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HOUSE BILL 2240

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Conway, Condotta and Kenney

Read first time 02/14/2007. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to allowing certain activities between domestic  
2 wineries, domestic breweries, microbreweries, certificate of approval  
3 holders, and retail sellers of beer or wine; and reenacting and  
4 amending RCW 66.28.010.

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

6            **Sec. 1.** RCW 66.28.010 and 2006 c 330 s 28, 2006 c 92 s 1, and 2006  
7 c 43 s 1 are each reenacted and amended to read as follows:

8            (1)(a) No manufacturer, importer, distributor, or authorized  
9 representative, or person financially interested, directly or  
10 indirectly, in such business; whether resident or nonresident, shall  
11 have any financial interest, direct or indirect, in any licensed retail  
12 business, unless the retail business is owned by a corporation in which  
13 a manufacturer or importer has no direct stock ownership and there are  
14 no interlocking officers and directors, the retail license is held by  
15 a corporation that is not owned directly or indirectly by a  
16 manufacturer or importer, the sales of liquor are incidental to the  
17 primary activity of operating the property as a hotel, alcoholic  
18 beverages produced by the manufacturer or importer or their  
19 subsidiaries are not sold at the licensed premises, and the board

1 reviews the ownership and proposed method of operation of all involved  
2 entities and determines that there will not be an unacceptable level of  
3 control or undue influence over the operation or the retail licensee;  
4 nor shall any manufacturer, importer, distributor, or authorized  
5 representative own any of the property upon which such licensed persons  
6 conduct their business; nor shall any such licensed person, under any  
7 arrangement whatsoever, conduct his or her business upon property in  
8 which any manufacturer, importer, distributor, or authorized  
9 representative has any interest unless title to that property is owned  
10 by a corporation in which a manufacturer has no direct stock ownership  
11 and there are no interlocking officers or directors, the retail license  
12 is held by a corporation that is not owned directly or indirectly by  
13 the manufacturer, the sales of liquor are incidental to the primary  
14 activity of operating the property either as a hotel or as an  
15 amphitheater offering live musical and similar live entertainment  
16 activities to the public, alcoholic beverages produced by the  
17 manufacturer or any of its subsidiaries are not sold at the licensed  
18 premises, and the board reviews the ownership and proposed method of  
19 operation of all involved entities and determines that there will not  
20 be an unacceptable level of control or undue influence over the  
21 operation of the retail licensee. Except as provided in subsection (3)  
22 of this section, no manufacturer, importer, distributor, or authorized  
23 representative shall advance moneys or moneys' worth to a licensed  
24 person under an arrangement, nor shall such licensed person receive,  
25 under an arrangement, an advance of moneys or moneys' worth. "Person"  
26 as used in this section only shall not include those state or federally  
27 chartered banks, state or federally chartered savings and loan  
28 associations, state or federally chartered mutual savings banks, or  
29 institutional investors which are not controlled directly or indirectly  
30 by a manufacturer, importer, distributor, or authorized representative  
31 as long as the bank, savings and loan association, or institutional  
32 investor does not influence or attempt to influence the purchasing  
33 practices of the retailer with respect to alcoholic beverages. Except  
34 as otherwise provided in this section, no manufacturer, importer,  
35 distributor, or authorized representative shall be eligible to receive  
36 or hold a retail license under this title, nor shall such manufacturer,  
37 importer, distributor, or authorized representative sell at retail any

1 liquor as herein defined. A corporation granted an exemption under  
2 this subsection may use debt instruments issued in connection with  
3 financing construction or operations of its facilities.

4 (b) Nothing in this section shall prohibit a licensed domestic  
5 brewery or microbrewery from being licensed as a retailer pursuant to  
6 chapter 66.24 RCW for the purpose of selling beer or wine at retail on  
7 the brewery premises and nothing in this section shall prohibit a  
8 domestic winery from being licensed as a retailer pursuant to chapter  
9 66.24 RCW for the purpose of selling beer or wine at retail on the  
10 winery premises. Such beer and wine so sold at retail shall be subject  
11 to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting  
12 and bonding requirements as prescribed by regulations adopted by the  
13 board pursuant to chapter 34.05 RCW, and beer and wine that is not  
14 produced by the brewery or winery shall be purchased from a licensed  
15 beer or wine distributor.

16 (c) Nothing in this section shall prohibit a licensed distiller,  
17 domestic brewery, microbrewery, domestic winery, or a lessee of a  
18 licensed domestic brewer, microbrewery, or domestic winery, from being  
19 licensed as a spirits, beer, and wine restaurant pursuant to chapter  
20 66.24 RCW for the purpose of selling liquor at a spirits, beer, and  
21 wine restaurant premises on the property on which the primary  
22 manufacturing facility of the licensed distiller, domestic brewer,  
23 microbrewery, or domestic winery is located or on contiguous property  
24 owned or leased by the licensed distiller, domestic brewer,  
25 microbrewery, or domestic winery as prescribed by rules adopted by the  
26 board pursuant to chapter 34.05 RCW.

27 (d) Nothing in this section prohibits retail licensees with a  
28 caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from  
29 operating on a domestic winery premises.

