

SENATE BILL REPORT

HB 2319

As of February 25, 2020

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: Passed House: 2/18/20, 89-8.

Committee Activity: Labor & Commerce: 2/25/20.

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.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Richard Rodger (786-7461)

Background: Certain liquor licensees may sell malt liquor in kegs or containers capable of holding 4 gallons or more of liquid—hereinafter referred to as kegs—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 kegs for tracing the purchasers. It is a gross misdemeanor for any person to sell or offer for sale kegs of malt liquor to consumers if the kegs are not identified in compliance with the LCB's rules. 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 of malt liquor to consumers, or who sells or leases kegs to consumers, must require the purchaser to:

- sign a declaration and receipt;

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- provide one piece of identification, pursuant to a repealed statute;
- 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;
- state the address where the malt liquor will be consumed, or the address where the keg or container will be located; and
- 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 or leases the contents of kegs has the following duties:

- sign a declaration and receipt;
- provide one piece of identification, pursuant to a statute that has been repealed;
- be of legal age to purchase, possess, or use malt liquor;
- not allow any person under the age of 21 to consume the beverage except as otherwise authorized in law;
- not remove or obliterate the identification required under the LCB's rules;
- 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
- 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 LCB is no longer required to adopt rules requiring retail licensees to affix appropriate identification on kegs of malt liquor for the purpose of tracing the purchasers. The gross misdemeanor crime is eliminated related to selling or offering for sale kegs of malt liquor to consumers without the keg identification requirements.

The following duties of liquor licensees are eliminated for sales of kegs 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 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.

The licensee must continue to require the purchaser to sign a declaration and receipt, and ensure the purchaser is age 21 or older.

For a purchaser in a transaction for a keg 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.

The purchaser must still sign a declaration and receipt, be of legal age, not allow a person under the age of 21 to consume the beverages, and maintain a copy of the declaration and receipt.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: This bill addresses several issues relating the use of kegs. Current law requires breweries to collect sensitive consumer data on individuals who purchase kegs. The information is placed on the keg with a sticker and the brewery must keep a copy of the data for one year. The adhesive labels pose a variety of problems for breweries, both operationally and with respect to the sensitive nature of the data. The adhesive is also hard to remove and builds up on the keg lines, requiring repairs. There is no similar requirement at the point of sale for any other type of liquor in any quantity. We worked closely with the LCB on this and could not find any instances where the labels were used in any enforcement actions.

CON: The bill address some legitimate issues such as requiring paperwork to be kept within 5 feet of a keg and the stickers do cause some problems. However, the bill is problematic for law enforcement because without the labels we are unable to determine who purchased a keg of beer when it's consumed by minors. The bill prevents law enforcement from tracking done the purchasers. We were originally neutral on the bill since the LCB did not have any concerns, but now that law enforcement has concerns, so do we.

Persons Testifying: PRO: Annie Mcgrath, Washington Brewers Guild.

CON: James McMahan, Washington Association of Sheriffs and Police Chiefs; Seth Dawson, Washington Association for Substance Abuse Prevention.

Persons Signed In To Testify But Not Testifying: No one.