
HOUSE BILL 1409

State of Washington

59th Legislature

2005 Regular Session

By Representatives Condotta, Wood and Conway; by request of Liquor Control Board

Read first time 01/24/2005. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to updating references to contract liquor stores;
2 amending RCW 66.04.010, 66.08.026, 66.08.050, 66.08.235, 66.16.040,
3 66.16.041, 66.16.080, 66.20.160, 66.20.180, 66.24.380, 66.44.120, and
4 41.40.023; and repealing RCW 66.16.030.

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

6 **Sec. 1.** RCW 66.04.010 and 2004 c 160 s 1 are each amended to read
7 as follows:

8 In this title, unless the context otherwise requires:

9 (1) "Alcohol" is that substance known as ethyl alcohol, hydrated
10 oxide of ethyl, or spirit of wine, which is commonly produced by the
11 fermentation or distillation of grain, starch, molasses, or sugar, or
12 other substances including all dilutions and mixtures of this
13 substance. The term "alcohol" does not include alcohol in the
14 possession of a manufacturer or distiller of alcohol fuel, as described
15 in RCW 66.12.130, which is intended to be denatured and used as a fuel
16 for use in motor vehicles, farm implements, and machines or implements
17 of husbandry.

18 (2) "Authorized representative" means a person who:

1 (a) Is required to have a federal basic permit issued pursuant to
2 the federal alcohol administration act, 27 U.S.C. Sec. 204;

3 (b) Has its business located in the United States outside of the
4 state of Washington;

5 (c) Acquires ownership of beer or wine for transportation into and
6 resale in the state of Washington; and which beer or wine is produced
7 anywhere outside Washington by a brewery or winery which does not hold
8 a certificate of approval issued by the board; and

9 (d) Is appointed by the brewery or winery referenced in (c) of this
10 subsection as its exclusive authorized representative for marketing and
11 selling its products within the United States in accordance with a
12 written agreement between the authorized representative and such
13 brewery or winery pursuant to this title. The board may waive the
14 requirement for the written agreement of exclusivity in situations
15 consistent with the normal marketing practices of certain products,
16 such as classified growths.

17 (3) "Beer" means any malt beverage or malt liquor as these terms
18 are defined in this chapter.

19 (4) "Beer distributor" means a person who buys beer from a domestic
20 brewery, microbrewery, beer certificate of approval holder, or beer
21 importers, or who acquires foreign produced beer from a source outside
22 of the United States, for the purpose of selling the same pursuant to
23 this title, or who represents such brewer or brewery as agent.

24 (5) "Beer importer" means a person or business within Washington
25 who purchases beer from a beer certificate of approval holder or who
26 acquires foreign produced beer from a source outside of the United
27 States for the purpose of selling the same pursuant to this title.

28 (6) "Brewer" or "brewery" means any person engaged in the business
29 of manufacturing beer and malt liquor. Brewer includes a brand owner
30 of malt beverages who holds a brewer's notice with the federal bureau
31 of alcohol, tobacco, and firearms at a location outside the state and
32 whose malt beverage is contract-produced by a licensed in-state
33 brewery, and who may exercise within the state, under a domestic
34 brewery license, only the privileges of storing, selling to licensed
35 beer distributors, and exporting beer from the state.

36 (7) "Board" means the liquor control board, constituted under this
37 title.

1 (8) "Club" means an organization of persons, incorporated or
2 unincorporated, operated solely for fraternal, benevolent, educational,
3 athletic or social purposes, and not for pecuniary gain.

4 (9) "Consume" includes the putting of liquor to any use, whether by
5 drinking or otherwise.

6 (10) "Contract liquor store" means a business that sells liquor on
7 behalf of the board through a contract with a contract liquor store
8 manager.

9 (11) "Dentist" means a practitioner of dentistry duly and regularly
10 licensed and engaged in the practice of his profession within the state
11 pursuant to chapter 18.32 RCW.

12 ((+11)) (12) "Distiller" means a person engaged in the business of
13 distilling spirits.

14 ((+12)) (13) "Domestic brewery" means a place where beer and malt
15 liquor are manufactured or produced by a brewer within the state.

16 ((+13)) (14) "Domestic winery" means a place where wines are
17 manufactured or produced within the state of Washington.

18 ((+14)) (15) "Druggist" means any person who holds a valid
19 certificate and is a registered pharmacist and is duly and regularly
20 engaged in carrying on the business of pharmaceutical chemistry
21 pursuant to chapter 18.64 RCW.

