

SENATE BILL REPORT

ESHB 2155

As Reported by Senate Committee On:
Commerce & Labor, February 28, 2014

Title: An act relating to preventing theft of alcoholic spirits from licensed retailers.

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

Sponsors: House Committee on Government Accountability & Oversight (originally sponsored by Representatives Dahlquist, Hurst, S. Hunt, Morrell and Moscoso).

Brief History: Passed House: 2/17/14, 93-4.

Committee Activity: Commerce & Labor: 2/28/14 [DP, w/oRec].

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass.

Signed by Senators Holmquist Newbry, Chair; Braun, Vice Chair; Conway, Ranking Member; Hasegawa, King and Kohl-Welles.

Minority Report: That it be referred without recommendation.

Signed by Senator Hewitt.

Staff: Edith Rice (786-7444)

Background: Initiative Measure 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.

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

The passage of I-1183 resulted in changes in the number and physical size of licensed spirits retailers. While spirits were previously sold through a relatively small number of local retail shops of modest size, I-1183 created a spirits market dominated by large numbers of retail

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stores with square footage of at least 10,000 square feet of fully enclosed space. LCB has licensed 1150 of these large retail spirits stores, as well as 264 smaller stores that were formerly state owned, or licensed under contract.

Considerable anecdotal evidence has emerged suggesting that privatization has resulted in more spirits thefts from retailers and possibly increased rates of unlawful drinking and alcohol possession among underage persons. There is no current requirement that such spirits thefts be reported.

Summary of Bill: LCB and law enforcement agencies are authorized to regulate spirits retail licensees (licensees) for the purpose of reducing the theft of spirits.

Law enforcement agencies (agencies) may make initial contact and consult with a licensee if the licensee is experiencing an unacceptable rate of spirits theft. Unacceptable rate of spirits theft is defined as two or more thefts of spirits from a licensee within a six-month period that results in a minor unlawfully using or gaining possession of spirits, or that results in adults unlawfully providing spirits to minors, where such thefts result in an incident report being generated by an agency.

The agency must complete this consultative process and attempt to resolve the theft issue as required under the act before it notifies LCB of an alleged theft problem.

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

- Following a complaint by an agency, LCB must notify the licensee of the alleged theft problem.
- LCB may demand that the licensee participate in a theft-reduction consultation process.
- The consultation process must provide the licensee with a reasonable opportunity to respond to the theft allegations and to present evidence.
- If LCB finds that the licensee has an unacceptably high rate of spirits theft, then LCB may implement a remedial action plan.
- LCB is authorized to develop and enforce the plan.
- LCB must monitor the licensee's performance. After follow-up consultations, LCB may revise the plan.
- If LCB finds the licensee to be non-compliant with the plan, it may either demand that the licensee take additional remedial action or, if LCB finds the licensee's noncompliance to be willful, it may suspend the licensee's retail spirits license.
- Consistent noncompliance with the remedial action plan for a period of a least nine months can result in the either license suspension or revocation.

LCB can impose one or more of the following remedial requirements upon licensees who are experiencing unacceptable rates of spirits theft:

- participation in consultations with LCB and the pertinent agencies;
- implementation of recordkeeping 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.

LCB is granted the rulemaking authority necessary to implement and enforce the provisions of the act.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We had originally proposed requiring grocers to report spirits theft. We have noticed an increase in minors having access to spirits in some locations. We support the efforts to ensure stores are secure. We support efforts to ensure minors do not have access to spirits. This way law enforcement can talk to store managers if there is a problem. This is the right trigger for action if it is needed. We have been pleased with the response from the business community and their cooperation. This is a reasonable approach.

Persons Testifying: PRO: Don Pierce, WA Assn. of Sheriffs and Police Chiefs; Holly Chisa, NW Grocery Assn.; Seth Dawson, WA Assn. for Substance Abuse & Violence Prevention.