

22 (1) Intent. This section is enacted, pursuant to the authority of
23 this state under the twenty-first amendment to the United States
24 Constitution, to promote the public's interest in fostering the orderly
25 and responsible distribution of malt beverages and wine towards
26 effective control of consumption; to promote the fair and efficient
27 three-tier system of distribution of such beverages; and to confirm
28 existing board rules as the clear expression of state policy to
29 regulate the manner of selling and pricing of wine and malt beverages
30 by licensed suppliers and distributors.

31 (2) Beer and wine distributor price posting.

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

36 (b) Each price posting shall be made on a form prepared and

1 furnished by the board, or a reasonable facsimile thereof, and shall
2 set forth:

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

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

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

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

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

24 (f) The board may reject any price posting that it deems to be in
25 violation of this section or any rule, or portion thereof, or that
26 would tend to disrupt the orderly sale and distribution of beer and
27 wine. Whenever the board rejects any posting, the licensee submitting
28 the posting may be heard by the board and shall have the burden of
29 showing that the posting is not in violation of this section or a rule
30 or does not tend to disrupt the orderly sale and distribution of beer
31 and wine. If the posting is accepted, it shall become effective at the
32 time fixed by the board. If the posting is rejected, the last
33 effective posting shall remain in effect until such time as an amended
34 posting is filed and approved, in accordance with the provisions of
35 this section.

36 (g) Prior to the effective date of the posted prices, all price
37 postings filed as required by this section constitute investigative

1 information and shall not be subject to disclosure, pursuant to RCW
2 42.56.240(1).

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

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

13 (ii) Beer and wine sold as provided in this section shall be
14 delivered by the distributor or an authorized employee either to the
15 retailer's licensed premises or directly to the retailer at the
16 distributor's licensed premises. A distributor's prices to retail
17 licensees shall be the same at both such places of delivery. A
18 licensed retailer with multiple retail locations in Washington that is
19 receiving shipment from a certificate of approval holder with a direct
20 shipment endorsement may accept delivery at the retailer's warehouse or
21 a single retail location upon approval from the liquor control board.

22 (3) Beer and wine suppliers' price filings, contracts, and
23 memoranda.

24 (a) Every domestic brewery, microbrewery, and domestic winery
25 offering beer and/or wine for sale within the state shall file with the
26 board at its office in Olympia a copy of every written contract and a
27 memorandum of every oral agreement which such brewery or winery may
28 have with any beer or wine distributor, which contracts or memoranda
29 shall contain a schedule of prices charged to distributors for all
30 items and all terms of sale, including all regular and special
31 discounts; all advertising, sales and trade allowances, and incentive
32 programs; and all commissions, bonuses or gifts, and any and all other
33 discounts or allowances. Whenever changed or modified, such revised
34 contracts or memoranda shall forthwith be filed with the board as
35 provided for by rule. The provisions of this section also apply to
36 certificate of approval holders, beer and/or wine importers, and beer
37 and/or wine distributors who sell to other beer and/or wine
38 distributors.

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

6 (b) Prices filed by a domestic brewery, microbrewery, domestic
7 winery, or certificate of approval holder shall be uniform prices to
8 all distributors or retailers on a statewide basis less bona fide
9 allowances for freight differentials. Quantity discounts are
10 prohibited. No price shall be filed that is below
11 acquisition/production cost plus ten percent of that cost, except that
12 acquisition cost plus ten percent of acquisition cost does not apply to
13 sales of beer or wine between a beer or wine importer who sells beer or
14 wine to another beer or wine importer or to a beer or wine distributor,
15 or to a beer or wine distributor who sells beer or wine to another beer
16 or wine distributor. However, the board is empowered to review
17 periodically, as it may deem appropriate, the amount of the percentage
18 of acquisition/production cost as a minimum mark-up over cost and to
19 modify such percentage by rule of the board, except such percentage
20 shall be not less than ten percent.

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

26 (d) No domestic brewery, microbrewery, domestic winery, or
27 certificate of approval holder may sell or offer to sell any package or
28 container of beer or wine to any distributor at a price differing from
29 the price for such package or container as shown in the schedule of
30 prices filed by the domestic brewery, microbrewery, domestic winery, or
31 certificate of approval holder and then in effect, according to rules
32 adopted by the board.