22 ((+15)) (16) "Drug store" means a place whose principal business
23 is, the sale of drugs, medicines and pharmaceutical preparations and
24 maintains a regular prescription department and employs a registered
25 pharmacist during all hours the drug store is open.

26 ((+16)) (17) "Employee" means any person employed by the board(
27 ~~including a vendor, as hereinafter in this section defined~~)).

28 ((+17)) (18) "Fund" means 'liquor revolving fund.'

29 ((+18)) (19) "Hotel" means every building or other structure kept,
30 used, maintained, advertised or held out to the public to be a place
31 where food is served and sleeping accommodations are offered for pay to
32 transient guests, in which twenty or more rooms are used for the
33 sleeping accommodation of such transient guests and having one or more
34 dining rooms where meals are served to such transient guests, such
35 sleeping accommodations and dining rooms being conducted in the same
36 building and buildings, in connection therewith, and such structure or
37 structures being provided, in the judgment of the board, with adequate
38 and sanitary kitchen and dining room equipment and capacity, for

1 preparing, cooking and serving suitable food for its guests: PROVIDED
2 FURTHER, That in cities and towns of less than five thousand
3 population, the board shall have authority to waive the provisions
4 requiring twenty or more rooms.

5 ~~((+19+))~~ (20) "Importer" means a person who buys distilled spirits
6 from a distillery outside the state of Washington and imports such
7 spirituous liquor into the state for sale to the board or for export.

8 ~~((+20+))~~ (21) "Imprisonment" means confinement in the county jail.

9 ~~((+21+))~~ (22) "Liquor" includes the four varieties of liquor herein
10 defined (alcohol, spirits, wine and beer), and all fermented,
11 spirituous, vinous, or malt liquor, or combinations thereof, and mixed
12 liquor, a part of which is fermented, spirituous, vinous or malt
13 liquor, or otherwise intoxicating; and every liquid or solid or
14 semisolid or other substance, patented or not, containing alcohol,
15 spirits, wine or beer, and all drinks or drinkable liquids and all
16 preparations or mixtures capable of human consumption, and any liquid,
17 semisolid, solid, or other substance, which contains more than one
18 percent of alcohol by weight shall be conclusively deemed to be
19 intoxicating. Liquor does not include confections or food products
20 that contain one percent or less of alcohol by weight.

21 ~~((+22+))~~ (23) "Manufacturer" means a person engaged in the
22 preparation of liquor for sale, in any form whatsoever.

23 ~~((+23+))~~ (24) "Malt beverage" or "malt liquor" means any beverage
24 such as beer, ale, lager beer, stout, and porter obtained by the
25 alcoholic fermentation of an infusion or decoction of pure hops, or
26 pure extract of hops and pure barley malt or other wholesome grain or
27 cereal in pure water containing not more than eight percent of alcohol
28 by weight, and not less than one-half of one percent of alcohol by
29 volume. For the purposes of this title, any such beverage containing
30 more than eight percent of alcohol by weight shall be referred to as
31 "strong beer."

32 ~~((+24+))~~ (25) "Package" means any container or receptacle used for
33 holding liquor.

34 ~~((+25+))~~ (26) "Permit" means a permit for the purchase of liquor
35 under this title.

36 ~~((+26+))~~ (27) "Person" means an individual, copartnership,
37 association, or corporation.

1 ~~((27))~~ (28) "Physician" means a medical practitioner duly and
2 regularly licensed and engaged in the practice of his profession within
3 the state pursuant to chapter 18.71 RCW.

4 ~~((28))~~ (29) "Prescription" means a memorandum signed by a
5 physician and given by him to a patient for the obtaining of liquor
6 pursuant to this title for medicinal purposes.

7 ~~((29))~~ (30) "Public place" includes streets and alleys of
8 incorporated cities and towns; state or county or township highways or
9 roads; buildings and grounds used for school purposes; public dance
10 halls and grounds adjacent thereto; those parts of establishments where
11 beer may be sold under this title, soft drink establishments, public
12 buildings, public meeting halls, lobbies, halls and dining rooms of
13 hotels, restaurants, theatres, stores, garages and filling stations
14 which are open to and are generally used by the public and to which the
15 public is permitted to have unrestricted access; railroad trains,
16 stages, and other public conveyances of all kinds and character, and
17 the depots and waiting rooms used in conjunction therewith which are
18 open to unrestricted use and access by the public; publicly owned
19 bathing beaches, parks, and/or playgrounds; and all other places of
20 like or similar nature to which the general public has unrestricted
21 right of access, and which are generally used by the public.

