

# SENATE BILL REPORT

## SB 5549

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As of February 13, 2017

**Title:** An act relating to the performance of personal services by members of the liquor industry to retailers.

**Brief Description:** Addressing the performance of personal services by members of the liquor industry to retailers.

**Sponsors:** Senators Honeyford, Hunt and King.

**Brief History:**

**Committee Activity:** Commerce, Labor & Sports: 2/13/17.

**Brief Summary of Bill**

- Provides the spirits industry with a similar exception to the tied-house laws to those for the wine and beer industries to enable spirits industry members to offer personal services.
- Adds beer and/or wine specialty shops as a type of liquor retail licensee to which beer industry members may offer personal services meeting certain requirements.
- Authorizes personal services offered by a wine, beer, or spirits industry member to be offered by an agent of the industry member.

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### SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

**Staff:** Richard Rodger (786-7461)

**Background:** Washington's tied-house laws regulate the relationship between liquor manufacturers, distributors, and retailers. In general, tied-house laws are meant to regulate how liquor is marketed and to prevent the vertical integration of the three tiers of the liquor industry. The general rule is that no industry member may advance and no retailer may receive monies or monies' worth under an agreement, or by means of any other business practice or arrangement.

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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.*

An exception to the tied-house laws allows domestic wineries and wine certificate-of-approval holders to offer personal services like pourings, bottle-signing events, and similar informational activities at the premises of certain licensed liquor retailers like restaurants, specialty wine shops, grocery stores with a tasting endorsement, special occasion events, and others. Personal services must be intended to inform, educate, or enhance customers' knowledge or experience of the wineries' products. If the personal services include sampling of wine, the sampling costs may not be borne by the winery.

Another similar exception allows domestic breweries, microbreweries, and beer certificate-of-approval holders to offer the same types of personal services to grocery store licensees with a tasting endorsement during a tasting event.

Wineries, breweries, and certificate-of-approval holders are not required to perform any personal services.

Spirits retail licensees participating in the Liquor and Cannabis Board's Responsible Vendor Program may conduct limited spirits sampling. Adult customers may receive 0.5 ounce samples of spirits, with a maximum total of 1.5 ounces of spirits, for the purposes of sale promotion. Servers who provide spirit samples must hold a Class 12 alcohol server permit.

**Summary of Bill:** The spirits industry is given an exception to the tied-house laws for personal services similar to the personal services exceptions for the wine and beer industries. The personal services may be offered from time to time by a distiller, importer, manufacturer of spirits, or spirits importer to retailers when the personal services are conducted at a licensed premises and intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products. The personal services may include participation and pouring, bottle-signing events, and other similar informational or educational activities at the premises of a grocery store with a spirits retail license and a tasting endorsement or a beer and/or wine specialty shop with a spirits retail license.

Any spirit sampling must be performed consistent with existing spirits sampling requirements. There is no obligation on spirits industry members to perform personal services. Retail licensees may not require the performance of personal services as a condition for selling any alcohol to the retail licensee, or as a condition for including any spirits product in any tasting conducted by the licensee. Generally, the costs of the sampling may not be borne by the spirits industry member.

Beer and/or wine specialty shops are added as a type of liquor retail licensee to which domestic breweries, microbreweries, and beer certificate-of-approval holders may offer personal services.

The personal services provided by a wine, beer, or spirits industry member may be provided by an agent of the industry member.

**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:** PRO: This bill just levels the playing field between the spirits, beer, and wine industries. It allows the spirits industry to provide personal services along with the educational information they currently provide to consumers tasting their products. It also allows breweries to provide their personal services to beer and wine specialty shops, as they can do for other stores. It allows for agents to perform those services too, but we are willing to remove that authority from the bill. These statutes need to be updated to reflect the current industry after the privatization of liquor was authorized. Large distillers will not push out smaller distillers and many stores may want the local distillers to be involved. This bill does not change the retailers rights, place any barriers, lessen any safety measures, or change who pays for the cost of the products being tasted. It just addresses who can pour the samples. This practice is common in Oregon, but those stores operate under a contract through the state.

CON: This bill changes who can provide free labor to assist with the pouring of samples at a store's tasting event. The large suppliers would provide "monies' worth" to these stores and their overwhelming resources would end up with these stores providing preferential treatment to them. It won't even be fair to the stores themselves, as not all retailers will have the same clout. The largest suppliers will be only focusing on the largest retailer, leaving the smaller producers and retailers out. Distillers can already provide educational information and do bottle signings, but the small distilling businesses do not have the marketing departments or budgets to help provide this labor. The large distillers will just hire third parties to do these pour their products. The bill widens the divide between large and small distillers. The large retailers will dominate this market and close down the market to smaller suppliers.

**Persons Testifying:** PRO: Senator Jim Honeyford, Prime Sponsor; Carolyn Logue, Washington Retail Association; Diana Carlen, Total Wine & More; Holly Chisa, NW Grocery Assn.; Charlie Brown, Fred Meyer and Diageo.

CON: Scott Hazlegrove, WA Beer & Wine Distributors Association; Jim Hedrick, Washington Distillers Guild.

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