

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5367

Chapter 271, Laws of 2009

61st Legislature
2009 Regular Session

SPIRIT, BEER, AND WINE NIGHTCLUB LICENSE

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 19, 2009
YEAS 34 NAYS 12

BRAD OWEN

President of the Senate

Passed by the House April 14, 2009
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 29, 2009, 10:21 a.m.

CHRISTINE GREGOIRE

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 5367** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 29, 2009

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5367

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senator Kohl-Welles; by request of Liquor Control Board)

READ FIRST TIME 02/17/09.

1 AN ACT Relating to a spirits, beer, and wine nightclub license;
2 amending RCW 66.04.010, 66.08.180, 66.08.220, 66.24.010, 66.24.440,
3 66.40.030, and 66.40.130; reenacting and amending RCW 66.20.310,
4 66.24.420, and 68.50.107; and adding a new section to chapter 66.24
5 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 66.24 RCW
8 to read as follows:

9 (1) There shall be a spirits, beer, and wine nightclub license to
10 sell spirituous liquor by the drink, beer, and wine at retail, for
11 consumption on the licensed premises.

12 (2) The license may be issued only to a person whose business
13 includes the sale and service of alcohol to the person's customers, has
14 food sales and service incidental to the sale and service of alcohol,
15 and has primary business hours between 9:00 p.m. and 2:00 a.m.

16 (3) Minors may be allowed on the licensed premises but only in
17 areas where alcohol is not served or consumed.

18 (4) The annual fee for this license is two thousand dollars. The
19 fee for the license shall be reviewed from time to time and set at such

1 a level sufficient to defray the cost of licensing and enforcing this
2 licensing program. The fee shall be fixed by rule adopted by the board
3 in accordance with the provisions of the administrative procedure act,
4 chapter 34.05 RCW.

5 (5) Local governments may petition the board to request that
6 further restrictions be imposed on a spirits, beer, and wine nightclub
7 license in the interest of public safety. Examples of further
8 restrictions a local government may request are: No minors allowed on
9 the entire premises, submitting a security plan, or signing a good
10 neighbor agreement with the local government.

11 (6) The total number of spirits, beer, and wine nightclub licenses
12 are subject to the requirements of RCW 66.24.420(4). However, the
13 board shall refuse a spirits, beer, and wine nightclub license to any
14 applicant if the board determines that the spirits, beer, and wine
15 nightclub licenses already granted for the particular locality are
16 adequate for the reasonable needs of the community.

17 (7) The board may adopt rules to implement this section.

18 **Sec. 2.** RCW 66.04.010 and 2008 c 94 s 4 are each amended to read
19 as follows:

20 In this title, unless the context otherwise requires:

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

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

31 (a) Is required to have a federal basic permit issued pursuant to
32 the federal alcohol administration act, 27 U.S.C. Sec. 204;

33 (b) Has its business located in the United States outside of the
34 state of Washington;

35 (c) Acquires ownership of beer or wine for transportation into and
36 resale in the state of Washington; and which beer or wine is produced

1 anywhere outside Washington by a brewery or winery which does not hold
2 a certificate of approval issued by the board; and

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

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

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

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

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

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

32 (8) "Club" means an organization of persons, incorporated or
33 unincorporated, operated solely for fraternal, benevolent, educational,
34 athletic or social purposes, and not for pecuniary gain.

35 (9) "Confection" means a preparation of sugar, honey, or other
36 natural or artificial sweeteners in combination with chocolate, fruits,
37 nuts, dairy products, or flavorings, in the form of bars, drops, or
38 pieces.

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

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

6 (12) "Craft distillery" means a distillery that pays the reduced
7 licensing fee under RCW 66.24.140.

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

11 (14) "Distiller" means a person engaged in the business of
12 distilling spirits.

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

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

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

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

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

26 (20) "Flavored malt beverage" means:

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

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

35 (21) "Fund" means 'liquor revolving fund.'

36 (22) "Hotel" means buildings, structures, and grounds, having
37 facilities for preparing, cooking, and serving food, that are kept,
38 used, maintained, advertised, or held out to the public to be a place

1 where food is served and sleeping accommodations are offered for pay to
2 transient guests, in which twenty or more rooms are used for the
3 sleeping accommodation of such transient guests. The buildings,
4 structures, and grounds must be located on adjacent property either
5 owned or leased by the same person or persons.

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

9 (24) "Imprisonment" means confinement in the county jail.

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

22 (26) "Manufacturer" means a person engaged in the preparation of
23 liquor for sale, in any form whatsoever.

24 (27) "Malt beverage" or "malt liquor" means any beverage such as
25 beer, ale, lager beer, stout, and porter obtained by the alcoholic
26 fermentation of an infusion or decoction of pure hops, or pure extract
27 of hops and pure barley malt or other wholesome grain or cereal in pure
28 water containing not more than eight percent of alcohol by weight, and
29 not less than one-half of one percent of alcohol by volume. For the
30 purposes of this title, any such beverage containing more than eight
31 percent of alcohol by weight shall be referred to as "strong beer."

32 (28) "Nightclub" means an establishment that provides entertainment
33 and has as its primary source of revenue (a) the sale of alcohol for
34 consumption on the premises, (b) cover charges, or (c) both, and has an
35 occupancy load of one hundred or more.