33 (e) The board may reject any supplier's price filing, contract, or
34 memorandum of oral agreement, or portion thereof that it deems to be in
35 violation of this section or any rule or that would tend to disrupt the
36 orderly sale and distribution of beer or wine. Whenever the board
37 rejects any such price filing, contract, or memorandum, the licensee
38 submitting the price filing, contract, or memorandum may be heard by

1 the board and shall have the burden of showing that the price filing,
2 contract, or memorandum is not in violation of this section or a rule
3 or does not tend to disrupt the orderly sale and distribution of beer
4 or wine. If the price filing, contract, or memorandum is accepted, it
5 shall become effective at a time fixed by the board. If the price
6 filing, contract, or memorandum, or portion thereof, is rejected, the
7 last effective price filing, contract, or memorandum shall remain in
8 effect until such time as an amended price filing, contract, or
9 memorandum is filed and approved, in accordance with the provisions of
10 this section.

11 (f) Prior to the effective date of the posted prices, all prices,
12 contracts, and memoranda filed as required by this section constitute
13 investigative information and shall not be subject to disclosure,
14 pursuant to RCW 42.56.240(1).

15 **Sec. 11.** RCW 42.17.310 and 2005 c 424 s 16, 2005 c 349 s 1, 2005
16 c 312 s 6, 2005 c 284 s 1, 2005 c 172 s 13, and 2005 c 33 s 4 are each
17 reenacted and amended to read as follows:

18 (1) The following are exempt from public inspection and copying:

19 (a) Personal information in any files maintained for students in
20 public schools, patients or clients of public institutions or public
21 health agencies, or welfare recipients.

22 (b) Personal information in files maintained for employees,
23 appointees, or elected officials of any public agency to the extent
24 that disclosure would violate their right to privacy.

25 (c) Information required of any taxpayer in connection with the
26 assessment or collection of any tax if the disclosure of the
27 information to other persons would (i) be prohibited to such persons by
28 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
29 taxpayer's right to privacy or result in unfair competitive
30 disadvantage to the taxpayer.

31 (d) Specific intelligence information and specific investigative
32 records compiled by investigative, law enforcement, and penology
33 agencies, and state agencies vested with the responsibility to
34 discipline members of any profession, the nondisclosure of which is
35 essential to effective law enforcement or for the protection of any
36 person's right to privacy.

1 (e) Information revealing the identity of persons who are witnesses
2 to or victims of crime or who file complaints with investigative, law
3 enforcement, or penology agencies, other than the public disclosure
4 commission, if disclosure would endanger any person's life, physical
5 safety, or property. If at the time a complaint is filed the
6 complainant, victim or witness indicates a desire for disclosure or
7 nondisclosure, such desire shall govern. However, all complaints filed
8 with the public disclosure commission about any elected official or
9 candidate for public office must be made in writing and signed by the
10 complainant under oath.

11 (f) Test questions, scoring keys, and other examination data used
12 to administer a license, employment, or academic examination.

13 (g) Except as provided by chapter 8.26 RCW, the contents of real
14 estate appraisals, made for or by any agency relative to the
15 acquisition or sale of property, until the project or prospective sale
16 is abandoned or until such time as all of the property has been
17 acquired or the property to which the sale appraisal relates is sold,
18 but in no event shall disclosure be denied for more than three years
19 after the appraisal.

20 (h) Valuable formulae, designs, drawings, computer source code or
21 object code, and research data obtained by any agency within five years
22 of the request for disclosure when disclosure would produce private
23 gain and public loss.

24 (i) Preliminary drafts, notes, recommendations, and intra-agency
25 memorandums in which opinions are expressed or policies formulated or
26 recommended except that a specific record shall not be exempt when
27 publicly cited by an agency in connection with any agency action.

28 (j) Records which are relevant to a controversy to which an agency
29 is a party but which records would not be available to another party
30 under the rules of pretrial discovery for causes pending in the
31 superior courts.

32 (k) Records, maps, or other information identifying the location of
33 archaeological sites in order to avoid the looting or depredation of
34 such sites.

35 (l) Any library record, the primary purpose of which is to maintain
36 control of library materials, or to gain access to information, which
37 discloses or could be used to disclose the identity of a library user.

1 (m) Financial information supplied by or on behalf of a person,
2 firm, or corporation for the purpose of qualifying to submit a bid or
3 proposal for (i) a ferry system construction or repair contract as
4 required by RCW 47.60.680 through 47.60.750 or (ii) highway
5 construction or improvement as required by RCW 47.28.070.

