

HOUSE BILL REPORT

HB 1976

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to marketing opportunities for spirits produced in Washington by craft and general licensed distilleries.

Brief Description: Concerning marketing opportunities for spirits produced in Washington by craft and general licensed distilleries.

Sponsors: Representatives Vick, Blake, Hurst and Tharinger.

Brief History:

Committee Activity:

Commerce & Gaming: 2/9/15, 2/16/15 [DPS].

Brief Summary of Substitute Bill

- Permits distilleries and craft distilleries to apply for an endorsement to sell spirits by the bottle at approved farmers markets.
- Authorizes the Liquor Control Board to issue up to 12 special permits per year to a distillery to serve and sell spirits of its own production at private events.
- Permits distilleries and craft distilleries to serve samples of spirits of their own production adulterated with nonalcoholic mixers.
- Creates a shipping and delivery permit allowing distilleries and craft distilleries to ship and deliver spirits to customers in Washington.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hurst, Chair; Wylie, Vice Chair; Holy, Assistant Ranking Minority Member; Blake, Kirby, Moscoso, Scott and Vick.

Minority Report: Do not pass. Signed by 1 member: Representative Condotta, Ranking Minority Member.

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.

Staff: David Rubenstein (786-7153).

Background:

Distiller Licenses.

The Liquor Control Board (LCB) issues licenses to distillers and craft distillers. The annual fee for a distillery license is \$2,000, and for a craft distillery the fee is \$100. To qualify as a craft distillery, the distiller must produce no more than 150,000 gallons of spirits, with at least half of the raw materials used in the production grown in Washington.

This report uses the term "distillery" to refer to both distilleries and craft distilleries, unless a distinction is required.

Distilleries may sell spirits of their own production for consumption off the premises. Distilleries may also provide samples of spirits of their own production on the distillery premises. Samples must be 0.5 ounces or less, up to a maximum of 2 ounces per day per person.

While a distillery may sell spirits of its own production from the distillery premises and may act as a distributor of its own products, it may not ship or deliver spirits to an individual customer.

Farmers Markets and Sampling.

The LCB issues a variety of licenses and special permits for selling, serving, and handling alcohol. For example, special permits are issued to allow for the consumption of liquor at banquets and to allow a manufacturer or distributor to donate liquor to delegates and guests at conventions and international trade fairs. Unless a fee is specified in statute, the fees for permits are generally established by the LCB.

Shipping Spirits.

By LCB rule, licensed spirits retailers may take orders for spirits by mail, telephone, or Internet and may ship spirits to those customers. Only the retailer may take orders; contractors may not do so except to process payments.

There are a variety of requirements imposed on the packaging and delivery of spirits, including:

- packages must be labeled as containing liquor and may not be delivered to persons under 21 years old and intoxicated people;
- individual bottles must be factory sealed;
- the delivery person must verify the age of the recipient; and
- if no person over 21 years old is available to receive the spirits, the spirits must be returned.

Summary of Substitute Bill:

Distilleries and Craft Distilleries – Sales and Sampling on Premises.

A licensed distiller or craft distiller may serve samples of spirits of its own production adulterated with nonalcoholic mixers, water, and ice.

Farmers Markets.

A distillery may apply for an endorsement from the LCB that permits the distillery to sell its own bottled spirits at retail for off-premises consumption at qualifying farmers markets. The distillery must provide a list to the LCB of the dates, times, and locations at which it will be selling its spirits ahead of time.

The distillery cannot act as a distributor at the farmers market and cannot store its product at the farmers market beyond the hours during which the spirits are for sale.

Farmers markets must apply to the LCB for authorization to allow a distillery with a qualifying endorsement to sell bottled spirits at retail at the farmers market. The farmers market must provide to the LCB a map of the market showing designated areas where the craft distillery may sell bottled spirits and contact information for on-site market managers.

