

SB 6615 - S AMD 247

By Senators Kohl-Welles, Conway, Harper, Nelson, Keiser, Hobbs

NOT ADOPTED 03/03/2012

1 On page 9, after line 3, insert

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3

4 "NEW SECTION. **Sec. 16.** A new section is added to chapter 66.20
5 RCW to read as follows:

6 (1) There shall be a permit known as a day spa permit to allow the
7 holder to offer or supply without charge wine or beer by the
8 individual glass to a customer for consumption on the premises. The
9 customer must be at least twenty-one years of age and may only be
10 offered one glass of wine or beer, and wine or beer served or consumed
11 shall be purchased from a Washington state licensed retailer. A day
12 spa offering wine or beer without charge may not advertise the service
13 of complimentary wine or beer and may not sell wine or beer in any
14 manner. If the wine or beer is offered by a day spa that provides
15 massages, the wine or beer may not be offered to the customers until
16 the massage is completed.

17 (2) For the purposes of this section, "day spa" means a business
18 that offers at least three of the following beauty services:
19 Shampooing, cutting, styling, or dyeing hair, manicures, pedicures,
20 facials, massages, and the use of body toning equipment.

21 (3) The annual fee for this permit is one hundred twenty-five
22 dollars.

23

24 NEW SECTION. **Sec. 17** A new section is added to chapter 66.24 RCW
25 to read as follows:

26 (1) There shall be a license to be designated as a senior center
27 license. This shall be a license issued to a nonprofit organization

1 whose primary service is providing recreational and social activities
2 for seniors on the licensed premises. This license shall permit the
3 licensee to sell spirits by the individual glass, including mixed
4 drinks and cocktails mixed on the premises only, beer and wine, at
5 retail for consumption on the premises.

6 (2) To qualify for this license, the applicant entity must:

7 (a) Be a nonprofit organization under chapter 24.03 RCW;

8 (b) Be open at times and durations established by the board; and

9 (c) Provide limited food service as defined by the board.

10 (3) All alcohol servers must have a valid mandatory alcohol server
11 training permit.

12 (4) The board shall adopt rules to implement this section.

13 (5) The annual fee for this license shall be seven hundred twenty
14 dollars.

15

16 **Sec. 18** RCW 66.20.300 and 2011 c 325 s 5 are each amended to read
17 as follows:

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout RCW 66.20.310 through 66.20.350.

20 (1) "Alcohol" has the same meaning as "liquor" in RCW 66.04.010.

21 (2) "Alcohol server" means any person who as part of his or her
22 employment participates in the sale or service of alcoholic beverages
23 for on-premise consumption at a retail licensed premise as a regular
24 requirement of his or her employment, and includes those persons
25 eighteen years of age or older permitted by the liquor laws of this
26 state to serve alcoholic beverages with meals.

27 (3) "Board" means the Washington state liquor control board.

28 (4) "Training entity" means any liquor licensee associations,
29 independent contractors, private persons, and private or public
30 schools, that have been certified by the board.

31 (5) "Retail licensed premises" means any:

32 (a) Premises licensed to sell alcohol by the glass or by the
33 drink, or in original containers primarily for consumption on the
34 premises as authorized by RCW 66.24.320, 66.24.330, 66.24.350,

1 66.24.400, 66.24.425, 66.24.450, 66.24.570, (~~and~~) 66.24.610, and
2 section 3 of this act;

3 (b) Distillery licensed pursuant to RCW 66.24.140 that is
4 authorized to serve samples of its own production;

5 (c) Facility established by a domestic winery for serving and
6 selling wine pursuant to RCW 66.24.170(4); and

7 (d) Grocery store licensed under RCW 66.24.360, but only with
8 respect to employees whose duties include serving during tasting
9 activities under RCW 66.24.363.

10

11 **Sec. 19.** RCW 66.20.310 and 2011 c 325 s 4 are each amended to
12 read as follows:

13 (1)(a) There shall be an alcohol server permit, known as a class
14 12 permit, for a manager or bartender selling or mixing alcohol,
15 spirits, wines, or beer for consumption at an on-premises licensed
16 facility.

