

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 6823

Chapter 302, Laws of 2006

59th Legislature
2006 Regular Session

BEER AND WINE DISTRIBUTION

EFFECTIVE DATE: 4/14/06 - Except sections 10 and 12, which become effective 7/1/06.

Passed by the Senate February 9, 2006
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 2, 2006
YEAS 98 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 6823** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

Approved March 29, 2006.

FILED

March 29, 2006 - 3:45 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 6823

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

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

READ FIRST TIME 02/7/06.

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 creating a new section; providing effective dates; providing expiration
7 dates; and declaring 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 of

1 its own production. Any winery operating as a distributor and/or
2 retailer under this subsection shall comply with the applicable laws
3 and rules relating to distributors and/or retailers.

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

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

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

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

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

37 (e) Before a winery may sell bottled wine at a qualifying farmers
38 market, the farmers market must apply to the board for authorization

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

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

17 (g) For the purposes of this subsection:

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

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

25 (B) The total combined gross annual sales of vendors who are
26 farmers exceeds the total combined gross annual sales of vendors who
27 are processors or resellers;

28 (C) The total combined gross annual sales of vendors who are
29 farmers, processors, or resellers exceeds the total combined gross
30 annual sales of vendors who are not farmers, processors, or resellers;

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

33 (E) No vendor is a franchisee.

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

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

4 (iv) "Reseller" means a natural person who buys agricultural
5 products from a farmer and resells the products directly to the
6 consumer.

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

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

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

17 (2) Any domestic brewery, except for a brand owner of malt
18 beverages under RCW 66.04.010(~~(+5)~~) (6), licensed under this section
19 may also act as a (~~distributor and/or~~) retailer for beer of its own
20 production. Any domestic brewery licensed under this section may act
21 as a distributor for beer of its own production. Any domestic brewery
22 operating as a distributor and/or retailer under this subsection shall
23 comply with the applicable laws and rules relating to distributors
24 and/or retailers.

25 (3) Any domestic brewery licensed under this section may contract-
26 produce beer for a brand owner of malt beverages defined under RCW
27 66.04.010(~~(+5)~~) (6), and this contract-production is not a sale for
28 the purposes of RCW 66.28.170 and 66.28.180.

29 (4)(a) A domestic brewery licensed under this section and qualified
30 for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may
31 apply to the board for an endorsement to sell bottled beer of its own
32 production at retail for off-premises consumption at a qualifying
33 farmers market. The annual fee for this endorsement is seventy-five
34 dollars.

35 (b) For each month during which a domestic brewery will sell beer
36 at a qualifying farmers market, the domestic brewery must provide the
37 board or its designee a list of the dates, times, and locations at

1 which bottled beer may be offered for sale. This list must be received
2 by the board before the domestic brewery may offer beer for sale at a
3 qualifying farmers market.

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

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

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

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

33 (g) For the purposes of this subsection:

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

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

3 (B) The total combined gross annual sales of vendors who are
4 farmers exceeds the total combined gross annual sales of vendors who
5 are processors or resellers;

6 (C) The total combined gross annual sales of vendors who are
7 farmers, processors, or resellers exceeds the total combined gross
8 annual sales of vendors who are not farmers, processors, or resellers;

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

11 (E) No vendor is a franchisee.

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

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

19 (iv) "Reseller" means a natural person who buys agricultural
20 products from a farmer and resells the products directly to the
21 consumer.

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

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

27 (2) Any microbrewery license under this section may also act as a
28 distributor and/or retailer for beer and strong beer of its own
29 production. Any microbrewery licensed under this section may act as a
30 distributor for beer of its own production. Strong beer may not be
31 sold at a farmers market or under any endorsement which may authorize
32 microbreweries to sell beer at farmers markets. Any microbrewery
33 operating as a distributor and/or retailer under this subsection shall
34 comply with the applicable laws and rules relating to distributors
35 and/or retailers.

36 (3) The board may issue an endorsement to this license allowing for
37 on-premises consumption of beer, including strong beer, wine, or both

1 of other manufacture if purchased from a Washington state-licensed
2 distributor. Each endorsement shall cost two hundred dollars per year,
3 or four hundred dollars per year allowing the sale and service of both
4 beer and wine.

