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HOUSE BILL 2758

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State of Washington

62nd Legislature

2012 Regular Session

By Representatives Hunter and Alexander; by request of Department of Revenue

Read first time 02/01/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to strengthening the department of revenue's  
2 ability to collect spirits taxes imposed under RCW 82.08.150; amending  
3 RCW 82.03.190, 66.24.010, 66.08.150, 34.05.422, and 82.32.145;  
4 reenacting and amending RCW 82.32.080; adding a new section to chapter  
5 82.08 RCW; adding a new section to chapter 66.28 RCW; creating a new  
6 section; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW,  
9 to be codified between RCW 82.08.150 and 82.08.160, to read as follows:  
10 (1)(a) If the department determines that a taxpayer is more than  
11 thirty days delinquent in reporting or remitting spirits taxes on a tax  
12 return or assessed by the department, including any applicable  
13 penalties and interest on such taxes, the department may request that  
14 the liquor control board suspend the taxpayer's spirits license or  
15 licenses and refuse to renew any existing spirits license held by the  
16 taxpayer or issue any new spirits license to the taxpayer. The  
17 department must provide written notice to the affected taxpayer of the  
18 department's request to the liquor control board.

1 (b) Before the department may make a request to the liquor control  
2 board as authorized in (a) of this subsection (1), the department must  
3 have provided the taxpayer with at least seven calendar days prior  
4 written notice. This notice must inform the taxpayer that the  
5 department intends to request that the liquor control board suspend the  
6 taxpayer's spirits license or licenses and refuse to renew any existing  
7 license of the taxpayer or issue any new spirits license to the  
8 taxpayer unless, within seven calendar days of the date of the notice,  
9 the taxpayer submits any unfiled tax returns for reporting spirits  
10 taxes and remits full payment of its outstanding spirits tax liability  
11 to the department or negotiates payment arrangements for the unpaid  
12 spirits taxes. The notice required by this subsection (1)(b) must  
13 include information listing any unfiled tax returns; the amount of  
14 unpaid spirits taxes, including any applicable penalties and interest;  
15 who to contact to inquire about payment arrangements; and that the  
16 taxpayer may seek administrative review by the department of the  
17 notice, and the deadline for seeking such review. Nothing in this  
18 subsection (1)(b) requires the department to enter into any payment  
19 arrangement proposed by a taxpayer if the department determines that  
20 the taxpayer's proposal is not satisfactory.

21 (c) The department may not make a request to the liquor control  
22 board under subsection (1)(a) of this section relating to any spirits  
23 taxes that are the subject of pending administrative review by the  
24 department.

25 (2) A taxpayer's right to administrative review of the notice  
26 required in subsection (1)(b) of this section:

27 (a) May be conducted under any rule adopted pursuant to RCW  
28 82.01.060(4) or as a brief adjudicative proceeding under RCW 34.05.485  
29 through 34.05.494; and

30 (b) Does not include the right to challenge the amount of any  
31 spirits taxes assessed by the department if the taxpayer previously  
32 sought or could have sought administrative review of the assessment as  
33 provided in RCW 82.32.160.

34 (3) The notices required by this section may be provided  
35 electronically in accordance with RCW 82.32.135.

36 (4) For purposes of this section:

37 (a) "Spirits license" has the same meaning as in RCW  
38 66.24.010(3)(c); and

1 (b) "Spirits taxes" means the taxes imposed in RCW 82.08.150.

2 **Sec. 2.** RCW 82.32.080 and 2011 c 24 s 1 and 2010 2nd sp.s. c 2 s  
3 2 are each reenacted and amended to read as follows:

4 (1) When authorized by the department, payment of the tax may be  
5 made by uncertified check under such rules as the department  
6 prescribes, but, if a check so received is not paid by the bank on  
7 which it is drawn, the taxpayer, by whom such check is tendered, will  
8 remain liable for payment of the tax and for all legal penalties and  
9 interest, the same as if such check had not been tendered.

10 (2)(a) Except as otherwise provided in this subsection, payment of  
11 the tax must be made by electronic funds transfer, as defined in RCW  
12 82.32.085. As an alternative to electronic funds transfer, the  
13 department may authorize other forms of electronic payment, such as  
14 payment by credit card. All taxes administered by this chapter are  
15 subject to this requirement, except that the department may exclude any  
16 taxes not reported on the combined excise tax return or any successor  
17 return from the electronic payment requirement in this subsection.

18 (b) The department may waive the electronic payment requirement in  
19 this subsection for any taxpayer or class of taxpayers, for good cause  
20 or for whom the department has assigned a reporting frequency that is  
21 less than quarterly. In the discretion of the department, a waiver  
22 under this subsection may be made temporary or permanent, and may be  
23 made on the department's own motion.

