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SENATE BILL 6362

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State of Washington                      58th Legislature                      2004 Regular Session

By Senators Doumit, Deccio, T. Sheldon and Swecker

Read first time 01/19/2004. Referred to Committee on Commerce & Trade.

1            AN ACT Relating to the issuance of liquor licenses; and amending  
2 RCW 66.24.010.

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

4            **Sec. 1.** RCW 66.24.010 and 2002 c 119 s 3 are each amended to read  
5 as follows:

6            (1) Every license shall be issued in the name of the applicant, and  
7 the holder thereof shall not allow any other person to use the license.

8            (2) For the purpose of considering any application for a license,  
9 the board may cause an inspection of the premises to be made, and may  
10 inquire into all matters in connection with the construction and  
11 operation of the premises. For the purpose of reviewing any  
12 application for a license and for considering the denial, suspension or  
13 revocation of any license, the liquor control board may consider any  
14 prior criminal conduct of the applicant including a criminal history  
15 record information check. The board may submit the criminal history  
16 record information check to the Washington state patrol and to the  
17 identification division of the federal bureau of investigation in order  
18 that these agencies may search their records for prior arrests and  
19 convictions of the individual or individuals who filled out the forms.

1 The board shall require fingerprinting of any applicant whose criminal  
2 history record information check is submitted to the federal bureau of  
3 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW  
4 shall not apply to such cases. The board may, in its discretion, grant  
5 or refuse the license applied for. Authority to approve an uncontested  
6 or unopposed license may be granted by the board to any staff member  
7 the board designates in writing. Conditions for granting such  
8 authority shall be adopted by rule. No retail license of any kind may  
9 be issued to:

10 (a) A person who has not resided in the state for at least one  
11 month prior to making application, except in cases of licenses issued  
12 to dining places on railroads, boats, or aircraft;

13 (b) A copartnership, unless all of the members thereof are  
14 qualified to obtain a license, as provided in this section;

15 (c) A person whose place of business is conducted by a manager or  
16 agent, unless such manager or agent possesses the same qualifications  
17 required of the licensee;

18 (d) A corporation or a limited liability company, unless it was  
19 created under the laws of the state of Washington or holds a  
20 certificate of authority to transact business in the state of  
21 Washington.

22 (3)(a) The board may, in its discretion, subject to the provisions  
23 of RCW 66.08.150, suspend or cancel any license; and all rights of the  
24 licensee to keep or sell liquor thereunder shall be suspended or  
25 terminated, as the case may be.

26 (b) The board shall immediately suspend the license or certificate  
27 of a person who has been certified pursuant to RCW 74.20A.320 by the  
28 department of social and health services as a person who is not in  
29 compliance with a support order. If the person has continued to meet  
30 all other requirements for reinstatement during the suspension,  
31 reissuance of the license or certificate shall be automatic upon the  
32 board's receipt of a release issued by the department of social and  
33 health services stating that the licensee is in compliance with the  
34 order.

35 (c) The board may request the appointment of administrative law  
36 judges under chapter 34.12 RCW who shall have power to administer  
37 oaths, issue subpoenas for the attendance of witnesses and the  
38 production of papers, books, accounts, documents, and testimony,

1 examine witnesses, and to receive testimony in any inquiry,  
2 investigation, hearing, or proceeding in any part of the state, under  
3 such rules and regulations as the board may adopt.

4 (d) Witnesses shall be allowed fees and mileage each way to and  
5 from any such inquiry, investigation, hearing, or proceeding at the  
6 rate authorized by RCW 34.05.446, as now or hereafter amended. Fees  
7 need not be paid in advance of appearance of witnesses to testify or to  
8 produce books, records, or other legal evidence.

