
HOUSE BILL 2364

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Hurst, Blake, Pettigrew, Manweller, Pollet, and Vick

Read first time 01/16/14. Referred to Committee on Government
Accountability & Oversight.

1 AN ACT Relating to sales by craft and general licensed distilleries
2 of spirits for off-premise consumption and spirits samples for on-
3 premise consumption; and amending RCW 66.24.145, 66.28.040, 19.126.020,
4 66.24.140, and 66.28.310.

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

6 **Sec. 1.** RCW 66.24.145 and 2013 c 98 s 1 are each amended to read
7 as follows:

8 (1) Any craft distillery may sell spirits of its own production for
9 consumption off the premises(~~(, up to three liters per person per~~
10 ~~day)~~). A craft distillery selling spirits under this subsection must
11 comply with the applicable laws and rules relating to retailers.

12 (2) Any craft distillery may contract distilled spirits for, and
13 sell contract distilled spirits to, holders of distillers' or
14 manufacturers' licenses, including licenses issued under RCW 66.24.520,
15 or for export.

16 (3) Any craft distillery licensed under this section may provide,
17 free (~~of~~) or for a charge, one-half ounce or less samples of spirits
18 of its own production to persons on the premises of the distillery.

1 The maximum total per person per day is two ounces. Every person who
2 participates in any manner in the service of samples must obtain a
3 class 12 alcohol server permit.

4 (4) The board must adopt rules to implement the alcohol server
5 permit requirement and may adopt additional rules to implement this
6 section.

7 (5) Distilling is an agricultural practice.

8 **Sec. 2.** RCW 66.28.040 and 2012 c 2 s 116 are each amended to read
9 as follows:

10 Except as permitted by the board under RCW 66.20.010, no domestic
11 brewery, microbrewery, distributor, distiller, domestic winery,
12 importer, rectifier, certificate of approval holder, or other
13 manufacturer of liquor may, within the state of Washington, give to any
14 person any liquor; but nothing in this section nor in RCW 66.28.305
15 prevents a domestic brewery, microbrewery, distributor, domestic
16 winery, distiller, certificate of approval holder, or importer from
17 furnishing samples of beer, wine, or spirituous liquor to authorized
18 licensees for the purpose of negotiating a sale, in accordance with
19 regulations adopted by the liquor control board, provided that the
20 samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210;
21 nothing in this section prevents a domestic brewery, microbrewery,
22 domestic winery, distillery, certificate of approval holder, or
23 distributor from furnishing beer, wine, or spirituous liquor for
24 instructional purposes under RCW 66.28.150; nothing in this section
25 prevents a domestic winery, certificate of approval holder, or
26 distributor from furnishing wine without charge, subject to the taxes
27 imposed by RCW 66.24.210, to a not-for-profit group organized and
28 operated solely for the purpose of enology or the study of viticulture
29 which has been in existence for at least six months and that uses wine
30 so furnished solely for such educational purposes or a domestic winery,
31 or an out-of-state certificate of approval holder, from furnishing wine
32 without charge or a domestic brewery, or an out-of-state certificate of
33 approval holder, from furnishing beer without charge, subject to the
34 taxes imposed by RCW 66.24.210 or 66.24.290, or a domestic distiller
35 licensed under RCW 66.24.140 or an accredited representative of a
36 distiller, manufacturer, importer, or distributor of spirituous liquor
37 licensed under RCW 66.24.310, from furnishing spirits without charge,

1 to a nonprofit charitable corporation or association exempt from
2 taxation under 26 U.S.C. Sec. 501(c)(3) or (6) of the internal revenue
3 code of 1986 for use consistent with the purpose or purposes entitling
4 it to such exemption; nothing in this section prevents a domestic
5 brewery or microbrewery from serving beer without charge, on the
6 brewery premises; nothing in this section prevents donations of wine
7 for the purposes of RCW 66.12.180; nothing in this section prevents a
8 domestic winery from serving wine without charge, on the winery
9 premises; and nothing in this section prevents a craft distillery from
10 serving spirits (~~(without charge)~~), on the distillery premises subject
11 to RCW 66.24.145.

