
Government Accountability & Oversight Committee

HB 2155

Brief Description: Preventing theft of alcoholic spirits from licensed retailers.

Sponsors: Representatives Dahlquist and Hurst.

Brief Summary of Bill

- Authorizes the Liquor Control Board to impose remedial requirements upon spirits retail licensees who are experiencing unacceptable rates of spirits theft from their premises.
- Requires that the Liquor Control Board follow specified procedures before imposing either remedial measures or sanctions on spirits retail licensees who are experiencing unacceptable theft rates.
- Provides the Liquor Control Board with a general grant of authority to monitor and regulate the practices of licensees as necessary in order to prevent the theft and illegal trafficking of liquor.

Hearing Date: 1/13/14

Staff: Thamas Osborn (786-7129)

Background:

Marketing of spirits prior to the passage of I-1183.

Initiative Measure No. 1183 (I-1183), passed by the voters in November 2011, transferred the responsibility for distribution and sale of spirits (i.e., hard liquor) to the private sector. Prior to the passage and implementation of I-1183, the distribution and sale of spirits was handled exclusively by the state through a network of stores that were either state owned or created by contracts with private sector store owners. As of November 2011, there were a total of 330 state and contract liquor stores licensed in Washington state.

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.

These state and contract liquor stores were generally quite small in size and had limited inventories of spirits. Furthermore, liquor theft issues were inconsequential due to the size and layout of the businesses and the ability of the Liquor Control Board (LCB) to closely monitor their operations.

Marketing of spirits following the passage of I-1183.

The passage of I-1183 resulted in dramatic changes to both the liquor industry itself and the marketing of spirits to the public. The number and physical size of licensed spirits retailers increased substantially, as did the total volume of spirits being offered for sale to, and purchased by, the public. While spirits were previously sold through a relatively small number of local retail shops of very modest size, the passage of the initiative created a spirits market dominated by large numbers of retail stores with square footage of at least ten thousand square feet of fully enclosed space. Since the implementation of I-1183 in 2012, the LCB has licensed 1,150 of these large retail spirits stores, as well as 264 smaller stores that were formally state owned or licensed under contract. Accordingly, whereas in 2011 this state had a total of approximately 330 spirits retailers operating as small businesses, it now has a total of approximately 1,414 licensed spirits retailers whose numbers are dominated by large businesses, primarily grocery stores.

Following the privatization and concomitant expansion of the retail spirits market from 2011 through the present, considerable -- albeit anecdotal -- evidence has come forth suggesting that such privatization has resulted in notable increases in spirits thefts from retailers, in conjunction with increases in the rates of unlawful drinking and alcohol possession among underage persons.

Summary of Bill:

The LCB is explicitly authorized to regulate spirits retail licensees (licensees) for the purpose of reducing the theft of spirits from the premises of such licensees. This regulatory authority allows the LCB to impose the following remedial requirements upon licensees who are experiencing unacceptable rates of spirits theft:

- participation in consultations with the LCB and the pertinent law enforcement agencies;
- preparation of a written audit documenting theft related losses of spirits inventory;
- implementation of record keeping systems designed to reveal and track spirits theft issues;
- structural modification or relocation of areas where spirits are displayed or stored;
- installation of adequate store security systems; and
- employment of sufficient numbers of trained staff to adequately monitor theft prone areas.

The LCB may not impose these theft reduction measures upon a licensee unless specified procedural requirements are met. These requirements include the following:

1. Following a complaint by a law enforcement agency to the LCB that a licensee is experiencing an unacceptable rate of spirits theft, the LCB must notify the licensee of the alleged theft problem.
2. The LCB may demand that the licensee participate in a theft reduction consultation process involving the licensee, the LCB, and the pertinent law enforcement agency.
3. At any time during the consultation process, the LCB may demand that the licensee produce an audit documenting theft related spirits losses.

4. During the consultation process, the LCB and/or the law enforcement agency must provide the licensee with any evidence or information pertinent to the theft allegations being made by the law enforcement agency.
5. The consultation process must provide the licensee with a reasonable opportunity to respond to the theft allegations and to present evidence.
6. If, at the conclusion of the consultation process, the LCB finds that the licensee has an unacceptably high rate of spirits theft, then the LCB may implement a "remedial action plan" outlining the remedial measures that must be taken by the licensee.
7. In designing the remedial action plan, the LCB must strive to obtain the voluntary agreement of the licensee regarding the elements of the plan. However, if the licensee is uncooperative, the LCB is authorized to unilaterally develop and enforce the plan.
8. Following the implementation of the plan, the LCB must schedule one or more follow-up consultations with the licensee in order to monitor the licensee's performance. After such follow-up consultations, the LCB may revise the plan as necessary.
9. If the LCB finds the licensee to be non-compliant with the plan, it may either demand that the licensee take additional remedial action or, if the LCB finds the licensee's noncompliance to be willful, it may suspend the licensee's retail spirits license.
10. Consistent noncompliance with the remedial action plan for a period of a least nine months can result in the either license suspension or revocation.

The LCB is granted the rule-making authority necessary to implement and enforce the provisions of the act.

Appropriation: None.

Fiscal Note: Requested.

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