24 (c) The department is authorized to accept payment of taxes by  
25 electronic funds transfer or other acceptable forms of electronic  
26 payment from taxpayers that are not subject to the mandatory electronic  
27 payment requirements in this subsection.

28 (3)(a) Except as otherwise provided in this subsection, returns  
29 must be filed electronically using the department's online tax filing  
30 service or other method of electronic reporting as the department may  
31 authorize.

32 (b) The department may waive the electronic filing requirement in  
33 this subsection for any taxpayer or class of taxpayers, for good cause  
34 or for whom the department has assigned a reporting frequency that is  
35 less than quarterly. In the discretion of the department, a waiver  
36 under this subsection may be made temporary or permanent, and may be  
37 made on the department's own motion.

1 (c) The department is authorized to allow electronic filing of  
2 returns from taxpayers that are not subject to the mandatory electronic  
3 filing requirements in this subsection.

4 (4)(a)(i) The department, for good cause shown, may extend the time  
5 for making and filing any return, and may grant such reasonable  
6 additional time within which to make and file returns as it may deem  
7 proper, but any permanent extension granting the taxpayer a reporting  
8 date without penalty more than ten days beyond the due date, and any  
9 extension in excess of thirty days must be conditional on deposit with  
10 the department of an amount to be determined by the department which is  
11 approximately equal to the estimated tax liability for the reporting  
12 period or periods for which the extension is granted. In the case of  
13 a permanent extension or a temporary extension of more than thirty days  
14 the deposit must be deposited within the state treasury with other tax  
15 funds and a credit recorded to the taxpayer's account which may be  
16 applied to taxpayer's liability upon cancellation of the permanent  
17 extension or upon reporting of the tax liability where an extension of  
18 more than thirty days has been granted.

19 (ii) The department must review the requirement for deposit at  
20 least annually and may require a change in the amount of the deposit  
21 required when it believes that such amount does not approximate the tax  
22 liability for the reporting period or periods for which the extension  
23 is granted.

24 (b) During a state of emergency declared under RCW 43.06.010(12),  
25 the department, on its own motion or at the request of any taxpayer  
26 affected by the emergency, may extend the time for making or filing any  
27 return as the department deems proper. The department may not require  
28 any deposit as a condition for granting an extension under this  
29 subsection (4)(b).

30 (5)(a) The department must keep full and accurate records of all  
31 funds received and disbursed by it. Subject to the provisions of RCW  
32 82.32.105, 82.32.052, and 82.32.350, the department must apply the  
33 payment of the taxpayer (~~first against penalties and interest, and~~  
34 ~~then upon the tax, without regard to any direction of the taxpayer~~) in  
35 the following order, without regard to any direction of the taxpayer:  
36 (i) Interest; (ii) penalties; (iii) fees; (iv) other nontax amounts;  
37 (v) taxes, except spirits taxes; and (vi) spirits taxes.

1        (b) For purposes of this subsection, "spirits taxes" has the same  
2 meaning as in section 1 of this act.

3        (6) The department may refuse to accept any return that is not  
4 accompanied by a remittance of the tax shown to be due thereon or that  
5 is not filed electronically as required in this section. When such  
6 return is not accepted, the taxpayer is deemed to have failed or  
7 refused to file a return and is subject to the procedures provided in  
8 RCW 82.32.100 and to the penalties provided in RCW 82.32.090. The  
9 above authority to refuse to accept a return may not apply when a  
10 return is timely filed electronically and a timely payment has been  
11 made by electronic funds transfer or other form of electronic payment  
12 as authorized by the department.

13        (7) Except for returns and remittances required to be transmitted  
14 to the department electronically under this section and except as  
15 otherwise provided in this chapter, a return or remittance that is  
16 transmitted to the department by United States mail is deemed filed or  
17 received on the date shown by the post office cancellation mark stamped  
18 upon the envelope containing it. A return or remittance that is  
19 transmitted to the department electronically is deemed filed or  
20 received according to procedures set forth by the department.

21        (8)(a) For purposes of subsections (2) and (3) of this section,  
22 "good cause" means the inability of a taxpayer to comply with the  
23 requirements of subsection (2) or (3) of this section because:

24        (i) The taxpayer does not have the equipment or software necessary  
25 to enable the taxpayer to comply with subsection (2) or (3) of this  
26 section;

27        (ii) The equipment or software necessary to enable the taxpayer to  
28 comply with subsection (2) or (3) of this section is not functioning  
29 properly;

30        (iii) The taxpayer does not have access to the internet using the  
31 taxpayer's own equipment;

32        (iv) The taxpayer does not have a bank account or a credit card;

33        (v) The taxpayer's bank is unable to send or receive electronic  
34 funds transfer transactions; or

35        (vi) Some other circumstance or condition exists that, in the  
36 department's judgment, prevents the taxpayer from complying with the  
37 requirements of subsection (2) or (3) of this section.

