
SUBSTITUTE SENATE BILL 5639

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Labor, Commerce, Research & Development
(originally sponsored by Senators Spanel, Clements, Pflug, Kohl-
Welles, Jacobsen, Rasmussen, Poulsen, Regala and Kline)

READ FIRST TIME 02/15/07.

1 AN ACT Relating to a caterer's endorsement for licensed
2 microbreweries; amending RCW 66.24.244; reenacting and amending RCW
3 66.24.244 and 66.28.010; providing an effective date; and providing an
4 expiration date.

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

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

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

11 (2) Any microbrewery license under this section may also act as a
12 distributor and/or retailer for beer and strong beer of its own
13 production. Any microbrewery licensed under this section may act as a
14 distributor for beer of its own production. Strong beer may not be
15 sold at a farmers market or under any endorsement which may authorize
16 microbreweries to sell beer at farmers markets. Any microbrewery
17 operating as a distributor and/or retailer under this subsection shall
18 comply with the applicable laws and rules relating to distributors
19 and/or retailers. A microbrewery holding a spirits, beer, and wine

1 restaurant license may sell beer of its own production for off-premises
2 consumption from its restaurant premises in kegs or in a sanitary
3 container brought to the premises by the purchaser or furnished by the
4 licensee and filled at the tap by the licensee at the time of sale.

5 (3) Any microbrewery licensed under this section that also holds
6 either a spirits, beer, and wine restaurant license or a beer and/or
7 wine restaurant license may also receive a caterer's endorsement to
8 either of those licenses as permitted under RCW 66.24.320 and
9 66.24.420.

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

16 ((+4)) (5) The microbrewer obtaining such endorsement must
17 determine, at the time the endorsement is issued, whether the licensed
18 premises will be operated either as a tavern with persons under twenty-
19 one years of age not allowed as provided for in RCW 66.24.330, or as a
20 beer and/or wine restaurant as described in RCW 66.24.320.

21 ((+5)) (6)(a) A microbrewery licensed under this section may apply
22 to the board for an endorsement to sell bottled beer of its own
23 production at retail for off-premises consumption at a qualifying
24 farmers market. The annual fee for this endorsement is seventy-five
25 dollars.

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

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

34 (d) Each approved location in a qualifying farmers market is deemed
35 to be part of the microbrewery license for the purpose of this title.
36 The approved locations under an endorsement granted under this
37 subsection ((+5)) (6) do not constitute the tasting or sampling
38 privilege of a microbrewery. The microbrewery may not store beer at a

1 farmers market beyond the hours that the microbrewery offers bottled
2 beer for sale. The microbrewery may not act as a distributor from a
3 farmers market location.

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

20 (f) The board may adopt rules establishing the application and
21 approval process under this section and any additional rules necessary
22 to implement this section.

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

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

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

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

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

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

1 (E) No vendor is a franchisee.

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

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

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

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

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

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

29 (3) Any microbrewery licensed under this section that also holds
30 either a spirits, beer, and wine restaurant license or a beer and/or
31 wine restaurant license may also receive a caterer's endorsement to
32 either of those licenses as permitted under RCW 66.24.320 and
33 66.24.420.

34 (4) The board may issue an endorsement to this license allowing for
35 on-premises consumption of beer, including strong beer, wine, or both
36 of other manufacture if purchased from a Washington state-licensed

1 distributor. Each endorsement shall cost two hundred dollars per year,
2 or four hundred dollars per year allowing the sale and service of both
3 beer and wine.

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

9 ~~((5))~~ (6)(a) A microbrewery licensed under this section may apply
10 to the board for an endorsement to sell bottled beer of its own
11 production at retail for off-premises consumption at a qualifying
12 farmers market. The annual fee for this endorsement is seventy-five
13 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))~~ (6) do not constitute the tasting or sampling
26 privilege of a microbrewery. The microbrewery may not store beer at a
27 farmers market beyond the hours that the microbrewery offers bottled
28 beer for sale. The microbrewery may not act as a distributor from a
29 farmers 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))~~ (6) to sell bottled beer at retail at the
34 farmers market. This application shall include, at a minimum: (i) A
35 map of the farmers market showing all booths, stalls, or other
36 designated locations at which an approved microbrewery may sell bottled
37 beer; and (ii) the name and contact information for the on-site market
38 managers who may be contacted by the board or its designee to verify

1 the 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+))~~) (6)(e) may be withdrawn by the board for any
7 violation 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+))~~)(6):

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

3 (1)(a) No manufacturer, importer, distributor, or authorized
4 representative, or person financially interested, directly or
5 indirectly, in such business; whether resident or nonresident, shall
6 have any financial interest, direct or indirect, in any licensed retail
7 business, unless the retail business is owned by a corporation in which
8 a manufacturer or importer has no direct stock ownership and there are
9 no interlocking officers and directors, the retail license is held by
10 a corporation that is not owned directly or indirectly by a
11 manufacturer or importer, the sales of liquor are incidental to the
12 primary activity of operating the property as a hotel, alcoholic
13 beverages produced by the manufacturer or importer or their
14 subsidiaries are not sold at the licensed premises, and the board
15 reviews the ownership and proposed method of operation of all involved
16 entities and determines that there will not be an unacceptable level of
17 control or undue influence over the operation or the retail licensee;
18 nor shall any manufacturer, importer, distributor, or authorized
19 representative own any of the property upon which such licensed persons
20 conduct their business; nor shall any such licensed person, under any
21 arrangement whatsoever, conduct his or her business upon property in
22 which any manufacturer, importer, distributor, or authorized
23 representative has any interest unless title to that property is owned
24 by a corporation in which a manufacturer has no direct stock ownership
25 and there are no interlocking officers or directors, the retail license
26 is held by a corporation that is not owned directly or indirectly by
27 the manufacturer, the sales of liquor are incidental to the primary
28 activity of operating the property either as a hotel or as an
29 amphitheater offering live musical and similar live entertainment
30 activities to the public, alcoholic beverages produced by the
31 manufacturer or any of its subsidiaries are not sold at the licensed
32 premises, and the board reviews the ownership and proposed method of
33 operation of all involved entities and determines that there will not
34 be an unacceptable level of control or undue influence over the
35 operation of the retail licensee. Except as provided in subsection (3)
36 of this section, no manufacturer, importer, distributor, or authorized
37 representative shall advance moneys or moneys' worth to a licensed
38 person under an arrangement, nor shall such licensed person receive,

