

**HB 2040 - H AMD 227**

By Representative Conway

ADOPTED 03/09/2009

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 66.28 RCW  
4 to read as follows:

5 The legislature recognizes that Washington's current three-tier  
6 system, where the functions of manufacturing, distributing, and  
7 retailing are distinct and the financial relationships and business  
8 transactions between entities in these tiers are regulated, is a  
9 valuable system for the distribution of beer and wine. The legislature  
10 further recognizes that the historical total prohibition on ownership  
11 of an interest in one tier by a person with an ownership interest in  
12 another tier, as well as the historical restriction on financial  
13 incentives and business relationships between tiers, is unduly  
14 restrictive. The legislature finds the modifications contained in this  
15 act are appropriate, because the modifications do not impermissibly  
16 interfere with the goals of orderly marketing of alcohol in the state,  
17 encouraging moderation in consumption of alcohol by the citizens of the  
18 state, protecting the public interest and advancing public safety by  
19 preventing the use and consumption of alcohol by minors and other  
20 abusive consumption, and promoting the efficient collection of taxes by  
21 the state.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 66.28 RCW  
23 to read as follows:

24 The definitions in this section apply throughout sections 1 through  
25 8 of this act unless the context clearly requires otherwise.

26 (1) "Adverse impact on public health and safety" means that an  
27 existing or proposed practice or occurrence has resulted or is more  
28 likely than not to result in alcohol being made significantly more  
29 attractive or available to minors than would otherwise be the case or

1 has resulted or is more likely than not to result in overconsumption,  
2 consumption by minors, or other harmful or abusive forms of  
3 consumption.

4 (2) "Affiliate" means any one of two or more persons if one of  
5 those persons has actual or legal control, directly or indirectly,  
6 whether by stock ownership or otherwise, of the other person or persons  
7 and any one of two or more persons subject to common control, actual or  
8 legal, directly or indirectly, whether by stock ownership or otherwise.

9 (3) "Industry member" means a licensed manufacturer, producer,  
10 supplier, importer, wholesaler, distributor, authorized representative,  
11 certificate of approval holder, warehouse, and any affiliates,  
12 subsidiaries, officers, directors, partners, agents, employees, and  
13 representatives of any industry member. "Industry member" does not  
14 include the board or any of the board's employees.

15 (4) "Person" means any individual, partnership, joint stock  
16 company, business trust, association, corporation, or other form of  
17 business enterprise, including a receiver, trustee, or liquidating  
18 agent and includes any officer or employee of a retailer or industry  
19 member.

20 (5) "Retailer" means the holder of a license issued by the board to  
21 allow for the sale of alcoholic beverages to consumers for consumption  
22 on or off premises and any of the retailer's agents, officers,  
23 directors, shareholders, partners, or employees. "Retailer" does not  
24 include the board or any of the board's employees.

25 (6) "Undue influence" means one retailer or industry member  
26 directly or indirectly influencing the purchasing, marketing, or sales  
27 decisions of another retailer or industry member by any agreement  
28 written or unwritten or any other business practices or arrangements  
29 such as but not limited to the following:

30 (a) Any form of coercion between industry members and retailers or  
31 between retailers and industry members through acts or threats of  
32 physical or economic harm, including threat of loss of supply or threat  
33 of curtailment of purchase;

34 (b) A retailer on an involuntary basis purchasing less than it  
35 would have of another industry member's product;

36 (c) Purchases made by a retailer or industry member as a  
37 prerequisite for purchase of other items;

1 (d) A retailer purchasing a specific or minimum quantity or type of  
2 a product or products from an industry member;

3 (e) An industry member requiring a retailer to take and dispose of  
4 a certain product type or quota of the industry member's products;

5 (f) A retailer having a continuing obligation to purchase or  
6 otherwise promote or display an industry member's product;

7 (g) An industry member having a continuing obligation to sell a  
8 product to a retailer;

9 (h) A retailer having a commitment not to terminate its  
10 relationship with an industry member with respect to purchase of the  
11 industry member's products or an industry member having a commitment  
12 not to terminate its relationship with a retailer with respect to the  
13 sale of a particular product or products;

