SENATE BILL REPORT
ESSB 5522

As Passed Senate, March 19, 2003

Title: An act relating to the privatization of liquor sales.

Brief Description: Privatizing the sale of liquor.

Sponsors: Senate Committee on Commerce & Trade (originally sponsored by Senators T. Sheldon, Brandland, Carlson and Hale).

Brief History:
Committee Activity: Commerce & Trade: 1/31/03, 2/26/03 [DPS, DNP].
Passed Senate: 3/19/03, 29-20.

SENATE COMMITTEE ON COMMERCE & TRADE

Majority Report: That Substitute Senate Bill No. 5522 be substituted therefor, and the substitute bill do pass.
Signed by Senators Honeyford, Chair; Hewitt, Vice Chair; and Mulliken.

Minority Report: Do not pass.
Signed by Senators Franklin and Keiser.

Staff: Elizabeth Mitchell (786-7430)

Background: "Spirits" are defined as beverages containing alcohol obtained by distillation, including wines exceeding 24 percent alcohol by volume. Currently, two parties in Washington are allowed to sell spirits for retail sale: Washington State liquor stores, and contract agency stores.

There are 157 state liquor stores, which employ 602 state employees, and 154 contract agency stores. State liquor stores are located on property that is leased by the state. Contract agency stores are privately owned businesses located primarily in rural areas, and the managers of these stores receive a base rate of compensation and a commission from the Liquor Control Board for their sales of spirits.

Several other states have allowed more private-sector retail sales of spirits than Washington, either by contracting out more extensively, accepting bids on franchises, or licensing businesses that sell spirits.

Summary of Bill: The board must close 25 state liquor stores between July 1, 2005 and December 31, 2005, and conduct a pilot program on the contracting out of liquor stores in the areas surrounding these 25 stores.

Task force creation. A task force on the contracting out of liquor is created. The task force consists of: one member of each caucus of the Senate; one member of each caucus of the House of Representatives; one representative of county governments; one representative of city governments; a representative of the Liquor Control Board; and a member of the Governor's Council on Substance Abuse. The Liquor Control Board provides technical expertise and staffing to the task force.

Task force duties. The task force will: assist the board in determining which state liquor stores to close and assist the board in developing criteria for the awarding of contract liquor store agreements.

Closure of stores. When determining which liquor stores to close, the board must give due consideration to the recommendations of the task force. A state liquor store may not be closed unless one contract liquor store exists in the area covered by the state liquor store, or unless the board determines that reasonable alternative access to spirits is available in that area.

Location of contract liquor stores. The board may award one contract liquor store agreement within each area formerly served by a state liquor store. The board must collect input on the location of contract liquor stores from local jurisdictions, schools and churches.

Awarding contract liquor store agreements. The board must advertise the opportunity for a contract liquor store agreement. A screening committee of board staff must evaluate all applications according to specified selection criteria. Criteria include experience managing a liquor store, retail business experience, and ability to meet financial requirements. A separate interview committee of board staff then conducts personal interviews with remaining applicants, and recommends finalists to the Liquor Control Board members.

Termination. Procedures for the termination of contract liquor store agreements are outlined. The board may terminate an agreement for good cause, which includes a manager's violation of laws, unsatisfactory service, or repeated excessive shortages as verified by audit.

Fees. The fee for purchasing a contract liquor store agreement when, immediately prior to the agreement's execution, a state retail liquor store was in operation in the area, is 2 percent of the average gross annual sales for the last five years at the state liquor store serving that area.

Store inventory. The total inventory granted to all the contract liquor stores when they open within an area previously served by a state liquor store must not exceed the inventory that would have been granted to the state liquor store if it was still in operation. The board may increase or decrease the amount of the inventory at contract liquor stores if demand for products changes, and must use the same guidelines and procedures used for inventory changes at state liquor stores.

Compensation. Compensation for contract liquor store managers includes a base rate and tiered commission to be determined by the board by rule.

Procedures. Procedures for liability and insurance, shipping, and inventory at contract liquor stores are outlined. Contract liquor stores are subject to the advertising prohibition in current law for state liquor stores.

References. References to contract liquor stores are made consistent in statute.

Rules. The board may adopt rules to carry out the provisions of the act. These rules include criteria for awarding agreements, procedures for termination of agreements, and shipping and inventory of liquor.

Contract agency stores. Contract agency stores are not eliminated, and agency store managers are not obligated to pay any fees for their stores.

Prohibited acts. Prohibited acts for franchise agreement holders are specified. Administrative hearing provisions for the reissuance, revocation, or suspension of a permit or license also apply to contract liquor store agreements.

JLARC study. The Joint Legislative Audit and Review Committee is directed to study the system of contract liquor retailing and report back to the Legislature by December 31, 2007.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: If the Liquor Control Board moves out of the retail business, it can focus more on enforcement. People could lose their franchise if they sell to minors, and state stores do not close if they sell to minors. This is a reasoned first step in privatizing alcohol. The state would shed costs if this bill passed. State employees should not have to be the gatekeepers to sell a legal product.

Testimony Against: The 2000 Governor's Task Force said that the current system was efficient. The liquor control system currently in place is good public policy. State employees would lose their jobs if the bill passed. State liquor stores are focused on regulation and control of alcohol, not making a profit. Some studies show that alcohol is connected to many violent crimes. Increased retail outlets may increase crime. Some studies have shown that underage drinking increases in noncontrol areas. Some studies show that there is less consumption of alcohol in control states. Current state resources are not enough to help those who are addicted to alcohol. It is unclear if restaurants would continue to receive their discount from stores under this bill. Restaurants closer to smaller franchises might have a low selection of products. The task force should include a representative from the Governor's Council on Substance Abuse, an expert in franchise law, and a representative of the restaurant industry.

Testified: PRO: Senator Tim Sheldon, prime sponsor; Mark Johnson, NFIB; Michael Transue, Washington Restaurant Association; CON: Julie Peterson, Washington Association for Substance Abuse and Violence Prevention; Julianna Miljour, Mason County Drug Abuse Prevention; Priscilla Lisicich, Governor's Council on Substance Abuse; Lynn Maier, Tess

Millar, Mary Korcaba, WPA; Joe Daniels, VFCW 1001; Rick Garza, Liquor Control Board (neutral); Paul Guppy, Washington Policy Center.