

HOUSE BILL REPORT

SSB 5721

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to allowing for financial arrangements between the holders of a sports/entertainment facility and manufacturers, importers, and distributors.

Brief Description: Concerning financial arrangements involving sports/entertainment facility license holders.

Sponsors: Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senator Kohl-Welles).

Brief History:

Committee Activity:

Commerce & Labor: 3/16/07, 3/27/07 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Allows a liquor manufacturer, importer, or distributor to enter into an arrangement with a sports/entertainment facility licensee or an affiliated business for brand advertising at the licensed facility or promoting events held at the facility.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 7 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Green, Moeller and Williams.

Staff: Joan Elgee (786-7106).

Background:

The Liquor Control Board (Board) issues a number of types of liquor licenses. A sports/entertainment license allows the licensee to sell beer, wine, and spirits for on-premises consumption. The license is issued to the entity providing food and beverage service. A

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sports/entertainment facility includes a publicly or privately-owned arena, coliseum, stadium, or facility where sporting events are presented for the price of admission.

Liquor "tied-house" laws are intended to prevent inappropriate or coercive business practices among the various sectors of the liquor industry, either through domination of one tier over another or through exclusion of competitors' products. Washington's tied-house law prohibits:

- manufacturers, importers, distributors, and authorized representatives from having a financial interest in a retail license or owning property on which a retailer operates; and
- manufacturers, importers, distributors, and authorized representatives from providing things of value ("money or money's worth") to licensees.

The Legislature has enacted numerous exceptions to the tied-house law.

Summary of Amended Bill:

A sports/entertainment licensee and an affiliated business may enter into arrangements with a manufacturer, importer, or distributor for brand advertising at the facility or promotion of events held at the facility with a capacity of 5,000 people or more. The financial arrangements may not be used as an inducement to purchase the products of the manufacturer, importer, or distributor nor may it result in the exclusion of brands or products of other companies.

A tied-house exception is created to allow the brand advertising or event promotion arrangements.

The Board must monitor the impacts of the arrangements and report to the appropriate committees of the Legislature by December 30, 2008, and biennially thereafter. The Board may conduct audits of the licensee and affiliated business to determine compliance. Audits may include: product selection at the facility, purchase patterns of the licensee, contracts with the liquor manufacturer, importer, or distributor; and the amount allocated or used for liquor advertising by the licensee, affiliated business, manufacturer, importer, or distributor under the arrangements.

Amended Bill Compared to Substitute Bill:

The amended bill adds the monitoring and reporting requirements and gives the Board auditing authority to determine compliance. In addition, the amended bill limits the authority to enter arrangements to facilities with a capacity of 5,000 people or more. A June 30, 2008, expiration date is deleted and the amended bill explicitly authorizes sports/entertainment facilities to enter arrangements, in addition to making the tied-house exception.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The tied-house laws were written in 1933, a very different time. We want to address some issues that have come up with this very narrow legislation. The advertising and sponsoring relationships are part of much broader marketing and branding relationships that are focused on teams and entertainers and are unique to this type of license holder. Advertising for sports/entertainment facilities is completely different from other retailers. National touring companies, for example, often have tie-ins with alcoholic beverage companies.

We all pour dozens of brands and we have extensive procedures to assure responsible consumption. This bill gives us the ability to enter the relationships with manufactures that all the other sports/entertainment venues do around the country. Our facility subcontracts with a food and beverage company; the sports team enters the marketing contracts but because of the complicated relationships is a party to the liquor license and so we have the tied-house issue. Emerald Downs is a little different in that it is the concessionaire and so there is a more direct tie.

For years, Budweiser has been sponsoring a race at Emerald Downs and we've been allowed to do other advertising as well. These practices are universal to almost all tracks in the nation. The Board has allowed these arrangements with a liberal construction of the tied-house statute but we feel vulnerable to a challenge.

The sunset should be removed so we can enter multi-year agreements.

(Neutral) Tied-house laws are intended to prevent inappropriate and coercive business practices among the various sectors. We have a work group looking at the tied-house law to try to come up with something so we aren't here year after year creating exceptions. If we don't have domination or coercion, maybe we can be a little less restrictive on tied-house. We will come back on August 1 with recommendations.

In the Three-Tier Review, the prevention community raised questions about brand advertising in the large venues and social norming. The other point of view is there is a proliferation of advertising now; what kind of practical effect does it have? The Board is most concerned with youth access and over consumption. It can be debated whether brand advertising creates public safety concerns. We don't directly see the tie that some people have talked about.

(Opposed) The issue with the tied-house is market power. In the 1930s it was the producers; now it's the big box stores. We have a process to look at this issue. The Three-Tier Task Force looked at it and now the Board has convened a task force. The task force should be allowed to do its work and bring back a recommendation.

Persons Testifying: (In support) Becky Bogard and Martha Fuller, Washington State Sports & Entertainment Facility Operators; and Jim Halstrom and Susie Sourwine, Northwest Racing, and Emerald Downs.

(Neutral) Rick Garza, Liquor Control Board.

(Opposed) Ron Main, Washington Beer & Wine Wholesalers Association.

Persons Signed In To Testify But Not Testifying: None.