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SENATE BILL 5522

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State of Washington

58th Legislature

2003 Regular Session

By Senators T. Sheldon, Brandland, Carlson and Hale

Read first time 01/28/2003. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to the privatization of liquor sales; amending RCW  
2 66.08.150; and adding a new chapter to Title 66 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature intends for the franchising  
5 of the retail sale of liquor to result in a system that is more  
6 efficient than public sector retailing. Therefore, the legislature  
7 intends to initiate a pilot project to close a portion of the state's  
8 liquor retail stores, to monitor the impact of the store closures on  
9 state revenues, and to consider closing more state liquor stores in the  
10 future if the initial store closures yield benefits for the state.

11 NEW SECTION. **Sec. 2.** For the purposes of this chapter and RCW  
12 66.08.150, the following definitions apply unless the context clearly  
13 requires otherwise.

14 (1) "Board" means the liquor control board.

15 (2) "Franchise" means a business that has been granted a franchise  
16 agreement by the board to sell spirits, wine, and beer in original  
17 packaging for off-premises consumption.

1 (3) "Franchise area" means an area surrounding a liquor store  
2 closed pursuant to section 4 of this act in which spirits would not be  
3 reasonably available for sale to persons following closure of the state  
4 liquor store. Franchise areas are to be determined by the board with  
5 the input of the task force for each state liquor store that is closed.

6 (4) "Franchise agreement" means approval by the board to operate a  
7 franchise pursuant to this chapter and RCW 66.08.150.

8 (5) "Franchise agreement holder" means a person who has been  
9 granted a franchise agreement pursuant to this chapter and RCW  
10 66.08.150.

11 (6) "Task force" means the task force on liquor franchises  
12 established in this chapter.

13 NEW SECTION. **Sec. 3.** (1) A task force on liquor franchises is  
14 created to advise the board as it implements the liquor franchise  
15 system. The task force membership shall consist of:

16 (a) One member from each caucus of the senate, appointed by the  
17 president of the senate;

18 (b) One member from each caucus of the house of representatives,  
19 appointed by the speaker of the house of representatives;

20 (c) One representative of city governments, appointed jointly by  
21 the president of the senate and the speaker of the house of  
22 representatives;

23 (d) One representative of county governments, appointed jointly by  
24 the president of the senate and the speaker of the house of  
25 representatives;

26 (e) A representative of the liquor control board. The board shall  
27 cooperate with the task force and provide technical expertise and  
28 staffing as the task force may reasonably require.

29 (2) The task force shall choose its cochairs from among its  
30 membership.

31 (3) Each nonlegislative member of the task force is eligible to be  
32 reimbursed for travel expenses in accordance with RCW 43.03.050 and  
33 43.03.060. All expenses of the task force, including travel, shall be  
34 paid jointly by the senate and the house of representatives.

35 (4) The task force shall:

36 (a) Assist the board in determining which state liquor stores to

1 close, giving due consideration to the expiration of state liquor store  
2 leases;

3 (b) Assist the board in determining appropriate franchise areas for  
4 the liquor stores that will be closing;

5 (c) Create guidelines for the board regarding how to balance the  
6 interests of small, medium, and large volume retailers within the newly  
7 created franchise areas;

8 (d) Assist the board in developing criteria other than bid amounts  
9 for the awarding of franchise agreements within franchise areas;

10 (e) Monitor the impact of the franchise system on the communities  
11 in which franchises are placed. These impacts are to be determined by  
12 the task force, and may include: Underage access to alcohol,  
13 consumption rate of alcohol, the impact of revenue to the state,  
14 traffic accidents and fatalities related to alcohol use, and crimes  
15 related to alcohol use;

16 (f) Make a recommendation to the legislature by December 31, 2007,  
17 on whether the franchise system should be expanded, kept at its current  
18 level, or discontinued and replaced by the former state liquor store  
19 system.

20 NEW SECTION. **Sec. 4.** (1) Notwithstanding any other provision of  
21 law, the board is directed to implement the closure of twenty-five  
22 state liquor stores by December 31, 2005. When determining which state  
23 liquor stores to close, the board must give due consideration to the  
24 timing of the expiration of liquor store leases, as well as input from  
25 the task force. A state liquor store may not be closed unless at least  
26 one franchise exists in the franchise area covered by the liquor store,  
27 or unless the task force determines that reasonable alternative access  
28 is available to persons who previously purchased spirits from the state  
29 liquor store that is closing.

30 (2) The board must determine appropriate franchise areas for each  
31 state liquor store that is closed, giving due consideration to  
32 recommendations from the task force.

33 (3) The board shall accept bids for franchise agreements, and shall  
34 award franchise agreements to applicants based upon the amount of the  
35 bid and other criteria to be specified by the task force, as well as  
36 input gained from cities, counties, towns, schools, churches, and  
37 public institutions pursuant to RCW 66.24.010. The board must collect

1 information from incorporated cities and towns regarding acceptable  
2 locations for liquor franchises within their boundaries. The board  
3 must not locate liquor franchises in any locations that have not been  
4 deemed acceptable by cities and towns.