1 (b) "Good cause" also includes any circumstance that, in the  
2 department's judgment, supports the efficient or effective  
3 administration of the tax laws of this state, including providing  
4 relief from the requirements of subsection (2) or (3) of this section  
5 to any taxpayer that is voluntarily collecting and remitting this  
6 state's sales or use taxes on sales to Washington customers but has no  
7 legal requirement to be registered with the department.

8 **Sec. 3.** RCW 82.03.190 and 1998 c 54 s 2 are each amended to read  
9 as follows:

10 (1) Except as provided in subsection (2) of this section, any  
11 person having received notice of a denial of a petition or a notice of  
12 determination made under RCW 82.32.160, 82.32.170, 82.34.110, or  
13 82.49.060 may appeal by filing in accordance with RCW 1.12.070 a notice  
14 of appeal with the board of tax appeals within thirty days after the  
15 mailing of the notice of such denial or determination. In the notice  
16 of appeal the taxpayer (~~shall~~) must set forth the amount of the tax  
17 which the taxpayer contends should be reduced or refunded and the  
18 reasons for such reduction or refund, in accordance with rules of  
19 practice and procedure prescribed by the board. However, if the notice  
20 of appeal relates to an application made to the department under  
21 chapter 82.34 RCW, the taxpayer (~~shall~~) must set forth the amount to  
22 which the taxpayer claims the credit or exemption should apply, and the  
23 grounds for such contention, in accordance with rules of practice and  
24 procedure prescribed by the board. The board (~~shall~~) must transmit  
25 a copy of the notice of appeal to the department and all other named  
26 parties within thirty days of its receipt by the board. If the  
27 taxpayer intends that the hearing before the board be held pursuant to  
28 the administrative procedure act (chapter 34.05 RCW), the notice of  
29 appeal (~~shall~~) must also so state. In the event that the notice of  
30 appeal does not so state, the department may, within thirty days from  
31 the date of its receipt of the notice of appeal, file with the board  
32 notice of its intention that the hearing be held pursuant to the  
33 administrative procedure act.

34 (2) No person may file a notice of appeal with the board of tax  
35 appeals to contest the amount of spirits taxes assessed or asserted to  
36 be due by the department of revenue unless the person has first paid

1 the full amount of the contested spirits taxes. For purposes of this  
2 subsection, "spirits taxes" has the same meaning as in section 1 of  
3 this act.

4 **Sec. 4.** RCW 66.24.010 and 2011 c 195 s 1 are each amended to read  
5 as follows:

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

9 (2) For the purpose of considering any application for a license,  
10 or the renewal of a license, the board may cause an inspection of the  
11 premises to be made, and may inquire into all matters in connection  
12 with the construction and operation of the premises. For the purpose  
13 of reviewing any application for a license and for considering the  
14 denial, suspension, revocation, or renewal or denial thereof, of any  
15 license, the liquor control board may consider any prior criminal  
16 conduct of the applicant including an administrative violation history  
17 record with the board and a criminal history record information check.  
18 The board may submit the criminal history record information check to  
19 the Washington state patrol and to the identification division of the  
20 federal bureau of investigation in order that these agencies may search  
21 their records for prior arrests and convictions of the individual or  
22 individuals who filled out the forms. The board (~~shall~~) must require  
23 fingerprinting of any applicant whose criminal history record  
24 information check is submitted to the federal bureau of investigation.  
25 The provisions of RCW 9.95.240 and of chapter 9.96A RCW (~~shall~~) do  
26 not apply to such cases. Subject to the provisions of this section,  
27 the board may, in its discretion, grant or deny the renewal or license  
28 applied for. Denial may be based on, without limitation, the existence  
29 of chronic illegal activity documented in objections submitted pursuant  
30 to subsections (8)(d) and (12) of this section. Authority to approve  
31 an uncontested or unopposed license may be granted by the board to any  
32 staff member the board designates in writing. Conditions for granting  
33 such authority (~~shall~~) must be adopted by rule. No retail license of  
34 any kind may be issued to:

35 (a) A person doing business as a sole proprietor who has not  
36 resided in the state for at least one month prior to receiving a

1 license, except in cases of licenses issued to dining places on  
2 railroads, boats, or aircraft;

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

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

8 (d) A corporation or a limited liability company, unless it was  
9 created under the laws of the state of Washington or holds a  
10 certificate of authority to transact business in the state of  
11 Washington.

12 (3)(a) The board may, in its discretion, subject to the provisions  
13 of RCW 66.08.150, suspend or cancel any license; and all rights of the  
14 licensee to keep or sell liquor thereunder (~~shall~~) must be suspended  
15 or terminated, as the case may be.

