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SENATE BILL 5285

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State of Washington

62nd Legislature

2011 Regular Session

By Senator Ranker

Read first time 01/20/11. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to the issuance of liquor licenses for businesses  
2 located near schools; and amending RCW 66.24.010.

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

4 **Sec. 1.** RCW 66.24.010 and 2009 c 271 s 6 are each amended to read  
5 as follows:

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

8 (2) For the purpose of considering any application for a license,  
9 or the renewal of a license, the board may cause an inspection of the  
10 premises to be made, and may inquire into all matters in connection  
11 with the construction and operation of the premises. For the purpose  
12 of reviewing any application for a license and for considering the  
13 denial, suspension, revocation, or renewal or denial thereof, of any  
14 license, the liquor control board may consider any prior criminal  
15 conduct of the applicant including an administrative violation history  
16 record with the board and a criminal history record information check.  
17 The board may submit the criminal history record information check to  
18 the Washington state patrol and to the identification division of the  
19 federal bureau of investigation in order that these agencies may search

1 their records for prior arrests and convictions of the individual or  
2 individuals who filled out the forms. The board shall require  
3 fingerprinting of any applicant whose criminal history record  
4 information check is submitted to the federal bureau of investigation.  
5 The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply  
6 to such cases. Subject to the provisions of this section, the board  
7 may, in its discretion, grant or deny the renewal or license applied  
8 for. Denial may be based on, without limitation, the existence of  
9 chronic illegal activity documented in objections submitted pursuant to  
10 subsections (8)(d) and (12) of this section. Authority to approve an  
11 uncontested or unopposed license may be granted by the board to any  
12 staff member the board designates in writing. Conditions for granting  
13 such authority shall be adopted by rule. No retail license of any kind  
14 may be issued to:

15 (a) A person doing business as a sole proprietor who has not  
16 resided in the state for at least one month prior to receiving a  
17 license, except in cases of licenses issued to dining places on  
18 railroads, boats, or aircraft;

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

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

24 (d) A corporation or a limited liability company, unless it was  
25 created under the laws of the state of Washington or holds a  
26 certificate of authority to transact business in the state of  
27 Washington.

28 (3)(a) The board may, in its discretion, subject to the provisions  
29 of RCW 66.08.150, suspend or cancel any license; and all rights of the  
30 licensee to keep or sell liquor thereunder shall be suspended or  
31 terminated, as the case may be.

32 (b) The board shall immediately suspend the license or certificate  
33 of a person who has been certified pursuant to RCW 74.20A.320 by the  
34 department of social and health services as a person who is not in  
35 compliance with a support order. If the person has continued to meet  
36 all other requirements for reinstatement during the suspension,  
37 reissuance of the license or certificate shall be automatic upon the

1 board's receipt of a release issued by the department of social and  
2 health services stating that the licensee is in compliance with the  
3 order.

4 (c) The board may request the appointment of administrative law  
5 judges under chapter 34.12 RCW who shall have power to administer  
6 oaths, issue subpoenas for the attendance of witnesses and the  
7 production of papers, books, accounts, documents, and testimony,  
8 examine witnesses, and to receive testimony in any inquiry,  
9 investigation, hearing, or proceeding in any part of the state, under  
10 such rules and regulations as the board may adopt.

11 (d) Witnesses shall be allowed fees and mileage each way to and  
12 from any such inquiry, investigation, hearing, or proceeding at the  
13 rate authorized by RCW 34.05.446. Fees need not be paid in advance of  
14 appearance of witnesses to testify or to produce books, records, or  
15 other legal evidence.

16 (e) In case of disobedience of any person to comply with the order  
17 of the board or a subpoena issued by the board, or any of its members,  
18 or administrative law judges, or on the refusal of a witness to testify  
19 to any matter regarding which he or she may be lawfully interrogated,  
20 the judge of the superior court of the county in which the person  
21 resides, on application of any member of the board or administrative  
22 law judge, shall compel obedience by contempt proceedings, as in the  
23 case of disobedience of the requirements of a subpoena issued from said  
24 court or a refusal to testify therein.

