

HOUSE BILL REPORT

HB 1876

As Reported by House Committee On:
Public Safety

Title: An act relating to the liquor control board.

Brief Description: Concerning the liquor control board.

Sponsors: Representatives Moscoso, Hope, Goodman, Pettigrew, Hayes and Takko.

Brief History:

Committee Activity:

Public Safety: 2/19/13, 2/21/13 [DPS].

Brief Summary of Substitute Bill

- Designates the Washington State Liquor Control Board (WSLCB) as a general authority Washington law enforcement agency.
- Exempts liquor control officers of the WSLCB from membership in the Law Enforcement Officers' and Fire Fighters' Retirement System.
- Requires the Criminal Justice Training Commission (CJTC) to provide programs and training standards for liquor control officers.
- Allows the admission of liquor control officers into the Washington State Patrol's academy.
- Requires 30 percent of all liquor control officers to be certified by June 30, 2014, and the remaining 70 percent of liquor control officers to be certified by June 30, 2016.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Goodman, Chair; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew and Takko.

Minority Report: Do not pass. Signed by 2 members: Representatives Roberts, Vice Chair; Klippert, Ranking Minority Member.

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.

Staff: Yvonne Walker (786-7841).

Background:

The Washington State Liquor Control Board (WSLCB) was formed in 1933 by the Steele Act to regulate the importation, manufacture, distribution, and sale of alcohol. The WSLCB Enforcement and Education Division is responsible for enforcing state liquor and tobacco laws and regulations. The officers also provide alcohol education to liquor-licensed businesses, communities, and local law enforcement agencies.

Liquor and tobacco enforcement officers are limited-authority, commissioned law enforcement officers. Enforcement operations include premises visits, compliance checks, undercover operations, and complaint investigations, while educational efforts include liquor law briefings, technical assistance visits, and "Responsible Alcohol and Tobacco Sales" classes.

The WSLCB employs approximately 55 officers in the field. These officers have received roughly 440 hours of training at the Criminal Justice Training Commission (CJTC) or at an academy in the State of Idaho.

Limited Authority Agency. Limited authority Washington law enforcement agencies and officers have, as one of its functions, the apprehension or detection of persons committing infractions or violating traffic or specific criminal laws relating to limited subject areas. Agencies so designated include, but are not limited to: the Department of Natural Resources, the Department of Social and Health Services, the Gambling Board, the Department of Corrections, the State Parks and Recreation Commission, and the WSLCB.

General Authority Agency. General authority Washington law enforcement agencies and officers, have, as their primary function, the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general of the state throughout the territorial boundaries of the state, as distinguished from a limited authority Washington law enforcement agency. It also includes any other unit of government expressly designated by statute as such an agency. The Washington State Patrol (WSP) and the Department of Fish and Wildlife (DFW) are general authority law enforcement agencies.

Law Enforcement Officers' and Fire Fighters' Retirement System. The Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) provides retirement benefits to full-time general authority law enforcement officers and firefighters throughout Washington. The LEOFF Plan 2 permits early retirement beginning at age 50 for members with 20 years of service with a 3 percent per year reduction to their retirement allowance up until the age of 53.

Criminal Justice Training Commission's Basic Law Enforcement Academy.

The CJTC provides basic law enforcement training, and educational programs for law enforcement, corrections, and other public safety professionals in Washington.

Basic law enforcement officer training is generally required of all law enforcement officers, with the exception of volunteers, and reserve officers employed in Washington. The training

consists of a 720-hour program covering a wide variety of subjects including: criminal law and procedures, traffic enforcement, cultural awareness, communication and writing skills, emergency vehicle operations, firearms, crisis intervention, patrol procedures, and criminal investigation and defensive tactics. All law enforcement personnel hired, transferred, or promoted, are required to complete the core training requirements within six months, unless the employee receives a waiver from the CJTC.

Washington State Patrol's Academy.

The WSP has a separate academy for state trooper cadets. The WSP academy consists of a 26-week basic training course and eight weeks of practical instruction with experienced training officers throughout the state.

As a condition of continuing employment as a peace officer, all Washington peace officers (including the WSPs officers) must timely obtain and retain certification as peace officers. The CJTC has the authority to issue or revoke all peace officer certifications.

Summary of Substitute Bill:

The WSLCB is designated as a general authority Washington law enforcement agency, with enforcement authority equal to that of the WSP and the DFW. The WSLCB has the authority to enforce the traffic and criminal laws of the state throughout the territorial bounds of the state. Liquor control officers vested with police powers must enforce the rules of the WSLCB and must have and exercise, throughout the state, police powers and duties as are vested in sheriffs and peace officers.

The act does not provide liquor control officers of the WSLCB with membership in the LEOFF retirement system.

The CJTC must provide programs and training standards for the training of liquor control officers. The WSP academy is also open to any state patrol cadet, state patrol officer, and all liquor control officers of the WSLCB.

A liquor control officer must reimburse the WSLCB for the total cost of all basic law enforcement training that the officer received if he or she leaves employment of the WSLCB within two years of the officer's completion of basic law enforcement training.

As a condition to continued employment (similar to the requirement for all other peace officers), liquor control officers must obtain and retain basic certification as peace officers. Thirty percent of all liquor control officers must be certified by June 30, 2014, and the remaining 70 percent of liquor control officers must be certified by June 30, 2016.

Substitute Bill Compared to Original Bill:

The provision that required the CJTC to give liquor control officers equal priority for enrollment in the CJTCs Basic Law Enforcement Academy (BLEA) as any other general authority law enforcement officer is eliminated. The provision that prohibited the CJTC

from denying a liquor control officer admission into the BLEA for any more than one quarter is also eliminated. A provision is added to require 30 percent of all liquor control officers to be certified by June 30, 2014, and the remaining 70 percent of liquor control officers must be certified by June 30, 2016.

