
SUBSTITUTE SENATE BILL 5417

State of Washington

67th Legislature

2021 Regular Session

By Senate Labor, Commerce & Tribal Affairs (originally sponsored by Senators King, Conway, Nguyen, Randall, and Wilson, C.; by request of Liquor and Cannabis Board)

READ FIRST TIME 02/12/21.

1 AN ACT Relating to extending certain privileges granted to liquor
2 licensees to mitigate the impact of the coronavirus pandemic;
3 amending RCW 66.24.175, 66.24.630, and 82.08.150; adding a new
4 section to chapter 66.08 RCW; creating new sections; making an
5 appropriation; providing expiration dates; and declaring an
6 emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The COVID-19 pandemic that arrived in
9 Washington in 2020 led to historic economic disruptions and
10 devastating health impacts in the state. In an effort to assist
11 businesses and employees whose assets and livelihoods have been
12 impacted by the strategies used to protect the public's health, the
13 legislature finds that steps must be taken in the public interest to
14 support the most severely impacted industries. The hospitality
15 industry has suffered some of the most devastating impacts of any
16 sector of the state's economy. The legislature finds that assisting
17 this sector of the state's economy to survive and recover from the
18 effects of the pandemic and the steps taken to combat its spread are
19 an urgent priority that is in the best interests of the state and its
20 residents. The legislature intends that these revisions at the same
21 time continue to promote regulation of an orderly market for liquor

1 sales while maintaining protection of public health and efficient
2 collection of taxes and fees.

3 NEW SECTION. **Sec. 2.** (1) The board must implement the
4 provisions of this section as expeditiously as possible. Liquor
5 licensees may conduct activities authorized under this section before
6 completion by the board of actions the board plans to take in order
7 to implement this act, such as adoption of rules or completion of
8 information system changes necessary to allow licensees to apply for
9 required endorsements. However, licensees must comply with board
10 rules when they take effect.

11 (2) The following licensees may sell alcohol products at retail
12 for curbside and takeout service or delivery or both under liquor and
13 cannabis board licenses and endorsements: Beer and wine restaurants;
14 spirits, beer, and wine restaurants; taverns; domestic wineries;
15 domestic breweries and microbreweries; distilleries; snack bars;
16 nonprofit arts licensees; and caterers.

17 (3) Spirits, beer, and wine restaurant licensees may sell
18 premixed cocktails and cocktail kits for takeout or curbside service
19 and for delivery. The board may establish by rule the manner in which
20 cocktails for off-premises consumption must be provided. This
21 subsection does not authorize sale of full bottles of spirits by
22 licensees for off-premises consumption, with the exception of mini-
23 bottles as part of cocktail kits. Mini-bottle sales authorized under
24 this subsection as part of cocktail kits are exempt from the spirits
25 license issuance fee under RCW 66.24.630(4)(a) and the tax on each
26 retail sale of spirits under RCW 82.08.150.

27 (4) Spirits, beer, and wine restaurant licensees may sell wine by
28 the glass or premixed wine and spirits cocktails for takeout or
29 curbside service and delivery. Beer and wine restaurant licensees may
30 sell wine or premixed wine drinks by the glass for takeout or
31 curbside service and for delivery. The board may establish by rule
32 the manner in which wine by the glass for off-premises consumption
33 must be provided.

34 (5) Licensees that were authorized by statute or rule before
35 January 1, 2020, to sell growlers for on-premises consumption may
36 sell growlers for off-premises consumption through curbside, takeout,
37 or delivery service. Sale of growlers under this subsection must meet
38 federal alcohol and tobacco tax and trade bureau requirements.

1 (6) Licensees must obtain from the board an endorsement to their
2 license in order to conduct activities authorized under subsections
3 (2) through (5) of this section. The board may adopt rules governing
4 the manner in which the activities authorized under this section must
5 be conducted. Licensees must not be charged a fee in order to obtain
6 an endorsement required under this section.

7 (7) Beer and wine specialty shops licensed under RCW 66.24.371
8 and domestic breweries and microbreweries may sell prefilled growlers
9 for off-premises consumption through takeout or curbside service and
10 delivery, provided that prefilled growlers are sold the same day they
11 are prepared for sale and not stored overnight for sale on future
12 days.

13 (8) The board must adopt or revise current rules to allow for
14 outdoor service of alcohol by on-premises licensees holding licenses
15 issued by the board for the following license types: Beer and wine
16 restaurants; spirits, beer, and wine restaurants; taverns; domestic
17 wineries; domestic breweries and microbreweries; distilleries; snack
18 bars; and private clubs licensed under RCW 66.24.450 and 66.24.452.
19 The board may adopt requirements providing for clear accountability
20 at locations where multiple licensees use a shared space for serving
21 customers.