16 (b) The board (~~shall~~) must immediately suspend the license or  
17 certificate of a person who has been certified pursuant to RCW  
18 74.20A.320 by the department of social and health services as a person  
19 who is not in compliance with a support order. If the person has  
20 continued to meet all other requirements for reinstatement during the  
21 suspension, reissuance of the license or certificate (~~shall be~~) is  
22 automatic upon the board's receipt of a release issued by the  
23 department of social and health services stating that the licensee is  
24 in compliance with the order.

25 (c) Upon written notification by the department of revenue in  
26 accordance with section 1 of this act that a person is more than thirty  
27 days delinquent in reporting or remitting spirits taxes to the  
28 department, the board must suspend all spirits licenses held by that  
29 person. The board must also refuse to renew any existing spirits  
30 license of, or issue any new spirits license to, the person or any  
31 other applicant controlled directly or indirectly by that person. The  
32 board may not reinstate a person's spirits license or renew or issue a  
33 new spirits license to that person, or an applicant controlled directly  
34 or indirectly by that person, until such time as the department of  
35 revenue notifies the board that the person is current in reporting and  
36 remitting spirits taxes or that the department consents to the  
37 reinstatement or renewal of the person's spirits license or the  
38 issuance of a new spirits license to the person. For purposes of this



1 section: (i) "Spirits license" means any license issued by the board  
2 under the authority of this chapter that authorizes the licensee to  
3 sell spirits; and (ii) "spirits taxes" has the same meaning as in  
4 section 1 of this act.

5 (d) The board may request the appointment of administrative law  
6 judges under chapter 34.12 RCW who (~~shall~~) must have power to  
7 administer oaths, issue subpoenas for the attendance of witnesses and  
8 the production of papers, books, accounts, documents, and testimony,  
9 examine witnesses, and to receive testimony in any inquiry,  
10 investigation, hearing, or proceeding in any part of the state, under  
11 such rules and regulations as the board may adopt.

12 (~~(d)~~) (e) Witnesses (~~shall be~~) are allowed fees and mileage  
13 each way to and from any such inquiry, investigation, hearing, or  
14 proceeding at the rate authorized by RCW 34.05.446. Fees need not be  
15 paid in advance of appearance of witnesses to testify or to produce  
16 books, records, or other legal evidence.

17 (~~(e)~~) (f) In case of disobedience of any person to comply with  
18 the order of the board or a subpoena issued by the board, or any of its  
19 members, or administrative law judges, or on the refusal of a witness  
20 to testify to any matter regarding which he or she may be lawfully  
21 interrogated, the judge of the superior court of the county in which  
22 the person resides, on application of any member of the board or  
23 administrative law judge, (~~shall~~) must compel obedience by contempt  
24 proceedings, as in the case of disobedience of the requirements of a  
25 subpoena issued from said court or a refusal to testify therein.

26 (4) Upon receipt of notice of the suspension or cancellation of a  
27 license, the licensee (~~shall~~) must forthwith deliver up the license  
28 to the board. Where the license has been suspended only, the board  
29 (~~shall~~) must return the license to the licensee at the expiration or  
30 termination of the period of suspension. The board (~~shall~~) must  
31 notify all vendors in the city or place where the licensee has its  
32 premises of the suspension or cancellation of the license; and no  
33 employee may allow or cause any liquor to be delivered to or for any  
34 person at the premises of that licensee.

35 (5)(a) At the time of the original issuance of a spirits, beer, and  
36 wine restaurant license, the board (~~shall~~) must prorate the license  
37 fee charged to the new licensee according to the number of calendar

1 quarters, or portion thereof, remaining until the first renewal of that  
2 license is required.

3 (b) Unless sooner canceled, every license issued by the board  
4 (~~shall~~) must expire at midnight of the thirtieth day of June of the  
5 fiscal year for which it was issued. However, if the board deems it  
6 feasible and desirable to do so, it may establish, by rule pursuant to  
7 chapter 34.05 RCW, a system for staggering the annual renewal dates for  
8 any and all licenses authorized by this chapter. If such a system of  
9 staggered annual renewal dates is established by the board, the license  
10 fees provided by this chapter (~~shall~~) must be appropriately prorated  
11 during the first year that the system is in effect.

12 (6) Every license issued under this section (~~shall be~~) is subject  
13 to all conditions and restrictions imposed by this title or by rules  
14 adopted by the board. All conditions and restrictions imposed by the  
15 board in the issuance of an individual license may be listed on the  
16 face of the individual license along with the trade name, address, and  
17 expiration date. Conditions and restrictions imposed by the board may  
18 also be included in official correspondence separate from the license.  
19 All spirits licenses are subject to the condition that the spirits  
20 license holder must report and remit to the department of revenue all  
21 spirits taxes by the date due.