17 (b) There shall be an alcohol server permit, known as a class 13
18 permit, for a person who only serves alcohol, spirits, wines, or beer
19 for consumption at an on-premises licensed facility.

20 (c) As provided by rule by the board, a class 13 permit holder may
21 be allowed to act as a bartender without holding a class 12 permit.

22 (2)(a) Effective January 1, 1997, except as provided in (d) of
23 this subsection, every alcohol server employed, under contract or
24 otherwise, at a retail licensed premise shall be issued a class 12 or
25 class 13 permit.

26 (b) Every class 12 and class 13 permit issued shall be issued in
27 the name of the applicant and no other person may use the permit of
28 another permit holder. The holder shall present the permit upon
29 request to inspection by a representative of the board or a peace
30 officer. The class 12 or class 13 permit shall be valid for
31 employment at any retail licensed premises described in (a) of this
32 subsection.

33 (c) Except as provided in (d) of this subsection, no licensee
34 holding a license as authorized by RCW 66.24.320, 66.24.330,

1 66.24.350, 66.24.400, 66.24.425, 66.24.450, 66.24.570, 66.24.600,
2 ((and)) 66.24.610, and section 3 of this act may employ or accept the
3 services of any person without the person first having a valid class
4 12 or class 13 permit.

5 (d) Within sixty days of initial employment, every person whose
6 duties include the compounding, sale, service, or handling of liquor
7 shall have a class 12 or class 13 permit.

8 (e) No person may perform duties that include the sale or service
9 of alcoholic beverages on a retail licensed premises without
10 possessing a valid alcohol server permit.

11 (3) A permit issued by a training entity under this section is
12 valid for employment at any retail licensed premises described in
13 subsection (2)(a) of this section for a period of five years unless
14 suspended by the board.

15 (4) The board may suspend or revoke an existing permit if any of
16 the following occur:

17 (a) The applicant or permittee has been convicted of violating any
18 of the state or local intoxicating liquor laws of this state or has
19 been convicted at any time of a felony; or

20 (b) The permittee has performed or permitted any act that
21 constitutes a violation of this title or of any rule of the board.

22 (5) The suspension or revocation of a permit under this section
23 does not relieve a licensee from responsibility for any act of the
24 employee or agent while employed upon the retail licensed premises.
25 The board may, as appropriate, revoke or suspend either the permit of
26 the employee who committed the violation or the license of the
27 licensee upon whose premises the violation occurred, or both the
28 permit and the license.

29 (6)(a) After January 1, 1997, it is a violation of this title for
30 any retail licensee or agent of a retail licensee as described in
31 subsection (2)(a) of this section to employ in the sale or service of
32 alcoholic beverages, any person who does not have a valid alcohol
33 server permit or whose permit has been revoked, suspended, or denied.

34

1 (b) It is a violation of this title for a person whose alcohol
2 server permit has been denied, suspended, or revoked to accept
3 employment in the sale or service of alcoholic beverages.

4 (7) Grocery stores licensed under RCW 66.24.360, the primary
5 commercial activity of which is the sale of grocery products and for
6 which the sale and service of beer and wine for on-premises
7 consumption with food is incidental to the primary business, and
8 employees of such establishments, are exempt from RCW 66.20.300
9 through 66.20.350, except for employees whose duties include serving
10 during tasting activities under RCW 66.24.363.

11

12 **Sec. 20.** RCW 66.24.440 and 2011 c 325 s 3 are each amended to
13 read as follows:

14 Each spirits, beer, and wine restaurant, spirits, beer, and wine
15 private club, hotel, spirits, beer, and wine nightclub, sports
16 entertainment facility (~~(licensee, and)~~), VIP airport lounge, and
17 senior center licensee shall be entitled to purchase any spirituous
18 liquor items salable under such license from the board at a discount
19 of not less than fifteen percent from the retail price fixed by the
20 board, together with all taxes.

21

22 **Sec. 21.** RCW 66.28.310 and 2011 c 119 s 101 and 2011 c 66 s 3 are
23 each reenacted and amended to read as follows:

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

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

33 (ii) Must bear imprinted advertising matter of the industry member
34 only, except imprinted advertising matter of the industry member can

1 include the logo of a professional sports team which the industry
2 member is licensed to use;

3 (iii) May be provided by industry members only to retailers and
4 their employees and may not be provided by or through retailers or
5 their employees to retail customers; and

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

7 (b) An industry member is not obligated to provide any such
8 branded promotional items, and a retailer may not require an industry
9 member to provide such branded promotional items as a condition for
10 selling any alcohol to the retailer.

