

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5834

Chapter 373, Laws of 2009

61st Legislature
2009 Regular Session

ALCOHOLIC BEVERAGE REGULATION

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 20, 2009
YEAS 40 NAYS 2

BRAD OWEN

President of the Senate

Passed by the House April 9, 2009
YEAS 98 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 6, 2009, 2:18 p.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 5834** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 8, 2009

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5834

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 Senators Kohl-Welles and Holmquist)

READ FIRST TIME 02/25/09.

1 AN ACT Relating to alcoholic beverage regulation; amending RCW
2 66.04.010, 66.24.450, 66.24.452, 66.24.170, 66.28.010, 66.24.371,
3 66.28.200, and 15.89.070; reenacting and amending RCW 66.28.040; adding
4 a new section to chapter 66.24 RCW; and adding a new section to chapter
5 66.28 RCW.

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

7 **Sec. 1.** RCW 66.04.010 and 2008 c 94 s 4 are each amended to read
8 as follows:

9 In this title, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (20) "Flavored malt beverage" means:

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

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

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

6 (22) "Hotel" means buildings, structures, and grounds, having
7 facilities for preparing, cooking, and serving food, that are kept,
8 used, maintained, advertised, or held out to the public to be a place
9 where food is served and sleeping accommodations are offered for pay to
10 transient guests, in which twenty or more rooms are used for the
11 sleeping accommodation of such transient guests. The buildings,
12 structures, and grounds must be located on adjacent property either
13 owned or leased by the same person or persons.

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

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

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

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

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

1 purposes of this title, any such beverage containing more than eight
2 percent of alcohol by weight shall be referred to as "strong beer."
3 (28) "Package" means any container or receptacle used for holding
4 liquor.
5 (29) "Passenger vessel" means any boat, ship, vessel, barge, or
6 other floating craft of any kind carrying passengers for compensation.
7 (30) "Permit" means a permit for the purchase of liquor under this
8 title.
9 (31) "Person" means an individual, copartnership, association, or
10 corporation.
11 (32) "Physician" means a medical practitioner duly and regularly
12 licensed and engaged in the practice of his profession within the state
13 pursuant to chapter 18.71 RCW.
14 (33) "Prescription" means a memorandum signed by a physician and
15 given by him to a patient for the obtaining of liquor pursuant to this
16 title for medicinal purposes.
17 (34) "Public place" includes streets and alleys of incorporated
18 cities and towns; state or county or township highways or roads;
19 buildings and grounds used for school purposes; public dance halls and
20 grounds adjacent thereto; those parts of establishments where beer may
21 be sold under this title, soft drink establishments, public buildings,
22 public meeting halls, lobbies, halls and dining rooms of hotels,
23 restaurants, theatres, stores, garages and filling stations which are
24 open to and are generally used by the public and to which the public is
25 permitted to have unrestricted access; railroad trains, stages, and
26 other public conveyances of all kinds and character, and the depots and
27 waiting rooms used in conjunction therewith which are open to
28 unrestricted use and access by the public; publicly owned bathing
29 beaches, parks, and/or playgrounds; and all other places of like or
30 similar nature to which the general public has unrestricted right of
31 access, and which are generally used by the public.
32 (35) "Regulations" means regulations made by the board under the
33 powers conferred by this title.
34 (36) "Restaurant" means any establishment provided with special
35 space and accommodations where, in consideration of payment, food,
36 without lodgings, is habitually furnished to the public, not including
37 drug stores and soda fountains.

1 (37) "Sale" and "sell" include exchange, barter, and traffic; and
2 also include the selling or supplying or distributing, by any means
3 whatsoever, of liquor, or of any liquid known or described as beer or
4 by any name whatever commonly used to describe malt or brewed liquor or
5 of wine, by any person to any person; and also include a sale or
6 selling within the state to a foreign consignee or his agent in the
7 state. "Sale" and "sell" shall not include the giving, at no charge,
8 of a reasonable amount of liquor by a person not licensed by the board
9 to a person not licensed by the board, for personal use only. "Sale"
10 and "sell" also does not include a raffle authorized under RCW
11 9.46.0315: PROVIDED, That the nonprofit organization conducting the
12 raffle has obtained the appropriate permit from the board.

