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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

GENERAL TEAMSTERS LOCAL UNION  
NO. 174, a labor organization, and UNITED  
FOOD AND COMMERCIAL WORKERS  
LOCAL UNION NO. 21, a labor  
organization, on behalf of their members,

No. 11-2-41541-4 SEA

COMPLAINT FOR  
DECLARATORY JUDGMENT AND  
INJUNCTIVE RELIEF

Plaintiffs,

v.

The STATE OF WASHINGTON;  
CHRISTINE GREGOIRE, in her official  
capacity as Governor of the State of  
Washington,

Defendants.

**I. INTRODUCTION**

1. Article II, § 19 of the Washington Constitution provides that “[n]o bill shall embrace more than one subject, and that shall be expressed in the title.”

2. Article II, § 19 contains two separate requirements. The first is that every bill (including initiatives) may contain only a single subject. The second is that the single subject of the bill or initiative must be reflected in the bill or the ballot title.

3. The object of this constitutional provision is threefold: (1) to prevent hodge-podge or “logrolling” legislation; (2) to prevent surprise or fraud upon voters by means of

1 provisions in bills of which the titles gave no intimation, and which might therefore be  
2 overlooked and carelessly and unintentionally adopted; and (3) to fairly apprise the people,  
3 through such publication of legislative proceedings as is usually made, of the subjects of  
4 legislation that are being considered.

5 4. Initiative No. 1183 (“I-1183”) privatizes the sale and distribution of hard liquor  
6 by (1) closing state liquor stores and selling the state’s related assets, and (2) licensing  
7 private parties to control the sale and distribution of hard liquor.

8 5. I-1183 separately imposes a seventeen percent (17%) tax on gross revenues from  
9 hard liquor sales.

10 6. I-1183 separately imposes a tax on the retail sale of hard liquor by spirits  
11 distributor licensees in amounts ranging from fifteen percent (15%) (for retail sales in the  
12 original package) and ten percent (10%) (for sales from the licensee to a restaurant spirits  
13 retailer) to certain specified amounts per liter (for different types of sales).

14 7. I-1183 separately allows off-premise retailers (i.e., grocery stores over a certain  
15 size) to act as distributors for on-premise retailers (i.e., restaurants and bars).

16 8. I-1183 separately imposes significant fines and license suspension penalties for  
17 selling liquor to minors, double those for selling wine or beer to minors.

18 9. I-1183 separately grants franchise protection for hard liquor distributors.

19 10. I-1183 separately alters Washington’s existing wholesale distribution and pricing  
20 model for wine to allow “non-uniform” (i.e., discriminatory) wholesale pricing and central  
21 warehousing.

22 11. I-1183 separately strips the Washington State Liquor Control Board (“LCB”) of  
23 its authority to restrict price advertising regarding hard liquor, wine or beer.

24 12. I-1183 separately allocates ten million dollars (\$10,000,000) each year to border  
25 areas, counties, cities and towns for the purpose of enhancing public safety programs.





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#### IV. STANDING

28. Plaintiffs have standing under the Uniform Declaratory Judgments Act, RCW 7.24.010 and 7.24.020, to challenge I-1183 because they fall within the zone of interests that I-1183 regulates, and they have or will suffer an injury in fact, economic or otherwise, from the enforcement of I-1183.

29. Specifically, those members of Local 174 who work for private employers who currently transport intoxicating liquor pursuant to contracts in effect between those employers and the State of Washington have had their future employment put in immediate jeopardy by certain provisions contained in I-1183.

30. Local 174 has standing to bring this suit because (a) its members who work for private employers who currently transport intoxicating liquor pursuant to contracts in effect between those employers and the State of Washington, as described above, would otherwise have standing in their own right, (b) ensuring the job security of these members is germane to the purpose and goals of Local 174, and (c) none of the claims asserted herein require the participation of all of the individual employees on whose behalf Local 174 is bringing this suit.

31. Additionally, those members of Local 21 who work for the LCB have had their future employment put in immediate jeopardy by certain provisions contained in I-1183.

