

Joint Select Committee on Beer and Wine Regulation

Family Wineries of Washington State
Recommendations

To: Joint Committee on Beer and Wine Regulation
From: Family Wineries of Washington State
Date: September 23, 2008
Re: Proposals for Reform and Comments on Agenda

Family Wineries of Washington State (FWWS) is pleased to provide the attached written comments on the agenda of the September 9 hearing of the Joint Committee on Beer and Wine Regulation. We again thank the legislature for convening this panel and look forward to working with the Committee on reformulating the wine and beer laws “to decrease the number of bills introduced in the legislature each year.” SESSC Resolution 8407. To this end, attached with our comments are two proposals to comprehensively modernize the laws applicable to wine in Washington State. Adoption of either of these proposals would modernize Washington’s wine laws by focusing the Liquor Control Board on public safety issues and eliminating the Liquor Control Board’s regulation of private economic activity. If adopted, our first proposal would apply to beer and wine; the second proposal would apply only to small wineries. Both proposals would eliminate the need for small wineries to come to the legislature year after year to address economic matters.

The first proposal would modernize the intent section of the statute, RCW 66.08.010, which has not been updated since 1934. In addition to maintaining the existing public safety intent, the statute would be amended to include promoting economic growth as an additional goal. Normal economic activities that are not prohibited by other statutes such as the anti-trust laws, the fair trade laws, the consumer protection laws, or federal laws, are permitted unless specifically prohibited. Based on surveys of our members, FWWS does not believe there are any economic protections in the existing statute that can be justified when one considers the public interest of all the citizens of Washington State. However, we recognize that some of these economic protections are considered valuable to some members of our industry. Under the attached approach, any protections that the legislature believes should remain could simply be maintained as specific listed prohibitions.

The second proposal responds to comments we have received from some large wineries and beer distributors that our proposals would have less opposition if they did not apply to beer and did not apply to large wineries. The attached Craft Winery Development Act uses a “definitional approach” to exempt small wineries from the economic regulations of the statute while maintaining the application of the public safety requirements. It creates a new category of “craft winery” and a new definition of “craft wine.” While FWWS prefers reducing economic regulation for the entire wine and beer industry (as would our first proposal), our second proposal would provide relief to small wineries and is a step in the right direction.

We look forward to discussing these proposals with you and your staff.

Proposed Revised Portions~~Current (2006) Version~~ of Title 66

→66.08.010. IntentTitle liberally construed

~~The intent of this title is to protect the welfare, health, and safety of the people of the state from the effects of misuse of alcoholic beverages, to secure to the people of the state the economic benefits of lawful competition in the sale of alcoholic beverages, and to foster trade and economic development in the licensed beverage industry. Sale of liquor to minors, sale of liquor to visibly intoxicated persons, and sale of liquor without a license issued under this title are violations of this title, subject to enforcement and penalties under Chapter 66.44 of this title. Unless expressly forbidden by this title, operations ancillary to the conduct of a business licensed under this title that are consistent with other laws and trade practices conforming to the general antitrust laws and to the general commercial law of sales are permissible under this title. This entire title shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose.~~

→66.08.030. Regulations--Scope

(1) ~~For the purpose of carrying into effect the provisions of this title according to their true intent or of supplying any deficiency therein, the board may make such regulations under not inconsistent with the spirit of this title as may be deemed necessary or advisable to carry out the intent of this title. All regulations so made shall be a public record and shall be filed in the office of the code reviser, and thereupon shall have the same force and effect as if incorporated in this title. Such regulations, together with a copy of this title, shall be published in pamphlets and shall be distributed as directed by the board.~~

(2) Without thereby limiting the generality of the provisions contained in subsection (1), it is declared that the power of the board to make regulations in the manner set out in that subsection shall extend to

- (a) regulating the equipment and management of stores and warehouses in which state liquor is sold or kept, and prescribing the books and records to be kept therein and the reports to be made thereon to the board;
- (b) prescribing the duties of the employees of the board, and regulating their conduct in the discharge of their duties;
- (c) governing the purchase of liquor by the state and the furnishing of liquor to stores established under this title;
- (d) determining the classes, varieties, and brands of liquor to be kept for sale at any store;
- (e) prescribing, subject to [RCW 66.16.080](#), the hours during which the state liquor stores shall be kept open for the sale of liquor;
- (f) providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each variety of liquor kept for sale under this title;
- (g) prescribing an official seal and official labels and stamps and determining the manner in which they shall be attached to every package of liquor sold or sealed under this title, including the prescribing of different official seals or different official labels for different classes of liquor;
- (h) providing for the payment by the board in whole or in part of the carrying charges on liquor shipped by freight or express;
- (i) prescribing forms to be used for purposes of this title or the regulations, and the terms and conditions to be contained in permits and licenses issued under this title, and the qualifications for receiving a permit or license issued under this title, including a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board shall require fingerprinting of any applicant whose

criminal history record information check is submitted to the federal bureau of investigation;

