

for the various modes of transportation and for others that utilize its facilities, may make reasonable rules concerning public and private use, and may exclude all persons therefrom who refuse to comply with the terms or rules of use. The operator may own, operate, maintain, and manage a transportation center, but shall not engage in providing a transportation or other related service at the center unless otherwise authorized by law.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act shall constitute a new chapter in Title 81 RCW.

NEW SECTION. Sec. 5. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 26, 1977.

Passed the House June 1, 1977.

Approved by the Governor June 10, 1977.

Filed in Office of Secretary of State June 10, 1977.

CHAPTER 218

[Engrossed Substitute Senate Bill No. 2873]

LEGISLATIVE ETHICS

AN ACT Relating to legislative ethics; amending section 1, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.010; amending section 2, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.020; amending section 4, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.040; amending section 5, chapter 150, Laws of 1967 ex. sess. as amended by section 135, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 44.60.050; amending section 6, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.070; amending section 8, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.080; adding new sections to chapter 44.60 RCW; and repealing section 7, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.060.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.010 are each amended to read as follows:

Definition of terms:

(1) "Legislator" means a current member of the senate or house of representatives of the state of Washington. The term shall include an appointee to either house.

(2) "Board" or "board of ethics" means the senate board of legislative ethics or the house board of legislative ethics, created by this chapter, or the joint board composed of the senate and house boards, whichever is appropriate.

(3) "Unethical conduct" means any conduct which constitutes a violation of ~~((chapter 42.21 RCW, as now or hereafter amended, or of))~~ any ~~((other))~~ constitutional provision, statute, rule of the house or senate or joint rule prescribing standards of conduct ~~((or a code of ethics for legislators))~~ for legislators and legislative employees.

(4) "Legislative employee" means any person employed by either house on a temporary or permanent basis as well as any employee of a permanent or interim legislative committee.

Sec. 2. Section 2, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.020 are each amended to read as follows:

There is created within each house of the legislature a board of legislative ethics composed of eight members. Prior to the close of the present session of the legislature the respective chairmen of the majority and minority senate caucuses shall each appoint two senators from their own caucus and in addition thereto shall each appoint two persons who are not active members of the legislature to serve as lay members of the senate board, and the eight members so selected shall constitute the senate board of ethics; and the respective chairmen of the majority and minority caucuses in the house of representatives shall each appoint two members from their own caucus and in addition thereto shall each appoint two persons who are not active members of the legislature to serve as lay members of the house board, and the eight members so selected shall constitute the house board of ethics. All such appointments of legislative and lay members shall be subject to the consent of the caucus wherein the appointment is made. The terms of legislative members shall be until they are no longer a member of the legislature or until their successors are appointed, whichever is sooner, and the terms of lay members shall be until their successors are appointed; and no member shall be removed during his term except for cause. Successors to legislative and lay members shall be appointed either: (1) On the day on which the next succeeding regular session of the legislature shall adjourn sine die: PROVIDED, That if prior to such adjournment sine die, the governor shall have proclaimed an extraordinary session of the legislature, the appointments shall not be made until the day on which such extraordinary session shall adjourn sine die; or (2) within sixty days after the vacancy occurs, whichever is sooner. Legislative and lay members shall both be eligible for reappointment. Vacancies in the position of legislative or lay members shall be filled by the same appointing power and in the same manner as for the member vacating. Any vacancy shall not impair the right of the remaining members to exercise all of the powers of their board so long as quorum requirements are met.

Five members shall constitute a quorum for the board of each house and nine members shall constitute a quorum for the joint board: PROVIDED, That for the purpose of rendering a final decision pursuant to section 8(4)(h) of this 1977 amendatory act six members shall constitute a quorum for the board of each house.

Sec. 3. Section 4, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.040 are each amended to read as follows:

Each legislative and lay member appointed by the respective caucus chairmen shall within thirty days after his appointment sign, under oath, and file an affidavit with the secretary of the senate or the chief clerk of the house of representatives, whichever is appropriate, that he will perform his duties as provided in this chapter, not disclose confidential information acquired by him as a result of such membership on the board, and a lay member shall additionally provide in his affidavit that during his term of office he will not engage in any legislative activity designed to defeat or enhance the passage of any legislative bill or measure, except as otherwise required by this chapter. Upon the failure of a legislative or lay member to sign and file an affidavit as required by this section, the chairman of the board to which he was appointed shall declare his seat vacant.

