

HOUSE BILL REPORT

HB 2319

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to the sale of liquor in kegs or containers containing four gallons or more of liquor.

Brief Description: Concerning the sale of liquor in kegs or containers containing four gallons or more of liquor.

Sponsors: Representatives Fitzgibbon and Vick.

Brief History:

Committee Activity:

Commerce & Gaming: 1/23/20, 1/28/20 [DP].

Brief Summary of Bill

- Eliminates the requirement that the Liquor and Cannabis Board adopt and administer a keg-identification program for sales of kegs and other containers of 4 gallons or more of malt liquor.
- Eliminates certain duties of sellers, lessors, purchasers, and lessees of kegs and containers holding or that will hold 4 gallons or more of malt liquor.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: Do pass. Signed by 9 members: Representatives Peterson, Chair; Kloba, Vice Chair; Chambers, Assistant Ranking Minority Member; Blake, Jenkin, Kirby, Morgan, Ramel and Vick.

Staff: Peter Clodfelter (786-7127).

Background:

Certain liquor licensees may sell malt liquor in kegs or containers capable of holding 4 gallons or more of liquid to consumers age 21 and over. Pursuant to state law, the Liquor and Cannabis Board (LCB) has adopted rules requiring retail liquor licensees to affix appropriate identification on all containers of 4 gallons or more of malt liquor for the purpose of tracing

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the purchasers. It is a gross misdemeanor for any person to sell or offer for sale kegs or other containers containing 4 gallons or more of malt liquor to consumers if the kegs or containers are not identified in compliance with the LCB's rules. Additionally, the LCB is required to develop and make available forms for a declaration and receipt that is also required as part of the transaction.

Any person who sells or offers for sale the contents of kegs or other containers containing 4 gallons or more of malt liquor to consumers, or who sells or leases kegs or other containers that will hold 4 gallons of malt liquor to consumers, has the following duties:

- to require the purchaser to sign a declaration and receipt;
- to require the purchaser to provide one piece of identification (pursuant to a repealed statute);
- to require the purchaser to sign a sworn statement, under penalty of perjury, that the purchaser is of legal age to purchase, possess, or use malt liquor, the purchaser will not allow any person under the age of 21 to consume the beverage except as otherwise authorized in law, and the purchaser will not remove or obliterate the identification required to be affixed to the container;
- to require the purchaser to state the address where the malt liquor will be consumed, or the address where the keg or container will be located; and
- to require the purchaser to maintain a copy of the declaration and receipt next to or adjacent to the keg or other container, in no event a distance greater than 5 feet, and visible without a physical barrier from the keg, during the time that the keg or other container is in the purchaser's possession or control.

A violation of a seller or lessor's duties is a gross misdemeanor. Purchasers and lessees also have legal duties in these transactions, violations of which are also punishable as a gross misdemeanor. A person who purchases the contents of kegs or other containers containing 4 gallons or more of malt liquor, or who purchases or leases the container, has the following duties:

- to provide one piece of identification (pursuant to a statute that has been repealed);
- to be of legal age to purchase, possess, or use malt liquor;
- to not allow any person under the age of 21 to consume the beverage except as otherwise authorized in law;
- to not remove or obliterate the identification required under the LCB's rules;
- to not move, keep, or store the keg or its contents, except for transporting to and from the distributor, at any place other than the address on the declaration and receipt; and
- to maintain a copy of the declaration and receipt next to or adjacent to the keg or other container, in no event a distance greater than 5 feet, and visible without a physical barrier from the keg, during the time that the keg or other container is in the purchaser's possession or control.

Summary of Bill:

The requirement is eliminated from law that the Liquor and Cannabis Board (LCB) must adopt rules requiring retail licensees to affix appropriate identification on all containers of 4 gallons or more of malt liquor for the purpose of tracing the purchasers of the containers.

The gross misdemeanor crime is eliminated related to selling or offering for sale kegs or containers containing 4 gallons or more of malt liquor to consumers if the kegs or containers are not identified in compliance with the keg identification requirements also eliminated by the bill.

