

SENATE BILL REPORT

SB 6571

As Passed Senate, February 11, 2012

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: Senator Kohl-Welles; by request of Department of Revenue.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/02/12 [DP].

Ways & Means: 2/06/12, 2/07/12 [DP].

Passed Senate: 2/11/12, 44-0.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: Do pass.

Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry, Ranking Minority Member; King, Assistant Ranking Minority Member; Hewitt, Keiser and Kline.

Staff: Edith Rice (786-7444)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Brown, Conway, Fraser, Harper, Hatfield, Hewitt, Holmquist Newbry, Honeyford, Kastama, Keiser, Kohl-Welles, Padden, Pridemore, Regala, Schoesler and Tom.

Staff: Dean Carlson (786-7305)

Background: With the voter approval of I-1183 in November of 2011, the responsibility for spirits distribution and sales was shifted from the Liquor Control Board (LCB) to the private sector. LCB retained authority to enforce liquor laws and protect public health and safety relating to liquor. LCB also retained the authority to license applicants wishing to purchase

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or sell spirits in Washington. The responsibility to collect spirits taxes originally with LCB, was shifted to the Department of Revenue (DOR). Because LCB controlled licensing as well as spirits tax collection, it was able to gain a tax compliance level of almost 100 percent. DOR does not currently have authority to deny or suspend a liquor license in the event that someone fails to pay a spirits tax.

Summary of Bill: If a taxpayer is more than 30 days delinquent in reporting or remitting spirits taxes to DOR, DOR can request that LCB suspend a taxpayer's spirits license and refuse to renew any existing spirits license held by the taxpayer. DOR can also request that LCB refuse to issue any new spirits license to the taxpayer. DOR must provide written notice to the taxpayer, at least seven days prior to the request to LCB. This notice must inform the taxpayer of DOR's intent to request that LCB suspend, refuse to renew, or refuse to issue a new spirits license to the taxpayer unless the taxpayer comes into compliance within seven calendar days of the date of the notice. Notices may be provided electronically.

DOR must provide the taxpayer with information regarding the unfiled or unpaid spirits taxes including any penalties or interest, contact information to make payment arrangements, and that administrative review of the notice may be requested. DOR must not enter into any payment agreement with a taxpayer that DOR deems unsatisfactory.

A taxpayers 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.

DOR must keep full and accurate records of all funds it receives and disburses. When payment from a taxpayer is received, the payment is applied to amounts owing in the following order: interest, penalties, fees, other nontax amounts, non-spirits taxes and spirits taxes.

No person may file a notice of appeal with the Board of Tax Appeals regarding the amount of spirits taxes assessed due by DOR unless the contested spirits taxes are paid in full.

The LCB must suspend, refuse to renew, or refuse to issue a spirits license upon written notification from DOR that a person is more than 30 days delinquent in reporting or remitting spirits taxes to DOR. LCB cannot reinstate, renew, or issue a spirits license unless DOR notifies LCB that the person is current in reporting or remitting spirits taxes. All spirits licenses are conditioned upon the license holder reporting and remitting all spirits taxes by the due date to DOR.

An appeal of a LCB decision regarding suspension or denial of a spirits license does not include the right to challenge the amount of any spirits taxes assessed by DOR. Requests made to LCB by DOR to suspend or refuse to issue or renew a spirits license are not subject to provisions regarding rate changes and licenses under the Administrative Procedure Act.

All spirits certificate of approval holders must report the following information to LCB by day 15 of each month: spirits delivered to Washington purchasers during the preceding month, and the identity of the purchasers. Certificate of approval holders cannot ship spirits to a purchaser in Washington unless the purchaser is legally authorized to sell spirits in state.

Trust fund taxes are defined as those taxes collected and held in trust and include liquor taxes.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony (Labor, Commerce & Consumer Protection): PRO: DOR would not be able to assure a high level of collection compliance without the ability to ask LCB to pull the license when taxes are not paid. It is critical that these taxes be collected to support the various social services they fund.

Persons Testifying (Labor, Commerce & Consumer Protection): PRO: Drew Shirk, DOR; Rick Garza, LCB; Seth Dawson, WA Assn. for Substance Abuse Prevention.

Staff Summary of Public Testimony (Ways & Means): PRO: This is Department of Revenue request legislation. Previously spirits taxes were embedded in the selling price which insured collection. This ties the payment of tax to the license. There are two steps of due process to preserve rights in the areas of taxes and licensing. We would like to see the enhanced collection, but also see if we could enhance the collection on the retail side by simplifying and collapsing rates without having a two-thirds vote. We appreciate the efforts to make sure the taxes are collected.

Persons Testifying (Ways & Means): PRO: Drew Shirk, Department of Revenue; Carolyn Logue, WA Food Industry Assn.; Holly Chisa, Northwest Grocery Assn.