AN ACT Relating to alcohol content in food products and confections; amending RCW 66.24.360 and 69.04.240; and reenacting and amending RCW 66.04.010.

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

Sec. 1. RCW 66.04.010 and 2006 c 225 s 1 and 2006 c 101 s 1 are each reenacted and amended to read as follows:

In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Authorized representative" means a person who:

(a) Is required to have a federal basic permit issued pursuant to the federal alcohol administration act, 27 U.S.C. Sec. 204;
(b) Has its business located in the United States outside of the state of Washington;

(c) Acquires ownership of beer or wine for transportation into and resale in the state of Washington; and which beer or wine is produced anywhere outside Washington by a brewery or winery which does not hold a certificate of approval issued by the board; and

(d) Is appointed by the brewery or winery referenced in (c) of this subsection as its exclusive authorized representative for marketing and selling its products within the United States in accordance with a written agreement between the authorized representative and such brewery or winery pursuant to this title. The board may waive the requirement for the written agreement of exclusivity in situations consistent with the normal marketing practices of certain products, such as classified growths.

(3) "Beer" means any malt beverage, flavored malt beverage, or malt liquor as these terms are defined in this chapter.

(4) "Beer distributor" means a person who buys beer from a domestic brewery, microbrewery, beer certificate of approval holder, or beer importers, or who acquires foreign produced beer from a source outside of the United States, for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(5) "Beer importer" means a person or business within Washington who purchases beer from a beer certificate of approval holder or who acquires foreign produced beer from a source outside of the United States for the purpose of selling the same pursuant to this title.

(6) "Brewer" or "brewery" means any person engaged in the business of manufacturing beer and malt liquor. Brewer includes a brand owner of malt beverages who holds a brewer's notice with the federal bureau of alcohol, tobacco, and firearms at a location outside the state and whose malt beverage is contract-produced by a licensed in-state brewery, and who may exercise within the state, under a domestic brewery license, only the privileges of storing, selling to licensed beer distributors, and exporting beer from the state.

(7) "Board" means the liquor control board, constituted under this title.

(8) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic or social purposes, and not for pecuniary gain.
(9) "Confection" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, dairy products, or flavorings, in the form of bars, drops, or pieces.

(10) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(11) "Contract liquor store" means a business that sells liquor on behalf of the board through a contract with a contract liquor store manager.

(12) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.32 RCW.

(13) "Distiller" means a person engaged in the business of distilling spirits.

(14) "Domestic brewery" means a place where beer and malt liquor are manufactured or produced by a brewer within the state.

(15) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(16) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(17) "Drug store" means a place whose principal business is, the sale of drugs, medicines and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(18) "Employee" means any person employed by the board.

(19) "Flavored malt beverage" means:

(a) A malt beverage containing six percent or less alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than forty-nine percent of the beverage's overall alcohol content; or

(b) A malt beverage containing more than six percent alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than one and one-half percent of the beverage's overall alcohol content.

(20) "Fund" means 'liquor revolving fund.'
"Hotel" means every building or other structure kept, used, maintained, advertised or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests and having one or more dining rooms where meals are served to such transient guests, such sleeping accommodations and dining rooms being conducted in the same building and buildings, in connection therewith, and such structure or structures being provided, in the judgment of the board, with adequate and sanitary kitchen and dining room equipment and capacity, for preparing, cooking and serving suitable food for its guests: PROVIDED FURTHER, That in cities and towns of less than five thousand population, the board shall have authority to waive the provisions requiring twenty or more rooms.

"Importer" means a person who buys distilled spirits from a distillery outside the state of Washington and imports such spirituous liquor into the state for sale to the board or for export.

"Imprisonment" means confinement in the county jail.

"Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

"Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

"Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by

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volume. For the purposes of this title, any such beverage containing
more than eight percent of alcohol by weight shall be referred to as
"strong beer."

((26)) (27) "Package" means any container or receptacle used for
holding liquor.

((27)) (28) "Passenger vessel" means any boat, ship, vessel,
barge, or other floating craft of any kind carrying passengers for
compensation.

((28)) (29) "Permit" means a permit for the purchase of liquor
under this title.

((29)) (30) "Person" means an individual, copartnership,
association, or corporation.

((30)) (31) "Physician" means a medical practitioner duly and
regularly licensed and engaged in the practice of his profession within
the state pursuant to chapter 18.71 RCW.

((31)) (32) "Prescription" means a memorandum signed by a
physician and given by him to a patient for the obtaining of liquor
pursuant to this title for medicinal purposes.

((32)) (33) "Public place" includes streets and alleys of
incorporated cities and towns; state or county or township highways or
roads; buildings and grounds used for school purposes; public dance
halls and grounds adjacent thereto; those parts of establishments where
beer may be sold under this title, soft drink establishments, public
buildings, public meeting halls, lobbies, halls and dining rooms of
hotels, restaurants, theatres, stores, garages and filling stations
which are open to and are generally used by the public and to which the
public is permitted to have unrestricted access; railroad trains,
stages, and other public conveyances of all kinds and character, and
the depots and waiting rooms used in conjunction therewith which are
open to unrestricted use and access by the public; publicly owned
bathing beaches, parks, and/or playgrounds; and all other places of
like or similar nature to which the general public has unrestricted
right of access, and which are generally used by the public.