36 (29) "Package" means any container or receptacle used for holding
37 liquor.

1 ~~((29))~~ (30) "Passenger vessel" means any boat, ship, vessel,
2 barge, or other floating craft of any kind carrying passengers for
3 compensation.

4 ~~((30))~~ (31) "Permit" means a permit for the purchase of liquor
5 under this title.

6 ~~((31))~~ (32) "Person" means an individual, copartnership,
7 association, or corporation.

8 ~~((32))~~ (33) "Physician" means a medical practitioner duly and
9 regularly licensed and engaged in the practice of his profession within
10 the state pursuant to chapter 18.71 RCW.

11 ~~((33))~~ (34) "Prescription" means a memorandum signed by a
12 physician and given by him to a patient for the obtaining of liquor
13 pursuant to this title for medicinal purposes.

14 ~~((34))~~ (35) "Public place" includes streets and alleys of
15 incorporated cities and towns; state or county or township highways or
16 roads; buildings and grounds used for school purposes; public dance
17 halls and grounds adjacent thereto; those parts of establishments where
18 beer may be sold under this title, soft drink establishments, public
19 buildings, public meeting halls, lobbies, halls and dining rooms of
20 hotels, restaurants, theatres, stores, garages and filling stations
21 which are open to and are generally used by the public and to which the
22 public is permitted to have unrestricted access; railroad trains,
23 stages, and other public conveyances of all kinds and character, and
24 the depots and waiting rooms used in conjunction therewith which are
25 open to unrestricted use and access by the public; publicly owned
26 bathing beaches, parks, and/or playgrounds; and all other places of
27 like or similar nature to which the general public has unrestricted
28 right of access, and which are generally used by the public.

29 ~~((35))~~ (36) "Regulations" means regulations made by the board
30 under the powers conferred by this title.

31 ~~((36))~~ (37) "Restaurant" means any establishment provided with
32 special space and accommodations where, in consideration of payment,
33 food, without lodgings, is habitually furnished to the public, not
34 including drug stores and soda fountains.

35 ~~((37))~~ (38) "Sale" and "sell" include exchange, barter, and
36 traffic; and also include the selling or supplying or distributing, by
37 any means whatsoever, of liquor, or of any liquid known or described as
38 beer or by any name whatever commonly used to describe malt or brewed

1 liquor or of wine, by any person to any person; and also include a sale
2 or selling within the state to a foreign consignee or his agent in the
3 state. "Sale" and "sell" shall not include the giving, at no charge,
4 of a reasonable amount of liquor by a person not licensed by the board
5 to a person not licensed by the board, for personal use only. "Sale"
6 and "sell" also does not include a raffle authorized under RCW
7 9.46.0315: PROVIDED, That the nonprofit organization conducting the
8 raffle has obtained the appropriate permit from the board.

9 ~~((38))~~ (39) "Soda fountain" means a place especially equipped
10 with apparatus for the purpose of dispensing soft drinks, whether mixed
11 or otherwise.

12 ~~((39))~~ (40) "Spirits" means any beverage which contains alcohol
13 obtained by distillation, except flavored malt beverages, but including
14 wines exceeding twenty-four percent of alcohol by volume.

15 ~~((40))~~ (41) "Store" means a state liquor store established under
16 this title.

17 ~~((41))~~ (42) "Tavern" means any establishment with special space
18 and accommodation for sale by the glass and for consumption on the
19 premises, of beer, as herein defined.

20 ~~((42))~~ (43) "Winery" means a business conducted by any person for
21 the manufacture of wine for sale, other than a domestic winery.

22 ~~((43))~~ (44)(a) "Wine" means any alcoholic beverage obtained by
23 fermentation of fruits (grapes, berries, apples, et cetera) or other
24 agricultural product containing sugar, to which any saccharine
25 substances may have been added before, during or after fermentation,
26 and containing not more than twenty-four percent of alcohol by volume,
27 including sweet wines fortified with wine spirits, such as port,
28 sherry, muscatel and angelica, not exceeding twenty-four percent of
29 alcohol by volume and not less than one-half of one percent of alcohol
30 by volume. For purposes of this title, any beverage containing no more
31 than fourteen percent of alcohol by volume when bottled or packaged by
32 the manufacturer shall be referred to as "table wine," and any beverage
33 containing alcohol in an amount more than fourteen percent by volume
34 when bottled or packaged by the manufacturer shall be referred to as
35 "fortified wine." However, "fortified wine" shall not include: (i)
36 Wines that are both sealed or capped by cork closure and aged two years
37 or more; and (ii) wines that contain more than fourteen percent alcohol

1 by volume solely as a result of the natural fermentation process and
2 that have not been produced with the addition of wine spirits, brandy,
3 or alcohol.

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

6 ~~((44))~~ (45) "Wine distributor" means a person who buys wine from
7 a domestic winery, wine certificate of approval holder, or wine
8 importer, or who acquires foreign produced wine from a source outside
9 of the United States, for the purpose of selling the same not in
10 violation of this title, or who represents such vintner or winery as
11 agent.

12 ~~((45))~~ (46) "Wine importer" means a person or business within
13 Washington who purchases wine from a wine certificate of approval
14 holder or who acquires foreign produced wine from a source outside of
15 the United States for the purpose of selling the same pursuant to this
16 title.

