

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5898

60th Legislature
2007 Regular Session

Passed by the Senate March 10, 2007
YEAS 45 NAYS 1

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 5898** 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 5898

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 Kohl-Welles, Clements, Keiser,
Murray, McAuliffe and Honeyford)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to the use of a common carrier for the shipment of
2 wine; and amending RCW 66.24.206 and 66.24.170.

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

4 **Sec. 1.** RCW 66.24.206 and 2006 c 302 s 4 are each amended to read
5 as follows:

6 (1)(a) A United States winery located outside the state of
7 Washington must hold a certificate of approval to allow sales and
8 shipment of the certificate of approval holder's wine to licensed
9 Washington wine distributors, importers, or retailers. A certificate
10 of approval holder with a direct shipment endorsement may act as a
11 distributor of its own production. Notwithstanding any language in
12 this title to the contrary, a certificate of approval holder with a
13 direct shipment endorsement may use a common carrier to deliver up to
14 one hundred cases of its own production, in the aggregate, per month to
15 licensed Washington retailers. A certificate of approval holder may
16 not arrange for any such common carrier shipments to licensed retailers
17 of wine not of its own production.

18 (b) Authorized representatives must hold a certificate of approval

1 to allow sales and shipment of United States produced wine to licensed
2 Washington wine distributors or importers.

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

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

21 (3) The fee for the certificate of approval and related
22 endorsements, issued pursuant to the provisions of this title, shall be
23 from time to time established by the board at a level that is
24 sufficient to defray the costs of administering the certificate of
25 approval program. The fee shall be fixed by rule by the board in
26 accordance with the provisions of the administrative procedure act,
27 chapter 34.05 RCW.

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

31 **Sec. 2.** RCW 66.24.170 and 2006 c 302 s 1 are each amended to read
32 as follows:

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

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

3 (3) Any domestic winery licensed under this section may also act as
4 a retailer of wine of its own production. Any domestic winery licensed
5 under this section may act as a distributor of its own production.
6 Notwithstanding any language in this title to the contrary, a domestic
7 winery may use a common carrier to deliver up to one hundred cases of
8 its own production, in the aggregate, per month to licensed Washington
9 retailers. A domestic winery may not arrange for any such common
10 carrier shipments to licensed retailers of wine not of its own
11 production. Except as provided in this section, any winery operating
12 as a distributor and/or retailer under this subsection shall comply
13 with the applicable laws and rules relating to distributors and/or
14 retailers.

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

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

32 (b) For each month during which a domestic winery will sell wine at
33 a qualifying farmers market, the winery must provide the board or its
34 designee a list of the dates, times, and locations at which bottled
35 wine may be offered for sale. This list must be received by the board
36 before the winery may offer wine for sale at a qualifying farmers
37 market.

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

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

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

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

29 (g) For the purposes of this subsection:

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

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

37 (B) The total combined gross annual sales of vendors who are

1 farmers exceeds the total combined gross annual sales of vendors who
2 are processors or resellers;

3 (C) The total combined gross annual sales of vendors who are
4 farmers, processors, or resellers exceeds the total combined gross
5 annual sales of vendors who are not farmers, processors, or resellers;

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

8 (E) No vendor is a franchisee.

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

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

16 (iv) "Reseller" means a natural person who buys agricultural
17 products from a farmer and resells the products directly to the
18 consumer.

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

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