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HOUSE BILL 2043

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State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives Hudgins, Darneille, Cody, Pettigrew, Haigh, Ormsby, Hasegawa, and Kenney

Read first time 03/31/11. Referred to Committee on Ways & Means.

1            AN ACT Relating to increasing state revenues by allowing the sale  
2 of liquor-related products in state and contract liquor stores and by  
3 creating a pilot project for the colocation of contract liquor stores  
4 in grocery stores; amending RCW 66.08.026, 66.08.165, 66.16.010, and  
5 66.08.050; and reenacting and amending RCW 66.04.010.

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

7            **Sec. 1.** RCW 66.04.010 and 2009 c 373 s 1 and 2009 c 271 s 2 are  
8 each reenacted and amended to read 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 by a brewery or winery in the United States outside of the state of  
8 Washington; and

9 (d) Is appointed by the brewery or winery referenced in (c) of this  
10 subsection as its authorized representative for marketing and selling  
11 its products within the United States in accordance with a written  
12 agreement between the authorized representative and such brewery or  
13 winery pursuant to this title.

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

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

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

25 (6) "Board" means the liquor control board, constituted under this  
26 title.

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

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

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

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

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

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

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

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

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

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

21 (17) "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 (18) "Druggist" means any person who holds a valid certificate and  
26 is a registered pharmacist and is duly and regularly engaged in  
27 carrying on the business of pharmaceutical chemistry pursuant to  
28 chapter 18.64 RCW.

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

30 (20) "Flavored malt beverage" means:

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

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

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

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

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

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

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

26 (26) "Liquor-related products" means ice and mixers; preserved  
27 foods, such as olives, onions, and cherries that are used in drinks;  
28 bartender's guides, shakers, strainers, mixing spoons, swizzle sticks,  
29 and similar tools used in preparing drinks; coasters, straws, napkins,  
30 and other such items associated with drinking alcoholic beverages;  
31 glassware specifically associated with drinking alcoholic beverages;  
32 and liquor branded logo giftware.

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

1 not less than one-half of one percent of alcohol by volume. For the  
2 purposes of this title, any such beverage containing more than eight  
3 percent of alcohol by weight shall be referred to as "strong beer."

4 ~~((+27))~~ (28) "Manufacturer" means a person engaged in the  
5 preparation of liquor for sale, in any form whatsoever.

6 ~~((+28))~~ (29) "Nightclub" means an establishment that provides  
7 entertainment and has as its primary source of revenue (a) the sale of  
8 alcohol for consumption on the premises, (b) cover charges, or (c)  
9 both, and has an occupancy load of one hundred or more.

10 ~~((+29))~~ (30) "Package" means any container or receptacle used for  
11 holding liquor.

12 ~~((+30))~~ (31) "Passenger vessel" means any boat, ship, vessel,  
13 barge, or other floating craft of any kind carrying passengers for  
14 compensation.

15 ~~((+31))~~ (32) "Permit" means a permit for the purchase of liquor  
16 under this title.

17 ~~((+32))~~ (33) "Person" means an individual, copartnership,  
18 association, or corporation.

19 ~~((+33))~~ (34) "Physician" means a medical practitioner duly and  
20 regularly licensed and engaged in the practice of his profession within  
21 the state pursuant to chapter 18.71 RCW.

22 ~~((+34))~~ (35) "Prescription" means a memorandum signed by a  
23 physician and given by him to a patient for the obtaining of liquor  
24 pursuant to this title for medicinal purposes.

25 ~~((+35))~~ (36) "Public place" includes streets and alleys of  
26 incorporated cities and towns; state or county or township highways or  
27 roads; buildings and grounds used for school purposes; public dance  
28 halls and grounds adjacent thereto; those parts of establishments where  
29 beer may be sold under this title, soft drink establishments, public  
30 buildings, public meeting halls, lobbies, halls and dining rooms of  
31 hotels, restaurants, theatres, stores, garages and filling stations  
32 which are open to and are generally used by the public and to which the  
33 public is permitted to have unrestricted access; railroad trains,  
34 stages, and other public conveyances of all kinds and character, and  
35 the depots and waiting rooms used in conjunction therewith which are  
36 open to unrestricted use and access by the public; publicly owned  
37 bathing beaches, parks, and/or playgrounds; and all other places of

1 like or similar nature to which the general public has unrestricted  
2 right of access, and which are generally used by the public.