13 (38) "Soda fountain" means a place especially equipped with
14 apparatus for the purpose of dispensing soft drinks, whether mixed or
15 otherwise.

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

19 (40) "Store" means a state liquor store established under this
20 title.

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

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

26 (43)(a) "Wine" means any alcoholic beverage obtained by
27 fermentation of fruits (grapes, berries, apples, et cetera) or other
28 agricultural product containing sugar, to which any saccharine
29 substances may have been added before, during or after fermentation,
30 and containing not more than twenty-four percent of alcohol by volume,
31 including sweet wines fortified with wine spirits, such as port,
32 sherry, muscatel and angelica, not exceeding twenty-four percent of
33 alcohol by volume and not less than one-half of one percent of alcohol
34 by volume. For purposes of this title, any beverage containing no more
35 than fourteen percent of alcohol by volume when bottled or packaged by
36 the manufacturer shall be referred to as "table wine," and any beverage
37 containing alcohol in an amount more than fourteen percent by volume
38 when bottled or packaged by the manufacturer shall be referred to as

1 "fortified wine." However, "fortified wine" shall not include: (i)
2 Wines that are both sealed or capped by cork closure and aged two years
3 or more; and (ii) wines that contain more than fourteen percent alcohol
4 by volume solely as a result of the natural fermentation process and
5 that have not been produced with the addition of wine spirits, brandy,
6 or alcohol.

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

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

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

18 **Sec. 2.** RCW 66.24.450 and 2001 c 199 s 1 are each amended to read
19 as follows:

20 (1) No club shall be entitled to a spirits, beer, and wine private
21 club license:

22 (a) Unless such private club has been in continuous operation for
23 at least one year immediately prior to the date of its application for
24 such license;

25 (b) Unless the private club premises be constructed and equipped,
26 conducted, managed, and operated to the satisfaction of the board and
27 in accordance with this title and the regulations made thereunder;

28 (c) Unless the board shall have determined pursuant to any
29 regulations made by it with respect to private clubs, that such private
30 club is a bona fide private club; it being the intent of this section
31 that license shall not be granted to a club which is, or has been,
32 primarily formed or activated to obtain a license to sell liquor, but
33 solely to a bona fide private club, where the sale of liquor is
34 incidental to the main purposes of the spirits, beer, and wine private
35 club, as defined in RCW 66.04.010(~~(+7)~~) (8).

36 (2) The annual fee for a spirits, beer, and wine private club

1 license, whether inside or outside of an incorporated city or town, is
2 seven hundred twenty dollars per year.

3 (3) The board may issue an endorsement to the spirits, beer, and
4 wine private club license that allows up to forty nonclub, member-
5 sponsored events using club liquor. Visitors and guests may attend
6 these events only by invitation of the sponsoring member or members.
7 These events may not be open to the general public. The fee for the
8 endorsement shall be an annual fee of nine hundred dollars. Upon the
9 board's request, the holder of the endorsement must provide the board
10 or the board's designee with the following information at least
11 seventy-two hours prior to the event: The date, time, and location of
12 the event; the name of the sponsor of the event; and a brief
13 description of the purpose of the event.

14 (4) The board may issue an endorsement to the spirits, beer, and
15 wine private club license that allows the holder of a spirits, beer,
16 and wine private club license to sell bottled wine for off-premises
17 consumption (~~((wine vinted and bottled in the state of Washington and
18 carrying a label exclusive to the license holder selling the wine))~~).
19 Spirits and beer may not be sold for off-premises consumption under
20 this section. The annual fee for the endorsement under this (~~chapter~~
21 ~~{section}~~) section is one hundred twenty dollars.

22 **Sec. 3.** RCW 66.24.452 and 2003 c 167 s 10 are each amended to read
23 as follows:

24 (1) There shall be a beer and wine license to be issued to a
25 private club for sale of beer, strong beer, and wine for on-premises
26 consumption.

27 (2) Beer, strong beer, and wine sold by the licensee may be on tap
28 or by open bottles or cans.

29 (3) The fee for the private club beer and wine license is one
30 hundred eighty dollars per year.