17 **Sec. 3.** RCW 66.08.180 and 2007 c 370 s 14 are each amended to read
18 as follows:

19 Except as provided in RCW 66.24.290(1), moneys in the liquor
20 revolving fund shall be distributed by the board at least once every
21 three months in accordance with RCW 66.08.190, 66.08.200 and 66.08.210:
22 PROVIDED, That the board shall reserve from distribution such amount
23 not exceeding five hundred thousand dollars as may be necessary for the
24 proper administration of this title.

25 (1) All license fees, penalties, and forfeitures derived under
26 chapter 13, Laws of 1935 from spirits, beer, and wine restaurant;
27 spirits, beer, and wine private club; hotel; spirits, beer, and wine
28 nightclub; and sports entertainment facility licenses (~~or spirits,~~
29 ~~beer, and wine restaurant; spirits, beer, and wine private club; and~~
30 ~~sports entertainment facility licenses~~)) shall every three months be
31 disbursed by the board as follows:

32 (a) Three hundred thousand dollars per biennium, to the death
33 investigations account for the state toxicology program pursuant to RCW
34 68.50.107; and

35 (b) Of the remaining funds:

36 (i) 6.06 percent to the University of Washington and 4.04 percent

1 to Washington State University for alcoholism and drug abuse research
2 and for the dissemination of such research; and

3 (ii) 89.9 percent to the general fund to be used by the department
4 of social and health services solely to carry out the purposes of RCW
5 70.96A.050;

6 (2) The first fifty-five dollars per license fee provided in RCW
7 66.24.320 and 66.24.330 up to a maximum of one hundred fifty thousand
8 dollars annually shall be disbursed every three months by the board to
9 the general fund to be used for juvenile alcohol and drug prevention
10 programs for kindergarten through third grade to be administered by the
11 superintendent of public instruction;

12 (3) Twenty percent of the remaining total amount derived from
13 license fees pursuant to RCW 66.24.320, 66.24.330, 66.24.350, and
14 66.24.360, shall be transferred to the general fund to be used by the
15 department of social and health services solely to carry out the
16 purposes of RCW 70.96A.050; and

17 (4) One-fourth cent per liter of the tax imposed by RCW 66.24.210
18 shall every three months be disbursed by the board to Washington State
19 University solely for wine and wine grape research, extension programs
20 related to wine and wine grape research, and resident instruction in
21 both wine grape production and the processing aspects of the wine
22 industry in accordance with RCW 28B.30.068. The director of financial
23 management shall prescribe suitable accounting procedures to ensure
24 that the funds transferred to the general fund to be used by the
25 department of social and health services and appropriated are
26 separately accounted for.

27 **Sec. 4.** RCW 66.08.220 and 2007 c 370 s 15 are each amended to read
28 as follows:

29 The board shall set aside in a separate account in the liquor
30 revolving fund an amount equal to ten percent of its gross sales of
31 liquor to spirits, beer, and wine restaurant; spirits, beer, and wine
32 private club; spirits, beer, and wine nightclub; hotel; and sports
33 entertainment facility licensees collected from these licensees
34 pursuant to the provisions of RCW 82.08.150, less the fifteen percent
35 discount provided for in RCW 66.24.440; and the moneys in said separate
36 account shall be distributed in accordance with the provisions of RCW
37 66.08.190, 66.08.200 and 66.08.210. No election unit in which the sale

1 of liquor under spirits, beer, and wine restaurant; spirits, beer, and
2 wine private club; spirits, beer, and wine nightclub; and sports
3 entertainment facility licenses is unlawful shall be entitled to share
4 in the distribution of moneys from such separate account.

5 **Sec. 5.** RCW 66.20.310 and 2008 c 94 s 11 and 2008 c 41 s 3 are
6 each reenacted and amended to read as follows:

7 (1)(a) There shall be an alcohol server permit, known as a class 12
8 permit, for a manager or bartender selling or mixing alcohol, spirits,
9 wines, or beer for consumption at an on-premises licensed facility.

10 (b) There shall be an alcohol server permit, known as a class 13
11 permit, for a person who only serves alcohol, spirits, wines, or beer
12 for consumption at an on-premises licensed facility.

13 (c) As provided by rule by the board, a class 13 permit holder may
14 be allowed to act as a bartender without holding a class 12 permit.

15 (2)(a) Effective January 1, 1997, except as provided in (d) of this
16 subsection, every alcohol server employed, under contract or otherwise,
17 at a retail licensed premise shall (~~have~~) be issued (~~to them~~) a
18 class 12 or class 13 permit.

19 (b) Every class 12 and class 13 permit issued shall be issued in
20 the name of the applicant and no other person may use the permit of
21 another permit holder. The holder shall present the permit upon
22 request to inspection by a representative of the board or a peace
23 officer. The class 12 or class 13 permit shall be valid for employment
24 at any retail licensed premises described in (a) of this subsection.

25 (c) Except as provided in (d) of this subsection, no licensee
26 holding a license as authorized by RCW 66.24.320, 66.24.330, 66.24.350,
27 66.24.400, 66.24.425, 66.24.450, (~~and~~) 66.24.570, and section 1 of
28 this act may employ or accept the services of any person without the
29 person first having a valid class 12 or class 13 permit.