22 (7) Every licensee (~~shall~~) must post and keep posted its license,  
23 or licenses, and any additional correspondence containing conditions  
24 and restrictions imposed by the board in a conspicuous place on the  
25 premises.

26 (8)(a) Unless (b) of this subsection applies, before the board  
27 issues a new or renewal license to an applicant it (~~shall~~) must give  
28 notice of such application to the chief executive officer of the  
29 incorporated city or town, if the application is for a license within  
30 an incorporated city or town, or to the county legislative authority,  
31 if the application is for a license outside the boundaries of  
32 incorporated cities or towns.

33 (b) If the application for a special occasion license is for an  
34 event held during a county, district, or area fair as defined by RCW  
35 15.76.120, and the county, district, or area fair is located on  
36 property owned by the county but located within an incorporated city or  
37 town, the county legislative authority (~~shall~~) must be the entity

1 notified by the board under (a) of this subsection. The board  
2 (~~shall~~) must send a duplicate notice to the incorporated city or town  
3 within which the fair is located.

4 (c) The incorporated city or town through the official or employee  
5 selected by it, or the county legislative authority or the official or  
6 employee selected by it, (~~shall have~~) has the right to file with the  
7 board within twenty days after the date of transmittal of such notice  
8 for applications, or at least thirty days prior to the expiration date  
9 for renewals, written objections against the applicant or against the  
10 premises for which the new or renewal license is asked. The board may  
11 extend the time period for submitting written objections.

12 (d) The written objections (~~shall~~) must include a statement of  
13 all facts upon which such objections are based, and in case written  
14 objections are filed, the city or town or county legislative authority  
15 may request and the liquor control board may in its discretion hold a  
16 hearing subject to the applicable provisions of Title 34 RCW. If the  
17 board makes an initial decision to deny a license or renewal based on  
18 the written objections of an incorporated city or town or county  
19 legislative authority, the applicant may request a hearing subject to  
20 the applicable provisions of Title 34 RCW. If such a hearing is held  
21 at the request of the applicant, liquor control board representatives  
22 (~~shall~~) must present and defend the board's initial decision to deny  
23 a license or renewal.

24 (e) Upon the granting of a license under this title the board  
25 (~~shall~~) must send written notification to the chief executive officer  
26 of the incorporated city or town in which the license is granted, or to  
27 the county legislative authority if the license is granted outside the  
28 boundaries of incorporated cities or towns. When the license is for a  
29 special occasion license for an event held during a county, district,  
30 or area fair as defined by RCW 15.76.120, and the county, district, or  
31 area fair is located on county-owned property but located within an  
32 incorporated city or town, the written notification (~~shall~~) must be  
33 sent to both the incorporated city or town and the county legislative  
34 authority.

35 (9)(a) Before the board issues any license to any applicant, it  
36 shall give (i) due consideration to the location of the business to be  
37 conducted under such license with respect to the proximity of churches,  
38 schools, and public institutions and (ii) written notice, with receipt

1 verification, of the application to public institutions identified by  
2 the board as appropriate to receive such notice, churches, and schools  
3 within five hundred feet of the premises to be licensed. The board  
4 (~~shall~~) may not issue a liquor license for either on-premises or off-  
5 premises consumption covering any premises not now licensed, if such  
6 premises are within five hundred feet of the premises of any tax-  
7 supported public elementary or secondary school measured along the most  
8 direct route over or across established public walks, streets, or other  
9 public passageway from the main entrance of the school to the nearest  
10 public entrance of the premises proposed for license, and if, after  
11 receipt by the school of the notice as provided in this subsection, the  
12 board receives written objection, within twenty days after receiving  
13 such notice, from an official representative or representatives of the  
14 school within five hundred feet of said proposed licensed premises,  
15 indicating to the board that there is an objection to the issuance of  
16 such license because of proximity to a school. The board may extend  
17 the time period for submitting objections. For the purpose of this  
18 section, "church" means a building erected for and used exclusively for  
19 religious worship and schooling or other activity in connection  
20 therewith. For the purpose of this section, "public institution" means  
21 institutions of higher education, parks, community centers, libraries,  
22 and transit centers.

23 (b) No liquor license may be issued or reissued by the board to any  
24 motor sports facility or licensee operating within the motor sports  
25 facility unless the motor sports facility enforces a program reasonably  
26 calculated to prevent alcohol or alcoholic beverages not purchased  
27 within the facility from entering the facility and such program is  
28 approved by local law enforcement agencies.

