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## Commerce & Gaming Committee

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### HB 1432

**Brief Description:** Authorizing direct to consumer sales of distilled spirits by out-of-state manufacturers.

**Sponsors:** Representatives Vick and Sutherland.

#### Brief Summary of Bill

- Authorizes out-of-state manufacturers of spirits to sell and ship spirits directly to consumers in Washington, subject to requirements.
- Creates a spirits shipper's permit and adds requirements applicable to sales and shipments of spirits to consumers by in-state and out-of-state distilleries and suppliers of spirits.
- Includes requirements to clearly label packages containing spirits and to ensure the private carrier verifies the recipient's age, lack of intoxication, and obtains the recipient's signature upon delivery.
- Requires private carriers to return liquor to the sender if no person 21 years of age or older is present to accept a liquor order at the time of delivery or if the person shows signs of intoxication.

**Hearing Date:** 2/11/21

**Staff:** Peter Clodfelter (786-7127).

#### Background:

A distillery license and craft distillery license both authorize the holder to produce spirits in Washington. Privileges of the licenses also include self-distributing spirits to retailers and making retail sales of spirits to consumers. When distilleries, but not craft distilleries, sell their

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spirits at retail for off-premises consumption, they pay a 17 percent fee on those sales. Taxes on retail sales of bottled or packaged spirits sold for off-premises consumption include a spirits sales tax of 20.5 percent of the selling price in addition to a spirits liter tax of \$3.7708 per liter, both paid by the consumer.

Pursuant to current Liquor and Cannabis Board (LCB) rules, distilleries and craft distilleries may sell and ship spirits directly to a consumer. Spirits may be ordered in person at a licensed location, by mail, telephone, or the Internet, or by other similar methods. Prior to conducting sales to consumers over the Internet, the LCB requires the distillery or craft distillery to first notify the LCB, or to include a request for the privilege in the license application.

The LCB's current rules include requirements for sales and shipments of spirits by distilleries and craft distilleries to consumers, including rules related to payment methods and payment processing, delivery location, hours of delivery, minimum age requirements, labeling of packages, record retention, not delivering liquor to a person who shows signs of intoxication, and obtaining the recipient's signature upon delivery.

In privatizing spirits sales in 2011, Initiative Measure No. 1183 (Initiative) directed the LCB to, by rule, provide for issuance of certificate-of-approvals to out-of-state spirits manufacturers and suppliers. The Initiative also provided that a spirits certificate-of-approval holder may only ship spirits, or cause spirits to be transported into Washington, when the recipient is licensed by the LCB to sell spirits in Washington or is otherwise authorized to sell spirits in Washington.

Spirits certificate-of-approval holders are not authorized to sell and ship spirits directly to consumers in Washington for their personal use. By the 20th day of each month, all spirits certificate-of-approval holders must file with the LCB a report of all spirits delivered to purchasers in Washington during the preceding month.

### **Summary of Bill:**

Provisions regarding direct-to-consumer sales of spirits by distilleries and suppliers of spirits are added to the Washington State Liquor Act. The holder of a license to manufacture spirits issued by Washington or another state, or the holder of a certificate-of-approval license issued by Washington for spirits manufactured in another state or outside of the United States, may ship spirits that it is authorized to manufacture or import, to a resident of Washington who is at least age 21. Spirits sold to a consumer are for that person's personal use and not for resale.

Before shipping spirits to a consumer in Washington, the distillery or supplier must either obtain a spirits shipper's permit and pay a fee set by the Liquor and Cannabis Board (LCB), or be licensed by the LCB as a domestic distillery or a certificate-of-approval holder and have paid the annual license fee.

An applicant for a spirits shipper's permit must:

- operate a distillery located in the United States or hold a certificate-of-approval license

issued by Washington for spirits manufactured in another state or outside of the United States;

- provide the LCB with a copy of the applicant's valid license to manufacture spirits issued by another state;
- certify the applicant holds all necessary state and federal licenses and permits; and
- register with the Department of Revenue (DOR).

Holders of a spirits certificate-of-approval are deemed to hold a spirits shipper's permit without further application or fee, if the holder meets all requirements for a spirits shipper's permit. A spirits certificate-of-approval holder who wants to ship spirits under its spirits shipper's permit privilege must notify the LCB before shipping any spirits to a Washington consumer. Holders of a spirits shipper's permit must collect and remit to the DOR all applicable state and local sales and use taxes on all sales of spirits delivered to buyers in Washington, regardless of whether the permit holder has a physical presence in Washington.

Domestic distilleries, certificate-of-approval holders, and holders of a spirits shipper's permit must:

- clearly label all spirits cases or outside shipping packages of spirits sent into or out of Washington to indicate that the package cannot be delivered to a person under 21 years of age or to an intoxicated person; and
- ensure that the private carrier used to deliver spirits obtains the signature of the person who receives the spirits upon delivery, verifies the recipient's age, and verifies that the recipient does not appear intoxicated at the time of delivery.

The private carrier used to deliver spirits must verify the age of the person accepting delivery before handing over liquor, and must return the liquor to the sender if no person 21 years of age or older is present to accept a liquor order at the time of delivery or if the person present to accept the liquor shows signs of intoxication.

A spirits shipper's permit holder, domestic distillery, and certificate-of-approval holder must report to the LCB, on or before the 20th day of each month, all shipments of spirits made during the preceding calendar month directly to Washington consumers. Holders of a spirits shipper's permit are deemed to consent to Washington's jurisdiction concerning enforcement of the new requirements and all laws and rules related to the shipment of spirits from spirits manufacturers directly to consumers.

A shipper's permit issued to a spirits manufacturer located outside Washington who fails to comply with the direct-sale and shipping requirements must be suspended or revoked. Similarly, the privilege to ship spirits directly to Washington consumers under a domestic distillery license or certificate-of-approval license must be suspended or revoked if the license holder fails to comply with the with the direct-sale and shipping requirements.

**Appropriation:** None.

**Fiscal Note:** Available.

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