30 (d) Within sixty days of initial employment, every person whose
31 duties include the compounding, sale, service, or handling of liquor
32 shall have a class 12 or class 13 permit.

33 (e) No person may perform duties that include the sale or service
34 of alcoholic beverages on a retail licensed premises without possessing
35 a valid alcohol server permit.

36 (3) A permit issued by a training entity under this section is

1 valid for employment at any retail licensed premises described in
2 subsection (2)(a) of this section for a period of five years unless
3 suspended by the board.

4 (4) The board may suspend or revoke an existing permit if any of
5 the following occur:

6 (a) The applicant or permittee has been convicted of violating any
7 of the state or local intoxicating liquor laws of this state or has
8 been convicted at any time of a felony; or

9 (b) The permittee has performed or permitted any act that
10 constitutes a violation of this title or of any rule of the board.

11 (5) The suspension or revocation of a permit under this section
12 does not relieve a licensee from responsibility for any act of the
13 employee or agent while employed upon the retail licensed premises.
14 The board may, as appropriate, revoke or suspend either the permit of
15 the employee who committed the violation or the license of the licensee
16 upon whose premises the violation occurred, or both the permit and the
17 license.

18 (6)(a) After January 1, 1997, it is a violation of this title for
19 any retail licensee or agent of a retail licensee as described in
20 subsection (2)(a) of this section to employ in the sale or service of
21 alcoholic beverages, any person who does not have a valid alcohol
22 server permit or whose permit has been revoked, suspended, or denied.

23 (b) It is a violation of this title for a person whose alcohol
24 server permit has been denied, suspended, or revoked to accept
25 employment in the sale or service of alcoholic beverages.

26 (7) Grocery stores licensed under RCW 66.24.360, the primary
27 commercial activity of which is the sale of grocery products and for
28 which the sale and service of beer and wine for on-premises consumption
29 with food is incidental to the primary business, and employees of such
30 establishments, are exempt from RCW 66.20.300 through 66.20.350.

31 **Sec. 6.** RCW 66.24.010 and 2007 c 473 s 1 are each amended to read
32 as follows:

33 (1) Every license shall be issued in the name of the applicant, and
34 the holder thereof shall not allow any other person to use the license.

35 (2) For the purpose of considering any application for a license,
36 or the renewal of a license, the board may cause an inspection of the
37 premises to be made, and may inquire into all matters in connection

1 with the construction and operation of the premises. For the purpose
2 of reviewing any application for a license and for considering the
3 denial, suspension, revocation, or renewal or denial thereof, of any
4 license, the liquor control board may consider any prior criminal
5 conduct of the applicant including an administrative violation history
6 record with the board and a criminal history record information check.
7 The board may submit the criminal history record information check to
8 the Washington state patrol and to the identification division of the
9 federal bureau of investigation in order that these agencies may search
10 their records for prior arrests and convictions of the individual or
11 individuals who filled out the forms. The board shall require
12 fingerprinting of any applicant whose criminal history record
13 information check is submitted to the federal bureau of investigation.
14 The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply
15 to such cases. Subject to the provisions of this section, the board
16 may, in its discretion, grant or deny the renewal or license applied
17 for. Denial may be based on, without limitation, the existence of
18 chronic illegal activity documented in objections submitted pursuant to
19 subsections (8)(d) and (12) of this section. Authority to approve an
20 uncontested or unopposed license may be granted by the board to any
21 staff member the board designates in writing. Conditions for granting
22 such authority shall be adopted by rule. No retail license of any kind
23 may be issued to:

24 (a) A person doing business as a sole proprietor who has not
25 resided in the state for at least one month prior to receiving a
26 license, except in cases of licenses issued to dining places on
27 railroads, boats, or aircraft;

28 (b) A copartnership, unless all of the members thereof are
29 qualified to obtain a license, as provided in this section;

30 (c) A person whose place of business is conducted by a manager or
31 agent, unless such manager or agent possesses the same qualifications
32 required of the licensee;

33 (d) A corporation or a limited liability company, unless it was
34 created under the laws of the state of Washington or holds a
35 certificate of authority to transact business in the state of
36 Washington.

37 (3)(a) The board may, in its discretion, subject to the provisions

1 of RCW 66.08.150, suspend or cancel any license; and all rights of the
2 licensee to keep or sell liquor thereunder shall be suspended or
3 terminated, as the case may be.

4 (b) The board shall immediately suspend the license or certificate
5 of a person who has been certified pursuant to RCW 74.20A.320 by the
6 department of social and health services as a person who is not in
7 compliance with a support order. If the person has continued to meet
8 all other requirements for reinstatement during the suspension,
9 reissuance of the license or certificate shall be automatic upon the
10 board's receipt of a release issued by the department of social and
11 health services stating that the licensee is in compliance with the
12 order.

13 (c) The board may request the appointment of administrative law
14 judges under chapter 34.12 RCW who shall have power to administer
15 oaths, issue subpoenas for the attendance of witnesses and the
16 production of papers, books, accounts, documents, and testimony,
17 examine witnesses, and to receive testimony in any inquiry,
18 investigation, hearing, or proceeding in any part of the state, under
19 such rules and regulations as the board may adopt.

