

HOUSE BILL REPORT

ESSB 5006

As Passed House:
March 5, 2020

Title: An act relating to allowing the sale of wine by microbrewery license holders.

Brief Description: Creating a new on-premises endorsement for domestic wineries and domestic breweries and microbreweries.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Takko, Fortunato, Palumbo and Mullet).

Brief History:

Committee Activity:

Commerce & Gaming: 2/20/20, 2/25/20 [DP].

Floor Activity:

Passed House: 3/5/20, 96-1.

Brief Summary of Engrossed Substitute Bill

- Creates a new on-premises endorsement to the domestic winery license, domestic brewery license, and microbrewery license, for an annual fee of \$200 per location.
- Authorizes a domestic winery with the endorsement to sell beer produced in Washington by the single serving for on-premises consumption.
- Authorizes a domestic brewery or microbrewery with the endorsement to sell wine produced in Washington by the single serving for on-premises consumption.
- Limits an endorsement holder to three offerings of beer for domestic wineries and three offerings of wine for domestic breweries and microbreweries.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: Do pass. Signed by 10 members: Representatives Peterson, Chair; MacEwen, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Blake, Jenkin, Kirby, Morgan, Ramel, Vick and Young.

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.

Staff: Peter Clodfelter (786-7127).

Background:

Among the liquor licenses issued by the Liquor and Cannabis Board (LCB) are the domestic winery license, the domestic brewery license, and the microbrewery license. A domestic winery license authorizes the manufacture of wine in Washington from grapes or other agricultural products. For manufacturers of beer, breweries producing 60,000 barrels or more of malt liquor per year are licensed under the domestic brewery statute, whereas breweries producing less than 60,000 barrels of malt liquor per year are licensed as microbreweries. Limited retail privileges are included with each of these licenses.

Retail privileges for domestic wineries include authorization to sell wine of a winery's own production to customers for on-premises and off-premises consumption at the winery premises and at up to four off-site tasting room locations approved by the LCB.

Retail privileges for domestic breweries and microbreweries include authorization to sell beer of the brewery's own production to customers for on-premises and off-premises consumption at the brewery premises. Domestic breweries and microbreweries may also sell beer produced by another domestic brewery or microbrewery for on-premises and off-premises consumption as long as the other breweries' brands do not exceed 25 percent of the domestic brewery's on-tap offerings of its own brands. Microbreweries may also sell cider produced by a domestic winery to customers for on-premises and off-premises consumption.

Summary of Bill:

A new on-premises endorsement is created to the domestic winery license, the domestic brewery license, and the microbrewery license. A domestic winery with the endorsement may sell beer produced in Washington by the single serving for on-premises consumption. A domestic brewery or microbrewery with the endorsement may sell wine produced in Washington by the single serving for on-premises consumption.

A holder of the new on-premise endorsement is limited to three offerings of beer for a domestic winery and three offerings of wine for a domestic brewery or microbrewery.

The annual fee for the new on-premise endorsement is \$200 for each location.

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 will give customers of breweries and wineries more options when they visit a brewery or winery. This addresses the issue of when a group visits a brewery but not

everyone in the group likes beer, or when a group visits a winery and not everyone in the group likes wine. This would allow the person who prefers beer to purchase a serving of beer at the winery, and would allow the person who prefers wine to purchase a serving of wine at the brewery. The bill is narrow to accomplish the goal of providing more options to consumers in a responsible manner. Employees serving alcoholic beverages have already successfully passed mandatory alcohol server training. Regarding the constitutionality of the made-in-Washington provision, states across the nation have adopted policies like this to boost their in-state industries. About four years ago, New York adopted a similar provision allowing in-state breweries, wineries, and distilleries to serve each other's products, and Connecticut and New Mexico also have these types of laws. There are no legal challenges to those states' laws. Washington breweries and wineries support this bill.

(Opposed) Stakeholders in the law enforcement community oppose any expansion of alcohol access. Law enforcement is currently struggling with safety issues related to people driving motor vehicles under the influence of alcohol and other intoxicants. Law enforcement agencies appreciate the work done to narrow the bill, but still must oppose the bill because it expands access to alcohol.

(Other) The bill was improved through amendments in the Senate and most of the concerns are addressed. The limit of three offerings of beer or wine is appreciated. The bill is innocuous in terms of any expansion of alcohol access. However, the bill still has a constitutional problem because it requires wine sold by a brewery with the new endorsement to be produced in Washington. Several United States Supreme Court cases have held that a state may not discriminate on the basis of interstate commerce between products from different states. The seller can discriminate and choose to sell only Washington-produced wine, but the state cannot require that only in-state products be sold. Removing the in-state restriction would not impact the sellers, but it would make the bill constitutional.

Persons Testifying: (In support) Senator Takko, prime sponsor; Annie McGrath, Washington Brewers Guild; and Josh McDonald, Washington Wine Institute.

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

(Other) Seth Dawson, Washington Association for Substance Abuse and Violence Prevention; and Rowland Thompson, Wine Institute.

Persons Signed In To Testify But Not Testifying: None.