22 (9) The definitions in this subsection apply throughout this
23 section unless the context clearly requires otherwise.

24 (a) "Board" means the liquor and cannabis board.

25 (b) "Growlers" means sanitary containers brought to the premises
26 by the purchaser or furnished by the licensee and filled by the
27 retailer at the time of sale.

28 (c) "Mini-bottles" means original factory-sealed containers
29 holding not more than 50 milliliters of a spirituous beverage.

30 (10) This section expires July 1, 2023.

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 66.08
32 RCW to read as follows:

33 (1) The board must adopt rules authorizing licensees with a
34 delivery endorsement to photograph or scan customer identification in
35 lieu of obtaining a physical signature to document liquor product
36 delivery and verify the age of customers.

37 (2) The board must consider revising current rules in order to
38 provide greater flexibility regarding food service menu requirements
39 that businesses holding a license issued by the board under Title 66

1 RCW must provide in conjunction with alcohol sales. This subsection
2 does not apply to licensees that were not required to provide food
3 service under rules in effect on January 1, 2020. The purpose of this
4 subsection is to ease food menu requirements to make it more feasible
5 financially for licensees to comply with the board's food service
6 requirements but not replace food safety requirements in rule adopted
7 by the department of health in chapter 246-215 WAC.

8 **Sec. 4.** RCW 66.24.175 and 2014 c 105 s 2 are each amended to
9 read as follows:

10 (1) A qualifying farmers market authorized to allow wineries to
11 sell bottled wine at retail under RCW 66.24.170 or microbreweries to
12 sell bottled beer at retail under RCW 66.24.244, or both, may apply
13 to the (~~(liquor control)~~) board for an endorsement to allow sampling
14 of wine or beer or both. A winery or microbrewery offering samples
15 under this section must have an endorsement from the board to sell
16 wine or beer, as the case may be, of its own production at a
17 qualifying farmers market under RCW 66.24.170 or 66.24.244,
18 respectively.

19 (2) Samples may be offered only under the following conditions:

20 (a) No more than three wineries or microbreweries combined may
21 offer samples at a qualifying farmers market per day.

22 (b) Samples must be two ounces or less. A winery or microbrewery
23 may provide a maximum of two ounces of wine or beer to a customer per
24 day.

25 (c) A winery or microbrewery may advertise that it offers samples
26 only at its designated booth, stall, or other designated location at
27 the farmers market.

28 (d) Customers must remain at the designated booth, stall, or
29 other designated location while sampling beer or wine.

30 (e) Winery and microbrewery licensees and employees who are
31 involved in sampling activities under this section must hold a class
32 12 or class 13 alcohol server permit.

33 (~~((f) A winery or microbrewery must have food available for
34 customers to consume while sampling beer or wine, or must be adjacent
35 to a vendor offering prepared food.))~~)

36 (3) The board may establish additional requirements to ensure
37 that persons under twenty-one years of age and apparently intoxicated
38 persons may not possess or consume alcohol under the authority
39 granted in this section.

1 (4) The board may prohibit sampling at a farmers market that is
2 within the boundaries of an alcohol impact area recognized by
3 resolution of the board if the board finds that the sampling
4 activities at the farmers market have an adverse effect on the
5 reduction of chronic public inebriation in the area.

6 (5) If a winery or microbrewery is found to have committed a
7 public safety violation in conjunction with tasting activities, the
8 board may suspend the licensee's farmers market endorsement and not
9 reissue the endorsement for up to two years from the date of the
10 violation. If mitigating circumstances exist, the board may offer a
11 monetary penalty in lieu of suspension during a settlement
12 conference.

13 (6) For the purposes of this section, a "qualifying farmers
14 market" has the same meaning as defined in RCW 66.24.170.

15 NEW SECTION. **Sec. 5.** (1) The liquor and cannabis board must
16 contract with an independent entity to conduct a study of the impacts
17 of privileges granted by this act to businesses licensed by the board
18 under Title 66 RCW. The study must examine relevant issues including,
19 but not limited to, the following:

20 (a) Quantitative measures of impact such as liquor sales data,
21 licensee locations, enforcement activity, hospital and other health
22 provider visits for alcohol-related causes, underage drinking,
23 alcohol dependence treatment, alcohol-related traffic violations, and
24 motor vehicle crash deaths or injuries;

25 (b) Qualitative investigation of relevant impacts using methods
26 such as key informant interviews and supplemental data collection
27 with licensees, law enforcement, behavioral health service providers,
28 youth prevention and intervention specialists, and revenue
29 stakeholders; and

30 (c) Additional issues deemed relevant to the goals and results of
31 this act.

