

SSB 5644 - S AMD 199
By Senator Nelson

NOT CONSIDERED

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 66.24.630 and 2012 2nd sp.s. c 6 s 401 are each
4 amended to read as follows:

5 (1) There is a spirits retail license to: Sell spirits in original
6 containers to consumers for consumption off the licensed premises and
7 to permit holders; sell spirits in original containers to retailers
8 licensed to sell spirits for consumption on the premises, for resale at
9 their licensed premises according to the terms of their licenses,
10 although no single sale may exceed twenty-four liters in a calendar
11 day, unless the sale is by a licensee that was a contract liquor store
12 manager of a contract liquor store at the location of its spirits
13 retail licensed premises from which it makes such sales; and export
14 spirits.

15 (2) For the purposes of this title, a spirits retail license is a
16 retail license, and a sale by a spirits retailer is a retail sale only
17 if not for resale. Nothing in this title authorizes sales by on-sale
18 licensees to other retail licensees. The board must establish by rule
19 an obligation of on-sale spirits retailers to:

20 (a) Maintain a schedule by stock-keeping unit of all their
21 purchases of spirits from spirits retail licensees, indicating the
22 identity of the seller and the quantities purchased; and

23 (b) Provide, not more frequently than quarterly, a report for each
24 scheduled item containing the identity of the purchasing on-premise
25 licensee and the quantities of that scheduled item purchased since any
26 preceding report to:

27 (i) A distributor authorized by the distiller to distribute a
28 scheduled item in the on-sale licensee's geographic area; or

29 (ii) A distiller acting as distributor of the scheduled item in the
30 area.

1 (3)(a) Except as otherwise provided in (c) of this subsection, the
2 board may issue spirits retail licenses only for premises comprising at
3 least ten thousand square feet of fully enclosed retail space within a
4 single structure, including storerooms and other interior auxiliary
5 areas but excluding covered or fenced exterior areas, whether or not
6 attached to the structure, and only to applicants that the board
7 determines will maintain systems for inventory management, employee
8 training, employee supervision, and physical security of the product
9 substantially as effective as those of stores currently operated by the
10 board with respect to preventing sales to or pilferage by underage or
11 inebriated persons.

12 (b) License issuances and renewals are subject to RCW 66.24.010 and
13 the regulations promulgated thereunder, including without limitation
14 rights of cities, towns, county legislative authorities, the public,
15 churches, schools, and public institutions to object to or prevent
16 issuance of local liquor licenses. However, existing grocery premises
17 licensed to sell beer and/or wine are deemed to be premises "now
18 licensed" under RCW 66.24.010(9)(a) for the purpose of processing
19 applications for spirits retail licenses.

20 (c) The board may not deny a spirits retail license to an otherwise
21 qualified contract liquor store at its contract location or to the
22 holder of former state liquor store operating rights sold at auction
23 under RCW 66.24.620 on the grounds of location, nature, or size of the
24 premises to be licensed. The board may not deny a spirits retail
25 license to applicants that are not contract liquor stores or operating
26 rights holders on the grounds of the size of the premises to be
27 licensed, if such applicant is otherwise qualified and the board
28 determines that:

29 (i) There is no retail spirits license holder in the trade area
30 that the applicant proposes to serve;

31 (ii) The applicant meets, or upon licensure will meet, the
32 operational requirements established by the board by rule; and

33 (iii) The licensee has not committed more than one public safety
34 violation within the three years preceding application.

35 (d) A retailer authorized to sell spirits for consumption on or off
36 the licensed premises may accept delivery of spirits at its licensed
37 premises or at one or more warehouse facilities registered with the
38 board, which facilities may also warehouse and distribute nonliquor

1 items, and from which the retailer may deliver to its own licensed
2 premises and, pursuant to sales permitted under subsection (1) of this
3 section:

4 (i) To other retailer premises licensed to sell spirits for
5 consumption on the licensed premises;

6 (ii) To other registered facilities; or

7 (iii) To lawful purchasers outside the state. The facilities may
8 be registered and utilized by associations, cooperatives, or comparable
9 groups of retailers, including at least one retailer licensed to sell
10 spirits.

