

HOUSE BILL REPORT

HB 2688

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to creating a beer and wine tasting endorsement to the grocery store liquor license.

Brief Description: Creating a beer and wine tasting endorsement to the grocery store liquor license.

Sponsors: Representatives Hunter, Condotta, Chandler, Green, Moeller, Williams, Carlyle, Springer and Conway.

Brief History:

Committee Activity:

Commerce & Labor: 1/20/10, 1/26/10 [DPS].

Brief Summary of Substitute Bill

- Allows grocery stores to offer beer and wine tasting.
- Establishes eligibility criteria for stores and conditions for tastings.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Green and Williams.

Minority Report: Without recommendation. Signed by 1 member: Representative Crouse.

Staff: Joan Elgee (786-7106).

Background:

A grocery store liquor license allows a grocery store to sell beer and/or wine for off-premises consumption. In 2008 the Legislature directed the Liquor Control Board (Board) to establish a pilot project for beer and wine tasting in grocery stores. Participating stores were limited to

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12 tastings and other conditions. The pilot project ended on September 30, 2009, and the Board issued a report in December 2009.

Liquor licensees are subject to penalty, including license suspension, for violations of the law. The Board may vacate a suspension if the licensee pays a monetary penalty. By rule, the Board has classified some violations, such as the sale or service of liquor to a minor, as public safety violations. For a first violation of a public safety violation, a licensee receives a five-day suspension or \$500 penalty.

Persons who participate in the sale or service of alcohol on licensed retail premises must obtain a mandatory alcohol server training (MAST) permit.

The tied house law prohibits a liquor manufacturer from providing "moneys' worth" to a retailer. An exception allows wineries to perform personal services at the premises of certain retailers, including restaurants and specialty wine shops. The personal services may include pouring, bottle signing, and other similar information or educational activities.

An alcohol impact area (AIA) is a geographic area, designated by a local government and recognized by resolution of the Board, that is adversely affected by chronic public inebriation or illegal activity associated with alcohol sales or consumption. The Board may place restrictions on licensees located in an AIA.

Summary of Substitute Bill:

A grocery store licensed to sell beer and/or wine may obtain an endorsement to offer beer and wine tasting. A store must meet the following criteria:

- at least half of the gross sales of the store are retail sales of grocery products for off-premises consumption, or the store is a membership organization;
- the store is at least 9,000 square feet in size; and
- the store did not have more than one public safety violation within the past two years.

The Board may issue an endorsement to a store smaller than 9,000 square feet if the store meets operational requirements established by the Board and the Board finds there are no stores in the community that meet the minimum size requirement.

Tasting conditions are set forth, including:

- the licensee must be able to observe and control persons in the service area;
- samples are limited to two ounces, up to a total of four ounces, per customer per visit;
- food for participants must be available; and
- customers must remain in the service area.

Stores may advertise tasting events within the store, on a store website, in newsletters and flyers, and via regular mail and electronic mail to customers who have requested notice of events. Advertising may not be targeted to or appeal principally to youth.

The Board may establish additional requirements to assure persons under 21 years of age and apparently intoxicated persons cannot possess or consume alcohol.

A tasting endorsement may be suspended and not reissued for up to two years if a licensee commits a public safety violation in conjunction with tasting activities. The Board may assess a monetary penalty in lieu of suspension if mitigating circumstances exist. The Board may also revoke an endorsement to a store in an AIA if the tasting activities are having an adverse effect on the reduction of chronic public inebriation.

A winery or brewery may conduct pouring, bottle signing, and other similar informational and educational activities in conjunction with a grocery store tasting event. A grocery store or other retail licensee may not require such services as a condition for including any product in a tasting. Wineries, breweries, and distributors may not pay for samples.

Employees of any licensee serving during tasting activities must hold a MAST permit.

The fee for the tasting endorsement is \$200 per year. The Board may increase the fee up to 10 percent annually to defray the cost of administration and enforcement of the endorsement.

The Board must adopt rules to implement the endorsement.

Substitute Bill Compared to Original Bill:

The substitute bill adds the authorization for wineries and breweries to conduct pouring, bottle signing, and other similar informational and educational activities in conjunction with a tasting.

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 bill makes permanent the very successful pilot program. Wineries, breweries, and customers all benefit. Customers were surveyed about the tasting events and they loved them. A store had no negative comments. Tastings are a way to promote small Washington producers. Tastings are a way for stores to share their enthusiasm for small producers. When people taste Washington wine, they are more likely to buy it. Tasting is an attractive amenity for people to be able to make choices of wine to go with food. Sales of products sampled, as well as the food that was paired with the tastings, went up. Stores sold better beer and wine, not necessarily more beer and wine.

The needed protections are in place and the concerns have been addressed to the extent they could be. The compliance with public safety requirements was better than what happens with regular sales. Tasting pours were controlled through punches or felt pens. The retailers assume the cost of the products. The fee is a voluntary fee because it is a choice to do tasting and it is not fair to put the cost of the endorsement on other licensees.

An agreed to amendment would allow wineries and breweries to pour to enhance the educational experience.

(Neutral) The proponents made several changes the Board recommended, including addressing alcohol server training and violations. Tasting can be done safely and responsibly.

(Opposed) The proponents' sharing of a draft is appreciated. Proponents also did a responsible job on regulation in the bill. The concern is with the unintended consequences on youth. Tastings model the casual use of alcohol. Youth will see people driving around doing errands and tasting alcohol. The pilot did not ask the right question, which is what is the social impact of tastings in up to 3,000 stores? Sales of alcohol will go up.

Persons Testifying: (In support) Representative Hunter, prime sponsor; Jan Gee and Carolyn Logue, Washington Food Industry; Chris Lueck, Vashon Thriftway; Holly Chisa, Northwest Grocery Association; Jean Leonard, Washington Wine Institute; and Ron Main, Beer and Wine Wholesalers.

(Neutral) Rick Garza, Washington State Liquor Control Board.

(Opposed) Seth Dawson and Jim Cooper, Washington Association for Substance Abuse and Violence Prevention.

Persons Signed In To Testify But Not Testifying: None.