31 (4) The board may issue an endorsement to the private club beer and
32 wine license that allows the holder of a private club beer and wine
33 license to sell bottled wine for off-premises consumption (~~((wine vinted
34 and bottled in the state of Washington and carrying a label exclusive
35 to the license holder selling the wine))~~). Spirits, strong beer, and
36 beer may not be sold for off-premises consumption under this section.

1 The annual fee for the endorsement under this section is one hundred
2 twenty dollars.

3 **Sec. 4.** RCW 66.24.170 and 2008 c 41 s 5 are each amended to read
4 as follows:

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

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

11 (3) Any domestic winery licensed under this section may also act as
12 a retailer of wine of its own production. Any domestic winery licensed
13 under this section may act as a distributor of its own production.
14 Notwithstanding any language in this title to the contrary, a domestic
15 winery may use a common carrier to deliver up to one hundred cases of
16 its own production, in the aggregate, per month to licensed Washington
17 retailers. A domestic winery may not arrange for any such common
18 carrier shipments to licensed retailers of wine not of its own
19 production. Except as provided in this section, any winery operating
20 as a distributor and/or retailer under this subsection shall comply
21 with the applicable laws and rules relating to distributors and/or
22 retailers, except that a winery operating as a distributor may maintain
23 a warehouse off the premises of the winery for the distribution of wine
24 of its own production provided that: (a) The warehouse has been
25 approved by the board under RCW 66.24.010; and (b) the number of
26 warehouses off the premises of the winery does not exceed one.

27 (4) A domestic winery licensed under this section, at locations
28 separate from any of its production or manufacturing sites, may serve
29 samples of its own products, with or without charge, and sell wine of
30 its own production at retail, provided that: (a) Each additional
31 location has been approved by the board under RCW 66.24.010; (b) the
32 total number of additional locations does not exceed two; (c) a winery
33 may not act as a distributor at any such additional location; and (d)
34 any person selling or serving wine at an additional location for on-
35 premise consumption must obtain a class 12 or class 13 alcohol server
36 permit. Each additional location is deemed to be part of the winery
37 license for the purpose of this title. At additional locations

1 operated by multiple wineries under this section, if the board cannot
2 connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee,
3 the board may hold all licensees operating the additional location
4 jointly liable. Nothing in this subsection shall be construed to
5 prevent a domestic winery from holding multiple domestic winery
6 licenses.

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

13 (b) For each month during which a domestic winery will sell wine at
14 a qualifying farmers market, the winery must provide the board or its
15 designee a list of the dates, times, and locations at which bottled
16 wine may be offered for sale. This list must be received by the board
17 before the winery may offer wine for sale at a qualifying farmers
18 market.

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

22 (d) Each approved location in a qualifying farmers market is deemed
23 to be part of the winery license for the purpose of this title. The
24 approved locations under an endorsement granted under this subsection
25 do not include the tasting or sampling privilege of a winery. The
26 winery may not store wine at a farmers market beyond the hours that the
27 winery offers bottled wine for sale. The winery may not act as a
28 distributor from a farmers market location.

29 (e) Before a winery may sell bottled wine at a qualifying farmers
30 market, the farmers market must apply to the board for authorization
31 for any winery with an endorsement approved under this subsection to
32 sell bottled wine at retail at the farmers market. This application
33 shall include, at a minimum: (i) A map of the farmers market showing
34 all booths, stalls, or other designated locations at which an approved
35 winery may sell bottled wine; and (ii) the name and contact information
36 for the on-site market managers who may be contacted by the board or
37 its designee to verify the locations at which bottled wine may be sold.
38 Before authorizing a qualifying farmers market to allow an approved

1 winery to sell bottled wine at retail at its farmers market location,
2 the board shall notify the persons or entities of such application for
3 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization
4 granted under this subsection (5)(e) may be withdrawn by the board for
5 any violation of this title or any rules adopted under this title.

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

9 (g) For the purposes of this subsection:

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

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

17 (B) The total combined gross annual sales of vendors who are
18 farmers exceeds the total combined gross annual sales of vendors who
19 are processors or resellers;

20 (C) The total combined gross annual sales of vendors who are
21 farmers, processors, or resellers exceeds the total combined gross
22 annual sales of vendors who are not farmers, processors, or resellers;

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

25 (E) No vendor is a franchisee.

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

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

33 (iv) "Reseller" means a natural person who buys agricultural
34 products from a farmer and resells the products directly to the
35 consumer.

