
HOUSE BILL 2019

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By Representatives Tharinger, Haler, Hunt, Pollet, Morrell, Goodman, Sells, Appleton, Green, McCoy, and Moscoso

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1 AN ACT Relating to the sales and distribution of spirits by
2 distributors, restaurants, former contract liquor stores, and former
3 state store auction buyers; amending RCW 66.24.630, 66.24.055, and
4 82.08.150; adding a new section to chapter 66.28 RCW; providing an
5 effective date; and declaring an emergency.

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

7 **Sec. 1.** RCW 66.24.630 and 2012 2nd sp.s. c 6 s 401 are each
8 amended to read as follows:

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

18 (2) For the purposes of this title, a spirits retail license is a
19 retail license, and a sale by a spirits retailer is a retail sale only

1 if not for resale. Nothing in this title authorizes sales by on-sale
2 licensees to other retail licensees. The board must establish by rule
3 an obligation of on-sale spirits retailers to:

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

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

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

13 (ii) A distiller acting as distributor of the scheduled item in the
14 area.

15 (3)(a) Except as otherwise provided in (c) of this subsection, the
16 board may issue spirits retail licenses only for premises comprising at
17 least ten thousand square feet of fully enclosed retail space within a
18 single structure, including storerooms and other interior auxiliary
19 areas but excluding covered or fenced exterior areas, whether or not
20 attached to the structure, and only to applicants that the board
21 determines will maintain systems for inventory management, employee
22 training, employee supervision, and physical security of the product
23 substantially as effective as those of stores currently operated by the
24 board with respect to preventing sales to or pilferage by underage or
25 inebriated persons.

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

34 (c) The board may not deny a spirits retail license to an otherwise
35 qualified contract liquor store at its contract location or to the
36 holder of former state liquor store operating rights sold at auction
37 under RCW 66.24.620 on the grounds of location, nature, or size of the
38 premises to be licensed. The board may not deny a spirits retail

1 license to applicants that are not contract liquor stores or operating
2 rights holders on the grounds of the size of the premises to be
3 licensed, if such applicant is otherwise qualified and the board
4 determines that:

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

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

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

11 (d) A retailer authorized to sell spirits for consumption on or off
12 the licensed premises may accept delivery of spirits at its licensed
13 premises or at one or more warehouse facilities registered with the
14 board, which facilities may also warehouse and distribute nonliquor
15 items, and from which the retailer may deliver to its own licensed
16 premises and, pursuant to sales permitted under subsection (1) of this
17 section:

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

20 (ii) To other registered facilities; or

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

25 (4)(a) Except as otherwise provided in (b) and (c) of this
26 subsection, each spirits retail licensee must pay to the board, for
27 deposit into the liquor revolving fund, a license issuance fee
28 equivalent to seventeen percent of all spirits sales revenues under the
29 license, exclusive of taxes collected by the licensee and of sales of
30 items on which a license fee payable under this section has otherwise
31 been incurred. The board must establish rules setting forth the timing
32 of such payments and reporting of sales dollar volume by the licensee,
33 with payments required quarterly in arrears. The first payment is due
34 October 1, 2012.

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

36 (c) This subsection (4) does not apply to a spirits retail licensee
37 that was a contract liquor store manager or a former state store
38 auction buyer with respect to sales from the location of its spirits

1 retail licensed premises to retailers licensed to sell spirits for
2 consumption on the premises, for resale at their licensed premises
3 according to the terms of their licenses. The exemption created by
4 this subsection (4)(c) attaches to any successor, by purchase or
5 otherwise, to the spirits retail license, except that it does not
6 attach to any such successor that owns, directly or indirectly, any
7 interest in a spirits retail licensee that is not derived directly from
8 a former contract liquor store manager or a former state store auction
9 buyer.

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

18 (6) As a condition to receiving and renewing a retail spirits
19 license the licensee must provide training as prescribed by the board
20 by rule for individuals who sell spirits or who manage others who sell
21 spirits regarding compliance with laws and regulations regarding sale
22 of spirits, including without limitation the prohibitions against sale
23 of spirits to individuals who are underage or visibly intoxicated. The
24 training must be provided before the individual first engages in the
25 sale of spirits and must be renewed at least every five years. The
26 licensee must maintain records documenting the nature and frequency of
27 the training provided. An employee training program is presumptively
28 sufficient if it incorporates a "responsible vendor program"
29 promulgated by the board.