22 ~~((30))~~ (31) "Regulations" means regulations made by the board
23 under the powers conferred by this title.

24 ~~((31))~~ (32) "Restaurant" means any establishment provided with
25 special space and accommodations where, in consideration of payment,
26 food, without lodgings, is habitually furnished to the public, not
27 including drug stores and soda fountains.

28 ~~((32))~~ (33) "Sale" and "sell" include exchange, barter, and
29 traffic; and also include the selling or supplying or distributing, by
30 any means whatsoever, of liquor, or of any liquid known or described as
31 beer or by any name whatever commonly used to describe malt or brewed
32 liquor or of wine, by any person to any person; and also include a sale
33 or selling within the state to a foreign consignee or his agent in the
34 state. "Sale" and "sell" shall not include the giving, at no charge,
35 of a reasonable amount of liquor by a person not licensed by the board
36 to a person not licensed by the board, for personal use only. "Sale"
37 and "sell" also does not include a raffle authorized under RCW

1 9.46.0315: PROVIDED, That the nonprofit organization conducting the
2 raffle has obtained the appropriate permit from the board.

3 ~~((+33+))~~ (34) "Soda fountain" means a place especially equipped
4 with apparatus for the purpose of dispensing soft drinks, whether mixed
5 or otherwise.

6 ~~((+34+))~~ (35) "Spirits" means any beverage which contains alcohol
7 obtained by distillation, including wines exceeding twenty-four percent
8 of alcohol by volume.

9 ~~((+35+))~~ (36) "Store" means a state liquor store established under
10 this title.

11 ~~((+36+))~~ (37) "Tavern" means any establishment with special space
12 and accommodation for sale by the glass and for consumption on the
13 premises, of beer, as herein defined.

14 ~~((+37) "Vendor" means a person employed by the board as a store
15 manager under this title.))~~

16 (38) "Winery" means a business conducted by any person for the
17 manufacture of wine for sale, other than a domestic winery.

18 (39) "Wine" means any alcoholic beverage obtained by fermentation
19 of fruits (grapes, berries, apples, et cetera) or other agricultural
20 product containing sugar, to which any saccharine substances may have
21 been added before, during or after fermentation, and containing not
22 more than twenty-four percent of alcohol by volume, including sweet
23 wines fortified with wine spirits, such as port, sherry, muscatel and
24 angelica, not exceeding twenty-four percent of alcohol by volume and
25 not less than one-half of one percent of alcohol by volume. For
26 purposes of this title, any beverage containing no more than fourteen
27 percent of alcohol by volume when bottled or packaged by the
28 manufacturer shall be referred to as "table wine," and any beverage
29 containing alcohol in an amount more than fourteen percent by volume
30 when bottled or packaged by the manufacturer shall be referred to as
31 "fortified wine." However, "fortified wine" shall not include: (a)
32 Wines that are both sealed or capped by cork closure and aged two years
33 or more; and (b) wines that contain more than fourteen percent alcohol
34 by volume solely as a result of the natural fermentation process and
35 that have not been produced with the addition of wine spirits, brandy,
36 or alcohol.

37 This subsection shall not be interpreted to require that any wine
38 be labeled with the designation "table wine" or "fortified wine."

1 (40) "Wine distributor" means a person who buys wine from a
2 domestic winery, wine certificate of approval holder, or wine importer,
3 or who acquires foreign produced wine from a source outside of the
4 United States, for the purpose of selling the same not in violation of
5 this title, or who represents such vintner or winery as agent.

6 (41) "Wine importer" means a person or business within Washington
7 who purchases wine from a wine certificate of approval holder or who
8 acquires foreign produced wine from a source outside of the United
9 States for the purpose of selling the same pursuant to this title.

10 **Sec. 2.** RCW 66.08.026 and 2004 c 63 s 1 are each amended to read
11 as follows:

