

HOUSE BILL REPORT

HB 1434

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to a spirits, beer, and wine nightclub license.

Brief Description: Creating a spirits, beer, and wine nightclub license and eliminating the cap on spirits, beer, and wine restaurant licenses.

Sponsors: Representatives Conway, Condotta, Wood and Kenney; by request of Liquor Control Board.

Brief History:

Committee Activity:

Commerce & Labor: 2/4/09, 2/13/09 [DPS].

Brief Summary of Substitute Bill

- Creates a nightclub liquor license for the sale of spirits, beer, and wine by businesses with food sales incidental to the sale of alcohol and whose primary business hours are between 9:00 p.m. and 2:00 a.m.
- Provides that the cap on the number of spirits, beer, and wine restaurant licenses in the state applies to the combined total of restaurant and nightclub licenses and raises the cap from one license to each 1,300 people in the state to one license for each 1,200 people in the state.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

Staff: Joan Elgee (786-7106)

Background:

The Liquor Control Board (Board) issues a number of types of liquor licenses. A spirits, beer, and wine restaurant license allows the sale of spirits by the glass, beer, and wine for

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consumption on the premises. To qualify as a "restaurant," the establishment must be maintained in a substantial manner for the preparing, cooking, and serving of complete meals. A cap limits the number of spirits, beer, and wine restaurant licenses to one license for each 1,300 people in the state. In addition, the Board must refuse a license if, in the Board's opinion, the licenses already granted are adequate for the reasonable needs of the community.

Before the Board issues any type of new or renewal license, it must give notice to the Chief Executive Officer of the city, county, or town. Within 20 days, the local government may file written objections and the Board may hold a hearing. In determining whether to grant or renew a license, the Board must give substantial weight to objections from the local government based upon chronic illegal activity associated with the applicant's operation of the premises or of other licensed premises, or the conduct of the applicant's patrons inside or outside the premises.

Before issuing a license, the Board must give consideration to the location of the business with respect to the proximity of churches, schools, and public institutions. The Board must also give written notice to public institutions identified by the Board, churches, and schools within 500 feet of the premises. "Public institution" is defined to mean institutions of higher education, parks, community centers, libraries, and transit centers.

Summary of Substitute Bill:

A spirits, beer, and wine nightclub license is created. A nightclub license may be issued only to persons whose business has food sales incidental to the sale of alcohol and has primary business hours between 9:00 p.m. and 2:00 a.m. A nightclub is an establishment that: (1) provides entertainment; (2) has as its primary source of revenue the sale of alcohol for consumption on the premises, cover charges, or both; and (3) has an occupancy load of 100 or more. The license allows the holder to sell at retail spirits by the drink, beer, and wine for consumption on the premises. Minors may be allowed on the premises but not in areas where alcohol is served or consumed. The annual fee is \$2,000 and the Board may review the fee and set it at a level sufficient to defray the costs of licensing and enforcement.

Local governments may petition the Board to request that further restrictions be imposed on a nightclub license in the interest of public safety. Examples include not allowing minors anywhere on the premises, submitting a security plan, or signing a good neighbor agreement with the local government.

The cap on the number of spirits, beer, and wine restaurant licenses in the state is modified to apply to the combined total of restaurant and nightclub licenses and raised to one license for each 1,200 people in the state. The Board must refuse to grant a nightclub license if the Board determines that the nightclub licenses already granted are adequate for the reasonable needs of the community.

Other liquor provisions, including alcohol server training requirements and tax provisions, are amended to include the spirits, beer, and wine nightclub license.

Substitute Bill Compared to Original Bill:

The original bill removed the cap on the number of spirits, beer, and wine restaurant licenses. The substitute bill restores the cap, provides that the cap applies to the combined total of restaurant and nightclub licenses, and raises the cap from one to each 1,300 people in the state to one to each 1,200 people in the state. In addition, the substitute restores language defining "public institution" for purposes of consideration given by the Liquor Control Board to proximity of liquor licensees and notice of applications.

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) Currently, there is no ability to distinguish between a nightclub and a restaurant business model when a liquor license is processed. With the new nightclub license, the local governments will be able to know that a nightclub is being proposed. The new license gives local governments, with their values, the ability to petition for further restrictions. This approach works better than a cap and the state imposing restrictions.

The state is bumping up against the cap. The cap is artificial and removing it will enhance economic development. Removing the cap will not affect the Liquor Control Board's enforcement ability.

Keeping the list of public institutions in section 6(9)(a) is okay.

(With concerns) The new license is supported, but removing the cap is not. The nightclub licenses should be under the cap. The concern is about the Liquor Control Board's ability to enforce current licenses and then adding more licenses. The Board needs more enforcement resources. If the cap is lifted, it is even more critical to keep the list of public institutions in section 6(9)(a).

(Opposed) None.

Persons Testifying: (In support) Michael Transue, Washington Restaurant Association; and Rick Garza, Washington State Liquor Control Board.

(With concerns) Tammy Fellin, Association of Washington Cities; and Genesee Adkins, City of Seattle.

Persons Signed In To Testify But Not Testifying: (With concerns) Joanna Arlow, Washington Association of Sheriffs and Police Chiefs.