14 (i) An industry member being involved in the day-to-day operations  
15 of a retailer or a retailer being involved in the day-to-day operations  
16 of an industry member in a manner that violates the provisions of this  
17 section;

18 (j) Discriminatory pricing practices as prohibited by law or other  
19 practices that are discriminatory in that product is not offered to all  
20 retailers in the local market on the same terms.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 66.28 RCW  
22 to read as follows:

23 (1) Notwithstanding any prohibitions and restrictions contained in  
24 this title, it shall be lawful for an industry member or affiliate to  
25 have a direct or indirect financial interest in another industry member  
26 or a retailer, and for a retailer or affiliate to have a direct or  
27 indirect financial interest in an industry member unless such interest  
28 has resulted or is more likely than not to result in undue influence  
29 over the retailer or the industry member or has resulted or is more  
30 likely than not to result in an adverse impact on public health and  
31 safety. The structure of any such financial interest must be  
32 consistent with subsection (2) of this section.

33 (2) Subject to subsection (1) of this section and except as  
34 provided in section 4 of this act:

35 (a) An industry member in whose name a license or certificate of  
36 approval has been issued pursuant to this title may wholly own or hold

1 a financial interest in a separate legal entity licensed pursuant to  
2 RCW 66.24.320 through 66.24.570, but may not have such a license issued  
3 in its name; and

4 (b) A retailer in whose name a license has been issued pursuant to  
5 this title may wholly own or hold a financial interest in a separate  
6 legal entity licensed or holding a certificate of approval pursuant to  
7 RCW 66.24.170, 66.24.206, 66.24.240, 66.24.244, 66.24.270(2),  
8 66.24.200, or 66.24.250, but may not have such a license or certificate  
9 of approval issued in its name; and

10 (c) A supplier in whose name a license or certificate of approval  
11 has been issued pursuant to this title may wholly own or hold a  
12 financial interest in a separate legal entity licensed as a distributor  
13 or importer under this title, but such supplier may not have a license  
14 as a distributor or importer issued in its own name; and

15 (d) A distributor or importer in whose name a license has been  
16 issued pursuant to this title may wholly own or hold a financial  
17 interest in a separate legal entity licensed or holding a certificate  
18 of approval as a supplier under this title, but such distributor or  
19 importer may not have a license or certificate of approval as a  
20 supplier issued in its own name.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 66.28 RCW  
22 to read as follows:

23 Nothing in section 3 of this act shall prohibit:

24 (1) A licensed domestic brewery or microbrewery from being licensed  
25 as a retailer pursuant to chapter 66.24 RCW for the purpose of selling  
26 beer or wine at retail on the brewery premises and at one additional  
27 off-site retail only location.

28 (2) A domestic winery from being licensed as a retailer pursuant to  
29 chapter 66.24 RCW for the purpose of selling beer or wine at retail on  
30 the winery premises. Such beer and wine so sold at retail shall be  
31 subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to  
32 reporting and bonding requirements as prescribed by regulations adopted  
33 by the board pursuant to chapter 34.05 RCW, and beer and wine that is  
34 not produced by the brewery or winery shall be purchased from a  
35 licensed beer or wine distributor.

36 (3) A microbrewery holding a beer and/or wine restaurant license

1 under RCW 66.24.320 from holding the same privileges and endorsements  
2 attached to the beer and/or wine restaurant license.

3 (4) A licensed craft distillery from selling spirits of its own  
4 production under RCW 66.24.145.

5 (5) A licensed distiller, domestic brewery, microbrewery, domestic  
6 winery, or a lessee of a licensed domestic brewer, microbrewery, or  
7 domestic winery, from being licensed as a spirits, beer, and wine  
8 restaurant pursuant to chapter 66.24 RCW for the purpose of selling  
9 liquor at a spirits, beer, and wine restaurant premises on the property  
10 on which the primary manufacturing facility of the licensed distiller,  
11 domestic brewer, microbrewery, or domestic winery is located or on  
12 contiguous property owned or leased by the licensed distiller, domestic  
13 brewer, microbrewery, or domestic winery as prescribed by rules adopted  
14 by the board pursuant to chapter 34.05 RCW.