(j) prescribing the fees payable in respect of permits and licenses issued under this title for which no fees are prescribed in this title, and prescribing the fees for anything done or permitted to be done under the regulations;

(k) prescribing the kinds and quantities of liquor which may be kept on hand by the holder of a special permit for the purposes named in the permit, regulating the manner in which the same shall be kept and disposed of, and providing for the inspection of the same at any time at the instance of the board;

(l) regulating the sale of liquor kept by the holders of licenses which entitle the holder to purchase and keep liquor for sale;

(m) prescribing the records of purchases or sales of liquor kept by the holders of licenses, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

(n) prescribing the kinds and quantities of liquor for which a prescription may be given, and the number of prescriptions which may be given to the same patient within a stated period;

(o) prescribing the manner of giving and serving notices required by this title or the regulations, where not otherwise provided for in this title;

(p) regulating premises in which liquor is kept for export from the state, or from which liquor is exported, prescribing the books and records to be kept therein and the reports to be made thereon to the board, and providing for the inspection of the premises and the books, records and the liquor so kept;

(q) prescribing the conditions and qualifications requisite for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, prescribing the manner of licensing clubs in any municipality or other locality, and providing for the inspection of clubs;

(r) prescribing the conditions, accommodations and qualifications requisite for the obtaining of licenses to sell beer and wines, and regulating the sale of beer and wines thereunder;

(s) specifying and regulating the time and periods when, and the manner, methods and means by which manufacturers shall deliver liquor within the state; and the time and periods when, and the manner, methods and means by which liquor may lawfully be conveyed or carried within the state;

(t) providing for the making of returns by brewers of their sales of beer shipped within the state, or from the state, showing the gross amount of such sales and providing for the inspection of brewers' books and records, and for the checking of the accuracy of any such returns;

(u) providing for the making of returns by the wholesalers of beer whose breweries are located beyond the boundaries of the state;

(v) providing for the making of returns by any other liquor manufacturers, showing the gross amount of liquor produced or purchased, the amount sold within and exported from the state, and to whom so sold or exported, and providing for the inspection of the premises of any such liquor manufacturers, their books and records, and for the checking of any such return;

(w) providing for the giving of fidelity bonds by any or all of the employees of the board: PROVIDED, That the premiums therefor shall be paid by the board;

(x) providing for the shipment by mail or common carrier of liquor to any person holding a permit and residing in any unit which has, by election pursuant to this title, prohibited the sale of liquor therein;

(y) prescribing methods of manufacture, conditions of sanitation, standards of ingredients, quality and identity of alcoholic beverages manufactured, sold, bottled, or handled by licensees and the board; and conducting from time

to time, in the interest of the public health and general welfare, scientific studies and research relating to alcoholic beverages and the use and effect thereof;

(z) seizing, confiscating and destroying all alcoholic beverages manufactured, sold or offered for sale within this state which do not conform in all respects to the standards prescribed by this title or the regulations of the board: PROVIDED, Nothing herein contained shall be construed as authorizing the liquor board to prescribe, alter, limit or in any way change the present law as to the quantity or percentage of alcohol used in the manufacturing of wine or other alcoholic beverages.

→66.08.050. Powers of board in general

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

- (1) Determine the localities within which state liquor stores shall be established throughout the state, and the number and situation of the stores within each locality;
- (2) Appoint in cities and towns and other communities, in which no state liquor store is located, liquor vendors. In addition, the board may appoint, in its discretion, a manufacturer that also manufactures liquor products other than wine under a license under this title, as a vendor for the purpose of sale of liquor products of its own manufacture on the licensed premises only. Such liquor vendors shall be agents of the board and be authorized to sell liquor to such persons, firms or corporations as provided for the sale of liquor from a state liquor store, and such vendors shall be subject to such additional rules and regulations consistent with this title as the board may require;
- (3) Establish all necessary warehouses for the storing and bottling, diluting and rectifying of stocks of liquors for the purposes of this title;
- (4) Provide for the leasing for periods not to exceed ten years of all premises required for the conduct of the business; and for remodeling the same, and the procuring of their furnishings, fixtures, and supplies; and for obtaining options of renewal of such leases by the lessee. The terms of such leases in all other respects shall be subject to the direction of the board;
- (5) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;
- (6) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;
- (7) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;
- (8) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;
- (9) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;
- (10) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks associated with alcohol consumption by youth and the abuse of alcohol by adults in Washington state. The board's alcohol awareness program shall cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program;
- (11) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and shall have full power to do each and every act necessary to the conduct of its business, including all buying, selling, preparation and approval of forms, and every other function of the business whatsoever, subject only to audit by the state auditor, auditor: PROVIDED, That the board shall have no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not a clear and

~~present danger of disorderly conduct being provoked by such language.~~

→**66.08.060. Regulation of advertising and other speech~~Board cannot advertise liquor~~ Advertising regulations**

