
HOUSE BILL 2179

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Morris, Lytton, and Kenney

Prefiled 12/14/11. Read first time 01/09/12. Referred to Committee on Local Government.

1 AN ACT Relating to objections to liquor licenses by local
2 governments; and amending RCW 66.24.010.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 66.24.010 and 2011 c 195 s 1 are each amended to read
5 as follows:

6 (1) Every license shall be issued in the name of the applicant, and
7 the holder thereof shall not allow any other person to use the license.

8 (2) For the purpose of considering any application for a license,
9 or the renewal of a license, the board may cause an inspection of the
10 premises to be made, and may inquire into all matters in connection
11 with the construction and operation of the premises. For the purpose
12 of reviewing any application for a license and for considering the
13 denial, suspension, revocation, or renewal or denial thereof, of any
14 license, the liquor control board may consider any prior criminal
15 conduct of the applicant including an administrative violation history
16 record with the board and a criminal history record information check.
17 The board may submit the criminal history record information check to
18 the Washington state patrol and to the identification division of the
19 federal bureau of investigation in order that these agencies may search

1 their records for prior arrests and convictions of the individual or
2 individuals who filled out the forms. The board shall require
3 fingerprinting of any applicant whose criminal history record
4 information check is submitted to the federal bureau of investigation.
5 The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply
6 to such cases. Subject to the provisions of this section, the board
7 may, in its discretion, grant or deny the renewal or license applied
8 for. Denial may be based on, without limitation, the existence of
9 chronic illegal activity documented in objections submitted pursuant to
10 subsections (8)(d) and (12) of this section. Authority to approve an
11 uncontested or unopposed license may be granted by the board to any
12 staff member the board designates in writing. Conditions for granting
13 such authority shall be adopted by rule. No retail license of any kind
14 may be issued to:

15 (a) A person doing business as a sole proprietor who has not
16 resided in the state for at least one month prior to receiving a
17 license, except in cases of licenses issued to dining places on
18 railroads, boats, or aircraft;

19 (b) A copartnership, unless all of the members thereof are
20 qualified to obtain a license, as provided in this section;

21 (c) A person whose place of business is conducted by a manager or
22 agent, unless such manager or agent possesses the same qualifications
23 required of the licensee;

24 (d) A corporation or a limited liability company, unless it was
25 created under the laws of the state of Washington or holds a
26 certificate of authority to transact business in the state of
27 Washington.

28 (3)(a) The board may, in its discretion, subject to the provisions
29 of RCW 66.08.150, suspend or cancel any license; and all rights of the
30 licensee to keep or sell liquor thereunder shall be suspended or
31 terminated, as the case may be.

32 (b) The board shall immediately suspend the license or certificate
33 of a person who has been certified pursuant to RCW 74.20A.320 by the
34 department of social and health services as a person who is not in
35 compliance with a support order. If the person has continued to meet
36 all other requirements for reinstatement during the suspension,
37 reissuance of the license or certificate shall be automatic upon the

1 board's receipt of a release issued by the department of social and
2 health services stating that the licensee is in compliance with the
3 order.

4 (c) The board may request the appointment of administrative law
5 judges under chapter 34.12 RCW who shall have power to administer
6 oaths, issue subpoenas for the attendance of witnesses and the
7 production of papers, books, accounts, documents, and testimony,
8 examine witnesses, and to receive testimony in any inquiry,
9 investigation, hearing, or proceeding in any part of the state, under
10 such rules and regulations as the board may adopt.

11 (d) Witnesses shall be allowed fees and mileage each way to and
12 from any such inquiry, investigation, hearing, or proceeding at the
13 rate authorized by RCW 34.05.446. Fees need not be paid in advance of
14 appearance of witnesses to testify or to produce books, records, or
15 other legal evidence.

16 (e) In case of disobedience of any person to comply with the order
17 of the board or a subpoena issued by the board, or any of its members,
18 or administrative law judges, or on the refusal of a witness to testify
19 to any matter regarding which he or she may be lawfully interrogated,
20 the judge of the superior court of the county in which the person
21 resides, on application of any member of the board or administrative
22 law judge, shall compel obedience by contempt proceedings, as in the
23 case of disobedience of the requirements of a subpoena issued from said
24 court or a refusal to testify therein.

