HOUSE BILL REPORT
HB 2099

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to streamlining distillery licensing and fees.

Brief Description: Streamlining distillery licensing and fees.

Sponsors: Representative Blake.

Brief History:
Committee Activity:
Commerce & Gaming: 2/16/17 [DPS].

Brief Summary of Substitute Bill

- Eliminates the statutory distinctions between distilleries and craft distilleries by creating a revised regulatory and licensing scheme that treats all distilleries identically, regardless of annual production rates or use of raw materials produced in Washington in the spirits production process.
- Exempts all distillers that are licensed to engage in the retail sale of spirits for off-premises consumption from the 17 percent spirits retail fee.
- Establishes a uniform annual licensing fee for all distillers in the amount of $110.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Vick, Assistant Ranking Minority Member; Blake, Farrell, Kirby, Ryu and Young.

Minority Report: Do not pass. Signed by 2 members: Representatives Barkis and Jenkin.

Minority Report: Without recommendation. Signed by 1 member: Representative Condotta, Ranking Minority Member.

Staff: Thamas Osborn (786-7129).

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:

The Liquor and Cannabis Board (LCB) issues licenses to distillers and craft distillers. The annual fee for a distillery license is $2,000, and for a craft distillery the fee is $100.

To qualify as a craft distillery, the distiller must produce no more than 150,000 gallons of spirits annually, and at least half of the raw materials used in production must be grown in Washington.

In order to sell spirits at retail, a business must have a spirits retail license issued by the LCB. All spirits retail licensees, including distilleries, are required to pay an annual license issuance fee to the LCB equivalent to 17 percent of all spirit sales revenues. Craft distilleries that engage in the retail sale of spirits for off-premises consumption are exempt from payment of the 17 percent spirits retail fee.

Summary of Substitute Bill:

The substitute bill eliminates the statutory distinctions between distilleries and craft distilleries by creating a revised regulatory and licensing scheme that treats all distilleries identically, regardless of annual production rates or the use of raw materials produced in Washington in the production process. In order to accomplish this, the act deletes the definition of "craft distillery" from the definitions section of chapter 66.04 RCW. Also, all references to "craft distilleries" in the various liquor control statutes are deleted and replaced by the word "distilleries." "Distiller" is redefined to mean a person engaged in the business of producing or manufacturing spirits.

All distillers that are licensed to engage in the retail sale of spirits for off-premises consumption are exempt from the 17 percent spirits retail fee requirement.

The annual licensing fee for all distillers is set at $110.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- revises the definition of "distiller" so that it means a person engaged in the business of "producing or manufacturing" spirits; and
- reduces the annual license fee for all distillers from $250 to $110.

Appropriation: None.

Fiscal Note: Requested on February 16, 2017.

Effective Date of Substitute Bill: The bill takes effect on January 1, 2018.

Staff Summary of Public Testimony:

(In support) This bill is necessary because craft distillers are having a very hard time competing in the marketplace due to the requirement that 50 percent of their raw materials must be produced in Washington. This makes it much too expensive to compete with similar products made in Oregon and other states. Further, craft distillers are limited in their ability to import raw materials from other states, which also increases the cost of production. Generally, craft spirits are much more expensive than other spirits available in the market, and this has become a big problem for the industry. Given this situation, it makes sense to treat all domestic distillers equally even if it means that the small distillers give up their advantages regarding licensing and retail spirits fees. The bill gives all distillers an exemption from the 17 percent spirits retail fee and greatly reduces the licensing fee for large distillers. It is good policy to treat all distillers the same under the law and in the end, this will benefit everyone. Craft distillers will not suffer as the result of this bill, since it will enable them to lower production costs significantly and thus be more competitive. Also, the bill will enable distillers to use manufactured products in the spirits they produce, which will further lower production costs and enable the creation of a wider range of spirits products. The overall reduction in license fees will decrease general fund revenues by approximately $41,000.

(Opposed) The passage of this bill would negatively impact craft distillers and make it difficult for them to survive. Losing the licensing fee differential and the spirits retail license fee exemption eliminates the two key incentives for operating a craft distillery. Without these incentives, operating a craft distillery is not a viable business proposition. Also, many industry members, and the public, value the idea of having craft distilleries that produce spirits made out of raw materials from Washington.

This bill could mean the end of spirits products that are unique to Washington and which have an identity tied to this state. Imposing the 17 percent spirits retail fee on out-of-state distilleries, but exempting all in-state distilleries is discriminatory, unfair, and most likely violates the Interstate Commerce Clause of the United States Constitution. The 17 percent fee should either be eliminated altogether for all distilleries, or the exemption should apply only to craft distilleries.

(Other) The Liquor and Cannabis Board supports treating all distilleries on an equal basis. It has proven very difficult for the LCB to enforce the requirement that 50 percent of the raw materials used by craft distilleries be produced in Washington.

Persons Testifying: (In support) Jim Hedrick, Washington Distillers Guild; A.J. Temple, Temple Distilling; and Sandy Desner, Salish Sea Organic Liqueurs.

(Opposed) John Bourdon, Sandstone Distillery; and Charlie Brown, Diageo.

(Other) James Paribello, Liquor and Cannabis Board.

Persons Signed In To Testify But Not Testifying: None.