

# SENATE BILL REPORT

## SB 5917

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As Reported by Senate Committee On:  
Commerce & Labor, February 18, 2015

**Title:** An act relating to establishing special license endorsements for cigar lounges and retail tobacconist shops.

**Brief Description:** Establishing special license endorsements for cigar lounges and retail tobacconist shops.

**Sponsors:** Senators Brown, Hatfield, Honeyford, Hasegawa, Schoesler, Becker, Hobbs, Hewitt and Benton.

**Brief History:**

**Committee Activity:** Commerce & Labor: 2/18/15 [DP, DNP].

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### SENATE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass.

Signed by Senators Baumgartner, Chair; Braun, Vice Chair; Hasegawa, Ranking Minority Member; King and Warnick.

**Minority Report:** Do not pass.

Signed by Senators Conway and Keiser.

**Staff:** Richard Rodger (786-7461)

**Background:** Licensing of Cigarette and Tobacco Products Sellers. Persons selling cigarettes or tobacco products in this state are required to hold either a wholesaler or retailer cigarette license, or a distributor or retailer tobacco products license – for all tobacco products other than cigarettes, through the Department of Revenue's Business License System (BLS). The Liquor Control Board (LCB) has supervision and enforcement authority over licensees. LCB has authority to approve, deny, suspend, or revoke retail, wholesale, or distributor cigarette and tobacco products licenses.

Smoking in Public Places Act. In 2005 voters passed Initiative 901 (Initiative), now called the Smoking in Public Places Act, which expanded a ban on smoking in public places to include schools, bars, taverns, bowling alleys, casinos, reception areas, at least 75 percent of the sleeping quarters in hotels and motels, and places of employment. A place of

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*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.*

employment includes an area under the control of an employer that employees are required to pass through during the course of employment.

Contractor Registration Act. The Contractor Registration Act requires construction contractors to register with the Department of Labor and Industries (L&I). An applicant for registration must submit a form that contains certain information, including the applicant's unified business identifier number and the names and addresses of owners, principals, members, or officers of the contracting business. The applicant must also file a surety bond and furnish proof of liability insurance. An applicant is not required to fulfill any education, experience, or examination requirements in order to register.

**Summary of Bill:** Cigar Lounge and Retail Tobacconist Shop Endorsements. A tobacco products retailer licensee may apply for a special endorsement either as a cigar lounge or a retail tobacconist shop through the BLS. Applicants must pay a fee, as determined by LCB, to cover the costs in administering the special endorsements, and submit an affidavit to LCB certifying several items to obtain the endorsement. LCB determines the form and manner of submission of the affidavit. LCB may request additional documentation or information from an applicant.

Endorsements are effective for the same period as the tobacco products retailer's license. The affidavit, however, must be completed and verified each year by LCB before any endorsement to a tobacco retailer's license is renewed. An endorsement is transferrable. Endorsement decisions must be made by LCB within 21 business days of application. Rejections of an application for an endorsement may be appealed under the same process provided for other licenses issued by LCB. LCB has the sole enforcement authority regarding the designated areas which receive an endorsement.

An applicant for a cigar lounge or a retail tobacconist shop endorsement must designate an area for the smoking of tobacco products, which is physically separated from any areas where smoking is prohibited under state law. For the purposes of this requirement, physically separated means an area that is enclosed on all sides by solid, impermeable walls or windows extending from floor to ceiling with self-closing doors.

The applicant must:

- not allow cigarettes to be smoked in the designated area; and
- have a valid uniform business identifier number and have paid all applicable state business and occupation taxes in the year prior to application for endorsement.

Cigar lounge applicants must hold a valid spirits, beer, and wine license. Retail tobacconist shop applicants must certify that no person under the age of 18 is allowed entry in the designated smoking area.

A cigar lounge applicant must show that in the year immediately preceding initial application or renewal, the applicant derived at least \$25,000 of the business's annual gross income from the sale of tobacco products, tobacco product-related paraphernalia, and the rental of on-site humidor space. If it is an initial endorsement application, the applicant may use any year prior to the initial application to meet the requirements, or must show proof that it has

purchased, at wholesale, at least \$12,500 in tobacco products and tobacco product-related paraphernalia.

A retail tobacconist shop applicant must show that in the year immediately preceding initial application or renewal, the applicant derived at least 75 percent of the business's annual gross income from the sale of tobacco products and tobacco product-related paraphernalia. If it is an initial endorsement application, the applicant may use any year prior to the initial application to meet the requirements, or must show proof that it has purchased, at wholesale, at least \$25,000 in tobacco products and tobacco product-related paraphernalia.

In addition, any applicant must obtain a signed letter from a heating, ventilation, air-conditioning, and refrigeration contractor registered with L&I, which certifies that the ventilation and exhaust system for the designated area:

- is separate and distinct from the location's general heating, ventilation, and air-conditioning system;
- has an air flow, as calculated in cubic feet per minute, that will provide for at least 13 or more air changes within the space served by the ventilation and exhaust system;
- uses the correct quantity of filters recommended by the manufacturer of the ventilation and exhaust system and that those filters have a minimum efficiency reporting value of 14 or higher; and
- uses a loose-fill, rechargeable-type sorbent material positioned across the airflow in such a configuration that gaseous contaminants will have a residence time of one-tenth of one second or more within the sorbent material.

Each employee who may work in the designated area must sign an acknowledgment that the employee has been advised of and accepts that environmental tobacco smoke may be present in their potential work area. The applicant must maintain the acknowledgement on file.

The applicant must post conspicuous signage, in a form dictated by LCB, indicating that environmental tobacco smoke may be present in the designated area.

Retaliation. No employer may discharge, threaten to discharge, demote, deny a promotion to, sanction, discipline, retaliate against, harass, or otherwise discriminate against an employee solely for refusing to consent to or sign the acknowledgment required for the endorsements.

Endorsement Caps. LCB may not allow the total number of cigar lounge endorsements in the state to exceed 40, or the total number of retail tobacconist shop endorsements in the state to exceed 75. LCB must administer the distribution of cigar lounge or retail tobacconist shop endorsements and must ensure that the collective number of endorsements located in all counties with a population of over 500,000 never exceed one-half of the endorsements allowed for each endorsement. Renewing applicants must be given priority over new applicants for endorsements.

Exemption From the Smoking in Public Places Act. Holders of special endorsements for a cigar lounge or retail tobacconist shop are exempt from the Smoking in Public Places Act. LCB has enforcement authority over what areas are subject to this exemption.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill is about providing people with another place to smoke cigars besides casinos. The bill will increase employment in the state by 150 positions. The HVAC systems clean the air so well that it is cleaner than the air outdoors.

CON: This bill undermines the Smoking in Public Places Act passed by Initiative 901 in 2005. There is no safe level of secondhand smoke from cigarettes or cigars. This bill will be harmful to employees who are exposed to the smoke. No employee should be forced to waive their rights, sign an acknowledgement, and work in these dangerous environments.

**Persons Testifying:** PRO: Senator Brown, prime sponsor; Jim King, WA State HVACR Assn.

CON: Lindsay Hovind, American Heart Assn.; Dr. Anthony Chen, Tacoma Pierce County Health Dept.; Paul Davus, WA State Dept. of Health.