6 (n) Railroad company contracts filed prior to July 28, 1991, with
7 the utilities and transportation commission under RCW 81.34.070, except
8 that the summaries of the contracts are open to public inspection and
9 copying as otherwise provided by this chapter.

10 (o) Financial and commercial information and records supplied by
11 private persons pertaining to export services provided pursuant to
12 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
13 export projects pursuant to RCW 43.23.035.

14 (p) Financial disclosures filed by private vocational schools under
15 chapters 28B.85 and 28C.10 RCW.

16 (q) Records filed with the utilities and transportation commission
17 or attorney general under RCW 80.04.095 that a court has determined are
18 confidential under RCW 80.04.095.

19 (r) Financial and commercial information and records supplied by
20 businesses or individuals during application for loans or program
21 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
22 or during application for economic development loans or program
23 services provided by any local agency.

24 (s) Membership lists or lists of members or owners of interests of
25 units in timeshare projects, subdivisions, camping resorts,
26 condominiums, land developments, or common-interest communities
27 affiliated with such projects, regulated by the department of
28 licensing, in the files or possession of the department.

29 (t) All applications for public employment, including the names of
30 applicants, resumes, and other related materials submitted with respect
31 to an applicant.

32 (u) The residential addresses, residential telephone numbers,
33 personal wireless telephone numbers, personal electronic mail
34 addresses, Social Security numbers, and emergency contact information
35 of employees or volunteers of a public agency, and the names, dates of
36 birth, residential addresses, residential telephone numbers, personal
37 wireless telephone numbers, personal electronic mail addresses, Social
38 Security numbers, and emergency contact information of dependents of

1 employees or volunteers of a public agency, which are held by any
2 public agency in personnel records, public employment related records,
3 or volunteer rosters, or are included in any mailing list of employees
4 or volunteers of any public agency. For purposes of this subsection,
5 "employees" includes independent provider home care workers as defined
6 in RCW 74.39A.240.

7 (v) The residential addresses and residential telephone numbers of
8 the customers of a public utility contained in the records or lists
9 held by the public utility of which they are customers, except that
10 this information may be released to the division of child support or
11 the agency or firm providing child support enforcement for another
12 state under Title IV-D of the federal social security act, for the
13 establishment, enforcement, or modification of a support order.

14 (w)(i) The federal social security number of individuals governed
15 under chapter 18.130 RCW maintained in the files of the department of
16 health, except this exemption does not apply to requests made directly
17 to the department from federal, state, and local agencies of
18 government, and national and state licensing, credentialing,
19 investigatory, disciplinary, and examination organizations; (ii) the
20 current residential address and current residential telephone number of
21 a health care provider governed under chapter 18.130 RCW maintained in
22 the files of the department, if the provider requests that this
23 information be withheld from public inspection and copying, and
24 provides to the department an accurate alternate or business address
25 and business telephone number. On or after January 1, 1995, the
26 current residential address and residential telephone number of a
27 health care provider governed under RCW 18.130.040 maintained in the
28 files of the department shall automatically be withheld from public
29 inspection and copying unless the provider specifically requests the
30 information be released, and except as provided for under RCW
31 42.17.260(9).

32 (x) Information obtained by the board of pharmacy as provided in
33 RCW 69.45.090.

34 (y) Information obtained by the board of pharmacy or the department
35 of health and its representatives as provided in RCW 69.41.044,
36 69.41.280, and 18.64.420.

37 (z) Financial information, business plans, examination reports, and

1 any information produced or obtained in evaluating or examining a
2 business and industrial development corporation organized or seeking
3 certification under chapter 31.24 RCW.

4 (aa) Financial and commercial information supplied to the state
5 investment board by any person when the information relates to the
6 investment of public trust or retirement funds and when disclosure
7 would result in loss to such funds or in private loss to the providers
8 of this information.

9 (bb) Financial and valuable trade information under RCW 51.36.120.

10 (cc) Client records maintained by an agency that is a domestic
11 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
12 crisis center as defined in RCW 70.125.030.

13 (dd) Information that identifies a person who, while an agency
14 employee: (i) Seeks advice, under an informal process established by
15 the employing agency, in order to ascertain his or her rights in
16 connection with a possible unfair practice under chapter 49.60 RCW
17 against the person; and (ii) requests his or her identity or any
18 identifying information not be disclosed.