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

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

14 (b) For each month during which a microbrewery will sell beer at a
15 qualifying farmers market, the microbrewery must provide the board or
16 its designee a list of the dates, times, and locations at which bottled
17 beer may be offered for sale. This list must be received by the board
18 before the microbrewery may offer beer for sale at a qualifying farmers
19 market.

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

22 (d) Each approved location in a qualifying farmers market is deemed
23 to be part of the microbrewery license for the purpose of this title.
24 The approved locations under an endorsement granted under this
25 subsection (5) do not constitute the tasting or sampling privilege of
26 a microbrewery. The microbrewery may not store beer at a farmers
27 market beyond the hours that the microbrewery offers bottled beer for
28 sale. The microbrewery may not act as a distributor from a farmers
29 market location.

30 (e) Before a microbrewery may sell bottled beer at a qualifying
31 farmers market, the farmers market must apply to the board for
32 authorization for any microbrewery with an endorsement approved under
33 this subsection (5) to sell bottled beer at retail at the farmers
34 market. This application shall include, at a minimum: (i) A map of
35 the farmers market showing all booths, stalls, or other designated
36 locations at which an approved microbrewery may sell bottled beer; and
37 (ii) the name and contact information for the on-site market managers
38 who may be contacted by the board or its designee to verify the

1 locations at which bottled beer may be sold. Before authorizing a
2 qualifying farmers market to allow an approved microbrewery to sell
3 bottled beer at retail at its farmers market location, the board shall
4 notify the persons or entities of the application for authorization
5 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under
6 this subsection (5)(e) may be withdrawn by the board for any violation
7 of this title or any rules adopted under this title.

8 (f) The board may adopt rules establishing the application and
9 approval process under this section and any additional rules necessary
10 to implement this section.

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

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

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

19 (B) The total combined gross annual sales of vendors who are
20 farmers exceeds the total combined gross annual sales of vendors who
21 are processors or resellers;

22 (C) The total combined gross annual sales of vendors who are
23 farmers, processors, or resellers exceeds the total combined gross
24 annual sales of vendors who are not farmers, processors, or resellers;

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

27 (E) No vendor is a franchisee.

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

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

35 (iv) "Reseller" means a natural person who buys agricultural
36 products from a farmer and resells the products directly to the
37 consumer.

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

3 (1)(a) A United States winery (~~(or manufacturer of wine)~~) located
4 outside the state of Washington must hold a certificate of approval to
5 allow sales and shipment of the certificate of approval holder's wine
6 to licensed Washington wine distributors (~~(or)~~), importers, or
7 retailers. A certificate of approval holder with a direct shipment
8 endorsement may act as a distributor of its own production.

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

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

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

30 (3) The fee for the certificate of approval and related
31 endorsements, issued pursuant to the provisions of this title, shall be
32 from time to time established by the board at a level that is
33 sufficient to defray the costs of administering the certificate of
34 approval program. The fee shall be fixed by rule by the board in
35 accordance with the provisions of the administrative procedure act,
36 chapter 34.05 RCW.

37 (4) Certificate of approval holders are deemed to have consented to

1 the jurisdiction of Washington concerning enforcement of this chapter
2 and all laws and rules related to the sale and shipment of wine.

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

5 (1) There is hereby imposed upon all wines except cider sold to
6 wine distributors and the Washington state liquor control board, within
7 the state a tax at the rate of twenty and one-fourth cents per liter.
8 Any domestic winery or certificate of approval holder acting as a
9 distributor of its own production shall pay taxes imposed by this
10 section. There is hereby imposed on all cider sold to wine
11 distributors and the Washington state liquor control board within the
12 state a tax at the rate of three and fifty-nine one-hundredths cents
13 per liter: PROVIDED, HOWEVER, That wine sold or shipped in bulk from
14 one winery to another winery shall not be subject to such tax.

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

17 (b) Every person purchasing wine under the provisions of this
18 section shall on or before the twentieth day of each month report to
19 the board all purchases during the preceding calendar month in such
20 manner and upon such forms as may be prescribed by the board, and with
21 such report shall pay the tax due from the purchases covered by such
22 report unless the same has previously been paid. Any such purchaser of
23 wine whose applicable tax payment is not postmarked by the twentieth
24 day following the month of purchase will be assessed a penalty at the
25 rate of two percent a month or fraction thereof. The board may require
26 that every such person shall execute to and file with the board a bond
27 to be approved by the board, in such amount as the board may fix,
28 securing the payment of the tax. If any such person fails to pay the
29 tax when due, the board may forthwith suspend or cancel the license
30 until all taxes are paid.

