

# SENATE BILL REPORT

## SB 5375

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As of January 31, 2023

**Title:** An act relating to taxation of low-proof beverages.

**Brief Description:** Concerning taxation of low-proof beverages.

**Sponsors:** Senators King, Mullet, Torres, Rivers, Warnick and Wilson, L..

**Brief History:**

**Committee Activity:** Labor & Commerce: 2/02/23.

**Brief Summary of Bill**

- Defines low-proof beverage to mean any beverage 16 ounces or less that contains more than 0.5 percent and less than 7 percent alcohol by volume, but does not include wine, malt beverages, or malt liquor.
- Imposes a \$2.50 per gallon tax on the distribution and sale of low-proof beverages in lieu of certain spirits sales and liter taxes.
- Exempts the sale of low-proof beverages from the spirits retailer and spirits distributor license issuance fees.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Staff:** Matt Shepard-Koningsor (786-7627)

**Background:** State law regulates the manufacture, distribution, and retail sale of liquor including spirits, wine, and malt liquor. The Washington State Liquor and Cannabis Board (LCB) oversees issuance of spirits retail licenses and related matters. The Washington State Department of Revenue collects taxes related to sales of spirits in the state.

Definitions. Spirits means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding 24 percent of alcohol by

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volume (ABV). Wine means any alcoholic beverage obtained by fermentation of fruits, such as grapes, berries, or apples, or other agricultural product containing sugar, to which any saccharine substances may have been added before, during, or after fermentation, and containing no more than 24 percent ABV, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and angelica, not exceeding 24 percent and not less than 0.5 percent ABV. Malt beverage or malt liquor means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barely malt or other wholesome grain or cereal in pure water containing no more than 8 percent of alcohol by weight, and no less than 0.5 percent ABV.

Licenses and Fees. A spirits retail license allows a licensee to:

- sell spirits in original containers for consumption off the licensed premises and to permit holders;
- sell spirits in original containers to licensed retailers for consumption on the premises or for resale at their licensed premises, but the sale may not exceed 24 liters in most cases; and
- export spirits.

Each spirits retail licensee must pay a 17 percent spirits retail license issuance fee on all spirits sales. The fee does not apply to certain licensees that were contract liquor store managers, former state store auction buyers, or their successors; or craft distilleries selling their own production. Fees are collected by LCB and deposited into the Liquor Revolving Fund.

A spirits distributor license allows a licensee to sell spirits purchased from certain spirits manufacturers, distillers, or suppliers to spirits retail licensees, other specified licensees, other spirits distributors, and to export the same from the state. Each spirits distributor licensee must pay a statutorily-calculated fee to be deposited into the Liquor Revolving Fund.

Taxes. There are two types of spirits taxes—a spirits sales tax (SST), based on the selling price of spirits in the original package; and a spirits liter tax (SLT), based on the volume of spirits being sold in the original package. The SST is applied in the following manner:

- the SST rate paid by the general public equals 20.5 percent; and
- the SST rate paid by on-premises retailers on purchases from distributors, distillers, and others equals 13.7 percent.

The SLT is applied in the following manner:

- the SLT rate paid by the general public equals \$3.7708 per liter; and
- the SLT rate paid by on-premises retailers on purchases from distributors, distillers, and others equals \$2.4408 per liter.

Business and occupation taxes also apply to the manufacture and sale of spirits. The

general retail sales tax of 6.5 percent does not apply to sales of spirits in the original package.

**Summary of Bill: Definitions.** Low-proof beverage means any beverage that is 16 ounces or less and contains more than 0.5 percent and less than 7 percent ABV, but does not include wine, malt beverages, or malt liquor.

**Licenses and Fees.** The sale of low-proof beverages is exempt from the 17 percent spirits retailer license issuance fee and the statutorily-calculated spirits distributor license issuance fee.

**Taxes.** A \$2.50 tax per gallon is imposed on the following sales of low-proof beverages:

- sales by a spirits distributor to a spirits retailer;
- sales by a distillery or craft distillery that self-distributes low-proof beverages to spirits retailers;
- sales by a distillery or craft distillery directly to consumers; and
- sales by a spirits out-of-state certificate holder with a direct shipment endorsement that self-distributes to spirits retailers.

Low-proof beverages sold by on-premises licensees are subject to the general retail sales tax of 6.5 percent and any applicable local sales tax.

**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.