The board shall ~~have not advertise liquor in any form or through any medium whatsoever. The board shall have power to adopt suchany and all reasonable regulations as to the kind, character and location of advertising of liquor as are necessary to prevent advertising aimed at underage persons or at promoting unlawful conduct. The board shall have no authority to regulate the content of conduct on licensed premises constituting speech within the meaning of the First Amendment of the federal constitution where there is not a clear and present danger to public safety provoked by such language.~~

→**66.08.080. Ethics~~Interest in manufacture or sale of liquor prohibited~~**

~~Members of the board and employees of the board shall be subject to the provisions of chapter 42.52 RCW, Ethics in Public Service. Except as provided by chapter 42.52 RCW, no member of the board and no employee of the board shall have any interest, directly or indirectly, in the manufacture of liquor or in any liquor sold under this title, or derive any profit or remuneration from the sale of liquor, other than the salary or wages payable to him in respect of his office or position, and shall receive no gratuity from any person in connection with such business.~~

→**66.24.170. Domestic winery license--Winery as distributor and/or retailer--~~Off-premise of own wine~~ Off-premise samples--Domestic wine made into sparkling wine--Sales at qualifying farmers' markets**

(1) There shall be a ~~license for domestic~~ winery license to produce wine within the state, to ready wine for sale, to ~~transfer wine among domestic winery licensees, and/or to sell wine to consumers and to licensees authorized to purchase for resale. The licensee~~wineeries; fee to ~~produce or deal in~~ be computed only on the liters manufactured: Less than two hundred, fifty thousand liters per year ~~is~~, one hundred dollars per year, and ~~to produce or deal in~~ two hundred, fifty thousand liters or more per year, four hundred dollars per year.

(2) The license allows for the manufacture of wine in Washington state ~~and for purchase of wine manufactured by others, for the purpose of cellar treatment, ageing, bottling, labeling and/or sale. A domestic winery licensee may provide to any other domestic winery licensee any service necessary or convenient to the manufacture of wine or readying of wine for sale from grapes or other agricultural products.~~

(3) Any domestic winery licensed under this section may also act as a ~~distributor and/or~~ retailer of wine ~~of its own production. Any domestic winery licensed under this section may act as a distributor of its own production.~~ Any winery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. Nothing in this title shall be construed to prevent a winery or any person or persons owning an interest in a winery, if otherwise qualified, from applying for and receiving any other retail license issuable by the board under this title at the winery or any other location.

(4) A domestic winery licensed under this section, ~~at locations separate from any of its production or manufacturing sites,~~ may serve samples of wine, its own products, with or without charge, and sell wine ~~of its own production at retail~~ for on- or off-premises consumption ~~at its licensed premises and at such~~, provided that: (a) Each additional locations ~~as may be has been~~ approved by the board ~~under~~ RCW 66.24.010; (b) the total number of additional locations does not exceed two; and (c) a winery may not act as a distributor at any such additional location. Each additional location is deemed to be part of the winery license for the purpose of this title, subject to all rules and regulations governing conduct of winery premises. Additional locations may be permanent or temporary and may exist in connection with wine festivals and similar public events. Nothing in this subsection shall be construed to prevent a domestic winery from holding multiple domestic winery licenses. At additional locations operated by multiple wineries under this section, if the board cannot connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee, the board may hold all licensees operating the additional location jointly liable.

(5)(a) A domestic winery licensed under this section may ~~apply to the board for an endorsement to~~ sell wine ~~of its own production~~ at retail for off-premises consumption at a qualifying farmers' market, subject to such requirements

~~as to source of the wine and as the market may apply. Before exercising said sales privilege, a domestic winery must pay an additional market. The annual license fee of for this endorsement is seventy-five dollars. An endorsement issued pursuant to this subsection does not count toward the two additional retail locations limit specified in this section.~~

~~(b) Each location in a qualifying farmers' (b) For each month during which a domestic winery will sell wine at a qualifying farmers market, the winery must provide the board or its designee a list of the dates, times, and locations at which bottled wine may be offered for sale. This list must be received by the board before the winery may offer wine for sale at a qualifying farmers market.~~

~~(c) The wine sold at qualifying farmers markets must be made entirely from grapes grown in a recognized Washington appellation or from other agricultural products grown in this state.~~

~~(d) Each approved location in a qualifying farmers market is deemed to be part of the winery license for the purpose of this title. The licensee may provide samples only in conformity with both the rules of the farmers' market and this title and regulations adopted. The approved locations under it; the latter shall control in case an endorsement granted under this subsection do not include the tasting or sampling privilege of conflict a winery. The winery may not store wine at a farmers' market beyond the hours that the winery offers bottled wine for sale without the prior permission of the board.~~

~~(c) Before a The winery may sell bottled wine at not act as a distributor from a qualifying farmers' farmers market, location.~~

