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SENATE BILL 5029

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Kohl-Welles, White, King, Honeyford, Holmquist Newbry, Kline, Conway, Tom, Chase, Hewitt, Harper, Nelson, and McAuliffe

Read first time 01/10/11. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to beer and wine tasting at farmers markets;  
2 amending RCW 66.24.170 and 66.28.040; reenacting and amending RCW  
3 66.24.244; creating a new section; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** (1) The liquor control board shall establish  
6 a pilot project as provided in this section to allow beer and wine  
7 tasting at farmers markets.

8 (2) The pilot project shall consist of ten farmers markets with at  
9 least six days of tastings to be conducted by a winery or microbrewery  
10 at each farmers market between July 1, 2011, and September 30, 2012.  
11 The pilot project farmers markets shall be selected by the board.

12 (3) Farmers markets chosen to participate in the pilot project must  
13 be authorized on January 1, 2011, to allow wineries to sell bottled  
14 wine at retail under RCW 66.24.170. A farmers market with a  
15 microbrewery providing samples under this section must also be  
16 authorized on January 1, 2011, to allow microbreweries to sell bottled  
17 beer at retail under RCW 66.24.244. A winery or microbrewery offering  
18 samples under this section must have an endorsement on January 1, 2011,

1 from the board to sell wine or beer, as the case may be, of its own  
2 production at a farmers market under RCW 66.24.170 or 66.24.244,  
3 respectively.

4 (4) Only one winery or microbrewery may offer samples at a farmers  
5 market per day.

6 (5) Samples may be offered only under the following conditions:

7 (a) Each sample must be two ounces or less, up to a total of four  
8 ounces per customer per day. A winery or microbrewery may provide only  
9 one sample of any single brand and type of wine or beer to a customer  
10 per day.

11 (b) A winery or microbrewery may advertise that it offers samples  
12 only at its designated booth, stall, or other designated location at  
13 the farmers market.

14 (c) Customers must remain at the designated booth, stall, or other  
15 designated location while sampling beer or wine.

16 (d) Winery and microbrewery licensees and employees who are  
17 involved in sampling activities under this section must: (i) Complete  
18 a board-approved limited alcohol server training program that addresses  
19 only those subjects reasonably related to sampling activities under  
20 this section; or (ii) hold a class 12 or class 13 alcohol server  
21 permit.

22 (e) A winery or microbrewery must have food available for customers  
23 to consume while sampling beer or wine, or must be adjacent to a vendor  
24 offering prepared food.

25 (6) The board may establish additional requirements by rule to  
26 ensure that persons under twenty-one years of age and apparently  
27 intoxicated persons cannot possess or consume alcohol under the  
28 authority granted in this section.

29 (7) The board may prohibit sampling at a farmers market that is  
30 within the boundaries of an alcohol impact area recognized by  
31 resolution of the board if the board finds that the sampling activities  
32 at the farmers market are having an adverse effect on the reduction of  
33 chronic public inebriation in the area.

34 (8) The board shall report on the pilot project to the appropriate  
35 committees of the legislature by December 1, 2012.

36 **Sec. 2.** RCW 66.24.170 and 2009 c 373 s 4 are each amended to read  
37 as follows:

1 (1) There shall be a license for domestic wineries; fee to be  
2 computed only on the liters manufactured: Less than two hundred fifty  
3 thousand liters per year, one hundred dollars per year; and two hundred  
4 fifty thousand liters or more per year, four hundred dollars per year.

5 (2) The license allows for the manufacture of wine in Washington  
6 state from grapes or other agricultural products.

7 (3) Any domestic winery licensed under this section may also act as  
8 a retailer of wine of its own production. Any domestic winery licensed  
9 under this section may act as a distributor of its own production.  
10 Notwithstanding any language in this title to the contrary, a domestic  
11 winery may use a common carrier to deliver up to one hundred cases of  
12 its own production, in the aggregate, per month to licensed Washington  
13 retailers. A domestic winery may not arrange for any such common  
14 carrier shipments to licensed retailers of wine not of its own  
15 production. Except as provided in this section, any winery operating  
16 as a distributor and/or retailer under this subsection shall comply  
17 with the applicable laws and rules relating to distributors and/or  
18 retailers, except that a winery operating as a distributor may maintain  
19 a warehouse off the premises of the winery for the distribution of wine  
20 of its own production provided that: (a) The warehouse has been  
21 approved by the board under RCW 66.24.010; and (b) the number of  
22 warehouses off the premises of the winery does not exceed one.