11 (c) Any industry member or retailer or any other person asserting
12 that the provision of branded promotional items as allowed in (a) of
13 this subsection has resulted or is more likely than not to result in
14 undue influence or an adverse impact on public health and safety, or
15 is otherwise inconsistent with the criteria in (a) of this subsection
16 may file a complaint with the board. Upon receipt of a complaint the
17 board may conduct such investigation as it deems appropriate in the
18 circumstances. If the investigation reveals the provision of branded
19 promotional items has resulted in or is more likely than not to result
20 in undue influence or has resulted or is more likely than not to
21 result in an adverse impact on public health and safety or is
22 otherwise inconsistent with (a) of this subsection the board may issue
23 an administrative violation notice to the industry member, to the
24 retailer, or both. The recipient of the administrative violation
25 notice may request a hearing under chapter 34.05 RCW.

26 (2) Nothing in RCW 66.28.305 prohibits:

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

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

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

33 (iii) Pouring or dispensing of spirits by a licensed domestic
34 distiller or the accredited representative of a distiller,

1 manufacturer, importer, or distributor of spirituous liquor licensed
2 under RCW 66.24.310; or

3 (b) Special occasion licensees from paying for beer or wine
4 immediately following the end of the special occasion event; or

5 (c) Wineries or breweries that are participating in a special
6 occasion event from paying reasonable booth fees to the special
7 occasion licensee.

8 (3) Nothing in RCW 66.28.305 prohibits industry members from
9 performing, and retailers from accepting the service of building,
10 rotating, and restocking displays and stockroom inventories; rotating
11 and rearranging can and bottle displays of their own products;
12 providing point of sale material and brand signs; pricing case goods
13 of their own brands; and performing such similar business services
14 consistent with board rules, or personal services as described in
15 subsection (5) of this section.

16 (4) Nothing in RCW 66.28.305 prohibits:

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

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

23 (c) Industry members and retailers from producing, jointly or
24 together with regional, state, or local industry associations,
25 brochures and materials promoting tourism in Washington state which
26 contain information regarding retail licensees, industry members, and
27 their products.

28 (5) Nothing in RCW 66.28.305 prohibits the performance of personal
29 services offered from time to time by a domestic winery or certificate
30 of approval holder to retailers when the personal services are (a)
31 conducted at a licensed premises, and (b) intended to inform, educate,
32 or enhance customers' knowledge or experience of the manufacturer's
33 products. The performance of personal services may include
34 participation and pouring, bottle signing events, and other similar

1 informational or educational activities at the premises of a retailer
2 holding a spirits, beer, and wine restaurant license, a wine and/or
3 beer restaurant license, a specialty wine shop license, a special
4 occasion license, a grocery store license with a tasting endorsement,
5 or a private club license. A domestic winery or certificate of
6 approval holder is not obligated to perform any such personal
7 services, and a retail licensee may not require a domestic winery or
8 certificate of approval holder to conduct any personal service as a
9 condition for selling any alcohol to the retail licensee, or as a
10 condition for including any product of the domestic winery or
11 certificate of approval holder in any tasting conducted by the
12 licensee. Except as provided in RCW 66.28.150, the cost of sampling
13 may not be borne, directly or indirectly, by any domestic winery or
14 certificate of approval holder or any distributor. Nothing in this
15 section prohibits wineries, breweries, microbreweries, certificate of
16 approval holders, and retail licensees from identifying the producers
17 on private labels authorized under RCW 66.24.400, 66.24.425, (~~and~~)
18 66.24.450, 66.24.360, and 66.24.371.