Before authorizing a distillery to sell spirits at a qualifying farmers market, the LCB must notify the chief executive officer of the city (or county, if the market is located outside city limits) where the farmers market is located. The LCB must also consider the proximity of churches, schools, and public institutions, and may not issue an authorization if the premises are within 500 feet of a public elementary or secondary school.

A qualifying farmers market is defined as an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in Washington directly to the consumer, and must meet certain specific minimum requirements described in the act. This is the same definition of qualifying farmers market as set out in the current laws permitting sale of wine or beer at farmers markets.

Special Event Permit.

A distillery may apply to the LCB for a permit to sell and serve spirits at an event not open to the general public. Each distillery is limited to 12 special event permits per year. The permit costs \$10, must be obtained online at least ten days in advance, and must be displayed during the event.

Spirits Delivery and Shipping Permit.

A licensed distillery may apply to the LCB for a permit to deliver or ship spirits of its own production to customers within the state. The applicant must operate a distillery in Washington, certify that it holds all necessary state and federal licenses and permits, and register with the Department of Revenue.

As to every sale, the distillery must comply with the following requirements:

- The recipient must verify that the spirits will not be resold.
- The spirits must come directly from the distillery's possession.
- All orders and payments must be fully processed before spirits leave the distillery's possession.
- The distillery is accountable for deliveries made on its behalf.
- Spirits may only be delivered between 6 a.m. and 2 a.m.

- Deliveries must be made to a recognized postal address.
- Spirits for shipment or delivery must be factory sealed.
- Only the distillery may receive and process orders, but it may contract with a third party to process payments on the distillery's behalf.

Orders may be accepted in person, by mail, by telephone, or on the Internet. If the distillery will accept orders on the Internet, it must apply for approval of the LCB and must display its trade name and license number on its sales websites.

When shipping spirits, the permit holder must ensure that:

- the distiller records the name and address of the purchaser and recipient;
- the recipient signs for the delivery;
- the person delivering the spirits verifies the age of the recipient;
- the person delivering the spirits verifies that the recipient does not appear intoxicated; and
- each package is clearly labeled as undeliverable to an intoxicated person or a person under 21 years of age.

Permit holders must pay applicable state and local sales and use taxes, but sales for shipment and delivery are treated as sales from a craft distiller's tasting room for the purposes of the spirits retail license fee and spirits distributor license fee. Permit holders must submit a monthly report to the LCB, detailing the deliveries or shipment in the previous month.

If a permit holder violates the law regarding shipping spirits, the LCB must suspend or revoke the permit.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- strikes provisions allowing distilleries and craft distilleries to sell spirits manufactured by other producers;
- strikes provisions allowing sampling of spirits at farmers markets;
- clarifies the special event permit available to distilleries and craft distilleries and limits each distillery to 12 permits per year, and
- revises the spirits shipping and delivery provisions to create additional requirements for and limitations on shipping and delivery.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: 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 will support a growing Washington industry, will increase tourism, and will help small distillers compete with larger distillers and retailers. Proponents attempted to mirror existing alcohol shipping requirements for other sellers, but the language in the bill was clarified for shipment of spirits intrastate, which would allow people who might not otherwise have the opportunity to access Washington-produced spirits. Additionally, spirits would be allowed to be sold alongside beer and wine, which are already permitted at farmers markets, and farmers markets can choose whether or not to allow them. Finally, this will create a permit for special occasions at distilleries.

(Opposed) This bill overreaches. Distillers are already exempt from the spirits retail license fee, and allowing them to sell over the Internet will magnify an unfair advantage. Allowing distillers to sell products made by other distillers will effectively allow them to be spirits retailers exempt from the fees associated with spirits retailers.

Persons Testifying: (In support) Representative Vick, prime sponsor; Kathryn Hedrick and Jason Parker, Washington Distillers Guild; Justin Stiefel, Heritage Distilling Company; and John Bourdon, Sandstone Distillery.

(Opposed) Jon Martin, Washington Liquor Store Association; and Ron Main, Association of Washington Spirits and Wine Distributors.

Persons Signed In To Testify But Not Testifying: None.