

HOUSE BILL REPORT

ESSB 6477

As Reported by House Committee On:
State Government & Tribal Affairs

Title: An act relating to liquor licensing, sales, and tasting.

Brief Description: Concerning liquor licensing, sales, and tasting.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Conway, Holmquist Newbry and Kohl-Welles).

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/20/12 [DPA].

**Brief Summary of Engrossed Substitute Bill
(As Amended by Committee)**

- Allows spirits sampling in former contract liquor stores.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass as amended. Signed by 10 members: Representatives Hunt, Chair; Appleton, Vice Chair; Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander, Condotta, Darneille, Dunshee, Hurst and McCoy.

Minority Report: Do not pass. Signed by 1 member: Representative Miloscia.

Staff: Cece Clynch (786-7195).

Background:

Licenses and Permits.

The Liquor Control Board (LCB) is authorized to issue a variety of different types of licenses, permits, and endorsements that allow an entity to serve and/or sell alcoholic beverages. There are also specific exemptions that allow certain entities to offer and/or serve alcoholic beverages for no charge without a license or permit.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Wedding boutiques and art galleries may offer one glass of wine or beer without charge to customers who are 21 years of age or older for on-premise consumption. The wine or beer served at wedding boutiques or art galleries must be purchased from a Washington licensed retailer, liquor store, or agency at full retail price. Wedding boutiques and art galleries may not sell beer or wine or advertise the complimentary service of beer or wine. An employee involved in serving beer or wine must complete an LCB-approved limited alcohol server training program.

A retailer's special occasions license is available to nonprofit organizations to sell spirits, beer, and wine by the individual serving for on-premises consumption. The date and time must be specified and the fee is \$60 per day. With the exception of agricultural and area fairs, the number of events per year is limited to 12.

Tied House Laws.

The liquor tied house laws regulate the relationship between liquor manufacturers, importers and distributors ("industry members"), and retailers. Under the "moneys' worth" piece, no industry member may advance money or moneys' worth to a retailer, and no retailer may receive money or moneys' worth under a written or unwritten agreement or through business practices. A number of exceptions have been enacted. For example, industry members may provide branded promotional items to retailers. The items may be imprinted with advertising only of the industry member. Another specific exception provides that wineries, certificate of approval holders, and retail licensees are not prohibited from identifying the producers on private labels.

Contract Liquor Stores.

Until recently, Washington has been one of 18 liquor "control" states in which the state has a monopoly over some aspects of the distribution and sale of alcoholic beverages. Spirits in the original package could, in general, be purchased only from state liquor stores operated by the LCB or private liquor stores operated by managers under contract with the LCB. There are approximately 166 state liquor stores and 163 contract liquor stores in the state.

Pursuant to recently passed Initiative 1183, the LCB must complete an orderly transition from a state-controlled system to a private licensee system for spirits distribution and retail sales by June 1, 2012. The initiative specifies certain requirements with respect to spirits retailer premises, however, the LCB may not deny a license to a former contract liquor store at its contract location.

Grocery Store Beer and Wine Tastings.

A grocery store licensed to sell beer and wine may obtain an endorsement to offer beer and wine tasting. The fee for the endorsement is \$200 per year.

A store seeking to obtain the endorsement must meet the following criteria:

- at least 50 percent of the gross sales of the store must be from retail sales of grocery products for off-premise consumption, or the store must be a membership organization;
- the store must be at least 9,000 square feet; and
- the store cannot have more than one public safety violation within the past two years.

The licensee must be able to observe and control individuals in the tasting service area, make food available for participants, limit sample size to two ounces, and provide no more than four ounces per customer per visit. Store employees serving beer and/or wine at tasting events must hold an alcohol server's permit, and sampling costs must be borne by the store.

A tasting endorsement may be suspended and not reissued for up to two years if the store is found to have committed a public safety violation in conjunction with tasting activities. A monetary penalty may be assessed by the LCB in lieu of suspension.

Summary of Amended Bill:

The LCB must allow spirits sampling in former contract liquor stores for the purpose of promoting spirits products. The LCB is authorized to determine which locations are eligible to participate, giving due consideration to the following factors:

- proximity of places of worship, schools, and public institutions; and
- motor vehicle accident data in the proximity of the store.