15 (6) A microbrewery holding a spirits, beer, and wine restaurant  
16 license under RCW 66.24.420 from holding the same privileges and  
17 endorsements attached to the spirits, beer, and wine restaurant  
18 license.

19 (7) A brewery or microbrewery holding a spirits, beer, and wine  
20 restaurant license or a beer and/or wine license under chapter 66.24  
21 RCW operated on the premises of the brewery or microbrewery from  
22 holding a second retail only license at a location separate from the  
23 premises of the brewery or microbrewery.

24 (8) Retail licensees with a caterer's endorsement issued under RCW  
25 66.24.320 or 66.24.420 from operating on a domestic winery premises.

26 (9) An organization qualifying under RCW 66.24.375 formed for the  
27 purpose of constructing and operating a facility to promote Washington  
28 wines from holding retail licenses on the facility property or leasing  
29 all or any portion of such facility property to a retail licensee on  
30 the facility property if the members of the board of directors or  
31 officers of the board for the organization include officers, directors,  
32 owners, or employees of a licensed domestic winery. Financing for the  
33 construction of the facility must include both public and private  
34 money.

35 (10) A bona fide charitable nonprofit society or association  
36 registered under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal  
37 revenue code, or a local wine industry association registered under  
38 Title 26 U.S.C. Sec. 501(c)(6) of the federal internal revenue code as

1 it existed on July 22, 2007, and having an officer, director, owner, or  
2 employee of a licensed domestic winery or a wine certificate of  
3 approval holder on its board of directors from holding a special  
4 occasion license under RCW 66.24.380.

5 (11) A person licensed pursuant to RCW 66.24.170, 66.24.240, or  
6 66.24.244 from exercising the privileges of distributing and selling at  
7 retail such person's own production or from exercising any other right  
8 or privilege that attaches to such license.

9 (12) A person holding a certificate of approval pursuant to RCW  
10 66.24.206 from obtaining an endorsement to act as a distributor of  
11 their own product or from shipping their own product directly to  
12 consumers as authorized by RCW 66.20.360.

13 (13) A person holding a wine shipper's permit pursuant to RCW  
14 66.20.375 from shipping their own product directly to consumers.

15 (14) A person holding a certificate of approval pursuant to RCW  
16 66.24.270(2) from obtaining an endorsement to act as a distributor of  
17 their own product.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 66.28 RCW  
19 to read as follows:

20 Any industry member or retailer or any other person seeking a  
21 determination by the board as to whether a proposed or existing  
22 financial interest has resulted or is more likely than not to result in  
23 undue influence or has resulted or is more likely than not to result in  
24 an adverse impact on public health and safety may file a complaint or  
25 request for determination with the board. Upon receipt of a request or  
26 complaint the board may conduct such investigation as it deems  
27 appropriate in the circumstances. If the investigation reveals the  
28 financial interest has resulted or is more likely than not to result in  
29 undue influence or has resulted or is more likely than not to result in  
30 an adverse impact on public health and safety the board may issue an  
31 administrative violation notice or a notice of intent to deny the  
32 license to the industry member, to the retailer, or both. If the  
33 financial interest was acquired through a transaction that has already  
34 been consummated when the board issues its administrative violation  
35 notice, the board shall have the authority to require that the  
36 transaction be rescinded or otherwise undone. The recipient of the

1 administrative notice of violation or notice of intent to deny the  
2 license may request a hearing under chapter 34.05 RCW.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 66.28 RCW  
4 to read as follows:

5 Except as provided in section 7 of this act, no industry member  
6 shall advance and no retailer shall receive moneys or moneys' worth  
7 under an agreement written or unwritten or by means of any other  
8 business practice or arrangement.

