
HOUSE BILL 2831

State of Washington

64th Legislature

2016 Regular Session

By Representative Hurst

Read first time 01/22/16. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to assisting small businesses licensed to sell
2 liquor in Washington state; amending RCW 66.24.630, 66.28.340,
3 66.28.330, 66.28.170, and 66.28.370; and adding a new section to
4 chapter 66.24 RCW.

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

6 **Sec. 1.** RCW 66.24.630 and 2015 c 186 s 1 are each amended to
7 read as follows:

8 (1) There is a spirits retail license to: Sell spirits in
9 original containers to consumers for consumption off the licensed
10 premises and to permit holders; sell spirits in original containers
11 to retailers licensed to sell spirits for consumption on the
12 premises, for resale at their licensed premises according to the
13 terms of their licenses, although no single sale may exceed twenty-
14 four liters, unless the sale is by a licensee that was a contract
15 liquor store manager of a contract liquor store at the location of
16 its spirits retail licensed premises from which it makes such sales;
17 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
20 only if not for resale. Nothing in this title authorizes sales by on-

1 sale licensees to other retail licensees. The board must establish by
2 rule an obligation of on-sale spirits retailers to:

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

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

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

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

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

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

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

1 to be licensed, if such applicant is otherwise qualified and the
2 board determines that:

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

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

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

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

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

19 (ii) To other registered facilities; or

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

24 (e) For purposes of negotiating volume discounts, a group of
25 individual retailers authorized to sell spirits for consumption off
26 the licensed premises may accept delivery of spirits at their
27 individual licensed premises or at any one of the individual
28 licensee's premises, or at a warehouse facility registered with the
29 board.

30 (4)(a) Except as otherwise provided in RCW 66.24.632, or in (b)
31 of this subsection, each spirits retail licensee must pay to the
32 board, for deposit into the liquor revolving fund, a license issuance
33 fee equivalent to seventeen percent of all spirits sales revenues
34 under the license, exclusive of taxes collected by the licensee and
35 of sales of items on which a license fee payable under this section
36 has otherwise been incurred. The board must establish rules setting
37 forth the timing of such payments and reporting of sales dollar
38 volume by the licensee, with payments required quarterly in arrears.
39 The first payment is due October 1, 2012.

1 **(b) Those licensees who are either holders of former state liquor**
2 **store operating rights under RCW 66.24.620 or the owners of former**
3 **contract liquor stores, and are qualified as a small business under**
4 **RCW 19.85.020 and licensed under subsection (3)(c) of this section,**
5 **are subject to the following provisions regarding the payment of**
6 **license issuance fees under this subsection (4):**

7 **(i) Any qualified licensee who has incurred an accumulated net**
8 **loss of fifty thousand dollars or greater while operating as a**
9 **spirits retailer at any time from June 1, 2012, to December 31, 2015,**
10 **and provided the net loss greater than fifty thousand dollars would**
11 **have been avoided in whole or in part but for the payment of the**
12 **license issuance fees due under (a) of this subsection for this time**
13 **period, shall receive a one-time business loss fee credit in an**
14 **amount equal to the portion of the accumulated net loss greater than**
15 **fifty thousand dollars;**

16 **(ii) The business loss fee credit may not exceed fifty percent of**
17 **the license issuance fees owed by the licensee for the period of June**
18 **1, 2012, to December 31, 2015; and**

19 **(iii) The business loss fee credit may be applied only towards**
20 **future payments of the license issuance fee or in satisfaction of any**
21 **past license issuance fee obligations that remain unpaid by the**
22 **licensee.**

23 **(c) This subsection (4) does not apply to craft distilleries.**

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

32 **(6) As a condition to receiving and renewing a spirits retail**
33 **license the licensee must provide training as prescribed by the board**
34 **by rule for individuals who sell spirits or who manage others who**
35 **sell spirits regarding compliance with laws and regulations regarding**
36 **sale of spirits, including without limitation the prohibitions**
37 **against sale of spirits to individuals who are underage or visibly**
38 **intoxicated. The training must be provided before the individual**
39 **first engages in the sale of spirits and must be renewed at least**
40 **every five years. The licensee must maintain records documenting the**

1 nature and frequency of the training provided. An employee training
2 program is presumptively sufficient if it incorporates a "responsible
3 vendor program" promulgated by the board.

