

HOUSE BILL REPORT

HB 1711

As Reported by House Committee On:
Government Accountability & Oversight

Title: An act relating to allowing multiple liquor licenses at the same physical premises.

Brief Description: Allowing multiple liquor licenses at the same physical premises.

Sponsors: Representatives Condotta and Hurst.

Brief History:

Committee Activity:

Government Accountability & Oversight: 2/12/13, 1/16/14 [DPS].

Brief Summary of Substitute Bill

- Establishes that if a licensee complies with the statutory provisions regulating the three-tier system, there is no limit as to the number or combination of liquor licenses that can be approved for the same premises, overlapping premises, adjacent premises, or separate premises, regardless of whether it is to the same licensee or to different licensees with common property ownership.

HOUSE COMMITTEE ON GOVERNMENT ACCOUNTABILITY & OVERSIGHT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hurst, Chair; Wylie, Vice Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Blake, Kirby, Shea and Vick.

Minority Report: Do not pass. Signed by 1 member: Representative Moscoso.

Staff: David Rubenstein (786-7153).

Background:

Introduction.

The Liquor Control Board (LCB) issues various types of licenses, including those for beer and/or wine specialty shops, wineries, microbreweries, domestic breweries, restaurants, and

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nightclubs. In certain circumstances, the LCB may impose conditions or restrictions on a license, or include special endorsements authorizing the sale of specified alcoholic beverages subject to specified conditions. All conditions, restrictions, and endorsements issued by the LCB must be listed on the face of the license along with the trade name, address, and expiration date of the license. A licensee must post its license in a conspicuous place on the premises. The LCB is authorized, among other things, to prescribe:

- the terms and conditions to be contained in permits and licenses and the qualifications for receiving a permit or license;
- the fees payable for any permits and licenses issued under Title 66 RCW for which no fees are prescribed, as well as the fees for anything done or permitted to be done under the regulations adopted by the LCB; and
- the conditions, accommodations, and qualifications requisite for the obtaining of licenses to sell beer, wine, and spirits, and regulating the sale of beer, wine, and spirits pursuant to those licenses.

Permissible Practices and Relationships Among Retailers, Industry Members, and Affiliates.

The laws governing the relationships among: (1) liquor industry members (producers and distributors); (2) affiliates; and (3) retailers are often referred to as the three-tier laws. Initiative Measure No. 1183, approved by the voters in 2011, explicitly recognized that the historical total prohibition on ownership of an interest in one tier by a person with an ownership interest in another tier, as well as the historical restrictions on financial incentives and business relationships between tiers, is unduly restrictive. Subject to specific limitations, industry members can have a financial interest in other industry members, affiliates, and retailers unless such an interest has resulted in or is likely to result in undue influence by one business over another, or is likely to result in an adverse impact on public health and safety. In other words, absent the exercise of "undue influence" and/or the causing of an "adverse impact on public health and safety," it is lawful for a liquor industry member or affiliate to have a direct or indirect financial interest in another industry member or a retailer, and for a retailer or affiliate to have a direct or indirect financial interest in another industry member. "Adverse impact on public health and safety" means that an existing or proposed practice has resulted in alcohol being made significantly more attractive or available to minors than would otherwise be the case or has resulted in unlawful, harmful, or abusive forms of consumption. "Undue influence" means one retailer or industry member influencing the purchasing, marketing, or sales decisions of another retailer or industry member by any agreement, or any other business practice or arrangement including, but not limited to, the following:

- any form of coercion between industry members and retailers or between retailers and industry members through acts or threats of physical or economic harm, including threat of loss of supply or threat of curtailment of purchase;
- a retailer, on an involuntary basis, purchasing less than it would have of another industry member's product;
- purchases made by a retailer or industry member as a prerequisite for purchase of other items;
- a retailer purchasing a specific or minimum quantity or type of a product or products from an industry member;
- an industry member requiring a retailer to take and dispose of a certain product type or quota of the industry member's products;

- a retailer having a continuing obligation to purchase or otherwise promote or display an industry member's product;
- an industry member having a continuing obligation to sell a product to a retailer; and
- a retailer having a commitment not to terminate its relationship with an industry member with respect to purchase of the industry member's products or an industry member having a commitment not to terminate its relationship with a retailer with respect to the sale of a particular product or products.

Washington statute explicitly recognizes that certain types of direct or indirect business interests among the "three-tiers" are lawful. The businesses so designated as lawful include, but are not limited to, the following:

- a licensed brewery or microbrewery that is licensed as a retailer for the purpose of selling beer at retail;
- a domestic winery licensed as a retailer for the purpose of selling beer or wine at retail on the winery premises;
- a microbrewery holding a beer and/or wine restaurant license;
- a licensed craft distillery selling spirits of its own production; and
- a licensed distiller, domestic brewery, microbrewery, domestic winery, or a lessee of a licensed domestic brewer, microbrewery, or domestic winery, licensed as a spirits, beer, and wine restaurant for the purpose of selling liquor at a spirits, beer, and wine restaurant on the premises.

As a general rule, industry members are not permitted to advance money or something of value to retailers. However, there are numerous exceptions in statute. For example, subject to specified limitations, branded promotional items of nominal value may be provided to retailers. Special occasion licensees can be provided certain services from industry members such as installation of dispensing equipment, advertising, and payment of booth fees.

Industry members and retailers must keep records of:

- items and services furnished, provided to, or purchased by retailers;
- industry member financial ownership in a retailer; and
- retail ownership interests in an industry member.

Summary of Substitute Bill:

If a licensee complies with the statutory provisions regulating the three-tier system, there is no limit as to the number or combination of liquor licenses that can be approved for the same premises, overlapping premises, adjacent premises, or separate premises, regardless of whether it is to the same licensee or to different licensees with common property ownership. Different licensees can allocate different parts of a single business location to separate licenses.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that licenses may be issued to the same licensee or different licensees, including different licensees under the same ownership.

The substitute bill provides that if the LCB does not connect a violation with a single licensee, the LCB may hold all licensees at the premises liable.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

See Committee records from the 2013 Regular Session.

Persons Testifying: See Committee records from the 2013 Regular Session.

Persons Signed In To Testify But Not Testifying: None.