1 under an arrangement, an advance of moneys or moneys' worth. "Person"
2 as used in this section only shall not include those state or federally
3 chartered banks, state or federally chartered savings and loan
4 associations, state or federally chartered mutual savings banks, or
5 institutional investors which are not controlled directly or indirectly
6 by a manufacturer, importer, distributor, or authorized representative
7 as long as the bank, savings and loan association, or institutional
8 investor does not influence or attempt to influence the purchasing
9 practices of the retailer with respect to alcoholic beverages. Except
10 as otherwise provided in this section, no manufacturer, importer,
11 distributor, or authorized representative shall be eligible to receive
12 or hold a retail license under this title, nor shall such manufacturer,
13 importer, distributor, or authorized representative sell at retail any
14 liquor as herein defined. A corporation granted an exemption under
15 this subsection may use debt instruments issued in connection with
16 financing construction or operations of its facilities.

17 (b) Nothing in this section shall prohibit a licensed domestic
18 brewery or microbrewery from being licensed as a retailer pursuant to
19 chapter 66.24 RCW for the purpose of selling beer or wine at retail on
20 the brewery premises and nothing in this section shall prohibit a
21 domestic winery from being licensed as a retailer pursuant to chapter
22 66.24 RCW for the purpose of selling beer or wine at retail on the
23 winery premises. Such beer and wine so sold at retail shall be subject
24 to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting
25 and bonding requirements as prescribed by regulations adopted by the
26 board pursuant to chapter 34.05 RCW, and beer and wine that is not
27 produced by the brewery or winery shall be purchased from a licensed
28 beer or wine distributor. This section does not prohibit a domestic
29 brewery or microbrewery holding a beer and/or wine restaurant license
30 under RCW 66.24.320 from exercising the privileges attached to the
31 restaurant license.

32 (c) Nothing in this section shall prohibit a licensed distiller,
33 domestic brewery, microbrewery, domestic winery, or a lessee of a
34 licensed domestic brewer, microbrewery, or domestic winery, from being
35 licensed as a spirits, beer, and wine restaurant pursuant to chapter
36 66.24 RCW for the purpose of selling liquor at a spirits, beer, and
37 wine restaurant premises on the property on which the primary
38 manufacturing facility of the licensed distiller, domestic brewer,

1 microbrewery, or domestic winery is located or on contiguous property
2 owned or leased by the licensed distiller, domestic brewer,
3 microbrewery, or domestic winery as prescribed by rules adopted by the
4 board pursuant to chapter 34.05 RCW. This section does not prohibit a
5 domestic brewery or microbrewery holding a spirits, beer, and wine
6 restaurant license under RCW 66.24.420 from exercising the privileges
7 attached to the restaurant license.

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

11 (e) Nothing in this section prohibits an organization qualifying
12 under RCW 66.24.375 formed for the purpose of constructing and
13 operating a facility to promote Washington wines from holding retail
14 licenses on the facility property or leasing all or any portion of such
15 facility property to a retail licensee on the facility property if the
16 members of the board of directors or officers of the board for the
17 organization include officers, directors, owners, or employees of a
18 licensed domestic winery. Financing for the construction of the
19 facility must include both public and private money.

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

26 (g) Nothing in this section prohibits domestic wineries and
27 retailers licensed under chapter 66.24 RCW from jointly producing
28 brochures and materials promoting tourism in Washington state which
29 contain information regarding retail licensees, domestic wineries, and
30 their products.

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

34 (i) Until July 1, 2007, nothing in this section prohibits a
35 nonprofit statewide organization of microbreweries formed for the
36 purpose of promoting Washington's craft beer industry as a trade
37 association registered as a 501(c) with the internal revenue service

1 from holding a special occasion license to conduct up to six beer
2 festivals.

3 (2) Financial interest, direct or indirect, as used in this
4 section, shall include any interest, whether by stock ownership,
5 mortgage, lien, or through interlocking directors, or otherwise.
6 Pursuant to rules promulgated by the board in accordance with chapter
7 34.05 RCW manufacturers, distributors, and importers may perform, and
8 retailers may accept the service of building, rotating and restocking
9 case displays and stock room inventories; rotating and rearranging can
10 and bottle displays of their own products; provide point of sale
11 material and brand signs; price case goods of their own brands; and
12 perform such similar normal business services as the board may by
13 regulation prescribe.

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

28 (b) A person holding contractual rights to payment from selling a
29 liquor distributor's business and transferring the license shall not be
30 deemed to have a financial interest under this section if the person
31 (i) lacks any ownership in or control of the distributor, (ii) is not
32 employed by the distributor, and (iii) does not influence or attempt to
33 influence liquor purchases by retail liquor licensees from the
34 distributor.

35 (c) The board shall adopt such rules as are deemed necessary to
36 carry out the purposes and provisions of subsection (3)(a) of this
37 section in accordance with the administrative procedure act, chapter
38 34.05 RCW.

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

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

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

7 NEW SECTION. **Sec. 5.** Section 2 of this act takes effect June 30,
8 2008.

--- END ---