

HOUSE BILL REPORT

HB 1701

As Reported by House Committee On:
Consumer Protection & Business

Title: An act relating to authorizing multiple liquor licensees to have licensed premises within a facility owned and leased out by another liquor licensee or person.

Brief Description: Authorizing multiple liquor licensees to have licensed premises within a facility owned and leased out by another liquor licensee or person.

Sponsors: Representative Steele.

Brief History:

Committee Activity:

Consumer Protection & Business: 2/11/25, 2/18/25 [DPS].

Brief Summary of Substitute Bill

- Authorizes a liquor licensee to operate out of a premises located on the property of a facility that includes separate premises of other liquor licensees, and for the licensees to lease property to each other.
- Authorizes the Liquor and Cannabis Board to require submission of leases or other agreements between licensees.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Walen, Chair; McClintock, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Abbarno, Berry, Corry, Donaghy, Fosse, Kloba, Morgan, Reeves, Ryu, Santos, Steele and Volz.

Staff: Peter Clodfelter (786-7127).

Background:

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.

During the liquor license application process, under the Liquor and Cannabis Board's (LCB's) current rules, among other requirements, the LCB will conduct an investigation to establish the applicant's exclusive right to the real and personal property and to verify the true party or parties of interest.

Business practices and financial interests of liquor industry businesses are restricted under the so-called tied house laws. The tied house laws generally prohibit an industry member from advancing and a retailer from receiving moneys or moneys' worth under an agreement, written or unwritten, or by means of any other business practice or arrangement.

The tied house laws also generally prohibit one industry member from having a direct or indirect financial interest in another industry member or retailer, except for specific exceptions. The term "industry member" is defined as a licensed manufacturer, producer, supplier, importer, wholesaler, distributor, authorized representative, certificate-of-approval holder, warehouse, and any affiliates, subsidiaries, officers, directors, partners, agents, employees, and representatives of any industry member.

Distilleries, craft distilleries, and wineries may operate a limited number of off-site tasting rooms, and these licensees may jointly occupy and cooperate up to two off-site locations. Additionally, certain liquor licensees that sell alcohol for consumption on the premises are authorized to use shared spaces for outdoor service of alcohol. The LCB may adopt requirements providing for clear accountability at locations where multiple licensees use a shared space for serving customers.

Summary of Substitute Bill:

It is specified that nothing in Washington liquor laws prohibits an applicant for a liquor license from becoming licensed to operate out of a premises located on the property of a facility that includes separate premises of other liquor licensees.

The owner of the facility may be, but is not required to be, one of the licensees operating out of a premises at the facility. A licensee who owns real property, or real and personal property, may lease that property to another licensee or licensees and multiple licensees may operate their own premises at the facility.

The LCB may not consider the existence of this type of arrangement alone to impact a licensee's ownership and control of their premises or otherwise prevent licensure. Each licensee must operate out of their own premises on the facility property, except as otherwise authorized in current law for shared use of a consumption space.

The LCB may require submission of any lease agreement, operating agreement, and other contract in existence between licensees and the owner of the facility, and between the different licensees at the facility, to ensure each licensee retains ownership and control over

their licensed premises on the facility property.

It is provided that nothing in the bill: (1) authorizes a licensee to engage in privileges not authorized under the terms of their license; (2) requires a licensee to obtain a liquor license for a type of activity conducted by another licensee from that other licensee's separate premises on the facility property; or (3) may be construed to violate the prohibition on money advances by industry members to retailers or other provisions of Washington liquor laws.

It is also specified that nothing in the prohibitions on direct or indirect financial interests between industry members, affiliates, and retailers prohibits a person holding a domestic brewery license, microbrewery license, domestic winery license, distillery license, craft distillery license, or manufacturer's license, from operating a premises in a facility at which a person holding a retail liquor license also operates in a separate space. The facility may be owned by any of the licensees and space leased to other licensees.

Substitute Bill Compared to Original Bill:

The substitute bill removes the proposed Public Records Act exemption for proprietary information and financial considerations contained in lease agreements, operating agreements, or other contracts between liquor licensees and the owner of the facility at which they operate, and between different liquor licensees at the facility, which the LCB may require licensees to submit to the LCB.

Appropriation: None.

Fiscal Note: Available.

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) This legislation would allow a winery and brewery with a facility to lease out a commercial kitchen facility to a third-party business. Multiple uses of property could occur in one facility. Currently, wineries and breweries want to do this but face a significant roadblock. They are informed they may not lease out areas of their property because there can be only one business at the location for which a liquor license is issued, despite each area having separate entrances and being unable to access the main winery space. The legislation will allow businesses to continue to grow while adhering to regulations and contributing to the community.

(Opposed) None.

(Other) While efforts to modernize liquor licensing are appreciated, serious enforcement concerns are raised regarding the longstanding prohibition on commercial bribery in liquor sales. Under federal and state law, suppliers and distributors cannot give an item of value to retailers to influence purchasing decisions. The LCB enforces this only when a third party files a complaint. The bill would exempt financial agreements between licensees from disclosure, making it almost impossible to report violations. It is recommended to remove Section 3(33) from the bill or impose a duty on the LCB to review and approve leases to prevent anticompetitive agreements.

Persons Testifying: (In support) Representative Mike Steele, prime sponsor; and Jo Cowell, One Wines Inc.

(Other) Nora Palattao Bures, WA Beer and Wine Distributors Association.

Persons Signed In To Testify But Not Testifying: None.