31 (c) Any licensed retailer authorized to purchase wine from a
32 certificate of approval holder with a direct shipment endorsement or a
33 domestic winery shall make monthly reports to the liquor control board
34 on wine purchased during the preceding calendar month in the manner and
35 upon such forms as may be prescribed by the board.

36 (2) An additional tax is imposed equal to the rate specified in RCW
37 82.02.030 multiplied by the tax payable under subsection (1) of this

1 section. All revenues collected during any month from this additional
2 tax shall be transferred to the state general fund by the twenty-fifth
3 day of the following month.

4 (3) An additional tax is imposed on wines subject to tax under
5 subsection (1) of this section, at the rate of one-fourth of one cent
6 per liter for wine sold after June 30, 1987. After June 30, 1996, such
7 additional tax does not apply to cider. An additional tax of five one-
8 hundredths of one cent per liter is imposed on cider sold after June
9 30, 1996. All revenues collected under this subsection (3) shall be
10 disbursed quarterly to the Washington wine commission for use in
11 carrying out the purposes of chapter 15.88 RCW.

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

21 (5)(a) An additional tax is imposed on all cider subject to tax
22 under subsection (1) of this section. The additional tax is equal to
23 two and four one-hundredths cents per liter of cider sold after June
24 30, 1996, and before July 1, 1997, and is equal to four and seven one-
25 hundredths cents per liter of cider sold after June 30, 1997.

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

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

35 **Sec. 6.** RCW 66.24.270 and 2004 c 160 s 8 are each amended to read
36 as follows:

37 (1) Every person, firm or corporation, holding a license to

1 manufacture malt liquors or strong beer within the state of Washington,
2 shall, on or before the twentieth day of each month, furnish to the
3 Washington state liquor control board, on a form to be prescribed by
4 the board, a statement showing the quantity of malt liquors and strong
5 beer sold for resale during the preceding calendar month to each beer
6 distributor within the state of Washington.

7 (2)(a) A United States brewery or manufacturer of beer or strong
8 beer, located outside the state of Washington, must hold a certificate
9 of approval to allow sales and shipment of the certificate of approval
10 holder's beer or strong beer to licensed Washington beer distributors
11 ~~((or)), importers, or retailers.~~ A certificate of approval holder with
12 a direct shipment endorsement may act as a distributor for beer of its
13 own production.

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

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

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

36 (4) The fee for the certificate of approval and related
37 endorsements, issued pursuant to the provisions of this title, shall be
38 from time to time established by the board at a level that is

1 sufficient to defray the costs of administering the certificate of
2 approval program. The fee shall be fixed by rule by the board in
3 accordance with the provisions of the administrative procedure act,
4 chapter 34.05 RCW.

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

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

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

16 (a) Every such brewery or beer distributor shall report all sales
17 to the board monthly, pursuant to the regulations, and shall pay to the
18 board as an added tax for the privilege of manufacturing and selling
19 the beer and strong beer within the state a tax of one dollar and
20 thirty cents per barrel of thirty-one gallons on sales to licensees
21 within the state and on sales to licensees within the state of bottled
22 and canned beer, including strong beer, shall pay a tax computed in
23 gallons at the rate of one dollar and thirty cents per barrel of
24 thirty-one gallons.

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

30 (c) The moneys collected under this subsection shall be distributed
31 as follows: (~~(+a)~~) (i) Three-tenths of a percent shall be distributed
32 to border areas under RCW 66.08.195; and (~~(+b)~~) (ii) of the remaining
33 moneys: (~~(+i)~~) (A) Twenty percent shall be distributed to counties in
34 the same manner as under RCW 66.08.200; and (~~(+i)~~) (B) eighty percent
35 shall be distributed to incorporated cities and towns in the same
36 manner as under RCW 66.08.210.

1 (d) Any licensed retailer authorized to purchase beer from a
2 certificate of approval holder with a direct shipment endorsement or a
3 brewery or microbrewery shall make monthly reports to the liquor
4 control board on beer purchased during the preceding calendar month in
5 the manner and upon such forms as may be prescribed by the board.

