

HOUSE BILL REPORT

HB 2163

As Reported by House Committee On:
Regulated Substances & Gaming

Title: An act relating to advertising by liquor licensees who currently have privileges to conduct tastings or provide free or complimentary amounts of beer, wine, spirits, or other liquor.

Brief Description: Concerning liquor licensee advertising.

Sponsors: Representative Steele.

Brief History:

Committee Activity:

Regulated Substances & Gaming: 1/15/24, 1/23/24 [DP].

Brief Summary of Bill

- Authorizes liquor licensees and permit holders who may currently offer free tastings or samples of liquor without charge or provide complimentary liquor to customers or guests, to advertise to the public that the licensee or permit holder offers these authorized tastings, samples, or complimentary products.
- Removes restrictions and limited authorizations conflicting with this new broader authorization, related to advertising by liquor licensees and permit holders of tastings, sampling, and complimentary liquor products.

HOUSE COMMITTEE ON REGULATED SUBSTANCES & GAMING

Majority Report: Do pass. Signed by 11 members: Representatives Kloba, Co-Chair; Wylie, Co-Chair; Stearns, Vice Chair; Chambers, Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Caldier, Cheney, Morgan, Orwall, Reeves and Waters.

Staff: Peter Clodfelter (786-7127).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Washington liquor laws generally prohibit breweries, wineries, distilleries, and specified other licensees from giving liquor to any person without charge. However, certain liquor licenses and permits issued by the Liquor and Cannabis Board (LCB) authorize the licensee or permit holder to offer tastings, samples, or complimentary liquor to a customer or guest.

A current LCB rule provides that specialty shops, wineries, breweries, and craft distilleries acting as a retail licensee, providing free tastings to the public, are prohibited from using any term that implies the product is free in their advertising for such events. The current LCB rule also provides that beer, wine, or spiritous liquor may not be advertised, offered for sale, or sold by retail licensees at less than acquisition costs.

The following specific statutory advertising restrictions, or limited authorizations for advertising, apply to the licensees and permit holders engaging in these activities:

- Wineries or microbreweries authorized to conduct limited wine or beer sampling at a qualifying farmers market may advertise the offering of the samples only at the designated booth, stall, or other designated location at the farmers market.
- Grocery stores may advertise a tasting event only within the store, on a store website, in store newsletters and flyers, and via email and mail to customers who have requested notice of events, and advertising may not be targeted to or appeal principally to youth.
- Hotels may make a reference in promotional materials to placing a complimentary bottle of liquor that is in a manufacturer-sealed container, in guest rooms at check-in.
- Day spas may not advertise their service of a complimentary wine or beer.

Summary of Bill:

Liquor licensees and liquor permit holders who are currently authorized to offer free tastings or samples of beer, wine, spirits, or other liquor without charge to the public, or to provide complimentary beer, wine, spirits, or other liquor to customers or guests, are granted authorization to advertise to the public that, as applicable, the licensee offers tastings or sampling for free without charge, or provides complimentary beer, wine, spirits, or other liquor to customers or guests.

Any such advertising may not be targeted to or appeal principally to youth.

The following liquor licensees and permit holders are identified as the intended licensees affected by the bill: domestic breweries; microbreweries; domestic wineries; distilleries, craft distilleries, and their licensed tasting rooms; grocery stores with a tasting endorsement; beer and wine specialty shops; spirits retailers who participate in the responsible vendor program; combination spirits, beer, and wine license holders who hold a grocery store tasting endorsement or who participate in the responsible vendor program; interstate

common carriers; hotels; motels; day spas; bed and breakfast lodging facilities; short-term rental operators; and all liquor licensees authorized to serve beer on tap or wine for consumption on the premises.

The following restrictions and more limited authorizations are removed:

- the restriction that wineries and microbreweries authorized to offer samples at a qualifying farmers market may advertise that they offer samples only at their designated booth, stall, or other designated location;
- the restriction that grocery stores may advertise a tasting event only within the store, on a store website, in store newsletters and flyers, and via email and mail to customers who have requested notice of events;
- the authorization for hotels to make a reference in promotional material to placing a complimentary bottle of liquor that is in a manufacturer-sealed container in guest rooms at check-in; and
- the restriction on day spas with a day spa permit advertising the service of complimentary wine or beer that the day spa is authorized to serve.

It is specified that nothing in the bill is intended to: (1) affect or alter any time, place, or manner restriction that applies generally to all liquor advertising and that is imposed by the LCB in rule; (2) authorize a liquor licensee or liquor permit holder to offer, serve, or provide a type or amount of beer, wine, spirits, or other liquor for free without charge that the licensee is not already authorized to offer, serve, or provide to a person for free without charge; or (3) restrict any advertising that was expressly authorized in Washington liquor statutes as they existed on January 1, 2024.

A technical change is made to strike an obsolete reference to a temporary license fee waiver for the hotel license, which is no longer in effect.

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) The bill helps modernize laws to help wineries and other licensees in their operations. Under current law, a winery may provide free or complimentary samples. This is a critical way for the over 1,100 wineries in Washington to responsibly interact with a visitor at the winery, enable visitors to experience the winery's wine, possibly purchase wine to take home, and hopefully choose that winery's wine or another Washington wine the next time they make a purchase. However, currently wineries may not advertise or

promote the opportunity of visitors to taste a free or complimentary wine. This bill changes that restriction and removes what can be a confusing conflict in the law about what is permissible and what is restricted with advertising and promotion. Licensees are confident they can professionally and tastefully handle this proposal for permissible advertising. Licensees do not want to be penalized for advertising something that is perfectly legal to conduct. This bill changes no restrictions on how sampling may be conducted. Complimentary wine tasting often decreases overall consumption on the premises; when people pay for a tasting, they tend to consume more. This bill is a safe and responsible approach. Licensees still pay use tax on complimentary samples. The nature of the intended advertising is innocuous. For example, a winery wanted to offer and advertise complimentary tastings for veterans on Veterans Day, but could be penalized for that. The burden of proof is low for issuing violations. Oftentimes, penalties can escalate quickly, even getting to a point where licenses can be revoked because of a phrase that was uttered on social media or marketing materials that may have been out of the licensee's control for a period of time. Licensees do not want to be penalized.

(Opposed) None.

Persons Testifying: Benjamin Williams; and Josh McDonald, Washington Wine Institute.

Persons Signed In To Testify But Not Testifying: None.