

---

ENGROSSED SUBSTITUTE SENATE BILL 6095

---

State of Washington

66th Legislature

2020 Regular Session

By Senate Labor & Commerce (originally sponsored by Senator Keiser)

READ FIRST TIME 02/05/20.

1 AN ACT Relating to common carrier activities that are not  
2 prohibited under the three-tier system; and amending RCW 66.28.310  
3 and 66.24.395.

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

5 **Sec. 1.** RCW 66.28.310 and 2019 c 149 s 1 are each amended to  
6 read as follows:

7 (1)(a) Nothing in RCW 66.28.305 prohibits an industry member from  
8 providing retailers, including common carriers licensed under RCW  
9 66.24.395, branded promotional items which are of nominal value,  
10 singly or in the aggregate. Such items include but are not limited  
11 to: Trays, lighters, blotters, postcards, pencils, coasters, menu  
12 cards, meal checks, napkins, clocks, mugs, glasses, bottles or can  
13 openers, corkscrews, matches, printed recipes, shirts, hats, visors,  
14 and other similar items. Branded promotional items:

15 (i) Must be used exclusively by the retailer, including common  
16 carriers licensed under RCW 66.24.395, or its employees in a manner  
17 consistent with its license;

18 (ii) Must bear imprinted advertising matter of the industry  
19 member only, except imprinted advertising matter of the industry  
20 member can include the logo of a professional sports team which the  
21 industry member is licensed to use;

1 (iii) May be provided by industry members (~~only~~) to: (A) Common  
2 carriers licensed under RCW 66.24.395 for use by their employees or  
3 ticketed passengers; or (B) retailers, other than common carriers  
4 licensed under RCW 66.24.395, and their employees and may not be  
5 provided by or through retailers or their employees to retail  
6 customers; and

7 (iv) May not be targeted to or appeal principally to youth.

8 (b) An industry member is not obligated to provide any such  
9 branded promotional items, and a retailer, including common carriers  
10 licensed under RCW 66.24.395, may not require an industry member to  
11 provide such branded promotional items as a condition for selling any  
12 alcohol to the retailer, including common carriers licensed under RCW  
13 66.24.395.

14 (c) Any industry member or retailer or any other person asserting  
15 that the provision of branded promotional items as allowed in (a) of  
16 this subsection has resulted or is more likely than not to result in  
17 undue influence or an adverse impact on public health and safety, or  
18 is otherwise inconsistent with the criteria in (a) of this subsection  
19 may file a complaint with the board. Upon receipt of a complaint the  
20 board may conduct such investigation as it deems appropriate in the  
21 circumstances. If the investigation reveals the provision of branded  
22 promotional items has resulted in or is more likely than not to  
23 result in undue influence or has resulted or is more likely than not  
24 to result in an adverse impact on public health and safety or is  
25 otherwise inconsistent with (a) of this subsection the board may  
26 issue an administrative violation notice to the industry member, to  
27 the retailer, or both. The recipient of the administrative violation  
28 notice may request a hearing under chapter 34.05 RCW.

29 (2) Nothing in RCW 66.28.305 prohibits:

30 (a) An industry member from providing to a special occasion  
31 licensee and a special occasion licensee from receiving services for:

32 (i) Installation of draft beer dispensing equipment or  
33 advertising;

34 (ii) Advertising, pouring, or dispensing of beer or wine at a  
35 beer or wine tasting exhibition or judging event; or

36 (iii) Pouring or dispensing of spirits by a licensed domestic  
37 distiller or the accredited representative of a distiller,  
38 manufacturer, importer, or distributor of spirituous liquor licensed  
39 under RCW 66.24.310; or

1 (b) Special occasion licensees from paying for beer, wine, or  
2 spirits immediately following the end of the special occasion event;  
3 or

4 (c) Wineries, breweries, or distilleries that are participating  
5 in a special occasion event from paying reasonable booth fees to the  
6 special occasion licensee.

7 (3) Nothing in RCW 66.28.305 prohibits industry members from  
8 performing, and retailers from accepting the service of building,  
9 rotating, and restocking displays and stockroom inventories; rotating  
10 and rearranging can and bottle displays of their own products;  
11 providing point of sale material and brand signs; pricing case goods  
12 of their own brands; and performing such similar business services  
13 consistent with board rules, or personal services as described in  
14 subsection (5) of this section.