29 (c) It is the intent under this subsection (9) that a retail  
30 license (~~shall~~) may not be issued by the board where doing so would,  
31 in the judgment of the board, adversely affect a private school meeting  
32 the requirements for private schools under Title 28A RCW, which school  
33 is within five hundred feet of the proposed licensee. The board  
34 (~~shall~~) must fully consider and give substantial weight to objections  
35 filed by private schools. If a license is issued despite the proximity  
36 of a private school, the board (~~shall~~) must state in a letter  
37 addressed to the private school the board's reasons for issuing the  
38 license.

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

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

13 (b) A temporary license issued by the board under this section  
14 (~~shall~~) must be for a period not to exceed sixty days. A temporary  
15 license may be extended at the discretion of the board for additional  
16 periods of sixty days upon payment of an additional fee and upon  
17 compliance with all conditions required in this section.

18 (c) Refusal by the board to issue or extend a temporary license  
19 shall not entitle the applicant to request a hearing. A temporary  
20 license may be canceled or suspended summarily at any time if the board  
21 determines that good cause for cancellation or suspension exists. RCW  
22 66.08.130 applies to temporary licenses.

23 (d) Application for a temporary license (~~shall~~) must be on such  
24 form as the board shall prescribe. If an application for a temporary  
25 license is withdrawn before issuance or is refused by the board, the  
26 fee which accompanied such application (~~shall~~) must be refunded in  
27 full.

28 (12) In determining whether to grant or deny a license or renewal  
29 of any license, the board (~~shall~~) must give substantial weight to  
30 objections from an incorporated city or town or county legislative  
31 authority based upon chronic illegal activity associated with the  
32 applicant's operations of the premises proposed to be licensed or the  
33 applicant's operation of any other licensed premises, or the conduct of  
34 the applicant's patrons inside or outside the licensed premises.  
35 "Chronic illegal activity" means (a) a pervasive pattern of activity  
36 that threatens the public health, safety, and welfare of the city,  
37 town, or county including, but not limited to, open container  
38 violations, assaults, disturbances, disorderly conduct, or other

1 criminal law violations, or as documented in crime statistics, police  
2 reports, emergency medical response data, calls for service, field  
3 data, or similar records of a law enforcement agency for the city,  
4 town, county, or any other municipal corporation or any state agency;  
5 or (b) an unreasonably high number of citations for violations of RCW  
6 46.61.502 associated with the applicant's or licensee's operation of  
7 any licensed premises as indicated by the reported statements given to  
8 law enforcement upon arrest.

9       **Sec. 5.** RCW 66.08.150 and 2007 c 370 s 3 are each amended to read  
10 as follows:

11       The action, order, or decision of the board as to any denial of an  
12 application for the reissuance of a permit or license or as to any  
13 revocation, suspension, or modification of any permit or license  
14 (~~shall~~) must be an adjudicative proceeding and subject to the  
15 applicable provisions of chapter 34.05 RCW.

16       (1) An opportunity for a hearing may be provided an applicant for  
17 the reissuance of a permit or license prior to the disposition of the  
18 application, and if no such opportunity for a prior hearing is provided  
19 then an opportunity for a hearing to reconsider the application must be  
20 provided the applicant.

21       (2) An opportunity for a hearing must be provided a permittee or  
22 licensee prior to a revocation or modification of any permit or license  
23 and, except as provided in subsection (4) of this section, prior to the  
24 suspension of any permit or license.

25       (3) No hearing (~~shall~~) may be required until demanded by the  
26 applicant, permittee, or licensee.

27       (4) The board may summarily suspend a license or permit for a  
28 period of up to one hundred eighty days without a prior hearing if it  
29 finds that public health, safety, or welfare imperatively require  
30 emergency action, and it incorporates a finding to that effect in its  
31 order. Proceedings for revocation or other action must be promptly  
32 instituted and determined. An administrative law judge may extend the  
33 summary suspension period for up to one calendar year in the event the  
34 proceedings for revocation or other action cannot be completed during  
35 the initial one hundred eighty day period due to actions by the  
36 licensee or permittee. The board's enforcement division (~~shall~~) must

1 complete a preliminary staff investigation of the violation before  
2 requesting an emergency suspension by the board.

3 (5) The issues that may be considered at a hearing to contest a  
4 suspension of a license or the denial of an application for a new  
5 license or renewal of an existing license, under RCW 66.24.010(3)(c),  
6 do not include the right to challenge the amount of any spirits taxes  
7 assessed against the licensee or applicant by the department of  
8 revenue. For purposes of this subsection, "spirits taxes" has the same  
9 meaning as in section 1 of this act.