20 (d) Witnesses shall be allowed fees and mileage each way to and
21 from any such inquiry, investigation, hearing, or proceeding at the
22 rate authorized by RCW 34.05.446(~~(7-as-now-or-hereafter-amended)~~).
23 Fees need not be paid in advance of appearance of witnesses to testify
24 or to produce books, records, or other legal evidence.

25 (e) In case of disobedience of any person to comply with the order
26 of the board or a subpoena issued by the board, or any of its members,
27 or administrative law judges, or on the refusal of a witness to testify
28 to any matter regarding which he or she may be lawfully interrogated,
29 the judge of the superior court of the county in which the person
30 resides, on application of any member of the board or administrative
31 law judge, shall compel obedience by contempt proceedings, as in the
32 case of disobedience of the requirements of a subpoena issued from said
33 court or a refusal to testify therein.

34 (4) Upon receipt of notice of the suspension or cancellation of a
35 license, the licensee shall forthwith deliver up the license to the
36 board. Where the license has been suspended only, the board shall
37 return the license to the licensee at the expiration or termination of
38 the period of suspension. The board shall notify all vendors in the

1 city or place where the licensee has its premises of the suspension or
2 cancellation of the license; and no employee may allow or cause any
3 liquor to be delivered to or for any person at the premises of that
4 licensee.

5 (5)(a) At the time of the original issuance of a spirits, beer, and
6 wine restaurant license, the board shall prorate the license fee
7 charged to the new licensee according to the number of calendar
8 quarters, or portion thereof, remaining until the first renewal of that
9 license is required.

10 (b) Unless sooner canceled, every license issued by the board shall
11 expire at midnight of the thirtieth day of June of the fiscal year for
12 which it was issued. However, if the board deems it feasible and
13 desirable to do so, it may establish, by rule pursuant to chapter 34.05
14 RCW, a system for staggering the annual renewal dates for any and all
15 licenses authorized by this chapter. If such a system of staggered
16 annual renewal dates is established by the board, the license fees
17 provided by this chapter shall be appropriately prorated during the
18 first year that the system is in effect.

19 (6) Every license issued under this section shall be subject to all
20 conditions and restrictions imposed by this title or by rules adopted
21 by the board. All conditions and restrictions imposed by the board in
22 the issuance of an individual license shall be listed on the face of
23 the individual license along with the trade name, address, and
24 expiration date.

25 (7) Every licensee shall post and keep posted its license, or
26 licenses, in a conspicuous place on the premises.

27 (8)(a) Unless (b) of this subsection applies, before the board
28 issues a new or renewal license to an applicant it shall give notice of
29 such application to the chief executive officer of the incorporated
30 city or town, if the application is for a license within an
31 incorporated city or town, or to the county legislative authority, if
32 the application is for a license outside the boundaries of incorporated
33 cities or towns.

34 (b) If the application for a special occasion license is for an
35 event held during a county, district, or area fair as defined by RCW
36 15.76.120, and the county, district, or area fair is located on
37 property owned by the county but located within an incorporated city or
38 town, the county legislative authority shall be the entity notified by

1 the board under (a) of this subsection. The board shall send a
2 duplicate notice to the incorporated city or town within which the fair
3 is located.

4 (c) The incorporated city or town through the official or employee
5 selected by it, or the county legislative authority or the official or
6 employee selected by it, shall have the right to file with the board
7 within twenty days after the date of transmittal of such notice for
8 applications, or at least thirty days prior to the expiration date for
9 renewals, written objections against the applicant or against the
10 premises for which the new or renewal license is asked. The board may
11 extend the time period for submitting written objections.

12 (d) The written objections shall include a statement of all facts
13 upon which such objections are based, and in case written objections
14 are filed, the city or town or county legislative authority may request
15 and the liquor control board may in its discretion hold a hearing
16 subject to the applicable provisions of Title 34 RCW. If the board
17 makes an initial decision to deny a license or renewal based on the
18 written objections of an incorporated city or town or county
19 legislative authority, the applicant may request a hearing subject to
20 the applicable provisions of Title 34 RCW. If such a hearing is held
21 at the request of the applicant, liquor control board representatives
22 shall present and defend the board's initial decision to deny a license
23 or renewal.

24 (e) Upon the granting of a license under this title the board shall
25 send written notification to the chief executive officer of the
26 incorporated city or town in which the license is granted, or to the
27 county legislative authority if the license is granted outside the
28 boundaries of incorporated cities or towns. When the license is for a
29 special occasion license for an event held during a county, district,
30 or area fair as defined by RCW 15.76.120, and the county, district, or
31 area fair is located on county-owned property but located within an
32 incorporated city or town, the written notification shall be sent to
33 both the incorporated city or town and the county legislative
34 authority.

