
SUBSTITUTE SENATE BILL 5375

State of Washington

68th Legislature

2023 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators King, Mullet, Torres, Rivers, Warnick, and L. Wilson)

READ FIRST TIME 02/16/23.

1 AN ACT Relating to taxation of low-proof beverages; amending RCW
2 82.08.150; reenacting and amending RCW 66.04.010; and adding a new
3 section to chapter 66.24 RCW.

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

5 **Sec. 1.** RCW 66.04.010 and 2019 c 61 s 1 are each reenacted and
6 amended to read as follows:

7 In this title, unless the context otherwise requires:

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

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

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

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

1 (c) Acquires ownership of beer or wine for transportation into
2 and resale in the state of Washington; and which beer or wine is
3 produced by a brewery or winery in the United States outside of the
4 state of Washington; and

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

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

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

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

22 (6) "Board" means the liquor and cannabis board, constituted
23 under this title.

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

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

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

- 1 (10) "Consume" includes the putting of liquor to any use, whether
2 by drinking or otherwise.
- 3 (11) "Contract liquor store" means a business that sells liquor
4 on behalf of the board through a contract with a contract liquor
5 store manager.
- 6 (12) "Craft distillery" means a distillery that pays the reduced
7 licensing fee under RCW 66.24.140.
- 8 (13) "Dentist" means a practitioner of dentistry duly and
9 regularly licensed and engaged in the practice of his or her
10 profession within the state pursuant to chapter 18.32 RCW.
- 11 (14) "Distiller" means a person engaged in the business of
12 distilling spirits.
- 13 (15) "Domestic brewery" means a place where beer and malt liquor
14 are manufactured or produced by a brewer within the state.
- 15 (16) "Domestic winery" means a place where wines are manufactured
16 or produced within the state of Washington.
- 17 (17) "Drug store" means a place whose principal business is, the
18 sale of drugs, medicines, and pharmaceutical preparations and
19 maintains a regular prescription department and employs a registered
20 pharmacist during all hours the drug store is open.
- 21 (18) "Druggist" means any person who holds a valid certificate
22 and is a registered pharmacist and is duly and regularly engaged in
23 carrying on the business of pharmaceutical chemistry pursuant to
24 chapter 18.64 RCW.
- 25 (19) "Employee" means any person employed by the board.
- 26 (20) "Flavored malt beverage" means:
- 27 (a) A malt beverage containing six percent or less alcohol by
28 volume to which flavoring or other added nonbeverage ingredients are
29 added that contain distilled spirits of not more than (~~forty-nine~~)
30 49 percent of the beverage's overall alcohol content; or
- 31 (b) A malt beverage containing more than six percent alcohol by
32 volume to which flavoring or other added nonbeverage ingredients are
33 added that contain distilled spirits of not more than (~~one and one~~
34 ~~half~~) 1.5 percent of the beverage's overall alcohol content.
- 35 (21) "Fund" means 'liquor revolving fund.'
- 36 (22) "Hotel" means buildings, structures, and grounds, having
37 facilities for preparing, cooking, and serving food, that are kept,
38 used, maintained, advertised, or held out to the public to be a place
39 where food is served and sleeping accommodations are offered for pay
40 to transient guests, in which (~~twenty~~) 20 or more rooms are used

1 for the sleeping accommodation of such transient guests. The
2 buildings, structures, and grounds must be located on adjacent
3 property either owned or leased by the same person or persons.

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

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

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

20 (26) "Low-proof beverage" means any beverage that is 16 ounces or
21 less and that contains more than .5 percent alcohol by volume and
22 less than seven percent alcohol by volume, but does not include wine,
23 malt beverages, or malt liquor.

24 (27) "Malt beverage" or "malt liquor" means any beverage such as
25 beer, ale, lager beer, stout, and porter obtained by the alcoholic
26 fermentation of an infusion or decoction of pure hops, or pure
27 extract of hops and pure barley malt or other wholesome grain or
28 cereal in pure water containing not more than eight percent of
29 alcohol by weight, and not less than (~~one-half of one~~) .5 percent
30 of alcohol by volume. For the purposes of this title, any such
31 beverage containing more than eight percent of alcohol by weight
32 shall be referred to as "strong beer."