10 **Sec. 6.** RCW 34.05.422 and 1989 c 175 s 13 are each amended to read  
11 as follows:

12 (1) Unless otherwise provided by law: (a) Applications for rate  
13 changes and uncontested applications for licenses may, in the agency's  
14 discretion, be conducted as adjudicative proceedings; (b) applications  
15 for licenses that are contested by a person having standing to contest  
16 under the law and review of denials of applications for licenses or  
17 rate changes (~~shall~~) must be conducted as adjudicative proceedings;  
18 and (c) an agency may not revoke, suspend, or modify a license unless  
19 the agency gives notice of an opportunity for an appropriate  
20 adjudicative proceeding in accordance with this chapter or other  
21 statute.

22 (2) An agency with authority to grant or deny a professional or  
23 occupational license (~~shall~~) must notify an applicant for a new or  
24 renewal license not later than twenty days prior to the date of the  
25 examination required for that license of any grounds for denial of the  
26 license which are based on specific information disclosed in the  
27 application submitted to the agency. The agency (~~shall~~) must notify  
28 the applicant either that the license is denied or that the decision to  
29 grant or deny the license will be made at a future date. If the agency  
30 fails to give the notification prior to the examination and the  
31 applicant is denied licensure, the examination fee (~~shall~~) must be  
32 refunded to the applicant. If the applicant takes the examination, the  
33 agency (~~shall~~) must notify the applicant of the result.

34 (3) When a licensee has made timely and sufficient application for  
35 the renewal of a license or a new license with reference to any  
36 activity of a continuing nature, an existing full, temporary, or  
37 provisional license does not expire until the application has been

1 finally determined by the agency, and, in case the application is  
2 denied or the terms of the new license limited, until the last day for  
3 seeking review of the agency order or a later date fixed by order of  
4 the reviewing court.

5 (4) If the agency finds that public health, safety, or welfare  
6 imperatively requires emergency action, and incorporates a finding to  
7 that effect in its order, summary suspension of a license may be  
8 ordered pending proceedings for revocation or other action. These  
9 proceedings (~~shall~~) must be promptly instituted and determined.

10 (5) This section does not apply to requests made by the department  
11 of revenue, under the authority of section 1 of this act, to the liquor  
12 control board to suspend a person's spirits license and to refuse to  
13 renew any spirits license held by the person and to issue any new  
14 spirits license to the person.

15 NEW SECTION. Sec. 7. A new section is added to chapter 66.28 RCW,  
16 to be codified between RCW 66.28.030 and 66.28.040, to read as follows:

17 (1) By the 15th day of each month, all spirits certificate of  
18 approval holders must file with the board, in a form and manner  
19 required by the board, a report of all spirits delivered to purchasers  
20 in this state during the preceding month along with a copy of the  
21 invoices for all such purchases or other information required by the  
22 board that would disclose the identity of the purchasers.

23 (2) A spirits certificate of approval holder may not ship or cause  
24 to be transported into this state any spirits unless the purchaser to  
25 whom the spirits are to be delivered is:

26 (a) Licensed by the board to sell spirits in this state, and the  
27 license is in good standing; or

28 (b) Otherwise legally authorized to sell spirits in this state.

29 (3) The liquor control board must maintain on its web site a list  
30 of all purchasers that meet the conditions of subsection (2) of this  
31 section.

32 (4) A violation of this section is grounds for suspension of a  
33 spirits certificate of approval license in accordance with RCW  
34 66.08.150, in addition to any punishment as may be authorized by RCW  
35 66.28.030.



1       **Sec. 8.** RCW 82.32.145 and 2010 1st sp.s. c 23 s 801 are each  
2 amended to read as follows:

3       (1) Whenever the department has issued a warrant under RCW  
4 82.32.210 for the collection of unpaid (~~retail sales tax funds~~  
5 ~~collected and held in trust under RCW 82.08.050~~) trust fund taxes from  
6 a limited liability business entity and that business entity has been  
7 terminated, dissolved, or abandoned, or is insolvent, the department  
8 may pursue collection of the entity's unpaid (~~sales~~) trust fund  
9 taxes, including penalties and interest on those taxes, against any or  
10 all of the responsible individuals. For purposes of this subsection,  
11 "insolvent" means the condition that results when the sum of the  
12 entity's debts exceeds the fair market value of its assets. The  
13 department may presume that an entity is insolvent if the entity  
14 refuses to disclose to the department the nature of its assets and  
15 liabilities.

16       (2) Personal liability under this section may be imposed for state  
17 and local (~~sales~~) trust fund taxes.

18       (3)(a) For a responsible individual who is the current or a former  
19 chief executive or chief financial officer, liability under this  
20 section applies regardless of fault or whether the individual was or  
21 should have been aware of the unpaid (~~sales~~) trust fund tax liability  
22 of the limited liability business entity.

23       (b) For any other responsible individual, liability under this  
24 section applies only if he or she willfully fails to pay or to cause to  
25 be paid to the department the (~~sales~~) trust fund taxes due from the  
26 limited liability business entity.

