HOUSE BILL REPORT
HB 1161

As Reported by House Committee On:
Government Accountability & Oversight

Title: An act relating to sales for resale by retail licensees of liquor.

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 History:
Committee Activity:
Government Accountability & Oversight: 1/24/13, 2/21/13 [DPS], 1/13/14, 1/23/14 [DP3S].
Finance: 2/26/13, 2/28/13 [DP2S]

Brief Summary of Third Substitute Bill

- Exempts all spirits retail licensees from the payment of the 17 percent license issuance fee for sales of spirits to bars and restaurants.
- Requires that if no distributor license fee has been paid on spirits sold to a bar or restaurant by a spirits retail licensee, then the spirit retail licensee must pay the distributor license fee to the Liquor Control Board, for deposit into the Liquor Revolving Fund.

HOUSE COMMITTEE ON GOVERNMENT ACCOUNTABILITY & OVERSIGHT

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass. Signed by 7 members: Representatives Hurst, Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Blake, Kirby, Shea and Vick.

Minority Report: Do not pass. Signed by 2 members: Representatives Wylie, Vice Chair; Moscoso.

Staff: Thamas Osborn (786-7129).

Background:

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.

Spirits Retailers Following the Passage of Initiative 1183.
Initiative Measure No. 1183 (I-1183), passed by the voters in November 2011, transferred the responsibility for the distribution and retail sale of spirits (i.e., hard liquor) from the Liquor Control Board (LCB) to the private sector. Following the passage of I-1183, those private businesses licensed by the LCB to sell spirits at the retail level were designated as "spirits retail licensees." Such licensees generally fall into two categories: (1) grocery stores and other large retail establishments encompassing at least 10,000 feet of retail space; and (2) smaller liquor stores that are either former state owned liquor stores or former "contract liquor stores" that sold liquor on behalf of the state pursuant to contracts with the LCB prior to the passage of I-1183.

License Issuance Fees applicable to Spirits Retail Licensees.
Large spirits retail licensees, with retail space exceeding 10,000 square feet, must pay to the LCB a license issuance fee equivalent to 17 percent of "*all spirit sales revenues under the license. . .*" The calculation of this fee includes revenues derived from sales to bars and restaurants and is in addition to any taxes collected on the sales of the spirits.

Beginning on June 30, 2013, former state liquor stores and former contract liquor stores were granted a limited exemption from the payment of the 17 percent license issuance fee for certain types of spirits sales. Specifically, such stores are exempt from payment of the 17 percent fee with respect to spirits sales to those retailers licensed to sell spirits for consumption on the premises (i.e., bars and restaurants).

Once collected by the LCB, license issuance fees are deposited into the Liquor Revolving Fund. Moneys in this fund are used for the LCB expenses and "excess funds" are distributed to the State General Fund and to cities, towns, and counties.

Summary of Third Substitute Bill:

All spirits retail licensees are exempted from responsibility for the payment of the 17 percent license issuance fee for sales of spirits to bars and restaurants.

If no distributor license fee has been paid on spirits sold by a spirits retail licensee to a retailer licensed to sell spirits for resale and consumption on its licensed premises, i.e., a bar or restaurant, then the spirit retail licensee must pay the distributor license fee to the board, for deposit into the Liquor Revolving Fund.

Third Substitute Bill Compared to Original Bill:

The amended bill makes the following changes to the original bill:
1. deletes a provision that would have redefined "single sale" so as to authorize spirits retail licensees to sell more than 24 liters of spirits per day to bars and restaurants;
2. deletes the definition of "spirits sales revenues under the license," the enactment of which would have had the effect of exempting all spirits retail licensees from the payment of the 17 percent license issuance fee for sales of spirits to other retailers

licensed to sell spirits for consumption and resale on their licensed premises, primarily bars and restaurants;

3. explicitly exempts spirits retail licensees from the payment of the 17 percent license issuance fee for sales of spirits to bars and restaurants; and
4. requires that if no distributor license fee has been paid on spirits sold by a spirits retail licensee to a retailer licensed to sell spirits for resale and consumption on its licensed premises, i.e., a bar or restaurant, then the spirit retail licensee must pay the distributor license fee to the LCB, for deposit into the Liquor Revolving Fund.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Third Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This is a good bill that should be supported. Large stores should have the benefit of the 17 percent fee exemption. All stores, big and small, should be able to sell to bars and restaurants without paying the 17 percent fee. Current law discriminates against the larger retailers by making them ineligible for the 17 percent fee exemption, which was never intended to apply to sales to bars and restaurants in the first place. Only 23 percent of retail spirits sales are to bars and restaurants. Due to the nature of their businesses, bars and restaurants often have a great need to buy spirits from retailers rather than wait for a delivery from a distributor. Sixty-four hundred state businesses would benefit by the passage of the bill. The bill would reduce costs and make the market more competitive. Distributors would not be adversely affected by the the extension of the exemption since, ultimately, overall spirit sales would increase which benefits distributors as well as retailers.

(With concerns) This bill has big problems. Overall, the liquor tax structure needs to be reformed, but not in the manner here. Among other things, we need to eliminate the liquor tax advantages of the border states.

(Opposed) This is a poorly conceived bill that will cause considerable harm to both distributors and small retailers, and greatly reduce tax revenues. It will enable Costco and other big chains to reap huge profits at the expense of distributors and the small stores. The bill will, again, put small stores at an enormous disadvantage as compared to the large stores. Distributors are certain to lose a significant part of their market to the big chain stores. The 17 percent exemption is fine for the small stores, insofar as they have an enormous competitive disadvantage. The bill will result in a very large revenue loss to the state, while stores such as Costco will reap a windfall. It will also result in a proliferation of "house brands" of spirits marketed by the big chain stores. Looking at the big picture, the bill will have the effect of changing the playing field for liquor distribution and this is unfair to distributors who made huge infrastructure investments in reliance on the key provisions of I-1183 being kept intact. Volume discounts by chains such as Costco will cause distortions in the marketplace that are contrary to the intent of the initiative and provide unfair advantages to the big retailers. Simply put, the bill will create a tax structure that is fraught with problems and which will put the three-tier system at risk. Also, the bill will cause massive job losses among Teamster members, with up to 30 percent of members being effected.

Persons Testifying: (In support) Holly Chisa, Northwest Grocery Association; Bruce Beckett, Northwest Restaurant Association; and Amy Brackenbury, Washington Food Industry Association.

(With concerns) Adam Smith, Distilled Spirits Council of the United States.

(Opposed) Ron Main, Association of Washington Spirits and Wine Distributors; Joe Daniels, Youngs Distributing; Jim Halstrom, Southern Wine and Spirits; Michael Gonzales, Teamsters Council; and Mike Bogatay, Washington Council of Police and Sheriffs.

Persons Signed In To Testify But Not Testifying: None.