12 All administrative expenses of the board incurred on and after
13 April 1, 1963, shall be appropriated and paid from the liquor revolving
14 fund. These administrative expenses shall include, but not be limited
15 to: The salaries and expenses of the board and its employees, the cost
16 of establishing, leasing, maintaining, and operating state liquor
17 stores and warehouses, legal services, pilot projects, annual or other
18 audits, and other general costs of conducting the business of the
19 board, and the costs of supplying, installing, and maintaining
20 equipment used in state liquor stores and (~~agency~~) contract liquor
21 (~~vendor~~) stores for the purchase of liquor using debit or credit
22 cards. The administrative expenses shall not, however, be deemed to
23 include costs of liquor and lottery tickets purchased, the cost of
24 transportation and delivery to the point of distribution, other costs
25 pertaining to the acquisition and receipt of liquor and lottery
26 tickets, packaging and repackaging of liquor, agency commissions for
27 (~~agency~~) contract liquor (~~vendor~~) stores, transaction fees
28 associated with credit or debit card purchases for liquor in state
29 liquor stores and in (~~the~~) contract liquor stores (~~of agency liquor~~
30 ~~vendors~~) pursuant to RCW 66.16.040 and 66.16.041, sales tax, and those
31 amounts distributed pursuant to RCW 66.08.180, 66.08.190, 66.08.200,
32 66.08.210 and 66.08.220. Agency commissions for (~~agency~~) contract
33 liquor (~~vendor~~) stores shall be established by the liquor control
34 board after consultation with and approval by the director of the
35 office of financial management. All expenditures and payment of
36 obligations authorized by this section are subject to the allotment
37 requirements of chapter 43.88 RCW.

1 **Sec. 3.** RCW 66.08.050 and 1997 c 228 s 1 are each amended to read
2 as follows:

3 The board, subject to the provisions of this title and the rules,
4 shall:

5 (1) Determine the localities within which state liquor stores shall
6 be established throughout the state, and the number and situation of
7 the stores within each locality;

8 (2) Appoint in cities and towns and other communities, in which no
9 state liquor store is located, contract liquor (~~((venders))~~) stores. In
10 addition, the board may appoint, in its discretion, a manufacturer that
11 also manufactures liquor products other than wine under a license under
12 this title, as a (~~((vender))~~) contract liquor store for the purpose of
13 sale of liquor products of its own manufacture on the licensed premises
14 only. Such contract liquor (~~((venders))~~) stores shall (~~((be agents of the~~
15 ~~board and))~~) be authorized to sell liquor (~~((to such persons, firms or~~
16 ~~corporations as provided for the sale of liquor from a state liquor~~
17 ~~store))~~) under the guidelines provided by law, rule, or contract, and
18 such (~~((venders))~~) contract liquor stores shall be subject to such
19 additional rules and regulations consistent with this title as the
20 board may require;

21 (3) Establish all necessary warehouses for the storing and
22 bottling, diluting and rectifying of stocks of liquors for the purposes
23 of this title;

24 (4) Provide for the leasing for periods not to exceed ten years of
25 all premises required for the conduct of the business; and for
26 remodeling the same, and the procuring of their furnishings, fixtures,
27 and supplies; and for obtaining options of renewal of such leases by
28 the lessee. The terms of such leases in all other respects shall be
29 subject to the direction of the board;

30 (5) Determine the nature, form and capacity of all packages to be
31 used for containing liquor kept for sale under this title;

32 (6) Execute or cause to be executed, all contracts, papers, and
33 documents in the name of the board, under such regulations as the board
34 may fix;

35 (7) Pay all customs, duties, excises, charges and obligations
36 whatsoever relating to the business of the board;

37 (8) Require bonds from all employees in the discretion of the

1 board, and to determine the amount of fidelity bond of each such
2 employee;

3 (9) Perform services for the state lottery commission to such
4 extent, and for such compensation, as may be mutually agreed upon
5 between the board and the commission;

6 (10) Accept and deposit into the general fund-local account and
7 disburse, subject to appropriation, federal grants or other funds or
8 donations from any source for the purpose of improving public awareness
9 of the health risks associated with alcohol consumption by youth and
10 the abuse of alcohol by adults in Washington state. The board's
11 alcohol awareness program shall cooperate with federal and state
12 agencies, interested organizations, and individuals to effect an active
13 public beverage alcohol awareness program;

14 (11) Perform all other matters and things, whether similar to the
15 foregoing or not, to carry out the provisions of this title, and shall
16 have full power to do each and every act necessary to the conduct of
17 its business, including all buying, selling, preparation and approval
18 of forms, and every other function of the business whatsoever, subject
19 only to audit by the state auditor: PROVIDED, That the board shall
20 have no authority to regulate the content of spoken language on
21 licensed premises where wine and other liquors are served and where
22 there is not a clear and present danger of disorderly conduct being
23 provoked by such language.

