

HB 2113 - H AMD 396

By Representative Williams

ADOPTED 03/13/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 66.24.010 and 2006 c 359 s 1 are each amended to read
4 as follows:

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

7 (2) For the purpose of considering any application for a license,
8 or the renewal of a license, the board may cause an inspection of the
9 premises to be made, and may inquire into all matters in connection
10 with the construction and operation of the premises. For the purpose
11 of reviewing any application for a license and for considering the
12 denial, suspension (~~(or)~~), revocation, or renewal or denial thereof, of
13 any license, the liquor control board may consider any prior criminal
14 conduct of the applicant including an administrative violation history
15 record with the board and a criminal history record information check.
16 The board may submit the criminal history record information check to
17 the Washington state patrol and to the identification division of the
18 federal bureau of investigation in order that these agencies may search
19 their records for prior arrests and convictions of the individual or
20 individuals who filled out the forms. The board shall require
21 fingerprinting of any applicant whose criminal history record
22 information check is submitted to the federal bureau of investigation.
23 The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply
24 to such cases. Subject to the provisions of this section, the board
25 may, in its discretion, grant or (~~(refuse)~~) deny the renewal or license
26 applied for. Denial may be based on, without limitation, the existence
27 of chronic illegal activity documented in objections submitted pursuant
28 to subsections (8)(d) and (12) of this section. Authority to approve
29 an uncontested or unopposed license may be granted by the board to any

1 staff member the board designates in writing. Conditions for granting
2 such authority shall be adopted by rule. No retail license of any kind
3 may be issued to:

4 (a) A person doing business as a sole proprietor who has not
5 resided in the state for at least one month prior to receiving a
6 license, except in cases of licenses issued to dining places on
7 railroads, boats, or aircraft;

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

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

13 (d) A corporation or a limited liability company, unless it was
14 created under the laws of the state of Washington or holds a
15 certificate of authority to transact business in the state of
16 Washington.

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

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

30 (c) The board may request the appointment of administrative law
31 judges under chapter 34.12 RCW who shall have power to administer
32 oaths, issue subpoenas for the attendance of witnesses and the
33 production of papers, books, accounts, documents, and testimony,
34 examine witnesses, and to receive testimony in any inquiry,
35 investigation, hearing, or proceeding in any part of the state, under
36 such rules and regulations as the board may adopt.

37 (d) Witnesses shall be allowed fees and mileage each way to and
38 from any such inquiry, investigation, hearing, or proceeding at the

1 rate authorized by RCW 34.05.446, as now or hereafter amended. Fees
2 need not be paid in advance of appearance of witnesses to testify or to
3 produce books, records, or other legal evidence.

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

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

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

27 (b) Unless sooner canceled, every license issued by the board shall
28 expire at midnight of the thirtieth day of June of the fiscal year for
29 which it was issued. However, if the board deems it feasible and
30 desirable to do so, it may establish, by rule pursuant to chapter 34.05
31 RCW, a system for staggering the annual renewal dates for any and all
32 licenses authorized by this chapter. If such a system of staggered
33 annual renewal dates is established by the board, the license fees
34 provided by this chapter shall be appropriately prorated during the
35 first year that the system is in effect.

36 (6) Every license issued under this section shall be subject to all
37 conditions and restrictions imposed by this title or by rules adopted
38 by the board. All conditions and restrictions imposed by the board in

1 the issuance of an individual license shall be listed on the face of
2 the individual license along with the trade name, address, and
3 expiration date.

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

6 (8)(a) Unless (b) of this subsection applies, before the board
7 issues a new or renewal license to an applicant it shall give notice of
8 such application to the chief executive officer of the incorporated
9 city or town, if the application is for a license within an
10 incorporated city or town, or to the county legislative authority, if
11 the application is for a license outside the boundaries of incorporated
12 cities or towns.

13 (b) If the application for a special occasion license is for an
14 event held during a county, district, or area fair as defined by RCW
15 15.76.120, and the county, district, or area fair is located on
16 property owned by the county but located within an incorporated city or
17 town, the county legislative authority shall be the entity notified by
18 the board under (a) of this subsection. The board shall send a
19 duplicate notice to the incorporated city or town within which the fair
20 is located.

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

28 (d) The written objections shall include a statement of all facts
29 upon which such objections are based, and in case written objections
30 are filed, the city or town or county legislative authority may request
31 and the liquor control board may in its discretion hold a hearing
32 subject to the applicable provisions of Title 34 RCW. If the board
33 makes an initial decision to deny a license or renewal based on the
34 written objections of an incorporated city or town or county
35 legislative authority, the applicant may request and the board may in
36 its discretion hold a hearing subject to the applicable provisions of
37 Title 34 RCW. If such a hearing is held at the request of the

1 applicant, liquor control board representatives shall present and
2 defend the board's initial decision to deny a license or renewal.

3 (e) Upon the granting of a license under this title the board shall
4 send written notification to the chief executive officer of the
5 incorporated city or town in which the license is granted, or to the
6 county legislative authority if the license is granted outside the
7 boundaries of incorporated cities or towns. When the license is for a
8 special occasion license for an event held during a county, district,
9 or area fair as defined by RCW 15.76.120, and the county, district, or
10 area fair is located on county-owned property but located within an
11 incorporated city or town, the written notification shall be sent to
12 both the incorporated city or town and the county legislative
13 authority.

