

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5639

60th Legislature
2007 Regular Session

Passed by the Senate April 16, 2007
YEAS 45 NAYS 0

President of the Senate

Passed by the House March 30, 2007
YEAS 94 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5639** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5639

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

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

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

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

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

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

20 (5) A microbrewery that holds a spirits, beer, and wine restaurant
21 license or a beer and/or wine restaurant license shall hold the same
22 privileges and endorsements as permitted under RCW 66.24.320 and
23 66.24.420.

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

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

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

36 (d) Each approved location in a qualifying farmers market is deemed
37 to be part of the microbrewery license for the purpose of this title.
38 The approved locations under an endorsement granted under this

1 subsection (~~(+5+)~~) (6) do not constitute the tasting or sampling
2 privilege of a microbrewery. The microbrewery may not store beer at a
3 farmers market beyond the hours that the microbrewery offers bottled
4 beer for sale. The microbrewery may not act as a distributor from a
5 farmers market location.

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

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

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

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

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

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

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

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

3 (E) No vendor is a franchisee.

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

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

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

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

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

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

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

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

1 ~~two hundred dollars per year, or four hundred dollars per year allowing~~
2 ~~the sale and service of both beer and wine.~~

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

9 (5) A microbrewery that holds a spirits, beer, and wine restaurant
10 license or a beer and/or wine restaurant license shall hold the same
11 privileges and endorsements as permitted under RCW 66.24.320 and
12 66.24.420.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (E) No vendor is a franchisee.

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

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

1 (iv) "Reseller" means a natural person who buys agricultural
2 products from a farmer and resells the products directly to the
3 consumer.

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

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

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

21 (b) Nothing in this section shall prohibit a licensed domestic
22 brewery or microbrewery from being licensed as a retailer pursuant to
23 chapter 66.24 RCW for the purpose of selling beer or wine at retail on
24 the brewery premises and nothing in this section shall prohibit a
25 domestic winery from being licensed as a retailer pursuant to chapter
26 66.24 RCW for the purpose of selling beer or wine at retail on the
27 winery premises. Such beer and wine so sold at retail shall be subject
28 to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting
29 and bonding requirements as prescribed by regulations adopted by the
30 board pursuant to chapter 34.05 RCW, and beer and wine that is not
31 produced by the brewery or winery shall be purchased from a licensed
32 beer or wine distributor. Nothing in this section shall prohibit a
33 microbrewery holding a beer and/or wine restaurant license under RCW
34 66.24.320 from holding the same privileges and endorsements attached to
35 the beer and/or wine restaurant license.

36 (c) Nothing in this section shall prohibit a licensed distiller,
37 domestic brewery, microbrewery, domestic winery, or a lessee of a
38 licensed domestic brewer, microbrewery, or domestic winery, from being

1 licensed as a spirits, beer, and wine restaurant pursuant to chapter
2 66.24 RCW for the purpose of selling liquor at a spirits, beer, and
3 wine restaurant premises on the property on which the primary
4 manufacturing facility of the licensed distiller, domestic brewer,
5 microbrewery, or domestic winery is located or on contiguous property
6 owned or leased by the licensed distiller, domestic brewer,
7 microbrewery, or domestic winery as prescribed by rules adopted by the
8 board pursuant to chapter 34.05 RCW. Nothing in this section shall
9 prohibit a microbrewery holding a spirits, beer, and wine restaurant
10 license under RCW 66.24.420 from holding the same privileges and
11 endorsements attached to the spirits, beer, and wine restaurant
12 license.

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

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

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

31 (g) Nothing in this section prohibits domestic wineries and
32 retailers licensed under chapter 66.24 RCW from jointly producing
33 brochures and materials promoting tourism in Washington state which
34 contain information regarding retail licensees, domestic wineries, and
35 their products.

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

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

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

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

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

1 (c) The board shall adopt such rules as are deemed necessary to
2 carry out the purposes and provisions of subsection (3)(a) of this
3 section in accordance with the administrative procedure act, chapter
4 34.05 RCW.

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

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

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

11 NEW SECTION. **Sec. 5.** Section 2 of this act takes effect June 30,
12 2008.

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