H-1267.1

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**HOUSE BILL 1902**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Harmsworth, Young, Scott, Griffey, and Hayes

AN ACT Relating to renaming the spirits retail license fee as a tax and dedicating revenue to education; and amending RCW 66.24.630, 66.24.632, 66.08.190, and 82.08.155.

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

**Sec.**  RCW 66.24.630 and 2012 2nd sp.s. c 6 s 401 are each amended to read as follows:

(1) There is a spirits retail license to: Sell spirits in original containers to consumers for consumption off the licensed premises and to permit holders; sell spirits in original containers to retailers licensed to sell spirits for consumption on the premises, for resale at their licensed premises according to the terms of their licenses, although no single sale may exceed twenty-four liters, unless the sale is by a licensee that was a contract liquor store manager of a contract liquor store at the location of its spirits retail licensed premises from which it makes such sales; and export spirits.

(2) For the purposes of this title, a spirits retail license is a retail license, and a sale by a spirits retailer is a retail sale only if not for resale. Nothing in this title authorizes sales by on-sale licensees to other retail licensees. The board must establish by rule an obligation of on-sale spirits retailers to:

(a) Maintain a schedule by stock-keeping unit of all their purchases of spirits from spirits retail licensees, indicating the identity of the seller and the quantities purchased; and

(b) Provide, not more frequently than quarterly, a report for each scheduled item containing the identity of the purchasing on-premises((~~[on-premises]~~)) licensee and the quantities of that scheduled item purchased since any preceding report to:

(i) A distributor authorized by the distiller to distribute a scheduled item in the on-sale licensee's geographic area; or

(ii) A distiller acting as distributor of the scheduled item in the area.

(3)(a) Except as otherwise provided in (c) of this subsection, the board may issue spirits retail licenses only for premises comprising at least ten thousand square feet of fully enclosed retail space within a single structure, including storerooms and other interior auxiliary areas but excluding covered or fenced exterior areas, whether or not attached to the structure, and only to applicants that the board determines will maintain systems for inventory management, employee training, employee supervision, and physical security of the product substantially as effective as those of stores currently operated by the board with respect to preventing sales to or pilferage by underage or inebriated persons.

(b) License issuances and renewals are subject to RCW 66.24.010 and the regulations promulgated thereunder, including without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or prevent issuance of local liquor licenses. However, existing grocery premises licensed to sell beer and/or wine are deemed to be premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of processing applications for spirits retail licenses.

(c) The board may not deny a spirits retail license to an otherwise qualified contract liquor store at its contract location or to the holder of former state liquor store operating rights sold at auction under RCW 66.24.620 on the grounds of location, nature, or size of the premises to be licensed. The board may not deny a spirits retail license to applicants that are not contract liquor stores or operating rights holders on the grounds of the size of the premises to be licensed, if such applicant is otherwise qualified and the board determines that:

(i) There is no retail spirits license holder in the trade area that the applicant proposes to serve;

(ii) The applicant meets, or upon licensure will meet, the operational requirements established by the board by rule; and

(iii) The licensee has not committed more than one public safety violation within the three years preceding application.

(d) A retailer authorized to sell spirits for consumption on or off the licensed premises may accept delivery of spirits at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which the retailer may deliver to its own licensed premises and, pursuant to sales permitted under subsection (1) of this section:

(i) To other retailer premises licensed to sell spirits for consumption on the licensed premises;

(ii) To other registered facilities; or

(iii) To lawful purchasers outside the state. The facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers, including at least one retailer licensed to sell spirits.

(4)(a) Except as otherwise provided in (b) of this subsection, each spirits retail licensee must pay to the ((~~board~~))department of revenue, for deposit into the liquor revolving fund, a license issuance ((~~fee~~))tax equivalent to seventeen percent of all spirits sales revenues under the license, exclusive of taxes collected by the licensee and of sales of items on which a license fee payable under this section has otherwise been incurred. The ((~~board must establish rules setting forth the timing of such payments and reporting of sales dollar volume by the licensee, with payments required quarterly in arrears. The first payment is due October 1, 2012.~~

~~(b) This subsection (4) does not apply to craft distilleries~~))department must establish rules for the reporting of spirits sales revenues and payments of such taxes by the licensee at the same time as required for reporting and payment of spirits taxes under RCW 82.08.150. Chapter 82.32 RCW applies to the license issuance tax required under this subsection (4)(a).

(b) Craft distilleries are exempt from the license issuance tax required under (a) of this subsection.

