
HOUSE BILL 1578

State of Washington

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By Representatives H. Sommers, McMorris, Lisk, Scott, Cole, Clements, Gombosky, Honeyford, Schoesler, Ballasiotes, Cody, Conway, Carlson, Kenney, Ogden, Chopp, Hatfield, Sheahan, Sterk, Wood, Romero, Tokuda, Blalock, Dickerson, O'Brien, Sheldon, Cooper and Gardner

Read first time 01/31/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the regulation of liquor sales in designated
2 restricted liquor zones; amending RCW 66.24.010, 66.24.360, and
3 66.24.370; adding new sections to chapter 66.24 RCW; and creating a new
4 section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that municipalities
7 and counties have a strong interest in reducing chronic public
8 drunkenness. Public inebriation results in significant costs to the
9 taxpayer by requiring increased law enforcement, detoxification
10 services, sanitation, and medical care including emergency room
11 treatment. Public inebriation adversely affects business activity and
12 generally reduces the full use and enjoyment of public areas to the
13 general public.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 66.24 RCW
15 to read as follows:

16 (1) Municipalities and counties may designate by ordinance
17 restricted liquor zones. When making a designation, a municipality or
18 a county must find that the zone suffers serious impacts from liquor

1 sales. Impact may include, but is not limited to, increased law
2 enforcement problems, increased demand for medical care, physical
3 degradation of public spaces and private property, and impacts on
4 alcohol treatment services.

5 (2) The board may adopt rules that restrict the off-premises sales
6 of beer or wine within areas that have been designated by municipal or
7 county ordinance to be restricted liquor zones pursuant to subsection
8 (1) of this section. Such restrictions may include, but are not
9 limited to: (a) Restrictions on hours of sale of beer or wine for off-
10 premises consumption; (b) prohibitions of sale of fortified wine or
11 products designated as restricted by the board; and (c) restrictions on
12 container sizes of beer and wine sold for off-premises consumption.

13 (3) If the board has not adopted rules pursuant to subsection (2)
14 of this section, the board shall condition issuance or renewal of
15 licenses for off-premises sale of beer or wine located within
16 restricted liquor zones. The board shall condition issuance or renewal
17 of an E, F, Fr, or E-Fr license on an agreement between the licensee or
18 license applicant and the affected municipality or county to minimize
19 the establishment's negative impact on the public health, safety, or
20 welfare, or on such conditions as will minimize the negative impact of
21 the establishment. Such conditions may include, but are not limited
22 to, restrictions on hours of sale of beer or wine for off-premises
23 consumption, prohibitions of sale of fortified wine and products
24 designated as restricted by the board, and restrictions on container
25 sizes of beer and wine sold for off-premises consumption. In
26 determining which conditions are necessary, the board shall give
27 substantial weight to the recommendations of the municipality or
28 county.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 66.24 RCW
30 to read as follows:

31 The board may designate, by rule, any beer or wine product as a
32 restricted product if consumption of that product contributes to
33 excessive public intoxication detrimental to the public interest.

34 **Sec. 4.** RCW 66.24.010 and 1995 c 232 s 1 are each amended to read
35 as follows:

36 (1) Every license shall be issued in the name of the applicant, and
37 the holder thereof shall not allow any other person to use the license.

1 (2) For the purpose of considering any application for a license,
2 the board may cause an inspection of the premises to be made, and may
3 inquire into all matters in connection with the construction and
4 operation of the premises. For the purpose of reviewing any
5 application for a license and for considering the denial, suspension or
6 revocation of any license, the liquor control board may consider any
7 prior criminal conduct of the applicant and the provisions of RCW
8 9.95.240 and of chapter 9.96A RCW shall not apply to such cases. The
9 board may, in its discretion, grant or refuse the license applied for.
10 Authority to approve an uncontested or unopposed license may be granted
11 by the board to any staff member the board designates in writing.
12 Conditions for granting such authority shall be adopted by rule. No
13 retail license of any kind may be issued to:

14 (a) A person who has not resided in the state for at least one
15 month prior to making application, except in cases of licenses issued
16 to dining places on railroads, boats, or aircraft;

17 (b) A copartnership, unless all of the members thereof are
18 qualified to obtain a license, as provided in this section;

19 (c) A person whose place of business is conducted by a manager or
20 agent, unless such manager or agent possesses the same qualifications
21 required of the licensee;

22 (d) A corporation, unless it was created under the laws of the
23 state of Washington or holds a certificate of authority to transact
24 business in the state of Washington.