32 (2) The study authorized by this section must be started by
33 January 1, 2022. A report with findings and any recommendations must
34 be provided to the legislature and the governor by December 1, 2022.

35 (3) This section expires July 1, 2023.

36 NEW SECTION. **Sec. 6.** The sum of \$150,000, or as much thereof as
37 may be necessary, is appropriated for the fiscal biennium ending June

1 30, 2023, from the liquor revolving fund to the liquor and cannabis
2 board for the purposes of section 5 of this act.

3 **Sec. 7.** RCW 66.24.630 and 2020 c 238 s 9 are each amended to
4 read as follows:

5 (1) There is a spirits retail license to: Sell spirits in
6 original containers to consumers for consumption off the licensed
7 premises and to permit holders; sell spirits in original containers
8 to retailers licensed to sell spirits for consumption on the
9 premises, for resale at their licensed premises according to the
10 terms of their licenses, although no single sale may exceed twenty-
11 four liters, unless the sale is by a licensee that was a contract
12 liquor store manager of a contract liquor store at the location of
13 its spirits retail licensed premises from which it makes such sales;
14 and export spirits.

15 (2) For the purposes of this title, a spirits retail license is a
16 retail license, and a sale by a spirits retailer is a retail sale
17 only if not for resale. Nothing in this title authorizes sales by on-
18 sale licensees to other retail licensees. The board must establish by
19 rule an obligation of on-sale spirits retailers to:

20 (a) Maintain a schedule by stock-keeping unit of all their
21 purchases of spirits from spirits retail licensees, including
22 combination spirits, beer, and wine licensees holding a license
23 issued pursuant to RCW 66.24.035, indicating the identity of the
24 seller and the quantities purchased; and

25 (b) Provide, not more frequently than quarterly, a report for
26 each scheduled item containing the identity of the purchasing on-
27 premises licensee and the quantities of that scheduled item purchased
28 since any preceding report to:

29 (i) A distributor authorized by the distiller to distribute a
30 scheduled item in the on-sale licensee's geographic area; or

31 (ii) A distiller acting as distributor of the scheduled item in
32 the area.

33 (3)(a) Except as otherwise provided in (c) of this subsection,
34 the board may issue spirits retail licenses only for premises
35 comprising at least ten thousand square feet of fully enclosed retail
36 space within a single structure, including storerooms and other
37 interior auxiliary areas but excluding covered or fenced exterior
38 areas, whether or not attached to the structure, and only to
39 applicants that the board determines will maintain systems for

1 inventory management, employee training, employee supervision, and
2 physical security of the product substantially as effective as those
3 of stores currently operated by the board with respect to preventing
4 sales to or pilferage by underage or inebriated persons.

5 (b) License issuances and renewals are subject to RCW 66.24.010
6 and the regulations adopted thereunder, including without limitation
7 rights of cities, towns, county legislative authorities, the public,
8 churches, schools, and public institutions to object to or prevent
9 issuance of local liquor licenses. However, existing grocery premises
10 licensed to sell beer and/or wine are deemed to be premises "now
11 licensed" under RCW 66.24.010(9)(a) for the purpose of processing
12 applications for spirits retail licenses.

13 (c) The board may not deny a spirits retail license to an
14 otherwise qualified contract liquor store at its contract location or
15 to the holder of former state liquor store operating rights sold at
16 auction under RCW 66.24.620 on the grounds of location, nature, or
17 size of the premises to be licensed. The board may not deny a spirits
18 retail license to applicants that are not contract liquor stores or
19 operating rights holders on the grounds of the size of the premises
20 to be licensed, if such applicant is otherwise qualified and the
21 board determines that:

22 (i) There is no spirits retail license holder in the trade area
23 that the applicant proposes to serve;

24 (ii) The applicant meets, or upon licensure will meet, the
25 operational requirements established by the board by rule; and

26 (iii) The licensee has not committed more than one public safety
27 violation within the three years preceding application.

