

SHB 2686 - H AMD 1670

By Representative Orwall

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

3 **"Sec. 1.** RCW 66.28.310 and 2019 c 149 s 1 are each amended to
4 read as follows:

5 (1) (a) Nothing in RCW 66.28.305 prohibits an industry member from
6 providing retailers, including common carriers licensed under RCW
7 66.24.395, branded promotional items which are of nominal value,
8 singly or in the aggregate. Such items include but are not limited
9 to: Trays, lighters, blotters, postcards, pencils, coasters, menu
10 cards, meal checks, napkins, clocks, mugs, glasses, bottles or can
11 openers, corkscrews, matches, printed recipes, shirts, hats, visors,
12 and other similar items. Branded promotional items:

13 (i) Must be used exclusively by the retailer, including common
14 carriers licensed under RCW 66.24.395, or its employees in a manner
15 consistent with its license;

16 (ii) Must bear imprinted advertising matter of the industry
17 member only, except imprinted advertising matter of the industry
18 member can include the logo of a professional sports team which the
19 industry member is licensed to use;

20 (iii) May be provided by industry members (~~only~~) to: (A) Common
21 carriers licensed under RCW 66.24.395 for use by their employees or
22 ticketed passengers; or (B) retailers, other than common carriers
23 licensed under RCW 66.24.395, and their employees and may not be
24 provided by or through retailers or their employees to retail
25 customers; and

26 (iv) May not be targeted to or appeal principally to youth.

27 (b) An industry member is not obligated to provide any such
28 branded promotional items, and a retailer, including common carriers
29 licensed under RCW 66.24.395, may not require an industry member to
30 provide such branded promotional items as a condition for selling any
31 alcohol to the retailer, including common carriers licensed under RCW
32 66.24.395.

1 (c) Any industry member or retailer or any other person asserting
2 that the provision of branded promotional items as allowed in (a) of
3 this subsection has resulted or is more likely than not to result in
4 undue influence or an adverse impact on public health and safety, or
5 is otherwise inconsistent with the criteria in (a) of this subsection
6 may file a complaint with the board. Upon receipt of a complaint the
7 board may conduct such investigation as it deems appropriate in the
8 circumstances. If the investigation reveals the provision of branded
9 promotional items has resulted in or is more likely than not to
10 result in undue influence or has resulted or is more likely than not
11 to result in an adverse impact on public health and safety or is
12 otherwise inconsistent with (a) of this subsection the board may
13 issue an administrative violation notice to the industry member, to
14 the retailer, or both. The recipient of the administrative violation
15 notice may request a hearing under chapter 34.05 RCW.

16 (2) Nothing in RCW 66.28.305 prohibits:

17 (a) An industry member from providing to a special occasion
18 licensee and a special occasion licensee from receiving services for:

19 (i) Installation of draft beer dispensing equipment or
20 advertising;

21 (ii) Advertising, pouring, or dispensing of beer or wine at a
22 beer or wine tasting exhibition or judging event; or

23 (iii) Pouring or dispensing of spirits by a licensed domestic
24 distiller or the accredited representative of a distiller,
25 manufacturer, importer, or distributor of spirituous liquor licensed
26 under RCW 66.24.310; or

27 (b) Special occasion licensees from paying for beer, wine, or
28 spirits immediately following the end of the special occasion event;
29 or

30 (c) Wineries, breweries, or distilleries that are participating
31 in a special occasion event from paying reasonable booth fees to the
32 special occasion licensee.

33 (3) Nothing in RCW 66.28.305 prohibits industry members from
34 performing, and retailers from accepting the service of building,
35 rotating, and restocking displays and stockroom inventories; rotating
36 and rearranging can and bottle displays of their own products;
37 providing point of sale material and brand signs; pricing case goods
38 of their own brands; and performing such similar business services
39 consistent with board rules, or personal services as described in
40 subsection (5) of this section.

1 (4) Nothing in RCW 66.28.305 prohibits:

2 (a) Industry members from listing on their internet web sites
3 information related to retailers who sell or promote their products,
4 including direct links to the retailers' internet web sites;

5 (b) Retailers from listing on their internet web sites
6 information related to industry members whose products those
7 retailers sell or promote, including direct links to the industry
8 members' web sites;

9 (c) Manufacturers, distributors, or their licensed
10 representatives from using web sites or social media accounts in
11 their name to post, repost, or share promotional information or
12 images about events featuring a product of the manufacturer's own
13 production or a product sold by the distributor, held at an on-
14 premises licensed liquor retailer's location or a licensed special
15 occasion event. The promotional information may include links to
16 purchase event tickets. Manufacturers, distributors, or their
17 licensed representatives may not pay a third party to enhance
18 viewership of a specific post. Industry members, or their licensed
19 representatives, are not obligated to post, repost, or share
20 information or images on a web site or on social media. A licensed
21 liquor retailer may not require an industry member or their licensed
22 representative to post, repost, or share information or images on a
23 web site or on social media as a condition for selling any alcohol to
24 the retailer or participating in a retailer's event; or

25 (d) Industry members and retailers from producing, jointly or
26 together with regional, state, or local industry associations,
27 brochures and materials promoting tourism in Washington state which
28 contain information regarding retail licensees, industry members, and
29 their products.