33 (~~(27)~~) (28) "Manufacturer" means a person engaged in the
34 preparation of liquor for sale, in any form whatsoever.

35 (~~(28)~~) (29) "Nightclub" means an establishment that provides
36 entertainment and has as its primary source of revenue (a) the sale
37 of alcohol for consumption on the premises, (b) cover charges, or (c)
38 both.

39 (~~(29)~~) (30) "Package" means any container or receptacle used
40 for holding liquor.

1 (~~(30)~~) (31) "Passenger vessel" means any boat, ship, vessel,
2 barge, or other floating craft of any kind carrying passengers for
3 compensation.

4 (~~(31)~~) (32) "Permit" means a permit for the purchase of liquor
5 under this title.

6 (~~(32)~~) (33) "Person" means an individual, copartnership,
7 association, or corporation.

8 (~~(33)~~) (34) "Physician" means a medical practitioner duly and
9 regularly licensed and engaged in the practice of his or her
10 profession within the state pursuant to chapter 18.71 RCW.

11 (~~(34)~~) (35) "Powdered alcohol" means any powder or crystalline
12 substance containing alcohol that is produced for direct use or
13 reconstitution.

14 (~~(35)~~) (36) "Prescription" means a memorandum signed by a
15 physician and given by him or her to a patient for the obtaining of
16 liquor pursuant to this title for medicinal purposes.

17 (~~(36)~~) (37) "Public place" includes streets and alleys of
18 incorporated cities and towns; state or county or township highways
19 or roads; buildings and grounds used for school purposes; public
20 dance halls and grounds adjacent thereto; those parts of
21 establishments where beer may be sold under this title, soft drink
22 establishments, public buildings, public meeting halls, lobbies,
23 halls and dining rooms of hotels, restaurants, theaters, stores,
24 garages and filling stations which are open to and are generally used
25 by the public and to which the public is permitted to have
26 unrestricted access; railroad trains, stages, and other public
27 conveyances of all kinds and character, and the depots and waiting
28 rooms used in conjunction therewith which are open to unrestricted
29 use and access by the public; publicly owned bathing beaches, parks,
30 and/or playgrounds; and all other places of like or similar nature to
31 which the general public has unrestricted right of access, and which
32 are generally used by the public.

33 (~~(37)~~) (38) "Regulations" means regulations made by the board
34 under the powers conferred by this title.

35 (~~(38)~~) (39) "Restaurant" means any establishment provided with
36 special space and accommodations where, in consideration of payment,
37 food, without lodgings, is habitually furnished to the public, not
38 including drug stores and soda fountains.

39 (~~(39)~~) (40) "Sale" and "sell" include exchange, barter, and
40 traffic; and also include the selling or supplying or distributing,

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

12 ~~((40))~~ (41) "Service bar" means a fixed or portable table,
13 counter, cart, or similar workstation primarily used to prepare, mix,
14 serve, and sell alcohol that is picked up by employees or customers.
15 Customers may not be seated or allowed to consume food or alcohol at
16 a service bar.

17 ~~((41))~~ (42) "Soda fountain" means a place especially equipped
18 with apparatus for the purpose of dispensing soft drinks, whether
19 mixed or otherwise.

20 ~~((42))~~ (43) "Soju" means a traditional Korean distilled
21 alcoholic beverage, produced using authentic Korean recipes and
22 production methods, and derived from agricultural products, that
23 contains not more than ~~((twenty-four))~~ 24 percent of alcohol by
24 volume.

25 ~~((43))~~ (44) "Spirits" means any beverage which contains alcohol
26 obtained by distillation, except flavored malt beverages, but
27 including wines exceeding ~~((twenty-four))~~ 24 percent of alcohol by
28 volume.

29 ~~((44))~~ (45) "Store" means a state liquor store established
30 under this title.

31 ~~((45))~~ (46) "Tavern" means any establishment with special space
32 and accommodation for sale by the glass and for consumption on the
33 premises, of beer, as herein defined.

