

SSB 5639 - H COMM AMD
By Committee on Commerce & Labor

ADOPTED 03/30/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 66.24.244 and 2006 c 302 s 3 and 2006 c 44 s 2 are
4 each reenacted and amended to read as follows:

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

8 (2) Any microbrewery (~~(license)~~) licensed under this section may
9 also act as a distributor and/or retailer for beer and strong beer of
10 its own production. Any microbrewery licensed under this section may
11 act as a distributor for beer of its own production. Strong beer may
12 not be sold at a farmers market or under any endorsement which may
13 authorize microbreweries to sell beer at farmers markets. Any
14 microbrewery operating as a distributor and/or retailer under this
15 subsection shall comply with the applicable laws and rules relating to
16 distributors and/or retailers. A microbrewery holding a spirits, beer,
17 and wine restaurant license may sell beer of its own production for
18 off-premises consumption from its restaurant premises in kegs or in a
19 sanitary container brought to the premises by the purchaser or
20 furnished by the licensee and filled at the tap by the licensee at the
21 time of sale.

22 (3) The board may issue a license allowing a microbrewery to
23 operate a spirits, beer, and wine restaurant under RCW 66.24.420.

24 (4) The board may issue (~~(an endorsement to this)~~) a license to a
25 microbrewery allowing for on-premises consumption of beer, including
26 strong beer, wine, or both of other manufacture if purchased from a
27 Washington state-licensed distributor. (~~(Each endorsement shall cost~~
28 ~~two hundred dollars per year, or four hundred dollars per year allowing~~
29 ~~the sale and service of both beer and wine.~~

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

7 (5) A microbrewery that holds a spirits, beer, and wine restaurant
8 license or a beer and/or wine restaurant license shall hold the same
9 privileges and endorsements as permitted under RCW 66.24.320 and
10 66.24.420.

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

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

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

23 (d) Each approved location in a qualifying farmers market is deemed
24 to be part of the microbrewery license for the purpose of this title.
25 The approved locations under an endorsement granted under this
26 subsection (~~(+5)~~) (6) do not constitute the tasting or sampling
27 privilege of a microbrewery. The microbrewery may not store beer at a
28 farmers market beyond the hours that the microbrewery offers bottled
29 beer for sale. The microbrewery may not act as a distributor from a
30 farmers market location.

31 (e) Before a microbrewery may sell bottled beer at a qualifying
32 farmers market, the farmers market must apply to the board for
33 authorization for any microbrewery with an endorsement approved under
34 this subsection (~~(+5)~~) (6) to sell bottled beer at retail at the
35 farmers market. This application shall include, at a minimum: (i) A
36 map of the farmers market showing all booths, stalls, or other
37 designated locations at which an approved microbrewery may sell bottled
38 beer; and (ii) the name and contact information for the on-site market

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

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

12 (g) For the purposes of this subsection (~~((5))~~) (6):

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

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

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

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

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

28 (E) No vendor is a franchisee.

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

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

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

1 **Sec. 2.** RCW 66.24.244 and 2006 c 44 s 2 are each amended to read
2 as follows:

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

6 (2) Any microbrewery (~~(license)~~) licensed under this section may
7 also act as a distributor and/or retailer for beer and strong beer of
8 its own production. Strong beer may not be sold at a farmers market or
9 under any endorsement which may authorize microbreweries to sell beer
10 at farmers markets. Any microbrewery operating as a distributor and/or
11 retailer under this subsection shall comply with the applicable laws
12 and rules relating to distributors and/or retailers. A microbrewery
13 holding a spirits, beer, and wine restaurant license may sell beer of
14 its own production for off-premises consumption from its restaurant
15 premises in kegs or in a sanitary container brought to the premises by
16 the purchaser or furnished by the licensee and filled at the tap by the
17 licensee at the time of sale.

18 (3) The board may issue a license allowing a microbrewery to
19 operate a spirits, beer, and wine restaurant under RCW 66.24.420.