36 (6) Wine produced in Washington state by a domestic winery licensee
37 may be shipped out-of-state for the purpose of making it into sparkling

1 wine and then returned to such licensee for resale. Such wine shall be
2 deemed wine manufactured in the state of Washington for the purposes of
3 RCW 66.24.206, and shall not require a special license.

4 **Sec. 5.** RCW 66.28.010 and 2008 c 94 s 5 are each amended to read
5 as follows:

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

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

21 (b) Nothing in this section shall prohibit a licensed domestic
22 brewery or microbrewery from being licensed as a retailer pursuant to
23 chapter 66.24 RCW for the purpose of selling beer or wine at retail on
24 the brewery premises and at one additional off-site retail only
25 location and nothing in this section shall prohibit a domestic winery
26 from being licensed as a retailer pursuant to chapter 66.24 RCW for the
27 purpose of selling beer or wine at retail on the winery premises. Such
28 beer and wine so sold at retail shall be subject to the taxes imposed
29 by RCW 66.24.290 and 66.24.210 and to reporting and bonding
30 requirements as prescribed by regulations adopted by the board pursuant
31 to chapter 34.05 RCW, and beer and wine that is not produced by the
32 brewery or winery shall be purchased from a licensed beer or wine
33 distributor. Nothing in this section shall prohibit a microbrewery
34 holding a beer and/or wine restaurant license under RCW 66.24.320 from
35 holding the same privileges and endorsements attached to the beer
36 and/or wine restaurant license. Nothing in this section shall prohibit
37 a licensed craft distillery from selling spirits of its own production
38 under RCW 66.24.145.

1 (c) Nothing in this section shall prohibit a licensed distiller,
2 domestic brewery, microbrewery, domestic winery, or a lessee of a
3 licensed domestic brewer, microbrewery, or domestic winery, from being
4 licensed as a spirits, beer, and wine restaurant pursuant to chapter
5 66.24 RCW for the purpose of selling liquor at a spirits, beer, and
6 wine restaurant premises on the property on which the primary
7 manufacturing facility of the licensed distiller, domestic brewer,
8 microbrewery, or domestic winery is located or on contiguous property
9 owned or leased by the licensed distiller, domestic brewer,
10 microbrewery, or domestic winery as prescribed by rules adopted by the
11 board pursuant to chapter 34.05 RCW. Nothing in this section shall
12 prohibit a microbrewery holding a spirits, beer, and wine restaurant
13 license under RCW 66.24.420 from holding the same privileges and
14 endorsements attached to the spirits, beer, and wine restaurant
15 license. This section does not prohibit a brewery or microbrewery
16 holding a spirits, beer, and wine restaurant license or a beer and/or
17 wine license under chapter 66.24 RCW operated on the premises of the
18 brewery or microbrewery from holding a second retail only license at a
19 location separate from the premises of the brewery or microbrewery.

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

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

32 (f) Nothing in this section prohibits a bona fide charitable
33 nonprofit society or association registered under section 501(c)(3) of
34 the internal revenue code, or a local wine industry association
35 registered under section 501(c)(6) of the internal revenue code as it
36 exists on July 22, 2007, and having an officer, director, owner, or
37 employee of a licensed domestic winery or a wine certificate of

1 approval holder on its board of directors from holding a special
2 occasion license under RCW 66.24.380.

3 (g)(i) Nothing in this section prohibits domestic wineries and
4 retailers licensed under chapter 66.24 RCW from producing, jointly or
5 together with regional, state, or local wine industry associations,
6 brochures and materials promoting tourism in Washington state which
7 contain information regarding retail licensees, domestic wineries, and
8 their products.

9 (ii) Nothing in this section prohibits: (A) Domestic wineries,
10 domestic breweries, microbreweries, and certificate of approval holders
11 licensed under this chapter from listing on their internet web sites
12 information related to retailers who sell or promote their products,
13 including direct links to the retailers' internet web sites; and (B)
14 retailers licensed under this chapter from listing on their internet
15 web sites information related to domestic wineries, domestic breweries,
16 microbreweries, and certificate of approval holders whose products
17 those retailers sell or promote, including direct links to the domestic
18 wineries', domestic breweries', microbreweries', and certificate of
19 approval holders' web sites.

