

HOUSE BILL REPORT

HB 1838

As Passed House:
March 9, 2019

Title: An act relating to public disclosure of unaggregated financial, proprietary, or commercial information submitted to the liquor and cannabis board by a licensed distillery.

Brief Description: Exempting certain licensed distillery information from public disclosure.

Sponsors: Representatives Walsh, Goehner, Hudgins, Gregerson and Stanford.

Brief History:

Committee Activity:

Commerce & Gaming: 2/15/19, 2/18/19 [DP].

Floor Activity:

Passed House: 3/9/19, 94-2.

Brief Summary of Bill

- Exempts certain unaggregated financial, proprietary, or commercial information obtained from distillery applicants and licensees from disclosure under the state Public Records Act.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: Do pass. Signed by 11 members: Representatives Stanford, Chair; Reeves, Vice Chair; MacEwen, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Blake, Jenkin, Kirby, Kloba, Morgan, Vick and Young.

Staff: Kyle Raymond (786-7190).

Background:

Licensed Distilleries.

The Washington State Liquor and Cannabis Board (LCB) issues licenses to distillers that permit licensees to distill, blend, rectify, and bottle spirituous liquor. Distillers producing 150,000 gallons or less of spirits with at least half of the raw materials used in the production grown in Washington are considered craft distilleries and pay a reduced license fee. Craft

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distilleries may sell spirits of their own production for consumption off the premises, provided that the craft distillery complies with applicable laws and rules relating to retailers.

By rule, distillery licensees are required to submit copies of its monthly records to the LCB, which contain financial information that includes, but is not limited to, spirit production totals and daily sales transaction detail.

Public Records Act.

The Public Records Act (PRA) requires state and local agencies to disclose requested written records to the public for inspection and copying upon request, unless the information fits into one of the various specific exemptions under the PRA or as otherwise provided in law. For example, certain financial, commercial, and proprietary information is exempt from public inspection and copying. The stated policy of the PRA favors disclosure and requires narrow application of the listed exemptions.

Summary of Bill:

A new exemption is added to the Public Records Act that protects unaggregated financial, proprietary, or commercial information submitted to or obtained by the Washington State Liquor and Cannabis Board in applications for distillery or craft distillery licenses, or in any reports or remittances submitted by licensees.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill exempts proprietary data related to craft distilleries. As we move further towards an information-based economy and society, information becomes easier to access. This bill tries to protect a small but growing industry in our state through exempting proprietary information from public disclosure. The bill is well-targeted and specific to the distillery industry, and the bill does not prevent necessary information from being shared with regulatory agencies. The bill will help allow distillers to produce a unique product and maintain their competitive advantage.

When the state owned the liquor monopoly in Washington, they bought the spirits from distributors and manufacturers from around the world before selling spirits to bars, restaurants, and consumers. After liquor privatization in 2011, proprietary distillery information is still publicly available for distilleries through a Public Records Act request. Competitors from around the country can request Washington distillery sales, production, and activity data that should be confidential. The tax information submitted to the Washington Department of Revenue is not disclosed to the public; however, the information submitted to the Washington State Liquor and Cannabis Board is available through a public disclosure request.

(Opposed) None.

(Other) The Allied Daily Newspapers of Washington is generally not in support of public disclosure exemptions. However, we support shielding financial, commercial, or production information of a regulated industry.

Persons Testifying: (In support) Representative Walsh, prime sponsor; and Justin Stiefel, Heritage Distilling Company.

(Other) Rowland Thompson, Allied Daily Newspapers of Washington.

Persons Signed In To Testify But Not Testifying: None.