

HOUSE BILL REPORT

E2SSB 5859

As Passed House - Amended:

April 6, 2007

Title: An act relating to retail liquor licenses.

Brief Description: Addressing retail liquor licenses.

Sponsors: By Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Prentice, Clements and Murray; by request of Liquor Control Board).

Brief History:

Committee Activity:

Commerce & Labor: 3/23/07, 3/27/07 [DPA].

Floor Activity:

Passed House - Amended: 4/6/07, 97-0.

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

- Lowers spirits, beer, and wine restaurant density cap to one license for every 1,300 people in the state.
- Expands list of organizations eligible for a special occasion license to include local wine industry associations.
- Allows restaurants that do catering to store liquor off-premises under certain conditions.
- Allows a brewery or microbrewery with a restaurant license to operate a second restaurant, off the premises of the brewery or microbrewery.
- Authorizes an extension of time for the summary suspension of a liquor license under specified circumstances.
- Creates a new hotel liquor license.

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.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 7 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Green, Moeller and Williams.

Staff: Joan Elgee (786-7106).

Background:

Number of Spirits, Beer, and Wine Restaurant Licenses. The number of spirits, beer, and wine restaurant licenses that the Liquor Control Board (Board) may issue is limited by a population formula. The original formula, part of the 1949 initiative that authorized the sale of liquor by the drink, was one license for every 1,500 people in the state. In 2006, the Legislature changed the formula to one license for every 1,450 people in the state.

Eligibility for Special Occasion Licenses. A special occasion license authorizes a society or organization to sell spirits, beer, and wine at a specified event. A society or organization is a not-for-profit group organized and operated solely for charitable, religious, social, political, educational, civic, fraternal, athletic, or benevolent purposes. Registration with the Secretary of State or the Internal Revenue Service may be submitted as proof of not-for-profit status.

A number of organizations are exempt from federal income tax under section 501(c) of the Internal Revenue Code. Many of the organizations eligible for a special occasion license fall under subsection (3) of section 501(c). Subsection (6) includes business leagues.

Under Washington's three-tier system for the sale and distribution of beer and wine, generally the manufacturer, distributor, and retailer tiers are separate. An exception to this "tied-house" law allows an organization registered under section 501(c)(3) to hold a special occasion license although it has an officer, director, owner, or employee of a winery on its board of directors.

Catering/Storage. A restaurant with a spirits, beer, and wine license or a beer and/or wine license may remove liquor from its premises to cater an event. Current law does not allow storage of liquor off the premises of the restaurant.

Brewery/Microbrewery Restaurant Location Catering. Exceptions to the tied-house law allow a brewery and microbrewery to operate a spirits, beer, and wine or a beer and/or wine restaurant license on the brewery or microbrewery premises. A restaurant may obtain an endorsement to do catering.

Time Period for Summary Suspension of Liquor Licenses and Permits. The Board has authority to suspend and revoke liquor licenses and permits and to summarily suspend licenses and permits without a prior hearing if the Board finds that public health, safety, or welfare imperatively require emergency action. The summary suspension period is limited to 180 days.

Hotel License. Current law does not provide for a separate hotel liquor license. Hotels may obtain a spirits, beer, and wine restaurant license. A "hotel" is a building or other structure that offers food and 20 or more sleeping accommodations in the same building or buildings. To hold the restaurant license, the hotel must prepare, cook, and serve complete meals.

The spirits, beer, and wine restaurant license allows the sale of liquor by the individual glass for consumption on the premises, the sale of liquor by the bottle to registered guests for consumption in guest rooms and hospitality rooms, and catering of events under certain conditions. Hotels may conduct other activities by obtaining additional licenses. These activities include the sale of beer and wine in hotel stores and the service of complimentary beer and wine by the individual serving to overnight guests at specified regular events.

Summary of Amended Bill:

Number of Spirits, Beer, and Wine Restaurant Licenses. The number of spirits, beer, and wine restaurant licenses is increased from one for every 1,450 people to one for every 1,300 people in the state.

Eligibility for Special Occasion Licenses. The list of societies and organizations eligible for a special occasion license is expanded to include a local wine industry association registered under section 501(c)(6) of the Internal Revenue Code. A society or organization must submit registration with the Secretary of State or Internal Revenue Service as proof of not-for-profit status if requested. The exception to the tied-house law for special occasion licensees is expanded to include local wine industry associations.

Catering/Storage. A restaurant with a catering endorsement as part of a spirits, beer, and wine license or a beer and/or wine license may store liquor on the premises of another not licensed by the Board. There must be a written agreement between the restaurant and the other party to provide for ongoing catering services, the agreement must not contain any exclusivity clauses regarding the liquor to be served, and the agreement must be filed with the Board.