4 (7) The maximum penalties prescribed by the board in WAC
5 314-29-020 through 314-29-040 relating to fines and suspensions are
6 doubled for violations relating to the sale of spirits by spirits
7 retail licensees.

8 (8)(a) The board must promulgate regulations concerning the
9 adoption and administration of a compliance training program for
10 spirits retail licensees, to be known as a "responsible vendor
11 program," to reduce underage drinking, encourage licensees to adopt
12 specific best practices to prevent sales to minors, and provide
13 licensees with an incentive to give their employees ongoing training
14 in responsible alcohol sales and service.

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

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

21 (d) To participate in the responsible vendor program, licensees
22 must submit an application form to the board. If the application
23 establishes that the licensee meets the qualifications to join the
24 program, the board must send the licensee a membership certificate.

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

27 (i) Provide ongoing training to employees;

28 (ii) Accept only certain forms of identification for alcohol
29 sales;

30 (iii) Adopt policies on alcohol sales and checking
31 identification;

32 (iv) Post specific signs in the business; and

33 (v) Keep records verifying compliance with the program's
34 requirements.

35 NEW SECTION. **Sec. 2.** A new section is added to chapter 66.24
36 RCW to read as follows:

37 (1) There is a wine retailer reseller endorsement to a beer
38 and/or wine specialty shop license issued under RCW 66.24.371, to
39 sell wine at retail in original containers to retailers licensed to

1 sell wine for consumption on the premises, for resale at their
2 licensed premises according to the terms of the license. However, no
3 single sale may exceed twenty-four liters, unless the sale is made by
4 a licensee that was a contract liquor store manager of a contract-
5 operated liquor store at the location from which such sales are made.
6 For the purposes of this title, a beer and/or wine specialty shop
7 license is a retail license, and a sale by a beer and/or wine
8 specialty shop license with a reseller endorsement is a retail sale
9 only if not for resale. The annual fee for the wine retailer reseller
10 endorsement is one hundred ten dollars for each store.

11 (2) A beer and/or wine specialty shop licensee with a wine
12 retailer reseller endorsement issued under this section may accept
13 delivery of wine at its licensed premises or at one or more warehouse
14 facilities registered with the board, which facilities may also
15 warehouse and distribute nonliquor items, and from which it may
16 deliver to its own licensed premises and, pursuant to sales permitted
17 by this title, to other licensed premises, to other registered
18 facilities, or to lawful purchasers outside the state. Facilities may
19 be registered and utilized by associations, cooperatives, or
20 comparable groups of beer and/or wine specialty shop licensees.

21 **Sec. 3.** RCW 66.28.340 and 2012 c 2 s 123 are each amended to
22 read as follows:

23 (1) A retailer authorized to sell wine may accept delivery of
24 wine at its licensed premises or at one or more warehouse facilities
25 registered with the board, which facilities may also warehouse and
26 distribute nonliquor items, and from which it may deliver to its own
27 licensed premises and, pursuant to sales permitted by this title, to
28 other licensed retailers, to other registered facilities, or to
29 lawful purchasers outside the state; such facilities may be
30 registered and utilized by associations, cooperatives, or comparable
31 groups of retailers including at least one retailer licensed to sell
32 wine. A restaurant retailer authorized to sell spirits may accept
33 delivery of spirits at its licensed premises or at one or more
34 warehouse facilities registered with the board, which facilities may
35 also warehouse and distribute nonliquor items, from which it may
36 deliver to its own licensed premises and, pursuant to sales permitted
37 by this title, to other licensed retailers, to other registered
38 facilities, or to lawful purchasers outside the state; such
39 facilities may be registered and utilized by associations,

1 cooperatives, or comparable groups of retailers including at least
2 one restaurant retailer licensed to sell spirits. Nothing in this
3 section authorizes sales of spirits or wine by a retailer holding
4 only an on-sale privilege to another retailer.