28 (d) A retailer authorized to sell spirits for consumption on or
29 off the licensed premises may accept delivery of spirits at its
30 licensed premises, at another licensed premises as designated by the
31 retailer, or at one or more warehouse facilities registered with the
32 board, which facilities may also warehouse and distribute nonliquor
33 items, and from which the retailer may deliver to its own licensed
34 premises and, pursuant to sales permitted under subsection (1) of
35 this section:

36 (i) To other retailer premises licensed to sell spirits for
37 consumption on the licensed premises;

38 (ii) To other registered facilities; or

39 (iii) To lawful purchasers outside the state. The facilities may
40 be registered and utilized by associations, cooperatives, or

1 comparable groups of retailers, including at least one retailer
2 licensed to sell spirits.

3 (e) For purposes of negotiating volume discounts, a group of
4 individual retailers authorized to sell spirits for consumption off
5 the licensed premises may accept delivery of spirits at their
6 individual licensed premises or at any one of the individual
7 licensee's premises, or at a warehouse facility registered with the
8 board.

9 (4) (a) Except as otherwise provided in RCW 66.24.632, section 2
10 of this act, or in (b) of this subsection, each spirits retail
11 licensee must pay to the board, for deposit into the liquor revolving
12 fund, a license issuance fee equivalent to seventeen percent of all
13 spirits sales revenues under the license, exclusive of taxes
14 collected by the licensee and of sales of items on which a license
15 fee payable under this section has otherwise been incurred. The board
16 must establish rules setting forth the timing of such payments and
17 reporting of sales dollar volume by the licensee, with payments
18 required quarterly in arrears. The first payment is due October 1,
19 2012.

20 (b) This subsection (4) does not apply to craft distilleries for
21 sales of spirits of the craft distillery's own production.

22 (5) In addition to the payment required under subsection (4) of
23 this section, each licensee must pay an annual license renewal fee of
24 one hundred sixty-six dollars. The board must periodically review and
25 adjust the renewal fee as may be required to maintain it as
26 comparable to annual license renewal fees for licenses to sell beer
27 and wine not for consumption on the licensed premises. If required by
28 law at the time, any increase of the annual renewal fee becomes
29 effective only upon ratification by the legislature.

30 (6) As a condition to receiving and renewing a spirits retail
31 license the licensee must provide training as prescribed by the board
32 by rule for individuals who sell spirits or who manage others who
33 sell spirits regarding compliance with laws and regulations regarding
34 sale of spirits, including without limitation the prohibitions
35 against sale of spirits to individuals who are underage or visibly
36 intoxicated. The training must be provided before the individual
37 first engages in the sale of spirits and must be renewed at least
38 every five years. The licensee must maintain records documenting the
39 nature and frequency of the training provided. An employee training

1 program is presumptively sufficient if it incorporates a "responsible
2 vendor program" adopted by the board.

3 (7) The maximum penalties prescribed by the board in WAC
4 314-29-020 through 314-29-040 relating to fines and suspensions are
5 doubled for violations relating to the sale of spirits by spirits
6 retail licensees.

7 (8)(a) The board must adopt regulations concerning the adoption
8 and administration of a compliance training program for spirits
9 retail licensees, to be known as a "responsible vendor program," to
10 reduce underage drinking, encourage licensees to adopt specific best
11 practices to prevent sales to minors, and provide licensees with an
12 incentive to give their employees ongoing training in responsible
13 alcohol sales and service.

14 (b) Licensees who join the responsible vendor program under this
15 section and maintain all of the program's requirements are not
16 subject to the doubling of penalties provided in this section for a
17 single violation in any period of twelve calendar months.

18 (c) The responsible vendor program must be free, voluntary, and
19 self-monitoring.

20 (d) To participate in the responsible vendor program, licensees
21 must submit an application form to the board. If the application
22 establishes that the licensee meets the qualifications to join the
23 program, the board must send the licensee a membership certificate.

24 (e) A licensee participating in the responsible vendor program
25 must at a minimum:

26 (i) Provide ongoing training to employees;

27 (ii) Accept only certain forms of identification for alcohol
28 sales;

29 (iii) Adopt policies on alcohol sales and checking
30 identification;

31 (iv) Post specific signs in the business; and

32 (v) Keep records verifying compliance with the program's
33 requirements.

34 (f)(i) A spirits retail licensee that also holds a grocery store
35 license under RCW 66.24.360 or a beer and/or wine specialty shop
36 license under RCW 66.24.371 may, upon board approval and pursuant to
37 board rules, transition to a combination spirits, beer, and wine
38 license pursuant to RCW 66.24.035.

39 (ii) An applicant that would qualify for a spirits retail license
40 under this section and that qualifies for a combination spirits,

1 beer, and wine license pursuant to RCW 66.24.035 may apply for a
2 license pursuant to RCW 66.24.035 instead of applying for a spirits
3 retail license under this section.