20 (4) The board may issue (~~(an endorsement to this)~~) a license to a
21 microbrewery allowing for on-premises consumption of beer, including
22 strong beer, wine, or both of other manufacture if purchased from a
23 Washington state-licensed distributor. (~~(Each endorsement shall cost~~
24 ~~two hundred dollars per year, or four hundred dollars per year allowing~~
25 ~~the sale and service of both beer and wine.~~

26 (4)) The microbrewer (~~(obtaining such endorsement)~~) must
27 determine, at the time the (~~(endorsement)~~) license is issued, whether
28 the licensed premises will be operated (~~(either)~~) as a tavern with
29 persons under twenty-one years of age not allowed as provided for in
30 RCW 66.24.330, or as a beer and/or wine restaurant as described in RCW
31 66.24.320.

32 (5) A microbrewery that holds a spirits, beer, and wine restaurant
33 license or a beer and/or wine restaurant license shall hold the same
34 privileges and endorsements as permitted under RCW 66.24.320 and
35 66.24.420.

36 (6)(a) A microbrewery licensed under this section may apply to the
37 board for an endorsement to sell bottled beer of its own production at

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

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

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

11 (d) Each approved location in a qualifying farmers market is deemed
12 to be part of the microbrewery license for the purpose of this title.
13 The approved locations under an endorsement granted under this
14 subsection (~~((+5+))~~) (6) do not constitute the tasting or sampling
15 privilege of a microbrewery. The microbrewery may not store beer at a
16 farmers market beyond the hours that the microbrewery offers bottled
17 beer for sale. The microbrewery may not act as a distributor from a
18 farmers market location.

19 (e) Before a microbrewery may sell bottled beer at a qualifying
20 farmers market, the farmers market must apply to the board for
21 authorization for any microbrewery with an endorsement approved under
22 this subsection (~~((+5+))~~) (6) to sell bottled beer at retail at the
23 farmers market. This application shall include, at a minimum: (i) A
24 map of the farmers market showing all booths, stalls, or other
25 designated locations at which an approved microbrewery may sell bottled
26 beer; and (ii) the name and contact information for the on-site market
27 managers who may be contacted by the board or its designee to verify
28 the locations at which bottled beer may be sold. Before authorizing a
29 qualifying farmers market to allow an approved microbrewery to sell
30 bottled beer at retail at its farmers market location, the board shall
31 notify the persons or entities of the application for authorization
32 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under
33 this subsection (~~((+5+))~~) (6)(e) may be withdrawn by the board for any
34 violation of this title or any rules adopted under this title.

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

38 (g) For the purposes of this subsection (~~((+5+))~~)(6):

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

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

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

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

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

16 (E) No vendor is a franchisee.

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

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

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

27 **Sec. 3.** RCW 66.28.010 and 2006 c 330 s 28, 2006 c 92 s 1, and 2006
28 c 43 s 1 are each reenacted and amended to read as follows:

29 (1)(a) No manufacturer, importer, distributor, or authorized
30 representative, or person financially interested, directly or
31 indirectly, in such business; whether resident or nonresident, shall
32 have any financial interest, direct or indirect, in any licensed retail
33 business, unless the retail business is owned by a corporation in which
34 a manufacturer or importer has no direct stock ownership and there are
35 no interlocking officers and directors, the retail license is held by
36 a corporation that is not owned directly or indirectly by a
37 manufacturer or importer, the sales of liquor are incidental to the

