

HOUSE BILL REPORT

HB 1227

As Passed House:
February 22, 2011

Title: An act relating to the waiver of restaurant corkage fees.

Brief Description: Concerning the waiver of restaurant corkage fees.

Sponsors: Representatives Ross, Taylor, Chandler, Hinkle, Warnick, Armstrong, Johnson, Moeller, Harris and Condotta.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/3/11 [DP].

Floor Activity:

Passed House: 2/22/11, 94-0.

Brief Summary of Bill

- Allows domestic wineries and restaurants to enter into an agreement to waive a corkage fee.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

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

Staff: Joan Elgee (786-7106).

Background:

Some restaurants allow patrons to bring their own wine to be served with the meal that they purchase. Restaurants typically charge a fee to open and serve this wine. This charge is referred to as a corkage fee. Restaurants are not required to charge a corkage fee.

The liquor tied house laws regulate the relationship between liquor manufacturers and distributors ("industry members") and retailers. Under the "financial interest" piece, liquor

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industry members and retailers may have direct or indirect financial interests between and among each other unless the interest has caused or is likely to cause or result in undue influence or result in an adverse impact on public health and safety. Certain financial interests are specifically allowed; for example, a winery may also be licensed as a retailer to sell wine at the winery. 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 to the prohibition on moneys' worth have been enacted. For example, industry members may provide branded promotional items to retailers under certain circumstances, and wineries may provide personal services such as pouring on retailer premises.

Summary of Bill:

An exception is created to both the financial interest and moneys' tied house laws to allow domestic wineries and restaurants licensed to sell beer and/or wine or spirits, or beer and/or wine, to enter into an arrangement to waive a corkage fee.

Appropriation: None.

Fiscal Note: Not requested.

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 allows restaurants to create collaborative agreements with wineries and distributors to improve our economy. It is no longer business as usual and small businesses must learn to complement each other. Waiving the corkage fee shows customer appreciation. There is no undue influence. Why can't a restaurant say "thank you" to a winery? This bill allows people to buy a special bottle of wine after a wine tasting and then go out with friends and have the corkage fee waived. It should be up to the business owner whether to charge a corkage fee. The corkage waiver program was very well received last year.

The Liquor Control Board (Board) has issued an interpretive statement, but the change should be made in law for clarity and certainty.

The Board overreacted on enforcement. The waiver of corkage fees is not a tied house violation. The Board wants to bring forth a proposal next year to allow the Board to make narrow tied house exceptions by rule. This bill should be amended to make the exception part of the joint promotion exception, but this should not hold up the bill.

(In support with amendment) Corkage fees should be a decision between a restaurant and a winery. The Supreme Court has said in-state and out-of state wineries must be treated the same and this bill only addresses in-state wineries. There should be a level playing field and language has been provided to do this.

(Opposed) None.

Persons Testifying: (In support) Representative Ross, prime sponsor; Representative Taylor; Julia Clark, Washington Restaurant Association; Jar Arcand, Santiago's; Rick Garza, Washington State Liquor Control Board; and Jean Leonard, Washington Wine Institute.

(In support with amendment) Scott Hazlegrove, Wine Institute.

Persons Signed In To Testify But Not Testifying: None.