14 (9)(a) Before the board issues any license to any applicant, it
15 shall give (i) due consideration to the location of the business to be
16 conducted under such license with respect to the proximity of churches,
17 schools, and public institutions and (ii) written notice, with receipt
18 verification, of the application to public institutions identified by
19 the board as appropriate to receive such notice, churches, and schools
20 within five hundred feet of the premises to be licensed. The board
21 shall issue no beer retailer license for either on-premises or off-
22 premises consumption or wine retailer license for either on-premises or
23 off-premises consumption or spirits, beer, and wine restaurant license
24 covering any premises not now licensed, if such premises are within
25 five hundred feet of the premises of any tax-supported public
26 elementary or secondary school measured along the most direct route
27 over or across established public walks, streets, or other public
28 passageway from the main entrance of the school to the nearest public
29 entrance of the premises proposed for license, and if, after receipt by
30 the school of the notice as provided in this subsection, the board
31 receives written objection, within twenty days after receiving such
32 notice, from an official representative or representatives of the
33 school within five hundred feet of said proposed licensed premises,
34 indicating to the board that there is an objection to the issuance of
35 such license because of proximity to a school. The board may extend
36 the time period for submitting objections. For the purpose of this
37 section, church shall mean a building erected for and used exclusively
38 for religious worship and schooling or other activity in connection

1 therewith. For the purpose of this section, public institution shall
2 mean institutions of higher education, parks, community centers,
3 libraries, and transit centers.

4 (b) No liquor license may be issued or reissued by the board to any
5 motor sports facility or licensee operating within the motor sports
6 facility unless the motor sports facility enforces a program reasonably
7 calculated to prevent alcohol or alcoholic beverages not purchased
8 within the facility from entering the facility and such program is
9 approved by local law enforcement agencies.

10 (c) It is the intent under this subsection (9) that a retail
11 license shall not be issued by the board where doing so would, in the
12 judgment of the board, adversely affect a private school meeting the
13 requirements for private schools under Title 28A RCW, which school is
14 within five hundred feet of the proposed licensee. The board shall
15 fully consider and give substantial weight to objections filed by
16 private schools. If a license is issued despite the proximity of a
17 private school, the board shall state in a letter addressed to the
18 private school the board's reasons for issuing the license.

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

26 (11)(a) Nothing in this section prohibits the board, in its
27 discretion, from issuing a temporary retail or distributor license to
28 an applicant to operate the retail or distributor premises during the
29 period the application for the license is pending. The board may
30 establish a fee for a temporary license by rule.

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

36 (c) Refusal by the board to issue or extend a temporary license
37 shall not entitle the applicant to request a hearing. A temporary

1 license may be canceled or suspended summarily at any time if the board
2 determines that good cause for cancellation or suspension exists. RCW
3 66.08.130 applies to temporary licenses.

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

8 (12) In determining whether to grant or deny a license or renewal
9 of any license, the board shall give substantial weight to objections
10 from an incorporated city or town or county legislative authority based
11 upon chronic illegal activity associated with the applicant's
12 operations of the premises proposed to be licensed or the applicant's
13 operation of any other licensed premises, or the conduct of the
14 applicant's patrons inside or outside the licensed premises. "Chronic
15 illegal activity" means (a) a pervasive pattern of activity that
16 threatens the public health, safety, and welfare of the city, town, or
17 county including, but not limited to, open container violations,
18 assaults, disturbances, disorderly conduct, or other criminal law
19 violations, or as documented in crime statistics, police reports,
20 emergency medical response data, calls for service, field data, or
21 similar records of a law enforcement agency for the city, town, county,
22 or any other municipal corporation or any state agency; or (b) an
23 unreasonably high number of citations for violations of RCW 46.61.502
24 associated with the applicant's or licensee's operation of any licensed
25 premises as indicated by the reported statements of patrons to the
26 Washington state patrol."

27 Correct the title.

EFFECT: Specifies that in determining whether to grant or deny a
license or renewal, the Board must give substantial weight to
objections from a local jurisdiction based upon chronic illegal
activity associated with the applicant's operation of the premises or
the applicant's operation of any other licensed premises or the conduct
of applicant's patrons inside and outside the premises. Defines
chronic illegal activity to mean: (1) A pervasive pattern of activity
that threatens the public health, safety and welfare, including but not
limited to open container violations, assaults, disturbances,

disorderly conduct, or other criminal violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data or similar records of a law enforcement agency; or (2) an unreasonably high number of citations for driving under the influence associated with the applicant's operation of any licensed premises as indicated by reported statements of patrons to the State Patrol. Specifies that denial of a license or renewal may be based on, without limitation, the existence of chronic illegal activity.

Deletes definition of "substantial weight." Deletes provision stating that the burden of demonstrating the contrary of the local jurisdiction's objections is on the applicant.

Provides that if the Board makes an initial decision to deny a license or renewal based on the objections of a local jurisdiction, the Board may hold a hearing at the request of an applicant. If such a hearing is held, Board representatives shall present and defend the Board's initial decision to deny a license or renewal.

Provides that the Board may inquire into the premises and consider criminal conduct for renewal as well as new license applications. Specifies that the Board may consider an administrative violation history for both new and renewal applicants. Places in statute the requirement that the Board must give notice to local jurisdictions on renewal as well as new applications.

Deletes the requirement for the Board to refuse a spirits, beer, and wine license if certain criteria are shown.

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