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

12 (3)(a) An additional tax is imposed on all beer and strong beer
13 subject to tax under subsection (1) of this section. The additional
14 tax is equal to ninety-six cents per barrel of thirty-one gallons
15 through June 30, 1995, two dollars and thirty-nine cents per barrel of
16 thirty-one gallons for the period July 1, 1995, through June 30, 1997,
17 and four dollars and seventy-eight cents per barrel of thirty-one
18 gallons thereafter.

19 (b) The additional tax imposed under this subsection does not apply
20 to the sale of the first sixty thousand barrels of beer each year by
21 breweries that are entitled to a reduced rate of tax under 26 U.S.C.
22 Sec. 5051, as existing on July 1, 1993, or such subsequent date as may
23 be provided by the board by rule consistent with the purposes of this
24 exemption.

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

28 (4) An additional tax is imposed on all beer and strong beer that
29 is subject to tax under subsection (1) of this section that is in the
30 first sixty thousand barrels of beer and strong beer by breweries that
31 are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as
32 existing on July 1, 1993, or such subsequent date as may be provided by
33 the board by rule consistent with the purposes of the exemption under
34 subsection (3)(b) of this section. The additional tax is equal to one
35 dollar and forty-eight and two-tenths cents per barrel of thirty-one
36 gallons. By the twenty-fifth day of the following month, three percent
37 of the revenues collected from this additional tax shall be distributed

1 to border areas under RCW 66.08.195 and the remaining moneys shall be
2 transferred to the state general fund.

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

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

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

12 (1) Except as provided in subsection (2) of this section, it shall
13 be unlawful for any retail beer or wine licensee to purchase beer or
14 wine, except from a duly licensed (~~(wholesaler)~~) distributor, domestic
15 winery, domestic brewer, certificate of approval holder with a direct
16 shipment endorsement, or the board(~~(, and it shall be unlawful for any~~
17 ~~brewer, winery, or beer or wine wholesaler to purchase beer or wine,~~
18 ~~except from a duly licensed beer or wine wholesaler or importer)).~~

19 (2) A beer or wine retailer licensee may purchase beer or wine from
20 a government agency which has lawfully seized beer or wine from a
21 licensed beer or wine retailer, or from a board-authorized retailer, or
22 from a licensed retailer which has discontinued business if the
23 (~~(wholesaler)~~) distributor has refused to accept beer or wine from that
24 retailer for return and refund. Beer and wine purchased under this
25 subsection shall meet the quality standards set by its manufacturer.

26 (3) Special occasion licensees holding either a (~~(class G or J)~~)
27 special occasion license may only purchase beer or wine from a beer or
28 wine retailer duly licensed to sell beer or wine for off-premises
29 consumption, the board, or from a duly licensed beer or wine
30 (~~(wholesaler)~~) distributor.

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

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

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

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

13 (2) Beer and wine distributor price posting.

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

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

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

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

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

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

36 (e) Distributor prices on a "close-out" item shall be accepted by
37 the board if the item to be discontinued has been listed on the state
38 market for a period of at least six months, and upon the further

1 condition that the distributor who posts such a close-out price shall
2 not restock the item for a period of one year following the first
3 effective date of such close-out price.

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

16 (g) Prior to the effective date of the posted prices, all price
17 postings filed as required by this section constitute investigative
18 information and shall not be subject to disclosure, pursuant to RCW
19 42.17.310(1)(d).

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

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

30 (ii) Beer and wine sold as provided in this section shall be
31 delivered by the distributor or an authorized employee either to the
32 retailer's licensed premises or directly to the retailer at the
33 distributor's licensed premises. When a domestic winery, brewery,
34 microbrewery, or certificate of approval holder with a direct shipping
35 endorsement is acting as a distributor of its own production, a
36 licensed retailer may contract with a common carrier to obtain the
37 product directly from the domestic winery, brewery, microbrewery, or

1 certificate of approval holder with a direct shipping endorsement. A
2 distributor's prices to retail licensees shall be the same at both such
3 places of delivery.

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

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

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

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

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

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

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

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

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

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

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

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

17 (2) Beer and wine distributor price posting.

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

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

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

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

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

34 (d) Quantity discounts are prohibited. No price may be posted that
35 is below acquisition cost plus ten percent of acquisition cost.
36 However, the board is empowered to review periodically, as it may deem
37 appropriate, the amount of the percentage of acquisition cost as a

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

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

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

21 (g) Prior to the effective date of the posted prices, all price
22 postings filed as required by this section constitute investigative
23 information and shall not be subject to disclosure, pursuant to RCW
24 42.56.240(1).

