

# HOUSE BILL REPORT

## EHB 1740

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### As Passed House

January 21, 1998

**Title:** An act relating to liquor sales to persons apparently under the influence of liquor.

**Brief Description:** Prohibiting the purchase of liquor by intoxicated persons.

**Sponsors:** By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Boldt, Thompson and Clements).

### Brief History:

#### Committee Activity:

Law & Justice: 3/4/97, 3/5/97 [DP].

#### Floor Activity:

Passed House: 3/14/97, 73-21;

Passed House: 1/21/98, 80-18.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass. Signed by 11 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Kenney; Lambert; Radcliff; Sherstad and Skinner.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Cody and Lantz.

**Staff:** Bill Perry (786-7123).

**Background:** It is unlawful for any person to sell liquor to a person "apparently under the influence of liquor."

A violation of this provision carries criminal penalties. A first offense is punishable by a fine of up to \$500 and by imprisonment for up to two months. A second offense is punishable by imprisonment for up to six months, and a third offense by imprisonment for up to one year.

If a corporation violates this provision, it is subject to a fine of up to \$5,000 for a first offense, and a fine of up to \$10,000 and loss of its corporate license for a second or subsequent offense.

In addition, persons or businesses that are licensed by the Liquor Control Board to sell liquor may have their licenses suspended or revoked for violating this law.

Although it is a crime for a person to sell liquor to a person who is under the influence, it is not a crime for the person who is under the influence to buy liquor.

**Summary of Bill:** It is unlawful for an apparently intoxicated– person to purchase or consume liquor on any licensed premises.

Intoxicated– means:

- o Impairment of mental or physical faculties that diminishes the ability to think and act in the manner of an ordinarily prudent cautious person who is in full possession of his or her faculties and who is using reasonable care; or
- o Having been refused service as intoxicated– within the previous 12 hours; or
- o Sufficiently intoxicated to be a danger to self or others; or
- o In danger of losing consciousness from further ingestion of liquor.

Purchase or consumption of liquor on licensed premises by an intoxicated person is a misdemeanor punishable by a fine of up to \$500.

A defendant charged with this offense may not use his or her own intoxication as a defense.

Every establishment that sells liquor must conspicuously post notice of these provisions.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** The Liquor Control Board has been vigorous in enforcing the law against the sellers of liquor. The bill provides another tool for deterring drunkenness and for saving lives.

**Testimony Against:** The present standard for over-serving is well understood. The bill provides a very vague definition of intoxication that could require a medical degree to understand. It is against existing state policy to criminalize drunkenness.

**Testified:** Vito Chiechi, Washington State Licensed Beverages Association (pro); and Carter Mitchell, Washington State Liquor Control Board.