35 (9)(a) Before the board issues any license to any applicant, it
36 shall give (i) due consideration to the location of the business to be
37 conducted under such license with respect to the proximity of churches,
38 schools, and public institutions and (ii) written notice, with receipt

1 verification, of the application to public institutions identified by
2 the board as appropriate to receive such notice, churches, and schools
3 within five hundred feet of the premises to be licensed. The board
4 shall not issue (~~(no beer retailer)~~) a liquor license for either on-
5 premises or off-premises consumption (~~(or wine retailer license for~~
6 ~~either on premises or off premises consumption or spirits, beer, and~~
7 ~~wine restaurant license)~~) covering any premises not now licensed, if
8 such premises are within five hundred feet of the premises of any tax-
9 supported public elementary or secondary school measured along the most
10 direct route over or across established public walks, streets, or other
11 public passageway from the main entrance of the school to the nearest
12 public entrance of the premises proposed for license, and if, after
13 receipt by the school of the notice as provided in this subsection, the
14 board receives written objection, within twenty days after receiving
15 such notice, from an official representative or representatives of the
16 school within five hundred feet of said proposed licensed premises,
17 indicating to the board that there is an objection to the issuance of
18 such license because of proximity to a school. The board may extend
19 the time period for submitting objections. For the purpose of this
20 section, "church" (~~(shall)~~) means a building erected for and used
21 exclusively for religious worship and schooling or other activity in
22 connection therewith. For the purpose of this section, "public
23 institution" (~~(shall)~~) means institutions of higher education, parks,
24 community centers, libraries, and transit centers.

25 (b) No liquor license may be issued or reissued by the board to any
26 motor sports facility or licensee operating within the motor sports
27 facility unless the motor sports facility enforces a program reasonably
28 calculated to prevent alcohol or alcoholic beverages not purchased
29 within the facility from entering the facility and such program is
30 approved by local law enforcement agencies.

31 (c) It is the intent under this subsection (9) that a retail
32 license shall not be issued by the board where doing so would, in the
33 judgment of the board, adversely affect a private school meeting the
34 requirements for private schools under Title 28A RCW, which school is
35 within five hundred feet of the proposed licensee. The board shall
36 fully consider and give substantial weight to objections filed by
37 private schools. If a license is issued despite the proximity of a

1 private school, the board shall state in a letter addressed to the
2 private school the board's reasons for issuing the license.

3 (10) The restrictions set forth in subsection (9) of this section
4 shall not prohibit the board from authorizing the assumption of
5 existing licenses now located within the restricted area by other
6 persons or licenses or relocations of existing licensed premises within
7 the restricted area. In no case may the licensed premises be moved
8 closer to a church or school than it was before the assumption or
9 relocation.

10 (11)(a) Nothing in this section prohibits the board, in its
11 discretion, from issuing a temporary retail or distributor license to
12 an applicant to operate the retail or distributor premises during the
13 period the application for the license is pending. The board may
14 establish a fee for a temporary license by rule.

15 (b) A temporary license issued by the board under this section
16 shall be for a period not to exceed sixty days. A temporary license
17 may be extended at the discretion of the board for additional periods
18 of sixty days upon payment of an additional fee and upon compliance
19 with all conditions required in this section.

20 (c) Refusal by the board to issue or extend a temporary license
21 shall not entitle the applicant to request a hearing. A temporary
22 license may be canceled or suspended summarily at any time if the board
23 determines that good cause for cancellation or suspension exists. RCW
24 66.08.130 applies to temporary licenses.

25 (d) Application for a temporary license shall be on such form as
26 the board shall prescribe. If an application for a temporary license
27 is withdrawn before issuance or is refused by the board, the fee which
28 accompanied such application shall be refunded in full.

29 (12) In determining whether to grant or deny a license or renewal
30 of any license, the board shall give substantial weight to objections
31 from an incorporated city or town or county legislative authority based
32 upon chronic illegal activity associated with the applicant's
33 operations of the premises proposed to be licensed or the applicant's
34 operation of any other licensed premises, or the conduct of the
35 applicant's patrons inside or outside the licensed premises. "Chronic
36 illegal activity" means (a) a pervasive pattern of activity that
37 threatens the public health, safety, and welfare of the city, town, or
38 county including, but not limited to, open container violations,

1 assaults, disturbances, disorderly conduct, or other criminal law
2 violations, or as documented in crime statistics, police reports,
3 emergency medical response data, calls for service, field data, or
4 similar records of a law enforcement agency for the city, town, county,
5 or any other municipal corporation or any state agency; or (b) an
6 unreasonably high number of citations for violations of RCW 46.61.502
7 associated with the applicant's or licensee's operation of any licensed
8 premises as indicated by the reported statements given to law
9 enforcement upon arrest.

10 **Sec. 7.** RCW 66.24.420 and 2007 c 370 s 19 and 2007 c 370 s 8 are
11 each reenacted and amended to read as follows:

12 (1) The spirits, beer, and wine restaurant license shall be issued
13 in accordance with the following schedule of annual fees:

14 (a) The annual fee for a spirits, beer, and wine restaurant license
15 shall be graduated according to the dedicated dining area and type of
16 service provided as follows:

17	Less than 50% dedicated dining area	\$2,000
18	50% or more dedicated dining area	\$1,600
19	Service bar only	\$1,000

20 (b) The annual fee for the license when issued to any other
21 spirits, beer, and wine restaurant licensee outside of incorporated
22 cities and towns shall be prorated according to the calendar quarters,
23 or portion thereof, during which the licensee is open for business,
24 except in case of suspension or revocation of the license.

