
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5353

State of Washington 64th Legislature 2015 Regular Session

By Senate Ways & Means (originally sponsored by Senator Angel)

1 AN ACT Relating to marketing opportunities for spirits produced
2 in Washington by craft and general licensed distilleries; amending
3 RCW 66.24.140, 66.24.145, 66.24.175, and 66.20.010; adding a new
4 section to chapter 66.20 RCW; and adding a new section to chapter
5 66.24 RCW.

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

7 **Sec. 1.** RCW 66.24.140 and 2014 c 92 s 4 are each amended to read
8 as follows:

9 (1) There (~~shall be~~) is a license to distillers, including
10 blending, rectifying, and bottling; fee two thousand dollars per
11 annum, unless provided otherwise as follows:

12 (a) For distillers producing one hundred fifty thousand gallons
13 or less of spirits with at least half of the raw materials used in
14 the production grown in Washington, the license fee must be reduced
15 to one hundred dollars per annum;

16 (b) The board must license stills used and to be used solely and
17 only by a commercial chemist for laboratory purposes, and not for the
18 manufacture of liquor for sale, at a fee of twenty dollars per annum;

19 (c) The board must license stills used and to be used solely and
20 only for laboratory purposes in any school, college, or educational
21 institution in the state, without fee; and

1 (d) The board must license stills that have been duly licensed as
2 fruit and/or wine distilleries by the federal government, used and to
3 be used solely as fruit and/or wine distilleries in the production of
4 fruit brandy and wine spirits, at a fee of two hundred dollars per
5 annum.

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

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

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

13 (c) Provide free or for a charge one-half ounce or less samples
14 of spirits of its own production to persons on the premises of the
15 distillery. The maximum total per person per day is two ounces. Every
16 person who participates in any manner in the service of samples must
17 obtain a class 12 alcohol server permit. Spirits samples may be
18 adulterated with nonalcoholic mixers, water, and/or ice.

19 **Sec. 2.** RCW 66.24.145 and 2014 c 92 s 1 are each amended to read
20 as follows:

21 (1)(a) Any craft distillery may sell spirits of its own
22 production for consumption off the premises.

23 (b) A craft distillery selling spirits under this subsection must
24 comply with the applicable laws and rules relating to retailers.

25 (2) Any craft distillery may contract distilled spirits for, and
26 sell contract distilled spirits to, holders of distillers' or
27 manufacturers' licenses, including licenses issued under RCW
28 66.24.520, or for export.

29 (3) Any craft distillery licensed under this section may provide,
30 free or for a charge, one-half ounce or less samples of spirits of
31 its own production to persons on the premises of the distillery. The
32 maximum total per person per day is two ounces. Every person who
33 participates in any manner in the service of samples must obtain a
34 class 12 alcohol server permit. Spirits samples may be adulterated
35 with nonalcoholic mixers, water, and/or ice.

36 (4)(a) A distillery or craft distillery licensee may apply to the
37 board for an endorsement to sell spirits of its own production at
38 retail for off-premises consumption at a qualifying farmers market.
39 The annual fee for this endorsement is seventy-five dollars.

1 (b) For each month during which a distillery or craft distillery
2 will sell spirits at a qualifying farmers market, the distillery or
3 craft distillery must provide the board or its designee a list of the
4 dates, times, and locations at which bottled spirits may be offered
5 for sale. This list must be received by the board before the spirits
6 may be offered for sale at a qualifying farmers market.

7 (c) Each approved location in a qualifying farmers market is
8 deemed to be part of the distillery or craft distillery license for
9 the purpose of this title. The approved locations under an
10 endorsement granted under this subsection do not include tasting or
11 sampling privileges. The distillery or craft distillery may not store
12 spirits at a farmers market beyond the hours that the bottled spirits
13 are offered for sale. The distillery or craft distillery may not act
14 as a distributor from a farmers market location.

15 (d) Before a distillery or craft distillery may sell bottled
16 spirits at a qualifying farmers market, the farmers market must apply
17 to the board for authorization for any distillery or craft distillery
18 with an endorsement approved under this subsection to sell bottled
19 spirits at retail at the farmers market. This application must
20 include, at a minimum: (i) A map of the farmers market showing all
21 booths, stalls, or other designated locations at which an approved
22 distillery or craft distillery may sell bottled spirits; and (ii) the
23 name and contact information for the on-site market managers who may
24 be contacted by the board or its designee to verify the locations at
25 which bottled spirits may be sold. Before authorizing a qualifying
26 farmers market to allow an approved distillery or craft distillery to
27 sell bottled spirits at retail at its farmers market location, the
28 board must notify the persons or entities of such application for
29 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization
30 granted under this subsection (4)(d) may be withdrawn by the board
31 for any violation of this title or any rules adopted under this
32 title.

