

HOUSE BILL REPORT

SSB 5788

As Passed House:
April 6, 2011

Title: An act relating to regulating liquor by changing tied house and licensing provisions and making clarifying and technical changes to liquor laws.

Brief Description: Regulating liquor by changing tied house and licensing provisions and making clarifying and technical changes to liquor laws.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Conway, Hewitt, Kohl-Welles and King).

Brief History:

Committee Activity:

State Government & Tribal Affairs: 3/17/11, 3/21/11 [DP].

Floor Activity:

Passed House: 4/6/11, 97-0.

Brief Summary of Substitute Bill

- Allows spirits, beer, and wine restaurants and hotels to sell beer in a sanitary container brought to the premises by the purchaser or furnished by the restaurant or hotel and filled at the tap at the time of sale (e.g., growlers).
- Allows special occasion licensees to pay for beer and wine immediately following the end of an event, and allows wineries and breweries to pay reasonable special occasion table fees.
- Allows branded promotional items to include the logo of a professional sports team.
- Removes the 40 per-year limit on nonclub, member-sponsored events by private club licensees.
- Makes other changes in liquor laws.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

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.

Majority Report: Do pass. Signed by 11 members: Representatives Hunt, Chair; Appleton, Vice Chair; Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander, Condotta, Darneille, Dunshee, Hurst, McCoy and Miloscia.

Staff: Joan Elgee (786-7106)

Background:

Tied House Laws.

The liquor tied house laws regulate the relationship between liquor manufacturers, importers and distributors ("industry members"), and retailers. 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. This law has been interpreted to prohibit the extension of credit to retailers. A number of exceptions have been enacted. For example, industry members may provide branded promotional items to retailers. The items may be imprinted with advertising only of the industry member. Industry members may also enter into an arrangement with a holder of a sports entertainment facility license or an affiliated business for brand advertising at the facility or promoting events at the sports entertainment facility. By Liquor Control Board (Board) rule, a professional sports team holding a liquor license may accept liquor advertisements from industry members and may allow industry members to use the name and trademark of the sports team under certain conditions.

Legislation enacted in 2009 (Engrossed House Bill 2040) repealed a tied house law prohibiting certain financial interests between industry members and retailers. Financial interests are now generally allowed. The list of statutes identifying industry members and retailers did not include distillers or hotels. The nightclub license created in 2009 is also not included. A separate bill amended the tied house law that Engrossed House Bill 2040 repealed. In addition, a number of references to the repealed tied house law remain in the code.

Permits.

Liquor manufacturers, importers, and distributors may apply for a special permit to serve liquor without charge to delegates and guests at a convention or trade association composed of liquor licensees, when the liquor is served in a hospitality room or a Board-approved suppliers' display room.

Accredited Representatives.

An accredited representative license is required for any person to solicit, receive, or take orders for the purchase or sale of liquor.

Retailer Licenses.

Restaurants licensed to sell spirits, beer, and wine may obtain an endorsement to sell malt liquor in kegs or other containers that are capable of holding four gallons or more. Some

other licensees may sell beer in a sanitary container brought to the premises by the purchaser and filled at the tap at the time of sale (e.g., growlers). Licensees with this latter privilege are: (1) breweries and microbreweries (those that also hold a spirits, beer, and wine restaurant license); and (2) beer and wine restaurants, and taverns (those that also hold a "combined" license). Breweries and microbreweries may also furnish the container.

A hotel license allows the sale of spirits, beer, and wine for consumption on the premises, including from locked honor bars, as well as other privileges.

A not-for-profit society or organization may obtain a special occasion retail liquor license to sell spirits, beer, and wine by the individual serving for on-premises consumption at a specified date and time.

A private club licensee may receive an endorsement allowing up to 40 nonclub, member-sponsored events using club liquor. Visitors and guests may attend only by invitation.

Other.

Some sections of the liquor title contain incorrect references.

Summary of Bill:

Tied House Laws.

The money's worth tied house law is modified in several respects. Special occasion licensees may pay for beer or wine immediately following the end of a special occasion event. In addition, wineries or breweries that are participating in a special occasion event may pay reasonable table fees to the special occasion licensee.

Industry members may use professional sports team logos on branded promotional items.

The professional sports team advertising rule is substantially codified. Professional sports teams holding a retail liquor license may accept liquor advertising for use in the sporting arena and may license the manufacturer, importer, or distributor to use the name or trademarks of the professional sports team in their advertising and promotions. The advertising must be paid for at the published advertising rate or at a reasonable fair market value, and the advertising cannot carry with it any offer or promise to stock or list any particular brand of liquor to the exclusion of any other brand.

The tied house law in effect prior to 2009 is repealed. Distillers, hotels, and nightclubs are added to the lists of industry member and retailer licenses. Cross-references to the prior tied house law are updated to refer to the new moneys' worth law.

Permits.

A vendor that manufactures or sells a product that cannot be effectively presented to potential buyers without serving it with liquor may obtain a special permit allowing the vendor to

serve liquor without charge to liquor licensee delegates and guests at a trade association convention.

Accredited Representatives.

Drivers who deliver beer or wine, and domestic wineries and their employees are not required to hold an accredited representative's license.

Retailer Licenses.

The endorsement permitting a spirits, beer, and wine restaurant to sell kegs also allows the sale of beer in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the restaurant at the time of sale (e.g., growlers).

A hotel licensee may also sell beer to a purchaser who provides their own container or is furnished one by the licensee. The container must be filled at the tap in the restaurant area of the hotel.

The 40 event per-year limit on nonclub, member-sponsored events by private club licensees is removed.

Other.

References are corrected and other technical changes made.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 203, 204, and 206, relating to housekeeping changes to various licenses and the tied house laws, which take effect on July 1, 2011.

Staff Summary of Public Testimony:

(In support) The regulated community works on these omnibus bills with the Board. The bill changes an interpretation that persons selling their own wine need an agent license. Paying at the end of a special occasion event will allow charities to write one check.

(In support with amendment) Senate Bill 5709, which allows a brewer to sell up to 25 percent of another brewer's product, should be added to the bill. If a brewery has three brands on tap it could add one more of a different brewery.

(Commented) The omnibus process has been used rather than having 10 to 15 bills. The Board works with stakeholders on one bill.

(Opposed) None.

Persons Testifying: (In support) Jean Leonard, Washington Wine Institute.

(In support with amendment) T.K. Bentler, Washington Brewers Guild.

(Commented) Rick Garza, Liquor Control Board.

Persons Signed In To Testify But Not Testifying: None.