

# SENATE BILL REPORT

## ESB 6220

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As Passed Senate, March 6, 2014

**Title:** An act relating to spirits retailers when selling for resale.

**Brief Description:** Concerning spirits retailers when selling for resale.

**Sponsors:** Senators Braun, Mullet, Sheldon, Ericksen, Hobbs and Parlette.

**Brief History:**

**Committee Activity:** Commerce & Labor: 1/27/14 [w/oRec-WM].

Ways & Means: 2/05/14, 2/06/14 [DP, DNP, w/oRec].

Passed Senate: 3/06/14, 26-23.

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### SENATE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** That it be referred without recommendation and be referred to Committee on Ways & Means.

Signed by Senators Holmquist Newbry, Chair; Braun, Vice Chair; Conway, Ranking Member; Hewitt.

**Staff:** Edith Rice (786-7444)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Hill, Chair; Ranker, Assistant Ranking Member on the Operating Budget; Bailey, Becker, Braun, Dammeier, Frockt, Padden, Parlette, Rivers, Schoesler and Tom.

**Minority Report:** Do not pass.

Signed by Senators Honeyford, Capital Budget Chair; Keiser, Assistant Ranking Member on the Capital Budget; Hasegawa.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Billig and Conway.

**Staff:** Dean Carlson (786-7305)

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*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:** Prior to the passage of Initiative 1183 (I-1183), spirits sales were permitted only at state-operated liquor stores. Upon passage of I-1183 in November 2011, the sale and distribution of spirits became privatized. The Liquor Control Board (LCB) was authorized to issue spirits retail sales licenses only for premises comprising at least 10,000 square feet and which met other requirements. Some exceptions to the square footage requirement included licensing an otherwise qualified contract liquor store at its contract location or to the holder of former state liquor store operating rights sold at auction. I-1183 required spirits retail licensees to pay a license issuance fee of 17 percent of all spirits sales revenue under the license to LCB for deposit into the liquor revolving fund. This is in addition to other liquor liter and sales taxes. The initiative permitted a spirits retail licensee to sell spirits to retailers licensed to sell spirits for on-premises consumption, meaning bars and restaurants.

ESSB 5644 which took effect on June 30, 2013, provided that the license issuance fee of 17 percent does not apply to a licensee or their successor that was a contract liquor store manager, for sales of spirits to bars and restaurants. Nor does the 17 percent license issuance fee apply to a licensee or their successor that was a former state store auction buyer, for sales of spirits to bars and restaurants.

**Summary of Engrossed Bill:** The spirits retail license issuance fee does not apply to a spirits retail licensee for sales to a spirits retailer licensed to sell spirits for consumption on the premises, meaning sales of spirits to bars and restaurants.

A spirits retail licensee may only sale a maximum of 60 liters of spirits per day to a retailer licensed for on-premise consumption. Until July 1, 2016, such sales must be made at the location of the spirits retail licensee and may not be delivered.

The first possessor of spirits in the state is the party required to pay the spirits distribution license fee.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Commerce & Labor):** None.

**Persons Testifying (Commerce & Labor):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: The fee for resale was not in the initiative. If this bill is not passed, small restaurant and restaurants in rural areas will pay a 17 percent penalty. These are products not being delivered today so it should not cost jobs. Independent grocers were not included in the bill last year. This is about tax fairness. We do not want to compete with distributors, but merely supplant restaurants with the occasional purchase. This is for those communities that distributors may not be able to fully support. The same taxes should apply that former state and contract stores have.

CON: If the state goes to a full retail to retail sales model, our warehouse employees will lose their jobs. We went into this business expecting to live by the initiative. This is not about casual sales to restaurants. This is about supplying private label brands, which can be sold cheaper, to restaurants. We offer quantity discounts which have better prices than the stores. We made substantial investments following the initiative. To say that rural and suburban restaurants are not getting served by distributors is not accurate. We think you got it right last year in providing relief to the small stores who are failing. Changing what is supposed to be a convenience to restaurants to full retail to retail sales should not be done.

OTHER: We would like the Legislature to take a more holistic look at the spirits tax system.

**Persons Testifying (Ways & Means):** PRO: Amy Brackenbury, WA Food Industry Assn; Bruce Beckett, WA Restaurant Assn; Holly Chisa, NW Grocery Assn.

CON: Michael Gonzales, Teamsters Local #174; Teresa Mosqueda, WA State Labor Council; Ron Main, Assn of WA Spirit & Wine Distributors; Jim Halstrom, Southern Wine & Spirits, Inc; Joe Daniels, Youngs Market Company; Bunti Sarai, WA State Liquor Store Assn.

OTHER: David Ducharme, Distilled Spirits Council of the United States.