32. Local 21 has standing to bring this suit because (a) its members who work for the LCB, as described above, would otherwise have standing in their own right, (b) ensuring the job security of these members is germane to the purpose and goals of Local 21, and (c) none of the claims asserted herein require the participation of all of the individual employees on whose behalf Local 21 is bringing this suit.

33. This Court's grant of declaratory and injunctive relief will directly redress the harms caused to the Plaintiffs by continued enforcement of I-1183.

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**V. FACTS**

**A. Washington’s History of Regulatory Control over Beverage Alcohol**

34. In 1933, the Twenty-First Amendment to the United States Constitution repealed Prohibition and granted states the power to regulate the distribution and sale of alcohol.

35. In 1934, Washington adopted the Washington State Liquor Act (the “Liquor Act”) to regulate the importation, manufacture, distribution and sale of alcohol. With this Act, Washington adopted a “control” system, whereby the state controlled the distribution and sale of some alcoholic beverages to encourage higher levels of public safety, controlled distribution, and efficient tax collection.

36. The Liquor Act established the LCB.

37. The LCB is a State administrative agency empowered to regulate the sale and distribution of liquor, which includes: spirits (“hard liquor”), wine, and beer. RCW 66.04.010(25).

38. The different types of liquor – hard liquor, beer and wine – have been regulated differently by the State since the passage of the Liquor Act.

**B. The State’s Regulatory Structure for Wine**

39. With regard to the distribution and sale of wine, the State generally follows a three-tier system. This means that the functions of manufacturing, distributing, and retailing are distinct and the financial relationships and business transactions between entities in these tiers are regulated. RCW 66.28.280.

40. The manufacturer tier consists of the producers of wine.

41. The distributor tier consists of business entities that purchase wine from the manufacturers and resell to retailers through distribution channels.

42. The retailer tier sells wine to consumers. Retail establishments consist of on-premises retailers (e.g., restaurants, bars, hotels) and off-premises retailers (e.g., wine shops, grocery stores, and “big box” retailers such as Costco).

1           43.     A fundamental aspect of the State’s three-tier system applicable to wine is the  
2 creation and enforcement of a uniform pricing structure, which means that the producer of a  
3 particular wine must sell that product to all distributors at the same price, and a distributor  
4 must sell a particular product to all retailers at the same price. RCW 66.28.170-180.

5           44.     The distributors’ sales to retailers must be on a delivered price basis so that a  
6 retailer in a small farming community or any other remote corner of the State will pay the  
7 same price for a particular wine as every other retailer served by the same distributor.

8           45.     Volume discounts are illegal on manufacturers’ sales to distributors or  
9 distributors’ sales to retailers. RCW 66.28.180(2)(d); RCW 66.28.180(1)(d).

10          46.     Retailers are prohibited from selling wine to other retailers. RCW 66.28.070.

11          47.     All of these provisions work together to ensure that the price for wine is at  
12 least roughly the same everywhere in the State. This eliminates any possibility of price  
13 discrimination, which would put small businesses at an economic disadvantage against larger  
14 businesses and encourage over-promotion of sales. It also eliminates significant geographic  
15 disparities, so everyone in the state has reasonable access to wine at reasonable prices.

16          48.     The LCB supervises the distribution and retail sale of wine through a  
17 regulatory licensing system.

18          49.     Participants in each tier must obtain a license to manufacture, distribute, or  
19 sell wine, with a variety of regulations applying to each type of license. *See, e.g.,* RCW  
20 66.24.170 (domestic winery license); RCW 66.24.200 (wine distributor license); RCW  
21 66.24.360 (grocery store retail license for wine).

22          50.     Private retailers may obtain a license to sell wine in its original package.

23       **C.     The State’s Regulatory Structure for Hard Liquor**

24          51.     Unlike the system applicable to wine, the State separately and directly  
25 controls the distribution and sale of hard liquor. The State has done so since enacting the  
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1 Liquor Act in 1934. This is still considered a three-tier system, but with the State operating  
2 as the distributor and retailer.

3 52. For distribution control, the LCB operates a central facility in Seattle to  
4 distribute hard liquor.

5 53. For retail operations, the LCB has established “state liquor stores” in accord  
6 with the Liquor Act.

7 54. The LCB has established approximately 165 state-operated liquor stores and  
8 160 contract liquor stores in Washington.