~~(e) Before a winery may sell bottled wine at a qualifying farmers market, the farmers' market must apply to the board for authorization for such sales any winery with an endorsement approved under this subsection to sell bottled wine at retail at the farmers' market. This application shall include, at a minimum: (i) A map of the farmers' market showing all booths, stalls, or other designated locations at which an approved winery may sell bottled wine, wine; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled wine may be sold, and (iii) such other information reasonably necessary to carry out the purposes of this title sold. Before authorizing a qualifying farmers' market for sale of to allow an approved winery to sell bottled wine by domestic wineries at retail at its farmers' market location, the board shall notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (5)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.~~

~~(d)(f) The board may adopt rules establishing the application, and approval and qualifying processes process under this section and such additional rules as may be necessary to implement this section.~~

~~(g) For the purposes of this subsection:~~

~~(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:~~

- ~~(A) There are at least five participating vendors who are farmers selling their own agricultural products;~~
- ~~(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;~~
- ~~(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;~~
- ~~(D) The sale of imported items and secondhand items by any vendor is prohibited; and~~
- ~~(E) No vendor is a franchisee.~~

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(6) Wine produced in Washington state by a domestic winery licensee and may be shipped out-of-state for the purpose of making it into sparkling wine or other cellar treatment, may be and then returned to such licensee by a winery located outside the state without a certificate of compliance under for resale. Such wine shall be deemed wine manufactured in the state of Washington for the purposes of RCW 66.24.206, and shall not require a special license.

►66.24.185. **Bonded** wine warehouse **storage** license--Qualifications and requirements--Fee

(1) There shall be a license for **bonded** wine warehouses which shall authorize the storage and handling of bottled wine, only. Under this license a licensee may maintain a warehouse for the storage of wine off the premises of a winery.

(2) The board shall adopt similar qualifications for a bonded wine warehouse license as required for obtaining a domestic winery license as specified in RCW 66.24.010 and 66.24.170(2). A licensee must be a sole proprietor, a partnership, a limited liability company, or a corporation. One or more domestic wineries may operate as a partnership, corporation, business co-op, or agricultural co-op for the purposes of obtaining a bonded wine warehouse license.

(3) All bottled wine shipped to a bonded wine warehouse from a winery or another bonded wine warehouse shall remain under bond and no tax imposed under RCW 66.24.210 shall be due on wine by reason of its movement into or out of a licensed, unless the wine is removed from bond and shipped to a licensed Washington wine distributor. Wine may be removed from a bonded wine warehouse only for the purpose of being (a) exported from the state, (b) shipped to a licensed Washington wine distributor, or (c) returned to a winery or bonded wine warehouse.

(3)(4) Warehousing of wine by any person other than (a) a licensed domestic winery or a bonded wine warehouse licensed under the provisions of this section, (b) a licensed Washington wine distributor, (c) a licensed Washington wine importer, (d) a wine certificate of approval holder (W7), or (e) the liquor control board, is prohibited.

(5) A license applicant shall hold a federal permit for a bonded wine cellar and may be required to post a continuing wine tax bond of such an amount and in such a form as may be required by the board prior to the issuance of a bonded wine warehouse license. The fee for this license shall be one hundred dollars per annum.

(4)(6) The board shall adopt rules requiring a bonded wine warehouse to be physically secure, zoned for the intended use and physically separated from any other use.

(5)(7) Every licensee shall submit to the board a monthly report of movement of bottled wines to and from a bonded wine warehouse in a form prescribed by the board. The board may adopt other necessary procedures by which bonded wine warehouses are licensed and regulated.

(6) "Handling" as used in this section includes packaging (including without limitation creating baskets or variety packs that may include non-wine products), repackaging, labeling, transferring, consolidating, forwarding, delivering, picking, packing, and shipping (including without limitation fulfilling wine orders directly to consumers). A winery contracting with a bonded wine warehouse for handling bottled wine must comply with all applicable state and federal laws and shall be responsible for financial transactions in fulfillment of its direct-to-consumer orders.

→66.24.360. Grocery store license--Fees--Restricted license--Determination of public interest--Inventory--International export endorsement

There shall be a beer and/or wine retailer's license to be designated as a grocery store license to sell beer, strong beer, and/or wine at retail in bottles, cans, and original containers. Beer or wine sold to consumers shall be in containers, not to be consumed upon the premises where sold. Licensees shall make such reports to the board as it may require for beer or wine sold to sold, at any store other licensees or transferred among different premises of the same licensee than the state liquor stores.

(1) Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding less than five and one-half gallons of liquid.

(2) The annual fee for the grocery store license is one hundred fifty dollars for each store.

(3) The board shall issue a restricted grocery store license authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of strong beer or fortified wine would be against the public interest. In determining the public interest, the board shall consider at least the following factors:

- (a) The likelihood that the applicant will sell strong beer or fortified wine to persons who are intoxicated;
- (b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing strong beer or fortified wine at the establishment; and
- (c) Whether the sale of strong beer or fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of strong beer or fortified wine would be against the public interest, it shall issue or renew the license without restriction, as applicable. The burden of establishing that the sale of strong beer or fortified wine by the licensee would be against the public interest is on those persons objecting.

(4) Licensees holding a grocery store license must maintain a minimum three thousand dollar inventory of food products for human consumption, not including pop, beer, strong beer, or wine.