25 (3) The board may, in its discretion, subject to the provisions of
26 RCW 66.08.150, suspend or cancel any license; and all rights of the
27 licensee to keep or sell liquor thereunder shall be suspended or
28 terminated, as the case may be. The board may request the appointment
29 of administrative law judges under chapter 34.12 RCW who shall have
30 power to administer oaths, issue subpoenas for the attendance of
31 witnesses and the production of papers, books, accounts, documents, and
32 testimony, examine witnesses, and to receive testimony in any inquiry,
33 investigation, hearing, or proceeding in any part of the state, under
34 such rules and regulations as the board may adopt.

35 Witnesses shall be allowed fees and mileage each way to and from
36 any such inquiry, investigation, hearing, or proceeding at the rate
37 authorized by RCW 34.05.446, as now or hereafter amended. Fees need
38 not be paid in advance of appearance of witnesses to testify or to
39 produce books, records, or other legal evidence.

1 In case of disobedience of any person to comply with the order of
2 the board or a subpoena issued by the board, or any of its members, or
3 administrative law judges, or on the refusal of a witness to testify to
4 any matter regarding which he or she may be lawfully interrogated, the
5 judge of the superior court of the county in which the person resides,
6 on application of any member of the board or administrative law judge,
7 shall compel obedience by contempt proceedings, as in the case of
8 disobedience of the requirements of a subpoena issued from said court
9 or a refusal to testify therein.

10 (4) Upon receipt of notice of the suspension or cancellation of a
11 license, the licensee shall forthwith deliver up the license to the
12 board. Where the license has been suspended only, the board shall
13 return the license to the licensee at the expiration or termination of
14 the period of suspension. The board shall notify all vendors in the
15 city or place where the licensee has its premises of the suspension or
16 cancellation of the license; and no employee may allow or cause any
17 liquor to be delivered to or for any person at the premises of that
18 licensee.

19 (5)(a) At the time of the original issuance of a class H license,
20 the board shall prorate the license fee charged to the new licensee
21 according to the number of calendar quarters, or portion thereof,
22 remaining until the first renewal of that license is required.

23 (b) Unless sooner canceled, every license issued by the board shall
24 expire at midnight of the thirtieth day of June of the fiscal year for
25 which it was issued. However, if the board deems it feasible and
26 desirable to do so, it may establish, by rule pursuant to chapter 34.05
27 RCW, a system for staggering the annual renewal dates for any and all
28 licenses authorized by this chapter. If such a system of staggered
29 annual renewal dates is established by the board, the license fees
30 provided by this chapter shall be appropriately prorated during the
31 first year that the system is in effect. The standards for renewing a
32 license shall be the same as the standards for originally issuing a
33 license, except as otherwise provided by a specific provision of this
34 chapter or other statute.

35 (6) Every license issued under this section shall be subject to all
36 conditions and restrictions imposed by this title or by the regulations
37 in force from time to time. All conditions and restrictions imposed by
38 the board in the issuance of an individual license shall be listed on

1 the face of the individual license along with the trade name, address,
2 and expiration date.

3 (7) Every licensee shall post and keep posted its license, or
4 licenses, in a conspicuous place on the premises.

5 (8) Before the board shall issue a license to an applicant or renew
6 a license of a licensee located within a restricted liquor zone, it
7 shall give notice of such application to the chief executive officer of
8 the incorporated city or town, if the application be for a license
9 within an incorporated city or town, or to the county legislative
10 authority, if the application be for a license outside the boundaries
11 of incorporated cities or towns; and such incorporated city or town,
12 through the official or employee selected by it, or the county
13 legislative authority or the official or employee selected by it, shall
14 have the right to file with the board within twenty days after date of
15 transmittal of such notice, written objections against the applicant or
16 against the premises for which the license is asked, and shall include
17 with such objections a statement of all facts upon which such
18 objections are based, and in case written objections are filed, may
19 request and the liquor control board may in its discretion hold a
20 formal hearing subject to the applicable provisions of Title 34 RCW.
21 If objections are made to renewal of a license to a licensee located
22 within a restricted liquor zone, the liquor control board shall hold a
23 formal hearing under Title 34 RCW. Upon the granting of a license
24 under this title the board shall send a duplicate of the license or
25 written notification to the chief executive officer of the incorporated
26 city or town in which the license is granted, or to the county
27 legislative authority if the license is granted outside the boundaries
28 of incorporated cities or towns.