9 55. State liquor stores are responsible for supplying hard liquor to the various  
10 types of licensees who sell hard liquor by the glass, such as restaurants, taverns, and bars.

11 56. Unlike wine, and with limited exception for craft hard liquor, hard liquor in  
12 original containers must be purchased exclusively from a state liquor store. *See, e.g.*, RCW  
13 66.16.010. Private parties cannot obtain a license to sell hard liquor in its original package.

#### 14 **D. The State’s Regulatory Structure for Beer**

15 57. The State generally follows a three-tier system for the distribution and sale of  
16 beer. RCW 66.28.280.

17 58. The retailer tier sells beer to consumers.

18 59. The LCB supervises the distribution and retail sale of beer through a  
19 regulatory licensing system.

20 60. Participants in each tier must obtain a license to manufacture, distribute, or  
21 sell beer, with a variety of regulations applying to each type of license. *See, e.g.*, RCW  
22 66.24.240 (domestic brewery’s license); RCW 66.24.250 (beer distributor’s license); RCW  
23 66.24.360 (grocery store retail license for beer).

#### 24 **E. INITIATIVE NO. 1183**

25 61. On May 20, 2011, I-1183 was filed by its sponsors for consideration in the  
26 November 2011 election.



1           62.     I-1183’s ballot title provides:

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3           Initiative Measure No. 1183 concerns liquor: beer, wine, and spirits (hard  
4           liquor)

5           This measure would close state liquor stores and sell their assets; license  
6           private parties to sell and distribute spirits; set license fees based on sales;  
7           regulate licensees; and change regulation of wine distribution.

8           Should this measure be enacted into law? Yes [ ] No [ ].

9           63.     I-1183 passed in the November 2011 general election.

10          64.     I-1183 privatizes Washington’s system of hard liquor distribution and sales.

11           I-1183 § 101(1)(a). The measure requires the closure and sale of the State’s liquor  
12           distribution center and allows private entities to distribute hard liquor. *Id.* § 101(c). I-1183  
13           also requires the closure and sale or auction of current state liquor stores. In their place,  
14           private retailers with retail premises of 10,000 square feet or larger are allowed to sell and  
15           centrally warehouse hard liquor. *Id.* § 101 (g). The measure also includes an exception that  
16           permits smaller stores to sell hard liquor under certain circumstances. *Id.*

17           65.     Contrary to the ballot title, which states that I-1183 would “regulate”  
18           licensees, I-1183 actually deregulates licensees by repealing and/or amending numerous  
19           regulations currently governing hard liquor sales, including but not limited to provisions  
20           governing uniform pricing and limiting hours and location for the sale of hard liquor. For  
21           example, I-1183 repeals RCW 66.08.070 (sales of liquor), RCW 66.08.166-167 (Sunday sale  
22           restrictions on hours and location), and RCW 66.16.001 (uniform pricing).

23           66.     I-1183 also imposes significant fines and license suspension penalties for  
24           selling liquor to minors and other offenses, double those penalties currently existing for the  
25           same or similar offenses committed by entities other than retail spirits licensees. *See* I-1183,  
26           § 104(7).

1           67. I-1183 levies a seventeen percent (17%) tax on gross hard liquor sales. I-1183  
2 § 103(4). I-1183’s ballot title, however, does not refer to taxes. Instead, the ballot title  
3 misleadingly refers only to the “set[ting] of license fees based on sales.”

4           68. I-1183 also imposes various taxes on the retail sale of hard liquor by spirits  
5 distributor licensees in amounts ranging from fifteen percent (15%) (for retail sales in the  
6 original package) and ten percent (10%) (for sales from the licensee to a restaurant spirits  
7 retailer) to certain specified amounts per liter (for different types of sales). *See* I-1183, §  
8 106.

9           69. I-1183 also creates franchise protection for hard liquor distributors. I-1183 §§  
10 212 – 214. Such franchise protection did not previously exist.

11           70. I-1183 also modifies the existing three-tier wholesale distribution and pricing  
12 model for wine. These changes include, among other things, removing the uniform pricing  
13 system to allow discriminatory wholesale pricing in order to facilitate volume discounts and  
14 permitting retailers to centrally warehouse wine. *See, e.g.*, I-1183 §§ 101(2)(n), 101(2)(o),  
15 119.