9 (e) In case of disobedience of any person to comply with the order  
10 of the board or a subpoena issued by the board, or any of its members,  
11 or administrative law judges, or on the refusal of a witness to testify  
12 to any matter regarding which he or she may be lawfully interrogated,  
13 the judge of the superior court of the county in which the person  
14 resides, on application of any member of the board or administrative  
15 law judge, shall compel obedience by contempt proceedings, as in the  
16 case of disobedience of the requirements of a subpoena issued from said  
17 court or a refusal to testify therein.

18 (4) Upon receipt of notice of the suspension or cancellation of a  
19 license, the licensee shall forthwith deliver up the license to the  
20 board. Where the license has been suspended only, the board shall  
21 return the license to the licensee at the expiration or termination of  
22 the period of suspension. The board shall notify all vendors in the  
23 city or place where the licensee has its premises of the suspension or  
24 cancellation of the license; and no employee may allow or cause any  
25 liquor to be delivered to or for any person at the premises of that  
26 licensee.

27 (5)(a) At the time of the original issuance of a spirits, beer, and  
28 wine restaurant license, the board shall prorate the license fee  
29 charged to the new licensee according to the number of calendar  
30 quarters, or portion thereof, remaining until the first renewal of that  
31 license is required.

32 (b) Unless sooner canceled, every license issued by the board shall  
33 expire at midnight of the thirtieth day of June of the fiscal year for  
34 which it was issued. However, if the board deems it feasible and  
35 desirable to do so, it may establish, by rule pursuant to chapter 34.05  
36 RCW, a system for staggering the annual renewal dates for any and all  
37 licenses authorized by this chapter. If such a system of staggered

1 annual renewal dates is established by the board, the license fees  
2 provided by this chapter shall be appropriately prorated during the  
3 first year that the system is in effect.

4 (6) Every license issued under this section shall be subject to all  
5 conditions and restrictions imposed by this title or by the regulations  
6 in force from time to time. All conditions and restrictions imposed by  
7 the board in the issuance of an individual license shall be listed on  
8 the face of the individual license along with the trade name, address,  
9 and expiration date.

10 (7) Every licensee shall post and keep posted its license, or  
11 licenses, in a conspicuous place on the premises.

12 (8)(a) Unless (b) of this subsection applies, before the board  
13 ~~((shall))~~ issues a license to an applicant it shall give notice of such  
14 application to the chief executive officer of the incorporated city or  
15 town, if the application ~~((be))~~ is for a license within an incorporated  
16 city or town, or to the county legislative authority, if the  
17 application ~~((be))~~ is for a license outside the boundaries of  
18 incorporated cities or towns~~((; and such))~~.

19 (b) If the application for a license is for property or premises  
20 owned by the county but located within an incorporated city or town,  
21 the notice shall be given only to the county legislative authority.

22 (c) The incorporated city or town~~((;))~~ through the official or  
23 employee selected by it, or the county legislative authority or the  
24 official or employee selected by it, shall have the right to file with  
25 the board within twenty days after date of transmittal of such notice,  
26 written objections against the applicant or against the premises for  
27 which the license is asked~~((; and))~~.

28 (d) For applications filed under (b) of this subsection, only the  
29 written objections filed by the county legislative authority shall be  
30 considered by the liquor control board.

31 (e) The written objections shall include ~~((with such objections))~~  
32 a statement of all facts upon which such objections are based, and in  
33 case written objections are filed, may request and the liquor control  
34 board may in its discretion hold a formal hearing subject to the  
35 applicable provisions of Title 34 RCW.

36 (f) Upon the granting of a license under this title the board shall  
37 send a duplicate of the license or written notification to the chief  
38 executive officer of the incorporated city or town in which the license

1 is granted, or to the county legislative authority if the license is  
2 granted outside the boundaries of incorporated cities or towns. When  
3 the license is granted for county-owned property or premises located  
4 within an incorporated city or town, the duplicate shall be sent to  
5 both the incorporated city or town and the county legislative  
6 authority.