1 primary activity of operating the property as a hotel, alcoholic
2 beverages produced by the manufacturer or importer or their
3 subsidiaries are not sold at the licensed premises, and the board
4 reviews the ownership and proposed method of operation of all involved
5 entities and determines that there will not be an unacceptable level of
6 control or undue influence over the operation or the retail licensee;
7 nor shall any manufacturer, importer, distributor, or authorized
8 representative own any of the property upon which such licensed persons
9 conduct their business; nor shall any such licensed person, under any
10 arrangement whatsoever, conduct his or her business upon property in
11 which any manufacturer, importer, distributor, or authorized
12 representative has any interest unless title to that property is owned
13 by a corporation in which a manufacturer has no direct stock ownership
14 and there are no interlocking officers or directors, the retail license
15 is held by a corporation that is not owned directly or indirectly by
16 the manufacturer, the sales of liquor are incidental to the primary
17 activity of operating the property either as a hotel or as an
18 amphitheater offering live musical and similar live entertainment
19 activities to the public, alcoholic beverages produced by the
20 manufacturer or any of its subsidiaries are not sold at the licensed
21 premises, and the board reviews the ownership and proposed method of
22 operation of all involved entities and determines that there will not
23 be an unacceptable level of control or undue influence over the
24 operation of the retail licensee. Except as provided in subsection (3)
25 of this section, no manufacturer, importer, distributor, or authorized
26 representative shall advance moneys or moneys' worth to a licensed
27 person under an arrangement, nor shall such licensed person receive,
28 under an arrangement, an advance of moneys or moneys' worth. "Person"
29 as used in this section only shall not include those state or federally
30 chartered banks, state or federally chartered savings and loan
31 associations, state or federally chartered mutual savings banks, or
32 institutional investors which are not controlled directly or indirectly
33 by a manufacturer, importer, distributor, or authorized representative
34 as long as the bank, savings and loan association, or institutional
35 investor does not influence or attempt to influence the purchasing
36 practices of the retailer with respect to alcoholic beverages. Except
37 as otherwise provided in this section, no manufacturer, importer,
38 distributor, or authorized representative shall be eligible to receive

1 or hold a retail license under this title, nor shall such manufacturer,
2 importer, distributor, or authorized representative sell at retail any
3 liquor as herein defined. A corporation granted an exemption under
4 this subsection may use debt instruments issued in connection with
5 financing construction or operations of its facilities.

6 (b) Nothing in this section shall prohibit a licensed domestic
7 brewery or microbrewery from being licensed as a retailer pursuant to
8 chapter 66.24 RCW for the purpose of selling beer or wine at retail on
9 the brewery premises and nothing in this section shall prohibit a
10 domestic winery from being licensed as a retailer pursuant to chapter
11 66.24 RCW for the purpose of selling beer or wine at retail on the
12 winery premises. Such beer and wine so sold at retail shall be subject
13 to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting
14 and bonding requirements as prescribed by regulations adopted by the
15 board pursuant to chapter 34.05 RCW, and beer and wine that is not
16 produced by the brewery or winery shall be purchased from a licensed
17 beer or wine distributor. Nothing in this section shall prohibit a
18 microbrewery holding a beer and/or wine restaurant license under RCW
19 66.24.320 from holding the same privileges and endorsements attached to
20 the beer and/or wine restaurant license.

21 (c) Nothing in this section shall prohibit a licensed distiller,
22 domestic brewery, microbrewery, domestic winery, or a lessee of a
23 licensed domestic brewer, microbrewery, or domestic winery, from being
24 licensed as a spirits, beer, and wine restaurant pursuant to chapter
25 66.24 RCW for the purpose of selling liquor at a spirits, beer, and
26 wine restaurant premises on the property on which the primary
27 manufacturing facility of the licensed distiller, domestic brewer,
28 microbrewery, or domestic winery is located or on contiguous property
29 owned or leased by the licensed distiller, domestic brewer,
30 microbrewery, or domestic winery as prescribed by rules adopted by the
31 board pursuant to chapter 34.05 RCW. Nothing in this section shall
32 prohibit a microbrewery holding a spirits, beer, and wine restaurant
33 license under RCW 66.24.420 from holding the same privileges and
34 endorsements attached to the spirits, beer, and wine restaurant
35 license.

36 (d) Nothing in this section prohibits retail licensees with a
37 caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from
38 operating on a domestic winery premises.

