

obligated to repay directly or indirectly any obligation of the authority except to the extent of fair value for services actually received from the authority. No member may pledge its revenues to support the issuance of revenue bonds or other indebtedness of an authority.

Passed the Senate February 29, 1984.

Passed the House February 14, 1984.

Approved by the Governor March 8, 1984.

Filed in Office of Secretary of State March 8, 1984.

CHAPTER 169

[Engrossed Substitute Senate Bill No. 3901]

WINE AND MALT BEVERAGES—WHOLESALE DISTRIBUTORS AND SUPPLIERS—AGREEMENTS

AN ACT Relating to unfair business practices; and adding a new chapter to Title 19 RCW.

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

NEW SECTION. Sec. 1. (1) The legislature recognizes that both suppliers and wholesale distributors of malt beverages and wine are interested in the goal of best serving the public interest through the fair, efficient, and competitive distribution of such beverages. The legislature encourages them to achieve this goal by:

(a) Assuring the wholesale distributor's freedom to manage the business enterprise, including the wholesale distributor's right to independently establish its selling prices; and

(b) Assuring the supplier and the public of service from wholesale distributors who will devote their best competitive efforts and resources to sales and distribution of the supplier's products which the wholesale distributor has been granted the right to sell and distribute.

(2) This chapter governs the relationship between suppliers of malt beverages and wine and their wholesale distributors to the full extent consistent with the Constitution and laws of this state and of the United States.

NEW SECTION. Sec. 2. The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agreement of distributorship" means any contract, agreement, commercial relationship, license, association, or any other arrangement, for a definite or indefinite period, between a supplier and wholesale distributor.

(2) "Wholesale distributor" means any person, including but not limited to a component of a supplier's distribution system constituted as an independent business, importing or causing to be imported into this state, or purchasing or causing to be purchased within this state, any malt beverage or wine for sale or resale to retailers licensed under the laws of this state,

regardless of whether the business of such person is conducted under the terms of any agreement with a malt beverage or wine manufacturer.

(3) "Supplier" means any malt beverage or wine manufacturer or importer who enters into or is a party to any agreement of distributorship with a wholesale distributor. "Supplier" does not include: (a) Any domestic winery licensed pursuant to RCW 66.24.170; (b) any winery or manufacturer of wine producing less than three hundred thousand gallons of wine annually and holding a certificate of approval issued pursuant to RCW 66.24.206; (c) any brewer licensed under RCW 66.24.240 and producing less than fifty thousand barrels of malt liquor annually; or (d) any brewer or manufacturer of malt liquor producing less than fifty thousand barrels of malt liquor annually and holding a certificate of approval issued under RCW 66.24.270.

(4) "Malt beverage manufacturer" means every brewer, fermenter, processor, bottler, or packager of malt beverages located within or outside this state, or any other person, whether located within or outside this state, who enters into an agreement of distributorship for the resale of malt beverages in this state with any wholesale distributor doing business in the state of Washington.

(5) "Wine manufacturer" means every winery, processor, bottler, or packager of wine located within or outside this state, or any other person, whether located within or outside this state who enters into an agreement of distributorship for the resale of wine in this state with any wine wholesale distributor doing business in the state of Washington.

(6) "Importer" means any wholesale distributor importing beer or wine into this state for sale to retailer accounts or for sale to other wholesalers designated as "subjobbers" for resale.

(7) "Person" means any natural person, corporation, partnership, trust, agency, or other entity, as well as any individual officers, directors, or other persons in active control of the activities of such entity.

NEW SECTION. Sec. 3. Suppliers are entitled to the following protections which shall be incorporated in the agreement of distributorship:

(1) Agreements between suppliers and wholesale distributors shall be in writing;

(2) A wholesale distributor shall maintain the financial and competitive capability necessary to achieve efficient and effective distribution of the supplier's products;

(3) A wholesale distributor shall maintain the quality and integrity of the supplier's product in the manner set forth by the supplier;

(4) A wholesale distributor shall exert its best efforts to sell the product of the supplier and shall merchandise such products in the stores of its retail customers as agreed between the wholesale distributor and supplier;

(5) The supplier may cancel or otherwise terminate any agreement with a wholesale distributor immediately and without notice if the reason

for such termination is insolvency, the occurrence of an assignment for the benefit of creditors, bankruptcy, or suspension in excess of fourteen days or revocation of a license issued by the state liquor board;

(6) A wholesale distributor shall give the supplier prior written notice, of not less than ninety days, of any material change in its ownership or management and the supplier has the right to reasonable prior approval of any such change; and

(7) A wholesale distributor shall give the supplier prior written notice, of not less than ninety days, of the wholesale distributor's intent to cancel or otherwise terminate the distributorship agreement.