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 66.28 RCW  
10 to read as follows:

11 (1)(a) Nothing in section 6 of this act prohibits an industry  
12 member from providing retailers branded promotional items which are of  
13 nominal value, singly or in the aggregate. Such items include but are  
14 not limited to: Trays, lighters, blotters, postcards, pencils,  
15 coasters, menu cards, meal checks, napkins, clocks, mugs, glasses,  
16 bottles or can openers, corkscrews, matches, printed recipes, shirts,  
17 hats, visors, 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;

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

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

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

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

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

9 (2) Nothing in section 6 of this act prohibits an industry member  
10 from providing to a special occasion licensee and a special occasion  
11 licensee from receiving services for:

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

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

16 (3) Nothing in section 6 of this act prohibits industry members  
17 from performing, and retailers from accepting the service of building,  
18 rotating, and restocking displays and stockroom inventories; rotating  
19 and rearranging can and bottle displays of their own products;  
20 providing point of sale material and brand signs; pricing case goods of  
21 their own brands; and performing such similar business services  
22 consistent with board rules, or personal services as described in  
23 subsection (5) of this section.

24 (4) Nothing in section 6 of this act prohibits:

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

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

31 (c) Industry members and retailers from producing, jointly or  
32 together with regional, state, or local industry associations,  
33 brochures and materials promoting tourism in Washington state which  
34 contain information regarding retail licensees, industry members, and  
35 their products.

36 (5) Nothing in section 6 of this act prohibits the performance of  
37 personal services offered from time to time by a domestic winery or  
38 certificate of approval holder to retailers when the personal services

1 are (a) conducted at a licensed premises, and (b) intended to inform,  
2 educate, or enhance customers' knowledge or experience of the  
3 manufacturer's products. The performance of personal services may  
4 include participation and pouring, bottle signing events, and other  
5 similar informational or educational activities at the premises of a  
6 retailer holding a spirits, beer, and wine restaurant license, a wine  
7 and/or beer restaurant license, a specialty wine shop license, a  
8 special occasion license, or a private club license. A domestic winery  
9 or certificate of approval holder is not obligated to perform any such  
10 personal services, and a retail licensee may not require a domestic  
11 winery or certificate of approval holder to conduct any personal  
12 service as a condition for selling any alcohol to the retail licensee.  
13 Except as provided in RCW 66.28.150, the cost of sampling may not be  
14 borne, directly or indirectly, by any domestic winery or certificate of  
15 approval holder or any distributor. Nothing in this section prohibits  
16 wineries, certificate of approval holders, and retail licensees from  
17 identifying the producers on private labels authorized under RCW  
18 66.24.400, 66.24.425, and 66.24.450.

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

24 NEW SECTION. **Sec. 8.** A new section is added to chapter 66.28 RCW  
25 to read as follows:

26 All industry members and retailers shall keep and maintain the  
27 following records on their premises for a three-year period:

28 (1) Records of all items, services, and moneys' worth furnished to  
29 and received by a retailer and of all items, services, and moneys'  
30 worth provided to a retailer and purchased by a retailer at fair market  
31 value; and

32 (2) Records of all industry member financial ownership or interests  
33 in a retailer and of all retailer financial ownership interests in an  
34 industry member.

35 NEW SECTION. **Sec. 9.** A new section is added to chapter 66.28 RCW  
36 to read as follows:

1 The board shall adopt rules as are deemed necessary to carry out  
2 the purposes and provisions of this chapter in accordance with the  
3 administrative procedure act, chapter 34.05 RCW.

4 **Sec. 10.** RCW 66.28.180 and 2006 c 302 s 10 are each amended to  
5 read as follows:

6 ~~((It is unlawful for a person, firm, or corporation holding a  
7 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer  
8 distributor's license, a domestic brewery license, a microbrewery  
9 license, a beer importer's license, a beer distributor's license, a  
10 domestic winery license, a wine importer's license, or a wine  
11 distributor's license within the state of Washington to modify any  
12 prices without prior notification to and approval of the board.~~

13 ~~(1) Intent. This section is enacted, pursuant to the authority of  
14 this state under the twenty first amendment to the United States  
15 Constitution, to promote the public's interest in fostering the orderly  
16 and responsible distribution of malt beverages and wine towards  
17 effective control of consumption; to promote the fair and efficient  
18 three tier system of distribution of such beverages; and to confirm  
19 existing board rules as the clear expression of state policy to  
20 regulate the manner of selling and pricing of wine and malt beverages  
21 by licensed suppliers and distributors.~~

22 ~~(2))~~ (1) Beer and wine distributors ~~((price posting))~~.