25 (4) Upon receipt of notice of the suspension or cancellation of a
26 license, the licensee shall forthwith deliver up the license to the
27 board. Where the license has been suspended only, the board shall
28 return the license to the licensee at the expiration or termination of
29 the period of suspension. The board shall notify all vendors in the
30 city or place where the licensee has its premises of the suspension or
31 cancellation of the license; and no employee may allow or cause any
32 liquor to be delivered to or for any person at the premises of that
33 licensee.

34 (5)(a) At the time of the original issuance of a spirits, beer, and
35 wine restaurant license, the board shall prorate the license fee
36 charged to the new licensee according to the number of calendar
37 quarters, or portion thereof, remaining until the first renewal of that
38 license is required.

1 (b) Unless sooner canceled, every license issued by the board shall
2 expire at midnight of the thirtieth day of June of the fiscal year for
3 which it was issued. However, if the board deems it feasible and
4 desirable to do so, it may establish, by rule pursuant to chapter 34.05
5 RCW, a system for staggering the annual renewal dates for any and all
6 licenses authorized by this chapter. If such a system of staggered
7 annual renewal dates is established by the board, the license fees
8 provided by this chapter shall be appropriately prorated during the
9 first year that the system is in effect.

10 (6) Every license issued under this section shall be subject to all
11 conditions and restrictions imposed by this title or by rules adopted
12 by the board. All conditions and restrictions imposed by the board in
13 the issuance of an individual license may be listed on the face of the
14 individual license along with the trade name, address, and expiration
15 date. Conditions and restrictions imposed by the board may also be
16 included in official correspondence separate from the license.

17 (7) Every licensee shall post and keep posted its license, or
18 licenses, and any additional correspondence containing conditions and
19 restrictions imposed by the board in a conspicuous place on the
20 premises.

21 (8)(a) Unless (b) of this subsection applies, before the board
22 issues a new or renewal license to an applicant it shall give notice of
23 such application to the ((~~chief executive officer~~)) legislative
24 authority of the incorporated city or town, if the application is for
25 a license within an incorporated city or town, or to the county
26 legislative authority, if the application is for a license outside the
27 boundaries of incorporated cities or towns.

28 (b) If the application for a special occasion license is for an
29 event held during a county, district, or area fair as defined by RCW
30 15.76.120, and the county, district, or area fair is located on
31 property owned by the county but located within an incorporated city or
32 town, the county legislative authority shall be the entity notified by
33 the board under (a) of this subsection. The board shall send a
34 duplicate notice to the legislative authority of the incorporated city
35 or town within which the fair is located.

36 (c) The ((~~incorporated city or town through the official or~~
37 ~~employee selected by it~~)) legislative authority of the city or town or
38 the official or employee selected by it, or the county legislative

1 authority or the official or employee selected by it, shall have the
2 right to file with the board within twenty days after the date of
3 transmittal of such notice for applications, or at least thirty days
4 prior to the expiration date for renewals, written objections against
5 the applicant or against the premises for which the new or renewal
6 license is asked. The board may extend the time period for submitting
7 written objections.

8 (d) The written objections shall include a statement of all facts
9 upon which such objections are based, and in case written objections
10 are filed, the legislative authority of the city ~~((or))~~, town, or
11 county ~~((legislative authority))~~ may request and the liquor control
12 board may in its discretion hold a hearing subject to the applicable
13 provisions of Title 34 RCW. If the board makes an initial decision to
14 deny a license or renewal based on the written objections of ~~((an~~
15 ~~incorporated))~~ the city ~~((or))~~, town, or county ~~((legislative~~
16 ~~authority))~~, the applicant may request a hearing subject to the
17 applicable provisions of Title 34 RCW. If such a hearing is held at
18 the request of the applicant, liquor control board representatives
19 shall present and defend the board's initial decision to deny a license
20 or renewal.

21 (e) Upon the granting of a license under this title the board shall
22 send written notification to the ~~((chief executive officer))~~
23 legislative authority of the incorporated city or town in which the
24 license is granted, or to the county legislative authority if the
25 license is granted outside the boundaries of incorporated cities or
26 towns. When the license is for a special occasion license for an event
27 held during a county, district, or area fair as defined by RCW
28 15.76.120, and the county, district, or area fair is located on county-
29 owned property but located within an incorporated city or town, the
30 written notification shall be sent to the legislative authority of both
31 the incorporated city or town and the county ~~((legislative authority))~~.