Restaurants that do catering may also store liquor on other premises operated by the restaurant that it owns or controls by a leasehold interest, and may store liquor at wineries and on passenger vessels for which it does catering.

The Board must establish conditions for the storage of liquor.

Brewery/Microbrewery Restaurant Location Catering. A brewery or microbrewery holding a spirits, beer, and wine or a beer and/or wine restaurant license for a restaurant on the premises may hold a second restaurant license for a location separate from the brewery or microbrewery. A brewery with a restaurant is granted the privileges and endorsements of a restaurant, which allows catering.

Time Period for Summary Suspension of Liquor Licenses. An administrative law judge may extend a summary suspension period to up to one calendar year if the proceedings for

revocation or other action cannot be completed in 180 days because of actions by the licensee or permittee.

Hotel License. A new liquor retailer "hotel" license is created. A spirits, beer, and wine restaurant license no longer includes hotels. A "hotel" means buildings, structures, and grounds having facilities for preparing, cooking, and serving food and offering 20 or more sleeping rooms. The various properties must be adjacent and owned or leased by the same person. No license may be issued to a hotel offering rooms on an hourly basis.

Activities allowed under current law for hotels under various licenses that would be permitted under the hotel license are the:

- sale of spirits, beer, and wine by the individual glass for consumption on the premises. The sale is allowed at dining places at the hotel;
- sale of liquor in individual units from locked honor bars. The licensee must require proof of age from the guest and the guest must execute an affidavit verifying that no one under 21 will have access to the liquor. The units may not exceed 50 milliliters for spirits, 12 ounces for beer, and 385 milliliters for wine;
- sale of liquor in the manufacturer's sealed container or by the individual drink to guests through room service;
- catering at events sponsored by specified societies or organizations or member-only events and at domestic wineries; and
- providing without additional charge to overnight guests spirits, beer, and wine by the individual serving at a specified regular date, time and place. Self-service is not allowed.

Activities not allowed under current law for hotels that would be permitted under the hotel license are:

- providing complimentary spirits, in addition to beer and wine, at fixed date/time events;
- providing room service to occupants of private residential units; and
- providing a complimentary bottle of beer or wine in a manufacturer-sealed container in guest rooms at check-in and advertising this service.

If facilities for alcohol service and food service are operated under contract or joint venture agreement, the operator may hold a license that is separate from the hotel license. Food and beverage inventory may not be shared by the licensees.

All on-premises service must be done by an alcohol server. The hotel may furnish liquor to employees for purposes of instruction.

Minors may be allowed in all areas of the hotel where alcohol may be consumed if the consumption is incidental to the primary purpose of the area. These areas include tennis courts, hotel lobbies, and swimming pool areas. If an area is primarily used for alcohol service, the area must be restricted to access by minors.

The hotel provisions take effect July 1, 2008.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except sections 5 and 7 which reinstates prior law related to brewery and microbrewery self-distribution after a scheduled expiration and takes effect June 30, 2008, and sections 10 through 20, relating to a hotel license, which take effect July 1, 2008.

Staff Summary of Public Testimony:

(In support) With respect to a second restaurant location for microbreweries, this bill would make our law consistent with Oregon's law. The Oregon law has helped make their microbrewery industry diverse and this bill will help us become more successful.

The change in the cap for spirits, beer, and wine restaurants is needed because otherwise the Board won't be able to issue more licenses as we move through next year.

Allowing local wine industry associations to obtain a special occasion license would allow them to do wine tastings. They need this change because of a change in interpretation by the Board. This is agreed-upon. The associations would be subject to all the limitations for special occasion licenses.

Currently it is burdensome for a restaurant to move liquor back and forth when they cater off-site. There are three technical amendments to this part that were made in House Bill 1975 and we would like to see them made in this bill.

The hotel license helps us meet new business models in the hotel industry. It is very complicated and we worked in the interim with the Board on this part of the bill. The trend in the hotel industry is to lease out the restaurant space. We leased our space to a restaurant that has since been very successful but we learned that the liquor laws didn't anticipate this trend. We could not get a liquor license for banquets and room service in the absence of a restaurant so we had to convert valuable meeting space into a restaurant. The hotel license will help hotels across the state.

(Opposed) None.

Persons Testifying: Rick Garza, Liquor Control Board; Arlen Harris, Washington Brewer's Guild; Jean Leonard, Washington Wine Institute; Michael Transue, Washington Restaurant Association; Mark Stiebling, Hyatt Hotels Corporation; and T.K. Bentler, Washington State Hotel Lodging Association.

Persons Signed In To Testify But Not Testifying: None.