

---

HOUSE BILL 1962

---

State of Washington                      63rd Legislature                      2013 Regular Session

By Representative Sullivan

Read first time 02/25/13. Referred to Committee on Finance.

1            AN ACT Relating to exempting former contract liquor stores from  
2 spirits retail license provisions applicable to the sales of spirits to  
3 on-premise licensees and providing conditions of the sale of such  
4 stores; amending RCW 66.24.630; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.** The legislature finds that the adoption and  
7 implementation of Initiative No. 1183 has had certain unanticipated  
8 adverse consequences for former contract store owners who elected to  
9 continue operations as private liquor store owners. Many of those  
10 former contract store owners believe they were misled by the liquor  
11 control board with respect to the applicability of the seventeen  
12 percent retailer license issuance fee established by the initiative in  
13 part because RCW 66.24.630(1) exempts such stores from the twenty-four  
14 liter limit applicable to retail sales to restaurants.

15            The legislature further finds that, to mitigate the hardships  
16 suffered by former contract store owners, to support small business  
17 owners in less populous regions of the state, in partial satisfaction  
18 of claims that former contract store owners have asserted or may assert

1 against the state based on alleged misrepresentations by the liquor  
2 control board, it is appropriate to modify certain of the rights and  
3 obligations of former contract store owners.

4 **Sec. 2.** RCW 66.24.630 and 2012 2nd sp.s. c 6 s 401 are each  
5 amended to read as follows:

6 (1) There is a spirits retail license to: Sell spirits in original  
7 containers to consumers for consumption off the licensed premises and  
8 to permit holders; sell spirits in original containers to retailers  
9 licensed to sell spirits for consumption on the premises, for resale at  
10 their licensed premises according to the terms of their licenses,  
11 although no single sale may exceed twenty-four liters, unless the sale  
12 is by a licensee that was a contract liquor store manager of a contract  
13 liquor store at the location of its spirits retail licensed premises  
14 from which it makes such sales; and export spirits.

15 (2) For the purposes of this title, a spirits retail license is a  
16 retail license, and a sale by a spirits retailer is a retail sale only  
17 if not for resale. Nothing in this title authorizes sales by on-sale  
18 licensees to other retail licensees. The board must establish by rule  
19 an obligation of on-sale spirits retailers to:

20 (a) Maintain a schedule by stock-keeping unit of all their  
21 purchases of spirits from spirits retail licensees, indicating the  
22 identity of the seller and the quantities purchased; and

23 (b) Provide, not more frequently than quarterly, a report for each  
24 scheduled item containing the identity of the purchasing on-premise  
25 licensee and the quantities of that scheduled item purchased since any  
26 preceding report to:

27 (i) A distributor authorized by the distiller to distribute a  
28 scheduled item in the on-sale licensee's geographic area; or

29 (ii) A distiller acting as distributor of the scheduled item in the  
30 area.

31 (3)(a) Except as otherwise provided in (c) of this subsection, the  
32 board may issue spirits retail licenses only for premises comprising at  
33 least ten thousand square feet of fully enclosed retail space within a  
34 single structure, including storerooms and other interior auxiliary  
35 areas but excluding covered or fenced exterior areas, whether or not  
36 attached to the structure, and only to applicants that the board  
37 determines will maintain systems for inventory management, employee

1 training, employee supervision, and physical security of the product  
2 substantially as effective as those of stores currently operated by the  
3 board with respect to preventing sales to or pilferage by underage or  
4 inebriated persons.

5 (b) License issuances and renewals are subject to RCW 66.24.010 and  
6 the regulations promulgated thereunder, including without limitation  
7 rights of cities, towns, county legislative authorities, the public,  
8 churches, schools, and public institutions to object to or prevent  
9 issuance of local liquor licenses. However, existing grocery premises  
10 licensed to sell beer and/or wine are deemed to be premises "now  
11 licensed" under RCW 66.24.010(9)(a) for the purpose of processing  
12 applications for spirits retail licenses.

13 (c) The board may not deny a spirits retail license to an otherwise  
14 qualified contract liquor store at its contract location or to the  
15 holder of former state liquor store operating rights sold at auction  
16 under RCW 66.24.620 on the grounds of location, nature, or size of the  
17 premises to be licensed. The board may not deny a spirits retail  
18 license to applicants that are not contract liquor stores or operating  
19 rights holders on the grounds of the size of the premises to be  
20 licensed, if such applicant is otherwise qualified and the board  
21 determines that:

22 (i) There is no retail spirits license holder in the trade area  
23 that the applicant proposes to serve;

24 (ii) The applicant meets, or upon licensure will meet, the  
25 operational requirements established by the board by rule; and

26 (iii) The licensee has not committed more than one public safety  
27 violation within the three years preceding application.

