

HOUSE BILL REPORT

HB 2758

As Reported by House Committee On: Ways & Means

Title: An act relating to strengthening the department of revenue's ability to collect spirits taxes imposed under RCW 82.08.150

Brief Description: Strengthening the department of revenue's ability to collect spirits taxes imposed under RCW 82.08.150.

Sponsors: Representatives Hunter and Alexander; by request of Department of Revenue.

Brief History:

Committee Activity:

Ways & Means: 2/6/12 [DP].

Brief Summary of Bill

- Authorizes the Department of Revenue to request that the Liquor Control Board suspend or not renew a spirits license if an entity is delinquent in remitting spirits taxes.
- Requires out-of-state distillers to report spirits sales on a monthly basis.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass. Signed by 27 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Haler, Hinkle, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Ross, Schmick, Seaquist, Springer, Sullivan and Wilcox.

Staff: Jeff Olsen (786-7175).

Background:

Licenses to Sell Liquor.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

With the passage of Initiative 1183 in November of 2011, voters approved the transfer of responsibility for the distribution and retail sale of liquor to the private sector. A spirits distributor license is required to sell spirits purchased from manufacturers, distillers, or suppliers to spirits retailers. A spirits retail license is required to sell spirits in original containers to consumers for consumption off the licensed premise. In addition, a licensed spirits distiller may act as a retailer and/or a distributor to retailers selling for consumption on or off the premises of spirits of its own production. Manufacturers, importers, or bottlers of spirits holding a certificate of approval may act as a distributor of spirits it is entitled to import into the state. The Liquor Control Board (Board) administers the issuance of spirits distributor, retailer, distillery, and importer licenses.

Liquor Taxes.

Spirits taxes are levied upon the sale of spirits in their original package including a liquor sales tax and a liquor liter tax. For sales to consumers, the liquor sales tax is 20.5 percent of the selling price, and the liquor liter tax is \$3.7708 per liter. For sales to restaurants and bars, the liquor sales tax is 13.7 percent of the selling price, and the liquor liter tax is \$2.4408 per liter.

Liquor Tax Administration.

Prior to the passage of Initiative 1183, the Board collected all spirits taxes by incorporating those taxes in the price of spirits sold in Washington. Initiative 1183 transfers the administration of spirits taxes from the Board to the Department of Revenue (Department). Spirits taxes must be paid by the buyer to the seller, and the seller must report and return all taxes imposed in accordance with rules adopted by the Department.

The Department must apply payments from taxpayers first against penalties and interest, and then upon the tax, without regard to any direction of the taxpayer.

Summary of Bill:

The Department may request that the Board suspend a spirits license and refuse to renew such license if the taxpayer is more than 30 days delinquent in reporting or remitting spirits taxes. Before making the request to the Board, the Department must provide the taxpayer at least seven days written notice. The notice must include information listing any unfiled tax returns, the amount of unpaid spirits taxes, who to contact about payment, and that the taxpayer may seek administrative review by the Department. The Department may not make a request to the Board for a license suspension that is subject to pending administrative review.

Upon written notification by the Department, the Board must suspend all spirits licenses held by a person that is more than 30 days delinquent in reporting or remitting spirits taxes to the Department. The Board must also refuse to renew or issue any new spirits licenses to the person or any other applicant controlled directly or indirectly by that person. The Board may not reinstate a person's spirits license until such time as the Department notifies the Board that the person is current in reporting and remitting spirits taxes. All spirits licenses are

subject to the condition that the spirits license holder must report and remit all spirits taxes by the due date to the Department.

The amount of spirits taxes assessed against a licensee or applicant for a license may not be considered by the Board at hearings to contest the suspension of a license. Requests made by the Department to the Board to suspend a license are not subject to adjudicative proceedings under the Administrative Procedures Act. No person may file a notice of appeal with the Board of Tax appeals to contest the amount of spirits taxes assessed or due unless the person has first paid the full amount of contested spirits taxes. A taxpayer's right to administrative review does not include the right to challenge the amount of spirits taxes assessed if the taxpayer has already sought administrative review of this amount, or could have done so.

By the fifteenth day of each month, all spirits certificate of approval holders (out-of-state distillers) must report to the Board a list of all spirits delivered to purchasers in the state during the preceding month. A spirits certificate of approval holder may not ship into the state any spirits unless the purchaser is licensed by the Board to sell spirits, or otherwise legally authorized to sell spirits. The Board must maintain on its website a list of all spirits certificate of approval holders licensed by the Board and in good standing.

The Department must apply payments from taxpayers in the following order: interest; penalties; fees; other nontax amounts; taxes, except spirits taxes; and spirits taxes. Trust fund taxes are defined as those taxes collected and held in trust, including spirits taxes.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Before the passage of Initiative 1183, the Board could assure collection of spirits taxes by embedding it in the price of liquor. The Department does not have the same ability to collect spirits taxes and tie spirits licenses with collection of taxes. The Department has worked with stakeholders to ensure there is a level playing field among all participants. Restaurants and bars are not the collectors of the spirits tax and are not impacted by the bill. There is due process in both the Department and the Board appeals processes. The bill does not impact Initiative 1183. Consolidation of the seven different spirits retail taxes should be considered.

(Opposed) None.

Persons Testifying: Drew Shirk, Department of Revenue; Holly Chisa, Northwest Grocery Association; and Carolyn Logue, Washington Food Industry.

Persons Signed In To Testify But Not Testifying: None.