12 **Sec. 3.** RCW 19.126.020 and 2012 c 2 s 213 are each amended to read
13 as follows:

14 The definitions in this section apply throughout this chapter
15 unless the context clearly requires otherwise.

16 (1) "Agreement of distributorship" means any contract, agreement,
17 commercial relationship, license, association, or any other
18 arrangement, for a definite or indefinite period, between a supplier
19 and distributor.

20 (2) "Authorized representative" has the same meaning as "authorized
21 representative" as defined in RCW 66.04.010.

22 (3) "Brand" means any word, name, group of letters, symbol, or
23 combination thereof, including the name of the distiller or brewer if
24 the distiller's or brewer's name is also a significant part of the
25 product name, adopted and used by a supplier to identify specific
26 spirits or a specific malt beverage product and to distinguish that
27 product from other spirits or malt beverages produced by that supplier
28 or other suppliers.

29 (4) "Distributor" means any person, including but not limited to a
30 component of a supplier's distribution system constituted as an
31 independent business, importing or causing to be imported into this
32 state, or purchasing or causing to be purchased within this state, any
33 spirits or malt beverages for sale or resale to retailers licensed
34 under the laws of this state, regardless of whether the business of
35 such person is conducted under the terms of any agreement with a
36 distiller or malt beverage manufacturer.

1 (5) "Importer" means any distributor importing spirits or beer into
2 this state for sale to retailer accounts or for sale to other
3 distributors designated as "subjobbers" for resale.

4 (6) "Malt beverage manufacturer" means every brewer, fermenter,
5 processor, bottler, or packager of malt beverages located within or
6 outside this state, or any other person, whether located within or
7 outside this state, who enters into an agreement of distributorship for
8 the resale of malt beverages in this state with any wholesale
9 distributor doing business in the state of Washington.

10 (7) "Person" means any natural person, corporation, partnership,
11 trust, agency, or other entity, as well as any individual officers,
12 directors, or other persons in active control of the activities of such
13 entity.

14 (8) "Spirits manufacturer" means every distiller, processor,
15 bottler, or packager of spirits located within or outside this state,
16 or any other person, whether located within or outside this state, who
17 enters into an agreement of distributorship for the resale of spirits
18 in this state with any wholesale distributor doing business in the
19 state of Washington.

20 (9) "Successor distributor" means any distributor who enters into
21 an agreement, whether oral or written, to distribute a brand of spirits
22 or malt beverages after the supplier with whom such agreement is made
23 or the person from whom that supplier acquired the right to manufacture
24 or distribute the brand has terminated, canceled, or failed to renew an
25 agreement of distributorship, whether oral or written, with another
26 distributor to distribute that same brand of spirits or malt beverages.

27 (10) "Supplier" means any spirits or malt beverage manufacturer or
28 importer who enters into or is a party to any agreement of
29 distributorship with a wholesale distributor. "Supplier" does not
30 include: (a) Any distiller licensed under RCW 66.24.140 or 66.24.145
31 and producing less than (~~sixty~~) one hundred thousand proof gallons of
32 spirits annually or any brewery or microbrewery licensed under RCW
33 66.24.240 and producing less than two hundred thousand barrels of malt
34 liquor annually; (b) any brewer or manufacturer of malt liquor
35 producing less than two hundred thousand barrels of malt liquor
36 annually and holding a certificate of approval issued under RCW
37 66.24.270; or (c) any authorized representative of distillers or malt
38 liquor manufacturers who holds an appointment from one or more

1 distillers or malt liquor manufacturers which, in the aggregate,
2 produce less than two hundred thousand barrels of malt liquor or
3 (~~sixty~~) one hundred thousand proof gallons of spirits.

4 (11) "Terminated distribution rights" means distribution rights
5 with respect to a brand of malt beverages which are lost by a
6 terminated distributor as a result of termination, cancellation, or
7 nonrenewal of an agreement of distributorship for that brand.

8 (12) "Terminated distributor" means a distributor whose agreement
9 of distributorship with respect to a brand of spirits or malt
10 beverages, whether oral or written, has been terminated, canceled, or
11 not renewed.