20 (h) Nothing in this section prohibits the performance of personal
21 services offered from time to time by a domestic winery or certificate
22 of approval holder licensed under RCW 66.24.206(1)(a) for or on behalf
23 of a licensed retail business when the personal services are (i)
24 conducted at a licensed premises, and (ii) intended to inform, educate,
25 or enhance customers' knowledge or experience of the manufacturer's
26 products. The performance of personal services may include
27 participation and pouring at the premises of a retailer holding a
28 spirits, beer, and wine restaurant license, a wine and/or beer
29 restaurant license, ~~((or))~~ a specialty wine shop license, a special
30 occasion license, or a private club license; bottle signings; and other
31 similar informational or educational activities. A domestic winery or
32 certificate of approval holder is not obligated to perform any such
33 personal services, and a retail licensee may not require a domestic
34 winery or certificate of approval holder to conduct any personal
35 service as a condition for selling any alcohol to the retail licensee.
36 Except as provided in RCW 66.28.150, the cost of sampling may not be
37 borne, directly or indirectly, by any liquor manufacturer, importer, or
38 distributor. Nothing in this section prohibits domestic wineries and

1 retail licensees from identifying the wineries on private labels
2 authorized under RCW 66.24.400, 66.24.425, ~~((and))~~ 66.24.450,
3 66.24.360, and 66.24.371.

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

10 (j) Nothing in this section shall prohibit a manufacturer,
11 importer, or distributor from entering into an arrangement with any
12 holder of a sports/entertainment facility license or an affiliated
13 business for brand advertising at the licensed facility or promoting
14 events held at the sports entertainment facility as authorized under
15 RCW 66.24.570.

16 (2) Financial interest, direct or indirect, as used in this
17 section, shall include any interest, whether by stock ownership,
18 mortgage, lien, or through interlocking directors, or otherwise.
19 Pursuant to rules promulgated by the board in accordance with chapter
20 34.05 RCW manufacturers, distributors, and importers may perform, and
21 retailers may accept the service of building, rotating and restocking
22 case displays and stock room inventories; rotating and rearranging can
23 and bottle displays of their own products; provide point of sale
24 material and brand signs; price case goods of their own brands; and
25 perform such similar normal business services as the board may by
26 regulation prescribe.

27 (3)(a) This section does not prohibit a manufacturer, importer, or
28 distributor from providing services to a special occasion licensee for:
29 (i) Installation of draft beer dispensing equipment or advertising,
30 (ii) advertising, pouring, or dispensing of beer or wine at a beer or
31 wine tasting exhibition or judging event, or (iii) a special occasion
32 licensee from receiving any such services as may be provided by a
33 manufacturer, importer, or distributor. Nothing in this section shall
34 prohibit a retail licensee, or any person financially interested,
35 directly or indirectly, in such a retail licensee from having a
36 financial interest, direct or indirect, in a business which provides,
37 for a compensation commensurate in value to the services provided,

1 bottling, canning or other services to a manufacturer, so long as the
2 retail licensee or person interested therein has no direct financial
3 interest in or control of said manufacturer.

4 (b) A person holding contractual rights to payment from selling a
5 liquor distributor's business and transferring the license shall not be
6 deemed to have a financial interest under this section if the person
7 (i) lacks any ownership in or control of the distributor, (ii) is not
8 employed by the distributor, and (iii) does not influence or attempt to
9 influence liquor purchases by retail liquor licensees from the
10 distributor.

11 (c) The board shall adopt such rules as are deemed necessary to
12 carry out the purposes and provisions of subsections (1)(g) and (h) and
13 (3)(a) of this section in accordance with the administrative procedure
14 act, chapter 34.05 RCW.

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

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

20 **Sec. 6.** RCW 66.24.371 and 2003 c 167 s 9 are each amended to read
21 as follows:

22 (1) There shall be a beer and/or wine retailer's license to be
23 designated as a beer and/or wine specialty shop license to sell beer,
24 strong beer, and/or wine at retail in bottles, cans, and original
25 containers, not to be consumed upon the premises where sold, at any
26 store other than the state liquor stores. Licensees obtaining a
27 written endorsement from the board may also sell malt liquor in kegs or
28 other containers capable of holding (~~less than five and one-half~~)
29 four gallons or more of liquid. The annual fee for the beer and/or
30 wine specialty shop license is one hundred dollars for each store. The
31 sale of any container holding four gallons or more must comply with RCW
32 66.28.200 and 66.28.220.

