

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5721

60th Legislature
2007 Regular Session

Passed by the Senate April 16, 2007
YEAS 45 NAYS 2

President of the Senate

Passed by the House April 5, 2007
YEAS 72 NAYS 25

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5721** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5721

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Labor, Commerce, Research & Development
(originally sponsored by Senator Kohl-Welles)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to allowing for financial arrangements between the
2 holders of a sports/entertainment facility and manufacturers,
3 importers, and distributors; amending RCW 66.24.570; and reenacting and
4 amending RCW 66.28.010.

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

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

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

1 reviews the ownership and proposed method of operation of all involved
2 entities and determines that there will not be an unacceptable level of
3 control or undue influence over the operation or the retail licensee;
4 nor shall any manufacturer, importer, distributor, or authorized
5 representative own any of the property upon which such licensed persons
6 conduct their business; nor shall any such licensed person, under any
7 arrangement whatsoever, conduct his or her business upon property in
8 which any manufacturer, importer, distributor, or authorized
9 representative has any interest unless title to that property is owned
10 by a corporation in which a manufacturer has no direct stock ownership
11 and there are no interlocking officers or directors, the retail license
12 is held by a corporation that is not owned directly or indirectly by
13 the manufacturer, the sales of liquor are incidental to the primary
14 activity of operating the property either as a hotel or as an
15 amphitheater offering live musical and similar live entertainment
16 activities to the public, alcoholic beverages produced by the
17 manufacturer or any of its subsidiaries are not sold at the licensed
18 premises, and the board reviews the ownership and proposed method of
19 operation of all involved entities and determines that there will not
20 be an unacceptable level of control or undue influence over the
21 operation of the retail licensee. Except as provided in subsection (3)
22 of this section, no manufacturer, importer, distributor, or authorized
23 representative shall advance moneys or moneys' worth to a licensed
24 person under an arrangement, nor shall such licensed person receive,
25 under an arrangement, an advance of moneys or moneys' worth. "Person"
26 as used in this section only shall not include those state or federally
27 chartered banks, state or federally chartered savings and loan
28 associations, state or federally chartered mutual savings banks, or
29 institutional investors which are not controlled directly or indirectly
30 by a manufacturer, importer, distributor, or authorized representative
31 as long as the bank, savings and loan association, or institutional
32 investor does not influence or attempt to influence the purchasing
33 practices of the retailer with respect to alcoholic beverages. Except
34 as otherwise provided in this section, no manufacturer, importer,
35 distributor, or authorized representative shall be eligible to receive
36 or hold a retail license under this title, nor shall such manufacturer,
37 importer, distributor, or authorized representative sell at retail any

1 liquor as herein defined. A corporation granted an exemption under
2 this subsection may use debt instruments issued in connection with
3 financing construction or operations of its facilities.

4 (b) Nothing in this section shall prohibit a licensed domestic
5 brewery or microbrewery from being licensed as a retailer pursuant to
6 chapter 66.24 RCW for the purpose of selling beer or wine at retail on
7 the brewery premises and nothing in this section shall prohibit a
8 domestic winery from being licensed as a retailer pursuant to chapter
9 66.24 RCW for the purpose of selling beer or wine at retail on the
10 winery premises. Such beer and wine so sold at retail shall be subject
11 to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting
12 and bonding requirements as prescribed by regulations adopted by the
13 board pursuant to chapter 34.05 RCW, and beer and wine that is not
14 produced by the brewery or winery shall be purchased from a licensed
15 beer or wine distributor.

16 (c) Nothing in this section shall prohibit a licensed distiller,
17 domestic brewery, microbrewery, domestic winery, or a lessee of a
18 licensed domestic brewer, microbrewery, or domestic winery, from being
19 licensed as a spirits, beer, and wine restaurant pursuant to chapter
20 66.24 RCW for the purpose of selling liquor at a spirits, beer, and
21 wine restaurant premises on the property on which the primary
22 manufacturing facility of the licensed distiller, domestic brewer,
23 microbrewery, or domestic winery is located or on contiguous property
24 owned or leased by the licensed distiller, domestic brewer,
25 microbrewery, or domestic winery as prescribed by rules adopted by the
26 board pursuant to chapter 34.05 RCW.