24 **Sec. 4.** RCW 66.08.235 and 2002 c 371 s 918 are each amended to
25 read as follows:

26 The liquor control board construction and maintenance account is
27 created within the state treasury. The liquor control board shall
28 deposit into this account a portion of the board's markup, as
29 authorized by chapter 66.16 RCW, placed upon liquor as determined by
30 the board. Moneys in the account may be spent only after
31 appropriation. The liquor control board shall use deposits to this
32 account to fund construction and maintenance of a centralized
33 distribution center for liquor products intended for sale through the
34 board's liquor store and (~~vendor~~) contract liquor store system.
35 During the 2001-2003 fiscal biennium, the legislature may transfer from
36 the liquor control board construction and maintenance account to the

1 state general fund such amounts as reflect the appropriations
2 reductions made by the 2002 supplemental appropriations act for
3 administrative efficiencies and savings.

4 **Sec. 5.** RCW 66.16.040 and 2004 c 61 s 1 are each amended to read
5 as follows:

6 Except as otherwise provided by law, an employee in a state liquor
7 store or ((agency)) contract liquor store may sell liquor to any person
8 of legal age to purchase alcoholic beverages and may also sell to
9 holders of permits such liquor as may be purchased under such permits.

10 Where there may be a question of a person's right to purchase
11 liquor by reason of age, such person shall be required to present any
12 one of the following officially issued cards of identification which
13 shows his/her correct age and bears his/her signature and photograph:

14 (1) Liquor control authority card of identification of any state or
15 province of Canada.

16 (2) Driver's license, instruction permit or identification card of
17 any state or province of Canada, or "identocard" issued by the
18 Washington state department of licensing pursuant to RCW 46.20.117.

19 (3) United States armed forces identification card issued to active
20 duty, reserve, and retired personnel and the personnel's dependents,
21 which may include an imbedded, digital signature in lieu of a visible
22 signature.

23 (4) Passport.

24 (5) Merchant Marine identification card issued by the United States
25 Coast Guard.

26 The board may adopt such regulations as it deems proper covering
27 the cards of identification listed in this section.

28 No liquor sold under this section shall be delivered until the
29 purchaser has paid for the liquor in cash, except as allowed under RCW
30 66.16.041. The use of a personal credit card does not rely upon the
31 credit of the state as prohibited by Article VIII, section 5 of the
32 state Constitution.

33 **Sec. 6.** RCW 66.16.041 and 2004 c 63 s 2 are each amended to read
34 as follows:

35 (1) The state liquor control board shall accept bank credit card
36 and debit cards for purchases in state liquor stores, under such rules

1 as the board may adopt. The board shall authorize contract liquor
2 (~~vendors~~) stores appointed under RCW 66.08.050 to accept bank credit
3 cards and debit cards for liquor purchases under this title, under such
4 rules as the board may adopt.

5 (2) If a contract liquor (~~vendor operating an agency~~) store
6 chooses to use credit or debit cards for liquor purchases, the board
7 shall provide equipment and installation and maintenance of the
8 equipment necessary to implement the use of credit and debit cards.
9 Any equipment provided by the board to (~~an agency~~) a contract liquor
10 (~~vendor~~) store for this purpose may be used only for the purchase of
11 liquor.

12 (~~(3) If the revenues and expenditures associated with implementing
13 the use of credit and debit cards for the purchase of alcohol from
14 state liquor stores and agency stores operated by liquor vendors
15 results in a reduction of the liquor revolving fund balance for fiscal
16 year 1999 and the 1999-01 biennium, the board shall consider increasing
17 the price of alcohol products to offset the reduction.~~)

18 **Sec. 7.** RCW 66.16.080 and 1988 c 101 s 1 are each amended to read
19 as follows:

20 No sale or delivery of liquor shall be made on or from the premises
21 of any state liquor store, nor shall any store be open for the sale of
22 liquor, on Sunday, unless the board determines that unique
23 circumstances exist which necessitate Sunday liquor sales by (~~vendors
24 appointed under RCW 66.08.050(2)~~) a contract liquor store of products
25 of (~~their~~) the contract liquor store's own manufacture, not to exceed
26 one case of liquor per customer.

27 **Sec. 8.** RCW 66.20.160 and 1973 1st ex.s. c 209 s 4 are each
28 amended to read as follows:

29 Words and phrases as used in RCW 66.20.160 to 66.20.210, inclusive,
30 shall have the following meaning:

31 "Card of identification" means any one of those cards described in
32 RCW 66.16.040.

33 "Licensee" means the holder of a retail liquor license issued by
34 the board, and includes any employee or agent of the licensee.

35 "Store employee" means a person employed in a state liquor store
36 (~~or agency~~) to sell liquor.