3 ~~((+36+))~~ (37) "Regulations" means regulations made by the board  
4 under the powers conferred by this title.

5 ~~((+37+))~~ (38) "Restaurant" means any establishment provided with  
6 special space and accommodations where, in consideration of payment,  
7 food, without lodgings, is habitually furnished to the public, not  
8 including drug stores and soda fountains.

9 ~~((+38+))~~ (39) "Sale" and "sell" include exchange, barter, and  
10 traffic; and also include the selling or supplying or distributing, by  
11 any means whatsoever, of liquor, or of any liquid known or described as  
12 beer or by any name whatever commonly used to describe malt or brewed  
13 liquor or of wine, by any person to any person; and also include a sale  
14 or selling within the state to a foreign consignee or his agent in the  
15 state. "Sale" and "sell" shall not include the giving, at no charge,  
16 of a reasonable amount of liquor by a person not licensed by the board  
17 to a person not licensed by the board, for personal use only. "Sale"  
18 and "sell" also does not include a raffle authorized under RCW  
19 9.46.0315(~~(:—PROVIDED, That)~~). However, the nonprofit organization  
20 conducting the raffle has obtained the appropriate permit from the  
21 board.

22 ~~((+39+))~~ (40) "Soda fountain" means a place especially equipped  
23 with apparatus for the purpose of dispensing soft drinks, whether mixed  
24 or otherwise.

25 ~~((+40+))~~ (41) "Spirits" means any beverage which contains alcohol  
26 obtained by distillation, except flavored malt beverages, but including  
27 wines exceeding twenty-four percent of alcohol by volume.

28 ~~((+41+))~~ (42) "Store" means a state liquor store established under  
29 this title.

30 ~~((+42+))~~ (43) "Tavern" means any establishment with special space  
31 and accommodation for sale by the glass and for consumption on the  
32 premises, of beer, as herein defined.

33 ~~((+43+))~~ (44)(a) "Wine" means any alcoholic beverage obtained by  
34 fermentation of fruits (grapes, berries, apples, et cetera) or other  
35 agricultural product containing sugar, to which any saccharine  
36 substances may have been added before, during or after fermentation,  
37 and containing not more than twenty-four percent of alcohol by volume,  
38 including sweet wines fortified with wine spirits, such as port,

1 sherry, muscatel and angelica, not exceeding twenty-four percent of  
2 alcohol by volume and not less than one-half of one percent of alcohol  
3 by volume. For purposes of this title, any beverage containing no more  
4 than fourteen percent of alcohol by volume when bottled or packaged by  
5 the manufacturer shall be referred to as "table wine," and any beverage  
6 containing alcohol in an amount more than fourteen percent by volume  
7 when bottled or packaged by the manufacturer shall be referred to as  
8 "fortified wine." However, "fortified wine" shall not include: (i)  
9 Wines that are both sealed or capped by cork closure and aged two years  
10 or more; and (ii) wines that contain more than fourteen percent alcohol  
11 by volume solely as a result of the natural fermentation process and  
12 that have not been produced with the addition of wine spirits, brandy,  
13 or alcohol.

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

16 ~~((44))~~ (45) "Wine distributor" means a person who buys wine from  
17 a domestic winery, wine certificate of approval holder, or wine  
18 importer, or who acquires foreign produced wine from a source outside  
19 of the United States, for the purpose of selling the same not in  
20 violation of this title, or who represents such vintner or winery as  
21 agent.

22 ~~((45))~~ (46) "Wine importer" means a person or business within  
23 Washington who purchases wine from a wine certificate of approval  
24 holder or who acquires foreign produced wine from a source outside of  
25 the United States for the purpose of selling the same pursuant to this  
26 title.