27 (d) Nothing in this section prohibits retail licensees with a
28 caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from
29 operating on a domestic winery premises.

30 (e) Nothing in this section prohibits an organization qualifying
31 under RCW 66.24.375 formed for the purpose of constructing and
32 operating a facility to promote Washington wines from holding retail
33 licenses on the facility property or leasing all or any portion of such
34 facility property to a retail licensee on the facility property if the
35 members of the board of directors or officers of the board for the
36 organization include officers, directors, owners, or employees of a
37 licensed domestic winery. Financing for the construction of the
38 facility must include both public and private money.

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

7 (g) Nothing in this section prohibits domestic wineries and
8 retailers licensed under chapter 66.24 RCW from jointly producing
9 brochures and materials promoting tourism in Washington state which
10 contain information regarding retail licensees, domestic wineries, and
11 their products.

12 (h) Nothing in this section prohibits domestic wineries and retail
13 licensees from identifying the wineries on private labels authorized
14 under RCW 66.24.400, 66.24.425, and 66.24.450.

15 (i) Until July 1, 2007, nothing in this section prohibits a
16 nonprofit statewide organization of microbreweries formed for the
17 purpose of promoting Washington's craft beer industry as a trade
18 association registered as a 501(c) with the internal revenue service
19 from holding a special occasion license to conduct up to six beer
20 festivals.

21 (j) Nothing in this section shall prohibit a manufacturer,
22 importer, or distributor from entering into an arrangement with any
23 holder of a sports/entertainment facility license or an affiliated
24 business for brand advertising at the licensed facility or promoting
25 events held at the sports entertainment facility as authorized under
26 RCW 66.24.570.

27 (2) Financial interest, direct or indirect, as used in this
28 section, shall include any interest, whether by stock ownership,
29 mortgage, lien, or through interlocking directors, or otherwise.
30 Pursuant to rules promulgated by the board in accordance with chapter
31 34.05 RCW manufacturers, distributors, and importers may perform, and
32 retailers may accept the service of building, rotating and restocking
33 case displays and stock room inventories; rotating and rearranging can
34 and bottle displays of their own products; provide point of sale
35 material and brand signs; price case goods of their own brands; and
36 perform such similar normal business services as the board may by
37 regulation prescribe.

1 (3)(a) This section does not prohibit a manufacturer, importer, or
2 distributor from providing services to a special occasion licensee for:
3 (i) Installation of draft beer dispensing equipment or advertising,
4 (ii) advertising, pouring, or dispensing of beer or wine at a beer or
5 wine tasting exhibition or judging event, or (iii) a special occasion
6 licensee from receiving any such services as may be provided by a
7 manufacturer, importer, or distributor. Nothing in this section shall
8 prohibit a retail licensee, or any person financially interested,
9 directly or indirectly, in such a retail licensee from having a
10 financial interest, direct or indirect, in a business which provides,
11 for a compensation commensurate in value to the services provided,
12 bottling, canning or other services to a manufacturer, so long as the
13 retail licensee or person interested therein has no direct financial
14 interest in or control of said manufacturer.

15 (b) A person holding contractual rights to payment from selling a
16 liquor distributor's business and transferring the license shall not be
17 deemed to have a financial interest under this section if the person
18 (i) lacks any ownership in or control of the distributor, (ii) is not
19 employed by the distributor, and (iii) does not influence or attempt to
20 influence liquor purchases by retail liquor licensees from the
21 distributor.

22 (c) The board shall adopt such rules as are deemed necessary to
23 carry out the purposes and provisions of subsection (3)(a) of this
24 section in accordance with the administrative procedure act, chapter
25 34.05 RCW.

