

# SENATE BILL REPORT

## SB 6204

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As of January 18, 2010

**Title:** An act relating to privatizing the sale of liquor.

**Brief Description:** Privatizing the sale of liquor.

**Sponsors:** Senators Sheldon, King, Hobbs and Rockefeller.

**Brief History:**

**Committee Activity:** Labor, Commerce & Consumer Protection: 1/14/10.

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Staff:** Kathleen Buchli (786-7488)

**Background:** The Liquor Control Board (Board) was created in 1933 to control, manage, and supervise the sale of alcohol in the state. The Board licenses all establishments selling alcoholic beverages, enforces liquor and tobacco laws, authorizes 160 state employee-operated liquor stores and 155 contract agency stores, operates a liquor distribution center in Seattle, and employs approximately 1,160 full-time employees.

Spirits are defined as any beverage which contains alcohol obtained by distillation, except malt flavored beverages, but including wines exceeding 24 percent of alcohol by volume. Currently, two parties are allowed to sell spirits for retail sale: Washington State liquor stores and contract agency stores. State liquor stores are located on property that is leased by the state while contract agency stores are privately-owned businesses located primarily in rural areas. The state owns the liquor in contract stores, which receives a commission on the liquor they sell.

**Summary of Bill:** State run liquor stores are to be transitioned to privately run liquor franchises. A liquor franchise is defined as a specific location designated by the Board where spirits, wine, and beer may be sold in original packages for off-premise consumption, or where liquor may be sold to holders of a permit to purchase.

By July 1, 2012, the Board must close all state liquor stores and state liquor distribution facilities and must sell at auction all assets pertaining to the state sale and distribution of liquor. The Board must: determine liquor franchise areas throughout the state in which a certain number of liquor franchises can be located; establish criteria for the placement of

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liquor franchises in liquor franchise areas; collect information from unincorporated cities and towns on acceptable locations for liquor franchises within their boundaries; and award liquor franchise agreements. After July 1, 2012, the Board may not lease space for or operate a state retail or wholesale liquor store.

The Board may adopt rules on: franchise agreement periods, expiration dates, and renewal procedures; the enumeration of records to be kept by franchise holders; the procedures for advertising and other promotion of sales of spirits by liquor franchise holders; and fees and administrative penalties for liquor franchise holders. The price of liquor sold at liquor franchises must be set by each liquor franchise holder but cannot be less than the price the franchise holder paid to obtain the liquor, including taxes. The Board must determine the hours and days during which liquor may be sold at liquor franchises.

The Board and the Department of Revenue must report to the Legislature by December 1, 2010, on a recommended method and rates of liquor taxation that would generate the same future projected revenue for the state and local jurisdictions as under the current state control system.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed, except for sections 201 through 215 which take effect August 1, 2010, and sections 301 through 331 which take effect July 1, 2012.

**Staff Summary of Public Testimony:** PRO: There is a lot of interest in this issue. It is important that when we face these tremendous budget deficits, that we can show the people of the state of Washington that we can do things differently. We can make it more convenient to the customers, improve our revenue situation, maintain the control and safety that we have always had in the state, and maintain revenue for our local partners. The contract stores are our partners and we need to focus on the agency stores, which is where we can make the most improvement. It is not a mandated service of the state that we are in the liquor industry; other models do work in other states. Look at the one distribution center that Washington State has: most of the distilled spirits are produced in the Midwest, they go across the state and are then shipped back to other parts of the state. We can do a better job of what we are doing. If the franchise costs are high, those franchises will be very careful about enforcement issues. The Board will have a large enforcement role and the Board can work with local officials and the public to make sure we do it right. Let's start this discussion and see where we can go. In other states, retailers manage these products in a safe manner. The Board does a great job of enforcement and we want them to continue in enforcement. We are concerned that the board is also a retailer. The auction model may be a bit problematic in that it may lead to bidding wars, pitting retailers against each other. We prefer a more open opportunity to get licenses and all retailers should have an opportunity to

become authorized to sell spirits. Set a deadline by which the state must be privatized and bring the stakeholders together to find a system that fits Washington State.