33 (2) Licensees under this section may provide, free or for a charge,
34 single-serving samples of two ounces or less to customers for the
35 purpose of sales promotion. Sampling activities of licensees under
36 this section are subject to RCW 66.28.010 and 66.28.040 and the cost of

1 sampling under this section may not be borne, directly or indirectly,
2 by any manufacturer, importer, or distributor of liquor.

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

9 (a) The likelihood that the applicant will sell strong beer or
10 fortified wine to persons who are intoxicated;

11 (b) Law enforcement problems in the vicinity of the applicant's
12 establishment that may arise from persons purchasing strong beer or
13 fortified wine at the establishment; and

14 (c) Whether the sale of strong beer or fortified wine would be
15 detrimental to or inconsistent with a government-operated or funded
16 alcohol treatment or detoxification program in the area.

17 If the board receives no evidence or objection that the sale of
18 strong beer or fortified wine would be against the public interest, it
19 shall issue or renew the license without restriction, as applicable.
20 The burden of establishing that the sale of strong beer or fortified
21 wine by the licensee would be against the public interest is on those
22 persons objecting.

23 (4) Licensees holding a beer and/or wine specialty shop license
24 must maintain a minimum three thousand dollar wholesale inventory of
25 beer, strong beer, and/or wine.

26 **Sec. 7.** RCW 66.28.200 and 2007 c 53 s 2 are each amended to read
27 as follows:

28 (1) Licensees holding a beer and/or wine restaurant or a tavern
29 license in combination with an off-premises beer and wine retailer's
30 license (~~(or)~~) licensees holding a spirits, beer, and wine restaurant
31 license with an endorsement issued under RCW 66.24.400(4) and
32 licensees holding a beer and/or wine specialty shop license with an
33 endorsement issued under RCW 66.24.371(1) may sell malt liquor in kegs
34 or other containers capable of holding four gallons or more of liquid.
35 Under a special endorsement from the board, a grocery store licensee
36 may sell malt liquor in containers no larger than five and one-half

1 gallons. The sale of any container holding four gallons or more must
2 comply with the provisions of this section and RCW 66.28.210 through
3 66.28.240.

4 (2) Any person who sells or offers for sale the contents of kegs or
5 other containers containing four gallons or more of malt liquor, or
6 leases kegs or other containers that will hold four gallons of malt
7 liquor, to consumers who are not licensed under chapter 66.24 RCW shall
8 do the following for any transaction involving the container:

9 (a) Require the purchaser of the malt liquor to sign a declaration
10 and receipt for the keg or other container or beverage in substantially
11 the form provided in RCW 66.28.220;

12 (b) Require the purchaser to provide one piece of identification
13 pursuant to RCW 66.16.040;

14 (c) Require the purchaser to sign a sworn statement, under penalty
15 of perjury, that:

16 (i) The purchaser is of legal age to purchase, possess, or use malt
17 liquor;

18 (ii) The purchaser will not allow any person under the age of
19 twenty-one years to consume the beverage except as provided by RCW
20 66.44.270;

21 (iii) The purchaser will not remove, obliterate, or allow to be
22 removed or obliterated, the identification required under RCW 66.28.220
23 to be affixed to the container;

24 (d) Require the purchaser to state the particular address where the
25 malt liquor will be consumed, or the particular address where the keg
26 or other container will be physically located; and

27 (e) Require the purchaser to maintain a copy of the declaration and
28 receipt next to or adjacent to the keg or other container, in no event
29 a distance greater than five feet, and visible without a physical
30 barrier from the keg, during the time that the keg or other container
31 is in the purchaser's possession or control.

32 (3) A violation of this section is a gross misdemeanor.