11 (4)(a) Except as otherwise provided in (b) and (c) of this
12 subsection, each spirits retail licensee must pay to the board, for
13 deposit into the liquor revolving fund, a license issuance fee
14 equivalent to seventeen percent of all spirits sales revenues under the
15 license, exclusive of taxes collected by the licensee and of sales of
16 items on which a license fee payable under this section has otherwise
17 been incurred. The board must establish rules setting forth the timing
18 of such payments and reporting of sales dollar volume by the licensee,
19 with payments required quarterly in arrears. The first payment is due
20 October 1, 2012.

21 (b) This subsection (4) does not apply to craft distilleries.

22 (c) This subsection (4) does not apply to a spirits retail licensee
23 that was a contract liquor store manager with respect to sales from the
24 location of its spirits retail licensed premises to retailers licensed
25 to sell spirits for consumption on the premises, for resale at their
26 licensed premises according to the terms of their licenses. The
27 exemption created by this subsection (4)(c) attaches to any successor,
28 by purchase or otherwise, to the spirits retail license, except that it
29 does not attach to any such successor that owns, directly or
30 indirectly, any interest in a spirits retail licensee that is not
31 derived directly from a former contract liquor store manager.

32 (5) In addition to the payment required under subsection (4) of
33 this section, each licensee must pay an annual license renewal fee of
34 one hundred sixty-six dollars. The board must periodically review and
35 adjust the renewal fee as may be required to maintain it as comparable
36 to annual license renewal fees for licenses to sell beer and wine not
37 for consumption on the licensed premises. If required by law at the

1 time, any increase of the annual renewal fee becomes effective only
2 upon ratification by the legislature.

3 (6) As a condition to receiving and renewing a retail spirits
4 license the licensee must provide training as prescribed by the board
5 by rule for individuals who sell spirits or who manage others who sell
6 spirits regarding compliance with laws and regulations regarding sale
7 of spirits, including without limitation the prohibitions against sale
8 of spirits to individuals who are underage or visibly intoxicated. The
9 training must be provided before the individual first engages in the
10 sale of spirits and must be renewed at least every five years. The
11 licensee must maintain records documenting the nature and frequency of
12 the training provided. An employee training program is presumptively
13 sufficient if it incorporates a "responsible vendor program"
14 promulgated by the board.

15 (7) The maximum penalties prescribed by the board in WAC 314-29-020
16 through 314-29-040 relating to fines and suspensions are doubled for
17 violations relating to the sale of spirits by retail spirits licensees.

18 (8)(a) The board must promulgate regulations concerning the
19 adoption and administration of a compliance training program for
20 spirits retail licensees, to be known as a "responsible vendor
21 program," to reduce underage drinking, encourage licensees to adopt
22 specific best practices to prevent sales to minors, and provide
23 licensees with an incentive to give their employees ongoing training in
24 responsible alcohol sales and service.

25 (b) Licensees who join the responsible vendor program under this
26 section and maintain all of the program's requirements are not subject
27 to the doubling of penalties provided in this section for a single
28 violation in any period of twelve calendar months.

29 (c) The responsible vendor program must be free, voluntary, and
30 self-monitoring.

31 (d) To participate in the responsible vendor program, licensees
32 must submit an application form to the board. If the application
33 establishes that the licensee meets the qualifications to join the
34 program, the board must send the licensee a membership certificate.

35 (e) A licensee participating in the responsible vendor program must
36 at a minimum:

37 (i) Provide ongoing training to employees;

38 (ii) Accept only certain forms of identification for alcohol sales;

- 1 (iii) Adopt policies on alcohol sales and checking identification;
2 (iv) Post specific signs in the business; and
3 (v) Keep records verifying compliance with the program's
4 requirements.