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

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

35 (ii) Beer and wine sold as provided in this section shall be
36 delivered by the distributor or an authorized employee either to the
37 retailer's licensed premises or directly to the retailer at the
38 distributor's licensed premises. When a domestic winery, brewery,

1 microbrewery, or certificate of approval holder with a direct shipping
2 endorsement is acting as a distributor of its own production, a
3 licensed retailer may contract with a common carrier to obtain the
4 product directly from the domestic winery, brewery, microbrewery, or
5 certificate of approval holder with a direct shipping endorsement. A
6 distributor's prices to retail licensees shall be the same at both such
7 places of delivery.

8 (3) Beer and wine suppliers' price filings, contracts, and
9 memoranda.

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

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

30 (b) Prices filed by a domestic brewery, microbrewery, domestic
31 winery, or certificate of approval holder shall be uniform prices to
32 all distributors or retailers on a statewide basis less bona fide
33 allowances for freight differentials. Quantity discounts are
34 prohibited. No price shall be filed that is below
35 acquisition/production cost plus ten percent of that cost, except that
36 acquisition cost plus ten percent of acquisition cost does not apply to
37 sales of beer or wine between a beer or wine importer who sells beer or
38 wine to another beer or wine importer or to a beer or wine distributor,

1 or to a beer or wine distributor who sells beer or wine to another beer
2 or wine distributor. However, the board is empowered to review
3 periodically, as it may deem appropriate, the amount of the percentage
4 of acquisition/production cost as a minimum mark-up over cost and to
5 modify such percentage by rule of the board, except such percentage
6 shall be not less than ten percent.

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

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

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

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

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

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

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

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

11 (c) Information required of any taxpayer in connection with the
12 assessment or collection of any tax if the disclosure of the
13 information to other persons would (i) be prohibited to such persons by
14 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
15 taxpayer's right to privacy or result in unfair competitive
16 disadvantage to the taxpayer.

17 (d) Specific intelligence information and specific investigative
18 records compiled by investigative, law enforcement, and penology
19 agencies, and state agencies vested with the responsibility to
20 discipline members of any profession, the nondisclosure of which is
21 essential to effective law enforcement or for the protection of any
22 person's right to privacy.

23 (e) Information revealing the identity of persons who are witnesses
24 to or victims of crime or who file complaints with investigative, law
25 enforcement, or penology agencies, other than the public disclosure
26 commission, if disclosure would endanger any person's life, physical
27 safety, or property. If at the time a complaint is filed the
28 complainant, victim or witness indicates a desire for disclosure or
29 nondisclosure, such desire shall govern. However, all complaints filed
30 with the public disclosure commission about any elected official or
31 candidate for public office must be made in writing and signed by the
32 complainant under oath.

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

35 (g) Except as provided by chapter 8.26 RCW, the contents of real
36 estate appraisals, made for or by any agency relative to the
37 acquisition or sale of property, until the project or prospective sale
38 is abandoned or until such time as all of the property has been

1 acquired or the property to which the sale appraisal relates is sold,
2 but in no event shall disclosure be denied for more than three years
3 after the appraisal.

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

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

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

16 (k) Records, maps, or other information identifying the location of
17 archaeological sites in order to avoid the looting or depredation of
18 such sites.

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

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

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

31 (o) Financial and commercial information and records supplied by
32 private persons pertaining to export services provided pursuant to
33 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
34 export projects pursuant to RCW 43.23.035.

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

37 (q) Records filed with the utilities and transportation commission

1 or attorney general under RCW 80.04.095 that a court has determined are
2 confidential under RCW 80.04.095.

3 (r) Financial and commercial information and records supplied by
4 businesses or individuals during application for loans or program
5 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
6 or during application for economic development loans or program
7 services provided by any local agency.

8 (s) Membership lists or lists of members or owners of interests of
9 units in timeshare projects, subdivisions, camping resorts,
10 condominiums, land developments, or common-interest communities
11 affiliated with such projects, regulated by the department of
12 licensing, in the files or possession of the department.