25 (c) Where the license shall be issued to any corporation,
26 association or person operating a bona fide restaurant in an airport
27 terminal facility providing service to transient passengers with more
28 than one place where liquor is to be dispensed and sold, such license
29 shall be issued upon the payment of the annual fee, which shall be a
30 master license and shall permit such sale within and from one such
31 place. Such license may be extended to additional places on the
32 premises at the discretion of the board and a duplicate license may be
33 issued for each such additional place. The holder of a master license
34 for a restaurant in an airport terminal facility must maintain in a
35 substantial manner at least one place on the premises for preparing,

1 cooking, and serving of complete meals, and such food service shall be
2 available on request in other licensed places on the premises. An
3 additional license fee of twenty-five percent of the annual master
4 license fee shall be required for such duplicate licenses.

5 (d) Where the license shall be issued to any corporation,
6 association, or person operating dining places at a publicly or
7 privately owned civic or convention center with facilities for sports,
8 entertainment, or conventions, or a combination thereof, with more than
9 one place where liquor is to be dispensed and sold, such license shall
10 be issued upon the payment of the annual fee, which shall be a master
11 license and shall permit such sale within and from one such place.
12 Such license may be extended to additional places on the premises at
13 the discretion of the board and a duplicate license may be issued for
14 each such additional place. The holder of a master license for a
15 dining place at such a publicly or privately owned civic or convention
16 center must maintain in a substantial manner at least one place on the
17 premises for preparing, cooking, and serving of complete meals, and
18 food service shall be available on request in other licensed places on
19 the premises. An additional license fee of ten dollars shall be
20 required for such duplicate licenses.

21 (2) The board, so far as in its judgment is reasonably possible,
22 shall confine spirits, beer, and wine restaurant licenses to the
23 business districts of cities and towns and other communities, and not
24 grant such licenses in residential districts, nor within the immediate
25 vicinity of schools, without being limited in the administration of
26 this subsection to any specific distance requirements.

27 (3) The board shall have discretion to issue spirits, beer, and
28 wine restaurant licenses outside of cities and towns in the state of
29 Washington. The purpose of this subsection is to enable the board, in
30 its discretion, to license in areas outside of cities and towns and
31 other communities, establishments which are operated and maintained
32 primarily for the benefit of tourists, vacationers and travelers, and
33 also golf and country clubs, and common carriers operating dining, club
34 and buffet cars, or boats.

35 (4) The combined total number of spirits, beer, and wine nightclub
36 licenses, and spirits, beer, and wine restaurant licenses issued in the
37 state of Washington by the board, not including spirits, beer, and wine
38 private club licenses, shall not in the aggregate at any time exceed

1 one license for each one thousand (~~three~~) two hundred of population
2 in the state, determined according to the yearly population
3 determination developed by the office of financial management pursuant
4 to RCW 43.62.030.

5 (5) Notwithstanding the provisions of subsection (4) of this
6 section, the board shall refuse a spirits, beer, and wine restaurant
7 license to any applicant if in the opinion of the board the spirits,
8 beer, and wine restaurant licenses already granted for the particular
9 locality are adequate for the reasonable needs of the community.

10 (6)(a) The board may issue a caterer's endorsement to this license
11 to allow the licensee to remove the liquor stocks at the licensed
12 premises, for use as liquor for sale and service at event locations at
13 a specified date and, except as provided in subsection (7) of this
14 section, place not currently licensed by the board. If the event is
15 open to the public, it must be sponsored by a society or organization
16 as defined by RCW 66.24.375. If attendance at the event is limited to
17 members or invited guests of the sponsoring individual, society, or
18 organization, the requirement that the sponsor must be a society or
19 organization as defined by RCW 66.24.375 is waived. Cost of the
20 endorsement is three hundred fifty dollars.

21 (b) The holder of this license with a catering endorsement shall,
22 if requested by the board, notify the board or its designee of the
23 date, time, place, and location of any catered event. Upon request,
24 the licensee shall provide to the board all necessary or requested
25 information concerning the society or organization that will be holding
26 the function at which the endorsed license will be utilized.

27 (c) The holder of this license with a caterer's endorsement may,
28 under conditions established by the board, store liquor on the premises
29 of another not licensed by the board so long as there is a written
30 agreement between the licensee and the other party to provide for
31 ongoing catering services, the agreement contains no exclusivity
32 clauses regarding the alcoholic beverages to be served, and the
33 agreement is filed with the board.

34 (d) The holder of this license with a caterer's endorsement may,
35 under conditions established by the board, store liquor on other
36 premises operated by the licensee so long as the other premises are
37 owned or controlled by a leasehold interest by that licensee. A

1 duplicate license may be issued for each additional premises. A
2 license fee of twenty dollars shall be required for such duplicate
3 licenses.

4 (7) Licensees under this section that hold a caterer's endorsement
5 are allowed to use this endorsement on a domestic winery premises or on
6 the premises of a passenger vessel and may store liquor at such
7 premises under conditions established by the board under the following
8 conditions:

9 (a) Agreements between the domestic winery or passenger vessel, as
10 the case may be, and the retail licensee shall be in writing, contain
11 no exclusivity clauses regarding the alcoholic beverages to be served,
12 and be filed with the board; and

13 (b) The domestic winery or passenger vessel, as the case may be,
14 and the retail licensee shall be separately contracted and compensated
15 by the persons sponsoring the event for their respective services.