5 **Sec. 2.** RCW 66.24.055 and 2012 c 2 s 105 (Initiative Measure No.
6 1183) are each amended to read as follows:

7 (1) There is a license for spirits distributors to (a) sell spirits
8 purchased from manufacturers, distillers, or suppliers including,
9 without limitation, licensed Washington distilleries, licensed spirits
10 importers, other Washington spirits distributors, or suppliers of
11 foreign spirits located outside of the United States, to spirits
12 retailers including, without limitation, spirits retail licensees,
13 special occasion license holders, interstate common carrier license
14 holders, restaurant spirits retailer license holders, spirits, beer,
15 and wine private club license holders, hotel license holders, sports
16 entertainment facility license holders, and spirits, beer, and wine
17 nightclub license holders, and to other spirits distributors; and (b)
18 export the same from the state.

19 (2) By January 1, 2012, the board must issue spirits distributor
20 licenses to all applicants who, upon December 8, 2011, have the right
21 to purchase spirits from a spirits manufacturer, spirits distiller, or
22 other spirits supplier for resale in the state, or are agents of such
23 supplier authorized to sell to licensees in the state, unless the board
24 determines that issuance of a license to such applicant is not in the
25 public interest.

26 (3)(a) As limited by (b) of this subsection and subject to (c) of
27 this subsection, each spirits distributor licensee and each industry
28 member acting as a distributor under RCW 66.24.640 or 66.28.330(4) must
29 pay to the board, for deposit into the liquor revolving fund, a license
30 issuance fee calculated as follows:

31 ~~((i) In each of the first two years of licensure,))~~ Ten percent of
32 the total revenue from all the licensee's sales of spirits made during
33 the year for which the fee is due ~~(, respectively; and~~

34 ~~(ii) In the third year of licensure and each year thereafter, five~~
35 ~~percent of the total revenue from all the licensee's sales of spirits~~
36 ~~made during the year for which the fee is due, respectively)).~~

1 (b) The fee required under this subsection (3) is calculated only
2 on sales of items which the licensee was the first spirits distributor
3 in the state to have received:

4 (i) In the case of spirits manufactured in the state, from the
5 distiller; or

6 (ii) In the case of spirits manufactured outside the state, from an
7 authorized out-of-state supplier.

8 (c) By March 31, 2013, all persons holding spirits distributor
9 licenses on or before March 31, 2013, must have paid collectively one
10 hundred fifty million dollars or more in spirits distributor license
11 fees. If the collective payment through March 31, 2013, totals less
12 than one hundred fifty million dollars, the board must, according to
13 rules adopted by the board for the purpose, collect by May 31, 2013, as
14 additional spirits distributor license fees the difference between one
15 hundred fifty million dollars and the actual receipts, allocated among
16 persons holding spirits distributor licenses at any time on or before
17 March 31, 2013, ratably according to their spirits sales made during
18 calendar year 2012. Any amount by which such payments exceed one
19 hundred fifty million dollars by March 31, 2013, must be credited to
20 future license issuance fee obligations of spirits distributor
21 licensees according to rules adopted by the board.

22 (d) A retail licensee selling for resale must pay a distributor
23 license fee under the terms and conditions in this section on resales
24 of spirits the licensee has purchased on which no other distributor
25 license fee has been paid. The board must establish rules setting
26 forth the frequency and timing of such payments and reporting of sales
27 dollar volume by the licensee, with payments due quarterly in arrears.

28 (e) No spirits inventory may be subject to calculation of more than
29 a single spirits distributor license issuance fee.

30 (f) In addition to the fee set forth in (a) of this subsection, all
31 persons who first hold a spirits distributor license anytime following
32 March 31, 2013, must pay a surcharge equal to one hundred percent of
33 the total revenue from all the licensee's sales of spirits made during
34 the year for which the fee is due. This surcharge expires two years
35 from the date that such persons are granted a spirits distributor
36 license.

37 (4) In addition to the payment set forth in subsection (3) of this

1 section, each spirits distributor licensee renewing its annual license
2 must pay an annual license renewal fee of one thousand three hundred
3 twenty dollars for each licensed location.