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

16 (u) The residential addresses, residential telephone numbers,
17 personal wireless telephone numbers, personal electronic mail
18 addresses, Social Security numbers, and emergency contact information
19 of employees or volunteers of a public agency, and the names, dates of
20 birth, residential addresses, residential telephone numbers, personal
21 wireless telephone numbers, personal electronic mail addresses, Social
22 Security numbers, and emergency contact information of dependents of
23 employees or volunteers of a public agency, which are held by any
24 public agency in personnel records, public employment related records,
25 or volunteer rosters, or are included in any mailing list of employees
26 or volunteers of any public agency. For purposes of this subsection,
27 "employees" includes independent provider home care workers as defined
28 in RCW 74.39A.240.

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

36 (w)(i) The federal social security number of individuals governed
37 under chapter 18.130 RCW maintained in the files of the department of
38 health, except this exemption does not apply to requests made directly

1 to the department from federal, state, and local agencies of
2 government, and national and state licensing, credentialing,
3 investigatory, disciplinary, and examination organizations; (ii) the
4 current residential address and current residential telephone number of
5 a health care provider governed under chapter 18.130 RCW maintained in
6 the files of the department, if the provider requests that this
7 information be withheld from public inspection and copying, and
8 provides to the department an accurate alternate or business address
9 and business telephone number. On or after January 1, 1995, the
10 current residential address and residential telephone number of a
11 health care provider governed under RCW 18.130.040 maintained in the
12 files of the department shall automatically be withheld from public
13 inspection and copying unless the provider specifically requests the
14 information be released, and except as provided for under RCW
15 42.17.260(9).

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

18 (y) Information obtained by the board of pharmacy or the department
19 of health and its representatives as provided in RCW 69.41.044,
20 69.41.280, and 18.64.420.

21 (z) Financial information, business plans, examination reports, and
22 any information produced or obtained in evaluating or examining a
23 business and industrial development corporation organized or seeking
24 certification under chapter 31.24 RCW.

25 (aa) Financial and commercial information supplied to the state
26 investment board by any person when the information relates to the
27 investment of public trust or retirement funds and when disclosure
28 would result in loss to such funds or in private loss to the providers
29 of this information.

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

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

34 (dd) Information that identifies a person who, while an agency
35 employee: (i) Seeks advice, under an informal process established by
36 the employing agency, in order to ascertain his or her rights in
37 connection with a possible unfair practice under chapter 49.60 RCW

1 against the person; and (ii) requests his or her identity or any
2 identifying information not be disclosed.

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

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

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

13 (hh) Information and documents created specifically for, and
14 collected and maintained by, a quality improvement committee pursuant
15 to RCW 43.70.510 or 70.41.200, by a peer review committee under RCW
16 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640
17 or 18.20.390, regardless of which agency is in possession of the
18 information and documents.

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

21 (jj) Financial and commercial information requested by the public
22 stadium authority from any person or organization that leases or uses
23 the stadium and exhibition center as defined in RCW 36.102.010.

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

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

34 (mm) The personally identifying information of current or former
35 participants or applicants in a paratransit or other transit service
36 operated for the benefit of persons with disabilities or elderly
37 persons.

1 (nn) The personally identifying information of persons who acquire
2 and use transit passes and other fare payment media including, but not
3 limited to, stored value smart cards and magnetic strip cards, except
4 that an agency may disclose this information to a person, employer,
5 educational institution, or other entity that is responsible, in whole
6 or in part, for payment of the cost of acquiring or using a transit
7 pass or other fare payment media, or to the news media when reporting
8 on public transportation or public safety. This information may also
9 be disclosed at the agency's discretion to governmental agencies or
10 groups concerned with public transportation or public safety.

11 (oo) Proprietary financial and commercial information that the
12 submitting entity, with review by the department of health,
13 specifically identifies at the time it is submitted and that is
14 provided to or obtained by the department of health in connection with
15 an application for, or the supervision of, an antitrust exemption
16 sought by the submitting entity under RCW 43.72.310. If a request for
17 such information is received, the submitting entity must be notified of
18 the request. Within ten business days of receipt of the notice, the
19 submitting entity shall provide a written statement of the continuing
20 need for confidentiality, which shall be provided to the requester.
21 Upon receipt of such notice, the department of health shall continue to
22 treat information designated under this section as exempt from
23 disclosure. If the requester initiates an action to compel disclosure
24 under this chapter, the submitting entity must be joined as a party to
25 demonstrate the continuing need for confidentiality.

