

SENATE BILL REPORT

SB 5301

As of February 12, 2015

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

Brief Description: Concerning spirits retailers when selling for resale.

Sponsors: Senators Braun and Mullet.

Brief History:

Committee Activity: Commerce & Labor: 1/28/15, 1/30/15 [DP-WM, DNP].
Ways & Means: 2/16/15.

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass and be referred to Committee on Ways & Means.
Signed by Senators Baumgartner, Chair; Braun, Vice Chair; King and Warnick.

Minority Report: Do not pass.
Signed by Senators Hasegawa, Ranking Minority Member; Conway and Keiser.

Staff: Richard Rodger (786-7461)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dean Carlson (786-7305)

Background: Prior to the passage of Initiative 1183 (I-1183), spirits sales were permitted only at state-operated liquor stores. Upon passage of I-1183 in November 2011, the sale and distribution of spirits became privatized. The Liquor Control Board (LCB) was authorized to issue spirits retail sales licenses only for premises comprising at least 10,000 square feet and which met other requirements. Some exceptions to the square footage requirement included licensing an otherwise qualified contract liquor store at its contract location or to the holder of former state liquor store operating rights sold at auction. I-1183 required spirits retail licensees to pay a license issuance fee of 17 percent of all spirits sales revenue under the license to LCB for deposit into the liquor revolving fund. This is in addition to other liquor liter and sales taxes. The initiative permitted a spirits retail licensee to sell spirits to retailers licensed to sell spirits for on-premises consumption, meaning bars and restaurants.

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.

ESSB 5644 which took effect on June 30, 2013, provided that the license issuance fee of 17 percent does not apply to a licensee or their successor that was a contract liquor store manager, for sales of spirits to bars and restaurants. Nor does the 17 percent license issuance fee apply to a licensee or their successor that was a former state store auction buyer, for sales of spirits to bars and restaurants.

Summary of Bill: The spirits retail license issuance fee does not apply to a spirits retail licensee for sales to a spirits retailer licensed to sell spirits for consumption on the premises, meaning sales of spirits to bars and restaurants.

A spirits retail licensee may only sell a maximum of 60 liters of spirits per day to a retailer licensed for on-premise consumption. Until July 1, 2017, such sales must be made at the location of the spirits retail licensee and may not be delivered.

The first possessor of spirits in the state is the party required to pay the spirits distribution license fee.

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 (Commerce & Labor): PRO: LCB imposed the 17 percent retail fee, by rule, on sales by grocery stores for resale, but not on any other supplier. The competitive market place envisioned in the initiative has not been realized. The intent of the bill is to restore the competition to the marketplace and correct an error that resulted in an unfair competitive advantage. There are many business practices going on that are harmful to our businesses. Many of the business customers who would benefit from this bill are open on nights and weekends when they can't obtain the products they need for their operations. Allowing additional businesses to sell the products without the additional fee would allow us to better serve our partners. Grocery stores cannot obtain a distributor's license because of the laws prohibiting financial interests and ownership across the three-tier system. A more appropriate, narrow allowance is a better approach than amending those laws. We want to provide supplemental services to our customers and create parity within the system. The current grocery sales limit is 24 liters per transaction, where the bill provides a limit of 60 liters per day, preserving the ability to serve our customers.

CON: This bill expands retail to retail sales and mirrors exactly what a distributor does. Retailers who want to do distribution should just go get a distribution license. The statutes allow them to be distributors if they establish a separate entity. This is not a compromise bill as the opponents have not agreed with any of the changes in the bill. The bill also allows deliveries after 2017. The 60 liter per day limit on retail to retail sales is not a limit as only 7 percent of our current customers buy that much per week. The distributors paid \$150 million for the privilege to be distributors; the proponents of this bill would not pay anything. The bill will put hundreds of jobs and millions of dollars of state revenue at risk. A holistic

approach to the state's taxes on liquor needs to be undertaken. We are supporters of the three-tier system, but this bill creates a fourth tier.

Persons Testifying (Commerce & Labor): PRO: Amy Brackenbury, WA Food Industry Assn.; Julia Gorton, WA Restaurant Assn.; Holly Chisa, NW Grocery Assn.

CON: Michael Gonzales, Teamsters Local Union 174; John Landry, Southern Wine and Spirits; Ron Main, Assn. of WA Wine and Spirits Distributors; Joe Daniels, Youngs Market Company; David Ducharme, Distilled Spirits Council of the United States.