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

24 (7) Nothing in RCW 66.28.305 prohibits the performance of personal
25 services offered from time to time by a domestic brewery,
26 microbrewery, or beer certificate of approval holder to grocery store
27 licensees with a tasting endorsement when the personal services are
28 (a) conducted at a licensed premises in conjunction with a tasting
29 event, and (b) intended to inform, educate, or enhance customers'
30 knowledge or experience of the manufacturer's products. The
31 performance of personal services may include participation and
32 pouring, bottle signing events, and other similar informational or
33 educational activities. A domestic brewery, microbrewery, or beer
34 certificate of approval holder is not obligated to perform any such

1 personal services, and a grocery store licensee may not require the
2 performance of any personal service as a condition for including any
3 product in any tasting conducted by the licensee.

4 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a
5 domestic winery and a restaurant licensed under RCW 66.24.320 or
6 66.24.400 to waive a corkage fee.

7 (9) Nothing in this section prohibits professional sports teams
8 who hold a retail liquor license or their agents from accepting bona
9 fide liquor advertising from manufacturers, importers, distributors,
10 or their agents for use in the sporting arena. Professional sports
11 teams who hold a retail liquor license or their agents may license the
12 manufacturer, importer, distributor, or their agents to use the name
13 and trademarks of the professional sports team in their advertising
14 and promotions, under the following conditions:

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

18 (b) Such advertising may carry with it no express or implied offer
19 on the part of the manufacturer, importer, distributor, or their
20 agent, or promise on the part of the retail licensee whose operation
21 is directly or indirectly part of the sporting arena, to stock or list
22 any particular brand of liquor to the total or partial exclusion of
23 any other brand.

24
25 NEW SECTION. **Sec. 22.** A new section is added to chapter 66.16
26 RCW to read as follows:

27 (1) The liquor control board must allow spirits sampling in former
28 contract liquor stores for the purpose of promoting spirits products.
29 Stores may apply for an endorsement to offer spirits tastings under
30 this section.

31 (a) No store may hold more than one spirits sampling per week.

32 (b) The locations shall be approved by the board. Before the
33 board determines which stores will be eligible to participate, it
34 shall give:

1 (i) Due consideration to the location of the store with respect to
2 the proximity of places of worship, schools, and public institutions;
3 (ii) Due consideration to motor vehicle accident data in the
4 proximity of the store; and
5 (iii) Written notice by certified mail of the proposed spirits
6 sampling to places of worship, schools, and public institutions within
7 five hundred feet of the store proposed to offer spirits sampling.
8 (c) Sampling must be conducted under the following conditions:
9 (i) Sampling may take place only in an area of a store in which
10 access to persons under twenty-one years of age is prohibited;
11 (ii) Samples may be provided free of charge;
12 (iii) Only persons twenty-one years of age or over may sample
13 spirits;
14 (iv) Each sample must be one-quarter ounce or less, with no more
15 than one ounce of samples provided per person per day;
16 (v) Tasting activities are subject to RCW 66.28.305 and 66.28.040
17 and the cost of sampling may not be borne, directly or indirectly, by
18 any liquor manufacturer, importer, or distributor;
19 (vi) Any person involved in the serving of such samples must have
20 completed a mandatory alcohol server training program;
21 (vii) No person who is apparently intoxicated may sample spirits;
22 (viii) The product provided for sampling must be available for
23 sale at the store where the sampling occurs at the time of the
24 sampling; and
25 (ix) Customers must remain on the store premise while consuming
26 samples.
27 (d) The liquor control board may prohibit sampling at a location
28 that is within the boundaries of an alcohol impact area recognized by
29 resolution of the board if the board finds that the sampling
30 activities at the location are having an adverse effect on the
31 reduction of chronic public inebriation in the area.
32 (e) A store may advertise a tasting event only within the store,
33 on a store web site, in-store newsletters and flyers, and via e-mail
34 and mail to customers who have requested notice of events.

1 Advertising under this subsection may not be targeted to or appeal
2 principally to youth.

3 (f) All other criteria must be determined by the board.

4 (2) The liquor control board may adopt rules to implement this
5 section.

6 (3) For the purposes of this section, "store" means a former
7 contract liquor store premises as of May 31, 2012.

8 (4)(a) If a store is found to have committed a public safety
9 violation in conjunction with tasting activities, the board may
10 suspend the licensee's tasting endorsement and not reissue the
11 endorsement for up to two years from the date of the violation. If
12 mitigating circumstances exist, the board may offer a monetary penalty
13 in lieu of suspension during a settlement conference.

