

HOUSE BILL REPORT

HB 1039

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to allowing sales of growlers of wine.

Brief Description: Allowing sales of growlers of wine.

Sponsors: Representatives Wylie, Condotta, Johnson, Haler and Fey.

Brief History:

Committee Activity:

Commerce & Gaming: 1/12/17, 2/2/17 [DPS].

Brief Summary of Substitute Bill

- Authorizes a beer and/or wine specialty shop and a spirits, beer, and wine restaurant licensee to sell growlers of wine, provided it has a license endorsement to sell growlers of beer and/or cider.
- Requires that a growler may only be filled with one variety of wine from a single wine producer and may not be blended with another wine or otherwise adulterated in any way.
- Requires that the equipment used by the licensee in the filling of growlers be:
(a) maintained and sanitized in accordance with state and local health requirements; (b) located behind a counter or otherwise accessible only by the licensee, and/or be fitted with locking mechanisms that prevent use by anyone other than the licensee; and (c) owned and maintained by the licensee and cannot be provided to the licensee by a wine wholesaler and/or supplier.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Barkis, Blake, Jenkin, Kirby and Young.

Minority Report: Without recommendation. Signed by 2 members: Representatives Farrell and Ryu.

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.

Staff: Thamas Osborn (786-7129).

Background:

Certain categories of retail liquor licensees are permitted to sell beer or cider in a "growler," which is a sanitary container brought to the premises by the purchaser, or furnished by the licensee, and filled at the tap at the time of sale. Pursuant to legislation passed during the 2015 Legislative Session, any licensee authorized to sell growlers of beer is also authorized to sell growlers of cider.

Licensees authorized to sell growlers of beer and cider include: (a) grocery store licensees meeting specified conditions; (b) domestic breweries and microbreweries holding a spirits, beer, and wine restaurant license (may only sell beer of their own production); (c) a beer and wine specialty shop licensee with an endorsement to sell growlers; and (d) a spirits, beer, and wine restaurant licensee authorized to sell for off-premises consumption.

Retail sales of wine growlers are limited to domestic wineries. The wine sold by a domestic winery in a growler must be a wine of its own production and only for off-premises consumption. The growlers may be brought to the premises by the customer, or supplied by the licensee, and must be filled at the tap at the time of sale.

Summary of Substitute Bill:

The following categories of liquor licensees with an endorsement to sell beer and/or cider in a growler are authorized to sell growlers of wine:

- beer and/or wine specialty shops; and
- spirits, beer, and wine restaurant licensees.

The sale of wine growlers is subject to the following requirements and restrictions:

- The sanitary containers used for the sale of wine other than cider may not exceed a net volume of more than 1,500 milliliters.
- The barrels or other bulk containers of wine used in filling the growlers must be labeled by the wine producer with text expressly permitting the sale of such wine through the use of sanitary containers that are filled at the tap at the time of sale.
- The net volume of the barrel, keg, or other bulk container of wine used for filling the growlers is limited to a maximum net volume of 60 United States gallons.
- Only the licensee or an employee of the licensee may be involved in filling the growlers, and any licensee or employee involved in such activity must have the requisite alcohol server permit.
- Prior to the growler being filled, the licensee must visually inspect the container and may not fill any container that appears to be cracked, broken, otherwise damaged or unsafe, or that cannot be securely sealed after filling.
- A growler may only be filled with one variety of wine from a single wine producer and may not be blended with another wine or otherwise adulterated in any way.

The equipment used by the licensee in the filling of growlers must be: (a) maintained and sanitized in accordance with state and local health requirements; (b) located behind a counter or otherwise accessible only by the licensee, and/or be fitted with locking mechanisms that prevent use by anyone other than the licensee; and (c) owned and maintained by the licensee and cannot be provided to the licensee by a wine wholesaler and/or supplier.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- restricts the scope of the bill so that only eligible beer and wine specialty shops, bars, and restaurants are eligible for the wine growler endorsement;
- requires that sanitary containers used for the sale of wine other than cider may not exceed a net volume of more than 1,500 milliliters;
- requires that barrels or other bulk containers of wine be labeled by the wine producer with text expressly permitting the sale of such wine through the use of sanitary containers that are filled at the tap at the time of sale;
- limits the net volume of the barrel, keg, or other bulk container of wine used for the filling of sanitary containers at the tap to a maximum net volume of 60 United States gallons;
- requires that only the licensee or an employee of the licensee may be involved in the filling of the sanitary container, and any licensee or employee involved in such activity must have the requisite alcohol server permit;
- requires that before filling the sanitary container, the licensee must visually inspect the container and may not fill any container that appears to be cracked, broken, otherwise damaged or unsafe, or that cannot be securely sealed after filling;
- requires that the sanitary container may only be filled with one variety of wine from a single wine producer and may not be blended with another wine or otherwise adulterated in any way; and
- establishes requirements regarding the equipment used by the licensee in the filling of sanitary containers, including requirements that the equipment must be: (a) maintained and sanitized in accordance with state and local health requirements; (b) located behind a counter or otherwise accessible only by the licensee, and/or be fitted with locking mechanisms that prevent use by anyone other than the licensee; and (c) owned and maintained by the licensee and cannot be provided to the licensee by a wine wholesaler and/or supplier.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: 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 will increase the availability of wine in growlers, which will be economically beneficial to Washington wineries. It will help them sell more product and bring public attention to domestically-produced wines. Some Washington wineries only ship their product in kegs and do not use bottles, and the bill would certainly be beneficial to them. It is a very practical and cost-efficient way to sell wine. The use of growlers will also yield ecological benefits insofar as they are reusable and help eliminate wasted bottles. Wine growlers are widely sold in Oregon and Europe, and they present no health concerns. Wineries are already authorized to sell growlers and there is no practical reason to prohibit their use elsewhere. The use of growlers is consistent with applicable federal laws.

(Opposed) Passage of this bill would cause a huge expansion of the wine growler market and this poses significant problems for those wineries concerned with preserving the integrity of their product. If growlers are used instead of traditional bottles, wineries would lose control of how their products are marketed and served. Brand identity will be difficult to maintain, since the lack of labeling makes it impossible for the consumer to be sure of what wine he/she is buying. If customers reuse labelled bottles from one winery and have it refilled with wine from another winery, this could cause confusion regarding what brand of wine the bottle contains. Growlers simply don't have the type of labelling information that should be required of wine products. Wineries should be allowed to control whether or not their kegs are used for filling growlers, so wine producers should be allowed to prohibit their product from being used in the growler market. Wineries should be allowed to protect their economic interests with respect to controlling product identification and marketing.

This bill represents yet another expansion of the availability of liquor and will harm those with substance abuse issues related to alcohol. It is bad public policy to constantly increase liquor availability. Law enforcement opposes this bill.

(Other) Growlers should only be filled by trained staff with the necessary server licensing. The bill does not regulate the nature of growler containers. Federal law controls labeling and requires secure caps.

Persons Testifying: (In support) Representative Wylie, prime sponsor; Paul Beveridge and John Bell, Family Wineries of Washington State; and Jordan Rabinowe, Proletariat Wine Company.

(Opposed) Katie Jacoy, California Wine Institute; Seth Dawson, Washington Association for Substance Abuse Prevention; and Josh McDonald, Washington Wine Institute.

(Other) James Paribello, Liquor and Cannabis Board.

Persons Signed In To Testify But Not Testifying: None.