7 (9) Before the board issues any license to any applicant, it shall  
8 give (a) due consideration to the location of the business to be  
9 conducted under such license with respect to the proximity of churches,  
10 schools, and public institutions and (b) written notice by certified  
11 mail of the application to churches, schools, and public institutions  
12 within five hundred feet of the premises to be licensed. The board  
13 shall issue no beer retailer license for either on-premises or off-  
14 premises consumption or wine retailer license for either on-premises or  
15 off-premises consumption or spirits, beer, and wine restaurant license  
16 covering any premises not now licensed, if such premises are within  
17 five hundred feet of the premises of any tax-supported public  
18 elementary or secondary school measured along the most direct route  
19 over or across established public walks, streets, or other public  
20 passageway from the outer property line of the school grounds to the  
21 nearest public entrance of the premises proposed for license, and if,  
22 after receipt by the school or public institution of the notice as  
23 provided in this subsection, the board receives written notice, within  
24 twenty days after posting such notice, from an official representative  
25 or representatives of the school within five hundred feet of said  
26 proposed licensed premises, indicating to the board that there is an  
27 objection to the issuance of such license because of proximity to a  
28 school. For the purpose of this section, church shall mean a building  
29 erected for and used exclusively for religious worship and schooling or  
30 other activity in connection therewith. No liquor license may be  
31 issued or reissued by the board to any motor sports facility or  
32 licensee operating within the motor sports facility unless the motor  
33 sports facility enforces a program reasonably calculated to prevent  
34 alcohol or alcoholic beverages not purchased within the facility from  
35 entering the facility and such program is approved by local law  
36 enforcement agencies. It is the intent under this subsection that a  
37 retail license shall not be issued by the board where doing so would,  
38 in the judgment of the board, adversely affect a private school meeting

1 the requirements for private schools under Title 28A RCW, which school  
2 is within five hundred feet of the proposed licensee. The board shall  
3 fully consider and give substantial weight to objections filed by  
4 private schools. If a license is issued despite the proximity of a  
5 private school, the board shall state in a letter addressed to the  
6 private school the board's reasons for issuing the license.

7 (10) The restrictions set forth in subsection (9) of this section  
8 shall not prohibit the board from authorizing the assumption of  
9 existing licenses now located within the restricted area by other  
10 persons or licenses or relocations of existing licensed premises within  
11 the restricted area. In no case may the licensed premises be moved  
12 closer to a church or school than it was before the assumption or  
13 relocation.

14 (11) Nothing in this section prohibits the board, in its  
15 discretion, from issuing a temporary retail or distributor license to  
16 an applicant assuming an existing retail or distributor license to  
17 continue the operation of the retail or distributor premises during the  
18 period the application for the license is pending and when the  
19 following conditions exist:

20 (a) The licensed premises has been operated under a retail or  
21 distributor license within ninety days of the date of filing the  
22 application for a temporary license;

23 (b) The retail or distributor license for the premises has been  
24 surrendered pursuant to issuance of a temporary operating license;

25 (c) The applicant for the temporary license has filed with the  
26 board an application to assume the retail or distributor license at  
27 such premises to himself or herself; and

28 (d) The application for a temporary license is accompanied by a  
29 temporary license fee established by the board by rule.

30 A temporary license issued by the board under this section shall be  
31 for a period not to exceed sixty days. A temporary license may be  
32 extended at the discretion of the board for an additional sixty-day  
33 period upon payment of an additional fee and upon compliance with all  
34 conditions required in this section.

35 Refusal by the board to issue or extend a temporary license shall  
36 not entitle the applicant to request a hearing. A temporary license  
37 may be canceled or suspended summarily at any time if the board

1 determines that good cause for cancellation or suspension exists. RCW  
2 66.08.130 and chapter 34.05 RCW shall apply to temporary licenses.

3 Application for a temporary license shall be on such form as the  
4 board shall prescribe. If an application for a temporary license is  
5 withdrawn before issuance or is refused by the board, the fee which  
6 accompanied such application shall be refunded in full.

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