15 (4) Nothing in RCW 66.28.305 prohibits:

16 (a) Industry members from listing on their internet web sites  
17 information related to retailers who sell or promote their products,  
18 including direct links to the retailers' internet web sites;

19 (b) Retailers from listing on their internet web sites  
20 information related to industry members whose products those  
21 retailers sell or promote, including direct links to the industry  
22 members' web sites;

23 (c) Manufacturers, distributors, or their licensed  
24 representatives from using web sites or social media accounts in  
25 their name to post, repost, or share promotional information or  
26 images about events featuring a product of the manufacturer's own  
27 production or a product sold by the distributor, held at an on-  
28 premises licensed liquor retailer's location or a licensed special  
29 occasion event. The promotional information may include links to  
30 purchase event tickets. Manufacturers, distributors, or their  
31 licensed representatives may not pay a third party to enhance  
32 viewership of a specific post. Industry members, or their licensed  
33 representatives, are not obligated to post, repost, or share  
34 information or images on a web site or on social media. A licensed  
35 liquor retailer may not require an industry member or their licensed  
36 representative to post, repost, or share information or images on a  
37 web site or on social media as a condition for selling any alcohol to  
38 the retailer or participating in a retailer's event; or

39 (d) Industry members and retailers from producing, jointly or  
40 together with regional, state, or local industry associations,

1 brochures and materials promoting tourism in Washington state which  
2 contain information regarding retail licensees, industry members, and  
3 their products.

4 (5) Nothing in RCW 66.28.305 prohibits the performance of  
5 personal services offered from time to time by a domestic winery or  
6 certificate of approval holder to retailers, including common  
7 carriers licensed under RCW 66.24.395, when the personal services are  
8 (a) conducted at a licensed premises, and (b) intended to inform,  
9 educate, or enhance customers' knowledge or experience of the  
10 manufacturer's products. The performance of personal services may  
11 include participation and pouring, bottle signing events, and other  
12 similar informational or educational activities at the premises of a  
13 retailer holding a spirits, beer, and wine restaurant license, a wine  
14 and/or beer restaurant license, a specialty wine shop license, a  
15 special occasion license, a grocery store license with a tasting  
16 endorsement, a common carrier license under RCW 66.24.395, or a  
17 private club license. A domestic winery or certificate of approval  
18 holder is not obligated to perform any such personal services, and a  
19 retail licensee, including common carrier licensees under RCW  
20 66.24.395, may not require a domestic winery or certificate of  
21 approval holder to conduct any personal service as a condition for  
22 selling any alcohol to the retail licensee, or as a condition for  
23 including any product of the domestic winery or certificate of  
24 approval holder in any tasting conducted by the licensee. Except as  
25 provided in RCW 66.28.150, the cost of sampling may not be borne,  
26 directly or indirectly, by any domestic winery or certificate of  
27 approval holder or any distributor. Nothing in this section prohibits  
28 wineries, breweries, microbreweries, certificate of approval holders,  
29 and retail licensees from identifying the producers on private labels  
30 authorized under RCW 66.24.400, 66.24.425, 66.24.450, 66.24.360, and  
31 66.24.371.

32 (6) Nothing in RCW 66.28.305 prohibits an industry member from  
33 entering into an arrangement with any holder of a sports  
34 entertainment facility license or an affiliated business for brand  
35 advertising at the licensed facility or promoting events held at the  
36 sports entertainment facility as authorized under RCW 66.24.570.

37 (7) Nothing in RCW 66.28.305 prohibits the performance of  
38 personal services offered from time to time by a domestic brewery,  
39 microbrewery, or beer certificate of approval holder to grocery store  
40 licensees with a tasting endorsement, or common carrier licensees

1 under RCW 66.24.395, when the personal services are (a) conducted at  
2 a licensed premises in conjunction with a tasting event, and (b)  
3 intended to inform, educate, or enhance customers' knowledge or  
4 experience of the manufacturer's products. The performance of  
5 personal services may include participation and pouring, bottle  
6 signing events, and other similar informational or educational  
7 activities. A domestic brewery, microbrewery, or beer certificate of  
8 approval holder is not obligated to perform any such personal  
9 services, and a grocery store licensee may not require the  
10 performance of any personal service as a condition for including any  
11 product in any tasting conducted by the licensee.

12 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a  
13 domestic winery and a restaurant licensed under RCW 66.24.320 or  
14 66.24.400 to waive a corkage fee.

15 (9) Nothing in this section prohibits professional sports teams  
16 who hold a retail liquor license or their agents from accepting bona  
17 fide liquor advertising from manufacturers, importers, distributors,  
18 or their agents for use in the sporting arena. Professional sports  
19 teams who hold a retail liquor license or their agents may license  
20 the manufacturer, importer, distributor, or their agents to use the  
21 name and trademarks of the professional sports team in their  
22 advertising and promotions, under the following conditions:

23 (a) Such advertising must be paid for by said manufacturer,  
24 importer, distributor, or their agent at the published advertising  
25 rate or at a reasonable fair market value.

26 (b) Such advertising may carry with it no express or implied  
27 offer on the part of the manufacturer, importer, distributor, or  
28 their agent, or promise on the part of the retail licensee whose  
29 operation is directly or indirectly part of the sporting arena, to  
30 stock or list any particular brand of liquor to the total or partial  
31 exclusion of any other brand.