19 (ee) Investigative records compiled by an employing agency
20 conducting a current investigation of a possible unfair practice under
21 chapter 49.60 RCW or of a possible violation of other federal, state,
22 or local laws prohibiting discrimination in employment.

23 (ff) Business related information protected from public inspection
24 and copying under RCW 15.86.110.

25 (gg) Financial, commercial, operations, and technical and research
26 information and data submitted to or obtained by the clean Washington
27 center in applications for, or delivery of, program services under
28 chapter 70.95H RCW.

29 (hh) Information and documents created specifically for, and
30 collected and maintained by, a quality improvement committee pursuant
31 to RCW 43.70.510 or 70.41.200, by a peer review committee under RCW
32 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640
33 or 18.20.390, regardless of which agency is in possession of the
34 information and documents.

35 (ii) Personal information in files maintained in a data base
36 created under RCW 43.07.360.

37 (jj) Financial and commercial information requested by the public

1 stadium authority from any person or organization that leases or uses
2 the stadium and exhibition center as defined in RCW 36.102.010.

3 (kk) Names of individuals residing in emergency or transitional
4 housing that are furnished to the department of revenue or a county
5 assessor in order to substantiate a claim for property tax exemption
6 under RCW 84.36.043.

7 (ll) The names, residential addresses, residential telephone
8 numbers, and other individually identifiable records held by an agency
9 in relation to a vanpool, carpool, or other ride-sharing program or
10 service. However, these records may be disclosed to other persons who
11 apply for ride-matching services and who need that information in order
12 to identify potential riders or drivers with whom to share rides.

13 (mm) The personally identifying information of current or former
14 participants or applicants in a paratransit or other transit service
15 operated for the benefit of persons with disabilities or elderly
16 persons.

17 (nn) The personally identifying information of persons who acquire
18 and use transit passes and other fare payment media including, but not
19 limited to, stored value smart cards and magnetic strip cards, except
20 that an agency may disclose this information to a person, employer,
21 educational institution, or other entity that is responsible, in whole
22 or in part, for payment of the cost of acquiring or using a transit
23 pass or other fare payment media, or to the news media when reporting
24 on public transportation or public safety. This information may also
25 be disclosed at the agency's discretion to governmental agencies or
26 groups concerned with public transportation or public safety.

27 (oo) Proprietary financial and commercial information that the
28 submitting entity, with review by the department of health,
29 specifically identifies at the time it is submitted and that is
30 provided to or obtained by the department of health in connection with
31 an application for, or the supervision of, an antitrust exemption
32 sought by the submitting entity under RCW 43.72.310. If a request for
33 such information is received, the submitting entity must be notified of
34 the request. Within ten business days of receipt of the notice, the
35 submitting entity shall provide a written statement of the continuing
36 need for confidentiality, which shall be provided to the requester.
37 Upon receipt of such notice, the department of health shall continue to
38 treat information designated under this section as exempt from

1 disclosure. If the requester initiates an action to compel disclosure
2 under this chapter, the submitting entity must be joined as a party to
3 demonstrate the continuing need for confidentiality.

4 (pp) Records maintained by the board of industrial insurance
5 appeals that are related to appeals of crime victims' compensation
6 claims filed with the board under RCW 7.68.110.

7 (qq) Financial and commercial information supplied by or on behalf
8 of a person, firm, corporation, or entity under chapter 28B.95 RCW
9 relating to the purchase or sale of tuition units and contracts for the
10 purchase of multiple tuition units.

11 (rr) Any records of investigative reports prepared by any state,
12 county, municipal, or other law enforcement agency pertaining to sex
13 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
14 defined in RCW 71.09.020, which have been transferred to the Washington
15 association of sheriffs and police chiefs for permanent electronic
16 retention and retrieval pursuant to RCW 40.14.070(2)(b).

17 (ss) Credit card numbers, debit card numbers, electronic check
18 numbers, card expiration dates, or bank or other financial account
19 numbers, except when disclosure is expressly required by or governed by
20 other law.

21 (tt) Financial information, including but not limited to account
22 numbers and values, and other identification numbers supplied by or on
23 behalf of a person, firm, corporation, limited liability company,
24 partnership, or other entity related to an application for a horse
25 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
26 license, gambling license, or lottery retail license.