27 ~~((46))~~ (47) "Winery" means a business conducted by any person for  
28 the manufacture of wine for sale, other than a domestic winery.

29 **Sec. 2.** RCW 66.08.026 and 2008 c 67 s 1 are each amended to read  
30 as follows:

31 Administrative expenses of the board shall be appropriated and paid  
32 from the liquor revolving fund. These administrative expenses shall  
33 include, but not be limited to: The salaries and expenses of the board  
34 and its employees, the cost of opening additional state liquor stores  
35 and warehouses, legal services, pilot projects, annual or other audits,  
36 and other general costs of conducting the business of the board. The  
37 administrative expenses shall not include costs of liquor, liquor-

1 related products, and lottery tickets purchased, the cost of  
2 transportation and delivery to the point of distribution, the cost of  
3 operating, maintaining, relocating, and leasing state liquor stores and  
4 warehouses, other costs pertaining to the acquisition and receipt of  
5 liquor and lottery tickets, agency commissions for contract liquor  
6 stores, transaction fees associated with credit or debit card purchases  
7 for liquor in state liquor stores and in contract liquor stores  
8 pursuant to RCW 66.16.040 and 66.16.041, sales tax, and those amounts  
9 distributed pursuant to RCW 66.08.180, 66.08.190, 66.08.200, 66.08.210  
10 and 66.08.220. Agency commissions for contract liquor stores shall be  
11 established by the liquor control board after consultation with and  
12 approval by the director of the office of financial management. All  
13 expenditures and payment of obligations authorized by this section are  
14 subject to the allotment requirements of chapter 43.88 RCW.

15 **Sec. 3.** RCW 66.08.165 and 2005 c 231 s 1 are each amended to read  
16 as follows:

17 The board shall, consistent with, and in addition to, the existing  
18 retail business plan, implement strategies to improve the efficiency of  
19 retail sales operations and maximize revenue-generating opportunities.  
20 Strategies to be implemented shall include, but are not limited to:

21 (1) Expanding store operations to include Sunday sales in selected  
22 liquor stores. Sunday sales are optional for liquor vendors operating  
23 agency stores;

24 (2) Implementing a plan of in-store liquor merchandising, including  
25 point-of-sale advertising, and product specific point-of-sale  
26 promotional displays and carousels, including displays designed and  
27 provided by vendors; and

28 (3) Implementing a plan for in-store liquor merchandising of  
29 brands. (~~The plan may not include provisions for selling liquor-~~  
30 ~~related items other than those items previously authorized.~~)

31 **Sec. 4.** RCW 66.16.010 and 2005 c 518 s 935 are each amended to  
32 read as follows:

33 (1) There shall be established at such places throughout the state  
34 as the liquor control board, constituted under this title, shall deem  
35 advisable, stores to be known as "state liquor stores," for the sale of  
36 liquor and liquor-related products in accordance with the provisions of



1 this title and the regulations: PROVIDED, That the prices of all  
2 liquor shall be fixed by the board from time to time so that the net  
3 annual revenue received by the board therefrom shall not exceed thirty-  
4 five percent. Effective no later than July 1, 2005, the liquor control  
5 board shall add an equivalent surcharge of \$0.42 per liter on all  
6 retail sales of spirits, excluding licensee, military, and tribal  
7 sales. The intent of this surcharge is to raise revenue for the  
8 general fund-state for the 2003-2005 and 2005-2007 bienniums. The  
9 board shall remove the surcharge June 30, 2007.

10 (2) The liquor control board may, from time to time, fix the  
11 special price at which pure ethyl alcohol may be sold to physicians and  
12 dentists and institutions regularly conducted as hospitals, for use or  
13 consumption only in such hospitals; and may also fix the special price  
14 at which pure ethyl alcohol may be sold to schools, colleges and  
15 universities within the state for use for scientific purposes.  
16 Regularly conducted hospitals may have right to purchase pure ethyl  
17 alcohol on a federal permit.

