
SENATE BILL 5417

State of Washington

67th Legislature

2021 Regular Session

By Senators King, Conway, Nguyen, Randall, and Wilson, C.; by request of Liquor and Cannabis Board

Read first time 02/03/21. Referred to Committee on Labor, Commerce & Tribal Affairs.

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

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

38 (6) Beer and wine specialty shops licensed under RCW 66.24.371
39 and domestic breweries and microbreweries may sell prefilled growlers

1 for off-premises consumption through takeout or curbside service and
2 delivery, provided that prefilled growlers are sold the same day they
3 are prepared for sale and not stored overnight for sale on future
4 days.

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

14 (8) The definitions in this subsection apply throughout this
15 section unless the context clearly requires otherwise.

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

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

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

22 (9) This section expires July 1, 2023.

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

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

29 (2) The board must consider revising current rules in order to
30 provide greater flexibility regarding food service menu requirements
31 that businesses holding a license issued by the board under Title 66
32 RCW must provide in conjunction with alcohol sales. This subsection
33 does not apply to licensees that were not required to provide food
34 service under rules in effect on January 1, 2020. The purpose of this
35 subsection is to ease food menu requirements to make it more feasible
36 financially for licensees to comply with the board's food service
37 requirements but not replace food safety requirements in rule adopted
38 by the department of health in chapter 246-215 WAC.

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

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

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

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

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

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

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

23 (e) Winery and microbrewery licensees and employees who are
24 involved in sampling activities under this section must hold a class
25 12 or class 13 alcohol server permit.

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

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

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

38 (5) If a winery or microbrewery is found to have committed a
39 public safety violation in conjunction with tasting activities, the
40 board may suspend the licensee's farmers market endorsement and not

1 reissue the endorsement for up to two years from the date of the
2 violation. If mitigating circumstances exist, the board may offer a
3 monetary penalty in lieu of suspension during a settlement
4 conference.

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

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

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

17 (b) Qualitative investigation of relevant impacts using methods
18 such as key informant interviews and supplemental data collection
19 with licensees, law enforcement, behavioral health service providers,
20 youth prevention and intervention specialists, and revenue
21 stakeholders; and

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

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

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

28 NEW SECTION. **Sec. 6.** The sum of \$150,000, or as much thereof as
29 may be necessary, is appropriated for the fiscal biennium ending June
30 30, 2023, from the liquor revolving fund to the liquor and cannabis
31 board for the purposes of section 5 of this act.

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

34 (1) There is a spirits retail license to: Sell spirits in
35 original containers to consumers for consumption off the licensed
36 premises and to permit holders; sell spirits in original containers
37 to retailers licensed to sell spirits for consumption on the

1 premises, for resale at their licensed premises according to the
2 terms of their licenses, although no single sale may exceed twenty-
3 four liters, unless the sale is by a licensee that was a contract
4 liquor store manager of a contract liquor store at the location of
5 its spirits retail licensed premises from which it makes such sales;
6 and export spirits.

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

12 (a) Maintain a schedule by stock-keeping unit of all their
13 purchases of spirits from spirits retail licensees, including
14 combination spirits, beer, and wine licensees holding a license
15 issued pursuant to RCW 66.24.035, indicating the identity of the
16 seller and the quantities purchased; and

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

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

23 (ii) A distiller acting as distributor of the scheduled item in
24 the area.

25 (3)(a) Except as otherwise provided in (c) of this subsection,
26 the board may issue spirits retail licenses only for premises
27 comprising at least ten thousand square feet of fully enclosed retail
28 space within a single structure, including storerooms and other
29 interior auxiliary areas but excluding covered or fenced exterior
30 areas, whether or not attached to the structure, and only to
31 applicants that the board determines will maintain systems for
32 inventory management, employee training, employee supervision, and
33 physical security of the product substantially as effective as those
34 of stores currently operated by the board with respect to preventing
35 sales to or pilferage by underage or inebriated persons.

36 (b) License issuances and renewals are subject to RCW 66.24.010
37 and the regulations adopted thereunder, including without limitation
38 rights of cities, towns, county legislative authorities, the public,
39 churches, schools, and public institutions to object to or prevent
40 issuance of local liquor licenses. However, existing grocery premises

1 licensed to sell beer and/or wine are deemed to be premises "now
2 licensed" under RCW 66.24.010(9)(a) for the purpose of processing
3 applications for spirits retail licenses.

4 (c) The board may not deny a spirits retail license to an
5 otherwise qualified contract liquor store at its contract location or
6 to the holder of former state liquor store operating rights sold at
7 auction under RCW 66.24.620 on the grounds of location, nature, or
8 size of the premises to be licensed. The board may not deny a spirits
9 retail license to applicants that are not contract liquor stores or
10 operating rights holders on the grounds of the size of the premises
11 to be licensed, if such applicant is otherwise qualified and the
12 board determines that:

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

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

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

19 (d) A retailer authorized to sell spirits for consumption on or
20 off the licensed premises may accept delivery of spirits at its
21 licensed premises, at another licensed premises as designated by the
22 retailer, or at one or more warehouse facilities registered with the
23 board, which facilities may also warehouse and distribute nonliquor
24 items, and from which the retailer may deliver to its own licensed
25 premises and, pursuant to sales permitted under subsection (1) of
26 this section:

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

29 (ii) To other registered facilities; or

30 (iii) To lawful purchasers outside the state. The facilities may
31 be registered and utilized by associations, cooperatives, or
32 comparable groups of retailers, including at least one retailer
33 licensed to sell spirits.