5 (4) The board may award up to three franchise agreements within  
6 each franchise area. In awarding franchise agreements, the board shall  
7 strive to achieve a balance between the interests of small, medium, and  
8 large volume franchises.

9 (5) All bids for a franchise agreement may be rejected by the board  
10 if the board determines that the highest bid is inadequate, in which  
11 event the board shall begin anew the bidding process for that franchise  
12 agreement.

13 (6) The term of franchise agreements is four years. Upon the  
14 expiration of a franchise agreement, a new bidding round for franchise  
15 agreements will begin.

16 (7) The board may adopt rules to carry out the provisions of this  
17 chapter and RCW 66.08.150. These rules must include, but are not  
18 limited to, determining the days and hours that franchises can sell  
19 liquor, and the proper display of liquor in a franchise, including  
20 procedures for the location of liquor in the franchise during times  
21 when liquor is prohibited from being sold. Procedures for the display  
22 of liquor are the same for contract agency stores and franchises.

23 NEW SECTION. **Sec. 5.** Nothing in this chapter and RCW 66.08.150  
24 shall be construed to eliminate liquor vendors as referenced in RCW  
25 66.08.050, also known as contract agency stores, or to obligate liquor  
26 vendors to place bids for their stores.

27 NEW SECTION. **Sec. 6.** (1) In addition to other provisions of law,  
28 it is unlawful for any franchise agreement holder, agent, or employee  
29 on the franchise agreement holder's premises to:

30 (a) Sell or offer for sale any liquor other than from the original  
31 package or container;

32 (b) Sell or offer for sale spirits for less than the state liquor  
33 store price for the spirits;

34 (c) Sell, give away, or permit the sale, gift, or procurement of  
35 any liquor for or to any person under twenty-one years of age;

1 (d) Sell, give away, or permit the sale, gift, or procurement of  
2 any liquor for or to any person apparently intoxicated;

3 (e) Permit the consumption of any spirits, strong beer, or alcohol  
4 on the premises by any person;

5 (f) Alter, change, or misrepresent the quality, quantity, or brand  
6 name of any liquor with the intent to defraud;

7 (g) Permit any person under twenty-one years of age to sell or give  
8 liquor to any other person, except to assist a cashier who is  
9 twenty-one years of age or older; or

10 (h) Purchase or otherwise obtain liquor in any manner or from any  
11 source other than that specifically authorized in this title.

12 (2) Violations of any provision of this chapter or any rule adopted  
13 by the board, or any false statement concerning any material fact, or  
14 omission of any material fact in submitting an application for a  
15 franchise agreement or for a renewal of a franchise agreement or in any  
16 hearing concerning the suspension or revocation of a franchise  
17 agreement, or the commission of any of the acts declared in this  
18 chapter to be unlawful, is subject to disciplinary action by the board,  
19 including suspension or revocation of the franchise agreement. No fees  
20 paid for the franchise agreement will be refunded. The board shall  
21 develop rules to implement and enforce this subsection and may assess  
22 an administrative penalty for violations.

23 (3) Nothing in this chapter or any rule of the board prevents or  
24 prohibits any franchise agreement holder from employing any person who  
25 is at least eighteen years of age to serve in any franchise, or from  
26 having such a person assist a person twenty-one years of age or older  
27 who handles, sells, or delivers spirits, strong beer, or alcohol under  
28 this chapter.

29 **Sec. 7.** RCW 66.08.150 and 1989 c 175 s 122 are each amended to  
30 read as follows:

31 (1) The action, order, or decision of the board as to any denial of  
32 an application for the reissuance of a permit ~~((or))~~, license, or  
33 franchise agreement or as to any revocation, suspension, or  
34 modification of any permit ~~((or))~~, license, or franchise agreement  
35 shall be an adjudicative proceeding and subject to the applicable  
36 provisions of chapter 34.05 RCW.

1       (~~(1)~~) (2) An opportunity for a hearing may be provided an  
2 applicant for the reissuance of a permit (~~(e)~~), license, or franchise  
3 agreement prior to the disposition of the application, and if no such  
4 opportunity for a prior hearing is provided then an opportunity for a  
5 hearing to reconsider the application must be provided the applicant.

6       (~~(2)~~) (3) An opportunity for a hearing must be provided a  
7 permittee (~~(e)~~), licensee, or franchise agreement holder prior to a  
8 revocation or modification of any permit (~~(e)~~), license, or franchise  
9 agreement and, except as provided in subsection (~~(4)~~) (5) of this  
10 section, prior to the suspension of any permit (~~(e)~~), license, or  
11 franchise agreement.

12       (~~(3)~~) (4) No hearing shall be required until demanded by the  
13 applicant, permittee, (~~(e)~~) licensee, or franchise agreement holder.

14       (~~(4)~~) (5) The board may summarily suspend a license (~~(e)~~),  
15 permit, or franchise agreement for a period of up to thirty days  
16 without a prior hearing if it finds that public health, safety, or  
17 welfare imperatively require emergency action, and incorporates a  
18 finding to that effect in its order; and proceedings for revocation or  
19 other action must be promptly instituted and determined.

20       NEW SECTION. Sec. 8. Sections 1 through 6 of this act constitute  
21 a new chapter in Title 66 RCW.

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