(5) Upon approval by the board, the grocery store licensee may also receive an endorsement to permit the international export of beer, strong beer, and wine.

(a) Any beer, strong beer, or wine sold under this endorsement must have been purchased from a licensed beer or wine distributor licensed to do business within the state of Washington.

(b) Any beer, strong beer, and wine sold under this endorsement must be intended for consumption outside the state of Washington and the United States and appropriate records must be maintained by the licensee.

(c) A holder of this special endorsement to the grocery store license shall be considered not in violation of [RCW 66.28.010](#).

(d) Any beer, strong beer, or wine sold under this license must be sold at a price no less than the acquisition price paid by the holder of the license.

(e) The annual cost of this endorsement is five hundred dollars and is in addition to the license fees paid by the licensee for a grocery store license.

→(6) Licensees under this section may provide, free or for a charge, single-serving samples of two ounces or less to customers for the purpose of sales promotion. Sampling activities of licensees under this section are subject to and .66.24.371. Beer and/or wine specialty shop license--Fee--Samples--Restricted license--Determination of public interest--Inventory

(1) There shall be a beer and/or wine retailer's license to be designated as a beer and/or wine specialty shop license to sell beer, strong beer, and/or wine at retail in bottles, cans, and original containers, not to be consumed upon the premises where sold, at any store other than the state liquor stores. Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding less than five and one-half gallons of liquid. The annual fee for the beer and/or wine specialty shop license is one hundred dollars for each store.

(2) Licensees under this section may provide, free or for a charge, single-serving samples of two ounces or less to customers for the purpose of sales promotion. Sampling activities of licensees under this section are subject to RCW 66.28.010 and 66.28.040 and the cost of sampling under this section may not be borne, directly or indirectly, by any manufacturer, importer, or distributor of liquor.

(3) The board shall issue a restricted beer and/or wine specialty shop license, authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of strong beer or fortified wine would be against the public interest. In determining the public interest, the board shall consider at least the following factors:

- (a) The likelihood that the applicant will sell strong beer or fortified wine to persons who are intoxicated;
- (b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing strong beer or fortified wine at the establishment; and
- (c) Whether the sale of strong beer or fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of strong beer or fortified wine would be against the public interest, it shall issue or renew the license without restriction, as applicable. The burden of establishing that the sale of strong beer or fortified wine by the licensee would be against the public interest is on those persons objecting.

(4) Licensees holding a beer and/or wine specialty shop license must maintain a minimum three thousand dollar wholesale inventory of beer, strong beer, and/or wine.

~~→66.28.010. Manufacturers, importers, distributors, and authorized representatives barred from interest in retail business or location Advances prohibited "Financial interest" defined Exceptions~~

~~(1)(a) No manufacturer, importer, distributor, or authorized representative, or person financially interested, directly or indirectly, in such business. Except as provided in subsection (3) of this section, no supplier, whether resident or nonresident, shall cause the exclusion, in whole or in part, of the product of a competitor from trade in this state by means of (i) holding a retail license or any financial interest, direct or indirect, in any licensed retail business, (ii) ownership of or any interest in any of the property upon which a licensed retail business conduct its licensed business, or (iii) advancing moneys or money's worth to a licensed retail business under an arrangement to bring about such exclusion. Nothing in this section shall inhibit rendition of stocking advice or sales efforts by any person, or the eligibility of any person for any license, by reason of such person's financial interest in one or more licensed businesses. Nothing in this section shall prevent extension of ordinary commercial credit.~~

~~(b) Nothing in this section shall prohibit a licensed domestic brewery or microbrewery licensed as a retailer pursuant to chapter RCW and selling beer or wine at retail on the brewery premises, or a domestic winery licensed as a retailer pursuant to chapter RCW and selling beer or wine at retail on the winery premises from declining to sell any product of any competitor.~~

~~(c) Nothing in this section shall prohibit a licensed distiller, domestic brewery, microbrewery, domestic winery, or a lessee of a licensed domestic brewer, microbrewery, or domestic winery, licensed as a spirits, beer, and wine restaurant pursuant to chapter RCW and selling liquor at a spirits, beer, and wine restaurant premises on the~~

property on which the primary manufacturing facility or any additional location of the licensed distiller, domestic brewer, microbrewery, or domestic winery is located or on contiguous property owned or leased by the licensed distiller, domestic brewer, microbrewery, or domestic winery from declining to sell any product of any competitor.

(d) Until July 1, 2007, this section shall not apply to acts of, or transactions with, a nonprofit statewide organization of microbreweries formed for the purpose of promoting Washington's craft beer industry as a trade association registered as a 501(c) with the internal revenue service holding a special occasion license that has conducted no more than six beer festivals.

(e) Pursuant to rules promulgated by the board in accordance with chapter RCW, notwithstanding any other provision of this section, suppliers may provide, and retail licensees may accept, point of sale material and brand signs and the services of building, rotating and restocking case displays and stock room inventories, price-marking containers and case goods of their own brands, rotating and rearranging can and bottle displays of their own products, and performing such other business services as the board may by regulation exempt from the operation of this section.