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

33 (8)(a) The board must promulgate regulations concerning the
34 adoption and administration of a compliance training program for
35 spirits retail licensees, to be known as a "responsible vendor
36 program," to reduce underage drinking, encourage licensees to adopt
37 specific best practices to prevent sales to minors, and provide

1 licensees with an incentive to give their employees ongoing training in
2 responsible alcohol sales and service.

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

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

9 (d) To participate in the responsible vendor program, licensees
10 must submit an application form to the board. If the application
11 establishes that the licensee meets the qualifications to join the
12 program, the board must send the licensee a membership certificate.

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

- 15 (i) Provide ongoing training to employees;
- 16 (ii) Accept only certain forms of identification for alcohol sales;
- 17 (iii) Adopt policies on alcohol sales and checking identification;
- 18 (iv) Post specific signs in the business; and
- 19 (v) Keep records verifying compliance with the program's
20 requirements.

21 **Sec. 2.** RCW 66.24.055 and 2012 c 2 s 105 (Initiative Measure No.
22 1183) are each amended to read as follows:

23 (1) There is a license for spirits distributors to (a) sell spirits
24 purchased from manufacturers, distillers, or suppliers including,
25 without limitation, licensed Washington distilleries, licensed spirits
26 importers, other Washington spirits distributors, or suppliers of
27 foreign spirits located outside of the United States, to spirits
28 retailers including, without limitation, spirits retail licensees,
29 special occasion license holders, interstate common carrier license
30 holders, restaurant spirits retailer license holders, spirits, beer,
31 and wine private club license holders, hotel license holders, sports
32 entertainment facility license holders, and spirits, beer, and wine
33 nightclub license holders, and to other spirits distributors; and (b)
34 export the same from the state.

35 (2) By January 1, 2012, the board must issue spirits distributor
36 licenses to all applicants who, upon December 8, 2011, have the right
37 to purchase spirits from a spirits manufacturer, spirits distiller, or

1 other spirits supplier for resale in the state, or are agents of such
2 supplier authorized to sell to licensees in the state, unless the board
3 determines that issuance of a license to such applicant is not in the
4 public interest.

5 (3)(a) As limited by (b) of this subsection and subject to (c) of
6 this subsection, each spirits distributor licensee and each industry
7 member acting as a distributor under RCW 66.24.640 or 66.28.330(4) must
8 pay to the board, for deposit into the liquor revolving fund, a license
9 issuance fee calculated as follows:

10 ~~((i) In each of the first two years of licensure,))~~ Ten percent of
11 the total revenue from all the licensee's sales of spirits made during
12 the year for which the fee is due ~~(, respectively; and~~

13 ~~(ii) In the third year of licensure and each year thereafter, five~~
14 ~~percent of the total revenue from all the licensee's sales of spirits~~
15 ~~made during the year for which the fee is due, respectively)).~~

16 (b) The fee required under this subsection (3) is calculated only
17 on sales of items which the licensee was the first spirits distributor
18 in the state to have received:

19 (i) In the case of spirits manufactured in the state, from the
20 distiller; or

21 (ii) In the case of spirits manufactured outside the state, from an
22 authorized out-of-state supplier.

23 (c) By March 31, 2013, all persons holding spirits distributor
24 licenses on or before March 31, 2013, must have paid collectively one
25 hundred fifty million dollars or more in spirits distributor license
26 fees. If the collective payment through March 31, 2013, totals less
27 than one hundred fifty million dollars, the board must, according to
28 rules adopted by the board for the purpose, collect by May 31, 2013, as
29 additional spirits distributor license fees the difference between one
30 hundred fifty million dollars and the actual receipts, allocated among
31 persons holding spirits distributor licenses at any time on or before
32 March 31, 2013, ratably according to their spirits sales made during
33 calendar year 2012. Any amount by which such payments exceed one
34 hundred fifty million dollars by March 31, 2013, must be credited to
35 future license issuance fee obligations of spirits distributor
36 licensees according to rules adopted by the board.