Sec. 4. Section 5, chapter 150, Laws of 1967 ex. sess. as amended by section 135, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 44.60.050 are each amended to read as follows:

The boards may meet as frequently as they deem necessary, whether or not the legislature is in session. Each board shall hold at least one public hearing each year at which the public will be permitted to testify only on matters relating to present or proposed legislative ethics codes, rules, and laws, as well as the functions and operations of the board. For attendance at meetings during the interim or in attending to other business of his board during the interim, each legislative member shall be entitled to the allowances provided for in RCW 44.04.120, and each lay member shall be entitled to travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended from funds appropriated for that purpose.

All expenses incurred by a board or any member thereof shall be paid upon voucher forms as provided by the budget director and signed by the chairman of the board or his designee: PROVIDED, That vouchers for the expenses of the joint board shall be signed and attested by the chairman of the joint board.

~~((A majority of a board shall constitute a quorum.))~~

Sec. 5. Section 6, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.070 are each amended to read as follows:

The ~~((boards jointly))~~ joint board shall have the following powers, duties, and functions:

(1) ~~((Prepare for the adoption by the forty-first legislature a code of ethics to govern the conduct of the members and employees thereof, and may from time to time present to the legislature amendments or revisions to the code. The code of ethics shall follow the following principles: In private transactions, or activities involving an economic benefit to himself, and in the exercise of official responsibility, a legislator should avoid (a) action which destroys his independence of judgment as a legislator, (b) involves undue influence upon any state agency, court, or governmental subdivision, or (c) constitutes an abuse of his official position or a violation of his trust.))~~ Propose joint rules relating to legislative ethics and revisions or amendments thereto, which when adopted shall be referred to as the legislative code of ethics.

The code, and ~~((each))~~ revisions or amendments thereto, shall be prepared in the form of joint rules of the senate and the house of representatives and shall be submitted in the form of a concurrent resolution ~~((at the commencement of the forty-first session of the legislature, and any revision or amendment thereto shall be submitted))~~ at the next session of the legislature following its preparation. Such code, or revision or amendment thereof, when adopted, shall become effective as standards of conduct for the members and employees of the legislature.

~~((For the purpose of complying with the provisions of this section, the joint board shall select a chairman who may be either a legislator member or a lay member, a vice chairman and a secretary, and meetings of the joint board shall be called by the chairman when deemed necessary for the performance of the duties of the joint board.))~~

The code submitted to the legislature for adoption shall be approved by a majority of the members of the joint board.

(2) To recommend other legislation and other action relating to legislative ethics.

(3) To develop advisory opinions to systematically establish criteria on which subsequent decisions can be based.

(4) Investigate possible unethical conduct of employees of legislative interim committees in the same manner as hereafter specified for employees of one house.

Sec. 6. Section 8, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.080 are each amended to read as follows:

The (~~legislative council~~) senate and the house of representatives shall provide necessary staff services to the board.

NEW SECTION. Sec. 7. There is added to chapter 44.60 RCW a new section to read as follows:

The joint, senate, and house boards of legislative ethics shall issue advisory opinions with regard to standards of ethical conduct for legislators and legislative employees in accordance with the following procedures:

(1) Requests for advisory opinions may be made by legislators, legislative employees, or members of the public. A request must be stated hypothetically unless the individual requests a specific opinion concerning his own conduct. Requests must be written, signed, and directed to the chairman of the appropriate board as specified in subsection (2) of this section. Requests shall supply such information as the board requires to enable it to issue the opinion. The identity of the person making the request shall be known only to the chairman of such appropriate board, unless such confidentiality is waived in the request.

(2) Requests shall be directed to the chairman of the joint board: **PROVIDED,** That all requests concerning the conduct of a particular member or employee of the legislature shall be sent to the chairman of the senate or house board as appropriate.

(3) Within thirty days of the receipt of a request, unless delay is unavoidable, a board shall either: (a) Issue a written advisory opinion, which shall not contain information which reveals the identity of any individual; or (b) notify the person requesting such opinion that the request is beyond its jurisdiction, or that there are insufficient facts upon which an opinion can be based, or that the request is frivolous, or that the request is made for the purpose of harassment.