1 **Sec. 9.** RCW 66.20.180 and 1973 1st ex.s. c 209 s 6 are each
2 amended to read as follows:

3 A card of identification shall be presented by the holder thereof
4 upon request of any licensee, store employee, contract liquor store
5 manager, contract liquor store employee, peace officer, or enforcement
6 officer of the board for the purpose of aiding the licensee, store
7 employee, contract liquor store manager, contract liquor store
8 employee, peace officer, or enforcement officer of the board to
9 determine whether or not such person is of legal age to purchase liquor
10 when such person desires to procure liquor from a licensed
11 establishment or state liquor store or ((agency)) contract liquor
12 store.

13 **Sec. 10.** RCW 66.24.380 and 2004 c 133 s 2 are each amended to read
14 as follows:

15 There shall be a retailer's license to be designated as a special
16 occasion license to be issued to a not-for-profit society or
17 organization to sell spirits, beer, and wine by the individual serving
18 for on-premises consumption at a specified event, such as at picnics or
19 other special occasions, at a specified date and place; fee sixty
20 dollars per day.

21 (1) The not-for-profit society or organization is limited to sales
22 of no more than twelve calendar days per year. For the purposes of
23 this subsection, special occasion licensees that are "agricultural area
24 fairs" or "agricultural county, district, and area fairs," as defined
25 by RCW 15.76.120, that receive a special occasion license may, once per
26 calendar year, count as one event fairs that last multiple days, so
27 long as alcohol sales are at set dates, times, and locations, and the
28 board receives prior notification of the dates, times, and locations.
29 The special occasion license applicant will pay the sixty dollars per
30 day for this event.

31 (2) The licensee may sell beer and/or wine in original, unopened
32 containers for off-premises consumption if permission is obtained from
33 the board prior to the event.

34 (3) Sale, service, and consumption of spirits, beer, and wine is to
35 be confined to specified premises or designated areas only.

36 (4) Spirituous liquor sold under this special occasion license must

1 be purchased at a state liquor store or ((agency)) contract liquor
2 store without discount at retail prices, including all taxes.

3 (5) Any violation of this section is a class 1 civil infraction
4 having a maximum penalty of two hundred fifty dollars as provided for
5 in chapter 7.80 RCW.

6 **Sec. 11.** RCW 66.44.120 and 2003 c 53 s 299 are each amended to
7 read as follows:

8 (1) No person other than an employee of the board shall keep or
9 have in his or her possession any official seal prescribed under this
10 title, unless the same is attached to a package which has been
11 purchased from a ((~~vendor or store employee~~)) liquor store or contract
12 liquor store; nor shall any person keep or have in his or her
13 possession any design in imitation of any official seal prescribed
14 under this title, or calculated to deceive by its resemblance thereto,
15 or any paper upon which any design in imitation thereof, or calculated
16 to deceive as aforesaid, is stamped, engraved, lithographed, printed,
17 or otherwise marked.

18 (2)(a) Except as provided in (b) of this subsection, every person
19 who willfully violates this section is guilty of a gross misdemeanor
20 and shall be liable on conviction thereof for a first offense to
21 imprisonment in the county jail for a period of not less than three
22 months nor more than six months, without the option of the payment of
23 a fine, and for a second offense, to imprisonment in the county jail
24 for not less than six months nor more than one year, without the option
25 of the payment of a fine.

26 (b) A third or subsequent offense is a class C felony, punishable
27 by imprisonment in a state correctional facility for not less than one
28 year nor more than two years.

29 **Sec. 12.** RCW 41.40.023 and 2001 c 37 s 1 are each amended to read
30 as follows:

31 Membership in the retirement system shall consist of all regularly
32 compensated employees and appointive and elective officials of
33 employers, as defined in this chapter, with the following exceptions:

- 34 (1) Persons in ineligible positions;
35 (2) Employees of the legislature except the officers thereof

1 elected by the members of the senate and the house and legislative
2 committees, unless membership of such employees be authorized by the
3 said committee;

4 (3)(a) Persons holding elective offices or persons appointed
5 directly by the governor: PROVIDED, That such persons shall have the
6 option of applying for membership during such periods of employment:
7 AND PROVIDED FURTHER, That any persons holding or who have held
8 elective offices or persons appointed by the governor who are members
9 in the retirement system and who have, prior to becoming such members,
10 previously held an elective office, and did not at the start of such
11 initial or successive terms of office exercise their option to become
12 members, may apply for membership to be effective during such term or
13 terms of office, and shall be allowed to establish the service credit
14 applicable to such term or terms of office upon payment of the employee
15 contributions therefor by the employee with interest as determined by
16 the director and employer contributions therefor by the employer or
17 employee with interest as determined by the director: AND PROVIDED
18 FURTHER, That all contributions with interest submitted by the employee
19 under this subsection shall be placed in the employee's individual
20 account in the employee's savings fund and be treated as any other
21 contribution made by the employee, with the exception that any
22 contributions submitted by the employee in payment of the employer's
23 obligation, together with the interest the director may apply to the
24 employer's contribution, shall not be considered part of the member's
25 annuity for any purpose except withdrawal of contributions;

