HOUSE BILL REPORT
HB 1343

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to spirits retailers when selling for resale.

Brief Description: Concerning spirits retailers when selling for resale.

Sponsors: Representatives Springer, Condotta, Hurst and Walsh.

Brief History:
Committee Activity:
Commerce & Gaming: 1/26/15, 1/27/15 [DP].

Brief Summary of Bill

- Establishes that the calculation of the 17 percent license issuance fee imposed on spirits retail licensees does not include revenues derived from the sale of spirits to bars and restaurants.
- Establishes that the license issuance fee applicable to spirits distributor licensees is only required to be paid by the spirits distributor that is first in the state to possess the spirits.
- Limits, to 60 liters per day, the volume of spirits that may be sold by a spirits retail licensee to a bar or restaurant.
- Establishes that until July 1, 2017, sales made to retailers licensed to sell spirits for consumption on the premises must be made at the location of the spirits retail licensed premises and may not be delivered to a retailer licensed to sell spirits for consumption on the premises.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: Do pass. Signed by 7 members: Representatives Hurst, Chair; Wylie, Vice Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Kirby, Scott and Vick.

Minority Report: Do not pass. Signed by 1 member: Representative Moscoso.

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.

Minority Report: Without recommendation. Signed by 1 member: Representative Blake.

Staff: Thamas Osborn (786-7129).

Background:

Spirits Retailers Following the Passage of Initiative 1183.
Initiative Measure No. 1183 (I-1183), passed by the voters in November 2011, transferred the responsibility for the distribution and retail sale of spirits (i.e., hard liquor) from the Liquor Control Board (LCB) to the private sector. Following the passage of I-1183, those private businesses licensed by the LCB to sell spirits at the retail level were designated as "spirits retail licensees." Such licensees generally fall into two categories: (1) grocery stores and other large retail establishments encompassing at least 10,000 feet of retail space; and (2) smaller liquor stores that are either former state-owned liquor stores or former "contract liquor stores" that sold liquor on behalf of the state pursuant to contracts with the LCB prior to the passage of I-1183.

License Issuance Fees applicable to Spirits Retail Licensees.
Large spirits retail licensees, with retail space exceeding 10,000 square feet, must pay to the LCB a license issuance fee equivalent to 17 percent of all spirit sales revenues earned by the licensee. The calculation of this fee includes revenues derived from sales to bars and restaurants and is in addition to any taxes collected on the sales of the spirits.

Beginning on June 30, 2013, former state liquor stores and former contract liquor stores were granted a limited exemption from the payment of the 17 percent license issuance fee for certain types of spirits sales. Specifically, such stores are exempt from payment of the 17 percent fee with respect to spirits sales to those retailers licensed to sell spirits for consumption on the premises (i.e., bars and restaurants).

Once collected by the LCB, license issuance fees are deposited into the Liquor Revolving Fund. Moneys in this fund are used for the LCB expenses, and "excess funds" are distributed to the State General Fund and to cities, towns, and counties.

Limitations on Sales to Bars and Restaurants by Spirits Retail Licensees.
Sales of spirits to a bar or restaurant by a spirits retail licensee are limited to 24 liters per single sales transaction.

License Issuance Fees applicable to Spirits Distributor Licensees.
Each spirits distributor licensee must pay to the LCB a license issuance fee that is calculated as follows:

- in each of the first 27 months of licensure, 10 percent of the total revenue from all the licensee's sales of spirits made during the month for which the fee is due;
- in the twenty-eighth month of licensure and each month thereafter, 5 percent of the total revenue from all the licensee's sales of spirits made during the month for which the fee is due, respectively.

The calculation of the spirits distributor license issuance fee includes only those sales revenues derived from spirits products that the distributor was the first in the state to have received. In other words, when products are shipped from a distiller directly to a spirits distributor licensee, only the spirits distributor licensee originally receiving the product is responsible for the payment of the license issuance fee. As one moves down the distribution chain, other liquor licensees who subsequently act as distributors for spirits products included in that original shipment are not liable for the payment of any such license issuance fee.

Summary of Bill:

For all spirits retail licensees, the calculation of the 17 percent license issuance fee does not include revenues derived from the sale of spirits to retailers licensed to sell spirits for consumption on the premises (i.e., bars and restaurants).

The license issuance fee applicable to spirits distributor licensees is required to be paid by the spirits distributor that is first in the state to possess the spirits. The fee is calculated only on sales for which the licensee was the first spirits distributor, or other licensee, in the state to receive the spirits.

A spirits retail licensee may sell up to 60 liters of spirits per day to a single bar or restaurant.

Until July 1, 2017, sales made to retailers licensed to sell spirits for consumption on the premises must be made at the location of the spirits retail licensed premises and may not be delivered to a retailer licensed to sell spirits for consumption on the premises.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill has been worked on for several years, and it is intended to address problems with the liquor distribution system in this state. The current system simply does not meet the needs of bars and restaurants that often have to restock their liquor inventories on short notice. It is generally impossible for the large distributors to arrange for a delivery within the short time frames needed by bars and restaurants. Upon the passage of this bill, bars and restaurants will be able to buy spirits from any spirits retail licensee without paying the extra 17 percent fee that would otherwise be included in the price. Also, the bill increases the amount of liquor a spirits retailer can sell to a bar or restaurant. However, this increase is relatively small and will not significantly affect the sales of the large distributors. This bill levels the playing field, makes the liquor market more competitive, and, thus, benefits the consumer.

(With concerns) This bill will strip away the advantage held by former state liquor stores and former contract liquor stores, insofar as it extends the exemption from the 17 percent license issuance fee to all spirits retail licensees. These small stores are still suffering and barely able to stay afloat, and this bill will make them even less competitive than they are now. The bill does not create a level playing field. Rather, it gives the larger retailers a competitive advantage insofar as their wholesale costs per bottle are significantly less. The other retailers should be required to continue to pay the 17 percent fee.

(Opposed) This bill is extremely unfair to distributors and to those union members employed by them. Union drivers who deliver liquor depend on the distributors for jobs, and this bill will adversely effect the employment situation. All businesses that distribute liquor should be required to pay the 17 percent fee, not just the larger licensed spirits distributors. The large distributors paid enormous sums of money for their licenses, and it is unfair to change the rules of the game in this way. One of the large distributors invested $60 million in order to operate in this state. The bill, in effect, creates a new distribution tier that never existed before, and this will significantly reduce wholesale revenues and, thus, diminish the value of the wholesale distributor's license. With this bill, virtually any spirits retailer can operate as distributor but without getting a distributor's license.

Persons Testifying: (In support) Julia Gorton, Washington Restaurant Association; and Jan Gee, Washington Food Industry Association.

(With concerns) David Cho, Washington Liquor Store Association.

(Opposed) Michael Gonzales, Teamsters Joint Council 28; Dave Ducharme, Distilled Spirits Council of the United States; Ron Main, Association of Washington Spirits & Wine Distributors; Joe Daniels, Youngs Market; and James McMahan, Southern Wine & Spirits.

Persons Signed In To Testify But Not Testifying: None.