4 (5) There is no minimum facility size or capacity for spirits
5 distributor licenses, and no limit on the number of such licenses
6 issued to qualified applicants. License applicants must provide
7 physical security of the product that is substantially as effective as
8 the physical security of the distribution facilities currently operated
9 by the board with respect to preventing pilferage. License issuances
10 and renewals are subject to RCW 66.24.010 and the regulations
11 promulgated thereunder, including without limitation rights of cities,
12 towns, county legislative authorities, the public, churches, schools,
13 and public institutions to object to or prevent issuance of local
14 liquor licenses. However, existing distributor premises licensed to
15 sell beer and/or wine are deemed to be premises "now licensed" under
16 RCW 66.24.010(9)(a) for the purpose of processing applications for
17 spirits distributor licenses.

18 **Sec. 3.** RCW 82.08.150 and 2012 c 2 s 106 (Initiative Measure No.
19 1183) are each amended to read as follows:

20 (1) There is levied and collected a tax upon each retail sale of
21 spirits in the original package at the rate of fifteen percent of the
22 selling price.

23 (2) There is levied and collected a tax upon each sale of spirits
24 in the original package at the rate of ten percent of the selling price
25 on sales by a spirits distributor licensee or other licensee acting as
26 a spirits distributor pursuant to Title 66 RCW to restaurant spirits
27 retailers.

28 (3)(a) There is levied and collected an additional tax upon each
29 sale of spirits in the original package by a spirits distributor
30 licensee or other licensee acting as a spirits distributor pursuant to
31 Title 66 RCW to a restaurant spirits retailer (~~and~~) at the rate of
32 sixty-five cents per liter.

33 (b) There is levied and collected an additional tax upon each
34 retail sale of spirits in the original package by a licensee of the
35 board at the rate of one dollar and seventy-two cents per liter.

36 (4) An additional tax is imposed equal to fourteen percent

1 multiplied by the taxes payable under subsections (1), (2), and (3) of
2 this section.

3 (5) An additional tax is imposed upon each sale of spirits in the
4 original package by a spirits distributor licensee or other licensee
5 acting as a spirits distributor pursuant to Title 66 RCW to a
6 restaurant spirits retailer and upon each retail sale of spirits in the
7 original package by a licensee of the board at the rate of seven cents
8 per liter. All revenues collected during any month from this
9 additional tax must be deposited in the state general fund by the
10 twenty-fifth day of the following month.

11 (6)(a) An additional tax is imposed upon retail sale of spirits in
12 the original package at the rate of three and four-tenths percent of
13 the selling price.

14 (b) An additional tax is imposed upon retail sale of spirits in the
15 original package to a restaurant spirits retailer at the rate of two
16 and three-tenths percent of the selling price.

17 (c) An additional tax is imposed upon each sale of spirits in the
18 original package by a spirits distributor licensee or other licensee
19 acting as a spirits distributor pursuant to Title 66 RCW to a
20 restaurant spirits retailer and upon each retail sale of spirits in the
21 original package by a licensee of the board at the rate of forty-one
22 cents per liter.

23 (d) All revenues collected during any month from additional taxes
24 under this subsection must be deposited in the state general fund by
25 the twenty-fifth day of the following month.

26 (7)(a) An additional tax is imposed upon each retail sale of
27 spirits in the original package at the rate of one dollar and thirty-
28 three cents per liter.

29 (b) All revenues collected during any month from additional taxes
30 under this subsection must be deposited by the twenty-fifth day of the
31 following month into the general fund.

32 (8) The tax imposed in RCW 82.08.020 does not apply to sales of
33 spirits in the original package.

34 (9) The taxes imposed in this section must be paid by the buyer to
35 the seller, and each seller must collect from the buyer the full amount
36 of the tax payable in respect to each taxable sale under this section.
37 The taxes required by this section to be collected by the seller must
38 be stated separately from the selling price, and for purposes of

1 determining the tax due from the buyer to the seller, it is
2 conclusively presumed that the selling price quoted in any price list
3 does not include the taxes imposed by this section. Sellers must
4 report and return all taxes imposed in this section in accordance with
5 rules adopted by the department.

6 (10) As used in this section, the terms, "spirits" and "package"
7 have the same meaning as provided in chapter 66.04 RCW.