(2) "Financial interest" as used in this section means any transferable right of significant monetary value.

(3)(a) Notwithstanding any other provision of this section, a winery, whether domestic or out-of-state, or any person financially interested, directly or indirectly, in such business, whether resident or nonresident, may hold a financial interest, direct or indirect, in any licensed retail business or in any of the property upon which a licensed retail business is located.

(b) Notwithstanding any other provision of this section, a licensed retail business, or any person having a direct or indirect financial interest therein, may provide services to suppliers and receive compensation of commensurate value from such suppliers or hold a financial interest, direct or indirect, in a business that provides such services for such compensation.

(c) No supplier shall give any rebate or make any concession to any employee or agent of any licensed retail business in connection with services authorized under this section that is not disclosed to the management of such business, and no supplier shall request or knowingly accept from any employee or agent of a licensed retail any such rebate or concession.

(4) This section does not apply if (a) the licensed business; whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, unless the retail business is owned by a corporation in which a manufacturer or importer has no direct stock ownership and there are no interlocking officers and directors, the retail license is held by a corporation that is not owned directly or indirectly by a manufacturer or importer, the sales of liquor are incidental to the primary activity of operating the property as a hotel, alcoholic beverages produced by the manufacturer or importer or their subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that exclusion of competing products will not harm the public interest; (b) the holder of an interest is a state or federally chartered bank, state or federally chartered savings and loan association, state or federally chartered mutual savings bank, or institutional investor which is there will not be an unacceptable level of control or undue influence over the operation or the retail licensee; nor shall any manufacturer, importer, distributor, or authorized representative own any of the property upon which such licensed persons conduct their business; nor shall any such licensed person, under any arrangement whatsoever, conduct his or her business upon property in which any manufacturer, importer, distributor, or authorized representative has any interest unless title to that property is owned by a corporation in which a manufacturer has no direct stock ownership and there are no interlocking officers or directors, the retail license is held by a corporation that is not owned directly or indirectly by the manufacturer, the sales of liquor are incidental to the primary activity of operating the property either as a hotel or as an amphitheater offering live musical and similar live entertainment activities to the public, alcoholic beverages produced by the manufacturer or any of its subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation of the retail licensee. Except as provided in subsection (3) of this section, no manufacturer, importer, distributor, or authorized representative shall advance moneys or moneys' worth to a licensed person under an arrangement, nor shall such licensed person receive, under an arrangement, an advance of

~~moneys or moneys' worth. "Person" as used in this section only shall not include those state or federally chartered banks, state or federally chartered savings and loan associations, state or federally chartered mutual savings banks, or institutional investors which are~~ not controlled directly or indirectly by a manufacturer, importer, distributor, or authorized representative as long as the bank, savings and loan association, or institutional investor does not influence or attempt to influence the purchasing practices of the retailer with respect to alcoholic beverages; (c) the licensed retail business holds a license with a caterer's endorsement issued under RCW or , operating on a domestic winery premises; (d) if the supplier is an organization qualifying under RCW , formed for the purpose of constructing and operating a facility to promote Washington wines on the facility property or leasing all or any portion of such facility property to licensees on the facility property; (e) the licensed retail business is a bona fide charitable nonprofit society or association registered as a 501(c)(1) through 501(c)(10) under the internal revenue code holding a special occasion license under RCW ; (f) the exclusion results from production by domestic wineries and retailers licensed under chapter RCW, jointly and/or with regional, state or local wine industry associations, of materials that contain information regarding retail licensees, domestic wineries, and their products; (g) the exclusion results from listing by domestic wineries and certificate of approval holders licensed under chapter RCW on their Internet websites of information or links related to retailers who sell their products or from listing by retailers licensed under chapter 66.24 RCW on their Internet websites information or links related to domestic wineries and certificate of approval holders whose products such retailers sell; (h) the exclusion results from identification of a winery or retail license on a wine label displaying a mark owned or controlled by a retail licensee; (i) the money's worth is performance of personal services conducted at a licensed premises from time to time by a supplier for or on behalf of a licensed retail business that are intended to inform or educate consumers or enhance their knowledge or experience of the manufacturer's products, including, but not limited to, bottle signings, winemaker dinners, tastings and similar events and are not a condition for selling any of such supplier's products to that retail licensee; (j) the money's worth is arrangement or facilitation of the delivery of wine or beer by a supplier to a licensed retail business via common carrier; or (k) the money's worth is services to a special occasion licensee for installation of draft beer dispensing equipment, advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event. Omission from the foregoing exemptions of any particular transaction, relationship, or status does not imply that it violates this section. beverages. Except as otherwise provided in this section, no manufacturer, importer, distributor, or authorized representative shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer, importer, distributor, or authorized representative sell at retail any liquor as herein defined. A corporation granted an exemption under this subsection may use debt instruments issued in connection with financing construction or operations of its facilities.