If delay is unavoidable, the person requesting the opinion shall be notified as to the status of the request within said thirty day period and at thirty day intervals until such time as action is taken.

(4) Upon receipt, requests shall be assigned a reference number. Each board shall maintain and keep current for public inspection a status sheet which shall contain with respect to each request: Its reference number, the date received by the board, and its present status.

(5) The secretary of the senate shall make available to the public copies of the status sheets and advisory opinions issued by the senate and joint boards and the chief clerk of the house of representatives shall make available to the public copies of the status sheets and advisory opinions issued by the house and joint boards.

NEW SECTION. Sec. 8. There is added to chapter 44.60 RCW a new section to read as follows:

Each board shall have the following powers, duties, and functions:

- (1) Issue advisory opinions pursuant to section 7 of this 1977 amendatory act.
- (2) To provide a continuing program of education, assistance, and information to legislators with regard to legislative ethics.
- (3) To make such rules for its own functioning and exercise such powers as may be appropriate for the discharge of the responsibilities of the board not in conflict with this chapter or the joint rules of the legislature.
- (4) Investigate possible unethical conduct by legislators or legislative employees of its own house. Any such investigation shall be conducted in accordance with the following procedures:
 - (a) A complaint may be filed by a legislator, legislative employee, member of the public, a board, or member of a board. Complaints must be written, signed under oath, and directed to the chairman of the appropriate board. The board shall determine if the complaint is within its jurisdiction and whether there are sufficient facts alleged which if true may support a finding of unethical conduct.
 - (b) If the board finds that the complaint is not within its jurisdiction, or is frivolous, or is made for the purpose of harassment, or that there are insufficient facts alleged which if true may support a finding of unethical conduct, it shall dismiss the complaint, so notify the complainant, the person charged, and the public with a copy of the complaint and the board's reasons for dismissal.
 - (c) If the board finds that a complaint is within its jurisdiction and there are sufficient facts alleged which if true may support a finding of unethical conduct, such board shall hold an investigative hearing and send a notice to the complainant and the person charged which shall include a copy of the complaint. The person charged shall receive at least thirty days' written notice of such hearing. The notice shall provide that the person charged shall be entitled to request the board to set an earlier hearing date, present evidence, cross-examine witnesses, be represented by counsel, and file an affidavit of prejudice within ten days of receipt of the notice as provided in subsection (4)(f) of this section.
 - (d) Investigative hearings shall be closed to the public unless, at least seventy-two hours prior to the hearing, the chairman receives from the person charged a written request that the hearing be open to the public.
 - (e) A board may designate a subcommittee composed of at least two members of the board, at least half of whom shall be lay members, to conduct investigative hearings. The board, or if designated thereby, any member or subcommittee of the board, may issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing, administer oaths or affirmations, examine witnesses, and receive evidence. In case of disobedience to a subpoena, the board may invoke the aid of any superior court of the state. Such court may, in case of refusal to obey a subpoena issued to such person, issue an order requiring such person to appear before the board, to produce documentary evidence, and/or to give evidence, and any failure to obey such order may be punished by that court as contempt. Notwithstanding any other provision of law, every public official, state agency, and local governmental unit shall furnish to the board any documents, records, data, statements, or information which the board designates as being necessary for the exercise of its functions, powers or duties.

(f) Members of a board shall be disqualified in any case: (i) involving persons whom such members cannot judge impartially, in which cases they shall disqualify themselves; or (ii) where the person charged files an affidavit of prejudice against a member or members whom he believes is unable to make an impartial judgment, in which case the disqualification shall be automatic: PROVIDED, That only one such affidavit may be filed in a single investigation. Whenever a member of the board is disqualified, the appropriate caucus chairman shall appoint pro tem, a replacement legislator or lay member as appropriate. Such appointment shall be subject to the consent of the caucus wherein the appointment is made.

