

HOUSE BILL REPORT

HB 2363

As Reported by House Committee On:
Regulated Substances & Gaming

Title: An act relating to authorizing off-site and pop-up retail sales, service, and consumption of alcohol.

Brief Description: Authorizing off-site and pop-up retail sales, service, and consumption of alcohol.

Sponsors: Representatives Chambers, Walen, Robertson, Morgan and Reed.

Brief History:

Committee Activity:

Regulated Substances & Gaming: 1/22/24, 1/29/24 [DPS].

Brief Summary of Substitute Bill

- Creates a new endorsement to the brewery and winery licenses authorizing off-site and pop-up retail sales, service, and consumption of beer or wine, for on-premises and off-premises consumption, under the terms of a brewery or winery license, subject to requirements.
- Requires approval from the Liquor and Cannabis Board before operating at a proposed off-site or pop-up location, provides for local notice and objection, allows 12 events per year each up to four consecutive days, specifies permissible locations, and requires an enclosed boundary around the designated area, among other requirements.

HOUSE COMMITTEE ON REGULATED SUBSTANCES & GAMING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kloba, Co-Chair; Wylie, Co-Chair; Stearns, Vice Chair; Chambers, Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Caldier, Cheney, Morgan and Waters.

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.

Minority Report: Without recommendation. Signed by 2 members: Representatives Orwall and Reeves.

Staff: Peter Clodfelter (786-7127).

Background:

Three of the liquor licenses issued by the Liquor and Cannabis Board (LCB) are the domestic brewery license, the microbrewery license, and the domestic winery license. The domestic brewery license and the microbrewery license authorize the production of beer, the distribution of beer of a brewery's own production, and the retail sale of beer for on-premises and off-premises consumption. The microbrewery license also authorizes the sale of cider produced by a domestic winery for on-premises or off-premises consumption.

The winery license authorizes the production of wine, the distribution of wine of a winery's own production, and the retail sale of wine for on-premises and off-premises consumption. An endorsement is available to wineries to sell beer produced in Washington by the single serving for on-premises consumption, and is also available to breweries to sell wine produced in Washington by the single serving for on-premises consumption.

Breweries may operate from their licensed production facility and from up to four retail licensed locations allowing breweries to operate an on- or off-premises tavern, restaurant, or combination of these licenses. Breweries may also apply for an endorsement to sell bottled beer of their own production at retail for off-premises consumption at a qualifying farmers market. Microbreweries, but not domestic breweries, may become authorized to conduct limited sampling at the qualifying farmers market.

Wineries may operate from their licensed production facility, and may also conduct retail sales and service from up to four off-site tasting room locations that operate under the winery license. Wineries may also apply for an endorsement to sell bottled wine of their own production at retail for off-premises consumption at a qualifying farmers market and may become authorized to conduct limited sampling at the qualifying farmers market.

Before the LCB issues a new or renewal liquor license, the LCB provides notice of the application to the local government, and there is the right to file objections within 20 days, although the LCB may extend the period. An applicant may request a hearing if there is an initial decision to deny issuance or renewal. Upon granting a license, the LCB sends written notice to the applicable local government.

Before issuing a liquor license, the LCB must give due consideration to the location with respect to the proximity of schools, churches, and public institutions. Written notice must be provided to schools, churches, and public institutions within 500 feet of the premises to be licensed. The LCB may not issue a liquor license if the premises are within 500 feet of a tax-supported public elementary or secondary school, if the LCB receives a timely written

objection from the school objecting to license issuance because of school proximity.

Legislative intent also specifies that a retail license may not be issued where doing so would adversely affect a private school within 500 feet. The LCB must fully consider and give substantial weight to objections filed by private schools. If a license is issued despite the proximity of a private school, the LCB must state in a letter addressed to the private school the reasons for issuing the license. Public institutions are defined as institutions of higher education, parks, community centers, libraries, and transit centers.

Summary of Substitute Bill:

A new license endorsement is established, at an annual cost of \$50. The license endorsement is available to domestic breweries, microbreweries, and domestic wineries. The license endorsement authorizes off-site and pop-up retail sales, service, and consumption of beer or wine for on-premises and off-premises consumption, under the terms of the domestic brewery license, the microbrewery license, and the domestic winery license.

The terms "off-site and pop-up retail sales, service, and consumption" or "off-site or pop-up activities" are defined as the retail sale, service, and consumption of beer or wine at a location off of the licensed production facility for which the domestic brewery, microbrewery, or domestic winery has permission or legal authority to possess and use for the sale, service, and consumption of beer or wine.

A domestic brewery, microbrewery, or domestic winery with the new endorsement must apply to the Liquor and Cannabis Board (LCB) for authorization to conduct off-site or pop-up activities at a proposed location and receive authorization from the LCB before operating at any location. An endorsement holder may not operate at more than one off-site or pop-up location at a single time. A maximum of 12 events per year may be conducted under the endorsement, and each single event may be up to four consecutive days in duration.

Off-site or pop-up locations may be operated: (1) outdoors in an area zoned for a use compatible with the operation of a food truck; or (2) indoors within a building. An enclosed boundary must be established with ropes, a fence, or by other physical barrier around the designated area in which off-site or pop-up retail sales, service, and consumption is offered. The sale, service, and consumption of beer and wine must be confined to the designated area.

The endorsement holder may sell beer or wine to adults age 21 or over for on-premises consumption, in the designated area, under the terms of the domestic brewery license, microbrewery license, or domestic winery license, or under the endorsement that allows wineries to sell beer produced in Washington by the single serving for on-premises consumption or domestic breweries and microbreweries to sell wine, produced in

Washington, by the single serving for on-premises consumption.