26 (b) A member holding elective office who has elected to apply for
27 membership pursuant to (a) of this subsection and who later wishes to
28 be eligible for a retirement allowance shall have the option of ending
29 his or her membership in the retirement system. A member wishing to
30 end his or her membership under this subsection must file, on a form
31 supplied by the department, a statement indicating that the member
32 agrees to irrevocably abandon any claim for service for future periods
33 served as an elected official. A member who receives more than fifteen
34 thousand dollars per year in compensation for his or her elective
35 service, adjusted annually for inflation by the director, is not
36 eligible for the option provided by this subsection (3)(b);

37 (4) Employees holding membership in, or receiving pension benefits
38 under, any retirement plan operated wholly or in part by an agency of

1 the state or political subdivision thereof, or who are by reason of
2 their current employment contributing to or otherwise establishing the
3 right to receive benefits from any such retirement plan except as
4 follows:

5 (a) In any case where the retirement system has in existence an
6 agreement with another retirement system in connection with exchange of
7 service credit or an agreement whereby members can retain service
8 credit in more than one system, such an employee shall be allowed
9 membership rights should the agreement so provide;

10 (b) An employee shall be allowed membership if otherwise eligible
11 while receiving survivor's benefits;

12 (c) An employee shall not either before or after June 7, 1984, be
13 excluded from membership or denied service credit pursuant to this
14 subsection solely on account of: (i) Membership in the plan created
15 under chapter 2.14 RCW; or (ii) enrollment under the relief and
16 compensation provisions or the pension provisions of the volunteer fire
17 fighters' relief and pension fund under chapter 41.24 RCW;

18 (d) Except as provided in RCW 41.40.109, on or after July 25, 1999,
19 an employee shall not be excluded from membership or denied service
20 credit pursuant to this subsection solely on account of participation
21 in a defined contribution pension plan qualified under section 401 of
22 the internal revenue code;

23 (e) Employees who have been reported in the retirement system prior
24 to July 25, 1999, and who participated during the same period of time
25 in a defined contribution pension plan qualified under section 401 of
26 the internal revenue code and operated wholly or in part by the
27 employer, shall not be excluded from previous retirement system
28 membership and service credit on account of such participation;

29 (5) Patient and inmate help in state charitable, penal, and
30 correctional institutions;

31 (6) "Members" of a state veterans' home or state soldiers' home;

32 (7) Persons employed by an institution of higher learning or
33 community college, primarily as an incident to and in furtherance of
34 their education or training, or the education or training of a spouse;

35 (8) Employees of an institution of higher learning or community
36 college during the period of service necessary to establish eligibility
37 for membership in the retirement plans operated by such institutions;

1 (9) Persons rendering professional services to an employer on a
2 fee, retainer, or contract basis or when the income from these services
3 is less than fifty percent of the gross income received from the
4 person's practice of a profession;

5 (10) Persons appointed after April 1, 1963, by the liquor control
6 board as (~~agency vendors~~) contract liquor store managers;

7 (11) Employees of a labor guild, association, or organization:
8 PROVIDED, That elective officials and employees of a labor guild,
9 association, or organization which qualifies as an employer within this
10 chapter shall have the option of applying for membership;

11 (12) Retirement system retirees: PROVIDED, That following
12 reemployment in an eligible position, a retiree may elect to
13 prospectively become a member of the retirement system if otherwise
14 eligible;

15 (13) Persons employed by or appointed or elected as an official of
16 a first class city that has its own retirement system: PROVIDED, That
17 any member elected or appointed to an elective office on or after April
18 1, 1971, shall have the option of continuing as a member of this system
19 in lieu of becoming a member of the city system. A member who elects
20 to continue as a member of this system shall pay the appropriate member
21 contributions and the city shall pay the employer contributions at the
22 rates prescribed by this chapter. The city shall also transfer to this
23 system all of such member's accumulated contributions together with
24 such further amounts as necessary to equal all employee and employer
25 contributions which would have been paid into this system on account of
26 such service with the city and thereupon the member shall be granted
27 credit for all such service. Any city that becomes an employer as
28 defined in RCW 41.40.010(4) as the result of an individual's election
29 under this subsection shall not be required to have all employees
30 covered for retirement under the provisions of this chapter. Nothing
31 in this subsection shall prohibit a city of the first class with its
32 own retirement system from: (a) Transferring all of its current
33 employees to the retirement system established under this chapter, or
34 (b) allowing newly hired employees the option of continuing coverage
35 under the retirement system established by this chapter.