34 ~~((46))~~ (47) "VIP airport lounge" means an establishment within
35 an international airport located beyond security checkpoints that
36 provides a special space to sit, relax, read, work, and enjoy
37 beverages where access is controlled by the VIP airport lounge
38 operator and is generally limited to the following classifications of
39 persons:

1 (a) Airline passengers of any age whose admission is based on a
2 first-class, executive, or business class ticket;

3 (b) Airline passengers of any age who are qualified members or
4 allowed guests of certain frequent flyer or other loyalty incentive
5 programs maintained by airlines that have agreements describing the
6 conditions for access to the VIP airport lounge;

7 (c) Airline passengers of any age who are qualified members or
8 allowed guests of certain enhanced amenities programs maintained by
9 companies that have agreements describing the conditions for access
10 to the VIP airport lounge;

11 (d) Airport and airline employees, government officials, foreign
12 dignitaries, and other attendees of functions held by the airport
13 authority or airlines related to the promotion of business objectives
14 such as increasing international air traffic and enhancing foreign
15 trade where access to the VIP airport lounge will be controlled by
16 the VIP airport lounge operator; and

17 (e) Airline passengers of any age or airline employees whose
18 admission is based on a pass issued or permission given by the
19 airline for access to the VIP airport lounge.

20 (~~((47))~~) (48) "VIP airport lounge operator" means an airline,
21 port district, or other entity operating a VIP airport lounge that:
22 Is accountable for compliance with the alcohol beverage control act
23 under this title; holds the license under chapter 66.24 RCW issued to
24 the VIP airport lounge; and provides a point of contact for
25 addressing any licensing and enforcement by the board.

26 (~~((48))~~) (49) (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))~~) 24 percent of alcohol by
31 volume, including sweet wines fortified with wine spirits, such as
32 port, sherry, muscatel, and angelica, not exceeding (~~((twenty-four))~~)
33 24 percent of alcohol by volume and not less than one-half of one
34 percent of alcohol by volume. For purposes of this title, any
35 beverage containing no more than (~~((fourteen))~~) 14 percent of alcohol
36 by volume when bottled or packaged by the manufacturer shall be
37 referred to as "table wine," and any beverage containing alcohol in
38 an amount more than (~~((fourteen))~~) 14 percent by volume when bottled or
39 packaged by the manufacturer shall be referred to as "fortified
40 wine." However, "fortified wine" shall not include: (i) Wines that

1 are both sealed or capped by cork closure and aged two years or more;
2 and (ii) wines that contain more than (~~fourteen~~) 14 percent alcohol
3 by volume solely as a result of the natural fermentation process and
4 that have not been produced with the addition of wine spirits,
5 brandy, or alcohol.

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

9 (~~(49)~~) (50) "Wine distributor" means a person who buys wine
10 from a domestic winery, wine certificate of approval holder, or wine
11 importer, or who acquires foreign produced wine from a source outside
12 of the United States, for the purpose of selling the same not in
13 violation of this title, or who represents such vintner or winery as
14 agent.

15 (~~(50)~~) (51) "Wine importer" means a person or business within
16 Washington who purchases wine from a wine certificate of approval
17 holder or who acquires foreign produced wine from a source outside of
18 the United States for the purpose of selling the same pursuant to
19 this title.

20 (~~(51)~~) (52) "Winery" means a business conducted by any person
21 for the manufacture of wine for sale, other than a domestic winery.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 66.24
23 RCW to read as follows:

24 There is levied and collected a tax on the sale of low-proof
25 beverages equal to \$2.50 per gallon as follows:

26 (1) A spirits distributor under the terms of its license shall
27 pay the tax imposed by this section on sales of low-proof beverages
28 to spirits retailers.

29 (2) A distillery or craft distillery that self-distributes low-
30 proof beverages under the terms of its license shall pay the tax
31 imposed by this section on sales to spirits retailers.

32 (3) A distillery or craft distillery that sells low-proof
33 beverages directly to consumers under the terms of its license shall
34 pay the tax imposed by this section on those sales.

35 (4) A holder of a spirits out-of-state certificate with a direct
36 shipment endorsement that self-distributes under the terms of its
37 license shall pay the tax imposed by this section on sales to spirits
38 retailers.

1 **Sec. 3.** RCW 82.08.150 and 2021 c 48 s 6 are each amended to read
2 as follows:

3 (1) There is levied and collected a tax upon each retail sale of
4 spirits in the original package at the rate of (~~(fifteen)~~) 15 percent
5 of the selling price.