32 (9)(a) Before the board issues any license to any applicant, it
33 shall give (i) due consideration to the location of the business to be
34 conducted under such license with respect to the proximity of churches,
35 schools, and public institutions and (ii) written notice, with receipt
36 verification, of the application to public institutions identified by
37 the board as appropriate to receive such notice, churches, and schools
38 within five hundred feet of the premises to be licensed. The board

1 shall not issue a liquor license for either on-premises or off-premises
2 consumption covering any premises not now licensed, if such premises
3 are within five hundred feet of the premises of any tax-supported
4 public elementary or secondary school measured along the most direct
5 route over or across established public walks, streets, or other public
6 passageway from the main entrance of the school to the nearest public
7 entrance of the premises proposed for license, and if, after receipt by
8 the school of the notice as provided in this subsection, the board
9 receives written objection, within twenty days after receiving such
10 notice, from an official representative or representatives of the
11 school within five hundred feet of said proposed licensed premises,
12 indicating to the board that there is an objection to the issuance of
13 such license because of proximity to a school. The board may extend
14 the time period for submitting objections. For the purpose of this
15 section, "church" means a building erected for and used exclusively for
16 religious worship and schooling or other activity in connection
17 therewith. For the purpose of this section, "public institution" means
18 institutions of higher education, parks, community centers, libraries,
19 and transit centers.

20 (b) No liquor license may be issued or reissued by the board to any
21 motor sports facility or licensee operating within the motor sports
22 facility unless the motor sports facility enforces a program reasonably
23 calculated to prevent alcohol or alcoholic beverages not purchased
24 within the facility from entering the facility and such program is
25 approved by local law enforcement agencies.

26 (c) It is the intent under this subsection (9) that a retail
27 license shall not be issued by the board where doing so would, in the
28 judgment of the board, adversely affect a private school meeting the
29 requirements for private schools under Title 28A RCW, which school is
30 within five hundred feet of the proposed licensee. The board shall
31 fully consider and give substantial weight to objections filed by
32 private schools. If a license is issued despite the proximity of a
33 private school, the board shall state in a letter addressed to the
34 private school the board's reasons for issuing the license.

35 (10) The restrictions set forth in subsection (9) of this section
36 shall not prohibit the board from authorizing the assumption of
37 existing licenses now located within the restricted area by other
38 persons or licenses or relocations of existing licensed premises within

1 the restricted area. In no case may the licensed premises be moved
2 closer to a church or school than it was before the assumption or
3 relocation.

4 (11)(a) Nothing in this section prohibits the board, in its
5 discretion, from issuing a temporary retail or distributor license to
6 an applicant to operate the retail or distributor premises during the
7 period the application for the license is pending. The board may
8 establish a fee for a temporary license by rule.

9 (b) A temporary license issued by the board under this section
10 shall be for a period not to exceed sixty days. A temporary license
11 may be extended at the discretion of the board for additional periods
12 of sixty days upon payment of an additional fee and upon compliance
13 with all conditions required in this section.

14 (c) Refusal by the board to issue or extend a temporary license
15 shall not entitle the applicant to request a hearing. A temporary
16 license may be canceled or suspended summarily at any time if the board
17 determines that good cause for cancellation or suspension exists. RCW
18 66.08.130 applies to temporary licenses.

19 (d) Application for a temporary license shall be on such form as
20 the board shall prescribe. If an application for a temporary license
21 is withdrawn before issuance or is refused by the board, the fee which
22 accompanied such application shall be refunded in full.

23 (12) In determining whether to grant or deny a license or renewal
24 of any license, the board shall give substantial weight to objections
25 from ~~((an incorporated city or town or county legislative authority))~~
26 a city, town, or county under subsection (8) of this section that are
27 based upon chronic illegal activity associated with the applicant's
28 operations of the premises proposed to be licensed or the applicant's
29 operation of any other licensed premises, or the conduct of the
30 applicant's patrons inside or outside the licensed premises. "Chronic
31 illegal activity" means (a) a pervasive pattern of activity that
32 threatens the public health, safety, and welfare of the city, town, or
33 county including, but not limited to, open container violations,
34 assaults, disturbances, disorderly conduct, or other criminal law
35 violations, or as documented in crime statistics, police reports,
36 emergency medical response data, calls for service, field data, or
37 similar records of a law enforcement agency for the city, town, county,
38 or any other municipal corporation or any state agency; or (b) an

1 unreasonably high number of citations for violations of RCW 46.61.502
2 associated with the applicant's or licensee's operation of any licensed
3 premises as indicated by the reported statements given to law
4 enforcement upon arrest.

--- END ---