CON: This proposal brings in no new money in the current biennium and the study itself will cost the state \$600,000. A good way to come up with an idea to make as much money as we do now is to do what we do now. The system is a hybrid of state and control stores and it is a good system. The employees are highly trained and have high compliance rates. There is a misunderstanding that the sale of alcohol is not a core function of state government. Nothing is further from the truth. Where access is greater, consumption is greater. Where consumption is high, the problems related to the consumption of alcohol is greater. The consumption of alcohol by minors is greater in privatized states. The social costs are great when alcohol is abused. The current business model with the controlled sales and distribution of alcohol is working. The state should remain in the business of controlling the sale of liquor. The system is convenient. Past studies have recommended the system be maintained because it is a careful balance between raising revenue and protecting the public health and safety. This system supports nearly 1,200 family wage jobs. The model assumes the loss of 800 family wage jobs; we should not be losing these jobs in this economic environment. Contract stores have been in business since prohibition; we pay taxes and our own health care insurance. Contract stores have ancillary businesses that cannot stand alone and support our local communities. The compliance rate with contract stores is in the 90th percentile. Contract stores will not be able to compete with the likes of Costco and RiteAid in bidding on the franchise fee. Only those corporations with deep pockets, many based outside of Washington State, will be able to operate franchises. This model will cause 155 small businesses to be shutdown, without benefits to the employees. We are not sure that the communities served by contract stores would have a liquor outlet under this model. The franchise system is the most brutal and unfair to the contract stores. This should be tabled to keep the state liquor stores available should the voters authorize the sale of marijuana and the option of selling through state liquor stores would be available.

OTHER: There are concerns about the revenue side of the equation and under the bill we will not see money until 2012. The social costs have not been identified in moving to a private system and they have not been factored into the Auditor's Report. Some of the concerns that need to be addressed are the social costs due to expanded liquor sales and potential lower compliance rates in selling to minors. We need to look at these concerns, and they need to be addressed and answered. The state would lose about 800 family wage jobs, and there is an assumption that there would be a gain in such jobs in the private sector. We are concerned about the impacts of this proposal, including: reliability of product access; pricing of spirits; and reliability and effectiveness of the distribution system. The bidding process to get a franchise is an item of concern. The independent grocery owners want a level playing field and will not be able to outbid the larger businesses. We like the idea of starting the discussion of getting the state out of the business of selling liquor and moving towards more enforcement. We prefer a contract store model. We do think that the state should look at the competition the retailers have with the state in the selling of beer and wine and level the playing field between the state and retailers. The bidding system may prohibit the smaller retailers from participating in this system. Are we going to another monopoly system through this model? The Auditor's report says the only way to increase revenue is to sell more liquor. There is a tension between the regulator and the board and that will not get better under this model. Compliance rates in control states are higher than in private states;

control states have less alcohol consumption in minors. States that privatize will sell more liquor and this includes selling more liquor to minors. It is the core function of government to protect the public. A state system that limits liquor outlets, restricts advertising, and reduces youth access to alcohol is a system we can be proud of. The current system is right; it generates revenue to the state and to local governments.

**Persons Testifying:** PRO: Senator Sheldon, prime sponsor; Holly Chisa, Northwest Grocery Association.

CON: Greg Parker, Washington Public Employees Association; Sarah Cherin, United Food & Commercial Workers #21; Jeff Johnson, Washington State Labor Council; Theresa Hancock, Contract Liquor Store Managers; Richard May, small business owner.

OTHER: Peter Bogdanoff, Governor's Office; Joe Archuleta, Auditor's Office; Michael Transue, Washington Restaurant Association; Carolyn Logue, Washington Food Industry; Rick Garza, Washington State Liquor Control Board.