16           71. I-1183 additionally creates a fourth tier of distribution for wine by allowing  
17 off-premise retailers (i.e., grocery stores over a certain size) to act as distributors for on-  
18 premise retailers (i.e., restaurants and bars). *See, e.g.*, I-1183 § 104(8).

19           72. I-1183 also strips the LCB of its authority to restrict price advertising  
20 regarding hard liquor, wine or beer.

21           73. I-1183 also uses new tax revenues to fund local public safety programs.  
22 Specifically, it provides that “[a]n additional distribution of ten million dollars per year from  
23 the spirits license fees must be provided to border areas, counties, cities, and towns through  
24 the liquor revolving fund for the purpose of enhancing public safety programs.” I-1183 §  
25 302.

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**VI. FIRST CAUSE OF ACTION:  
VIOLATION OF THE “SINGLE-SUBJECT” REQUIREMENT  
OF ARTICLE II, SECTION 19 OF THE WASHINGTON CONSTITUTION**

74. Plaintiffs repeat and re-allege each of the foregoing allegations as though fully set forth herein.

75. I-1183 violates the single-subject rule set forth in Article II, § 19 of the Washington Constitution in multiple ways, including without limitation:

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- a. I-1183 is drafted such that those voting on it are required to vote for multiple subjects, including but not limited to those set forth in paragraphs 65 through 73 above, in order to obtain approval of an unrelated subject, the privatization of hard liquor.
  - b. I-1183 enacts piecemeal legislation modifying unconnected aspects of two of the three historically distinct categories of Washington’s liquor laws: hard liquor and wine. The multiple subjects described above lack rational unity to one another.

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**SECOND CAUSE OF ACTION:  
VIOLATION OF THE “SUBJECT-IN-TITLE” REQUIREMENT  
OF ARTICLE II, SECTION 19 OF THE WASHINGTON CONSTITUTION**

76. I-1183 violates the subject-in-title rule because the initiative’s body embraces multiple subjects not embraced by its title.

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- a. For example, I-1183’s title references that the initiative will “set license fees based on sales.” The body of the act, however, in addition to imposing annual license fees, imposes and multiple separate taxes based on both percentage and volume of sales. The ballot title did not inform voters that the body of the act operates to impose substantial taxes. Such omission violates Article II, § 19’s purpose to avoid surprise or fraud upon the voters.

1 b. Additionally, I-1183's title says nothing about how the initiative will  
2 potentially impact the way beer is advertised. Omission of the fact that the  
3 initiative strips the LCB of its authority to restrict price advertising regarding  
4 beer similarly violates Article II, § 19's purpose to avoid surprise or fraud  
5 upon the voters.

6 c. Other of I-1183's multiple subjects, including franchise protection for hard  
7 liquor distributors, imposition of harsher penalties for various liquor-related  
8 offenses, creation of a new fourth tier of wine sales, and the allocation of new  
9 tax revenues to fund local public safety programs are similarly not reflected in  
10 the title.

11 **THIRD CAUSE OF ACTION:**

12 **REQUEST FOR DECLARATORY JUDGMENT REGARDING**  
13 **CONSTITUTIONALITY OF INITIATIVE NO. 1183**

14 77. An actual dispute exists between Plaintiffs and Defendants, which parties  
15 have genuine and opposing interests, which interests are direct and substantial, and of which  
16 a judicial determination would be final and conclusive.

17 78. Plaintiffs are therefore entitled to a declaratory judgment that I-1183 is  
18 unconstitutional, as well as such other and further relief as may follow from the entry of such  
19 a declaratory judgment.

20 **FOURTH CAUSE OF ACTION:**

21 **REQUEST FOR INJUNCTIVE RELIEF**

22 79. Plaintiffs have clear legal rights to prevent and enjoin continued enforcement  
23 of I-1183 as described herein, which rights are and continue to be invaded by Defendants,  
24 resulting in actual and continuing injury. No adequate remedy at law exists to remedy this  
25 invasion of Plaintiffs' rights.

