

HOUSE BILL REPORT

SHB 1001

As Passed House:
March 5, 2013

Title: An act relating to beer and wine theater licenses.

Brief Description: Concerning beer and wine theater licenses.

Sponsors: House Committee on Government Accountability & Oversight (originally sponsored by Representatives Moeller, Pedersen, Hunt, Clibborn, Green, Van De Wege, Fitzgibbon, Lytton, Appleton, Maxwell, Tharinger, Ormsby, Riccelli, Pollet and Jinkins).

Brief History:

Committee Activity:

Government Accountability & Oversight: 1/17/13, 1/29/13 [DPS].

Floor Activity:

Passed House: 3/5/13, 90-4.

Brief Summary of Substitute Bill

- Creates a license for certain motion picture theaters to sell beer and wine at retail for consumption on theater premises.
- Requires that an alcohol control plan be submitted to, and approved by, the Liquor Control Board, and be prominently posted on theater premises before minors are allowed on such premises where liquor is offered for sale.
- Requires that all servers of beer and wine attend a mandatory alcohol server training program.
- Requires the Liquor Control Board to adopt rules regarding alcohol control plans and necessary control measures.

HOUSE COMMITTEE ON GOVERNMENT ACCOUNTABILITY & OVERSIGHT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hurst, Chair; Wylie, Vice Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Alexander, Blake, Kirby and Shea.

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.

Staff: Thamas Osborn (786-7129).

Background:

Washington liquor statutes authorize various types of licenses, including licenses for restaurants and taverns. Restaurant license fees range from \$221 for only beer or only wine, to \$2,000 for spirits, beer, and wine, where less than 50 percent of the premises is a dedicated dining room. Food requirements are attached to these licenses. There is no food requirement attached to a tavern license. The license fee for a tavern is \$200 for beer, \$200 for wine, or \$400 for both.

There is no specific theater license, although there is a nonprofit arts organization license. Pursuant to this, nonprofit arts organizations can obtain a liquor license to sell liquor to patrons on the premises at sponsored events, which are approved by the Liquor Control Board (LCB). The fee for such a license is \$250 per year. A nonprofit arts organization is one which provides artistic or cultural exhibitions, or performances or art education programs for attendance by the general public. It must meet legal requirements for a not-for-profit corporation and must satisfy specific conditions set by the LCB.

The LCB is authorized, among other things, to prescribe:

- the terms and conditions to be contained in permits and licenses and the qualifications for receiving a permit or license;
- the fees payable for any permits and licenses issued under Title 66 for which no fees are prescribed, as well as the fees for anything done or permitted to be done under the regulations adopted by the LCB; and
- the conditions, accommodations, and qualifications requisite for the obtaining of licenses to sell beer, wine, and spirits, and regulating the sale of beer, wine, and spirits pursuant to those licenses.

Pursuant to this authority, in 2010 the LCB adopted rules regarding requirements and restrictions for both beer and wine restaurant licenses and spirits, beer, and wine restaurant licenses at cinemas with dinner theater venues. Under these rules:

- The general food service requirements for such restaurants must be met. "Minimum food service" required of a beer and wine restaurant license means items such as sandwiches, salad, soup, pizza, hamburgers, and fry orders. An appetizer does not qualify as minimum food service. A spirits, beer, and wine restaurant licensee must serve at least eight complete meals. "Complete meal" means an entree and at least one side dish. "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.
- Lighting requirements must be met. On all portions of the premises where alcohol is served or consumed, licensees must maintain sufficient lighting so that identification may be checked and patrons may be observed for the enforcement of liquor laws and rules.

- Alcohol sales and service may not be provided from the concession area in the cinema lobby.
- Alcohol may be consumed only in the theater rooms approved by the LCB.
- Minor patrons and employees are prohibited at all times in the individual theater rooms that allow alcohol service and consumption.
- A floor plan must be provided to the LCB indicating which theater rooms will be operated as dinner theaters. Those theater rooms not operated as dinner theaters with alcohol sales and service may be open to minors and minor employees.

Summary of Substitute Bill:

The act creates a theater license to sell beer, including strong beer, or wine, or both, at retail for consumption on theater premises. The annual fee for such license is \$400. No food requirements are specified.

