

HOUSE BILL REPORT

EHB 2113

As Amended by the Senate

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

Brief History:

Committee Activity:

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

Floor Activity:

Passed House: 3/13/07, 95-1.

Senate Amended.

Passed Senate: 4/4/07, 47-0.

Brief Summary of Engrossed Bill

- Directs the Liquor Control Board to give substantial weight to the objections of a local jurisdiction to the issuance or renewal of a liquor license based on chronic illegal activity associated with the applicant's operation of the premises or other licensed premises, or the conduct of the applicant's patrons inside or outside the premises.
- Makes other changes in the review of liquor license applications.

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).

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.

Background:

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

Before issuing any type of license, the Board may inspect the premises and consider applicant's criminal history. 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.

Summary of Engrossed Bill:

The Board's authority to issue liquor licenses when local jurisdictions object is modified. 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 any other licensed premises or the conduct of applicant's patrons inside or outside the premises.

"Chronic illegal activity" is defined as (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.

The Board's discretion to issue or deny a license is limited by the requirements placed on the Board. Denial of a license may be based on, without limitation, the existence of chronic illegal activity.

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 must present and defend the Board's initial decision to deny a license or renewal.

The Board may inspect the premises and consider criminal history of renewal applicants as well as new applicants. An administrative violation history with the Board may be considered for both new and renewal applicants. The requirement that the Board give notice to local jurisdictions on renewal as well as new applications is placed in statute.

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

EFFECT OF SENATE AMENDMENT(S):

The amendment provides that if an applicant requests a hearing on the Board's denial of a license or a renewal of a license, a hearing must be held. In addition, it provides that the criteria for determining chronic illegal activity includes statements given to law enforcement, not limited to the State Patrol, and clarifies that the statements are those made by patrons upon DUI arrest.

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.