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SENATE BILL 5822

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State of Washington

60th Legislature

2007 Regular Session

By Senators Kohl-Welles and Parlette

Read first time 02/01/2007. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to allowing certain activities between  
2 manufacturers, importers, or distributors and retail sellers of wine;  
3 and reenacting and amending RCW 66.28.010.

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

5 **Sec. 1.** RCW 66.28.010 and 2006 c 330 s 28, 2006 c 92 s 1, and 2006  
6 c 43 s 1 are each reenacted and amended to read as follows:

7 (1)(a) No manufacturer, importer, distributor, or authorized  
8 representative, or person financially interested, directly or  
9 indirectly, in such business; whether resident or nonresident, shall  
10 have any financial interest, direct or indirect, in any licensed retail  
11 business, unless the retail business is owned by a corporation in which  
12 a manufacturer or importer has no direct stock ownership and there are  
13 no interlocking officers and directors, the retail license is held by  
14 a corporation that is not owned directly or indirectly by a  
15 manufacturer or importer, the sales of liquor are incidental to the  
16 primary activity of operating the property as a hotel, alcoholic  
17 beverages produced by the manufacturer or importer or their  
18 subsidiaries are not sold at the licensed premises, and the board  
19 reviews the ownership and proposed method of operation of all involved

1 entities and determines that there will not be an unacceptable level of  
2 control or undue influence over the operation or the retail licensee(~~+~~  
3 ~~nor shall any~~)).

4 (b) A manufacturer, importer, distributor, or authorized  
5 representative shall not own any of the property upon which such  
6 licensed persons conduct their business; nor shall any such licensed  
7 person, under any arrangement whatsoever, conduct his or her business  
8 upon property in which any manufacturer, importer, distributor, or  
9 authorized representative has any interest unless title to that  
10 property is owned by a corporation in which a manufacturer has no  
11 direct stock ownership and there are no interlocking officers or  
12 directors, the retail license is held by a corporation that is not  
13 owned directly or indirectly by the manufacturer, the sales of liquor  
14 are incidental to the primary activity of operating the property either  
15 as a hotel or as an amphitheater offering live musical and similar live  
16 entertainment activities to the public, alcoholic beverages produced by  
17 the manufacturer or any of its subsidiaries are not sold at the  
18 licensed premises, and the board reviews the ownership and proposed  
19 method of operation of all involved entities and determines that there  
20 will not be an unacceptable level of control or undue influence over  
21 the operation of the retail licensee.

22 (c) Except as provided in subsection (3) of this section, no  
23 manufacturer, importer, distributor, or authorized representative shall  
24 advance moneys or moneys' worth to a licensed person under an  
25 arrangement, nor shall such licensed person receive, under an  
26 arrangement, an advance of moneys or moneys' worth. For purposes of  
27 this section, "money" or "money's worth" does not include the  
28 performance of personal services offered from time to time by a  
29 manufacturer, importer, distributor, or authorized representative or  
30 their employee, contractor, or agent, for or on behalf of a licensed  
31 retail business when the personal services are (i) conducted at a  
32 licensed premises, and (ii) intended to inform, educate, or enhance  
33 customers' knowledge or experience of the manufacturer's products. The  
34 performance of personal services may include bottle signings, winemaker  
35 dinners, tastings, and other similar informational or educational  
36 events. A manufacturer, importer, distributor, or authorized  
37 representative is not obligated to perform any such personal services,

1 and a retail licensee may not require a manufacturer, importer,  
2 distributor, or authorized representative to conduct any personal  
3 service as a condition for selling any alcohol to the retail licensee.

4 (d) "Person" as used in this section only shall not include those  
5 state or federally chartered banks, state or federally chartered  
6 savings and loan associations, state or federally chartered mutual  
7 savings banks, or institutional investors which are not controlled  
8 directly or indirectly by a manufacturer, importer, distributor, or  
9 authorized representative as long as the bank, savings and loan  
10 association, or institutional investor does not influence or attempt to  
11 influence the purchasing practices of the retailer with respect to  
12 alcoholic beverages. Except as otherwise provided in this section, no  
13 manufacturer, importer, distributor, or authorized representative shall  
14 be eligible to receive or hold a retail license under this title, nor  
15 shall such manufacturer, importer, distributor, or authorized  
16 representative sell at retail any liquor as herein defined. A  
17 corporation granted an exemption under this subsection may use debt  
18 instruments issued in connection with financing construction or  
19 operations of its facilities.

20 ~~((b))~~ (e) Nothing in this section shall prohibit a licensed  
21 domestic brewery or microbrewery from being licensed as a retailer  
22 pursuant to chapter 66.24 RCW for the purpose of selling beer or wine  
23 at retail on the brewery premises and nothing in this section shall  
24 prohibit a domestic winery from being licensed as a retailer pursuant  
25 to chapter 66.24 RCW for the purpose of selling beer or wine at retail  
26 on the winery premises. Such beer and wine so sold at retail shall be  
27 subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to  
28 reporting and bonding requirements as prescribed by regulations adopted  
29 by the board pursuant to chapter 34.05 RCW, and beer and wine that is  
30 not produced by the brewery or winery shall be purchased from a  
31 licensed beer or wine distributor.