30 (e) Nothing in this section prohibits an organization qualifying  
31 under RCW 66.24.375 formed for the purpose of constructing and  
32 operating a facility to promote Washington wines from holding retail  
33 licenses on the facility property or leasing all or any portion of such  
34 facility property to a retail licensee on the facility property if the  
35 members of the board of directors or officers of the board for the  
36 organization include officers, directors, owners, or employees of a  
37 licensed domestic winery. Financing for the construction of the  
38 facility must include both public and private money.

1 (f) Nothing in this section prohibits a bona fide charitable  
2 nonprofit society or association registered as a 501(c)(3) under the  
3 internal revenue code and having an officer, director, owner, or  
4 employee of a licensed domestic winery or a wine certificate of  
5 approval holder on its board of directors from holding a special  
6 occasion license under RCW 66.24.380.

7 (g)(i) Nothing in this section prohibits domestic wineries and  
8 retailers licensed under chapter 66.24 RCW from (~~jointly~~) producing  
9 jointly or together with regional, state, or local wine industry  
10 associations, brochures and materials promoting tourism in Washington  
11 state which contain information regarding retail licensees, domestic  
12 wineries, and their products.

13 (ii) Nothing in this section prohibits: (A) Domestic wineries,  
14 domestic breweries, microbreweries, and certificate of approval holders  
15 licensed under this chapter from listing on their internet web sites  
16 information related to retailers who sell or promote their products,  
17 including direct links to the retailers' internet web sites; and (B)  
18 retailers licensed under this chapter from listing on their internet  
19 web sites information related to domestic wineries, domestic breweries,  
20 microbreweries, and certificate of approval holders whose products  
21 those retailers sell or promote, including direct links to the domestic  
22 wineries', domestic breweries', microbreweries', and certificate of  
23 approval holders' web sites.

24 (h) Nothing in this section prohibits the performance of personal  
25 services offered from time to time by a domestic winery, domestic  
26 brewery, microbrewery, or certificate of approval holder for or on  
27 behalf of a licensed retail business when the personal services are (i)  
28 conducted at a licensed premises, and (ii) intended to inform, educate,  
29 or enhance customers' knowledge or experience of the manufacturer's  
30 products. The performance of personal services may include  
31 participation and pouring at the premises of a retailer with an on-  
32 premises consumption license, bottle signings, and other similar  
33 informational or educational activities. A domestic winery, domestic  
34 brewery, microbrewery, or certificate of approval holder is not  
35 obligated to perform any such personal services, and a retail licensee  
36 may not require a domestic winery, domestic brewery, microbrewery, or  
37 certificate of approval holder to conduct any personal service as a  
38 condition for selling any alcohol to the retail licensee. Nothing in

1 this section prohibits domestic wineries and retail licensees from  
2 identifying the wineries on private labels authorized under RCW  
3 66.24.400, 66.24.425, and 66.24.450.

4 (i) Until July 1, 2007, nothing in this section prohibits a  
5 nonprofit statewide organization of microbreweries formed for the  
6 purpose of promoting Washington's craft beer industry as a trade  
7 association registered as a 501(c) with the internal revenue service  
8 from holding a special occasion license to conduct up to six beer  
9 festivals.

10 (2) Financial interest, direct or indirect, as used in this  
11 section, shall include any interest, whether by stock ownership,  
12 mortgage, lien, or through interlocking directors, or otherwise.  
13 Pursuant to rules promulgated by the board in accordance with chapter  
14 34.05 RCW manufacturers, distributors, and importers may perform, and  
15 retailers may accept the service of building, rotating and restocking  
16 case displays and stock room inventories; rotating and rearranging can  
17 and bottle displays of their own products; provide point of sale  
18 material and brand signs; price case goods of their own brands; and  
19 perform such similar normal business services as the board may by  
20 regulation prescribe.

21 (3)(a) This section does not prohibit a manufacturer, importer, or  
22 distributor from providing services to a special occasion licensee for:  
23 (i) Installation of draft beer dispensing equipment or advertising,  
24 (ii) advertising, pouring, or dispensing of beer or wine at a beer or  
25 wine tasting exhibition or judging event, or (iii) a special occasion  
26 licensee from receiving any such services as may be provided by a  
27 manufacturer, importer, or distributor. Nothing in this section shall  
28 prohibit a retail licensee, or any person financially interested,  
29 directly or indirectly, in such a retail licensee from having a  
30 financial interest, direct or indirect, in a business which provides,  
31 for a compensation commensurate in value to the services provided,  
32 bottling, canning or other services to a manufacturer, so long as the  
33 retail licensee or person interested therein has no direct financial  
34 interest in or control of said manufacturer.

35 (b) A person holding contractual rights to payment from selling a  
36 liquor distributor's business and transferring the license shall not be  
37 deemed to have a financial interest under this section if the person  
38 (i) lacks any ownership in or control of the distributor, (ii) is not

1 employed by the distributor, and (iii) does not influence or attempt to  
2 influence liquor purchases by retail liquor licensees from the  
3 distributor.

4 (c) The board shall adopt such rules as are deemed necessary to  
5 carry out the purposes and provisions of subsections (1)(g) and (h) and  
6 (3)(a) of this section in accordance with the administrative procedure  
7 act, chapter 34.05 RCW.

8 (4) A license issued under RCW 66.24.395 does not constitute a  
9 retail license for the purposes of this section.

10 (5) A public house license issued under RCW 66.24.580 does not  
11 violate the provisions of this section as to a retailer having an  
12 interest directly or indirectly in a liquor-licensed manufacturer.

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