NEW SECTION. Sec. 4. Wholesale distributors are entitled to the following protections which shall be incorporated in the agreement of distributorship:

(1) Agreements between wholesale distributors and suppliers shall be in writing;

(2) A supplier shall give the wholesale distributor at least sixty days prior written notice of the supplier's intent to cancel or otherwise terminate the agreement, unless such termination is based on a reason set forth in section 3(5) of this act. The notice shall state all the reasons for the intended termination or cancellation. Upon receipt of notice, the wholesale distributor shall have sixty days in which to rectify any claimed deficiency. If the deficiency is rectified within this sixty-day period, the proposed termination or cancellation is null and void and without legal effect;

(3) The wholesale distributor is entitled to compensation for the laid-in cost of inventory and liquidated damages measured on the fair market price of the business as provided for in the agreement for any termination of the agreement by the supplier other than termination for cause, for failure to live up to the terms and conditions of the agreement, or any reason set forth in section 3(5) of this act; and

(4) The wholesale distributor may sell or transfer its business, or any portion thereof, including the agreement, to successors in interest upon prior approval of the transfer by the supplier. No supplier may unreasonably withhold or delay its approval of any transfer, including wholesaler's rights and obligations under the terms of the agreement, if the person or persons to be substituted meet reasonable standards imposed by the supplier.

NEW SECTION. Sec. 5. No supplier may:

(1) Coerce or induce, or attempt to induce or coerce, any wholesale distributor to engage in any illegal act or course of conduct;

(2) Require a wholesale distributor to assent to any unreasonable requirement, condition, understanding, or term of an agreement which prohibits a wholesaler from selling the product of any other supplier or suppliers; or

(3) Require a wholesale distributor to accept delivery of any product or any other item or commodity which was not ordered by the wholesale distributor.

NEW SECTION. Sec. 6. In any action brought by a wholesale distributor or a supplier pursuant to this chapter, the prevailing party shall be awarded its reasonable attorney's fees and costs.

NEW SECTION. Sec. 7. This chapter may be known and cited as the wholesale distributor/supplier equity agreement act.

NEW SECTION. Sec. 8. Sections 1 through 7 of this act shall constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 9. 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 March 1, 1984.

Passed the House February 26, 1984.

Approved by the Governor March 8, 1984.

Filed in Office of Secretary of State March 8, 1984.

CHAPTER 170

[Substitute Senate Bill No. 3984]
RECALL OF PUBLIC OFFICIALS

AN ACT Relating to the recall; amending section 29.82.010, chapter 9, Laws of 1965 as amended by section 1, chapter 47, Laws of 1975-'76 2nd ex. sess. and RCW 29.82.010; amending section 29.82.015, chapter 9, Laws of 1965 as amended by section 2, chapter 47, Laws of 1975-'76 2nd ex. sess. and RCW 29.82.015; amending section 2, chapter 205, Laws of 1971 ex. sess. and RCW 29.82.025; amending section 29.82.030, chapter 9, Laws of 1965 as amended by section 4, chapter 205, Laws of 1971 ex. sess. and RCW 29.82.030; amending section 29.82.090, chapter 9, Laws of 1965 as amended by section 107, chapter 361, Laws of 1977 ex. sess. and RCW 29.82.090; amending section 29.82.100, chapter 9, Laws of 1965 as last amended by section 108, chapter 361, Laws of 1977 ex. sess. and RCW 29.82.100; amending section 1, chapter 42, Laws of 1980 and RCW 29.82.105; amending section 29.82.160, chapter 9, Laws of 1965 and RCW 29.82.160; amending section 29.82.170, chapter 9, Laws of 1965 and RCW 29.82.170; amending section 29.82.220, chapter 9, Laws of 1965 and RCW 29.82.220; adding new sections to chapter 29.82 RCW; repealing section 29.82.020, chapter 9, Laws of 1965, section 1, chapter 205, Laws of 1971 ex. sess., section 3, chapter 42, Laws of 1980 and RCW 29.82.020; repealing section 3, chapter 205, Laws of 1971 ex. sess. and RCW 29.82.026; repealing section 29.82.070, chapter 9, Laws of 1965 and RCW 29.82.070; and prescribing penalties.

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

Sec. 1. Section 29.82.010, chapter 9, Laws of 1965 as amended by section 1, chapter 47, Laws of 1975-'76 2nd ex. sess. and RCW 29.82.010 are each amended to read as follows:

Whenever any legal voter (~~(or committee or organization of legal voters)~~) of the state or of any political subdivision thereof (~~(shall)~~), either individually or on behalf of an organization, desires to demand the recall and