34 (e) For purposes of negotiating volume discounts, a group of
35 individual retailers authorized to sell spirits for consumption off
36 the licensed premises may accept delivery of spirits at their
37 individual licensed premises or at any one of the individual
38 licensee's premises, or at a warehouse facility registered with the
39 board.

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

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

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

22 (6) As a condition to receiving and renewing a spirits retail
23 license the licensee must provide training as prescribed by the board
24 by rule for individuals who sell spirits or who manage others who
25 sell spirits regarding compliance with laws and regulations regarding
26 sale of spirits, including without limitation the prohibitions
27 against sale of spirits to individuals who are underage or visibly
28 intoxicated. The training must be provided before the individual
29 first engages in the sale of spirits and must be renewed at least
30 every five years. The licensee must maintain records documenting the
31 nature and frequency of the training provided. An employee training
32 program is presumptively sufficient if it incorporates a "responsible
33 vendor program" adopted by the board.

34 (7) The maximum penalties prescribed by the board in WAC
35 314-29-020 through 314-29-040 relating to fines and suspensions are
36 doubled for violations relating to the sale of spirits by spirits
37 retail licensees.

38 (8) (a) The board must adopt regulations concerning the adoption
39 and administration of a compliance training program for spirits
40 retail licensees, to be known as a "responsible vendor program," to

1 reduce underage drinking, encourage licensees to adopt specific best
2 practices to prevent sales to minors, and provide licensees with an
3 incentive to give their employees ongoing training in responsible
4 alcohol sales and service.

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

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

11 (d) To participate in the responsible vendor program, licensees
12 must submit an application form to the board. If the application
13 establishes that the licensee meets the qualifications to join the
14 program, the board must send the licensee a membership certificate.

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

17 (i) Provide ongoing training to employees;

18 (ii) Accept only certain forms of identification for alcohol
19 sales;

20 (iii) Adopt policies on alcohol sales and checking
21 identification;

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

23 (v) Keep records verifying compliance with the program's
24 requirements.

25 (f)(i) A spirits retail licensee that also holds a grocery store
26 license under RCW 66.24.360 or a beer and/or wine specialty shop
27 license under RCW 66.24.371 may, upon board approval and pursuant to
28 board rules, transition to a combination spirits, beer, and wine
29 license pursuant to RCW 66.24.035.

30 (ii) An applicant that would qualify for a spirits retail license
31 under this section and that qualifies for a combination spirits,
32 beer, and wine license pursuant to RCW 66.24.035 may apply for a
33 license pursuant to RCW 66.24.035 instead of applying for a spirits
34 retail license under this section.

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

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

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

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

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

15 (5) An additional tax is imposed upon each sale of spirits in the
16 original package by a spirits distributor licensee or other licensee
17 acting as a spirits distributor pursuant to Title 66 RCW to a
18 restaurant spirits retailer and upon each retail sale of spirits in
19 the original package by a licensee of the board at the rate of seven
20 cents per liter. All revenues collected during any month from this
21 additional tax must be deposited in the state general fund by the
22 twenty-fifth day of the following month.

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

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

29 (c) An additional tax is imposed upon each sale of spirits in the
30 original package by a spirits distributor licensee or other licensee
31 acting as a spirits distributor pursuant to Title 66 RCW to a
32 restaurant spirits retailer and upon each retail sale of spirits in
33 the original package by a licensee of the board at the rate of forty-
34 one cents per liter.

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

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

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

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

6 (9) The taxes imposed in this section must be paid by the buyer
7 to the seller, and each seller must collect from the buyer the full
8 amount of the tax payable in respect to each taxable sale under this
9 section. The taxes required by this section to be collected by the
10 seller must be stated separately from the selling price, and for
11 purposes of determining the tax due from the buyer to the seller, it
12 is conclusively presumed that the selling price quoted in any price
13 list does not include the taxes imposed by this section. Sellers must
14 report and return all taxes imposed in this section in accordance
15 with rules adopted by the department.

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

19 (b) Until July 1, 2023, for the purposes of the taxes imposed
20 under this section, the term "spirits" does not include mini-bottles
21 of spirits sold by a person who possesses a valid endorsement under
22 section 2(5) of this act and is licensed as a spirits, beer, and wine
23 restaurant under RCW 66.24.400.

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

27 NEW SECTION. Sec. 9. This act is exempt from the provisions of
28 RCW 82.32.808 and 82.32.805.

29 NEW SECTION. Sec. 10. This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of
31 the state government and its existing public institutions, and takes
32 effect immediately.

--- END ---