37 (d) A retail licensee selling for resale must pay a distributor
38 license fee under the terms and conditions in this section on resales

1 of spirits the licensee has purchased on which no other distributor
2 license fee has been paid. The board must establish rules setting
3 forth the frequency and timing of such payments and reporting of sales
4 dollar volume by the licensee, with payments due quarterly in arrears.

5 (e) No spirits inventory may be subject to calculation of more than
6 a single spirits distributor license issuance fee.

7 (f) In addition to the fee set forth in (a) of this subsection, all
8 persons who first hold a spirits distributor license anytime following
9 March 31, 2013, must pay a surcharge equal to one hundred percent of
10 the total revenue from all the licensee's sales of spirits made during
11 the year for which the fee is due. This surcharge expires two years
12 from the date that such persons are granted a spirits distributor
13 license.

14 (4) In addition to the payment set forth in subsection (3) of this
15 section, each spirits distributor licensee renewing its annual license
16 must pay an annual license renewal fee of one thousand three hundred
17 twenty dollars for each licensed location.

18 (5) There is no minimum facility size or capacity for spirits
19 distributor licenses, and no limit on the number of such licenses
20 issued to qualified applicants. License applicants must provide
21 physical security of the product that is substantially as effective as
22 the physical security of the distribution facilities currently operated
23 by the board with respect to preventing pilferage. License issuances
24 and renewals are subject to RCW 66.24.010 and the regulations
25 promulgated thereunder, including without limitation rights of cities,
26 towns, county legislative authorities, the public, churches, schools,
27 and public institutions to object to or prevent issuance of local
28 liquor licenses. However, existing distributor premises licensed to
29 sell beer and/or wine are deemed to be premises "now licensed" under
30 RCW 66.24.010(9)(a) for the purpose of processing applications for
31 spirits distributor licenses.

32 **Sec. 3.** RCW 82.08.150 and 2012 c 2 s 106 (Initiative Measure No.
33 1183) are each amended to read as follows:

34 (1) There is levied and collected a tax upon each retail sale of
35 spirits in the original package at the rate of fifteen percent of the
36 selling price.

1 (2) There is levied and collected a tax upon each sale of spirits
2 in the original package at the rate of ten percent of the selling price
3 on sales by a spirits distributor licensee or other licensee acting as
4 a spirits distributor pursuant to Title 66 RCW to restaurant spirits
5 retailers.

6 (3)(a) There is levied and collected an additional tax upon each
7 sale of spirits in the original package by a spirits distributor
8 licensee or other licensee acting as a spirits distributor pursuant to
9 Title 66 RCW to a restaurant spirits retailer (~~and~~) at the rate of
10 sixty-five cents per liter.

11 (b) There is levied and collected an additional tax upon each
12 retail sale of spirits in the original package by a licensee of the
13 board at the rate of one dollar and seventy-two cents per liter.

14 (4) An additional tax is imposed equal to fourteen percent
15 multiplied by the taxes payable under subsections (1), (2), and (3) of
16 this section.

17 (5) An additional tax is imposed upon each sale of spirits in the
18 original package by a spirits distributor licensee or other licensee
19 acting as a spirits distributor pursuant to Title 66 RCW to a
20 restaurant spirits retailer and upon each retail sale of spirits in the
21 original package by a licensee of the board at the rate of seven cents
22 per liter. All revenues collected during any month from this
23 additional tax must be deposited in the state general fund by the
24 twenty-fifth day of the following month.

25 (6)(a) An additional tax is imposed upon retail sale of spirits in
26 the original package at the rate of three and four-tenths percent of
27 the selling price.

28 (b) An additional tax is imposed upon retail sale of spirits in the
29 original package to a restaurant spirits retailer at the rate of two
30 and three-tenths percent of the selling price.

31 (c) An additional tax is imposed upon each sale of spirits in the
32 original package by a spirits distributor licensee or other licensee
33 acting as a spirits distributor pursuant to Title 66 RCW to a
34 restaurant spirits retailer and upon each retail sale of spirits in the
35 original package by a licensee of the board at the rate of forty-one
36 cents per liter.