33 **Sec. 8.** RCW 66.28.040 and 2008 c 94 s 6 and 2008 c 41 s 12 are
34 each reenacted and amended to read as follows:

35 Except as permitted by the board under RCW 66.20.010, no domestic
36 brewery, microbrewery, distributor, distiller, domestic winery,
37 importer, rectifier, certificate of approval holder, or other

1 manufacturer of liquor shall, within the state of Washington, give to
2 any person any liquor; but nothing in this section nor in RCW 66.28.010
3 shall prevent a domestic brewery, microbrewery, distributor, domestic
4 winery, distiller, certificate of approval holder, or importer from
5 furnishing samples of beer, wine, or spirituous liquor to authorized
6 licensees for the purpose of negotiating a sale, in accordance with
7 regulations adopted by the liquor control board, provided that the
8 samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210,
9 and in the case of spirituous liquor, any product used for samples must
10 be purchased at retail from the board; nothing in this section shall
11 prevent the furnishing of samples of liquor to the board for the
12 purpose of negotiating the sale of liquor to the state liquor control
13 board; nothing in this section shall prevent a domestic brewery,
14 microbrewery, domestic winery, distillery, certificate of approval
15 holder, or distributor from furnishing beer, wine, or spirituous liquor
16 for instructional purposes under RCW 66.28.150; nothing in this section
17 shall prevent a domestic winery, certificate of approval holder, or
18 distributor from furnishing wine without charge, subject to the taxes
19 imposed by RCW 66.24.210, to a not-for-profit group organized and
20 operated solely for the purpose of enology or the study of viticulture
21 which has been in existence for at least six months and that uses wine
22 so furnished solely for such educational purposes or a domestic winery,
23 or an out-of-state certificate of approval holder, from furnishing wine
24 without charge or a domestic brewery, or an out-of-state certificate of
25 approval holder, from furnishing beer without charge, subject to the
26 taxes imposed by RCW 66.24.210 or 66.24.290, or a domestic distiller
27 licensed under RCW 66.24.140 or an accredited representative of a
28 distiller, manufacturer, importer, or distributor of spirituous liquor
29 licensed under RCW 66.24.310, from furnishing spirits without charge,
30 to a nonprofit charitable corporation or association exempt from
31 taxation under section 501(c)(3) or (6) of the internal revenue code of
32 1986 (26 U.S.C. Sec. 501(c)(3) or (6)) for use consistent with the
33 purpose or purposes entitling it to such exemption; nothing in this
34 section shall prevent a domestic brewery or microbrewery from serving
35 beer without charge, on the brewery premises; nothing in this section
36 shall prevent donations of wine for the purposes of RCW 66.12.180;
37 nothing in this section shall prevent a domestic winery from serving

1 wine without charge, on the winery premises; and nothing in this
2 section shall prevent a craft distillery from serving spirits without
3 charge, on the distillery premises subject to RCW 66.24.145.

4 **Sec. 9.** RCW 15.89.070 and 2007 c 211 s 1 are each amended to read
5 as follows:

6 The commission shall:

7 (1) Elect a chair and officers. The officers must include a
8 treasurer who is responsible for all receipts and disbursements by the
9 commission and the faithful discharge of whose duties shall be
10 guaranteed by a bond at the sole expense of the commission. The
11 commission must adopt rules for its own governance that provide for the
12 holding of an annual meeting for the election of officers and the
13 transaction of other business and for other meetings the commission may
14 direct;

15 (2) Do all things reasonably necessary to effect the purposes of
16 this chapter. However, the commission has no rule-making power except
17 as provided in this chapter;

18 (3) Employ and discharge managers, secretaries, agents, attorneys,
19 and employees and engage the services of independent contractors;

20 (4) Retain, as necessary, the services of private legal counsel to
21 conduct legal actions on behalf of the commission. The retention of a
22 private attorney is subject to review by the office of the attorney
23 general;

24 (5) Receive donations of beer from producers for promotional
25 purposes under subsections (6) and (7) of this section and for fund-
26 raising purposes under subsection (8) of this section. Donations of
27 beer for promotional purposes may only be disseminated without charge;

28 (6) Engage directly or indirectly in the promotion of Washington
29 beer, including, without limitation, the acquisition in any lawful
30 manner and the dissemination without charge of beer. This
31 dissemination is not deemed a sale for any purpose and the commission
32 is not deemed a producer, supplier, or manufacturer, or the clerk,
33 servant, or agent of a producer, supplier, distributor, or
34 manufacturer. This dissemination without charge shall be for
35 agricultural development or trade promotion, and not for fund-raising
36 purposes under subsection (8) of this section. Dissemination for
37 promotional purposes may include promotional hosting and must in the