33 (e) For the purposes of this subsection (4), "qualifying farmers
34 market" has the same meaning as defined in RCW 66.24.170.

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

38 ~~((+5))~~ (6) Distilling is an agricultural practice.

1 **Sec. 3.** RCW 66.24.175 and 2014 c 105 s 2 are each amended to
2 read as follows:

3 (1) A qualifying farmers market authorized to allow wineries to
4 sell bottled wine at retail under RCW 66.24.170 ~~((or))~~,
5 microbreweries to sell bottled beer at retail under RCW 66.24.244,
6 ~~((or both,))~~ distilleries to sell bottled spirits at retail under RCW
7 66.24.140, or craft distilleries to sell bottled spirits at retail
8 under RCW 66.24.145 may apply to the liquor control board for an
9 endorsement to allow sampling of wine ~~((or))~~, beer, ~~((both))~~
10 spirits. A winery ~~((or))~~, microbrewery, distillery, or craft
11 distillery offering samples under this section must have an
12 endorsement from the board to sell wine ~~((or))~~, beer, or spirits, as
13 the case may be, of its own production at a qualifying farmers market
14 under RCW 66.24.170 ~~((or))~~, 66.24.244, 66.24.140, or 66.24.145,
15 respectively.

16 (2) Samples may be offered only under the following conditions:

17 (a) No more than three wineries or microbreweries combined may
18 offer samples at a qualifying farmers market per day.

19 (b) Samples must be two ounces or less. A winery or microbrewery
20 may provide a maximum of two ounces of wine or beer to a customer per
21 day.

22 (c) A winery or microbrewery may advertise that it offers samples
23 only at its designated booth, stall, or other designated location at
24 the farmers market.

25 (d) Customers must remain at the designated booth, stall, or
26 other designated location while sampling beer or wine.

27 (e) Winery and microbrewery licensees and employees who are
28 involved in sampling activities under this section must hold a class
29 12 or class 13 alcohol server permit.

30 (f) A winery or microbrewery must have food available for
31 customers to consume while sampling beer or wine, or must be adjacent
32 to a vendor offering prepared food.

33 (3) The board may establish additional requirements to ensure
34 that persons under twenty-one years of age and apparently intoxicated
35 persons may not possess or consume alcohol under the authority
36 granted in this section.

37 (4) The board may prohibit sampling at a farmers market that is
38 within the boundaries of an alcohol impact area recognized by
39 resolution of the board if the board finds that the sampling

1 activities at the farmers market have an adverse effect on the
2 reduction of chronic public inebriation in the area.

3 (5) If a winery or microbrewery is found to have committed a
4 public safety violation in conjunction with tasting activities, the
5 board may suspend the licensee's farmers market endorsement and not
6 reissue the endorsement for up to two years from the date of the
7 violation. If mitigating circumstances exist, the board may offer a
8 monetary penalty in lieu of suspension during a settlement
9 conference.

10 (6) For the purposes of this section, a "qualifying farmers
11 market" has the same meaning as defined in RCW 66.24.170.

12 **Sec. 4.** RCW 66.20.010 and 2013 c 59 s 1 are each amended to read
13 as follows:

14 Upon application in the prescribed form being made to any
15 employee authorized by the board to issue permits, accompanied by
16 payment of the prescribed fee, and upon the employee being satisfied
17 that the applicant should be granted a permit under this title, the
18 employee must issue to the applicant under such regulations and at
19 such fee as may be prescribed by the board a permit of the class
20 applied for, as follows:

21 (1) Where the application is for a special permit by a physician
22 or dentist, or by any person in charge of an institution regularly
23 conducted as a hospital or sanitorium for the care of persons in ill
24 health, or as a home devoted exclusively to the care of aged people,
25 a special liquor purchase permit, except that the governor may waive
26 the requirement for a special liquor purchase permit under this
27 subsection pursuant to an order issued under RCW 43.06.220(2);

28 (2) Where the application is for a special permit by a person
29 engaged within the state in mechanical or manufacturing business or
30 in scientific pursuits requiring alcohol for use therein, or by any
31 private individual, a special permit to purchase alcohol for the
32 purpose named in the permit, except that the governor may waive the
33 requirement for a special liquor purchase permit under this
34 subsection pursuant to an order issued under RCW 43.06.220(2);

35 (3) Where the application is for a special permit to consume
36 liquor at a banquet, at a specified date and place, a special permit
37 to purchase liquor for consumption at such banquet, to such
38 applicants as may be fixed by the board;

1 (4) Where the application is for a special permit to consume
2 liquor on the premises of a business not licensed under this title, a
3 special permit to purchase liquor for consumption thereon for such
4 periods of time and to such applicants as may be fixed by the board;