23 (4) A domestic winery licensed under this section, at locations  
24 separate from any of its production or manufacturing sites, may serve  
25 samples of its own products, with or without charge, and sell wine of  
26 its own production at retail, provided that: (a) Each additional  
27 location has been approved by the board under RCW 66.24.010; (b) the  
28 total number of additional locations does not exceed two; (c) a winery  
29 may not act as a distributor at any such additional location; and (d)  
30 any person selling or serving wine at an additional location for on-  
31 premise consumption must obtain a class 12 or class 13 alcohol server  
32 permit. Each additional location is deemed to be part of the winery  
33 license for the purpose of this title. At additional locations  
34 operated by multiple wineries under this section, if the board cannot  
35 connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee,  
36 the board may hold all licensees operating the additional location  
37 jointly liable. Nothing in this subsection shall be construed to

1 prevent a domestic winery from holding multiple domestic winery  
2 licenses.

3 (5)(a) A domestic winery licensed under this section may apply to  
4 the board for an endorsement to sell wine of its own production at  
5 retail for off-premises consumption at a qualifying farmers market.  
6 The annual fee for this endorsement is seventy-five dollars. An  
7 endorsement issued pursuant to this subsection does not count toward  
8 the two additional retail locations limit specified in this section.

9 (b) For each month during which a domestic winery will sell wine at  
10 a qualifying farmers market, the winery must provide the board or its  
11 designee a list of the dates, times, and locations at which bottled  
12 wine may be offered for sale. This list must be received by the board  
13 before the winery may offer wine for sale at a qualifying farmers  
14 market.

15 (c) The wine sold at qualifying farmers markets must be made  
16 entirely from grapes grown in a recognized Washington appellation or  
17 from other agricultural products grown in this state.

18 (d) Each approved location in a qualifying farmers market is deemed  
19 to be part of the winery license for the purpose of this title. Except  
20 as provided in section 1 of this act, the approved locations under an  
21 endorsement granted under this subsection do not include the tasting or  
22 sampling privilege of a winery. The winery may not store wine at a  
23 farmers market beyond the hours that the winery offers bottled wine for  
24 sale. The winery may not act as a distributor from a farmers market  
25 location.

26 (e) Before a winery may sell bottled wine at a qualifying farmers  
27 market, the farmers market must apply to the board for authorization  
28 for any winery with an endorsement approved under this subsection to  
29 sell bottled wine at retail at the farmers market. This application  
30 shall include, at a minimum: (i) A map of the farmers market showing  
31 all booths, stalls, or other designated locations at which an approved  
32 winery may sell bottled wine; and (ii) the name and contact information  
33 for the on-site market managers who may be contacted by the board or  
34 its designee to verify the locations at which bottled wine may be sold.  
35 Before authorizing a qualifying farmers market to allow an approved  
36 winery to sell bottled wine at retail at its farmers market location,  
37 the board shall notify the persons or entities of such application for

1 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization  
2 granted under this subsection (5)(e) may be withdrawn by the board for  
3 any violation of this title or any rules adopted under this title.

4 (f) The board may adopt rules establishing the application and  
5 approval process under this section and such additional rules as may be  
6 necessary to implement this section.

7 (g) For the purposes of this subsection:

8 (i) "Qualifying farmers market" means an entity that sponsors a  
9 regular assembly of vendors at a defined location for the purpose of  
10 promoting the sale of agricultural products grown or produced in this  
11 state directly to the consumer under conditions that meet the following  
12 minimum requirements:

13 (A) There are at least five participating vendors who are farmers  
14 selling their own agricultural products;

15 (B) The total combined gross annual sales of vendors who are  
16 farmers exceeds the total combined gross annual sales of vendors who  
17 are processors or resellers;

18 (C) The total combined gross annual sales of vendors who are  
19 farmers, processors, or resellers exceeds the total combined gross  
20 annual sales of vendors who are not farmers, processors, or resellers;

21 (D) The sale of imported items and secondhand items by any vendor  
22 is prohibited; and

23 (E) No vendor is a franchisee.

24 (ii) "Farmer" means a natural person who sells, with or without  
25 processing, agricultural products that he or she raises on land he or  
26 she owns or leases in this state or in another state's county that  
27 borders this state.

28 (iii) "Processor" means a natural person who sells processed food  
29 that he or she has personally prepared on land he or she owns or leases  
30 in this state or in another state's county that borders this state.

31 (iv) "Reseller" means a natural person who buys agricultural  
32 products from a farmer and resells the products directly to the  
33 consumer.