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

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

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

1 (ss) Credit card numbers, debit card numbers, electronic check
2 numbers, card expiration dates, or bank or other financial account
3 numbers, except when disclosure is expressly required by or governed by
4 other law.

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

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

14 (vv) Individually identifiable information received by the work
15 force training and education coordinating board for research or
16 evaluation purposes.

17 (ww) Those portions of records assembled, prepared, or maintained
18 to prevent, mitigate, or respond to criminal terrorist acts, which are
19 acts that significantly disrupt the conduct of government or of the
20 general civilian population of the state or the United States and that
21 manifest an extreme indifference to human life, the public disclosure
22 of which would have a substantial likelihood of threatening public
23 safety, consisting of:

24 (i) Specific and unique vulnerability assessments or specific and
25 unique response or deployment plans, including compiled underlying data
26 collected in preparation of or essential to the assessments, or to the
27 response or deployment plans; and

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

33 (xx) Commercial fishing catch data from logbooks required to be
34 provided to the department of fish and wildlife under RCW 77.12.047,
35 when the data identifies specific catch location, timing, or
36 methodology and the release of which would result in unfair competitive
37 disadvantage to the commercial fisher providing the catch data.

1 However, this information may be released to government agencies
2 concerned with the management of fish and wildlife resources.

3 (yy) Sensitive wildlife data obtained by the department of fish and
4 wildlife. However, sensitive wildlife data may be released to
5 government agencies concerned with the management of fish and wildlife
6 resources. Sensitive wildlife data includes:

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

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

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

15 (A) The species has a known commercial or black market value;

16 (B) There is a history of malicious take of that species; or

17 (C) There is a known demand to visit, take, or disturb, and the
18 species behavior or ecology renders it especially vulnerable or the
19 species has an extremely limited distribution and concentration.

20 (zz) The personally identifying information of persons who acquire
21 recreational licenses under RCW 77.32.010 or commercial licenses under
22 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
23 department, and type of license, endorsement, or tag. However, the
24 department of fish and wildlife may disclose personally identifying
25 information to:

26 (i) Government agencies concerned with the management of fish and
27 wildlife resources;

28 (ii) The department of social and health services, child support
29 division, and to the department of licensing in order to implement RCW
30 77.32.014 and 46.20.291; and

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

33 (aaa)(i) Discharge papers of a veteran of the armed forces of the
34 United States filed at the office of the county auditor before July 1,
35 2002, that have not been commingled with other recorded documents.
36 These records will be available only to the veteran, the veteran's next
37 of kin, a deceased veteran's properly appointed personal representative

1 or executor, a person holding that veteran's general power of attorney,
2 or to anyone else designated in writing by that veteran to receive the
3 records.

4 (ii) Discharge papers of a veteran of the armed forces of the
5 United States filed at the office of the county auditor before July 1,
6 2002, that have been commingled with other records, if the veteran has
7 recorded a "request for exemption from public disclosure of discharge
8 papers" with the county auditor. If such a request has been recorded,
9 these records may be released only to the veteran filing the papers,
10 the veteran's next of kin, a deceased veteran's properly appointed
11 personal representative or executor, a person holding the veteran's
12 general power of attorney, or anyone else designated in writing by the
13 veteran to receive the records.

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

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

24 (bbb) Those portions of records containing specific and unique
25 vulnerability assessments or specific and unique emergency and escape
26 response plans at a city, county, or state adult or juvenile
27 correctional facility, the public disclosure of which would have a
28 substantial likelihood of threatening the security of a city, county,
29 or state adult or juvenile correctional facility or any individual's
30 safety.

31 (ccc) Information compiled by school districts or schools in the
32 development of their comprehensive safe school plans pursuant to RCW
33 28A.320.125, to the extent that they identify specific vulnerabilities
34 of school districts and each individual school.

35 (ddd) Information regarding the infrastructure and security of
36 computer and telecommunications networks, consisting of security
37 passwords, security access codes and programs, access codes for secure

1 software applications, security and service recovery plans, security
2 risk assessments, and security test results to the extent that they
3 identify specific system vulnerabilities.