(g) At the conclusion of the investigative hearings, a statement of findings of fact shall be prepared based upon evidence presented at the hearings. A copy of this statement shall be sent to the person charged who shall have at least ten days to offer a written rebuttal to the board. The board, on the basis of the findings of fact, any written rebuttal, and applicable standards of ethical conduct shall make a preliminary report which shall be subject to review and the rendering of a decision at the final hearing. Copies of the findings of fact, preliminary report, and notice of the date for a final hearing shall be sent by registered mail to the person charged. Such person may rebut the report not later than one week prior to the final hearing date, but shall in any event have a period of not less than two weeks in which to respond.

(h) The final hearing shall be open to the public. There shall be available at the hearing copies of the board's findings of fact, preliminary report, and any written rebuttal received by the board from the person charged. The board shall, on the basis of these documents and any final statement made by the person charged, render a final decision as to whether the facts justify a finding of unethical conduct. A final decision must be agreed upon by at least six members of the board. The board shall notify the appropriate law enforcement agency directly if the board makes a finding that it has reasonable grounds to believe that a criminal violation has occurred.

(i) If the board in its final decision determines that the facts support a finding of unethical conduct, such decision shall be transmitted to the chief clerk of the house or the secretary of the senate as appropriate. Such officer shall deliver the report to his house at such time as that house is in session, for such action as that house deems appropriate.

(j) Upon receipt, complaints shall be assigned a reference number. Each board shall maintain and keep current for public inspection a status sheet which shall contain with respect to each complaint: Its reference number, the date received by the board, and its present status, including the date of any hearings scheduled. The name of the complainant and the person charged shall be entered on the status sheet following the notification provided for in subsection (4)(c) of this section.

The secretary of the senate and the chief clerk of the house of representatives shall make available to the public copies of the status sheets, findings of fact, written rebuttals, preliminary reports, and final decisions issued by their respective boards.

NEW SECTION. Sec. 9. There is added to chapter 44.60 RCW a new section to read as follows:

For the purposes of complying with the provisions of this chapter, each board shall select a chairman, who may be either a legislator or lay member, a vice chairman, and a secretary; and meetings of the board shall be called by the chairman when deemed necessary for the performance of the duties of the board.

NEW SECTION. Sec. 10. There is added to chapter 44.60 RCW a new section to read as follows:

Each board shall issue an annual report which shall contain advisory opinions and summaries of final board decisions. Copies of the reports shall be distributed to members of the legislature and through the depository library system.

NEW SECTION. Sec. 11. Section 7, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.060 are each repealed.

NEW SECTION. Sec. 12. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected."

Passed the Senate May 28, 1977.

Passed the House May 27, 1977.

Approved by the Governor June 10, 1977.

Filed in Office of Secretary of State June 10, 1977.

CHAPTER 219

[Engrossed Substitute Senate Bill No. 3036]
ALCOHOLIC BEVERAGE CONTROL

AN ACT Relating to alcoholic beverage control; amending section 3, chapter 208, Laws of 1971 ex. sess. and RCW 66.04.011; amending section 90, chapter 62, Laws of 1933 ex. sess. as last amended by section 3, chapter 74, Laws of 1975-'76 2nd ex. sess. and RCW 66.28.010; amending section 1, chapter 245, Laws of 1943 and RCW 66.44.310; and amending section 2, chapter 13, Laws of 1970 ex. sess. as last amended by section 1, chapter 245, Laws of 1975 1st ex. sess. and RCW 66.24.420.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 3, chapter 208, Laws of 1971 ex. sess. and RCW 66.04.011 are each amended to read as follows:

"Public place" as defined in this title shall not include (a) any of those parks under the control of the state parks and recreation commission, nor, (b) parks and picnic areas adjacent to and held by the same ownership as licensed brewers and domestic wineries for the consumption of beer and wine produced by the respective brewery or winery, as prescribed by regulation adopted by the board pursuant to chapter 34.04 RCW.

Sec. 2. Section 90, chapter 62, Laws of 1933 ex. sess. as last amended by section 3, chapter 74, Laws of 1975-'76 2nd ex. sess. and RCW 66.28.010 are each amended to read as follows:

No manufacturer, importer, or wholesaler, or person financially interested, directly or indirectly, in such business, whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, nor shall any manufacturer, importer, or wholesaler own any of the property upon which such licensed persons conduct their business, nor shall any such licensed person,