

# HOUSE BILL REPORT

## E2SHB 1351

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### As Passed Legislature

**Title:** An act relating to authorizing, under one license, the sale of spirits, beer, and wine at retail for off-premises consumption.

**Brief Description:** Authorizing, under one license, the sale of spirits, beer, and wine at retail for off-premises consumption.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Sawyer, Vick, Springer, Barkis, Blake, Fitzgibbon and Haler).

#### **Brief History:**

##### **Committee Activity:**

Commerce & Gaming: 1/31/17, 2/9/17 [DPS];

Appropriations: 2/21/17, 2/22/17 [DP2S(w/o sub COG)].

##### **Floor Activity:**

Passed House: 3/6/17, 98-0.

Passed Senate: 4/5/17, 46-2.

Passed Legislature.

#### **Brief Summary of Engrossed Second Substitute Bill**

- Creates a combination spirits, beer, and wine license ("combination license") authorizing the sale of such liquors at retail for off-premises consumption.
- Establishes that the holder of the combination license may sell spirits at retail without obtaining a separate spirits retail license.
- Establishes that a holder of the combination license is eligible for the same liquor license endorsements available to grocery stores and beer and/or wine specialty shop licensees.
- Establishes that a grocery store licensee eligible for a wine and/or beer license may be eligible for the combination license, and thus sell spirits at retail, provided it otherwise meets the requirements for the combination license.
- Establishes that a beer and/or wine specialty shop licensee may be eligible for the combination license, and thus sell spirits at retail, provided it otherwise meets the requirements for the combination license.

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*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.*

- Establishes that a former contract liquor store or holder of a former state liquor store operating rights sold at auction may be eligible for the combination license.
- Exempts former contract liquor stores and holders of former state liquor store operating rights from the 17 percent license issuance fee for a combination license.

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## HOUSE COMMITTEE ON COMMERCE & GAMING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Barkis, Blake, Farrell, Jenkin, Kirby, Ryu and Young.

**Staff:** Thamas Osborn (786-7129).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Commerce & Gaming. Signed by 33 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Buys, Caldier, Cody, Condotta, Fitzgibbon, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Manweller, Nealey, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Taylor, Tharinger, Vick, Volz and Wilcox.

**Staff:** Linda Merelle (786-7092).

### **Background:**

#### History and Overview of the Spirits Retail License System.

Initiative Measure No. 1183 (I-1183), passed by the voters in November 2011, transferred the responsibility for the distribution and retail sale of spirits from the Liquor Control Board (now the "Liquor and Cannabis Board" or "LCB") to the private sector. Following the passage of I-1183, those private businesses licensed by the LCB to sell spirits at the retail level were designated as "spirits retail licensees." Such licensees generally fall into two categories: (1) qualifying grocery stores and beer and/or wine specialty shops, and other large retail establishments encompassing at least 10,000 feet of enclosed retail space; and (2) smaller liquor stores that are either former state-owned liquor stores or former "contract liquor stores" that sold liquor on behalf of the state pursuant to contracts with the LCB prior to the passage of I-1183.

All spirits retail licensees are required to pay an annual license issuance fee to the LCB. Large spirits retail licensees, with retail space exceeding 10,000 square feet, must pay a license issuance fee equivalent to 17 percent of all spirit sales revenues. Beginning on June

30, 2013, former state liquor stores and former contract liquor stores were granted a limited exemption from the payment of the 17 percent license issuance fee for specified types of spirits sales. Specifically, such stores are exempt from payment of the 17 percent fee with respect to spirits sales to those retailers licensed to sell spirits for consumption on the premises (i.e., bars and restaurants).

#### Overview of Retail Liquor License Types.

Liquor retailers eligible for licenses authorizing the retail sale of beer and wine for off-premises consumption generally fall into one of two categories: (1) grocery stores; and (2) businesses licensed as beer and/or wine specialty shops. Either type of business may be eligible to sell spirits as well, provided it obtains a separate spirits retail license. And, except for those beer and/or wine specialty shops that were formerly operating as state-owned liquor stores or state contract liquor stores, eligibility for a spirits retail license requires that the business consist of at least 10,000 feet of enclosed retail space, subject to specified exceptions.

