

# SENATE BILL REPORT

## SB 5013

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As of January 19, 2023

**Title:** An act relating to providing a tax exemption for the first 20,000 gallons of wine sold by a winery in Washington.

**Brief Description:** Providing a tax exemption for the first 20,000 gallons of wine sold by a winery in Washington.

**Sponsors:** Senators Warnick, Keiser, Dhingra, Kuderer and Torres.

**Brief History:**

**Committee Activity:** Business, Financial Services, Gaming & Trade: 1/19/23.

**Brief Summary of Bill**

- Exempts the first 20,000 gallons of wine sold by a winery in a calendar year from most wine and cider excise taxes.
- Requires the Joint Legislative Audit and Review Committee (JLARC) to evaluate the tax preference by 2033.
- Provides legislative intent to extend the tax preference if the JLARC evaluation meets certain conditions.

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### SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES, GAMING & TRADE

**Staff:** Alia Kennedy (786-7405)

**Background:** Definitions. Cider means table wine that contains no less than 0.5 percent of alcohol by volume (ABV) and not more than 8.5 percent of ABV and is made from normal alcoholic fermentation of the juice of sound, ripe apples or pears, and includes flavored, sparkling, or carbonated cider. Domestic winery means a place where wines are manufactured or produced within the state. Tax preference means an exemption, exclusion, deduction, credit, deferral, or preferential rate, for a tax administered by the Department of

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Revenue. Wine means any alcoholic beverage obtained by fermentation of fruits, such as grapes, berries, or apples, or other agricultural product containing sugar, to which any saccharine substances may have been added before, during, or after fermentation, and containing not more than 24 percent of ABV, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and angelica, not exceeding 24 percent of ABV and not less than 0.5 percent of ABV. Table wine refers to wine containing no more than 14 percent of ABV when bottled or packaged by the manufacturer. Fortified wine refers to wine containing more than 14 percent ABV when bottled or packaged by the manufacturer, with certain exceptions. Winery means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery. Wine distributor means a person who buys wine from a domestic winery, wine certificate of approval holder, wine importer, or who acquires foreign produced wine from a source outside of the United States.

Wine and Cider Taxes. The Liquor and Cannabis Board (LCB) administers excise taxes relating to wine and cider. The Department of Revenue administers retail sales and use taxes on wine and cider when purchased in the original container and when consumed on the premises of the seller. For table wine, the total tax rate per liter is \$0.2292, which includes the following per liter taxes:

Base tax	\$0.2025
Additional tax	\$0.0142
Additional tax	\$0.0025
Additional tax	\$0.01

For fortified wine, the total tax rate per liter is \$0.4536, which includes the following per liter taxes:

Base tax	\$0.2025
Additional tax	\$0.0142
Additional tax	\$0.0025
Additional tax	\$0.2344

For cider, the total tax rate per liter is \$0.0814, which includes the following per liter taxes:

Base tax	\$0.0359
Additional tax	\$0.0025
Additional tax	\$0.0005
Additional tax	\$0.0018
Additional tax	\$0.0407

The base taxes are distributed to the Liquor Revolving Fund. LCB is authorized to distribute \$0.25 per liter to Washington State University (WSU) solely for wine and grape

research. Additional taxes are deposited into the state general fund, except for the additional per liter tax of \$0.0025 and \$0.0005 for cider, which are distributed to the Washington Wine Commission (WWC) to finance its activities.

Tax Preferences. In 2013, the Legislature established new tax preference transparency requirements. New tax preferences automatically expire in ten years unless an express expiration date applies. All bills that enact, extend, or expand a tax preference must include a performance statement unless an explicit exemption is included. The amount claimed by a taxpayer for a new tax preference may be publicly disclosed 24 months after the preference is claimed, with some exceptions.

**Summary of Bill: Definitions.** Wine and wine distributor have the same meanings provided in the Alcoholic Beverage Control laws. Winery includes both in-state and out-of-state wineries. Winery sales means taxable sales in Washington, including sales to wine distributors, but does not include exports from the state.

Wine and Cider Taxes. The first 20,000 gallons of wine sold by a winery in a calendar year are exempt from wine and cider excise taxes, except for such taxes collected and distributed to WSU or the WWC.

Tax Preferences. The Joint Legislative Audit and Review Committee (JLARC) must conduct an initial evaluation of the tax preference by January 1, 2028, and a final evaluation by January 1, 2033. The Legislature intends to extend the tax preference if the evaluation determines fewer wineries producing less than 20,000 gallons per year are going out of business, the number of wineries that were producing less than 20,000 gallons per year in 2023 are subsequently producing more than that amount, or the amount of sales and use tax collected by wineries has increased. JLARC may refer to any data collected by the state, including the WWC, to perform the evaluation.

**Appropriation:** None.

**Fiscal Note:** Requested on January 3, 2023.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The bill has no known opposition within the wine industry. Wineries are hurting in Washington and the state is losing about fifty each year. Wineries need a little bit of tax relief. Breweries and craft distillers already receive larger tax breaks than the one contained in this bill. There are 34 other states with lower tax rates than Washington. Most wineries in this state make less than 20,000 gallons each year and will not receive the full benefit of the tax exemption. The benefit is small but would help pay for equipment to help increase production. Tax breaks help small wineries grow.

There is at least one winery in every district in Washington.

**Persons Testifying:** PRO: Senator Judy Warnick, Prime Sponsor; Tom Wark, National Association of Wine Retailers; Paul Beveridge, Family Wineries of Washington State; Sandi Moreno, Leony's Cellars; Perry Preston, Stina's Cellars; Josh McDonald, Washington Wine Institute.

**Persons Signed In To Testify But Not Testifying:** No one.