5 (5) Where the application is for a special permit by a
6 manufacturer to import or purchase within the state alcohol, malt,
7 and other materials containing alcohol to be used in the manufacture
8 of liquor, or other products, a special permit;

9 (6) Where the application is for a special permit by a person
10 operating a drug store to purchase liquor at retail prices only, to
11 be thereafter sold by such person on the prescription of a physician,
12 a special liquor purchase permit, except that the governor may waive
13 the requirement for a special liquor purchase permit under this
14 subsection pursuant to an order issued under RCW 43.06.220(2);

15 (7) Where the application is for a special permit by an
16 authorized representative of a military installation operated by or
17 for any of the armed forces within the geographical boundaries of the
18 state of Washington, a special permit to purchase liquor for use on
19 such military installation;

20 (8) Where the application is for a special permit by a vendor
21 that manufactures or sells a product which cannot be effectively
22 presented to potential buyers without serving it with liquor or by a
23 manufacturer, importer, or distributor, or representative thereof, to
24 serve liquor without charge to delegates and guests at a convention
25 of a trade association composed of licensees of the board, when the
26 said liquor is served in a hospitality room or from a booth in a
27 board-approved suppliers' display room at the convention, and when
28 the liquor so served is for consumption in the said hospitality room
29 or display room during the convention, anything in this title to the
30 contrary notwithstanding. Any such spirituous liquor must be
31 purchased from a spirits retailer or distributor, and any such liquor
32 is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

33 (9) Where the application is for a special permit by a
34 manufacturer, importer, or distributor, or representative thereof, to
35 donate liquor for a reception, breakfast, luncheon, or dinner for
36 delegates and guests at a convention of a trade association composed
37 of licensees of the board, when the liquor so donated is for
38 consumption at the said reception, breakfast, luncheon, or dinner
39 during the convention, anything in this title to the contrary
40 notwithstanding. Any such spirituous liquor must be purchased from a

1 spirits retailer or distributor, and any such liquor is subject to
2 the taxes imposed by RCW 66.24.290 and 66.24.210;

3 (10) Where the application is for a special permit by a
4 manufacturer, importer, or distributor, or representative thereof, to
5 donate and/or serve liquor without charge to delegates and guests at
6 an international trade fair, show, or exposition held under the
7 auspices of a federal, state, or local governmental entity or
8 organized and promoted by a nonprofit organization, anything in this
9 title to the contrary notwithstanding. Any such spirituous liquor
10 must be purchased from a liquor spirits retailer or distributor, and
11 any such liquor is subject to the taxes imposed by RCW 66.24.290 and
12 66.24.210;

13 (11) Where the application is for an annual special permit by a
14 person operating a bed and breakfast lodging facility to donate or
15 serve wine or beer without charge to overnight guests of the facility
16 if the wine or beer is for consumption on the premises of the
17 facility. "Bed and breakfast lodging facility," as used in this
18 subsection, means a facility offering from one to eight lodging units
19 and breakfast to travelers and guests;

20 (12) Where the application is for a special permit to allow
21 tasting of alcohol by persons at least eighteen years of age under
22 the following circumstances:

23 (a) The application is from a community or technical college as
24 defined in RCW 28B.50.030;

25 (b) The person who is permitted to taste under this subsection is
26 enrolled as a student in a required or elective class that is part of
27 a culinary, wine technology, beer technology, or spirituous
28 technology-related degree program;

29 (c) The alcohol served to any person in the degree-related
30 programs under (b) of this subsection is tasted but not consumed for
31 the purposes of educational training as part of the class curriculum
32 with the approval of the educational provider;

33 (d) The service and tasting of alcoholic beverages is supervised
34 by a faculty or staff member of the educational provider who is
35 twenty-one years of age or older. The supervising faculty or staff
36 member shall possess a class 12 or 13 alcohol server permit under the
37 provisions of RCW 66.20.310;

38 (e) The enrolled student permitted to taste the alcoholic
39 beverages does not purchase the alcoholic beverages; and

1 (f) The permit fee for the special permit provided for in this
2 subsection (12) (~~shall~~) must be waived by the board;

3 (13) Where the application is for a special permit by a
4 distillery or craft distillery for an event not open to the general
5 public to be held or conducted at a specific place, including at the
6 licensed premise of the applying distillery or craft distillery, upon
7 a specific date for the purpose of tasting and selling spirits of its
8 own production. The distillery or craft distillery must obtain a
9 permit for a fee of ten dollars per event. An application for the
10 permit must be submitted for private banquet permits prior to the
11 event and, once issued, must be posted in a conspicuous place at the
12 premises for which the permit was issued during all times the permit
13 is in use.