32 ~~((e))~~ (f) Nothing in this section shall prohibit a licensed  
33 distiller, domestic brewery, microbrewery, domestic winery, or a lessee  
34 of a licensed domestic brewer, microbrewery, or domestic winery, from  
35 being licensed as a spirits, beer, and wine restaurant pursuant to  
36 chapter 66.24 RCW for the purpose of selling liquor at a spirits, beer,  
37 and wine restaurant premises on the property on which the primary  
38 manufacturing facility of the licensed distiller, domestic brewer,

1 microbrewery, or domestic winery is located or on contiguous property  
2 owned or leased by the licensed distiller, domestic brewer,  
3 microbrewery, or domestic winery as prescribed by rules adopted by the  
4 board pursuant to chapter 34.05 RCW.

5 ~~((d))~~ (g) Nothing in this section prohibits retail licensees with  
6 a caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from  
7 operating on a domestic winery premises.

8 ~~((e))~~ (h) Nothing in this section prohibits an organization  
9 qualifying under RCW 66.24.375 formed for the purpose of constructing  
10 and operating a facility to promote Washington wines from holding  
11 retail licenses on the facility property or leasing all or any portion  
12 of such facility property to a retail licensee on the facility property  
13 if the members of the board of directors or officers of the board for  
14 the organization include officers, directors, owners, or employees of  
15 a licensed domestic winery. Financing for the construction of the  
16 facility must include both public and private money.

17 ~~((f))~~ (i) Nothing in this section prohibits a bona fide  
18 charitable nonprofit society or association registered as a 501(c)(3)  
19 under the internal revenue code and having an officer, director, owner,  
20 or employee of a licensed domestic winery or a wine certificate of  
21 approval holder on its board of directors from holding a special  
22 occasion license under RCW 66.24.380.

23 ~~((g))~~ (j)(i) Nothing in this section prohibits domestic wineries  
24 and retailers licensed under chapter 66.24 RCW from ~~((jointly))~~  
25 producing jointly or together with regional, state, or local wine  
26 industry associations, brochures and materials promoting tourism in  
27 Washington state which contain information regarding retail licensees,  
28 domestic wineries, and their products.

29 ~~((h))~~ (ii) Nothing in this section prohibits: (A) Domestic  
30 wineries and certificate of approval holders licensed under this  
31 chapter from listing on their internet web sites information related to  
32 retailers who sell or promote their products, including direct links to  
33 the retailers' internet web sites; and (B) retailers licensed under  
34 this chapter from listing on their internet web sites information  
35 related to domestic wineries and certificate of approval holders whose  
36 products those retailers sell or promote, including direct links to the  
37 domestic wineries' and certificate of approval holders' web sites.

1       (k) Nothing in this section prohibits domestic wineries and retail  
2 licensees from identifying the wineries on private labels authorized  
3 under RCW 66.24.400, 66.24.425, and 66.24.450.

4       (~~(i)~~) (1) Until July 1, 2007, nothing in this section prohibits  
5 a nonprofit statewide organization of microbreweries formed for the  
6 purpose of promoting Washington's craft beer industry as a trade  
7 association registered as a 501(c) with the internal revenue service  
8 from holding a special occasion license to conduct up to six beer  
9 festivals.

10       (2) Financial interest, direct or indirect, as used in this  
11 section, shall include any interest, whether by stock ownership,  
12 mortgage, lien, or through interlocking directors, or otherwise.  
13 Pursuant to rules promulgated by the board in accordance with chapter  
14 34.05 RCW manufacturers, distributors, and importers may perform, and  
15 retailers may accept the service of building, rotating and restocking  
16 case displays and stock room inventories; rotating and rearranging can  
17 and bottle displays of their own products; provide point of sale  
18 material and brand signs; price case goods of their own brands; and  
19 perform such similar normal business services as the board may by  
20 regulation prescribe.

21       (3)(a) This section does not prohibit a manufacturer, importer, or  
22 distributor from providing services to a special occasion licensee for:  
23 (i) Installation of draft beer dispensing equipment or advertising,  
24 (ii) advertising, pouring, or dispensing of beer or wine at a beer or  
25 wine tasting exhibition or judging event, or (iii) a special occasion  
26 licensee from receiving any such services as may be provided by a  
27 manufacturer, importer, or distributor. Nothing in this section shall  
28 prohibit a retail licensee, or any person financially interested,  
29 directly or indirectly, in such a retail licensee from having a  
30 financial interest, direct or indirect, in a business which provides,  
31 for a compensation commensurate in value to the services provided,  
32 bottling, canning or other services to a manufacturer, so long as the  
33 retail licensee or person interested therein has no direct financial  
34 interest in or control of said manufacturer.

35       (b) A person holding contractual rights to payment from selling a  
36 liquor distributor's business and transferring the license shall not be  
37 deemed to have a financial interest under this section if the person  
38 (i) lacks any ownership in or control of the distributor, (ii) is not

1 employed by the distributor, and (iii) does not influence or attempt to  
2 influence liquor purchases by retail liquor licensees from the  
3 distributor.

4 (c) The board shall adopt such rules as are deemed necessary to  
5 carry out the purposes and provisions of subsection (3)(~~(a)~~) (c) and  
6 (j) of this section in accordance with the administrative procedure  
7 act, chapter 34.05 RCW.

8 (4) A license issued under RCW 66.24.395 does not constitute a  
9 retail license for the purposes of this section.

10 (5) A public house license issued under RCW 66.24.580 does not  
11 violate the provisions of this section as to a retailer having an  
12 interest directly or indirectly in a liquor-licensed manufacturer.

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