36 Notwithstanding any other provision of this chapter, persons
37 transferring from employment with a first class city of over four
38 hundred thousand population that has its own retirement system to

1 employment with the state department of agriculture may elect to remain
2 within the retirement system of such city and the state shall pay the
3 employer contributions for such persons at like rates as prescribed for
4 employers of other members of such system;

5 (14) Employees who (a) are not citizens of the United States, (b)
6 do not reside in the United States, and (c) perform duties outside of
7 the United States;

8 (15) Employees who (a) are not citizens of the United States, (b)
9 are not covered by chapter 41.48 RCW, (c) are not excluded from
10 membership under this chapter or chapter 41.04 RCW, (d) are residents
11 of this state, and (e) make an irrevocable election to be excluded from
12 membership, in writing, which is submitted to the director within
13 thirty days after employment in an eligible position;

14 (16) Employees who are citizens of the United States and who reside
15 and perform duties for an employer outside of the United States:
16 PROVIDED, That unless otherwise excluded under this chapter or chapter
17 41.04 RCW, the employee may apply for membership (a) within thirty days
18 after employment in an eligible position and membership service credit
19 shall be granted from the first day of membership service, and (b)
20 after this thirty-day period, but membership service credit shall be
21 granted only if payment is made for the noncredited membership service
22 under RCW 41.50.165(2), otherwise service shall be from the date of
23 application;

24 (17) The city manager or chief administrative officer of a city or
25 town, other than a retiree, who serves at the pleasure of an appointing
26 authority: PROVIDED, That such persons shall have the option of
27 applying for membership within thirty days from date of their
28 appointment to such positions. Persons serving in such positions as of
29 April 4, 1986, shall continue to be members in the retirement system
30 unless they notify the director in writing prior to December 31, 1986,
31 of their desire to withdraw from membership in the retirement system.
32 A member who withdraws from membership in the system under this section
33 shall receive a refund of the member's accumulated contributions.

34 Persons serving in such positions who have not opted for membership
35 within the specified thirty days, may do so by paying the amount
36 required under RCW 41.50.165(2) for the period from the date of their
37 appointment to the date of acceptance into membership;

1 (18) Persons serving as: (a) The chief administrative officer of
2 a public utility district as defined in RCW 54.16.100; (b) the chief
3 administrative officer of a port district formed under chapter 53.04
4 RCW; or (c) the chief administrative officer of a county who serves at
5 the pleasure of an appointing authority: PROVIDED, That such persons
6 shall have the option of applying for membership within thirty days
7 from the date of their appointment to such positions. Persons serving
8 in such positions as of July 25, 1999, shall continue to be members in
9 the retirement system unless they notify the director in writing prior
10 to December 31, 1999, of their desire to withdraw from membership in
11 the retirement system. A member who withdraws from membership in the
12 system under this section shall receive a refund of the member's
13 accumulated contributions upon termination of employment or as
14 otherwise consistent with the plan's tax qualification status as
15 defined in internal revenue code section 401.

16 Persons serving in such positions who have not opted for membership
17 within the specified thirty days, may do so at a later date by paying
18 the amount required under RCW 41.50.165(2) for the period from the date
19 of their appointment to the date of acceptance into membership;

20 (19) Persons enrolled in state-approved apprenticeship programs,
21 authorized under chapter 49.04 RCW, and who are employed by local
22 governments to earn hours to complete such apprenticeship programs, if
23 the employee is a member of a union-sponsored retirement plan and is
24 making contributions to such a retirement plan or if the employee is a
25 member of a Taft-Hartley retirement plan;

26 (20) Beginning on July 22, 2001, persons employed exclusively as
27 trainers or trainees in resident apprentice training programs operated
28 by housing authorities authorized under chapter 35.82 RCW, (a) if the
29 trainer or trainee is a member of a union-sponsored retirement plan and
30 is making contributions to such a retirement plan or (b) if the
31 employee is a member of a Taft-Hartley retirement plan.

32 NEW SECTION. **Sec. 13.** RCW 66.16.030 (Vendor to be in charge) and
33 1933 ex.s. c 62 s 6 are each repealed.

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