23 (a) Every beer or wine distributor shall ~~((file with the board at  
24 its office in Olympia))~~ maintain at its liquor licensed location a  
25 price ~~((posting))~~ list showing the wholesale prices at which any and  
26 all brands of beer and wine sold by such beer and/or wine distributor  
27 shall be sold to retailers within the state.

28 (b) Each price ~~((posting shall be made on a form prepared and  
29 furnished by the board, or a reasonable facsimile thereof, and))~~ list  
30 shall set forth:

31 (i) All brands, types, packages, and containers of beer or wine  
32 offered for sale by such beer and/or wine distributor; and

33 (ii) The wholesale prices thereof to retail licensees, including  
34 allowances, if any, for returned empty containers.

35 (c) No beer and/or wine distributor may sell or offer to sell any  
36 package or container of beer or wine to any retail licensee at a price

1 differing from the price for such package or container as shown in the  
2 price (~~((posting filed by the beer and/or wine distributor and then in  
3 effect))~~) list, according to rules adopted by the board.

4 (d) Quantity discounts are prohibited. No price may be (~~((posted  
5 that is))~~) below acquisition cost (~~((plus ten percent of acquisition  
6 cost. However, the board is empowered to review periodically, as it  
7 may deem appropriate, the amount of the percentage of acquisition cost  
8 as a minimum mark up over cost and to modify such percentage by rule of  
9 the board, except such percentage shall be not less than ten percent))~~).

10 (e) Distributor prices on a "close-out" item shall be (~~((accepted by  
11 the board))~~) allowed if the item to be discontinued has been listed (~~((on  
12 the state market))~~) for a period of at least six months, and upon the  
13 further condition that the distributor who (~~((posts))~~) offers such a  
14 close-out price shall not restock the item for a period of one year  
15 following the first effective date of such close-out price.

16 (f) (~~((The board may reject any price posting that it deems to be in  
17 violation of this section or any rule, or portion thereof, or that  
18 would tend to disrupt the orderly sale and distribution of beer and  
19 wine. Whenever the board rejects any posting, the licensee submitting  
20 the posting may be heard by the board and shall have the burden of  
21 showing that the posting is not in violation of this section or a rule  
22 or does not tend to disrupt the orderly sale and distribution of beer  
23 and wine. If the posting is accepted, it shall become effective at the  
24 time fixed by the board. If the posting is rejected, the last  
25 effective posting shall remain in effect until such time as an amended  
26 posting is filed and approved, in accordance with the provisions of  
27 this section.~~

28 (~~(g) Prior to the effective date of the posted prices, all price  
29 postings filed as required by this section constitute investigative  
30 information and shall not be subject to disclosure, pursuant to RCW  
31 42.56.240(1).~~

32 (~~(h))~~) Any beer and/or wine distributor or employee authorized by  
33 the distributor-employer may sell beer and/or wine at the distributor's  
34 (~~((posted))~~) listed prices to any annual or special occasion retail  
35 licensee upon presentation to the distributor or employee at the time  
36 of purchase of a special permit issued by the board to such licensee.

37 (~~((i))~~) (g) Every annual or special occasion retail licensee, upon  
38 purchasing any beer and/or wine from a distributor, shall immediately

1 cause such beer or wine to be delivered to the licensed premises, and  
2 the licensee shall not thereafter permit such beer to be disposed of in  
3 any manner except as authorized by the license.

4 ~~((+ii))~~ (h) Beer and wine sold as provided in this section shall  
5 be delivered by the distributor or an authorized employee either to the  
6 retailer's licensed premises or directly to the retailer at the  
7 distributor's licensed premises. When a domestic winery, brewery,  
8 microbrewery, or certificate of approval holder with a direct shipping  
9 endorsement is acting as a distributor of its own production, a  
10 licensed retailer may contract with a common carrier to obtain the  
11 product directly from the domestic winery, brewery, microbrewery, or  
12 certificate of approval holder with a direct shipping endorsement. A  
13 distributor's prices to retail licensees shall be the same at both such  
14 places of delivery.