((33)) (34) "Regulations" means regulations made by the board
under the powers conferred by this title.

((34)) (35) "Restaurant" means any establishment provided with
special space and accommodations where, in consideration of payment,
food, without lodgings, is habitually furnished to the public, not
including drug stores and soda fountains.

"Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include a raffle authorized under RCW 9.46.0315: PROVIDED, That the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

"Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

"Spirits" means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.

"Store" means a state liquor store established under this title.

"Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

"Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

(a) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage
containing alcohol in an amount more than fourteen percent by volume
when bottled or packaged by the manufacturer shall be referred to as
"fortified wine." However, "fortified wine" shall not include: (i) 
Wines that are both sealed or capped by cork closure and aged two years
or more; and (ii) wines that contain more than fourteen percent alcohol
by volume solely as a result of the natural fermentation process and
that have not been produced with the addition of wine spirits, brandy,
or alcohol.

(b) This subsection shall not be interpreted to require that any
wine be labeled with the designation "table wine" or "fortified wine."

"Wine distributor" means a person who buys wine from
a domestic winery, wine certificate of approval holder, or wine
importer, or who acquires foreign produced wine from a source outside
of the United States, for the purpose of selling the same not in
violation of this title, or who represents such vintner or winery as
agent.

"Wine importer" means a person or business within
Washington who purchases wine from a wine certificate of approval
holder or who acquires foreign produced wine from a source outside of
the United States for the purpose of selling the same pursuant to this
title.

Sec. 2. RCW 66.24.360 and 2003 c 167 s 8 are each amended to read
as follows:

There shall be a beer and/or wine retailer's license to be
designated as a grocery store license to sell beer, strong beer, and/or
wine at retail in bottles, cans, and original containers, not to be
consumed upon the premises where sold, at any store other than the
state liquor stores.

(1) Licensees obtaining a written endorsement from the board may
also sell malt liquor in kegs or other containers capable of holding
less than five and one-half gallons of liquid.

(2) The annual fee for the grocery store license is one hundred
fifty dollars for each store.

(3) The board shall issue a restricted grocery store license
authorizing the licensee to sell beer and only table wine, if the board
finds upon issuance or renewal of the license that the sale of strong
beer or fortified wine would be against the public interest. In
determining the public interest, the board shall consider at least the
following factors:

(a) The likelihood that the applicant will sell strong beer or
fortified wine to persons who are intoxicated;
(b) Law enforcement problems in the vicinity of the applicant's
establishment that may arise from persons purchasing strong beer or
fortified wine at the establishment; and
(c) Whether the sale of strong beer or fortified wine would be
detrimental to or inconsistent with a government-operated or funded
alcohol treatment or detoxification program in the area.
If the board receives no evidence or objection that the sale of
strong beer or fortified wine would be against the public interest, it
shall issue or renew the license without restriction, as applicable.
The burden of establishing that the sale of strong beer or fortified
wine by the licensee would be against the public interest is on those
persons objecting.

(4) Licensees holding a grocery store license must maintain a
minimum three thousand dollar inventory of food products for human
consumption, not including pop, beer, strong beer, or wine.

(5) Upon approval by the board, the grocery store licensee may also
receive an endorsement to permit the international export of beer,
strong beer, and wine.
(a) Any beer, strong beer, or wine sold under this endorsement must
have been purchased from a licensed beer or wine distributor licensed
to do business within the state of Washington.
(b) Any beer, strong beer, and wine sold under this endorsement
must be intended for consumption outside the state of Washington and
the United States and appropriate records must be maintained by the
licensee.
(c) A holder of this special endorsement to the grocery store
license shall be considered not in violation of RCW 66.28.010.
(d) Any beer, strong beer, or wine sold under this license must be
sold at a price no less than the acquisition price paid by the holder
of the license.
(e) The annual cost of this endorsement is five hundred dollars and
is in addition to the license fees paid by the licensee for a grocery
store license.
(6) A grocery store licensee holding a snack bar license under RCW 66.24.350 may receive an endorsement to allow the sale of confections containing more than one percent but not more than ten percent alcohol by weight to persons twenty-one years of age or older.

Sec. 3. RCW 69.04.240 and 1984 c 78 s 2 are each amended to read as follows:

A food shall be deemed to be adulterated if it is confectionery and it bears or contains any alcohol from natural or artificial alcohol flavoring in excess of one percent of the weight of the confection or any nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one percent, natural gum, and pectin((: PROVIDED, That)). This section shall not apply to any chewing gum by reason of its containing harmless nonnutritive masticatory substances, or to any confection permitted to be sold by an endorsement from the liquor control board under RCW 66.24.360.

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