34 (6) Wine produced in Washington state by a domestic winery licensee  
35 may be shipped out-of-state for the purpose of making it into sparkling  
36 wine and then returned to such licensee for resale. Such wine shall be  
37 deemed wine manufactured in the state of Washington for the purposes of  
38 RCW 66.24.206, and shall not require a special license.

1           **Sec. 3.** RCW 66.24.244 and 2008 c 248 s 2 and 2008 c 41 s 9 are  
2 each reenacted and amended to read as follows:

3           (1) There shall be a license for microbreweries; fee to be one  
4 hundred dollars for production of less than sixty thousand barrels of  
5 malt liquor, including strong beer, per year.

6           (2) Any microbrewery licensed under this section may also act as a  
7 distributor and/or retailer for beer and strong beer of its own  
8 production. Strong beer may not be sold at a farmers market or under  
9 any endorsement which may authorize microbreweries to sell beer at  
10 farmers markets. Any microbrewery operating as a distributor and/or  
11 retailer under this subsection shall comply with the applicable laws  
12 and rules relating to distributors and/or retailers, except that a  
13 microbrewery operating as a distributor may maintain a warehouse off  
14 the premises of the microbrewery for the distribution of beer provided  
15 that (a) the warehouse has been approved by the board under RCW  
16 66.24.010 and (b) the number of warehouses off the premises of the  
17 microbrewery does not exceed one. A microbrewery holding a spirits,  
18 beer, and wine restaurant license may sell beer of its own production  
19 for off-premises consumption from its restaurant premises in kegs or in  
20 a sanitary container brought to the premises by the purchaser or  
21 furnished by the licensee and filled at the tap by the licensee at the  
22 time of sale.

23           (3) The board may issue up to two retail licenses allowing a  
24 microbrewery to operate an on or off-premise tavern, beer and/or wine  
25 restaurant, or spirits, beer, and wine restaurant.

26           (4) A microbrewery that holds a tavern license, spirits, beer, and  
27 wine restaurant license, or a beer and/or wine restaurant license shall  
28 hold the same privileges and endorsements as permitted under RCW  
29 66.24.320, 66.24.330, and 66.24.420.

30           (5)(a) A microbrewery licensed under this section may apply to the  
31 board for an endorsement to sell bottled beer of its own production at  
32 retail for off-premises consumption at a qualifying farmers market.  
33 The annual fee for this endorsement is seventy-five dollars.

34           (b) For each month during which a microbrewery will sell beer at a  
35 qualifying farmers market, the microbrewery must provide the board or  
36 its designee a list of the dates, times, and locations at which bottled  
37 beer may be offered for sale. This list must be received by the board

1 before the microbrewery may offer beer for sale at a qualifying farmers  
2 market.

3 (c) The beer sold at qualifying farmers markets must be produced in  
4 Washington.

5 (d) Each approved location in a qualifying farmers market is deemed  
6 to be part of the microbrewery license for the purpose of this title.  
7 Except as provided in section 1 of this act, the approved locations  
8 under an endorsement granted under this subsection (5) do not  
9 constitute the tasting or sampling privilege of a microbrewery. The  
10 microbrewery may not store beer at a farmers market beyond the hours  
11 that the microbrewery offers bottled beer for sale. The microbrewery  
12 may not act as a distributor from a farmers market location.

13 (e) Before a microbrewery may sell bottled beer at a qualifying  
14 farmers market, the farmers market must apply to the board for  
15 authorization for any microbrewery with an endorsement approved under  
16 this subsection (5) to sell bottled beer at retail at the farmers  
17 market. This application shall include, at a minimum: (i) A map of  
18 the farmers market showing all booths, stalls, or other designated  
19 locations at which an approved microbrewery may sell bottled beer; and  
20 (ii) the name and contact information for the on-site market managers  
21 who may be contacted by the board or its designee to verify the  
22 locations at which bottled beer may be sold. Before authorizing a  
23 qualifying farmers market to allow an approved microbrewery to sell  
24 bottled beer at retail at its farmers market location, the board shall  
25 notify the persons or entities of the application for authorization  
26 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under  
27 this subsection (5)(e) may be withdrawn by the board for any violation  
28 of this title or any rules adopted under this title.

29 (f) The board may adopt rules establishing the application and  
30 approval process under this section and any additional rules necessary  
31 to implement this section.