30 (5) Nothing in RCW 66.28.305 prohibits the performance of
31 personal services offered from time to time by a domestic winery or
32 certificate of approval holder to retailers, including common
33 carriers licensed under RCW 66.24.395, when the personal services are

34 (a) conducted at a licensed premises, and (b) intended to inform,
35 educate, or enhance customers' knowledge or experience of the
36 manufacturer's products. The performance of personal services may
37 include participation and pouring, bottle signing events, and other
38 similar informational or educational activities at the premises of a
39 retailer holding a spirits, beer, and wine restaurant license, a wine
40 and/or beer restaurant license, a specialty wine shop license, a

1 special occasion license, a grocery store license with a tasting
2 endorsement, a common carrier license under RCW 66.24.395, or a
3 private club license. A domestic winery or certificate of approval
4 holder is not obligated to perform any such personal services, and a
5 retail licensee, including common carrier licensees under RCW
6 66.24.395, may not require a domestic winery or certificate of
7 approval holder to conduct any personal service as a condition for
8 selling any alcohol to the retail licensee, or as a condition for
9 including any product of the domestic winery or certificate of
10 approval holder in any tasting conducted by the licensee. Except as
11 provided in RCW 66.28.150, the cost of sampling may not be borne,
12 directly or indirectly, by any domestic winery or certificate of
13 approval holder or any distributor. Nothing in this section prohibits
14 wineries, breweries, microbreweries, certificate of approval holders,
15 and retail licensees from identifying the producers on private labels
16 authorized under RCW 66.24.400, 66.24.425, 66.24.450, 66.24.360, and
17 66.24.371.

18 (6) Nothing in RCW 66.28.305 prohibits an industry member from
19 entering into an arrangement with any holder of a sports
20 entertainment facility license or an affiliated business for brand
21 advertising at the licensed facility or promoting events held at the
22 sports entertainment facility as authorized under RCW 66.24.570.

23 (7) Nothing in RCW 66.28.305 prohibits the performance of
24 personal services offered from time to time by a domestic brewery,
25 microbrewery, or beer certificate of approval holder to grocery store
26 licensees with a tasting endorsement, or common carrier licensees
27 under RCW 66.24.395, when the personal services are (a) conducted at
28 a licensed premises in conjunction with a tasting event, and (b)
29 intended to inform, educate, or enhance customers' knowledge or
30 experience of the manufacturer's products. The performance of
31 personal services may include participation and pouring, bottle
32 signing events, and other similar informational or educational
33 activities. A domestic brewery, microbrewery, or beer certificate of
34 approval holder is not obligated to perform any such personal
35 services, and a grocery store licensee may not require the
36 performance of any personal service as a condition for including any
37 product in any tasting conducted by the licensee.

38 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a
39 domestic winery and a restaurant licensed under RCW 66.24.320 or
40 66.24.400 to waive a corkage fee.

1 (9) Nothing in this section prohibits professional sports teams
2 who hold a retail liquor license or their agents from accepting bona
3 fide liquor advertising from manufacturers, importers, distributors,
4 or their agents for use in the sporting arena. Professional sports
5 teams who hold a retail liquor license or their agents may license
6 the manufacturer, importer, distributor, or their agents to use the
7 name and trademarks of the professional sports team in their
8 advertising and promotions, under the following conditions:

9 (a) Such advertising must be paid for by said manufacturer,
10 importer, distributor, or their agent at the published advertising
11 rate or at a reasonable fair market value.

12 (b) Such advertising may carry with it no express or implied
13 offer on the part of the manufacturer, importer, distributor, or
14 their agent, or promise on the part of the retail licensee whose
15 operation is directly or indirectly part of the sporting arena, to
16 stock or list any particular brand of liquor to the total or partial
17 exclusion of any other brand.

18 (10) Nothing in RCW 66.28.305 prohibits a licensed domestic
19 brewery or microbrewery from providing branded promotional items
20 which are of nominal value, singly or in the aggregate, to a
21 nonprofit charitable corporation or association exempt from taxation
22 under 26 U.S.C. Sec. 501(c)(3) of the internal revenue code as it
23 existed on July 24, 2015, for use consistent with the purpose or
24 purposes entitling it to such exemption.