4 (eee) Information obtained and exempted or withheld from public
5 inspection by the health care authority under RCW 41.05.026, whether
6 retained by the authority, transferred to another state purchased
7 health care program by the authority, or transferred by the authority
8 to a technical review committee created to facilitate the development,
9 acquisition, or implementation of state purchased health care under
10 chapter 41.05 RCW.

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

18 (ggg) The personally identifying information of persons who acquire
19 and use transponders or other technology to facilitate payment of
20 tolls. This information may be disclosed in aggregate form as long as
21 the data does not contain any personally identifying information. For
22 these purposes aggregate data may include the census tract of the
23 account holder as long as any individual personally identifying
24 information is not released. Personally identifying information may be
25 released to law enforcement agencies only for toll enforcement
26 purposes. Personally identifying information may be released to law
27 enforcement agencies for other purposes only if the request is
28 accompanied by a court order.

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

35 (iii) Records of mediation communications that are privileged under
36 chapter 7.07 RCW.

37 (jjj) Financial or proprietary information supplied to the liquor
38 control board including the amount of beer or wine sold by a domestic

1 winery, brewery, microbrewery, or certificate of approval holder under
2 RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or
3 wine purchased by a retail licensee in connection with a retail
4 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of
5 shipments of beer or wine.

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

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

20 (4) Agency responses refusing, in whole or in part, inspection of
21 any public record shall include a statement of the specific exemption
22 authorizing the withholding of the record (or part) and a brief
23 explanation of how the exemption applies to the record withheld.

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

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

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

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

1 (3) Financial and commercial information and records supplied by
2 private persons pertaining to export services provided under chapters
3 43.163 and 53.31 RCW, and by persons pertaining to export projects
4 under RCW 43.23.035;

5 (4) Financial and commercial information and records supplied by
6 businesses or individuals during application for loans or program
7 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
8 or during application for economic development loans or program
9 services provided by any local agency;

10 (5) Financial information, business plans, examination reports, and
11 any information produced or obtained in evaluating or examining a
12 business and industrial development corporation organized or seeking
13 certification under chapter 31.24 RCW;

14 (6) Financial and commercial information supplied to the state
15 investment board by any person when the information relates to the
16 investment of public trust or retirement funds and when disclosure
17 would result in loss to such funds or in private loss to the providers
18 of this information;

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

20 (8) Financial, commercial, operations, and technical and research
21 information and data submitted to or obtained by the clean Washington
22 center in applications for, or delivery of, program services under
23 chapter 70.95H RCW;

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

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

32 (b) Financial or proprietary information supplied to the liquor
33 control board including the amount of beer or wine sold by a domestic
34 winery, brewery, microbrewery, or certificate of approval holder under
35 RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or
36 wine purchased by a retail licensee in connection with a retail
37 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of
38 shipments of beer or wine.

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

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

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

13 (ii) Financial or proprietary information collected from any person
14 and provided to the department of community, trade, and economic
15 development or the office of the governor in connection with the
16 siting, recruitment, expansion, retention, or relocation of that
17 person's business and until a siting decision is made, identifying
18 information of any person supplying information under this subsection
19 and the locations being considered for siting, relocation, or expansion
20 of a business;

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

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

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

31 NEW SECTION. **Sec. 13.** The liquor control board shall convene a
32 task force to conduct a comprehensive review of the current regulatory
33 system controlling the sale and distribution of beer and wine in
34 Washington state. The board shall include stakeholders representing
35 the producers, distributors, consumers, retailers, carriers, and
36 legislators in conducting its review. The task force shall review the
37 genesis of the current regulatory system and whether the system in its

1 current configuration should continue. It shall identify key issues,
2 concerns, and desired changes by stakeholders about the current system
3 and shall identify alternatives or modifications to the current system.
4 The task force shall also research and analyze the impacts and
5 implications of this act, and other suggested modifications to the
6 system on distributors, producers, retailers, and consumers. The task
7 force shall make recommendations about any proposed changes to the
8 system by December 15, 2006.

9 NEW SECTION. **Sec. 14.** Except for sections 9 and 11 of this act
10 which expire July 1, 2006, this act expires June 30, 2008.

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

13 NEW SECTION. **Sec. 16.** Except for sections 10 and 12 of this act,
14 this act is necessary for the immediate preservation of the public
15 peace, health, or safety, or support of the state government and its
16 existing public institutions, and takes effect April 14, 2006.

Passed by the Senate February 9, 2006.

Passed by the House March 2, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.