12 **Sec. 4.** RCW 66.24.140 and 2010 c 290 s 1 are each amended to read
13 as follows:

14 (1) There shall be a license to distillers, including blending,
15 rectifying and bottling; fee two thousand dollars per annum, unless
16 provided otherwise as follows:

17 (~~(1)~~) (a) For distillers producing (~~sixty~~) one hundred thousand
18 gallons or less of spirits with at least half of the raw materials used
19 in the production grown in Washington, the license fee (~~shall~~) must
20 be reduced to one hundred dollars per annum;

21 (~~(2)~~) (b) The board (~~shall~~) must license stills used and to be
22 used solely and only by a commercial chemist for laboratory purposes,
23 and not for the manufacture of liquor for sale, at a fee of twenty
24 dollars per annum;

25 (~~(3)~~) (c) The board (~~shall~~) must license stills used and to be
26 used solely and only for laboratory purposes in any school, college or
27 educational institution in the state, without fee; and

28 (~~(4)~~) (d) The board (~~shall~~) must license stills (~~which shall~~)
29 that have been duly licensed as fruit and/or wine distilleries by the
30 federal government, used and to be used solely as fruit and/or wine
31 distilleries in the production of fruit brandy and wine spirits, at a
32 fee of two hundred dollars per annum.

33 (2) Any distillery licensed under this section may:

34 (a) Sell spirits of its own production for consumption off the
35 premises. A distillery selling spirits under this subsection must
36 comply with the applicable laws and rules relating to retailers;

1 (b) Contract distilled spirits for, and sell contract distilled
2 spirits to, holders of distillers' or manufacturers' licenses,
3 including licenses issued under RCW 66.24.520, or for export; and

4 (c) Provide free or for a charge one-half ounce or less samples of
5 spirits of its own production to persons on the premises of the
6 distillery. The maximum total per person per day is two ounces. Every
7 person who participates in any manner in the service of samples must
8 obtain a class 12 alcohol server permit.

9 **Sec. 5.** RCW 66.28.310 and 2013 c 107 s 1 are each amended to read
10 as follows:

11 (1)(a) Nothing in RCW 66.28.305 prohibits an industry member from
12 providing retailers branded promotional items which are of nominal
13 value, singly or in the aggregate. Such items include but are not
14 limited to: Trays, lighters, blotters, postcards, pencils, coasters,
15 menu cards, meal checks, napkins, clocks, mugs, glasses, bottles or can
16 openers, corkscrews, matches, printed recipes, shirts, hats, visors,
17 and other similar items. Branded promotional items:

18 (i) Must be used exclusively by the retailer or its employees in a
19 manner consistent with its license;

20 (ii) Must bear imprinted advertising matter of the industry member
21 only, except imprinted advertising matter of the industry member can
22 include the logo of a professional sports team which the industry
23 member is licensed to use;

24 (iii) May be provided by industry members only to retailers and
25 their employees and may not be provided by or through retailers or
26 their employees to retail customers; and

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

28 (b) An industry member is not obligated to provide any such branded
29 promotional items, and a retailer may not require an industry member to
30 provide such branded promotional items as a condition for selling any
31 alcohol to the retailer.

32 (c) Any industry member or retailer or any other person asserting
33 that the provision of branded promotional items as allowed in (a) of
34 this subsection has resulted or is more likely than not to result in
35 undue influence or an adverse impact on public health and safety, or is
36 otherwise inconsistent with the criteria in (a) of this subsection may
37 file a complaint with the board. Upon receipt of a complaint the board

1 may conduct such investigation as it deems appropriate in the
2 circumstances. If the investigation reveals the provision of branded
3 promotional items has resulted in or is more likely than not to result
4 in undue influence or has resulted or is more likely than not to result
5 in an adverse impact on public health and safety or is otherwise
6 inconsistent with (a) of this subsection the board may issue an
7 administrative violation notice to the industry member, to the
8 retailer, or both. The recipient of the administrative violation
9 notice may request a hearing under chapter 34.05 RCW.