1 good faith judgment of the commission be in the aid of the marketing,
2 advertising, sale of beer, or of research related to such marketing,
3 advertising, or sale;

4 (7) Promote Washington beer by conducting unique beer tastings
5 without charge;

6 (8) Beginning July 1, 2007, fund the Washington beer commission
7 through sponsorship of up to twelve beer festivals annually at which
8 beer may be sold to festival participants. For this purpose, the
9 commission would qualify for issue of a special occasion license as an
10 exception to WAC 314-05-020 but must comply with laws under Title 66
11 RCW and rules adopted by the liquor control board under which such
12 events may be conducted;

13 (9) Participate in international, federal, state, and local
14 hearings, meetings, and other proceedings relating to the production,
15 regulation, distribution, sale, or use of beer including activities
16 authorized under RCW 42.17.190, including the reporting of those
17 activities to the public disclosure commission;

18 (10) Acquire and transfer personal and real property, establish
19 offices, incur expenses, and enter into contracts, including contracts
20 for the creation and printing of promotional literature. The contracts
21 are not subject to chapter 43.78 RCW, and are cancelable by the
22 commission unless performed under conditions of employment that
23 substantially conform to the laws of this state and the rules of the
24 department of labor and industries. The commission may create debt and
25 other liabilities that are reasonable for proper discharge of its
26 duties under this chapter;

27 (11) Maintain accounts with one or more qualified public
28 depositories as the commission may direct, for the deposit of money,
29 and expend money for purposes authorized by this chapter by drafts made
30 by the commission upon such institutions or by other means;

31 (12) Cause to be kept and annually closed, in accordance with
32 generally accepted accounting principles, accurate records of all
33 receipts, disbursements, and other financial transactions, available
34 for audit by the state auditor;

35 (13) Create and maintain a list of producers and disseminate
36 information among and solicit the opinions of producers with respect to
37 the discharge of the duties of the commission, directly or by
38 arrangement with trade associations or other instrumentalities;

1 (14) Employ, designate as an agent, act in concert with, and enter
2 into contracts with any person, council, commission, or other entity to
3 promote the general welfare of the beer industry and particularly to
4 assist in the sale and distribution of Washington beer in domestic and
5 foreign commerce. The commission shall expend money necessary or
6 advisable for this purpose and to pay its proportionate share of the
7 cost of any program providing direct or indirect assistance to the sale
8 and distribution of Washington beer in domestic or foreign commerce,
9 employing and paying for vendors of professional services of all kinds;

10 (15) Sue and be sued as a commission, without individual liability
11 for acts of the commission within the scope of the powers conferred
12 upon it by this chapter;

13 (16) Serve as liaison with the liquor control board on behalf of
14 the commission and not for any individual producer;

15 (17) (~~Until July 1, 2009,~~) Receive such gifts, grants, and
16 endowments from public or private sources as may be made from time to
17 time, in trust or otherwise, for the use and benefit of the purposes of
18 the commission and expend the same or any income therefrom according to
19 the terms of the gifts, grants, or endowments.

20 NEW SECTION. **Sec. 10.** A new section is added to chapter 66.24 RCW
21 to read as follows:

22 Wine may be transferred from one licensed location to another
23 licensed location so long as both locations are under common ownership.
24 A licensed site may transfer up to a total of twenty cases of wine per
25 calendar year.

26 NEW SECTION. **Sec. 11.** A new section is added to chapter 66.28 RCW
27 to read as follows:

28 Nothing in this chapter prohibits the use of checks, credit or
29 debit cards, prepaid accounts, electronic funds transfers, and other
30 similar methods as approved by the board, as cash payments for purposes
31 of this title. Electronic fund transfers must be: (1) Voluntary; (2)
32 conducted pursuant to a prior written agreement of the parties that
33 includes a provision that the purchase be initiated by an irrevocable
34 invoice or sale order before the time of delivery; (3) initiated by the
35 retailer, manufacturer, importer, or distributor no later than the

1 first business day following delivery; and (4) completed as promptly as
2 is reasonably practical, and in no event, later than five business days
3 following delivery.

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