25 (4) Upon receipt of notice of the suspension or cancellation of a  
26 license, the licensee shall forthwith deliver up the license to the  
27 board. Where the license has been suspended only, the board shall  
28 return the license to the licensee at the expiration or termination of  
29 the period of suspension. The board shall notify all vendors in the  
30 city or place where the licensee has its premises of the suspension or  
31 cancellation of the license; and no employee may allow or cause any  
32 liquor to be delivered to or for any person at the premises of that  
33 licensee.

34 (5)(a) At the time of the original issuance of a spirits, beer, and  
35 wine restaurant license, the board shall prorate the license fee  
36 charged to the new licensee according to the number of calendar  
37 quarters, or portion thereof, remaining until the first renewal of that  
38 license is required.

1 (b) Unless sooner canceled, every license issued by the board shall  
2 expire at midnight of the thirtieth day of June of the fiscal year for  
3 which it was issued. However, if the board deems it feasible and  
4 desirable to do so, it may establish, by rule pursuant to chapter 34.05  
5 RCW, a system for staggering the annual renewal dates for any and all  
6 licenses authorized by this chapter. If such a system of staggered  
7 annual renewal dates is established by the board, the license fees  
8 provided by this chapter shall be appropriately prorated during the  
9 first year that the system is in effect.

10 (6) Every license issued under this section shall be subject to all  
11 conditions and restrictions imposed by this title or by rules adopted  
12 by the board. All conditions and restrictions imposed by the board in  
13 the issuance of an individual license shall be listed on the face of  
14 the individual license along with the trade name, address, and  
15 expiration date.

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

18 (8)(a) Unless (b) of this subsection applies, before the board  
19 issues a new or renewal license to an applicant it shall give notice of  
20 such application to the chief executive officer of the incorporated  
21 city or town, if the application is for a license within an  
22 incorporated city or town, or to the county legislative authority, if  
23 the application is for a license outside the boundaries of incorporated  
24 cities or towns.

25 (b) If the application for a special occasion license is for an  
26 event held during a county, district, or area fair as defined by RCW  
27 15.76.120, and the county, district, or area fair is located on  
28 property owned by the county but located within an incorporated city or  
29 town, the county legislative authority shall be the entity notified by  
30 the board under (a) of this subsection. The board shall send a  
31 duplicate notice to the incorporated city or town within which the fair  
32 is located.

33 (c) The incorporated city or town through the official or employee  
34 selected by it, or the county legislative authority or the official or  
35 employee selected by it, shall have the right to file with the board  
36 within twenty days after the date of transmittal of such notice for  
37 applications, or at least thirty days prior to the expiration date for

1 renewals, written objections against the applicant or against the  
2 premises for which the new or renewal license is asked. The board may  
3 extend the time period for submitting written objections.

4 (d) The written objections shall include a statement of all facts  
5 upon which such objections are based, and in case written objections  
6 are filed, the city or town or county legislative authority may request  
7 and the liquor control board may in its discretion hold a hearing  
8 subject to the applicable provisions of Title 34 RCW. If the board  
9 makes an initial decision to deny a license or renewal based on the  
10 written objections of an incorporated city or town or county  
11 legislative authority, the applicant may request a hearing subject to  
12 the applicable provisions of Title 34 RCW. If such a hearing is held  
13 at the request of the applicant, liquor control board representatives  
14 shall present and defend the board's initial decision to deny a license  
15 or renewal.

16 (e) Upon the granting of a license under this title the board shall  
17 send written notification to the chief executive officer of the  
18 incorporated city or town in which the license is granted, or to the  
19 county legislative authority if the license is granted outside the  
20 boundaries of incorporated cities or towns. When the license is for a  
21 special occasion license for an event held during a county, district,  
22 or area fair as defined by RCW 15.76.120, and the county, district, or  
23 area fair is located on county-owned property but located within an  
24 incorporated city or town, the written notification shall be sent to  
25 both the incorporated city or town and the county legislative  
26 authority.

