Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Government Accountability & Oversight Committee

HB 1161

Brief Description: Concerning sales for resale by retail licensees of liquor.

Sponsors: Representatives Hunter, Alexander, Hurst, Condotta, Ryu, Takko, Hayes, Short, Harris, Manweller, Schmick and Springer.

Brief Summary of Bill

- Defines "single sale" to mean a single transaction regardless of its proximity in time to other similar transactions, for the purposes of a retail licensee selling spirits or wine to bars and restaurants.
- Defines "spirit sales revenues under the license" to exclude sales of spirits to bars and restaurants, for the purposes of applying the 17 percent license issuance fee.

Hearing Date: 1/24/13

Staff: Trudes Tango (786-7384).

Background:

Initiative 1183 (I-1183), passed by the voters in November 2011, transferred the responsibility for the distribution and retail sale of liquor to the private sector.

__Sales to on-premise retail licensees__
Under I-1183, a spirits retail licensee may sell spirits in original containers to retailers licensed to sell spirits for consumption on the premises for resale at their licensed premises (often called “on-premise" or "on-sale" retailers, which are typically bars and restaurants). The initiative specifies that for those sales, “. . . *no single sale may exceed twenty-four liters*," unless the sale is by a former contract liquor store at the contract store location.

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.

The Liquor Control Board (LCB) adopted a rule providing that "single sales to an on-premises licensee are limited to one per day." Therefore, a retail licensee is limited in how many liters of spirits it can sell to a particular bar or restaurant per day. This 24 liter limit also applies to grocery store licensees that are authorized to sell wine to on-premise liquor licensees.

Seventeen percent fee

I-1183 provides that a sale by a spirits retailer is a retail sale only if not for resale. The initiative requires each spirits retail licensee (except craft distilleries) to pay to the LCB a license issuance fee equivalent to 17 percent of "*all spirit sales revenues under the license*. . . ." This fee is in addition to any taxes collected on the sales of the spirits. The fees are deposited into the Liquor Revolving Fund. Moneys in this fund are used for LCB expenses and "excess funds" are distributed to the state general fund and to cities, towns, and counties.

Article II, Section 41

Article II, Section 41, of the Washington State Constitution provides that an initiative passed by the voters may not be amended within the first two years following enactment, except by two-thirds vote of both houses and the signature of the governor or by a direct vote of the people. A legislative act may be considered amendatory if it changes the prior act in purpose, scope, or effect. A legislative act that is considered supplemental does not require a two-thirds vote.

Summary of Bill:

Legislative findings are made stating that some of the regulations adopted to implement I-1183 are at odds with the intent of the people to privatize and modernize the wholesale distribution and retail sale of spirits and to make more efficient and competitive the distribution of wine. The Legislature is providing definitions as further guidance to help accomplish the transition envisioned by voters.

The term "single sale" is defined to mean a single transaction regardless of its proximity in time to other similar transactions. Therefore, the one single sale per day limit on sales to bars and restaurants no longer applies.

The term "spirits sales revenue under the license" is also defined to mean a retail sale only if not for resale. "Spirits sales revenues under the license" does not include sales of spirits in original containers to on-premise licensees. Therefore, the 17 percent license issuance fee does not apply to sales to bars and restaurants.

The act applies to sales occurring on or after August 1, 2013.

Appropriation: None.

Fiscal Note: Requested.

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