

HB 2642 - S COMM AMD

By Committee on Labor, Commerce & Consumer Protection

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

3 "NEW SECTION. **Sec. 1.** (1) The liquor control board shall
4 establish a pilot project as provided in this section to allow wine or
5 beer tasting at farmers markets.

6 (2) The pilot project shall consist of ten farmers markets with at
7 least six days of tastings to be conducted by one or two wineries or
8 microbreweries at each farmers market between July 1, 2010, and
9 September 30, 2011. The pilot project farmers markets shall be
10 selected by the liquor control board in consultation with statewide
11 organizations of farmers markets. The board shall make an effort to
12 select farmers markets throughout the entire state.

13 (3) Farmers markets chosen to participate in the pilot project must
14 be authorized on May 1, 2010, to allow wineries or microbreweries to
15 sell bottled wine or beer at retail under RCW 66.24.170. A winery or
16 microbrewery offering samples under this section must have an
17 endorsement on January 1, 2010, from the liquor control board to sell
18 wine or beer of its own production at a farmers market under RCW
19 66.24.170.

20 (4) Samples may be offered only under the following conditions:

21 (a) Each sample must be two ounces or less, up to a total of four
22 ounces per customer per day. A winery or microbrewery may provide only
23 one sample of any single brand and type of wine or beer to a customer
24 per day. If two wineries or microbreweries offer samples at a farmers
25 market on a tasting day, a winery or microbrewery may provide only a
26 total of two ounces of wine or beer per customer per day.

27 (b) A winery or microbrewery may advertise that it offers samples
28 only at the winery's or microbrewery's booth, stall, or other
29 designated location at the farmers market.

1 (c) Customers must remain at the winery's or microbrewery's booth,
2 stall, or other designated location while sampling wine or beer.

3 (d) Winery or microbrewery licensees and employees who are involved
4 in sampling activities under this section must hold a class 12 or class
5 13 alcohol server permit.

6 (5) The liquor control board may establish additional requirements
7 by rule to ensure that persons under twenty-one years of age and
8 apparently intoxicated persons cannot possess or consume alcohol under
9 the authority granted in this section.

10 (6) The liquor control board may prohibit sampling at a farmers
11 market that is within the boundaries of an alcohol impact area
12 recognized by resolution of the board if the board finds that the
13 sampling activities at the farmers market are having an adverse effect
14 on the reduction of chronic public inebriation in the area.

15 (7) The liquor control board shall report on the pilot project to
16 the appropriate committees of the legislature by December 1, 2011.

17 **Sec. 2.** RCW 66.24.170 and 2009 c 373 s 4 are each amended to read
18 as follows:

19 (1) There shall be a license for domestic wineries or
20 microbreweries; fee to be computed only on the liters manufactured:
21 Less than two hundred fifty thousand liters per year, one hundred
22 dollars per year; and two hundred fifty thousand liters or more per
23 year, four hundred dollars per year.

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

26 (3) Any domestic winery or microbrewery licensed under this section
27 may also act as a retailer of wine or beer of its own production. Any
28 domestic winery or microbrewery licensed under this section may act as
29 a distributor of its own production. Notwithstanding any language in
30 this title to the contrary, a domestic winery or microbrewery may use
31 a common carrier to deliver up to one hundred cases of its own
32 production, in the aggregate, per month to licensed Washington
33 retailers. A domestic winery or microbrewery may not arrange for any
34 such common carrier shipments to licensed retailers of wine or beer not
35 of its own production. Except as provided in this section, any winery
36 or microbrewery operating as a distributor and/or retailer under this
37 subsection shall comply with the applicable laws and rules relating to

1 distributors and/or retailers, except that a winery or microbrewery
2 operating as a distributor may maintain a warehouse off the premises of
3 the winery or microbrewery for the distribution of wine or beer of its
4 own production provided that: (a) The warehouse has been approved by
5 the board under RCW 66.24.010; and (b) the number of warehouses off the
6 premises of the winery or microbrewery does not exceed one.

7 (4) A domestic winery or microbrewery licensed under this section,
8 at locations separate from any of its production or manufacturing
9 sites, may serve samples of its own products, with or without charge,
10 and sell wine or beer of its own production at retail, provided that:
11 (a) Each additional location has been approved by the board under RCW
12 66.24.010; (b) the total number of additional locations does not exceed
13 two; (c) a winery or microbrewery may not act as a distributor at any
14 such additional location; and (d) any person selling or serving wine or
15 beer at an additional location for on-premise consumption must obtain
16 a class 12 or class 13 alcohol server permit. Each additional location
17 is deemed to be part of the winery or microbrewery license for the
18 purpose of this title. At additional locations operated by multiple
19 wineries or microbreweries under this section, if the board cannot
20 connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee,
21 the board may hold all licensees operating the additional location
22 jointly liable. Nothing in this subsection shall be construed to
23 prevent a domestic winery or microbrewery from holding multiple
24 domestic winery or microbrewery licenses.