18 (3) The liquor control board may also fix the special price at  
19 which pure ethyl alcohol may be sold to any department, branch or  
20 institution of the state of Washington, federal government, or to any  
21 person engaged in a manufacturing or industrial business or in  
22 scientific pursuits requiring alcohol for use therein.

23 (4) The liquor control board may also fix a special price at which  
24 pure ethyl alcohol may be sold to any private individual, and shall  
25 make regulations governing such sale of alcohol to private individuals  
26 as shall promote, as nearly as may be, the minimum purchase of such  
27 alcohol by such persons.

28 **Sec. 5.** RCW 66.08.050 and 2005 c 151 s 3 are each amended to read  
29 as follows:

30 The board, subject to the provisions of this title and the rules,  
31 shall:

32 (1) Determine the localities within which state liquor stores shall  
33 be established throughout the state, and the number and situation of  
34 the stores within each locality;

35 (2) Appoint in cities and towns and other communities, in which no  
36 state liquor store is located except as provided in subsection (8) of  
37 this section, contract liquor stores. In addition, the board may

1 appoint, in its discretion, a manufacturer that also manufactures  
2 liquor products other than wine under a license under this title, as a  
3 contract liquor store for the purpose of sale of liquor products of its  
4 own manufacture on the licensed premises only. Such contract liquor  
5 stores shall be authorized to sell liquor under the guidelines provided  
6 by law, rule, or contract, and such contract liquor stores shall be  
7 subject to such additional rules and regulations consistent with this  
8 title as the board may require;

9 (3) Establish all necessary warehouses for the storing and  
10 bottling, diluting and rectifying of stocks of liquors for the purposes  
11 of this title;

12 (4) Provide for the leasing for periods not to exceed ten years of  
13 all premises required for the conduct of the business; and for  
14 remodeling the same, and the procuring of their furnishings, fixtures,  
15 and supplies; and for obtaining options of renewal of such leases by  
16 the lessee. The terms of such leases in all other respects shall be  
17 subject to the direction of the board;

18 (5) Determine the nature, form and capacity of all packages to be  
19 used for containing liquor kept for sale under this title;

20 (6) Execute or cause to be executed, all contracts, papers, and  
21 documents in the name of the board, under such regulations as the board  
22 may fix;

23 (7) Pay all customs, duties, excises, charges and obligations  
24 whatsoever relating to the business of the board;

25 (8) Require bonds from all employees in the discretion of the  
26 board, and to determine the amount of fidelity bond of each such  
27 employee;

28 (9) Perform services for the state lottery commission to such  
29 extent, and for such compensation, as may be mutually agreed upon  
30 between the board and the commission;

31 (10) Accept and deposit into the general fund-local account and  
32 disburse, subject to appropriation, federal grants or other funds or  
33 donations from any source for the purpose of improving public awareness  
34 of the health risks associated with alcohol consumption by youth and  
35 the abuse of alcohol by adults in Washington state. The board's  
36 alcohol awareness program shall cooperate with federal and state  
37 agencies, interested organizations, and individuals to effect an active  
38 public beverage alcohol awareness program;

1 (11) Perform all other matters and things, whether similar to the  
2 foregoing or not, to carry out the provisions of this title, and  
3 (~~shall have~~) has full power to do each and every act necessary to the  
4 conduct of its business, including all buying, selling, preparation and  
5 approval of forms, and every other function of the business whatsoever,  
6 subject only to audit by the state auditor(~~(:—PROVIDED, That)~~).  
7 However, the board (~~shall have~~) has no authority to regulate the  
8 content of spoken language on licensed premises where wine and other  
9 liquors are served and where there is not a clear and present danger of  
10 disorderly conduct being provoked by such language;

11 (12) Conduct a pilot project, beginning in fiscal year 2012, to  
12 appoint up to five contract stores colocated within grocery stores  
13 licensed under RCW 66.24.360 in high population areas. The board must  
14 report to the appropriate committees of the legislature the results of  
15 the pilot project no later than January 1, 2013.

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