15 ~~((+3))~~ (2) Beer and wine suppliers' ~~((price—filings,))~~  
16 contracts~~((7))~~ and memoranda.

17 (a) Every domestic brewery, microbrewery, ~~((and))~~ domestic winery,  
18 certificate of approval holder, and beer and/or wine importer offering  
19 beer and/or wine for sale within the state and any beer and/or wine  
20 distributor who sells to other beer and/or wine distributors shall  
21 ~~((file with the board at its office in Olympia))~~ maintain at its liquor  
22 licensed location a price list and a copy of every written contract and  
23 a memorandum of every oral agreement which such brewery or winery may  
24 have with any beer or wine distributor, which contracts or memoranda  
25 shall contain ~~((a schedule of prices charged to distributors for all~~  
26 ~~items and all terms of sale, including all regular and special~~  
27 ~~discounts;))~~ :

28 (i) All advertising, sales and trade allowances, and incentive  
29 programs; and

30 (ii) All commissions, bonuses or gifts, and any and all other  
31 discounts or allowances.

32 (b) Whenever changed or modified, such revised contracts or  
33 memoranda shall ~~((forthwith))~~ also be ~~((filed with the board as~~  
34 ~~provided for by rule. The provisions of this section also apply to~~  
35 ~~certificate of approval holders, beer and/or wine importers, and beer~~  
36 ~~and/or wine distributors who sell to other beer and/or wine~~  
37 ~~distributors))~~ maintained at its liquor licensed location.

1        ~~(c)~~ Each price ~~((schedule shall be made on a form prepared and~~  
2 ~~furnished by the board, or a reasonable facsimile thereof, and))~~ list  
3 shall set forth all brands, types, packages, and containers of beer or  
4 wine offered for sale by such licensed brewery or winery~~((; all~~  
5 ~~additional information required may be filed as a supplement to the~~  
6 ~~price schedule forms))~~.

7        ~~((b))~~ (d) Prices ~~((filed by))~~ of a domestic brewery,  
8 microbrewery, domestic winery, or certificate of approval holder shall  
9 be uniform prices to all distributors or retailers on a statewide basis  
10 less bona fide allowances for freight differentials. Quantity  
11 discounts are prohibited. No price shall be ~~((filed that is))~~ below  
12 acquisition/production cost ~~((plus ten percent of that cost, except~~  
13 ~~that acquisition cost plus ten percent of acquisition cost does not~~  
14 ~~apply to sales of beer or wine between a beer or wine importer who~~  
15 ~~sells beer or wine to another beer or wine importer or to a beer or~~  
16 ~~wine distributor, or to a beer or wine distributor who sells beer or~~  
17 ~~wine to another beer or wine distributor. However, the board is~~  
18 ~~empowered to review periodically, as it may deem appropriate, the~~  
19 ~~amount of the percentage of acquisition/production cost as a minimum~~  
20 ~~mark-up over cost and to modify such percentage by rule of the board,~~  
21 ~~except such percentage shall be not less than ten percent))~~.

22        ~~((c) No))~~ (e) A domestic brewery, microbrewery, domestic winery,  
23 certificate of approval holder, beer or wine importer, or beer or wine  
24 distributor ~~((may sell or offer to sell any beer or wine to any persons~~  
25 ~~whatsoever in this state until copies of such written contracts or~~  
26 ~~memoranda of such oral agreements are on file with the board))~~ acting  
27 as a supplier to another distributor must file a distributor  
28 appointment with the board.

29        ~~((d))~~ (f) No domestic brewery, microbrewery, domestic winery, or  
30 certificate of approval holder may sell or offer to sell any package or  
31 container of beer or wine to any distributor at a price differing from  
32 the price list for such package or container as shown in the ~~((schedule~~  
33 ~~of prices filed by))~~ price list of the domestic brewery, microbrewery,  
34 domestic winery, or certificate of approval holder and then in effect,  
35 according to rules adopted by the board.