29 (9) Before the board issues any license to any applicant, it shall
30 give (a) due consideration to the location of the business to be
31 conducted under such license with respect to the proximity of churches,
32 schools, and public institutions and (b) written notice by certified
33 mail of the application to churches, schools, and public institutions
34 within five hundred feet of the premises to be licensed. The board
35 shall issue no beer retailer license class A, B, D, or E or wine
36 retailer license class C or F or class H license covering any premises
37 not now licensed, if such premises are within five hundred feet of the
38 premises of any tax-supported public elementary or secondary school
39 measured along the most direct route over or across established public

1 walks, streets, or other public passageway from the outer property line
2 of the school grounds to the nearest public entrance of the premises
3 proposed for license, and if, after receipt by the school or public
4 institution of the notice as provided in this subsection, the board
5 receives written notice, within twenty days after posting such notice,
6 from an official representative or representatives of the school within
7 five hundred feet of said proposed licensed premises, indicating to the
8 board that there is an objection to the issuance of such license
9 because of proximity to a school. For the purpose of this section,
10 church shall mean a building erected for and used exclusively for
11 religious worship and schooling or other activity in connection
12 therewith. No liquor license may be issued or reissued by the board to
13 any motor sports facility or licensee operating within the motor sports
14 facility unless the motor sports facility enforces a program reasonably
15 calculated to prevent alcohol or alcoholic beverages not purchased
16 within the facility from entering the facility and such program is
17 approved by local law enforcement agencies. It is the intent under
18 this subsection that a retail license shall not be issued by the board
19 where doing so would, in the judgment of the board, adversely affect a
20 private school meeting the requirements for private schools under Title
21 28A RCW, which school is within five hundred feet of the proposed
22 licensee. The board shall fully consider and give substantial weight
23 to objections filed by private schools. If a license is issued despite
24 the proximity of a private school, the board shall state in a letter
25 addressed to the private school the board's reasons for issuing the
26 license.

27 (10) The restrictions set forth in subsection (9) of this section
28 shall not prohibit the board from authorizing the assumption of
29 existing licenses now located within the restricted area by other
30 persons or licenses or relocations of existing licensed premises within
31 the restricted area. In no case may the licensed premises be moved
32 closer to a church or school than it was before the assumption or
33 relocation.

34 (11) Nothing in this section prohibits the board, in its
35 discretion, from issuing a temporary retail or wholesaler license to an
36 applicant assuming an existing retail or wholesaler license to continue
37 the operation of the retail or wholesaler premises during the period
38 the application for the license is pending and when the following
39 conditions exist:

1 (a) The licensed premises has been operated under a retail or
2 wholesaler license within ninety days of the date of filing the
3 application for a temporary license;

4 (b) The retail or wholesaler license for the premises has been
5 surrendered pursuant to issuance of a temporary operating license;

6 (c) The applicant for the temporary license has filed with the
7 board an application to assume the retail or wholesaler license at such
8 premises to himself or herself; and

9 (d) The application for a temporary license is accompanied by a
10 temporary license fee established by the board by rule.

11 A temporary license issued by the board under this section shall be
12 for a period not to exceed sixty days. A temporary license may be
13 extended at the discretion of the board for an additional sixty-day
14 period upon payment of an additional fee and upon compliance with all
15 conditions required in this section.

16 Refusal by the board to issue or extend a temporary license shall
17 not entitle the applicant to request a hearing. A temporary license
18 may be canceled or suspended summarily at any time if the board
19 determines that good cause for cancellation or suspension exists. RCW
20 66.08.130 and chapter 34.05 RCW shall apply to temporary licenses.

21 Application for a temporary license shall be on such form as the
22 board shall prescribe. If an application for a temporary license is
23 withdrawn before issuance or is refused by the board, the fee which
24 accompanied such application shall be refunded in full.

25 **Sec. 5.** RCW 66.24.360 and 1993 c 21 s 1 are each amended to read
26 as follows:

27 (1) There shall be a beer retailer's license to be designated as a
28 class E license to sell beer at retail in bottles and original
29 packages, not to be consumed upon the premises where sold, at any store
30 other than the state liquor stores. Licensees holding only an E
31 license may also sell malt liquor in kegs or other containers capable
32 of holding less than five and one-half gallons of liquid. The annual
33 fee for the license is seventy-five dollars for each store: PROVIDED,
34 That a holder of a class A or a class B license shall be entitled to
35 the privileges permitted in this section by paying an annual fee of
36 twenty-five dollars for each store. Licensees under this section whose
37 business is primarily the sale of beer and/or wine at retail may
38 provide, free or for a charge, single-serving samples of two ounces or

1 less to customers for the purpose of sales promotion. Sampling
2 activities of licensees under this section shall be subject to RCW
3 66.28.010 and 66.28.040 and the cost of sampling under this section may
4 not be borne, directly or indirectly, by any manufacturer, importer, or
5 wholesaler of liquor.

6 For the purpose of this section, "beer" includes, in addition to
7 the usual and customary meaning, bottle conditioned beer which has been
8 fermented partially or completely in the container in which it is sold
9 to the retail customer and which may contain residual active yeast.
10 The bottles and original packages in which such bottle conditioned beer
11 may be sold under this section shall not exceed one hundred seventy
12 ounces in capacity.

