

HOUSE BILL REPORT

ESSB 6648

As Passed House:

March 4, 1998

Title: An act relating to permitting the licensing of retail alcoholic beverage businesses in which no manufacturer, importer, or wholesaler has a direct or indirect interest.

Brief Description: Permitting licensing retail alcoholic beverages in which no manufacturers, importers, or wholesalers have an interest.

Sponsors: Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Newhouse, Horn and Heavey).

Brief History:

Committee Activity:

Commerce & Labor: 2/23/98, 2/26/98 [DP].

Floor Activity:

Passed House: 3/4/98, 97-0.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; Boldt; Clements; Hatfield and Lisk.

Staff: Pam Madson (786-7166).

Background: Under Washington's "tied-house" laws, certain financial "ties" or business relationships are prohibited between alcohol manufacturers and wholesalers (distributors) on the one hand and alcohol retailers on the other.

The purposes of the tied-house prohibitions are to prevent manufacturers and wholesalers from engaging in practices that induce retailers to sell certain alcohol products and exclude others and to inappropriately increase consumption.

Financial interest in a licensed retail liquor business or in property on which the business is conducted

One prohibition under tied-house law prevents liquor manufacturers, wholesalers or any person financially interested in the business from having a financial interest, either direct

or indirect, in a licensed retail liquor business or in property on which the retail liquor business is located. One exception to this prohibition allows a corporation to have a financial interest in property on which a retail licensee does business and a financial interest in a manufacturer under the following conditions:

- (1) The manufacturer has no direct stock interest and no interlocking officers with the corporation;
- (2) The retail licensee is an independent concessionaire that is not owned directly or indirectly by the manufacturer or property owner;
- (3) The sale of liquor is incidental to the primary activity of operating an amphitheater offering live music to the public; and
- (4) Alcoholic beverages produced by the manufacturer are not sold at the licensed retail premises.

The board must monitor the ownership and method of operation to ensure no improper control or influence is exerted over the operations of the retail licensee.

Money or money's worth

Another prohibition under the tied-house law prevents a manufacturer from giving money, items of value or credit to a retailer. There are several exceptions to this rule.

Summary of Bill: Additional exceptions are created to the state's tied-house law.

Financial interest in a licensed retail liquor business

A corporation that has an ownership interest in a licensed retail liquor business and has a financial interest in a manufacturer or importer does not violate tied-house prohibitions if:

- (1) The corporation and the manufacturer or importer do not have any interlocking officers or directors;
- (2) The manufacturer or importer does not have any direct stock ownership in the corporation or does not otherwise own the corporation;
- (3) No alcoholic beverages produced by the manufacturer or its subsidiaries are sold at the retail licensee's premises; and
- (4) The sale of liquor is incidental to the operation of the property as a hotel.

The board must monitor the ownership and method of operation to ensure no improper control or influence is exerted over the operations of the retail licensee.

Financial interest in property on which a retail liquor licensee conducts business

The conditions of the tied-house exception are changed. Rather than the retail license being held by an independent concessionaire with no ownership interest held by a manufacturer or the property owner, the retail license may be held by a corporation with no ownership held by a manufacturer. The property on which liquor sales occur may be a hotel as well as an amphitheater offering live entertainment.

Money or money's worth

A corporation that meets the conditions for certain exemptions to the tied-house law may use debt instruments issued in connection with financing construction or operation of its facilities.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect July 1, 1998.

Testimony For: The underlying purpose of the tied-house law (the Steele Act) passed at the time prohibition was repealed was to prevent the recurrence of the social problem of public drunkenness, the social evil that led to prohibition. Saloons were owned and operated by distillers and brewers who offered incentives like a free lunch to customers that promoted the sale and consumption of alcohol. The law was designed to discourage commercial practices that result in the over promotion of the use and consumption of alcoholic beverages. It was also designed to prevent the exclusive promotion of a particular product. Washington remains a control state. The early tied-house law did not contemplate the complexity of modern financing and conglomerate corporate structure and holding companies. A beverage manufacturer may be owned by a parent corporation that has a number of other economic interests including interests that are licensed as alcoholic beverage retailers. Tied-house law is an impediment to investing in enterprises in the state of Washington. The prohibitions under tied-house law have not been consistently applied over the years. This issue should be dealt with by looking at the policy rather than piecemeal changes to the statute. There will be others seeking similar exemptions in the future. This bill is not ideal but it is necessary and will make the current situation better. The bill tries to accommodate the large corporation so that it can deal with unrelated businesses in such a way that they stay unrelated. This bill says a manufacturer cannot own retailers, there cannot be interlocking directors and manufacturers cannot sell their product in a retailer's business where there is an unrelated business interest.

Testimony Against: None.

Testified: (In favor) Senator Ray Schow, prime sponsor; Bill Fritz and Corbin Hutchins, Bass PLC; Jim Halstrom; Joseph E. Seagrams; and Dick Ducharme, Beer and Wine Wholesalers.