6 (2) There is levied and collected a tax upon each sale of spirits
7 in the original package at the rate of (~~(ten)~~) 10 percent of the
8 selling price on sales by a spirits distributor licensee or other
9 licensee acting as a spirits distributor pursuant to Title 66 RCW to
10 restaurant spirits retailers.

11 (3) There is levied and collected an additional tax upon each
12 sale of spirits in the original package by a spirits distributor
13 licensee or other licensee acting as a spirits distributor pursuant
14 to Title 66 RCW to a restaurant spirits retailer and upon each retail
15 sale of spirits in the original package by a licensee of the board at
16 the rate of (~~(one dollar and seventy-two cents)~~) \$1.72 per liter.

17 (4) An additional tax is imposed equal to (~~(fourteen)~~) 14 percent
18 multiplied by the taxes payable under subsections (1), (2), and (3)
19 of this section.

20 (5) An additional tax is imposed upon each sale of spirits in the
21 original package by a spirits distributor licensee or other licensee
22 acting as a spirits distributor pursuant to Title 66 RCW to a
23 restaurant spirits retailer and upon each retail sale of spirits in
24 the original package by a licensee of the board at the rate of seven
25 cents per liter. All revenues collected during any month from this
26 additional tax must be deposited in the state general fund by the
27 (~~(twenty-fifth)~~) 25th day of the following month.

28 (6)(a) An additional tax is imposed upon retail sale of spirits
29 in the original package at the rate of (~~(three and four-tenths)~~) 3.4
30 percent of the selling price.

31 (b) An additional tax is imposed upon retail sale of spirits in
32 the original package to a restaurant spirits retailer at the rate of
33 (~~(two and three-tenths)~~) 2.3 percent of the selling price.

34 (c) An additional tax is imposed upon each sale of spirits in the
35 original package by a spirits distributor licensee or other licensee
36 acting as a spirits distributor pursuant to Title 66 RCW to a
37 restaurant spirits retailer and upon each retail sale of spirits in
38 the original package by a licensee of the board at the rate of
39 (~~(forty-one)~~) 41 cents per liter.

1 (d) All revenues collected during any month from additional taxes
2 under this subsection must be deposited in the state general fund by
3 the (~~twenty-fifth~~) 25th day of the following month.

4 (7) (a) An additional tax is imposed upon each retail sale of
5 spirits in the original package at the rate of (~~one dollar and~~
6 ~~thirty-three cents~~) \$1.33 per liter.

7 (b) All revenues collected during any month from additional taxes
8 under this subsection must be deposited by the (~~twenty-fifth~~) 25th
9 day of the following month into the general fund.

10 (8) The tax imposed in RCW 82.08.020 does not apply to sales of
11 spirits in the original package.

12 (9) The taxes imposed in this section must be paid by the buyer
13 to the seller, and each seller must collect from the buyer the full
14 amount of the tax payable in respect to each taxable sale under this
15 section. The taxes required by this section to be collected by the
16 seller must be stated separately from the selling price, and for
17 purposes of determining the tax due from the buyer to the seller, it
18 is conclusively presumed that the selling price quoted in any price
19 list does not include the taxes imposed by this section. Sellers must
20 report and return all taxes imposed in this section in accordance
21 with rules adopted by the department.

22 (10) (a) Except as otherwise provided in this subsection, the
23 terms, "spirits" and "package" have the same meaning as provided in
24 chapter 66.04 RCW.

25 (b) Until July 1, 2023, for the purposes of the taxes imposed
26 under this section, the term "spirits" does not include mini-bottles
27 of spirits sold by a person who possesses a valid endorsement under
28 section 2(6), chapter 48, Laws of 2021 and is licensed as a spirits,
29 beer, and wine restaurant under RCW 66.24.400.

30 (c) For the purposes of subsections (3), (5), (6) (c), (7), and
31 (8) of this section, the term "spirits" does not include low-proof
32 beverages as defined in RCW 66.04.010.

33 (d) For the purposes of this subsection, "mini-bottles of
34 spirits" means an original factory-sealed container holding not more
35 than 50 milliliters of spirits.

--- END ---