16 **Sec. 8.** RCW 66.24.440 and 2007 c 370 s 20 are each amended to read
17 as follows:

18 Each spirits, beer, and wine restaurant, spirits, beer, and wine
19 private club, hotel, spirits, beer, and wine nightclub, and sports
20 entertainment facility licensee shall be entitled to purchase any
21 spirituous liquor items salable under such license from the board at a
22 discount of not less than fifteen percent from the retail price fixed
23 by the board, together with all taxes.

24 **Sec. 9.** RCW 66.40.030 and 1999 c 281 s 8 are each amended to read
25 as follows:

26 Within any unit referred to in RCW 66.40.010, there may be held a
27 separate election upon the question of whether the sale of liquor under
28 spirits, beer, and wine restaurant; spirits, beer, and wine private
29 club; spirits, beer, and wine nightclub; and sports entertainment
30 facility licenses, shall be permitted within such unit. The conditions
31 and procedure for holding such election shall be those prescribed by
32 RCW 66.40.020, 66.40.040, 66.40.100, 66.40.110 and 66.40.120. Whenever
33 a majority of qualified voters voting upon said question in any such
34 unit shall have voted "against the sale of liquor under spirits, beer,
35 and wine restaurant; spirits, beer, and wine private club; spirits,
36 beer, and wine nightclub; and sports entertainment facility licenses",

1 the county auditor shall file with the liquor control board a
2 certificate showing the result of the canvass at such election; and
3 after ninety days from and after the date of the canvass, it shall not
4 be lawful for licensees to maintain and operate premises within the
5 election unit licensed under spirits, beer, and wine restaurant;
6 spirits, beer, and wine private club; spirits, beer, and wine
7 nightclub; and sports entertainment facility licenses. The addition
8 after an election under this section of new territory to a city, town,
9 or county, by annexation, disincorporation, or otherwise, shall not
10 extend the prohibition against the sale of liquor under spirits, beer,
11 and wine restaurant; spirits, beer, and wine private club; spirits,
12 beer, and wine nightclub; and sports entertainment facility licenses to
13 the new territory. Elections held under RCW 66.40.010, 66.40.020,
14 66.40.040, 66.40.100, 66.40.110, 66.40.120 and 66.40.140, shall be
15 limited to the question of whether the sale of liquor by means other
16 than under spirits, beer, and wine restaurant; spirits, beer, and wine
17 private club; spirits, beer, and wine nightclub; and sports
18 entertainment facility licenses shall be permitted within such election
19 unit.

20 **Sec. 10.** RCW 66.40.130 and 1999 c 281 s 9 are each amended to read
21 as follows:

22 Ninety days after December 2, 1948, spirits, beer, and wine
23 restaurant; spirits, beer, and wine private club; spirits, beer, and
24 wine nightclub; and sports entertainment facility licenses may be
25 issued in any election unit in which the sale of liquor is then lawful.
26 No spirits, beer, and wine restaurant; spirits, beer, and wine private
27 club; spirits, beer, and wine nightclub; and sports entertainment
28 facility license shall be issued in any election unit in which the sale
29 of liquor is forbidden as the result of an election held under RCW
30 66.40.010, 66.40.020, 66.40.040, 66.40.100, 66.40.110, 66.40.120 and
31 66.40.140, unless a majority of the qualified electors in such election
32 unit voting upon this initiative at the general election in November,
33 1948, vote in favor of this initiative, or unless at a subsequent
34 general election in which the question of whether the sale of liquor
35 under spirits, beer, and wine restaurant; spirits, beer, and wine
36 private club; spirits, beer, and wine nightclub; and sports
37 entertainment facility licenses shall be permitted within such unit is

1 submitted to the electorate, as provided in RCW 66.40.030, a majority
2 of the qualified electors voting upon such question vote "for the sale
3 of liquor under spirits, beer, and wine restaurant; spirits, beer, and
4 wine private club; spirits, beer, and wine nightclub; and sports
5 entertainment facility licenses."

6 **Sec. 11.** RCW 68.50.107 and 1999 c 281 s 13 and 1999 c 40 s 8 are
7 each reenacted and amended to read as follows:

8 There shall be established in conjunction with the chief of the
9 Washington state patrol and under the authority of the state forensic
10 investigations council a state toxicological laboratory under the
11 direction of the state toxicologist whose duty it will be to perform
12 all necessary toxicologic procedures requested by all coroners, medical
13 examiners, and prosecuting attorneys. The state forensic
14 investigations council, after consulting with the chief of the
15 Washington state patrol and director of the bureau of forensic
16 laboratory services, shall appoint a toxicologist as state
17 toxicologist, who shall report to the director of the bureau of
18 forensic laboratory services and the office of the chief of the
19 Washington state patrol. Toxicological services shall be funded by
20 disbursement from the spirits, beer, and wine restaurant; spirits,
21 beer, and wine private club; spirits, beer, and wine nightclub; and
22 sports entertainment facility license fees as provided in RCW 66.08.180
23 and by appropriation from the death investigations account as provided
24 in RCW 43.79.445.

Passed by the Senate April 19, 2009.

Passed by the House April 14, 2009.

Approved by the Governor April 29, 2009.

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