27       (4)(a) Except as provided in this subsection (4)(a), a responsible  
28 individual who is the current or a former chief executive or chief  
29 financial officer is liable under this section only for (~~sales~~) trust  
30 fund tax liability accrued during the period that he or she was the  
31 chief executive or chief financial officer. However, if the  
32 responsible individual had the responsibility or duty to remit payment  
33 of the limited liability business entity's (~~sales~~) trust fund taxes  
34 to the department during any period of time that the person was not the  
35 chief executive or chief financial officer, that individual is also  
36 liable for (~~sales~~) trust fund tax liability that became due during  
37 the period that he or she had the duty to remit payment of the limited

1 liability business entity's taxes to the department but was not the  
2 chief executive or chief financial officer.

3 (b) All other responsible individuals are liable under this section  
4 only for (~~sales~~) trust fund tax liability that became due during the  
5 period he or she had the responsibility or duty to remit payment of the  
6 limited liability business entity's taxes to the department.

7 (5) Persons described in subsection (3)(b) of this section are  
8 exempt from liability under this section in situations where nonpayment  
9 of the limited liability business entity's (~~sales~~) trust fund taxes  
10 is due to reasons beyond their control as determined by the department  
11 by rule.

12 (6) Any person having been issued a notice of assessment under this  
13 section is entitled to the appeal procedures under RCW 82.32.160,  
14 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

15 (7) This section does not relieve the limited liability business  
16 entity of its (~~sales~~) trust fund tax liability or otherwise impair  
17 other tax collection remedies afforded by law.

18 (8) Collection authority and procedures prescribed in this chapter  
19 apply to collections under this section.

20 (9) The definitions in this subsection apply throughout this  
21 section unless the context clearly requires otherwise.

22 (a) "Chief executive" means: The president of a corporation; or  
23 for other entities or organizations other than corporations or if the  
24 corporation does not have a president as one of its officers, the  
25 highest ranking executive manager or administrator in charge of the  
26 management of the company or organization.

27 (b) "Chief financial officer" means: The treasurer of a  
28 corporation; or for entities or organizations other than corporations  
29 or if a corporation does not have a treasurer as one of its officers,  
30 the highest senior manager who is responsible for overseeing the  
31 financial activities of the entire company or organization.

32 (c) "Limited liability business entity" means a type of business  
33 entity that generally shields its owners from personal liability for  
34 the debts, obligations, and liabilities of the entity, or a business  
35 entity that is managed or owned in whole or in part by an entity that  
36 generally shields its owners from personal liability for the debts,  
37 obligations, and liabilities of the entity. Limited liability business  
38 entities include corporations, limited liability companies, limited

1 liability partnerships, trusts, general partnerships and joint ventures  
2 in which one or more of the partners or parties are also limited  
3 liability business entities, and limited partnerships in which one or  
4 more of the general partners are also limited liability business  
5 entities.

6 (d) "Manager" has the same meaning as in RCW 25.15.005.

7 (e) "Member" has the same meaning as in RCW 25.15.005, except that  
8 the term only includes members of member-managed limited liability  
9 companies.

10 (f) "Officer" means any officer or assistant officer of a  
11 corporation, including the president, vice president, secretary, and  
12 treasurer.

13 (g)(i) "Responsible individual" includes any current or former  
14 officer, manager, member, partner, or trustee of a limited liability  
15 business entity with an unpaid tax warrant issued by the department.

16 (ii) "Responsible individual" also includes any current or former  
17 employee or other individual, but only if the individual had the  
18 responsibility or duty to remit payment of the limited liability  
19 business entity's unpaid (~~sales~~) trust fund tax liability reflected  
20 in a tax warrant issued by the department.

21 (iii) Whenever any taxpayer has one or more limited liability  
22 business entities as a member, manager, or partner, "responsible  
23 individual" also includes any current and former officers, members, or  
24 managers of the limited liability business entity or entities or of any  
25 other limited liability business entity involved directly in the  
26 management of the taxpayer. For purposes of this subsection  
27 (9)(g)(iii), "taxpayer" means a limited liability business entity with  
28 an unpaid tax warrant issued against it by the department.

29 (h) "Trust fund taxes" means taxes collected from purchasers and  
30 held in trust under RCW 82.08.050, including taxes imposed under RCW  
31 82.08.020 and 82.08.150.

32 (i) "Willfully fails to pay or to cause to be paid" means that the  
33 failure was the result of an intentional, conscious, and voluntary  
34 course of action.

35 NEW SECTION. **Sec. 9.** This act must be liberally construed to  
36 effectuate the intent of the legislature to provide for the effective  
37 collection of liquor taxes imposed in RCW 82.08.150.

1        NEW SECTION.    **Sec. 10.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 11.**    This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and takes effect  
8 immediately.

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