5 (2) A retailer authorized to sell both wine and spirits for
6 consumption off the licensed premises may accept delivery of wine and
7 spirits at its licensed premises, at another licensed premises as
8 designated by the retailer, or at one or more warehouse facilities
9 registered with the board, which facilities may also warehouse and
10 distribute nonliquor items, and from which it may deliver to its own
11 licensed premises and, pursuant to sales permitted by this title, to
12 other licensed retailers, to other registered facilities, or to
13 lawful purchasers outside the state; such facilities may be
14 registered and utilized by associations, cooperatives, or comparable
15 groups of retailers including at least one retailer licensed to sell
16 both spirits and wine. For purposes of negotiating volume discounts,
17 a group of individual retailers authorized to sell both wine and
18 spirits for consumption off the licensed premises may accept delivery
19 of wine and spirits at their individual licensed premises or at any
20 one of the individual licensee's premises, or at a warehouse facility
21 registered with the board.

22 **Sec. 4.** RCW 66.28.330 and 2012 c 2 s 120 are each amended to
23 read as follows:

24 (1) No price for spirits sold in the state by a distributor
25 retailer, or other licensee acting as a distributor or retailer
26 pursuant to this title may be below acquisition cost unless the item
27 sold below acquisition cost has been stocked by the seller for a
28 period of at least six months. The seller may not restock the item
29 for a period of one year following the first effective date of such
30 below cost price. For the purposes of this section, "acquisition
31 cost" includes the spirits retailer license issuance fee under RCW
32 66.24.630(4).

33 (2) Spirits sold to retailers for resale for consumption on or
34 off the licensed premises may be delivered to the retailer's licensed
35 premises, to a location specified by the retailer and approved for
36 deliveries by the board, or to a carrier engaged by either party to
37 the transaction.

38 (3) In selling spirits to another retailer, to the extent
39 consistent with the purposes of chapter 2, Laws of 2012, a spirits

1 retail licensee must comply with all provisions of and regulations
2 under this title applicable to wholesale distributors selling spirits
3 to retailers.

4 (4) A distiller holding a license or certificate of compliance as
5 a distiller under this title may act as distributor in the state of
6 spirits of its own production or of foreign-produced spirits it is
7 entitled to import. The distiller must, to the extent consistent with
8 the purposes of chapter 2, Laws of 2012, comply with all provisions
9 of and regulations under this title applicable to wholesale
10 distributors selling spirits to retailers.

11 (5) With respect to any alleged violation of this title by sale
12 of spirits at a discounted price, all defenses under applicable trade
13 regulation laws are available, including without limitation good
14 faith meeting of a competitor's lawful price and absence of harm to
15 competition.

16 (6) Notwithstanding any other provision of law, no licensee may
17 import, purchase, distribute, or accept delivery of any wine that is
18 produced outside of the United States or any distilled spirits
19 without the written consent of the brand owner or its authorized
20 agent.

21 **Sec. 5.** RCW 66.28.170 and 2012 c 2 s 119 are each amended to
22 read as follows:

23 It is unlawful for a manufacturer of spirits, wine, or malt
24 beverages holding a certificate of approval or the manufacturer's
25 authorized representative or distributor, a distillery, brewery, or a
26 domestic winery to discriminate in price in selling to any purchaser
27 for resale in the state of Washington. Price differentials for sales
28 of spirits or wine based upon competitive conditions, costs of
29 servicing a purchaser's account, efficiencies in handling goods, or
30 other bona fide business factors, to the extent the differentials are
31 not unlawful under trade regulation laws applicable to goods of all
32 kinds, do not violate this section. In offering price or volume
33 discounts to purchasers for resale, any practice that favors or
34 discriminates against, directly or indirectly, one category of
35 purchasers over another category of purchasers based on the types of
36 purchases made or the type of license held by that category of
37 purchasers, is unlawful under this section.

1 **Sec. 6.** RCW 66.28.370 and 2015 c 186 s 2 are each amended to
2 read as follows:

3 If a licensee subject to the license issuance fee requirements of
4 RCW 66.24.630(4) fails to submit its quarterly reports or payment to
5 the board, the board may assess a penalty at a rate no higher than
6 one percent per month on the balance of the unpaid license issuance
7 fee. Any penalty imposed on a licensee for its failure to pay the
8 license issuance fee that accrued prior to July 31, 2015, shall be
9 waived, and all penalty payments made by licensees on the unpaid
10 license issuance fee accrued prior to July 31, 2015, shall be
11 credited towards any outstanding balance of the unpaid license
12 issuance fee or towards the future payments of its license issuance
13 fee.

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