14 (b) RCW 66.08.150 applies to the suspension or revocation of an
15 endorsement.

16
17 **Sec. 23.** RCW 66.24.363 and 2010 c 141 s 1 are each amended to
18 read as follows:

19 (1) A grocery store licensed under RCW 66.24.360 may apply for an
20 endorsement to offer beer and wine tasting under this section.

21 (2) To be issued an endorsement, a licensee must meet the
22 following criteria:

23 (a) The licensee has retail sales of grocery products for off-
24 premises consumption that are more than fifty percent of the
25 licensee's gross sales or the licensee is a membership organization
26 that requires members to be at least eighteen years of age;

27 (b) The licensee operates a fully enclosed retail area
28 encompassing at least nine thousand square feet, except that the board
29 may issue an endorsement to a licensee with a retail area encompassing
30 less than nine thousand square feet if the board determines that no
31 licensee in the community the licensee serves meets the square footage
32 requirement and the licensee meets operational requirements
33 established by the board by rule; and

34

1 (c) The licensee has not had more than one public safety violation
2 within the past two years.

3 (3) A tasting must be conducted under the following conditions:

4 (a) Each sample must be two ounces or less, up to a total of four
5 ounces, per customer during any one visit to the premises;

6 (b) No more than one sample of the same product offering of beer
7 or wine may be provided to a customer during any one visit to the
8 premises;

9 (c) The licensee must have food available for the tasting
10 participants;

11 (d) Customers must remain in the service area while consuming
12 samples; and

13 (e) The service area and facilities must be located within the
14 licensee's fully enclosed retail area and must be of a size and design
15 such that the licensee can observe and control persons in the area to
16 ensure that persons under twenty-one years of age and apparently
17 intoxicated persons cannot possess or consume alcohol.

18 (4) Employees of licensees whose duties include serving during
19 tasting activities under this section must hold a class 12 alcohol
20 server permit.

21 (5) Tasting activities under this section are subject to RCW
22 66.28.305 and 66.28.040 and the cost of sampling may not be borne,
23 directly or indirectly, by any liquor manufacturer, importer, or
24 distributor.

25 (6) A licensee may advertise a tasting event only within the
26 store, on a store web site, in store newsletters and flyers, and via
27 e-mail and mail to customers who have requested notice of events.
28 Advertising under this subsection may not be targeted to or appeal
29 principally to youth.

30 (7)(a) If a licensee is found to have committed a public safety
31 violation in conjunction with tasting activities, the board may
32 suspend the licensee's tasting endorsement and not reissue the
33 endorsement for up to two years from the date of the violation. If
34

1 mitigating circumstances exist, the board may offer a monetary penalty
2 in lieu of suspension during a settlement conference.

3 (b) The board may revoke an endorsement granted to a licensee that
4 is located within the boundaries of an alcohol impact area recognized
5 by resolution of the board if the board finds that the tasting
6 activities by the licensee are having an adverse effect on the
7 reduction of chronic public inebriation in the area.

8 (c) RCW 66.08.150 applies to the suspension or revocation of an
9 endorsement.

10 (8) The board may establish additional requirements under this
11 section to assure that persons under twenty-one years of age and
12 apparently intoxicated persons cannot possess or consume alcohol.

13 (9) Upon request the board may adjust the gross sales percentage
14 in subsection (2)(a) of this section at the discretion of the board.

15 (10) The annual fee for the endorsement is two hundred dollars.
16 The board shall review the fee annually and may increase the fee by
17 rule to a level sufficient to defray the cost of administration and
18 enforcement of the endorsement, except that the board may not increase
19 the fee by more than ten percent annually.

20 ~~((+10+))~~ (11) The board must adopt rules to implement this
21 section."

22 Correct the title.

23 Renumber the remaining sections consecutively and correct any
24 internal references accordingly.

25

EFFECT: Creates a day spa permit, a senior center liquor
license, permits private labels to list the producer, allows former
contract liquor stores to conduct spirits sampling, allow the LCB to
change the retail sales percentage for grocery stores to conduct
beer and wine tasting.

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