37 (d) All revenues collected during any month from additional taxes

1 under this subsection must be deposited in the state general fund by
2 the twenty-fifth day of the following month.

3 (7)(a) An additional tax is imposed upon each retail sale of
4 spirits in the original package at the rate of one dollar and thirty-
5 three cents per liter.

6 (b) All revenues collected during any month from additional taxes
7 under this subsection must be deposited by the twenty-fifth day of the
8 following month into the general fund.

9 (8) The tax imposed in RCW 82.08.020 does not apply to sales of
10 spirits in the original package.

11 (9) The taxes imposed in this section must be paid by the buyer to
12 the seller, and each seller must collect from the buyer the full amount
13 of the tax payable in respect to each taxable sale under this section.
14 The taxes required by this section to be collected by the seller must
15 be stated separately from the selling price, and for purposes of
16 determining the tax due from the buyer to the seller, it is
17 conclusively presumed that the selling price quoted in any price list
18 does not include the taxes imposed by this section. Sellers must
19 report and return all taxes imposed in this section in accordance with
20 rules adopted by the department.

21 (10) As used in this section, the terms, "spirits" and "package"
22 have the same meaning as provided in chapter 66.04 RCW.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 66.28 RCW
24 to read as follows:

25 (1) Two or more retail licensees of the same type may agree to
26 participate in a group purchase of wine or spirits from a licensed
27 distributor, distiller, rectifier, importer, or certificate of approval
28 holder. The purchasing group must use a designated agent to conduct
29 its group purchase using a master purchase order.

30 (2)(a) The designated agent must have a retail license of the same
31 type as the licensees of the purchasing group and must be operating a
32 retail business under that license.

33 (b) A designated agent may not act as an agent for more than one
34 purchasing group and a purchasing group may not have more than one
35 designated agent to conduct its group purchases.

36 (c) The purchasing group must submit the name of the designated
37 agent to the board.

1 (3)(a) The designated agent must prepare a master purchase order
2 and submit it to the distributor, distiller, rectifier, importer, or
3 certificate of approval holder. Each retail licensee of the purchasing
4 group must provide the designated agent with a signed order setting
5 forth the retail licensee's order. Each retail licensee's signed order
6 must be attached to or made a part of the designated agent's master
7 purchase order.

8 (b) Each retail licensee of the purchasing group is responsible for
9 full payment of its own order as set forth in the signed order. Each
10 retail licensee is responsible for accounting for any of its own
11 product loss that might occur. In the event a retail licensee member
12 of the purchasing group is unable or unwilling to tender payment in
13 full for its order at or before the time the group takes delivery of
14 the order, the other members of the group are responsible for the
15 shortage in payment, in proportion to their participation in the order,
16 unless the seller agrees to terminate the transaction in its entirety.

17 (4)(a) The wine and spirits purchased by the purchasing group must
18 be delivered to and stored in a single warehouse facility or single
19 licensed premises owned and operated by one of the retail licensee
20 members of the group. Alternatively, the purchasing group may arrange
21 for a common carrier approved for such purpose by the board to pick up
22 the wine or spirits at the licensed premises of the distributor,
23 distiller, rectifier, importer, or certificate of approval holder from
24 which the product is purchased and deliver it to such licensed location
25 or locations operated by the members of the purchasing group as the
26 members may direct.

27 (b) Payment in full for the entire group purchase must be tendered
28 to the seller by the designated agent at or before the time of delivery
29 in accordance with RCW 66.28.270.

30 (c) If the group elects to arrange for pickup of the product at the
31 seller's licensed premises, delivery is deemed to occur at the time of
32 pickup and payment in full for the entire order must be tendered to the
33 seller at or before such time in compliance with RCW 66.28.270. All
34 costs of the pickup and subsequent delivery must be borne by the group.

35 NEW SECTION. **Sec. 5.** (1) Except as provided otherwise in
36 subsection (2) of this section, this act is necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the
2 state government and its existing public institutions, and takes effect
3 immediately.

4 (2) Section 3 of this act takes effect January 1, 2014.

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