14 NEW SECTION. Sec. 5. A new section is added to chapter 66.20
15 RCW to read as follows:

16 (1) The holder of a license to operate a distillery or craft
17 distillery issued under RCW 66.24.140 or 66.24.145 may accept orders
18 for spirits from, and deliver spirits to, customers if all of the
19 following conditions are met for each sale:

20 (a) Spirits are not used for resale;

21 (b) Spirits come directly from the distillery's or craft
22 distillery's possession prior to shipment or delivery. All
23 transactions are to be treated as if they were conducted in the
24 retail location of the distillery or craft distillery regardless of
25 how they are received or processed;

26 (c) Spirits may be ordered in person at a licensed location, by
27 mail, telephone, or internet, or by other similar methods; and

28 (d) Only a distillery or craft distillery licensee or a
29 licensee's direct employees may accept and process orders and
30 payments. A contractor may not do so on behalf of a distillery or
31 craft distillery licensee, except for transmittal of payment through
32 a third-party service. A third-party service may not solicit customer
33 business on behalf of a distillery or craft distillery licensee.

34 (2) All orders and payments must be fully processed before
35 spirits transfers ownership or, in the case of delivery, leaves a
36 licensed distillery's or craft distillery's possession.

37 (3) Payment methods include, but are not limited to: Cash, credit
38 or debit card, check or money order, electronic funds transfer, or an

1 existing prepaid account. An existing prepaid account may not have a
2 negative balance.

3 (4) To sell spirits via the internet, a new distillery or craft
4 distillery license applicant must request internet-sales privileges
5 in his or her application. An existing distillery or craft distillery
6 licensee must notify the board prior to beginning internet sales. A
7 corporate entity representing multiple licensees may notify the board
8 in a single letter on behalf of affiliated distillery or craft
9 distillery licensees, as long as the liquor license numbers of all
10 licensee locations utilizing internet sales privileges are clearly
11 identified.

12 (5) Delivery may be made only to a residence or business that has
13 an address recognized by the United States postal service; however,
14 the board may grant an exception to this rule at its discretion. A
15 residence includes a hotel room, a motel room, marina, or other
16 similar lodging that temporarily serves as a residence.

17 (6) Spirits may be delivered each day of the week between the
18 hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by
19 2:00 a.m.

20 (7) Under chapter 66.44 RCW, any person under twenty-one years of
21 age is prohibited from purchasing, delivering, or accepting delivery
22 of liquor.

23 (a) A delivery person must verify the age of the person accepting
24 delivery before handing over liquor.

25 (b) If no person twenty-one years of age or older is present to
26 accept a liquor order at the time of delivery, the liquor must be
27 returned.

28 (8) Intoxication. Delivery of liquor is prohibited to any person
29 who shows signs of intoxication.

30 (9)(a) Individual units of spirits must be factory sealed in
31 bottles. For the purposes of this subsection, "factory sealed" means
32 that a unit is in one hundred percent resalable condition, with all
33 manufacturer's seals intact.

34 (b) The outermost surface of a liquor package, delivered by a
35 third party, must have language stating that:

36 (i) The package contains liquor;

37 (ii) The recipient must be twenty-one years of age or older; and

38 (iii) Delivery to intoxicated persons is prohibited.

39 (10) Required information.

1 (a) Records and files must be retained at the licensed premises.
2 Each delivery sales record must include the following:
3 (i) Name of the purchaser;
4 (ii) Name of the person who accepts delivery;
5 (iii) Street addresses of the purchaser and the delivery
6 location; and
7 (iv) Time and date of purchase and delivery.
8 (b) A private carrier must obtain the signature of the person who
9 receives liquor upon delivery.
10 (c) A sales record does not have to include the name of the
11 delivery person, but it is encouraged.
12 (11) Web site requirements. When selling over the internet, all
13 web site pages associated with the sale of liquor must display the
14 distillery or craft distillery licensee's registered trade name.
15 (12) Accountability. A distillery or craft distillery licensee is
16 accountable for all deliveries of liquor made on its behalf.
17 (13) Violations. The board may impose administrative enforcement
18 action upon a licensee, or suspend or revoke a licensee's delivery
19 privileges, or any combination thereof, should a licensee violate any
20 condition, requirement, or restriction.

21 NEW SECTION. **Sec. 6.** A new section is added to chapter 66.24
22 RCW to read as follows:

23 (1) Any licensee authorized to sell at retail under this chapter
24 may sell gift certificates and gift cards intended to be exchanged
25 for consumer goods, including alcohol, produced and sold by the
26 licensee. The licensee may also sell the gift certificates and gift
27 cards to or through a third-party retailer for resale to the public.
28 Gift certificates and gift cards may not be redeemed for alcohol by
29 persons under the age of twenty-one.

30 (2) For the purposes of this section, "gift certificate" and
31 "gift cards" have the same meaning as provided in RCW 19.240.010.

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