32 (g) For the purposes of this subsection (5):

33 (i) "Qualifying farmers market" means an entity that sponsors a  
34 regular assembly of vendors at a defined location for the purpose of  
35 promoting the sale of agricultural products grown or produced in this  
36 state directly to the consumer under conditions that meet the following  
37 minimum requirements:

1 (A) There are at least five participating vendors who are farmers  
2 selling their own agricultural products;

3 (B) The total combined gross annual sales of vendors who are  
4 farmers exceeds the total combined gross annual sales of vendors who  
5 are processors or resellers;

6 (C) The total combined gross annual sales of vendors who are  
7 farmers, processors, or resellers exceeds the total combined gross  
8 annual sales of vendors who are not farmers, processors, or resellers;

9 (D) The sale of imported items and secondhand items by any vendor  
10 is prohibited; and

11 (E) No vendor is a franchisee.

12 (ii) "Farmer" means a natural person who sells, with or without  
13 processing, agricultural products that he or she raises on land he or  
14 she owns or leases in this state or in another state's county that  
15 borders this state.

16 (iii) "Processor" means a natural person who sells processed food  
17 that he or she has personally prepared on land he or she owns or leases  
18 in this state or in another state's county that borders this state.

19 (iv) "Reseller" means a natural person who buys agricultural  
20 products from a farmer and resells the products directly to the  
21 consumer.

22 (6) Any microbrewery licensed under this section may  
23 contract-produce beer for another microbrewer. This contract-  
24 production is not a sale for the purposes of RCW 66.28.170 and  
25 66.28.180.

26 **Sec. 4.** RCW 66.28.040 and 2009 c 373 s 8 are each amended to read  
27 as follows:

28 Except as permitted by the board under RCW 66.20.010, no domestic  
29 brewery, microbrewery, distributor, distiller, domestic winery,  
30 importer, rectifier, certificate of approval holder, or other  
31 manufacturer of liquor shall, within the state of Washington, give to  
32 any person any liquor; but nothing in this section nor in RCW 66.28.010  
33 shall prevent a domestic brewery, microbrewery, distributor, domestic  
34 winery, distiller, certificate of approval holder, or importer from  
35 furnishing samples of beer, wine, or spirituous liquor to authorized  
36 licensees for the purpose of negotiating a sale, in accordance with  
37 regulations adopted by the liquor control board, provided that the



1 samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210,  
2 and in the case of spirituous liquor, any product used for samples must  
3 be purchased at retail from the board; nothing in this section shall  
4 prevent the furnishing of samples of liquor to the board for the  
5 purpose of negotiating the sale of liquor to the state liquor control  
6 board; nothing in this section shall prevent a domestic brewery,  
7 microbrewery, domestic winery, distillery, certificate of approval  
8 holder, or distributor from furnishing beer, wine, or spirituous liquor  
9 for instructional purposes under RCW 66.28.150; nothing in this section  
10 shall prevent a domestic winery, certificate of approval holder, or  
11 distributor from furnishing wine without charge, subject to the taxes  
12 imposed by RCW 66.24.210, to a not-for-profit group organized and  
13 operated solely for the purpose of enology or the study of viticulture  
14 which has been in existence for at least six months and that uses wine  
15 so furnished solely for such educational purposes or a domestic winery,  
16 or an out-of-state certificate of approval holder, from furnishing wine  
17 without charge or a domestic brewery, or an out-of-state certificate of  
18 approval holder, from furnishing beer without charge, subject to the  
19 taxes imposed by RCW 66.24.210 or 66.24.290, or a domestic distiller  
20 licensed under RCW 66.24.140 or an accredited representative of a  
21 distiller, manufacturer, importer, or distributor of spirituous liquor  
22 licensed under RCW 66.24.310, from furnishing spirits without charge,  
23 to a nonprofit charitable corporation or association exempt from  
24 taxation under section 501(c)(3) or (6) of the internal revenue code of  
25 1986 (26 U.S.C. Sec. 501(c)(3) or (6)) for use consistent with the  
26 purpose or purposes entitling it to such exemption; nothing in this  
27 section shall prevent a domestic brewery or microbrewery from serving  
28 beer without charge, on the brewery premises; nothing in this section  
29 shall prevent donations of wine for the purposes of RCW 66.12.180;  
30 nothing in this section shall prevent a domestic winery from serving  
31 wine without charge, on the winery premises; ~~((and))~~ nothing in this  
32 section shall prevent a craft distillery from serving spirits without  
33 charge, on the distillery premises subject to RCW 66.24.145; and  
34 nothing in this section shall prevent a winery, brewery, or  
35 microbrewery from serving samples at a farmers market under section 1  
36 of this act.

1        NEW SECTION.   **Sec. 5.**   This act expires December 1, 2012.

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