28 (d) A retailer authorized to sell spirits for consumption on or off  
29 the licensed premises may accept delivery of spirits at its licensed  
30 premises or at one or more warehouse facilities registered with the  
31 board, which facilities may also warehouse and distribute nonliquor  
32 items, and from which the retailer may deliver to its own licensed  
33 premises and, pursuant to sales permitted under subsection (1) of this  
34 section:

35 (i) To other retailer premises licensed to sell spirits for  
36 consumption on the licensed premises;

37 (ii) To other registered facilities; or

1 (iii) To lawful purchasers outside the state. The facilities may  
2 be registered and utilized by associations, cooperatives, or comparable  
3 groups of retailers, including at least one retailer licensed to sell  
4 spirits.

5 (4)(a) Except as otherwise provided in (b) and (c) of this  
6 subsection, each spirits retail licensee must pay to the board, for  
7 deposit into the liquor revolving fund, a license issuance fee  
8 equivalent to seventeen percent of all spirits sales revenues under the  
9 license, exclusive of taxes collected by the licensee and of sales of  
10 items on which a license fee payable under this section has otherwise  
11 been incurred. The board must establish rules setting forth the timing  
12 of such payments and reporting of sales dollar volume by the licensee,  
13 with payments required quarterly in arrears. The first payment is due  
14 October 1, 2012.

15 (b) This subsection (4) does not apply to craft distilleries.

16 (c) This subsection (4) does not apply to a spirits retail licensee  
17 that was a contract liquor store manager with respect to sales from the  
18 location of its spirits retail licensed premises to retailers licensed  
19 to sell spirits for consumption on the premises, for resale at their  
20 licensed premises according to the terms of their licenses. The  
21 exemption created by this subsection (4)(c) attaches to any successor,  
22 by purchase or otherwise, to the spirits retail licensee, except that  
23 it will not attach to any such successor that owns, directly or  
24 indirectly, any interest in a spirits retail licensee that is not  
25 derived directly from a former contract liquor store manager.

26 (5) In addition to the payment required under subsection (4) of  
27 this section, each licensee must pay an annual license renewal fee of  
28 one hundred sixty-six dollars. The board must periodically review and  
29 adjust the renewal fee as may be required to maintain it as comparable  
30 to annual license renewal fees for licenses to sell beer and wine not  
31 for consumption on the licensed premises. If required by law at the  
32 time, any increase of the annual renewal fee becomes effective only  
33 upon ratification by the legislature.

34 (6) As a condition to receiving and renewing a retail spirits  
35 license the licensee must provide training as prescribed by the board  
36 by rule for individuals who sell spirits or who manage others who sell  
37 spirits regarding compliance with laws and regulations regarding sale  
38 of spirits, including without limitation the prohibitions against sale

1 of spirits to individuals who are underage or visibly intoxicated. The  
2 training must be provided before the individual first engages in the  
3 sale of spirits and must be renewed at least every five years. The  
4 licensee must maintain records documenting the nature and frequency of  
5 the training provided. An employee training program is presumptively  
6 sufficient if it incorporates a "responsible vendor program"  
7 promulgated by the board.

8 (7) The maximum penalties prescribed by the board in WAC 314-29-020  
9 through 314-29-040 relating to fines and suspensions are doubled for  
10 violations relating to the sale of spirits by retail spirits licensees.

11 (8)(a) The board must promulgate regulations concerning the  
12 adoption and administration of a compliance training program for  
13 spirits retail licensees, to be known as a "responsible vendor  
14 program," to reduce underage drinking, encourage licensees to adopt  
15 specific best practices to prevent sales to minors, and provide  
16 licensees with an incentive to give their employees ongoing training in  
17 responsible alcohol sales and service.

18 (b) Licensees who join the responsible vendor program under this  
19 section and maintain all of the program's requirements are not subject  
20 to the doubling of penalties provided in this section for a single  
21 violation in any period of twelve calendar months.

22 (c) The responsible vendor program must be free, voluntary, and  
23 self-monitoring.

24 (d) To participate in the responsible vendor program, licensees  
25 must submit an application form to the board. If the application  
26 establishes that the licensee meets the qualifications to join the  
27 program, the board must send the licensee a membership certificate.

28 (e) A licensee participating in the responsible vendor program must  
29 at a minimum:

- 30 (i) Provide ongoing training to employees;
- 31 (ii) Accept only certain forms of identification for alcohol sales;
- 32 (iii) Adopt policies on alcohol sales and checking identification;
- 33 (iv) Post specific signs in the business; and
- 34 (v) Keep records verifying compliance with the program's  
35 requirements.

--- END ---