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

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

31 **Sec. 2.** RCW 66.24.570 and 2003 c 345 s 3 are each amended to read
32 as follows:

33 (1) There is a license for sports entertainment facilities to be
34 designated as a sports/entertainment facility license to sell beer,
35 wine, and spirits at retail, for consumption upon the premises only,
36 the license to be issued to the entity providing food and beverage

1 service at a sports entertainment facility as defined in this section.
2 The cost of the license is two thousand five hundred dollars per annum.

3 (2) For purposes of this section, a sports entertainment facility
4 includes a publicly or privately owned arena, coliseum, stadium, or
5 facility where sporting events are presented for a price of admission.
6 The facility does not have to be exclusively used for sporting events.

7 (3) The board may impose reasonable requirements upon a licensee
8 under this section, such as requirements for the availability of food
9 and victuals including but not limited to hamburgers, sandwiches,
10 salads, or other snack food. The board may also restrict the type of
11 events at a sports entertainment facility at which beer, wine, and
12 spirits may be served. When imposing conditions for a licensee, the
13 board must consider the seating accommodations, eating facilities, and
14 circulation patterns in such a facility, and other amenities available
15 at a sports entertainment facility.

16 (4)(a) The board may issue a caterer's endorsement to the license
17 under this section to allow the licensee to remove from the liquor
18 stocks at the licensed premises, for use as liquor for sale and service
19 at event locations at a specified date and place not currently licensed
20 by the board. If the event is open to the public, it must be sponsored
21 by a society or organization as defined by RCW 66.24.375. If
22 attendance at the event is limited to members or invited guests of the
23 sponsoring individual, society, or organization, the requirement that
24 the sponsor must be a society or organization as defined by RCW
25 66.24.375 is waived. Cost of the endorsement is three hundred fifty
26 dollars.

27 (b) The holder of this license with catering endorsement shall, if
28 requested by the board, notify the board or its designee of the date,
29 time, place, and location of any catered event. Upon request, the
30 licensee shall provide to the board all necessary or requested
31 information concerning the society or organization that will be holding
32 the function at which the endorsed license will be utilized.

33 (5) The board may issue an endorsement to the beer, wine, and
34 spirits sports/entertainment facility license that allows the holder of
35 a beer, wine, and spirits sports/entertainment facility license to sell
36 for off-premises consumption wine vinted and bottled in the state of
37 Washington and carrying a label exclusive to the license holder selling

1 the wine. Spirits and beer may not be sold for off-premises
2 consumption under this section. The annual fee for the endorsement
3 under this section is one hundred twenty dollars.

4 (6)(a) A licensee and an affiliated business may enter into
5 arrangements with a manufacturer, importer, or distributor for brand
6 advertising at the sports/entertainment facility or promotion of events
7 held at the sports/entertainment facility, with a capacity of five
8 thousand people or more. The financial arrangements providing for the
9 brand advertising or promotion of events shall not be used as an
10 inducement to purchase the products of the manufacturer, importer, or
11 distributor entering into the arrangement nor shall it result in the
12 exclusion of brands or products of other companies.

13 (b) The arrangements allowed under this subsection (6) are an
14 exception to arrangements prohibited under RCW 66.28.010. The board
15 shall monitor the impacts of these arrangements. The board may conduct
16 audits of the licensee and the affiliated business to determine
17 compliance with this subsection (6). Audits may include but are not
18 limited to product selection at the facility; purchase patterns of the
19 licensee; contracts with the liquor manufacturer, importer, or
20 distributor; and the amount allocated or used for liquor advertising by
21 the licensee, affiliated business, manufacturer, importer, or
22 distributor under the arrangements.

23 (c) The board shall report to the appropriate committees of the
24 legislature by December 30, 2008, and biennially thereafter, on the
25 impacts of arrangements allowed between sports/entertainment licensees
26 and liquor manufacturers, importers, and distributors for brand
27 advertising and promotion of events at the facility.

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