The following restrictions and limitations apply:

- Servers must have completed a mandatory alcohol server training program.
- No store may hold more than one spirits sampling per week.
- The product provided for sampling must be available for sale at the store at the time of the sampling.
- Sampling may take place only in an area of a store in which access to persons under age 21 is prohibited, and samples may be given only to those age 21 and older.
- Each sample must be one-quarter ounce or less, and no more than one ounce of samples may be provided per person per day.
- An obviously intoxicated person is prohibited from sampling.
- Customers must remain on the store premises while consuming samples.
- The tasting event may be advertised only within the store, on the store website, in store newsletters and flyers, and via electronic mail and mail to customers who have requested notice of events. Advertising may not be targeted to or appeal principally to youth.

The LCB may prohibit sampling at a location that is within the boundaries of an alcohol impact area recognized by resolution of the LCB if it finds that the sampling activities are having an adverse effect on the reduction of chronic public inebriation in the area.

Amended Bill Compared to Engrossed Substitute Bill:

The engrossed substitute bill provided that if a former contract store was found to have committed a public safety violation in conjunction with tasting activities, the LCB was specifically authorized to suspend and refuse to reissue the endorsement for up to two years. Furthermore, if there were mitigating circumstances brought forward, the LCB was authorized to settle for a monetary penalty in lieu of suspension. This provision is not included in the amended bill.

The following parts of the engrossed substitute bill were stricken in their entirety:

1. Day Spa Permit.

A day spa would have been allowed to obtain a permit to offer a complimentary glass of beer or wine to customers who were at least 21 years of age. The annual fee for the day spa permit would have been \$125. Employees who served the beer or wine would have been required to complete an alcohol server training program that has been approved by the LCB.

"Day spa" was defined as a business that offers at least three of the following beauty services: shampooing, cutting, styling or dyeing hair, manicures, pedicures, facials, massages, and the use of body toning equipment. If the day spa provided massages, the beer or wine could not have been offered to the customer until the massage was completed.

2. Senior Center License.

A new retail liquor license would have been created. Nonprofit organizations whose primary service is providing recreational and social activities for seniors on the licensed premises could have qualified for this retail liquor license, known as a senior center license. The license would have allowed on-premises sale of spirits, beer, or wine by the glass for consumption on the premises.

Qualifications for a senior center license would include:

- nonprofit organization under state law;
- hours of operation as established by the LCB;
- limited food service as defined by the LCB;
- alcohol servers must have a valid mandatory alcohol server training permit; and
- a \$720 annual fee.

The LCB would have been authorized to adopt rules to implement the new license.

3. Private Labels.

Breweries and microbreweries would have been permitted to identify the producer of their beer on private labels authorized under current law. This would not be considered to be advancing or receiving monies or monies' worth.

4. Grocery Store Beer and Wine Tastings.

Upon request, the LCB would have been authorized to adjust the gross sales percentage of grocery products required in order for a grocery store licensee to obtain an endorsement to offer beer and wine tastings.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is an omnibus bill which includes five different bills regarding liquor. On the floor of the Senate, the five bills were rolled into one. All of them had been worked out with the LCB with respect to structure. Each piece is important to a sector of the economy. The piece which allows tastings in former contract stores represents an effort to open up a niche market and keep contract stores going. Senior Services of West Seattle provides activities to seniors in West Seattle. The budgets over the past couple of years have been cut considerably. This would allow the centers to generate income for programs. Currently, centers are limited to 12 occasions per year on which alcohol by the drink can be sold and that is not enough. Cost Plus World Market supports the bill, particularly the part that would permit the LCB discretion in determining the minimum percentage of gross retail sales of grocery products required for a tasting license. Contract liquor stores support the bill in both of its forms. This bill includes several noncontroversial bills in one, including Senate Bill 6196. Breweries and microbreweries would be allowed to identify the producer of the beer on private labels without running afoul of prohibitions on advancing or receiving monies or monies' worth. For example, Costco could contract with a brewery or microbrewery to have a Kirkland brand beer.

(Opposed) The rapid pace at which the sale of liquor is being deregulated is opposed. That portion of the bill that would allow the sale of liquor by the drink at senior centers sends a poor message to young people. Many people that go to senior centers struggle with alcoholism.

Persons Testifying: (In support) Senator Conway, prime sponsor; Karen Sisson, Senior Center of West Seattle; Sharon O'Hara, Cost Plus World Market; Michael Transue, Contract Liquor Managers Advisory Committee; TK Bentler, Washington Brewers Guild; and Ally Magnano, Distillery Representatives Association of Washington.

(Opposed) Derek Franklin, Washington Association of Substance Abuse and Violence Prevention; and Lorenzo Powell.

Persons Signed In To Testify But Not Testifying: Rick Garza, Washington State Liquor Control Board.