32 (10) Nothing in RCW 66.28.305 prohibits a licensed domestic  
33 brewery or microbrewery from providing branded promotional items  
34 which are of nominal value, singly or in the aggregate, to a  
35 nonprofit charitable corporation or association exempt from taxation  
36 under 26 U.S.C. Sec. 501(c)(3) of the internal revenue code as it  
37 existed on July 24, 2015, for use consistent with the purpose or  
38 purposes entitling it to such exemption.

39 (11) Nothing in RCW 66.28.305 prohibits a common carrier licensed  
40 under RCW 66.24.395 from:

1 (a) Transporting liquor without charge or at a discounted rate  
2 when the liquor was purchased by a ticketed passenger and is not  
3 intended to be sold for resale;

4 (b) Displaying or distributing information about an industry  
5 member, provided the industry member did not pay the common carrier  
6 to have the information displayed or distributed;

7 (c) Sponsoring any public or private event including those hosted  
8 by or otherwise affiliated with an industry member;

9 (d) Engaging in joint promotional activities with an industry  
10 member, provided the industry member does not pay the common carrier  
11 or a third party to participate in the joint promotional activity and  
12 any branded promotional items provided by the industry member are of  
13 nominal value;

14 (e) Accepting payment from an industry member for advertising,  
15 provided:

16 (i) The advertising appears in a publication produced and  
17 distributed to passengers of the common carrier;

18 (ii) The amount of the payment is consistent with the advertising  
19 rates paid by other advertisers purchasing similar advertisements in  
20 the same publication; and

21 (iii) The payment is not used as an inducement to purchase the  
22 products of the industry member paying for the advertising nor does  
23 it result in the exclusion of products of other industry members.

24 (12) Nothing in RCW 66.28.305 prohibits an industry member,  
25 subject to the requirements of its license, from entering into an  
26 agreement to provide tastings with or without charge to passengers of  
27 a common carrier holding a license under RCW 66.24.395.

28 **Sec. 2.** RCW 66.24.395 and 1997 c 321 s 25 are each amended to  
29 read as follows:

30 (1)(a) There shall be a license that may be issued to  
31 corporations, associations, or persons operating as federally  
32 licensed commercial common passenger carriers engaged in interstate  
33 commerce, in or over territorial limits of the state of Washington on  
34 passenger trains, vessels, or airplanes. Such license shall permit  
35 the sale of spirituous liquor, wine, and beer at retail for passenger  
36 consumption within the state upon one such train passenger car,  
37 vessel, or airplane, while in or over the territorial limits of the  
38 state. Such license shall include the privilege of transporting into  
39 and storing within the state such liquor for subsequent retail sale

1 to passengers in passenger train cars, vessels or airplanes. The fees  
2 for such master license shall be seven hundred fifty dollars per  
3 annum (class CCI-1): PROVIDED, That upon payment of an additional sum  
4 of five dollars per annum per car, or vessel, or airplane, the  
5 privileges authorized by such license classes shall extend to  
6 additional cars, or vessels, or airplanes operated by the same  
7 licensee within the state, and a duplicate license for each  
8 additional car, or vessel, or airplane shall be issued: PROVIDED,  
9 FURTHER, That such licensee may make such sales and/or service upon  
10 cars, or vessels, or airplanes in emergency for not more than five  
11 consecutive days without such license: AND PROVIDED, FURTHER, That  
12 such license shall be valid only while such cars, or vessels, or  
13 airplanes are actively operated as common carriers for hire in  
14 interstate commerce and not while they are out of such common carrier  
15 service.

16 (b) Alcoholic beverages sold and/or served for consumption by  
17 such interstate common carriers while within or over the territorial  
18 limits of this state shall be subject to such board markup and state  
19 liquor taxes in an amount to approximate the revenue that would have  
20 been realized from such markup and taxes had the alcoholic beverages  
21 been purchased in Washington: PROVIDED, That the board's markup shall  
22 be applied on spirituous liquor only. Such common carriers shall  
23 report such sales and/or service and pay such markup and taxes in  
24 accordance with procedures prescribed by the board.

25 (2) Alcoholic beverages sold and delivered in this state to  
26 interstate common carriers for use under the provisions of this  
27 section shall be considered exported from the state, subject to the  
28 conditions provided in subsection (1)(b) of this section. Interstate  
29 common carriers licensed under this section may purchase alcoholic  
30 beverages outside the territorial limits of the state of Washington  
31 and import such alcoholic beverages into the state of Washington for  
32 sales and service aboard passenger trains, vessels, or airplanes. The  
33 storage facilities for liquor within the state by common carriers  
34 licensed under this section shall be subject to written approval by  
35 the board.

36 (3) Interstate common carriers licensed under this section may  
37 provide complimentary alcoholic beverages to passengers aboard  
38 passenger trains, vessels, or airplanes.

--- END ---