27 (9)(a) Before the board issues any license to any applicant, it  
28 shall give (i) due consideration to the location of the business to be  
29 conducted under such license with respect to the proximity of churches,  
30 schools, and public institutions and (ii) written notice, with receipt  
31 verification, of the application to public institutions identified by  
32 the board as appropriate to receive such notice, churches, and schools  
33 within five hundred feet of the premises to be licensed. The board  
34 shall not issue a liquor license for either on-premises or off-premises  
35 consumption covering any premises not now licensed, if such premises  
36 are within five hundred feet of the premises of any tax-supported  
37 public elementary or secondary school measured along the most direct  
38 route over or across established public walks, streets, or other public

1 passageway from the (~~main entrance~~) outer property line of (~~the~~)  
2 school grounds to the nearest public entrance of the premises proposed  
3 for license, and if, after receipt by the school of the notice as  
4 provided in this subsection, the board receives written objection,  
5 within twenty days after receiving such notice, from an official  
6 representative or representatives of the school within five hundred  
7 feet of said proposed licensed premises, indicating to the board that  
8 there is an objection to the issuance of such license because of  
9 proximity to a school. The board may extend the time period for  
10 submitting objections. For the purpose of this section, "church" means  
11 a building erected for and used exclusively for religious worship and  
12 schooling or other activity in connection therewith. For the purpose  
13 of this section, "public institution" means institutions of higher  
14 education, parks, community centers, libraries, and transit centers.

15 (b) No liquor license may be issued or reissued by the board to any  
16 motor sports facility or licensee operating within the motor sports  
17 facility unless the motor sports facility enforces a program reasonably  
18 calculated to prevent alcohol or alcoholic beverages not purchased  
19 within the facility from entering the facility and such program is  
20 approved by local law enforcement agencies.

21 (c) It is the intent under this subsection (9) that a retail  
22 license shall not be issued by the board where doing so would, in the  
23 judgment of the board, adversely affect a private school meeting the  
24 requirements for private schools under Title 28A RCW, which school is  
25 within five hundred feet of the proposed licensee. The board shall  
26 fully consider and give substantial weight to objections filed by  
27 private schools. If a license is issued despite the proximity of a  
28 private school, the board shall state in a letter addressed to the  
29 private school the board's reasons for issuing the license.

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

37 (11)(a) Nothing in this section prohibits the board, in its  
38 discretion, from issuing a temporary retail or distributor license to

1 an applicant to operate the retail or distributor premises during the  
2 period the application for the license is pending. The board may  
3 establish a fee for a temporary license by rule.

4 (b) A temporary license issued by the board under this section  
5 shall be for a period not to exceed sixty days. A temporary license  
6 may be extended at the discretion of the board for additional periods  
7 of sixty days upon payment of an additional fee and upon compliance  
8 with all conditions required in this section.

9 (c) Refusal by the board to issue or extend a temporary license  
10 shall not entitle the applicant to request a hearing. A temporary  
11 license may be canceled or suspended summarily at any time if the board  
12 determines that good cause for cancellation or suspension exists. RCW  
13 66.08.130 applies to temporary licenses.

14 (d) Application for a temporary license shall be on such form as  
15 the board shall prescribe. If an application for a temporary license  
16 is withdrawn before issuance or is refused by the board, the fee which  
17 accompanied such application shall be refunded in full.

18 (12) In determining whether to grant or deny a license or renewal  
19 of any license, the board shall give substantial weight to objections  
20 from an incorporated city or town or county legislative authority based  
21 upon chronic illegal activity associated with the applicant's  
22 operations of the premises proposed to be licensed or the applicant's  
23 operation of any other licensed premises, or the conduct of the  
24 applicant's patrons inside or outside the licensed premises. "Chronic  
25 illegal activity" means (a) a pervasive pattern of activity that  
26 threatens the public health, safety, and welfare of the city, town, or  
27 county including, but not limited to, open container violations,  
28 assaults, disturbances, disorderly conduct, or other criminal law  
29 violations, or as documented in crime statistics, police reports,  
30 emergency medical response data, calls for service, field data, or  
31 similar records of a law enforcement agency for the city, town, county,  
32 or any other municipal corporation or any state agency; or (b) an  
33 unreasonably high number of citations for violations of RCW 46.61.502  
34 associated with the applicant's or licensee's operation of any licensed  
35 premises as indicated by the reported statements given to law  
36 enforcement upon arrest.

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