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

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

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

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

~~private money.~~

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

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

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

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

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

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

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

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

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

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

6.28.110. Wine to be labeled--Contents

Every person producing, manufacturing, bottling or distributing wine shall put upon all packages a distinctive label such as will provide the consumer with adequate information as to the identity and quality of the product, the alcoholic content thereof, the net contents of the package, the name or trade name of the producer, manufacturer or bottler thereof and such other information as the board may by regulation prescribe.

→66.28.170. Wine or malt beverage manufacturers--Discrimination in price to purchaser for resale prohibited

The board may suspend or revoke the certificate of approval of any It is unlawful for a manufacturer of wine or malt beverages holding a such certificate of approval issued under RCW 66.24.270 or 66.24.206 or the license of any brewery domestic winery, if such certificate holder or licensee, or its manufacturer's authorized representative, discriminates a brewery, or a domestic winery to discriminate in price in selling to any purchaser for resale in the state of Washington in violation of the antitrust laws of the state or of the United States.

→66.28.180. Price modification by certain persons, firms, or corporations-- Board notification and approval--Intent--Price posting--Price filing, contracts, memoranda (Effective July 1, 2006)

It is unlawful for a person, firm, or corporation holding a certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer distributor's license, a domestic brewery license, a microbrewery license, a beer importer's license, a beer distributor's license, a domestic winery license, a wine importer's license, or a wine distributor's license within the state of Washington to modify any prices without prior notification to and approval of the board.

(1) Intent. This section is enacted, pursuant to the authority of this state under the twenty first amendment to the United States Constitution, to promote the public's interest in fostering the orderly and responsible distribution of malt beverages and wine towards effective control of consumption; to promote the fair and efficient three tier system of distribution of such beverages; and to confirm existing board rules as the clear expression of state policy to regulate the manner of selling and pricing of wine and malt beverages by licensed suppliers and distributors.

(2) Beer and wine distributor price posting.

(a) Every beer or wine distributor shall file with the board at its office in Olympia a price posting showing the wholesale prices at which any and all brands of beer and wine sold by such beer and/or wine distributor shall be sold to retailers within the state.

(b) Each price posting shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth:

(i) All brands, types, packages, and containers of beer offered for sale by such beer and/or wine distributor;

(ii) The wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(e) No beer and/or wine distributor may sell or offer to sell any package or container of beer or wine to any retail licensee at a price differing from the price for such package or container as shown in the price posting filed by the beer and/or wine distributor and then in effect, according to rules adopted by the board.

(d) Quantity discounts are prohibited. No price may be posted that is below acquisition cost plus ten percent of acquisition cost. However, the board is empowered to review periodically, as it may deem appropriate, the amount of the percentage of acquisition cost as a minimum mark up over cost and to modify such percentage by rule of the board, except such percentage shall be not less than ten percent.

(e) Distributor prices on a "close out" item shall be accepted by the board if the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the distributor who posts such a close out price shall not restock the item for a period of one year following the first effective date of such close out price.

(f) The board may reject any price posting that it deems to be in violation of this section or any rule, or portion thereof, or that would tend to disrupt the orderly sale and distribution of beer and wine. Whenever the board rejects any posting, the licensee submitting the posting may be heard by the board and shall have the burden of showing that the posting is not in violation of this section or a rule or does not tend to disrupt the orderly sale and distribution of beer and wine. If the posting is accepted, it shall become effective at the time fixed by the board. If the posting is rejected, the last effective posting shall remain in effect until such time as an amended posting is filed and approved,

~~in accordance with the provisions of this section.~~

~~(g) Prior to the effective date of the posted prices, all price postings filed as required by this section constitute investigative information and shall not be subject to disclosure, pursuant to RCW 42.56.240(1).~~

~~(h) Any beer and/or wine distributor or employee authorized by the distributor employer may sell beer and/or wine at the distributor's posted prices to any annual or special occasion retail licensee upon presentation to the distributor or employee at the time of purchase of a special permit issued by the board to such licensee.~~

~~(i) Every annual or special occasion retail licensee, upon purchasing any beer and/or wine from a distributor, shall immediately cause such beer or wine to be delivered to the licensed premises, and the licensee shall not thereafter permit such beer to be disposed of in any manner except as authorized by the license.~~

~~(ii) Beer and wine sold as provided in this section shall be delivered by the distributor or an authorized employee either to the retailer's licensed premises or directly to the retailer at the distributor's licensed premises. When a domestic winery, brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement is acting as a distributor of its own production, a licensed retailer may contract with a common carrier to obtain the product directly from the domestic winery, brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement. A distributor's prices to retail licensees shall be the same at both such places of delivery.~~