4 **Sec. 8.** RCW 82.08.150 and 2012 c 2 s 106 are each amended to
5 read as follows:

6 (1) There is levied and collected a tax upon each retail sale of
7 spirits in the original package at the rate of fifteen percent of the
8 selling price.

9 (2) There is levied and collected a tax upon each sale of spirits
10 in the original package at the rate of ten percent of the selling
11 price on sales by a spirits distributor licensee or other licensee
12 acting as a spirits distributor pursuant to Title 66 RCW to
13 restaurant spirits retailers.

14 (3) There is levied and collected an additional tax upon each
15 sale of spirits in the original package by a spirits distributor
16 licensee or other licensee acting as a spirits distributor pursuant
17 to Title 66 RCW to a restaurant spirits retailer and upon each retail
18 sale of spirits in the original package by a licensee of the board at
19 the rate of one dollar and seventy-two cents per liter.

20 (4) An additional tax is imposed equal to fourteen percent
21 multiplied by the taxes payable under subsections (1), (2), and (3)
22 of this section.

23 (5) An additional tax is imposed upon each sale of spirits in the
24 original package by a spirits distributor licensee or other licensee
25 acting as a spirits distributor pursuant to Title 66 RCW to a
26 restaurant spirits retailer and upon each retail sale of spirits in
27 the original package by a licensee of the board at the rate of seven
28 cents per liter. All revenues collected during any month from this
29 additional tax must be deposited in the state general fund by the
30 twenty-fifth day of the following month.

31 (6)(a) An additional tax is imposed upon retail sale of spirits
32 in the original package at the rate of three and four-tenths percent
33 of the selling price.

34 (b) An additional tax is imposed upon retail sale of spirits in
35 the original package to a restaurant spirits retailer at the rate of
36 two and three-tenths percent of the selling price.

37 (c) An additional tax is imposed upon each sale of spirits in the
38 original package by a spirits distributor licensee or other licensee
39 acting as a spirits distributor pursuant to Title 66 RCW to a

1 restaurant spirits retailer and upon each retail sale of spirits in
2 the original package by a licensee of the board at the rate of forty-
3 one cents per liter.

4 (d) All revenues collected during any month from additional taxes
5 under this subsection must be deposited in the state general fund by
6 the twenty-fifth day of the following month.

7 (7)(a) An additional tax is imposed upon each retail sale of
8 spirits in the original package at the rate of one dollar and thirty-
9 three cents per liter.

10 (b) All revenues collected during any month from additional taxes
11 under this subsection must be deposited by the twenty-fifth day of
12 the following month into the general fund.

13 (8) The tax imposed in RCW 82.08.020 does not apply to sales of
14 spirits in the original package.

15 (9) The taxes imposed in this section must be paid by the buyer
16 to the seller, and each seller must collect from the buyer the full
17 amount of the tax payable in respect to each taxable sale under this
18 section. The taxes required by this section to be collected by the
19 seller must be stated separately from the selling price, and for
20 purposes of determining the tax due from the buyer to the seller, it
21 is conclusively presumed that the selling price quoted in any price
22 list does not include the taxes imposed by this section. Sellers must
23 report and return all taxes imposed in this section in accordance
24 with rules adopted by the department.

25 (10) (~~(As used in this section)~~) (a) Except as otherwise provided
26 in this subsection, the terms, "spirits" and "package" have the same
27 meaning as provided in chapter 66.04 RCW.

28 (b) Until July 1, 2023, for the purposes of the taxes imposed
29 under this section, the term "spirits" does not include mini-bottles
30 of spirits sold by a person who possesses a valid endorsement under
31 section 2(6) of this act and is licensed as a spirits, beer, and wine
32 restaurant under RCW 66.24.400.

33 (c) For the purposes of this subsection, "mini-bottles of
34 spirits" means an original factory-sealed container holding not more
35 than 50 milliliters of spirits.

36 NEW SECTION. Sec. 9. (1) This act contains a temporary tax
37 exemption for restaurants which sell cocktail kits containing mini-
38 bottles of spirits. This temporary tax exemption is intended to avoid
39 administrative costs for the state which are expected to exceed the

1 value of the tax collected during the time until the exemption
2 expires on July 1, 2023.

3 (2) This act is exempt from the provisions of RCW 82.32.805 and
4 82.32.808.

5 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of
7 the state government and its existing public institutions, and takes
8 effect immediately.

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