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

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

1 (c) The wine or beer sold at qualifying farmers markets must be
2 made entirely from grapes grown in a recognized Washington appellation
3 or 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 or microbrewery license for the purpose of
6 this title. Except as provided in section 1 of this act, the approved
7 locations under an endorsement granted under this subsection do not
8 include the tasting or sampling privilege of a winery or microbrewery.
9 The winery may not store wine or beer at a farmers market beyond the
10 hours that the winery or microbrewery offers bottled wine for sale.
11 The winery or microbrewery may not act as a distributor from a farmers
12 market location.

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

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

33 (g) For the purposes of this subsection:

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

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

3 (B) The total combined gross annual sales of vendors who are
4 farmers exceeds the total combined gross annual sales of vendors who
5 are processors or resellers;

6 (C) The total combined gross annual sales of vendors who are
7 farmers, processors, or resellers exceeds the total combined gross
8 annual sales of vendors who are not farmers, processors, or resellers;

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

11 (E) No vendor is a franchisee.

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

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

19 (iv) "Reseller" means a natural person who buys agricultural
20 products from a farmer and resells the products directly to the
21 consumer.

22 (6) Wine or beer produced in Washington state by a domestic winery
23 or microbrewery licensee may be shipped out-of-state for the purpose of
24 making it into sparkling wine or beer and then returned to such
25 licensee for resale. Such wine or beer shall be deemed wine or beer
26 manufactured in the state of Washington for the purposes of RCW
27 66.24.206, and shall not require a special license.

28 **Sec. 3.** RCW 66.28.040 and 2009 c 373 s 8 are each amended to read
29 as follows:

30 Except as permitted by the board under RCW 66.20.010, no domestic
31 brewery, microbrewery, distributor, distiller, domestic winery,
32 importer, rectifier, certificate of approval holder, or other
33 manufacturer of liquor shall, within the state of Washington, give to
34 any person any liquor; but nothing in this section nor in RCW 66.28.010
35 shall prevent a domestic brewery, microbrewery, distributor, domestic
36 winery, distiller, certificate of approval holder, or importer from
37 furnishing samples of beer, wine, or spirituous liquor to authorized

1 licensees for the purpose of negotiating a sale, in accordance with
2 regulations adopted by the liquor control board, provided that the
3 samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210,
4 and in the case of spirituous liquor, any product used for samples must
5 be purchased at retail from the board; nothing in this section shall
6 prevent the furnishing of samples of liquor to the board for the
7 purpose of negotiating the sale of liquor to the state liquor control
8 board; nothing in this section shall prevent a domestic brewery,
9 microbrewery, domestic winery, distillery, certificate of approval
10 holder, or distributor from furnishing beer, wine, or spirituous liquor
11 for instructional purposes under RCW 66.28.150; nothing in this section
12 shall prevent a domestic winery, certificate of approval holder, or
13 distributor from furnishing wine without charge, subject to the taxes
14 imposed by RCW 66.24.210, to a not-for-profit group organized and
15 operated solely for the purpose of enology or the study of viticulture
16 which has been in existence for at least six months and that uses wine
17 so furnished solely for such educational purposes or a domestic winery,
18 or an out-of-state certificate of approval holder, from furnishing wine
19 without charge or a domestic brewery, or an out-of-state certificate of
20 approval holder, from furnishing beer without charge, subject to the
21 taxes imposed by RCW 66.24.210 or 66.24.290, or a domestic distiller
22 licensed under RCW 66.24.140 or an accredited representative of a
23 distiller, manufacturer, importer, or distributor of spirituous liquor
24 licensed under RCW 66.24.310, from furnishing spirits without charge,
25 to a nonprofit charitable corporation or association exempt from
26 taxation under section 501(c)(3) or (6) of the internal revenue code of
27 1986 (26 U.S.C. Sec. 501(c)(3) or (6)) for use consistent with the
28 purpose or purposes entitling it to such exemption; nothing in this
29 section shall prevent a domestic brewery or microbrewery from serving
30 beer without charge, on the brewery premises; nothing in this section
31 shall prevent donations of wine for the purposes of RCW 66.12.180;
32 nothing in this section shall prevent a domestic winery from serving
33 wine without charge, on the winery premises; ~~((and))~~ nothing in this
34 section shall prevent a craft distillery from serving spirits without
35 charge, on the distillery premises subject to RCW 66.24.145; and
36 nothing in this section shall prevent a winery or microbrewery from
37 serving samples at a farmers market under section 1 of this act.

1 NEW SECTION. **Sec. 4.** This act expires December 1, 2011."

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2 On page 1, line 1 of the title, after "markets;" strike the
3 remainder of the title and insert "amending RCW 66.24.170 and
4 66.28.040; creating a new section; and providing an expiration date."

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