27 (uu) Records maintained by the employment security department and
28 subject to chapter 50.13 RCW if provided to another individual or
29 organization for operational, research, or evaluation purposes.

30 (vv) Individually identifiable information received by the work
31 force training and education coordinating board for research or
32 evaluation purposes.

33 (ww) Those portions of records assembled, prepared, or maintained
34 to prevent, mitigate, or respond to criminal terrorist acts, which are
35 acts that significantly disrupt the conduct of government or of the
36 general civilian population of the state or the United States and that
37 manifest an extreme indifference to human life, the public disclosure

1 of which would have a substantial likelihood of threatening public
2 safety, consisting of:

3 (i) Specific and unique vulnerability assessments or specific and
4 unique response or deployment plans, including compiled underlying data
5 collected in preparation of or essential to the assessments, or to the
6 response or deployment plans; and

7 (ii) Records not subject to public disclosure under federal law
8 that are shared by federal or international agencies, and information
9 prepared from national security briefings provided to state or local
10 government officials related to domestic preparedness for acts of
11 terrorism.

12 (xx) Commercial fishing catch data from logbooks required to be
13 provided to the department of fish and wildlife under RCW 77.12.047,
14 when the data identifies specific catch location, timing, or
15 methodology and the release of which would result in unfair competitive
16 disadvantage to the commercial fisher providing the catch data.
17 However, this information may be released to government agencies
18 concerned with the management of fish and wildlife resources.

19 (yy) Sensitive wildlife data obtained by the department of fish and
20 wildlife. However, sensitive wildlife data may be released to
21 government agencies concerned with the management of fish and wildlife
22 resources. Sensitive wildlife data includes:

23 (i) The nesting sites or specific locations of endangered species
24 designated under RCW 77.12.020, or threatened or sensitive species
25 classified by rule of the department of fish and wildlife;

26 (ii) Radio frequencies used in, or locational data generated by,
27 telemetry studies; or

28 (iii) Other location data that could compromise the viability of a
29 specific fish or wildlife population, and where at least one of the
30 following criteria are met:

- 31 (A) The species has a known commercial or black market value;
- 32 (B) There is a history of malicious take of that species; or
- 33 (C) There is a known demand to visit, take, or disturb, and the
34 species behavior or ecology renders it especially vulnerable or the
35 species has an extremely limited distribution and concentration.

36 (zz) The personally identifying information of persons who acquire
37 recreational licenses under RCW 77.32.010 or commercial licenses under
38 chapter 77.65 or 77.70 RCW, except name, address of contact used by the

1 department, and type of license, endorsement, or tag. However, the
2 department of fish and wildlife may disclose personally identifying
3 information to:

4 (i) Government agencies concerned with the management of fish and
5 wildlife resources;

6 (ii) The department of social and health services, child support
7 division, and to the department of licensing in order to implement RCW
8 77.32.014 and 46.20.291; and

9 (iii) Law enforcement agencies for the purpose of firearm
10 possession enforcement under RCW 9.41.040.

11 (aaa)(i) Discharge papers of a veteran of the armed forces of the
12 United States filed at the office of the county auditor before July 1,
13 2002, that have not been commingled with other recorded documents.
14 These records will be available only to the veteran, the veteran's next
15 of kin, a deceased veteran's properly appointed personal representative
16 or executor, a person holding that veteran's general power of attorney,
17 or to anyone else designated in writing by that veteran to receive the
18 records.

19 (ii) Discharge papers of a veteran of the armed forces of the
20 United States filed at the office of the county auditor before July 1,
21 2002, that have been commingled with other records, if the veteran has
22 recorded a "request for exemption from public disclosure of discharge
23 papers" with the county auditor. If such a request has been recorded,
24 these records may be released only to the veteran filing the papers,
25 the veteran's next of kin, a deceased veteran's properly appointed
26 personal representative or executor, a person holding the veteran's
27 general power of attorney, or anyone else designated in writing by the
28 veteran to receive the records.

29 (iii) Discharge papers of a veteran filed at the office of the
30 county auditor after June 30, 2002, are not public records, but will be
31 available only to the veteran, the veteran's next of kin, a deceased
32 veteran's properly appointed personal representative or executor, a
33 person holding the veteran's general power of attorney, or anyone else
34 designated in writing by the veteran to receive the records.