A customer may remove any portion of bottled wine sold by a winery for on-premises consumption in the designated area that is recorked or recapped in its original container. Any person selling or serving beer or wine for on-premises consumption must hold a class 12 or class 13 alcohol server permit.

The endorsement holder may also sell beer or wine from the designated area to adults age 21 or over for off-premises consumption under the terms of the domestic brewery license, microbrewery license, or domestic winery license. An endorsement does not count toward any additional retail locations or off-site tasting rooms authorized for domestic wineries, domestic breweries, or microbreweries. No food service in conjunction with alcohol sales or service is required.

Before the LCB approves an endorsement holder to operate off-site or pop-up activities at a proposed location, the LCB must give due consideration of the proposed location with respect to the proximity of schools, churches, and public institutions. The LCB must provide notice of the endorsement holder's request to operate to the applicable city, town, or county, as well as to schools, churches, and public institutions, any of which are within 500 feet of the proposed location. The local government and these entities have 20 days to submit written objections to the LCB. If the LCB receives a timely objection from the local government, then the LCB must disapprove the request for operation of off-site or pop-up activities at the proposed location.

If timely objection is received from a school, the LCB must deny the endorsement holder's request to operate at the proposed location unless there is a liquor licensee within 500 feet of the school, in which case the LCB has discretion. If the LCB receives a timely objection from a church or public institution, the LCB has discretion to approve or disapprove a request for a proposed location over the objection of a church or public institution.

Substitute Bill Compared to Original Bill:

As compared to the original bill, the substitute bill:

- modifies the proposed endorsement for off-site or pop-up activities by breweries and wineries so that the Liquor and Cannabis Board (LCB) must first approve a request to operate off-site or pop-up activities at a proposed location before an endorsement holder may operate, instead of authorizing an endorsement holder to operate after 14 days' notice to the LCB;
- limits a brewery or winery with the new endorsement to 12 events per year conducted under the new endorsement, instead of not specifying any limit on the number of events or days of operation under the endorsement;
- authorizes a single event to be four consecutive days;
- modifies the proposed notice and objection process to: (1) allow 20 days, instead of 14 days, for objections to be filed with the LCB by the local government and

- specified entities; (2) require the LCB to disapprove a proposed location if the local government submits a timely objection, instead of allowing the endorsement holder to continue operating and authorizing the LCB to deny renewal of an endorsement at annual renewal after an opportunity for a hearing; (3) require the LCB to disapprove a proposed location if a school submits a timely objection, unless there is a liquor licensee within 500 feet of the school, in which case the LCB has discretion, instead of prohibiting an endorsement holder from operating over a timely objection from a school within 500 feet; and (4) grant the LCB discretion to approve or disapprove a request for a proposed location over the objection of a church or public institution, instead of allowing the endorsement holder to continue operating and authorizing the LCB to deny renewal of an endorsement at annual renewal after an opportunity for a hearing; and
- adds definitions.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 30, 2024.

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

Staff Summary of Public Testimony:

(In support) There is a desire to make creative use of spaces and provide opportunities for local businesses. There are areas where a number of food trucks are located with public seating. Food truck operators are often asked whether they sell beer or wine, and they would like to collaborate with breweries and wineries. Breweries or wineries could collocate with the food trucks and offer this service, while getting local support and being part of the community. Currently, breweries and wineries are limited to operating out of their production facilities and off-premises tasting rooms, and may apply for up to 12 permits per year for private events. This bill would allow a similar activity as those private events, but in a public setting. There is intent to amend the bill to limit it to 12 events. Small businesses are seeking ways to enhance their license. This will provide breweries and wineries with additional avenues to directly reach consumers and lower the barrier to entry into the industry. Wineries have faced challenges reaching consumers in a globally competitive market. The current authorization for 12 private events is one of the few opportunities for wineries and breweries to take their license privileges off the facility premises, to travel across Washington, and meet where the urban population is located or another area. Wineries want to educate consumers about Washington wine and allow consumers to experience Washington wine. Wineries want to partner with local restaurants, food trucks, and caterers to host events under this bill safely and responsibly. Cideries are licensed as wineries and support this bill. The majority of wineries, breweries, and cideries are small, family-owned businesses. This bill would increase their resiliency, enabling

these businesses to generate more revenue and better compete. It is estimated a cidery or small brewery or winery may be able to generate an entire month's worth of additional revenue directly from this bill. This could allow investments back into the business like equipment updates, repairs, and provide other benefits. Further, this could help reduce the businesses' carbon footprint. At cidery tasting rooms, cider is sold primarily from large, stainless steel kegs, which are extremely reusable. However, cideries typically sell glass bottles when selling at wholesale, which are more challenging to reuse and recycle. Thousands of glass bottles could be saved per year by this bill.

(Opposed) None.

(Other) Distilleries and craft distilleries request to be added to the bill, to allow them the same opportunities as wineries and breweries. Distillers are also coming off of a tough year and still recovering after the pandemic. According to industry trade organizations, half of the nation's wineries, a third of breweries, and a quarter of distilleries may close their doors by the end of this year. The pop-ups proposed in the bill would be a great way to expand business rapidly in an effective and cost efficient way. This is a huge opportunity and distilleries do not want to be left out. The same alcohol service requirements apply for selling spirits as for beer and wine. Licensed distillers are responsible partners with the state. Licensees would have a lot to lose for violating any requirements, and opening a pop-up is a major business decision that will not be taken lightly.

Persons Testifying: (In support) Representative Kelly Chambers, prime sponsor; Daniel Olson, Washington Brewers Guild; Josh McDonald, Washington Wine Institute; and Rhyen Cockrell, Cockrell Cider.

(Other) Jim Hedrick, Washington Distillers Guild.

Persons Signed In To Testify But Not Testifying: None.