Currently, there is no single license that authorizes the retail sale of spirits, beer, and wine.

#### Liquor License Endorsements Available to Qualifying Grocery Stores and Beer and/or Wine Specialty Shops.

The LCB is authorized to issue to qualified applicants special liquor license endorsements allowing retail licensees to market products or engage in specified business practices that otherwise fall outside the parameters of the primary license. The types of license endorsements available to a retail licensee vary depending on the type of primary license the business holds. However, the types of license endorsements commonly available to eligible grocery stores and beer and/or wine specialty shops include those authorizing:

- wine and/or beer tasting events;
- sales of growlers of beer and/or wine; and
- sales of malt liquor in kegs or other large containers.

#### **Summary of Engrossed Second Substitute Bill:**

##### Combination Spirits, Beer, and Wine License.

The act creates a combination spirits, beer, and wine license ("combination license") authorizing the sale of such liquors at retail for off-premises consumption. In addition to other specified requirements, eligibility for the combination license requires that the liquor retailer operate out of a facility with at least 10,000 feet of enclosed retail space. The annual fee for the license is \$316.

In addition to selling beer and wine, the holder of the combination license may sell spirits at retail without obtaining a separate spirits retail license. The combination license holder is subject to regulatory parameters that are largely the same as those imposed on grocery stores and beer and/or wine specialty shops that have spirits retail licenses. The holder of the combination license is eligible for the same types of liquor license endorsements available to grocery stores and beer and/or wine specialty shop licensees.

Holders of combination licenses are required to pay to the LCB an annual license issuance fee equivalent to 17 percent of all spirit sales revenues.

Grocery Store Licensees.

A grocery store licensed for the sale of wine and/or beer is eligible to obtain the combination license, and thus sell spirits at retail without a separate spirits retail license, provided it otherwise meets the requirements for the combination license.

Beer and/or Wine Specialty Shop Licensees.

A beer and/or wine specialty shop licensee is eligible for the combination license, and thus may sell spirits at retail without a separate spirits retail license, provided it otherwise meets the requirements for the combination license.

Former State Liquor Stores and Former Contract Liquor Stores.

Former state liquor stores or contract liquor stores are eligible to receive the combination license.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony (Commerce & Gaming):**

(In support) This bill is best described as one that streamlines the licensing process with respect to retail liquor licensees. The bill creates a combination liquor license that enables qualified retailers to sell beer, wine, and spirits under a single license. Under current law, the retail sale of spirits requires a license separate from the standard beer and wine license, which is inconvenient and inefficient. This bill will save time and paperwork on the part of licensees, as well as the LCB. The bill makes no changes to the regulatory structure applicable to liquor retailers other than to simplify the licensing process in a way that benefits both the industry and the state.

(Opposed) None.

**Staff Summary of Public Testimony (Appropriations):**

(In support) Since the privatization of spirits, stores are required to get two licenses. One license, rather than two, creates an efficiency and the fees are equivalent. In 2015 a surcharge of 6.2 percent was placed on licenses to cover the cost of modernization. Hopefully, the estimated cost in the fiscal note can come from those same moneys.

(Opposed) None.

(Other) With no exception to the requirement that an eligible premises must be at least 10,000 square feet, the former state contract stores and holders of former state liquor store operating rights cannot take advantage of the consolidation available under the combination license.

**Persons Testifying** (Commerce & Gaming): Michelle Reeves, Washington Food Industry Association; Carolyn Logue, Washington Retail Association; and Holly Chisa, Northwest Grocery Association.

**Persons Testifying** (Appropriations): (In support) Amy Brackenbury, Washington Food Industry Association; and Carolyn Logue, Washington Retail Association.

(Other) Brad Tower, Washington Liquor Store Association.

**Persons Signed In To Testify But Not Testifying** (Commerce & Gaming): None.

**Persons Signed In To Testify But Not Testifying** (Appropriations): None.