35 (iv) For the purposes of this subsection (1)(aaa), next of kin of
36 deceased veterans have the same rights to full access to the record.
37 Next of kin are the veteran's widow or widower who has not remarried,
38 son, daughter, father, mother, brother, and sister.

1 (bbb) Those portions of records containing specific and unique
2 vulnerability assessments or specific and unique emergency and escape
3 response plans at a city, county, or state adult or juvenile
4 correctional facility, the public disclosure of which would have a
5 substantial likelihood of threatening the security of a city, county,
6 or state adult or juvenile correctional facility or any individual's
7 safety.

8 (ccc) Information compiled by school districts or schools in the
9 development of their comprehensive safe school plans pursuant to RCW
10 28A.320.125, to the extent that they identify specific vulnerabilities
11 of school districts and each individual school.

12 (ddd) Information regarding the infrastructure and security of
13 computer and telecommunications networks, consisting of security
14 passwords, security access codes and programs, access codes for secure
15 software applications, security and service recovery plans, security
16 risk assessments, and security test results to the extent that they
17 identify specific system vulnerabilities.

18 (eee) Information obtained and exempted or withheld from public
19 inspection by the health care authority under RCW 41.05.026, whether
20 retained by the authority, transferred to another state purchased
21 health care program by the authority, or transferred by the authority
22 to a technical review committee created to facilitate the development,
23 acquisition, or implementation of state purchased health care under
24 chapter 41.05 RCW.

25 (fff) Proprietary data, trade secrets, or other information that
26 relates to: (i) A vendor's unique methods of conducting business; (ii)
27 data unique to the product or services of the vendor; or (iii)
28 determining prices or rates to be charged for services, submitted by
29 any vendor to the department of social and health services for purposes
30 of the development, acquisition, or implementation of state purchased
31 health care as defined in RCW 41.05.011.

32 (ggg) The personally identifying information of persons who acquire
33 and use transponders or other technology to facilitate payment of
34 tolls. This information may be disclosed in aggregate form as long as
35 the data does not contain any personally identifying information. For
36 these purposes aggregate data may include the census tract of the
37 account holder as long as any individual personally identifying
38 information is not released. Personally identifying information may be

1 released to law enforcement agencies only for toll enforcement
2 purposes. Personally identifying information may be released to law
3 enforcement agencies for other purposes only if the request is
4 accompanied by a court order.

5 (hhh) Financial, commercial, operations, and technical and research
6 information and data submitted to or obtained by the life sciences
7 discovery fund authority in applications for, or delivery of, grants
8 under chapter 43.350 RCW, to the extent that such information, if
9 revealed, would reasonably be expected to result in private loss to the
10 providers of this information.

11 (iii) Records of mediation communications that are privileged under
12 chapter 7.07 RCW.

13 (jjj) Financial or proprietary information, data, trade secrets,
14 contractual agreements, or other information, including but not limited
15 to sales data, and acquisition and production costs, supplied to the
16 liquor control board by a licensee in connection with the licensee's
17 obligation under RCW 66.28.180, or in connection with a retail
18 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of
19 shipments of beer or wine from a domestic winery, brewery,
20 microbrewery, or certificate of approval holder under RCW 66.24.206(1)
21 or 66.24.270(2)(a), or for purposes of research and evaluation.

22 (2) Except for information described in subsection (1)(c)(i) of
23 this section and confidential income data exempted from public
24 inspection pursuant to RCW 84.40.020, the exemptions of this section
25 are inapplicable to the extent that information, the disclosure of
26 which would violate personal privacy or vital governmental interests,
27 can be deleted from the specific records sought. No exemption may be
28 construed to permit the nondisclosure of statistical information not
29 descriptive of any readily identifiable person or persons.

30 (3) Inspection or copying of any specific records exempt under the
31 provisions of this section may be permitted if the superior court in
32 the county in which the record is maintained finds, after a hearing
33 with notice thereof to every person in interest and the agency, that
34 the exemption of such records is clearly unnecessary to protect any
35 individual's right of privacy or any vital governmental function.

36 (4) Agency responses refusing, in whole or in part, inspection of
37 any public record shall include a statement of the specific exemption

1 authorizing the withholding of the record (or part) and a brief
2 explanation of how the exemption applies to the record withheld.