10 (2) Nothing in RCW 66.28.305 prohibits:

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

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

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

16 (iii) Pouring or dispensing of spirits by a licensed domestic
17 distiller or the accredited representative of a distiller,
18 manufacturer, importer, or distributor of spirituous liquor licensed
19 under RCW 66.24.310; or

20 (b) Special occasion licensees from paying for beer ~~((or))~~, wine,
21 or spirits immediately following the end of the special occasion event;
22 or

23 (c) Wineries ~~((or))~~, breweries, or distilleries that are
24 participating in a special occasion event from paying reasonable booth
25 fees to the special occasion licensee.

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

34 (4) Nothing in RCW 66.28.305 prohibits:

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

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

4 (c) Industry members and retailers from producing, jointly or
5 together with regional, state, or local industry associations,
6 brochures and materials promoting tourism in Washington state which
7 contain information regarding retail licensees, industry members, and
8 their products.

9 (5) Nothing in RCW 66.28.305 prohibits the performance of personal
10 services offered from time to time by a domestic winery or certificate
11 of approval holder to retailers when the personal services are (a)
12 conducted at a licensed premises, and (b) intended to inform, educate,
13 or enhance customers' knowledge or experience of the manufacturer's
14 products. The performance of personal services may include
15 participation and pouring, bottle signing events, and other similar
16 informational or educational activities at the premises of a retailer
17 holding a spirits, beer, and wine restaurant license, a wine and/or
18 beer restaurant license, a specialty wine shop license, a special
19 occasion license, a grocery store license with a tasting endorsement,
20 or a private club license. A domestic winery or certificate of
21 approval holder is not obligated to perform any such personal services,
22 and a retail licensee may not require a domestic winery or certificate
23 of approval holder to conduct any personal service as a condition for
24 selling any alcohol to the retail licensee, or as a condition for
25 including any product of the domestic winery or certificate of approval
26 holder in any tasting conducted by the licensee. Except as provided in
27 RCW 66.28.150, the cost of sampling may not be borne, directly or
28 indirectly, by any domestic winery or certificate of approval holder or
29 any distributor. Nothing in this section prohibits wineries,
30 breweries, microbreweries, certificate of approval holders, and retail
31 licensees from identifying the producers on private labels authorized
32 under RCW 66.24.400, 66.24.425, 66.24.450, 66.24.360, and 66.24.371.

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

1 (7) Nothing in RCW 66.28.305 prohibits the performance of personal
2 services offered from time to time by a domestic brewery, microbrewery,
3 or beer certificate of approval holder to grocery store licensees with
4 a tasting endorsement when the personal services are (a) conducted at
5 a licensed premises in conjunction with a tasting event, and (b)
6 intended to inform, educate, or enhance customers' knowledge or
7 experience of the manufacturer's products. The performance of personal
8 services may include participation and pouring, bottle signing events,
9 and other similar informational or educational activities. A domestic
10 brewery, microbrewery, or beer certificate of approval holder is not
11 obligated to perform any such personal services, and a grocery store
12 licensee may not require the performance of any personal service as a
13 condition for including any product in any tasting conducted by the
14 licensee.

15 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a
16 domestic winery and a restaurant licensed under RCW 66.24.320 or
17 66.24.400 to waive a corkage fee.

18 (9) Nothing in this section prohibits professional sports teams who
19 hold a retail liquor license or their agents from accepting bona fide
20 liquor advertising from manufacturers, importers, distributors, or
21 their agents for use in the sporting arena. Professional sports teams
22 who hold a retail liquor license or their agents may license the
23 manufacturer, importer, distributor, or their agents to use the name
24 and trademarks of the professional sports team in their advertising and
25 promotions, under the following conditions:

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

29 (b) Such advertising may carry with it no express or implied offer
30 on the part of the manufacturer, importer, distributor, or their agent,
31 or promise on the part of the retail licensee whose operation is
32 directly or indirectly part of the sporting arena, to stock or list any
33 particular brand of liquor to the total or partial exclusion of any
34 other brand.

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