

HOUSE BILL REPORT

HB 2113

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to objections by cities, towns, and counties to the issuance of liquor licenses.

Brief Description: Regarding objections by cities, towns, and counties to the issuance of liquor licenses.

Sponsors: Representatives Williams, Goodman, Green, Hunt and Simpson.

Brief History:

Committee Activity:

Commerce & Labor: 2/26/07, 2/27/07 [DP].

Brief Summary of Bill

- Allows the Liquor Control Board (Board) to issue a liquor license over the objections of local jurisdictions only if the Board is left with the definite and firm conviction that the objections are incorrect.
- Provides that objections may be based on threats to public health or safety and other criteria.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member and Crouse.

Staff: Joan Elgee (786-7106).

Background:

The Liquor Control Board (Board) issues a number of types of liquor licenses. Licenses are good for one year.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Before issuing any type of license, the Board may inspect the premises and investigate the applicant. The Board has discretion to grant or deny the license. The Board must also notify the city, town, or county, as appropriate. The local jurisdiction may file written objections against the applicant or premises within 20 days after the notice. The objections must include a statement of all facts upon which the objections are based. The Board may hold a hearing. If the Board grants a license, it must notify the local jurisdiction.

By rule, the Board gives local jurisdictions 90 days notice of license renewals. A local jurisdiction may object to a renewal by submitting a letter to the Board. The letter must state specific reasons and facts that show issuance of the license will detrimentally impact the safety, health, or welfare of the community.

If the Board grants a license or a renewal, the local jurisdiction may request an adjudication hearing under the Administrative Procedure Act.

A spirits, beer, and wine restaurant license authorizes the sale of spirits by the glass, beer, and wine, for on-premises consumption by establishments that serve complete meals. The total number of spirits, beer, and wine restaurant licenses is limited to one license for each 1,450 people in the state. In addition to this restriction, the Board must refuse a license if, in the opinion of the Board, the licenses already granted for the particular locality are adequate for the reasonable needs of the community.

Summary of Bill:

The Board's authority to issue liquor licenses when local jurisdictions object is modified. With respect to all licenses, the Board must give substantial weight to objections based upon:

- threats to public health or safety by operation of the licensed premises or the conduct of the licensee's patrons either within or without the licensed premises;
- an unreasonably high number of driving under the influence (DUI) citations associated with the proposed licensed premises, as indicated by, among other things, the reported statements of patrons to the Washington State Patrol (WSP); or
- an unreasonably high use of local police resources by the proposed licensee or its patrons, as documented by calls for police service, police field contacts, or other reasonable measures.

The burden to demonstrate the contrary of such objection is on the proposed licensee. "Substantial weight" means the Board may issue a license despite the local jurisdiction's objections only if, after applying a clearly erroneous standard of review, the Board is left with the definite and firm conviction that the objections are incorrect.

With respect to spirits, beer, and wine restaurant licenses, the Board must refuse a license if the issuance will:

- pose a threat to public health or safety by operation of the licensed premises or the conduct of the licensee's patrons either within or without the licensed premises;

- result in an unreasonably high number of DUI citations associated with the proposed licensed premises, as indicted by, among other things, the reported statements of patrons to the WSP; or
- result in an unreasonably high use of local police resources by the proposed licensee or its patrons, as documented by calls for police service, number of police field contacts, or such other reasonable measures.

Rules Authority: The bill does not address the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The local jurisdictions are the ones most impacted by liquor sales, especially nightclubs. The problems are extreme: public disturbances, assaults, murders, and a high number of DUIs. This bill strengthens the city's position when we bring evidence to the Board and would help jurisdictions with problem bars across the state.

When we have brought public safety and policy issues to the Board, we have been told the Board cannot consider them and that they can only address liquor issues on the premises. This bill would make it clear the Board can consider public safety issues and provide some standards. Now, the burden is on the local jurisdiction. A liquor license is a privilege, not a right, and the burden should be on an establishment. Other approaches are more extreme. For example, schools can object and the Board must deny a license. Establishments who run a clean business don't have anything to worry about. We disagree as to whether the Board was ready to proceed with rejection in the case mentioned.

(Opposed) Ninety-eight percent of the time when a local jurisdiction objects based on public safety concerns, the Board denies or does not renew the license. Objections based on financial ties with a prior licensee are not based on public safety. In the last five years Olympia has objected once and that objection is now pending. The City of Olympia has only objected once to renewal in the last five years. The Board pursued nonrenewal and the city then withdrew its objection.

Local jurisdictions can object under current law and there are numerous other ways a local jurisdiction can deal with this issue. Tacoma has a nuisance ordinance that deals with the issue of things that are happening that are not directly tied to the liquor license. Seattle is also considering an ordinance. There are other bills dealing with nightclub issues.

The bill would have us hold a new applicant responsible for the practices of a previous licensee.

Persons Testifying: (In support) Representative Williams, prime sponsor; Mark Foutch, Mayor of Olympia and Association of Washington Cities; and Bob Sterbank, City Attorney, City of Olympia.

(Opposed) Michael Transue, Washington Restaurant Association; and Rick Garza, Liquor Control Board.

Persons Signed In To Testify But Not Testifying: None.