13 (2) The board shall issue a restricted class E license, imposing a
14 restriction on the size of beer containers that may be sold and on the
15 hours of alcohol sales and prohibiting the sale of beer products
16 designated as restricted by the board, if the board finds upon issuance
17 or renewal of the license that the unrestricted sale of beer for off-
18 premises consumption would be against the public interest. In
19 determining the public interest, the board shall consider at least the
20 following factors:

21 (a) Law enforcement problems in the vicinity of the applicant's
22 establishment that may arise from the unrestricted sale of beer;

23 (b) Increased demand for medical care;

24 (c) Whether the unrestricted sale of beer for off-premises
25 consumption would be detrimental to or inconsistent with an alcohol
26 treatment or detoxification program in the area;

27 (d) Whether the full use and enjoyment of public spaces and private
28 property in the vicinity of the applicant's establishment are impaired
29 by excessive consumption of large containers of beer and related
30 intoxicated behavior; and

31 (e) The likelihood that large containers of beer sold by the
32 applicant's establishment will be consumed in public or by persons who
33 are intoxicated.

34 If the board receives no evidence or objection that the
35 unrestricted sale of beer would be against the public interest, it
36 shall issue or renew the license without restriction, as applicable.
37 The board shall give substantial weight to the recommendations of the
38 municipality or county in which the establishment is located.

1 **Sec. 6.** RCW 66.24.370 and 1992 c 42 s 1 are each amended to read
2 as follows:

3 (1) There shall be a wine retailer's license to be designated as
4 class F license to sell, subject to subsection (2) of this section,
5 table and fortified wine in bottles and original packages, not to be
6 consumed on the premises where sold, at any store other than the state
7 liquor stores: PROVIDED, Such licensee shall pay to the state liquor
8 stores for wines purchased from such stores the current retail price;
9 fee seventy-five dollars per annum: PROVIDED, FURTHER, That a holder
10 of a class A or class B license shall be entitled to the privileges
11 permitted in this section by paying an annual fee of twenty-five
12 dollars for each store.

13 (2) The board shall issue a restricted class F license,
14 ~~((authorizing the licensee to sell only table wine))~~ prohibiting the
15 sale of fortified wine or wine products designated as restricted by the
16 board and restricting the hours of alcohol sales, if the board finds
17 upon issuance or renewal of the license that the sale of fortified wine
18 would be against the public interest. In determining the public
19 interest, the board shall consider at least the following factors:

20 (a) ~~((The likelihood that the applicant will sell fortified wine to~~
21 ~~persons who are intoxicated;~~

22 ~~(b))~~ Law enforcement problems in the vicinity of the applicant's
23 establishment that may arise from persons purchasing fortified wine
24 ~~((at the establishment)); ((and~~

25 ~~(c))~~ (b) Increased demand for medical care;

26 (c) Whether the sale of fortified wine would be detrimental to or
27 inconsistent with ((a government operated or funded)) an alcohol
28 treatment or detoxification program in the area;

29 (d) Whether full use and enjoyment of the public spaces and private
30 property in the vicinity of the applicant's establishment are impaired
31 by excessive consumption of fortified wine or wine products designated
32 as restricted by the board and related intoxicated behavior; and

33 (e) The likelihood that fortified wine or wine products designated
34 as restricted by the board sold by the applicant's establishment will
35 be consumed in public or by persons who are intoxicated.

36 If the board receives no evidence or objection that the sale of
37 fortified wine would be against the public interest, it shall issue or
38 renew the license without restriction, as applicable. ~~((The burden of~~
39 ~~establishing that the sale of fortified wine by the licensee would be~~

1 ~~against the public interest is on those persons objecting))~~ The board
2 shall give substantial weight to the recommendations of the
3 municipality or county in which the establishment is located.

4 (3) Licensees under this section whose business is primarily the
5 sale of wine at retail may provide, free or for a charge, single-
6 serving samples of two ounces or less to customers for the purpose of
7 sales promotion.

8 NEW SECTION. Sec. 7. A new section is added to chapter 66.24 RCW
9 to read as follows:

10 Notwithstanding RCW 34.05.473, an initial order by an
11 administrative law judge denying renewal of a license becomes effective
12 upon entry. However, a party may file a motion with the board seeking
13 a stay or other temporary remedy. The board shall not grant such
14 relief unless it finds that: (1) The licensee is likely to prevail
15 when the board finally disposes of the matter; (2) without relief the
16 licensee will suffer irreparable injury; (3) the grant of relief to the
17 applicant will not substantially harm other parties to the proceedings;
18 and (4) the threat to the public health, safety, or welfare is not
19 sufficiently serious to justify the agency action in the circumstances.

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