~~(3) Beer and wine suppliers' price filings, contracts, and memoranda.~~

~~(a) Every domestic brewery, microbrewery, and domestic winery offering beer and/or wine for sale within the state shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such brewery or winery may have with any beer or wine distributor, which contracts or memoranda shall contain a schedule of prices charged to distributors for all items and all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances, and incentive programs; and all commissions, bonuses or gifts, and any and all other discounts or allowances. Whenever changed or modified, such revised contracts or memoranda shall forthwith be filed with the board as provided for by rule. The provisions of this section also apply to certificate of approval holders, beer and/or wine importers, and beer and/or wine distributors who sell to other beer and/or wine distributors.~~

~~Each price schedule shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth all brands, types, packages, and containers of beer or wine offered for sale by such licensed brewery or winery; all additional information required may be filed as a supplement to the price schedule forms.~~

~~(b) Prices filed by a domestic brewery, microbrewery, domestic winery, or certificate of approval holder shall be uniform prices to all distributors or retailers on a statewide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed that is below acquisition/production cost plus ten percent of that cost, except that acquisition cost plus ten percent of acquisition cost does not apply to sales of beer or wine between a beer or wine importer who sells beer or wine to another beer or wine importer or to a beer or wine distributor, or to a beer or wine distributor who sells beer or wine to another beer or wine distributor. However, the board is empowered to review periodically, as it may deem appropriate, the amount of the percentage of acquisition/production cost as a minimum mark up over cost and to modify such percentage by rule of the board, except such percentage shall be not less than ten percent.~~

~~(c) No domestic brewery, microbrewery, domestic winery, certificate of approval holder, beer or wine importer, or beer or wine distributor may sell or offer to sell any beer or wine to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.~~

~~(d) No domestic brewery, microbrewery, domestic winery, or certificate of approval holder may sell or offer to sell any package or container of beer or wine to any distributor at a price differing from the price for such package or container as shown in the schedule of prices filed by the domestic brewery, microbrewery, domestic winery, or certificate of approval holder and then in effect, according to rules adopted by the board.~~

~~(e) The board may reject any supplier's price filing, contract, or memorandum of oral agreement, or portion thereof~~

~~that it deems to be in violation of this section or any rule or that would tend to disrupt the orderly sale and distribution of beer or wine. Whenever the board rejects any such price filing, contract, or memorandum, the licensee submitting the price filing, contract, or memorandum may be heard by the board and shall have the burden of showing that the price filing, contract, or memorandum is not in violation of this section or a rule or does not tend to disrupt the orderly sale and distribution of beer or wine. If the price filing, contract, or memorandum is accepted, it shall become effective at a time fixed by the board. If the price filing, contract, or memorandum, or portion thereof, is rejected, the last effective price filing, contract, or memorandum shall remain in effect until such time as an amended price filing, contract, or memorandum is filed and approved, in accordance with the provisions of this section.~~

~~(f) Prior to the effective date of the posted prices, all prices, contracts, and memoranda filed as required by this section constitute investigative information and shall not be subject to disclosure, pursuant to RCW 42.56.240(1)[repeal].~~

►66.28.190. Sales of nonliquor food and food ingredients

~~RCW 66.28.010 notwithstanding, persons licensed under RCW 66.24.200 as wine distributors and persons licensed under RCW 66.24.250 as beer distributors may sell at wholesale nonliquor food and food ingredients on thirty day credit terms to persons licensed as retailers under this title, but complete and separate accounting records shall be maintained on all sales of nonliquor food and food ingredients to ensure that such persons are in compliance with RCW 66.28.010.~~

~~For the purpose of this section, "nonliquor food and food ingredients" includes all food and food ingredients for human consumption as defined in RCW 82.08.0293[repeal] as it exists on July 1, 2004.~~

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Craft Winery Development Act

CHAPTER 66.04 RCW

DEFINITIONS

(11a) "Craft wine" means the product fermented at a craft winery and regulated as wine by the federal Tax and Trade Bureau under 27 CFR Part 4.

(11b) "Craft winery" means a facility described in a federal basic permit as a bonded winery or bonded wine cellar and producing from zero to 250,000 gallons, inclusively, in any calendar year, alone or in combination with other facilities required to be aggregated under federal law for purposes of the small producer tax credit.

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

RCW 66.24.175 Craft winery license—Qualifications and requirements—Fee

- (1) There shall be a license for a craft winery; fee to be one hundred dollars per year.
- (2) A craft winery licensed under this section may do all things necessary and convenient for the manufacture, distribution and sale of craft wine, subject to compliance with the general antitrust

laws and the general commercial laws of sales. The craft winery license does not exempt the holder from compliance with any other title of this code.

- (3) Craft wine is deemed wine for the purposes of RCW 66.12.020, 66.12.180, 66.16, 66.20.300-350, 66.24.185, 66.24.210, 66.32, 66.36, and 66.44 and is not "wine" or "liquor" for any other purpose under this title.
- (4) Craft wine is deemed wine for the purposes of license privileges of retail licensees, importer licensees, and wine distributor licensees, other than craft wineries, and for the purposes of conduct of retail and wholesale licensed premises other than craft winery premises, except that craft wine is not wine for the purposes of RCW 66.28.170 and 180.