The following duties of liquor licensees are eliminated for sales of kegs or containers containing 4 gallons or more of malt liquor, and to sales and leases of containers that will hold 4 gallons of malt liquor, to consumers:

- to require the purchaser to provide one piece of identification (pursuant to a previously repealed statute);
- to require the purchaser to sign a sworn statement, under penalty of perjury that the purchaser is of legal age, the purchaser will not allow any person under age 21 to consume the beverage except as otherwise authorized in law, and that the purchaser will not remove or obliterate the identification required by the LCB's rules adopted under the authority repealed by the bill;
- to require the purchaser to state the address where the malt liquor will be consumed, or the address where the keg or other container will be physically located; and
- to require the purchaser to maintain a copy of the declaration and receipt next to or adjacent to the keg or other container, in no event a distance greater than 5 feet, and visible without a physical barrier from the keg, during the time the keg or container is in the purchaser's possession or control.

For a purchaser in a transaction for a keg or container containing 4 gallons or more of malt liquor, and a purchaser or lessee of containers that will hold 4 gallons of malt liquor, the following requirements are eliminated:

- to provide one piece of identification (pursuant to a previously repealed statute);
- to not remove or obliterate the identification required by the LCB's rules adopted under the authority repealed by the bill;
- to not move, keep, or store the keg or its contents, except for transporting to and from the distributor, at any place other than the particular address declared on the declaration and receipt; and
- to ensure that the copy of the declaration and receipt is located next to or adjacent to the keg or other container, in no event a distance greater than 5 feet, and visible without a physical barrier from the keg.

The purchaser must still maintain a copy of the declaration and receipt during the time that the keg or container is in the purchaser's possession or control.

Appropriation: None.

Fiscal Note: Not requested.

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) When filling kegs and containers of 4 gallons or more of beer, breweries must collect, expose, and retain sensitive consumer data on behalf of the state. The information is put on a sticker, which is affixed to the keg, and the brewery keeps a carbon copy on file for one year. The stickers pose a variety of problems for breweries, both operationally and with respect to the sensitive nature of the data. There is no similar requirement at the point of sale for any other type of liquor in any quantity. Also, there is no data to support the effectiveness of keg registration in prevention and enforcement efforts. The 4-gallon-size containers, capable of fitting in a home keg system, are the most popular type sold and hold 55 standard servings of beer. For comparison, a case of wine contains 60 standard servings of wine. Breweries adhere to strict identification verification requirements and face significant penalties if they sell to minors. The bill still requires the purchaser to sign a declaration and receipt at the point of sale, which will continue to be an important educational tool for consumers about their legal duties. To ensure kegs are returned, breweries typically collect a keg deposit and the purchaser's name and phone number. Breweries would provide point-of-sale data and keg deposit slips to the Liquor and Cannabis Board (LCB) or law enforcement in the uncommon event of a keg violation.

Enforcement officers have complained to licensees about using too many keg stickers. But licensees are simply complying with the law. There have also been sticker shortages. The stickers must be ordered months in advance from the LCB to avoid a risk of business disruption. Stickers are hard to clean off the kegs and removal requires chemicals and water. The LCB has not investigated keg violations in the last five years, and focuses on education. In the past, when the LCB has investigated keg violations, the LCB often finds the keg sticker is scratched off. So, eliminating the sticker requirement does not prevent the LCB from conducting investigations. Twenty years ago, there were more keg investigations. The lack of current violations may relate to changes in common packaging for alcoholic beverages. There did not used to be 24 or 48 packs of beer, which became common in the 2000s. Unlike for kegs, with package beer, there is no requirement for a purchaser to give their name, date of birth, and the location where the beer will be kept.

(Opposed) There is a public safety interest in ensuring law enforcement can identify a keg in circumstances when ownership and control is unclear, such as an incident of alcohol poisoning, or a high school graduation party where a group of teenagers has a keg. Law enforcement agrees there is not a need to require sensitive personal information on keg labels. But there should be a way to accomplish both proponents' and law enforcement's goals at the same time. Law enforcement acknowledges keg violation issues are rare, and there is not a memory of recent problems, but it does not mean there could not be a problem in the future. There is room to loosen the requirements for retailers and consumers, but law enforcement requests that a more balanced approach than simply removing all of the current requirements be considered.

Persons Testifying: (In support) Annie McGrath, Washington Brewers Guild; Roger Bialous, Georgetown Brewing Company; Seth Dawson, Washington Association for Substance Abuse Prevention; and Justin Nordhorn, Liquor and Cannabis Board.

(Opposed) James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.