36        ~~((e) The board may reject any supplier's price filing, contract,~~  
37 ~~or memorandum of oral agreement, or portion thereof that it deems to be~~  
38 ~~in violation of this section or any rule or that would tend to disrupt~~

1 ~~the orderly sale and distribution of beer or wine. Whenever the board~~  
2 ~~rejects any such price filing, contract, or memorandum, the licensee~~  
3 ~~submitting the price filing, contract, or memorandum may be heard by~~  
4 ~~the board and shall have the burden of showing that the price filing,~~  
5 ~~contract, or memorandum is not in violation of this section or a rule~~  
6 ~~or does not tend to disrupt the orderly sale and distribution of beer~~  
7 ~~or wine. If the price filing, contract, or memorandum is accepted, it~~  
8 ~~shall become effective at a time fixed by the board. If the price~~  
9 ~~filing, contract, or memorandum, or portion thereof, is rejected, the~~  
10 ~~last effective price filing, contract, or memorandum shall remain in~~  
11 ~~effect until such time as an amended price filing, contract, or~~  
12 ~~memorandum is filed and approved, in accordance with the provisions of~~  
13 ~~this section.~~

14 ~~(f) Prior to the effective date of the posted prices, all prices,~~  
15 ~~contracts, and memoranda filed as required by this section constitute~~  
16 ~~investigative information and shall not be subject to disclosure,~~  
17 ~~pursuant to RCW 42.56.240(1).)~~

18 NEW SECTION. **Sec. 11.** RCW 66.28.010 (Manufacturers, importers,  
19 distributors, and authorized representatives barred from interest in  
20 retail business or location--Advances prohibited--"Financial interest"  
21 defined--Exceptions) and 2008 c 94 s 5 are each repealed.

22 NEW SECTION. **Sec. 12.** If any provision of this act or its  
23 application to any person or circumstance is held invalid, the  
24 remainder of the act or the application of the provision to other  
25 persons or circumstances is not affected."

26 Correct the title.

EFFECT:  
Financial interests.

Modifies the permitted financial interests between tiers to provide that an industry member may own or hold an interest in a retailer but may not have a retail license issued in its name, and a retailer may own or hold an interest in an industry member but may not have a supplier or distributor license issued in its name.

Regulates financial interests between industry members as well as between industry members and retailers.

Provides that a supplier may own or hold an interest in a distributor or importer but may not have a distributor or importer license issued in its name, and a distributor may not have a supplier license issued in its name.

Provides exceptions to the restriction on licenses issued in an entities' own name to allow an entity with a license in one tier to hold a license in or exercise the privileges of another tier as permitted under current law, such as wineries licensed as retailers and microbreweries acting as distributors.

Moneys' worth.

Modifies the restriction on branded promotional items to provide that the items may not appeal "principally" to youth.

Provides that an industry member is not obligated to provide branded promotional items and a retailer may not require an industry member to provide the items.

Complaint process.

Changes the standard for purposes of undue influence and adverse impact on public safety and health to "resulted or more likely to result in" undue influence or an adverse impact rather than "has or will" result in undue influence or an adverse impact.

Provides that, with respect to financial interest, any person may file a request for determination in addition to a complaint with the Liquor Control Board (Board).

Provides that, with respect to financial interest, the Board may issue a notice of intent to deny a license in addition to an administrative violation notice.

Gives the Board authority to require that a transaction be rescinded if the financial interest was acquired through a transaction that has already been consummated.

Definitions.

Modifies the portion of the definition of "adverse impact on health and safety" that refers to alcohol being made more attractive or available to minors to require that the alcohol be "significantly" more attractive or available.

Broadens two of the examples of "undue influence" to refer to relationships with any retailer or industry member.

Pricing.

Requires suppliers and distributors, including distributors selling to other distributors, to maintain a price list at their licensed liquor locations.

Requires suppliers and distributors acting as suppliers to another distributor to file a distributor appointment with the Board.

Other.

Modifies the intent language to state that the Legislature finds

that the modifications are appropriate "because" they do not impermissibly interfere with the goals, rather than "so long as" they do not interfere with the goals.

Gives the Board authority to adopt rules to implement the chapter.

Deletes captions, reorganizes provisions, makes language consistent, and makes other clarifying and housekeeping changes.

--- END ---