(5) In addition to the payment required under subsection (4) of this section, each licensee must pay an annual license renewal fee of one hundred sixty-six dollars. The board must periodically review and adjust the renewal fee as may be required to maintain it as comparable to annual license renewal fees for licenses to sell beer and wine not for consumption on the licensed premises. If required by law at the time, any increase of the annual renewal fee becomes effective only upon ratification by the legislature.

(6) As a condition to receiving and renewing a retail spirits license the licensee must provide training as prescribed by the board by rule for individuals who sell spirits or who manage others who sell spirits regarding compliance with laws and regulations regarding sale of spirits, including without limitation the prohibitions against sale of spirits to individuals who are underage or visibly intoxicated. The training must be provided before the individual first engages in the sale of spirits and must be renewed at least every five years. The licensee must maintain records documenting the nature and frequency of the training provided. An employee training program is presumptively sufficient if it incorporates a "responsible vendor program" promulgated by the board.

(7) The maximum penalties prescribed by the board in WAC 314-29-020 through 314-29-040 relating to fines and suspensions are doubled for violations relating to the sale of spirits by retail spirits licensees.

(8)(a) The board must promulgate regulations concerning the adoption and administration of a compliance training program for spirits retail licensees, to be known as a "responsible vendor program," to reduce underage drinking, encourage licensees to adopt specific best practices to prevent sales to minors, and provide licensees with an incentive to give their employees ongoing training in responsible alcohol sales and service.

(b) Licensees who join the responsible vendor program under this section and maintain all of the program's requirements are not subject to the doubling of penalties provided in this section for a single violation in any period of twelve calendar months.

(c) The responsible vendor program must be free, voluntary, and self-monitoring.

(d) To participate in the responsible vendor program, licensees must submit an application form to the board. If the application establishes that the licensee meets the qualifications to join the program, the board must send the licensee a membership certificate.

(e) A licensee participating in the responsible vendor program must at a minimum:

(i) Provide ongoing training to employees;

(ii) Accept only certain forms of identification for alcohol sales;

(iii) Adopt policies on alcohol sales and checking identification;

(iv) Post specific signs in the business; and

(v) Keep records verifying compliance with the program's requirements.

**Sec.**  RCW 66.24.632 and 2013 2nd sp.s. c 12 s 3 are each amended to read as follows:

(1) Beginning June 30, 2013, the license issuance ((~~fee~~))tax under RCW 66.24.630(4) does not apply to a spirits retail licensee that was a contract liquor store manager with respect to sales of spirits in original containers from the location of its spirits retail licensed premises to retailers licensed to sell spirits for consumption on the premises for resale at their licensed premises.

(2) Beginning June 30, 2013, the license issuance fee under RCW 66.24.630(4) does not apply to a spirits retail licensee that was a former state store auction buyer, with respect to sales of spirits in original containers from the location of its spirits retail licensed premises to retailers licensed to sell spirits for consumption on the premises for resale at their licensed premises.

(3) The exemptions created in this section attach to any successor, by purchase or otherwise, to the spirits retail license, except that an exemption does not attach to any such successor that owns, directly or indirectly, any interest in a spirits retail license that is not derived directly from a former contract liquor store manager or a former state store auction buyer.

**Sec.**  RCW 66.08.190 and 2012 2nd sp.s. c 5 s 8 are each amended to read as follows:

(1) Prior to making distributions described in subsection (2) of this section, amounts must be retained to support allotments under RCW 43.88.110 from any legislative appropriation for municipal research and services. The legislative appropriation for such services must be in the amount specified under RCW 66.24.065.

(2) When excess funds are distributed during the months of June, September, December, and March of each year, all moneys subject to distribution must be disbursed to border areas, counties, cities, and towns as provided in RCW 66.24.065.

(3) To the extent funds are available after making the distributions in subsections (1) and (2) of this section, the amount collected under RCW 66.24.630(4) must be deposited in the education legacy trust account created under RCW 83.100.230.

(4) The amount remaining after distributions under subsections (1) ((~~and (2)~~))through (3) of this section must be deposited into the general fund.

**Sec.**  RCW 82.08.155 and 2012 c 39 s 1 are each amended to read as follows:

(1)(a) If the department determines that a taxpayer is more than thirty days delinquent in reporting or remitting spirits taxes on a tax return or assessed by the department, including any applicable penalties and interest on such taxes, the department may request that the liquor control board suspend the taxpayer's spirits license or licenses and refuse to renew any existing spirits license held by the taxpayer or issue any new spirits license to the taxpayer. The department must provide written notice to the affected taxpayer of the department's request to the liquor control board.

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

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

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

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

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

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

(4) ((~~For purposes of this section:~~))The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

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

(b) "Spirits taxes" means the taxes imposed in RCW 82.08.150 and 66.24.630.

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