

SENATE BILL REPORT

SB 6392

As Reported by Senate Committee On:
Labor & Commerce, February 4, 2020

Title: An act relating to the creation of a local wine industry association license.

Brief Description: Creating a local wine industry association license.

Sponsors: Senators Van De Wege, King, Walsh, Warnick, Rolfes, Honeyford and Wilson, C.

Brief History:

Committee Activity: Labor & Commerce: 2/03/20, 2/04/20 [DPS-WM].

Brief Summary of First Substitute Bill

- Establishes the local wine industry association license, authorizing certain entities to receive purchased or donated wine from domestic winery licensees and certificate of approval holders that may be used for promotional or marketing purposes.
- Includes nonprofit societies or certain organizations that promote Washington's wine industry as entities eligible to receive the local wine industry association license.
- Exempts domestic wineries participating in a licensee's event or marketing program from the "money or moneys' worth" prohibition in the three-tier system.
- Requires the licensee to provide the Liquor and Cannabis Board with 45 days advance notice of the events and limits the licensee to no more than 12 events per year.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 6392 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Braun, Saldaña, Schoesler, Stanford, Walsh and Wellman.

Staff: Richard Rodger (786-7461)

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.

Background: Domestic Winery License. A domestic winery license issued by the Liquor and Cannabis Board (LCB) authorizes the manufacture of wine in the state. A domestic winery may also act as a distributor and retailer of wine of its own production, and take orders and accept payment for wines of its own production during an event held by a nonprofit holding a special occasion license.

Special Occasion Licenses. A not-for-profit society or organization that obtains a special occasion liquor license may sell spirits, beer, and wine by the individual glass to be consumed on the premises. The special occasion license permits the licensee to serve liquor at a specified event, on a specified date and place. The fee for this license is \$60 per day, and the organization is limited to sales on no more than 12 single-day events per year. Once per year, certain agricultural fairs may count a multiple-day fair as one event.

Under a special occasion license, a "society or organization" means a not-for-profit group organized and operated solely for charitable, religious, social, political, educational, civic, fraternal, athletic, or benevolent purposes; or as a local wine industry association if it is registered under the Internal Revenue Code.

Three-Tier System Prohibition. The legal framework regulating liquor manufacturing, distribution, and sales is a separation between the three-tiers of the liquor industry manufacturing, distributing, and retailing. Liquor licensees in the manufacturing and distributing tiers of the industry, and their authorized representatives, are defined as "industry members" for certain purposes in liquor statutes.

There are two primary prohibitions that provide the separation between the tiers of the industry. First, generally liquor licensees in the manufacturing and distributing tiers are prohibited from having financial interests in a business within the retail tier of the industry, and vice versa. Second, industry members are prohibited from providing "money or moneys' worth," under any type of business practice or arrangement, to a business in the retail tier of the industry. Retailers are similarly prohibited from receiving money or moneys' worth from industry members.

Summary of Bill (First Substitute): The local wine industry association license is established. The license may be issued to a nonprofit society or an organization created with the express purpose of educating consumers on, or promoting the economic development of, the Washington wine industry. The annual fee for the local wine industry association license is \$700.

A local wine industry association licensee (licensee) may purchase or receive donations of wine from domestic winery licensees or certificate of approval holders, and the wine may be used for promotional or marketing purposes. Events or marketing programs conducted by licensees may be held on domestic winery premises, or offsite locations, as long as the domestic winery and the licensee each separately account for the sales of its wine. While participating in an event or marketing program conducted by licensees, domestic wineries are not subject to the money or moneys' worth prohibition under the three-tier system requirements.

The licensees must notify the local LCB enforcement officers at least 45 days prior to any event or marketing program. Licensees are limited to no more than 12 events per year. Licensees are not prohibited from accessing a special occasion license or a special permit. Wine furnished to a nonprofit society under this section is subject to the taxes on sales of wine.

All licensees participating in an event or program are jointly responsible for any violation or enforcement issues, unless it can be shown that the violation was due to one or more licensee's specific conduct or action.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute): Wine may also be purchased or donated by a certificate of approval holders. Events or marketing programs may also be held on the premises of a winery's additional off-site locations. Allows any participating winery to be exempt from the three-tier provisions while participating at an event or in marketing program. The licensee must give the LCB at least 45 days' notice prior an event or program and is limited to no more than 12 events per year. Provides accountability for violations that may occur at an event or program.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: There are about 12 local wine industry associations in the state that help coordinate local activities and events for their member wineries. The bill will assist the associations in marketing their regions and streamlining their events. Currently the associations must obtain a special occasion license for each winery that is participating in a local event. That license costs \$60 per event, per day, for each participating winery, with a total cost of permits exceeding \$2,400 for a wine and chocolate weekend event. The LCB is supportive of the proposed license, but would like a few revisions, including: 45 days advance notice; a limit of 12 events per year; and an accountability provision specifying which entities are responsible if there are any violations occurring at the event or in the marketing program.

Persons Testifying: PRO: Senator Kevin Van De Wege, Prime Sponsor; Chris Thompson, Liquor and Cannabis Board; Josh McDonald, Washington Wine Institute; Amy Harksell, Olympia Peninsula Winery Association.

Persons Signed In To Testify But Not Testifying: No one.