

# SENATE BILL REPORT

## E2SSB 5353

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As Passed Senate, March 11, 2015

**Title:** An act relating to marketing opportunities for spirits produced in Washington by craft and general licensed distilleries.

**Brief Description:** Concerning marketing opportunities for spirits produced in Washington by craft and general licensed distilleries.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senator Angel).

**Brief History:**

**Committee Activity:** Commerce & Labor: 2/16/15, 2/18/15 [DPS-WM, DNP].

Ways & Means: 2/26/15, 2/27/15 [DP2S, DNP, w/oRec].

Passed Senate: 3/11/15, 40-9.

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### SENATE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** That Substitute Senate Bill No. 5353 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Baumgartner, Chair; Braun, Vice Chair; Keiser, King and Warnick.

**Minority Report:** Do not pass.

Signed by Senators Hasegawa, Ranking Minority Member; Conway.

**Staff:** Richard Rodger (786-7461)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5353 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Hill, Chair; Braun, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Ranker, Ranking Minority Member, Operating; Bailey, Becker, Brown, Conway, Fraser, Hewitt, Kohl-Welles, O'Ban, Rolfes, Schoesler and Warnick.

**Minority Report:** Do not pass.

Signed by Senators Dammeier, Vice Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Billig and Hasegawa.

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

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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.*

Signed by Senators Hatfield, Padden and Parlette.

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

**Background:** A distillery and craft distillery may provide 0.5 ounce or less samples of spirits of their own production, with a maximum total per person per day of 2 ounces.

Qualifying farmers markets are authorized to allow wineries to sell bottled wine and microbreweries to sell bottled beer at retail. The market may apply to the Liquor Control Board (LCB) for an endorsement to allow sampling of wine and beer from a domestic winery or microbrewery which is likewise authorized by the board for such sales and sampling. Up to a total of three wineries or microbreweries may offer samples at a farmers market per day. Food must be available for sampling customers. The annual fee for this endorsement is \$75.

LCB may issue a special permit to consume liquor at events such as banquets. The permit allows for the service and consumption at private, invitation-only gatherings held in a public place or business. The fee for the permit is \$10 per day. LCB does not issue banquet permits to retail liquor licensees.

Domestic and out-of-state wineries which have obtained a shippers' permit from LCB are authorized to make direct shipments of wine to consumers. Packages must be clearly labeled to indicate that the package cannot be delivered to a person under 21 years of age or to an intoxicated person. The delivery carrier must obtain the signature of the person who receives the wine upon delivery, verify the recipient is 21 years of age or older, and verify that the recipient does not appear intoxicated at the time of delivery. Spirits retail licensees are authorized to ship spirits under rules adopted by LCB.

There are no statutory provisions relating to the sale of gift certificates or gift cards by a licensee authorized to sell alcohol at retail.

**Summary of Engrossed Second Substitute Bill:** Non-alcoholic mixers, water, and ice may be added to samples of spirits served by a distillery or craft distillery.

A distillery or craft distillery may apply for an endorsement to sell spirits of its own production at retail for off-premises consumption at a qualifying farmers market. A distillery may not provide tastings or samples of spirits at a farmers market.

A distillery or craft distillery may apply for a special permit to taste and sell spirits at an event, not open to the public, at a specified date and place, which may include the licensee's premises. The permit fee is \$10. The permit must be posted at the premises during the event.

LCB's administrative rules on shipping spirits by retail licensees are clarified and codified. A licensed distillery or craft distillery may accept orders directly from and deliver spirits directly to customers if: (1) the spirits are not for resale; (2) the spirits come directly from the licensee's possession; (3) the spirits are ordered in person, by mail, telephone, or internet, or similar method; and (4) only the licensee's direct employees accept and process the orders and payments. New distillery and craft distillery licensees must request internet-sales privileges in their application, and existing licensees must notify LCB prior to making

internet sales. Deliveries may only be made to a residence or business, unless LCB grants an exception. Residence includes temporary lodgings at a hotel, motel, marina, or similar lodging. Deliveries may be made between 6:00 a.m. and 2:00 a.m. The package labeling and delivery carriers must meet the same requirement as for shipping wine. Records and files must be maintained for each delivery sale. Internet websites must display the distillery or craft distillery's registered trade name. The licensee is accountable for all deliveries made on its behalf. LCB may impose administrative enforcement actions or suspend or revoke delivery privileges for violations of any condition, requirement, or restriction.

Any licensee authorized to sell alcohol at retail may sell gift certificates and gift cards which may be exchanged for consumer goods, including alcohol. The gift certificates and cards may be sold by third-party retailers. Gift certificates and cards may not be redeemed for alcohol by a person under the age of 21.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

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

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

**Staff Summary of Public Testimony on Proposed Substitute as Heard in Committee (Commerce & Labor):** PRO: This bill will help Washington State in its position as the number-one state in the nation for craft distilleries. Allowing the use of mixers, water, or ice to the spirit samples will give customers a better idea of what the beverage will taste like. The addition of these adulterations will also result in less alcohol being served, as the sample size remains 0.5 ounce per serving. Allowing distilleries access to farmers markets will give them more opportunities to market their products and place us on equal footing with domestic wineries and microbreweries. Providing special permits for private events will help us showcase our products and facilities. Spirits may already be shipped under LCB rules; this bill just codifies that right. Gift cards are very useful for small businesses to offer.

OTHER: Liquor stores are a good place to sell these products and it seems like these businesses should be a natural partnership. Direct sales by distilleries avoid the 17 percent taxes that liquor stores must pay and provide another reason why the Legislature should adjust those taxes. This bill does not pose a high risk to the public and we do not have any youth access concerns.

**Persons Testifying (Commerce & Labor):** PRO: Jan Angel, prime sponsor; Robert Clendenen; Jason Parker, WA Distillers Guild; Justin Stiefel, Heritage Distillery; John Bourdon, Sandstone Distillery, WA Distillers Guild.

OTHER: Brad Tower, WA Liquor Store Assn.; Justin Nordhorn, LCB.

**Staff Summary of Public Testimony on Substitute as Passed by Commerce & Labor (Ways & Means):** PRO: This bill concerns the marketing, sales, and sampling of spirits.

State taxes add \$10 to every \$35 of spirits we produce. The bill will increase sales of spirits and result in increased revenue to the state. We have been working with LCB on the fiscal impacts associated with this bill and will be proposing an amendment to remove the requirement for an online application process. That amendment will remove the fiscal impact.

CON: We are natural allies with the craft distillers; however, we are concerned about the sales of spirits at farmers markets. Sales at the markets are made without the 17 percent license application fee which must be paid by other retailers. We believe these sales will reduce state tax revenue.

**Persons Testifying (Ways & Means):** PRO: Kathryn Hedrick, WA Distillers Guild; Justin Stiefel, Heritage Distillery.

CON: Brad Tower, WA Liquor Store Assn.