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## Government Accountability & Oversight Committee

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### HB 1411

**Brief Description:** Removing spirits from wholesale distributors and suppliers of malt beverages provisions.

**Sponsors:** Representatives Kirby and Condotta.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Removes the distribution of spirits from the Wholesale Distributor/Supplier Equity Agreement Act.</li></ul>
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**Hearing Date:** 2/5/13

**Staff:** Trudes Tango (786-7384).

**Background:**

Wholesale Distributor/Supplier Equity Agreement Act

The Legislature enacted the Wholesale Distributor/Supplier Equity Agreement Act (Act) in 1984 to regulate the business relationship between wholesale distributors and suppliers of malt beverages. Initiative 1183 added spirits to the provisions of the Act.

For purposes of the Act, a supplier does not include a manufacturer or importer who produces less than 60,000 proof gallons of spirits a year or less than 200,000 barrels of malt liquor a year.

The Act provides distributors and suppliers certain protections, which must be incorporated into distributorship agreements. In general, the Act sets forth specific processes for terminating or cancelling agreements and requires compensation when agreements are terminated or cancelled without cause.

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*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.*

A distributor must give a supplier 90 days written notice of any material change in its ownership or management. The supplier has the right to reasonable prior approval of the change. In addition, the distributor must give the supplier 90 days written notice of its intent to cancel or terminate the distribution agreement.

A supplier must give the distributor at least 60 days prior written notice of the supplier's intent to cancel or terminate the agreement, unless the termination is based on one of the reasons listed in statute. Some of those listed reasons are: fraudulent conduct by the distributor, insolvency, or revocation of a license by the Liquor Control Board. The notice must state the reasons for the intended termination or cancelation, and the distributor has 60 days in which to correct any claimed deficiency.

If the supplier terminates or cancels or does not renew the agreement for any reason other than for cause, breach of the agreement, or for one of the reasons enumerated in statute, the distributor is entitled to compensation from the successor distributor for the laid-in cost of the inventory and for the fair market value of the terminated distribution rights. The Act establishes a process for determining fair market value.

#### Amending an initiative

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:**

All references to spirits are removed from the Wholesale Distributor/Supplier Equity Agreement Act. The Act does not apply to wholesale distributor and supplier agreements related to the distribution of spirits.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.