1 (e) Nothing in this section prohibits an organization qualifying
2 under RCW 66.24.375 formed for the purpose of constructing and
3 operating a facility to promote Washington wines from holding retail
4 licenses on the facility property or leasing all or any portion of such
5 facility property to a retail licensee on the facility property if the
6 members of the board of directors or officers of the board for the
7 organization include officers, directors, owners, or employees of a
8 licensed domestic winery. Financing for the construction of the
9 facility must include both public and private money.

10 (f) Nothing in this section prohibits a bona fide charitable
11 nonprofit society or association registered as a 501(c)(3) under the
12 internal revenue code and having an officer, director, owner, or
13 employee of a licensed domestic winery or a wine certificate of
14 approval holder on its board of directors from holding a special
15 occasion license under RCW 66.24.380.

16 (g) Nothing in this section prohibits domestic wineries and
17 retailers licensed under chapter 66.24 RCW from jointly producing
18 brochures and materials promoting tourism in Washington state which
19 contain information regarding retail licensees, domestic wineries, and
20 their products.

21 (h) Nothing in this section prohibits domestic wineries and retail
22 licensees from identifying the wineries on private labels authorized
23 under RCW 66.24.400, 66.24.425, and 66.24.450.

24 (i) Until July 1, 2007, nothing in this section prohibits a
25 nonprofit statewide organization of microbreweries formed for the
26 purpose of promoting Washington's craft beer industry as a trade
27 association registered as a 501(c) with the internal revenue service
28 from holding a special occasion license to conduct up to six beer
29 festivals.

30 (2) Financial interest, direct or indirect, as used in this
31 section, shall include any interest, whether by stock ownership,
32 mortgage, lien, or through interlocking directors, or otherwise.
33 Pursuant to rules promulgated by the board in accordance with chapter
34 34.05 RCW manufacturers, distributors, and importers may perform, and
35 retailers may accept the service of building, rotating and restocking
36 case displays and stock room inventories; rotating and rearranging can
37 and bottle displays of their own products; provide point of sale

1 material and brand signs; price case goods of their own brands; and
2 perform such similar normal business services as the board may by
3 regulation prescribe.

4 (3)(a) This section does not prohibit a manufacturer, importer, or
5 distributor from providing services to a special occasion licensee for:
6 (i) Installation of draft beer dispensing equipment or advertising,
7 (ii) advertising, pouring, or dispensing of beer or wine at a beer or
8 wine tasting exhibition or judging event, or (iii) a special occasion
9 licensee from receiving any such services as may be provided by a
10 manufacturer, importer, or distributor. Nothing in this section shall
11 prohibit a retail licensee, or any person financially interested,
12 directly or indirectly, in such a retail licensee from having a
13 financial interest, direct or indirect, in a business which provides,
14 for a compensation commensurate in value to the services provided,
15 bottling, canning or other services to a manufacturer, so long as the
16 retail licensee or person interested therein has no direct financial
17 interest in or control of said manufacturer.

18 (b) A person holding contractual rights to payment from selling a
19 liquor distributor's business and transferring the license shall not be
20 deemed to have a financial interest under this section if the person
21 (i) lacks any ownership in or control of the distributor, (ii) is not
22 employed by the distributor, and (iii) does not influence or attempt to
23 influence liquor purchases by retail liquor licensees from the
24 distributor.

25 (c) The board shall adopt such rules as are deemed necessary to
26 carry out the purposes and provisions of subsection (3)(a) of this
27 section in accordance with the administrative procedure act, chapter
28 34.05 RCW.

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

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

34 NEW SECTION. **Sec. 4.** Section 1 of this act expires June 30, 2008.

1 NEW SECTION. **Sec. 5.** Section 2 of this act takes effect June 30,
2 2008."

EFFECT: Authorizes microbreweries to have the same privileges and endorsements as restaurants rather than limited to catering. Narrows the tied-house exemption to apply only to microbreweries and clarifies language. Makes express that a microbrewery may hold a spirits, beer, and wine restaurant license. Conforms statute to practice that the microbrewery's authority to operate a beer and/or wine restaurant or tavern is by a license rather than an endorsement. Deletes unnecessary language.

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