
SUBSTITUTE HOUSE BILL 2800

State of Washington

66th Legislature

2020 Regular Session

By House Commerce & Gaming (originally sponsored by Representatives Kirby, Vick, and Eslick)

1 AN ACT Relating to the performance of personal services by a
2 craft distillery, distiller, spirits certificate of approval holder,
3 or distributor; and amending RCW 66.28.310.

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

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

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

14 (i) Must be used exclusively by the retailer or its employees in
15 a manner consistent with its license;

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

1 (iii) May be provided by industry members only to retailers and
2 their employees and may not be provided by or through retailers or
3 their employees to retail customers; and

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

5 (b) An industry member is not obligated to provide any such
6 branded promotional items, and a retailer may not require an industry
7 member to provide such branded promotional items as a condition for
8 selling any alcohol to the retailer.

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

24 (2) Nothing in RCW 66.28.305 prohibits:

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

27 (i) Installation of draft beer dispensing equipment or
28 advertising;

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

31 (iii) Pouring or dispensing of spirits by a licensed domestic
32 distiller or the accredited representative of a distiller,
33 manufacturer, importer, or distributor of spirituous liquor licensed
34 under RCW 66.24.310; or

35 (b) Special occasion licensees from paying for beer, wine, or
36 spirits immediately following the end of the special occasion event;
37 or

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

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

9 (4) Nothing in RCW 66.28.305 prohibits:

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

13 (b) Retailers from listing on their internet web sites
14 information related to industry members whose products those
15 retailers sell or promote, including direct links to the industry
16 members' web sites;

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

33 (d) Industry members and retailers from producing, jointly or
34 together with regional, state, or local industry associations,
35 brochures and materials promoting tourism in Washington state which
36 contain information regarding retail licensees, industry members, and
37 their products.

38 (5) Nothing in RCW 66.28.305 prohibits the performance of
39 personal services offered from time to time by a domestic winery or
40 certificate of approval holder to retailers when the personal

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

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

28 (7) Nothing in RCW 66.28.305 prohibits the performance of
29 personal services offered from time to time by a domestic brewery,
30 microbrewery, or beer certificate of approval holder to grocery store
31 licensees with a tasting endorsement when the personal services are
32 (a) conducted at a licensed premises in conjunction with a tasting
33 event, and (b) intended to inform, educate, or enhance customers'
34 knowledge or experience of the manufacturer's products. The
35 performance of personal services may include participation and
36 pouring, bottle signing events, and other similar informational or
37 educational activities. A domestic brewery, microbrewery, or beer
38 certificate of approval holder is not obligated to perform any such
39 personal services, and a grocery store licensee may not require the

1 performance of any personal service as a condition for including any
2 product in any tasting conducted by the licensee.

3 (8) Nothing in RCW 66.28.305 prohibits the performance of
4 personal services offered from time to time by a craft distillery,
5 distiller, or spirits certificate of approval holder to retailers
6 when the personal services are: (a) Conducted at a licensed premises,
7 and (b) intended to inform, educate, or enhance customers' knowledge
8 or experience of the manufacturer's products. The performance of
9 personal services may include participation and pouring, bottle
10 signing events, and other similar informational or educational
11 activities at the premises of a restaurant holding a spirits, beer,
12 and wine license, a special occasion license, or a private club
13 license. A craft distillery, distiller, or spirits certificate of
14 approval holder is not obligated to perform any such personal
15 services, and a retail licensee may not require a craft distillery,
16 distiller, or spirits certificate of approval holder to conduct any
17 personal service as a condition for selling any alcohol to the retail
18 licensee, or as a condition for including any product of the craft
19 distillery, distiller, or spirits certificate of approval holder in
20 any tasting conducted by the licensee. Except as provided in RCW
21 66.28.150, the cost of sampling may not be borne, directly or
22 indirectly, by any craft distillery, distiller, or spirits
23 certificate of approval holder. The instruction of consumers may
24 include the furnishing of not more than three tastings to any
25 individual in one day. A single tasting of distilled spirits may not
26 exceed one-half ounce.

27 (9) Nothing in RCW 66.28.305 prohibits an arrangement between a
28 domestic winery and a restaurant licensed under RCW 66.24.320 or
29 66.24.400 to waive a corkage fee.

30 ~~((+9))~~ (10) Nothing in this section prohibits professional
31 sports teams who hold a retail liquor license or their agents from
32 accepting bona fide liquor advertising from manufacturers, importers,
33 distributors, or their agents for use in the sporting arena.
34 Professional sports teams who hold a retail liquor license or their
35 agents may license the manufacturer, importer, distributor, or their
36 agents to use the name and trademarks of the professional sports team
37 in their advertising and promotions, under the following conditions:

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

1 (b) Such advertising may carry with it no express or implied
2 offer on the part of the manufacturer, importer, distributor, or
3 their agent, or promise on the part of the retail licensee whose
4 operation is directly or indirectly part of the sporting arena, to
5 stock or list any particular brand of liquor to the total or partial
6 exclusion of any other brand.

7 (~~(10)~~) (11) Nothing in RCW 66.28.305 prohibits a licensed
8 domestic brewery or microbrewery from providing branded promotional
9 items which are of nominal value, singly or in the aggregate, to a
10 nonprofit charitable corporation or association exempt from taxation
11 under 26 U.S.C. Sec. 501(c)(3) of the internal revenue code as it
12 existed on July 24, 2015, for use consistent with the purpose or
13 purposes entitling it to such exemption.

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