

FINAL BILL REPORT

ESHB 2155

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Synopsis as Enacted

Brief Description: Preventing theft of alcoholic spirits from licensed retailers.

Sponsors: House Committee on Government Accountability & Oversight (originally sponsored by Representatives Dahlquist, Hurst, S. Hunt, Morrell and Moscoso).

House Committee on Government Accountability & Oversight
Senate Committee on Commerce & Labor

Background:

Marketing of Spirits Prior to the Passage of Initiative 1183.

Initiative Measure 1183 (I-1183), passed by the voters in November 2011, transferred the responsibility for distribution and sale of spirits (i.e., hard liquor) to the private sector. Prior to the passage and implementation of I-1183, the distribution and sale of spirits was handled exclusively by the state through a network of small stores that were either state owned or created by contracts with private sector store owners. As of November 2011, there were a total of 330 state and contract liquor stores licensed in Washington state.

Marketing of Spirits Following the Passage of Initiative 1183.

The passage of I-1183 resulted in significant changes to both the liquor industry itself and the marketing of spirits to the public. The number and physical size of licensed spirits retailers increased, as did the total volume of spirits being offered for sale to, and purchased by, the public. While spirits were previously sold through a relatively small number of local retail shops, the passage of the initiative created a spirits market that includes large numbers of retail stores with square footage of at least 10,000 square feet of fully enclosed space. Since the implementation of I-1183 in 2012, the LCB has licensed 1,150 of these large retail spirits stores, as well as 264 smaller stores that were formally state-owned or licensed under contract. Accordingly, whereas in 2011 this state had a total of approximately 330 spirits retailers operating as small businesses, it now has a total of approximately 1,414 licensed spirits retailers that are predominantly large businesses, primarily grocery stores.

Summary:

The LCB and law enforcement agencies are authorized to regulate spirits retail licensees (licensees) for the purpose of reducing the theft of spirits from the premises of such licensees.

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.

A law enforcement agency (agency) may make initial contact and consult with a licensee if the agency obtains information indicating that the licensee is experiencing an unacceptable rate of spirits theft. If the agency voluntarily opts to initiate and participate in this investigative and consultative process, the agency must complete the process before it notifies the LCB of the alleged theft problem. The LCB may not become involved in the investigative process until such time as the agency has had an opportunity to consult with the licensee and endeavor to resolve the theft issue.

"Unacceptable rate of spirits theft" is defined as two or more thefts of spirits from a licensee within a six-month period and that result in a minor unlawfully using or gaining possession of spirits, or that involves, or results in, adults unlawfully providing spirits to minors, and where such thefts result in an incident report being generated by a law enforcement agency.

The LCB may impose one or more of the following remedial requirements upon licensees who are experiencing unacceptable rates of spirits theft:

- participation in consultations with the LCB and the pertinent law enforcement agencies;
- implementation of recordkeeping systems designed to reveal and track spirits theft issues;
- structural modification or relocation of areas where spirits are displayed or stored;
- installation of adequate store security systems; and
- employment of sufficient numbers of trained staff to adequately monitor theft-prone areas.

The LCB may not impose these theft reduction measures upon a licensee unless the following procedural requirements are met:

1. Following a complaint by a law enforcement agency to the LCB that a licensee is experiencing an unacceptable rate of spirits theft, the LCB must notify the licensee of the alleged theft problem.
2. The LCB may demand that the licensee participate in a theft reduction consultation process involving the licensee, the LCB, and the pertinent law enforcement agency.
3. During the consultation process, the LCB or the law enforcement agency must provide the licensee with any evidence or information pertinent to the theft allegations being made by the law enforcement agency.
4. The consultation process must provide the licensee with a reasonable opportunity to respond to the theft allegations and to present evidence.
5. If, at the conclusion of the consultation process, the LCB finds that the licensee has an unacceptably high rate of spirits theft, then the LCB may implement a "remedial action plan" outlining the remedial measures that must be taken by the licensee.
6. In designing the remedial action plan, the LCB must strive to obtain the voluntary agreement of the licensee regarding the elements of the plan. However, if the licensee is uncooperative, the LCB is authorized to develop and enforce the plan.
7. Following the implementation of the plan, the LCB must schedule one or more follow-up consultations with the licensee in order to monitor the licensee's performance. After the follow-up consultations, the LCB may revise the plan as necessary.

8. If the LCB finds the licensee to be non-compliant with the plan, it may either demand that the licensee take additional remedial action or, if the LCB finds the licensee's noncompliance to be willful, it may suspend the licensee's retail spirits license.
9. Consistent noncompliance with the remedial action plan for a period of a least nine months can result in the either license suspension or revocation.

The LCB may adopt rules necessary to implement and enforce the provisions of the act.

Votes on Final Passage:

House	93	4
Senate	49	0

Effective: June 12, 2014