"Theater" is defined as a place of business where motion pictures or other primarily nonparticipatory entertainment are shown.

If theater premises are to be frequented by minors, an alcohol control plan must be submitted to the LCB at the time of application. The alcohol control plan must be approved by the LCB, and be prominently posted on the premises prior to minors being allowed entry.

"Alcohol control plan" is defined as a written, dated, and signed plan submitted to the LCB by an applicant or licensee for the entire theater premises, or a room or area therein. The alcohol control plan must include: (1) a statement explaining where and when minors and alcohol are permitted; and (2) the control measures to be used to prevent minors from obtaining alcohol or being exposed to environments where drinking alcohol predominates.

All servers of beer and wine are required to attend a mandatory alcohol server training program.

Subject to specified conditions, theater licensees that are federally designated nonprofits exempt from taxation under 26 U.S.C.501(c)(3) are permitted to enter into agreements with a liquor industry member for purposes of brand advertising at the theater. The act specifically establishes that such an agreement is an exception to the general statutory prohibition against a liquor industry member advancing money or other valuable consideration to a retailer. Such agreements are subject to specified auditing procedures to be conducted by the LCB.

Provides for a doubling of available penalties for a violation involving minors or the failure to follow an alcohol control plan.

The LCB is required to adopt rules regarding alcohol control plans and necessary control measures.

Appropriation: None.

Fiscal Note: Available.

Effective Date: 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 bill addresses the needs of small independent movie theaters which, across the state, are struggling to survive the competition posed by giant, corporate multiplex theaters. Many independent theaters are financially marginal and sorely need to provide a service which will bring in more customers. This bill would be a shot in the arm for small theaters because it would allow the sale of beer and wine, subject to stringent conditions and LCB oversight. Allowing retail alcohol sales, as provided by the bill, would enable many of the struggling theaters to keep going and ensure that customers of independent films would continue to have a venue to attend. Thirty-seven states already allow retail alcohol sales in theaters without significant problems arising. This has been a business model that has been successful all over the country. As is the case in Vancouver, Washington, maintaining a vibrant independent movie theater in a downtown core can help revitalize older commercial areas and provide healthy nightlife where little currently exists. Vancouver has seen its downtown independent movie theater attract evening customers downtown, rather than the malls, and has had some effect in generally bringing people back to the downtown businesses. Allowing careful, controlled retail sales of beer and wine at such theaters will serve to bolster the trend. Finally, a great many entertainment venues already serve alcohol and there is no reason why independent movie theaters should not be allowed the same opportunity. Oregon already has a very well-developed market for small, independent movie theaters that serve beer and wine.

(Neutral) The LCB has public safety concerns about serving alcohol in darkened theaters where proper monitoring can pose a problem. Currently, for theaters to serve alcohol requires a restaurant license, but this bill has no food service requirement. Servers should be required to go through a mandatory training program. This bill needs some additional work and amendments in order to address the public safety problems it poses.

(Opposed) This bill sets yet another bad example for the community insofar as it is part of a powerful trend towards encouraging the consumption of alcohol at practically every venue and public place. Bills like this send the wrong message to young people and create an environment in which the public consumption of alcohol is considered a norm. Children and teens cannot help but notice the linkage adults are making between having fun and drinking alcohol. This trend will lead to more problem drinking at a time when the funding for rehabilitation programs is being cut. The overall social impact of bills like this is negative.

Persons Testifying: (In support) Dan Wyatt Jr., Kiggins Theatre; Dennis Lane; Dan Wyatt Sr; Elizabeth Lane; AJ Epstein, West of Lenin Theatre; Rand Thornsley, Liberty Theatre; Becky Bogard and Brian Layton, Seattle Theatre Group; and Kelly Parker, Vancouver Camas Chamber of Commerce.

(Neutral) Rick Garza and Alan Rathburn, Washington State Liquor Control Board.

(Opposed) Seth Dawson and Mary Ellen Delepenia, Washington Association of Substance Abuse Prevention; and Wanda Rochelle, Safe Streets Campaign.

Persons Signed In To Testify But Not Testifying: None.