25 (11) Nothing in RCW 66.28.305 prohibits a common carrier licensed
26 under RCW 66.24.395 from:

27 (a) Transporting liquor without charge or at a discounted rate
28 when the liquor was purchased by a ticketed passenger and is not
29 intended to be sold for resale;

30 (b) Displaying or distributing information about an industry
31 member, provided the industry member did not pay the common carrier
32 to have the information displayed or distributed;

33 (c) Sponsoring any public or private event including those hosted
34 by or otherwise affiliated with an industry member;

35 (d) Engaging in joint promotional activities with an industry
36 member, provided the industry member does not pay the common carrier
37 or a third party to participate in the joint promotional activity and
38 any branded promotional items provided by the industry member are of
39 nominal value;

1 (e) Accepting payment from an industry member for advertising,
2 provided:

3 (i) The advertising appears in a publication produced and
4 distributed to passengers of the common carrier;

5 (ii) The amount of the payment is consistent with the advertising
6 rates paid by other advertisers purchasing similar advertisements in
7 the same publication; and

8 (iii) The payment is not used as an inducement to purchase the
9 products of the industry member paying for the advertising nor does
10 it result in the exclusion of products of other industry members.

11 (12) Nothing in RCW 66.28.305 prohibits an industry member,
12 subject to the requirements of its license, from entering into an
13 agreement to provide tastings with or without charge to passengers of
14 a common carrier holding a license under RCW 66.24.395.

15 **Sec. 2.** RCW 66.24.395 and 1997 c 321 s 25 are each amended to
16 read as follows:

17 (1)(a) There shall be a license that may be issued to
18 corporations, associations, or persons operating as federally
19 licensed commercial common passenger carriers engaged in interstate
20 commerce, in or over territorial limits of the state of Washington on
21 passenger trains, vessels, or airplanes. Such license shall permit
22 the sale of spirituous liquor, wine, and beer at retail for passenger
23 consumption within the state upon one such train passenger car,
24 vessel, or airplane, while in or over the territorial limits of the
25 state. Such license shall include the privilege of transporting into
26 and storing within the state such liquor for subsequent retail sale
27 to passengers in passenger train cars, vessels or airplanes. The fees
28 for such master license shall be seven hundred fifty dollars per
29 annum (class CCI-1): PROVIDED, That upon payment of an additional sum
30 of five dollars per annum per car, or vessel, or airplane, the
31 privileges authorized by such license classes shall extend to
32 additional cars, or vessels, or airplanes operated by the same
33 licensee within the state, and a duplicate license for each
34 additional car, or vessel, or airplane shall be issued: PROVIDED,
35 FURTHER, That such licensee may make such sales and/or service upon
36 cars, or vessels, or airplanes in emergency for not more than five
37 consecutive days without such license: AND PROVIDED, FURTHER, That
38 such license shall be valid only while such cars, or vessels, or
39 airplanes are actively operated as common carriers for hire in

1 interstate commerce and not while they are out of such common carrier
2 service.

3 (b) Alcoholic beverages sold and/or served for consumption by
4 such interstate common carriers while within or over the territorial
5 limits of this state shall be subject to such board markup and state
6 liquor taxes in an amount to approximate the revenue that would have
7 been realized from such markup and taxes had the alcoholic beverages
8 been purchased in Washington: PROVIDED, That the board's markup shall
9 be applied on spirituous liquor only. Such common carriers shall
10 report such sales and/or service and pay such markup and taxes in
11 accordance with procedures prescribed by the board.

12 (2) Alcoholic beverages sold and delivered in this state to
13 interstate common carriers for use under the provisions of this
14 section shall be considered exported from the state, subject to the
15 conditions provided in subsection (1)(b) of this section. Interstate
16 common carriers licensed under this section may purchase alcoholic
17 beverages outside the territorial limits of the state of Washington
18 and import such alcoholic beverages into the state of Washington for
19 sales and service aboard passenger trains, vessels, or airplanes. The
20 storage facilities for liquor within the state by common carriers
21 licensed under this section shall be subject to written approval by
22 the board.

23 (3) Interstate common carriers licensed under this section may
24 provide complimentary alcoholic beverages to passengers aboard
25 passenger trains, vessels, or airplanes."

26 Correct the title.

EFFECT: The striking amendment makes the following changes to the substitute bill:

(1) Authorizes industry members to provide branded promotional items of nominal value to interstate common carriers.

(2) Provides that branded promotional items received by interstate common carriers from industry members may be used by employees or ticketed passengers of the interstate common carrier.

(3) Allows domestic wineries, and out-of-state wineries holding a certificate of approval, to perform personal services for interstate common carriers, including pouring, bottle signing events, and other similar informational or educational activities related to the manufacturer's products.

(4) Allows domestic breweries, microbreweries, and out-of-state breweries holding a certificate of approval to perform personal services for interstate common carriers in conjunction with a tasting event, including pouring, bottle signing events, and other similar informational or educational activities related to the manufacturer's products.

(5) Allows industry members to engage in joint promotional activities with interstate common carriers only if the industry member does not pay the interstate common carrier, or a third party, to participate in the activity.

(6) Allows interstate common carriers to purchase and import out-of-state alcoholic beverages for sale and service on passenger trains, vessels, or airplanes.

(7) Allows interstate common carriers to provide complimentary alcoholic beverages to passengers aboard passenger trains, vessels, or airplanes.

(8) Moves language related to interstate common carrier three tier system requirement exemptions to a separate section that establishes three tier system requirement exemptions for promotional items.

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