3 **Sec. 12.** RCW 42.56.270 and 2005 c 274 s 407 are each amended to
4 read as follows:

5 The following financial, commercial, and proprietary information is
6 exempt from disclosure under this chapter:

7 (1) Valuable formulae, designs, drawings, computer source code or
8 object code, and research data obtained by any agency within five years
9 of the request for disclosure when disclosure would produce private
10 gain and public loss;

11 (2) Financial information supplied by or on behalf of a person,
12 firm, or corporation for the purpose of qualifying to submit a bid or
13 proposal for (a) a ferry system construction or repair contract as
14 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
15 or improvement as required by RCW 47.28.070;

16 (3) Financial and commercial information and records supplied by
17 private persons pertaining to export services provided under chapters
18 43.163 and 53.31 RCW, and by persons pertaining to export projects
19 under RCW 43.23.035;

20 (4) Financial and commercial information and records supplied by
21 businesses or individuals during application for loans or program
22 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
23 or during application for economic development loans or program
24 services provided by any local agency;

25 (5) Financial information, business plans, examination reports, and
26 any information produced or obtained in evaluating or examining a
27 business and industrial development corporation organized or seeking
28 certification under chapter 31.24 RCW;

29 (6) Financial and commercial information supplied to the state
30 investment board by any person when the information relates to the
31 investment of public trust or retirement funds and when disclosure
32 would result in loss to such funds or in private loss to the providers
33 of this information;

34 (7) Financial and valuable trade information under RCW 51.36.120;

35 (8) Financial, commercial, operations, and technical and research
36 information and data submitted to or obtained by the clean Washington

1 center in applications for, or delivery of, program services under
2 chapter 70.95H RCW;

3 (9) Financial and commercial information requested by the public
4 stadium authority from any person or organization that leases or uses
5 the stadium and exhibition center as defined in RCW 36.102.010;

6 (10)(a) Financial information, including but not limited to account
7 numbers and values, and other identification numbers supplied by or on
8 behalf of a person, firm, corporation, limited liability company,
9 partnership, or other entity related to an application for a liquor
10 license, gambling license, or lottery retail license;

11 (b) Financial or proprietary information, data, trade secrets,
12 contractual agreements, or other information, including but not limited
13 to sales data, and acquisition and production costs, supplied to the
14 liquor control board by a licensee in connection with the licensee's
15 obligation under RCW 66.28.180, or in connection with a retail
16 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of
17 shipments of beer or wine from a domestic winery, brewery,
18 microbrewery, or certificate of approval holder under RCW 66.24.206(1)
19 or 66.24.270(2)(a), or for purposes of research and evaluation;

20 (11) Proprietary data, trade secrets, or other information that
21 relates to: (a) A vendor's unique methods of conducting business; (b)
22 data unique to the product or services of the vendor; or (c)
23 determining prices or rates to be charged for services, submitted by
24 any vendor to the department of social and health services for purposes
25 of the development, acquisition, or implementation of state purchased
26 health care as defined in RCW 41.05.011; and

27 (12)(a) When supplied to and in the records of the department of
28 community, trade, and economic development:

29 (i) Financial and proprietary information collected from any person
30 and provided to the department of community, trade, and economic
31 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

32 (ii) Financial or proprietary information collected from any person
33 and provided to the department of community, trade, and economic
34 development or the office of the governor in connection with the
35 siting, recruitment, expansion, retention, or relocation of that
36 person's business and until a siting decision is made, identifying
37 information of any person supplying information under this subsection

1 and the locations being considered for siting, relocation, or expansion
2 of a business;

3 (b) When developed by the department of community, trade, and
4 economic development based on information as described in (a)(i) of
5 this subsection, any work product is not exempt from disclosure;

6 (c) For the purposes of this subsection, "siting decision" means
7 the decision to acquire or not to acquire a site;

8 (d) If there is no written contact for a period of sixty days to
9 the department of community, trade, and economic development from a
10 person connected with siting, recruitment, expansion, retention, or
11 relocation of that person's business, information described in (a)(ii)
12 of this subsection will be available to the public under this chapter.

13 NEW SECTION. **Sec. 13.** Sections 9 and 11 of this act expire July
14 1, 2006.

15 NEW SECTION. **Sec. 14.** Sections 10 and 12 of this act take effect
16 July 1, 2006.

17 NEW SECTION. **Sec. 15.** Except for sections 10 and 12 of this act,
18 this act is necessary for the immediate preservation of the public
19 peace, health, or safety, or support of the state government and its
20 existing public institutions, and takes effect April 14, 2006.

--- END ---