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:

(In support) Initiatives 1183 and 502 (I-502) require these WSLCB officers to do more than what they actually have the legal authority to do. The I-502 requires the WSLCB to enforce all violations under the Uniform Controlled Substances Act (which includes all drugs including cocaine, heroin, and marijuana) but they do not have the authority to deal with these crimes. This bill will make sure that those officers have the ability and skills to address the increasing problems that are bound to happen with marijuana sales. Their focus will continue to be alcohol regulation and the licensing of establishments. However these officers will need all the support, training, and enforcement necessary in order to do their jobs properly.

Currently, the WSLCB officers do not have the authority to arrest a person in a bar due to a shooting, who may be wanted on a warrant, or even due to a bar brawl or prostitution. As of today they can observe a general crime in progress but they do not have the authority to stop and detain a suspect. In addition, since the enactment of Initiative 1183, local retailers have also seen a major spike in alcohol theft with the stolen alcohol being sold on the black market to avoid taxes. Liquor control officers do not have the authority to investigate retail theft crimes. The WSLCB has the training, staff, and willingness to enforce laws. They just need the authority to effectively serve Washington citizens.

Liquor control officers all wear some type of uniform apparel. The public does not understand the difference between a limited and a general authority officer. The public's expectation is when they see a uniform officer they expect that person to deal with the situation at hand. The public does not care what agency an officer works for, they just see a gun, badge, and a uniform and they expect that officer to help out in a situation.

Giving an agency general authority power gives them extra responsibility. One of the concerns with this bill is that it does not require the WSLCB officers to meet all the CJTC requirements to ensure all the officers meet certification requirements. The Legislature may want to look into this issue further.

The WSLCB is responsible for approximately 15,000 license establishments and 2,000 out-of-state licensees. There are many public safety issues associated with the agency's current

limited authority that their officers face. In recent years the expectations and risks have increased despite their lack of authority. This has created liability for both the officers and the agency. The goal of this bill is to better protect the citizens of the state as well as better protect the WSLCB officers by making sure that they can act on any criminal issues that they encounter during their usual course of duty. As limited authority officers they are often thrown into situations that are very gray areas and exposed to a wide array of criminal activity in which they do not have the authority. This bill will increase public safety.

(With concerns) The Washington Restaurant Association (Association) represents over 13,000 businesses across the state and employs over 200,000. They are Washington's largest private employer. There are concerns with the bill. Ensuring public safety is the paramount duty for business operators and is something that is taken quite seriously. The Association partners with the WSLCB in offering mandatory alcohol server training which has resulted in over 200,000 individuals holding a certificate to serve and monitor alcohol.

Recently voters approved I-502 which is an additional and significant duty for the WSLCB. Since Washington is one of the first states in the nation to legalize recreational use of marijuana this is new and uncharted territory. The Office of Financial Management estimates that I-502 will result in an increased number of in retail outlets, processors, and licenses over the next several years.

(Opposed) The current system in place is sufficient and it is the way sheriffs and police chiefs want it to work. Sheriffs already have the authority to grant commission authority to those officers of their choice. The sheriffs need to maintain the ability to determine who is performing law enforcement services within their county.

There has also been a move to prevent the National Forest Service from expanding their powers off national forests. The National Forest Service is being encouraged to work with the sheriffs and police chiefs across the state to enforce laws. This bill fails to recognize that sheriffs are the chief law enforcement officer of the county.

With Washington being one of the first states to regulate marijuana, this is new and unchartered territory for officers. There is a fiscal impact to this bill in that additional citations will be issued and that in turn creates an impact to the courts, probation departments, and the jails. The Washington Association of Sheriffs and Police Chiefs should work with the WSLCB to find a more comprehensive way for sheriffs and police chiefs to get these WSLCB officers to work with them.

The WSP has a number of concerns with provisions of the bill that authorize other officers into their academy. The WSP academy mainly focuses on traffic enforcement issues and turning cadets into WSP troopers. Currently, the WSP academy does not have the capacity or the instructional staff to provide basic training for recruits from other entities such as Washington State Parks and Recreation Commission or the WSLCB. Because of the WSPs own attrition rates, there are great demands on the academy, the facility, and instructors. By the year 2017, the WSP will have over 300 vacancies and the agency's current goal is achieve classes that have approximately 60 officers per class. This bill places the agency in a precarious position if they have to accept officers from other agencies. The CJTC already provides basic levels of law enforcement classes for these agencies.

By giving general authority power to this agency the Legislature is creating more criminal justice agencies. The WSLCB is not suited to be a general authority criminal justice agency. This bill is just a fall out from the I-502 which was sold to the public as a new prohibition. This bill is going to cost the public more money. The training that will have to be provided is going to cost the extra administration of forming a new criminal justice agency. This will be a rogue agency exercising unregulated power. If you look at the WSLCBs history of dealing with the Legislature recently, it does support expanding their powers. At this point the WSLCB may need some restructuring along with some public accountability and with some oversight by the Legislature.

Persons Testifying: (In support) Representative Moscoso, prime sponsor; Alia Griffing, Lorn Richey, Tom James, John Wilson, and Kevin Russom, Washington Federation of State Employees; Shane Kempf; Pat Collier and Justin Nordhorn, Washington State Liquor Control Board.

(With concerns) Julia Clark, Washington Restaurant Association.

(Opposed) Mitch Barker, Washington Association of Sheriffs and Police Chiefs; Dave Brown, Skamania County Sheriff's Office; Rob Huss, Washington State Patrol; and Arthur West, Cannabis Action Coalition.

Persons Signed In To Testify But Not Testifying: Sandi Ando, National Alliance on Mental Illness.