8 **Sec. 4.** RCW 66.28.170 and 2012 c 2 s 119 (Initiative Measure No.
9 1183) are each amended to read as follows:

10 It is unlawful for a manufacturer of spirits, wine, or malt
11 beverages holding a certificate of approval or the manufacturer's
12 authorized representative, a distillery, brewery, or a domestic winery
13 to discriminate in price in selling to any purchaser for resale in the
14 state of Washington except that it is lawful to establish different
15 price schedules for sales to spirits retail licensees than for sales to
16 retailers licensed to sell spirits for consumption on the premises, for
17 resale at their licensed premises according to the terms of their
18 licenses. Price differentials for sales of spirits or wine based upon
19 competitive conditions, costs of servicing a purchaser's account,
20 efficiencies in handling goods, or other bona fide business factors, to
21 the extent the differentials are not unlawful under trade regulation
22 laws applicable to goods of all kinds, do not violate this section.

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 66.28 RCW
24 to read as follows:

25 (1) Two or more retail licensees of the same type may agree to
26 participate in a group purchase of wine or spirits from a licensed
27 distributor, distiller, rectifier, importer, or certificate of approval
28 holder. The purchasing group must use a designated agent to conduct
29 its group purchase using a master purchase order.

30 (2)(a) The designated agent must have a retail license of the same
31 type as the licensees of the purchasing group and must be operating a
32 retail business under that license.

33 (b) A designated agent may not act as an agent for more than one
34 purchasing group and a purchasing group may not have more than one
35 designated agent to conduct its group purchases.

1 (c) The purchasing group must submit the name of the designated
2 agent to the board.

3 (3)(a) The designated agent must prepare a master purchase order
4 and submit it to the distributor, distiller, rectifier, importer, or
5 certificate of approval holder. Each retail licensee of the purchasing
6 group must provide the designated agent with a signed order setting
7 forth the retail licensee's order. Each retail licensee's signed order
8 must be attached to or made a part of the designated agent's master
9 purchase order.

10 (b) Each retail licensee of the purchasing group is responsible for
11 full payment of its own order as set forth in the signed order. Each
12 retail licensee is responsible for accounting for any of its own
13 product loss that might occur. In the event a retail licensee member
14 of the purchasing group is unable or unwilling to tender payment in
15 full for its order at or before the time the group takes delivery of
16 the order, the other members of the group are responsible for the
17 shortage in payment, in proportion to their participation in the order,
18 unless the seller agrees to terminate the transaction in its entirety.

19 (4)(a) The wine and spirits purchased by the purchasing group must
20 be delivered to and stored in a single warehouse facility or single
21 licensed premises owned and operated by one of the retail licensee
22 members of the group. Alternatively, the purchasing group may arrange
23 for a common carrier approved for such purpose by the board to pick up
24 the wine or spirits at the licensed premises of the distributor,
25 distiller, rectifier, importer, or certificate of approval holder from
26 which the product is purchased and deliver it to such licensed location
27 or locations operated by the members of the purchasing group as the
28 members may direct.

29 (b) Payment in full for the entire group purchase must be tendered
30 to the seller by the designated agent at or before the time of delivery
31 in accordance with RCW 66.28.270.

32 (c) If the group elects to arrange for pickup of the product at the
33 seller's licensed premises, delivery is deemed to occur at the time of
34 pickup and payment in full for the entire order must be tendered to the
35 seller at or before such time in compliance with RCW 66.28.270. All
36 costs of the pickup and subsequent delivery must be borne by the group.

1 NEW SECTION. **Sec. 6.** (1) Except as provided otherwise in
2 subsection (2) of this section, this act is necessary for the immediate
3 preservation of the public peace, health, or safety, or support of the
4 state government and its existing public institutions, and takes effect
5 immediately.

6 (2) Section 3 of this act takes effect January 1, 2014."

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By Senator Nelson

NOT CONSIDERED

7 On page 1, line 1 of the title, after "Relating to" strike the
8 remainder of the title and insert "the sales and distribution of
9 spirits; amending RCW 66.24.630, 66.24.055, 82.08.150, and 66.28.170;
10 adding a new section to chapter 66.28 RCW; providing an effective date;
11 and declaring an emergency."

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