
SUBSTITUTE SENATE BILL 5660

State of Washington

64th Legislature

2015 Regular Session

By Senate Commerce & Labor (originally sponsored by Senators Hobbs, Honeyford, and Angel)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to assisting small businesses licensed to sell
2 spirits in Washington state; amending RCW 66.24.630 and 66.28.330;
3 adding a new section to chapter 66.28 RCW; creating a new section;
4 providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that in the wake of
7 the implementation of Initiative Measure No. 1183, many small
8 business owners suffered severe losses in assuming the operation of
9 state-owned and contract liquor stores. Approximately one-third of
10 these small businesses have already failed, and many more are in
11 imminent danger of failure. These losses were due, in part, to
12 regulatory actions of the state and unintentional misrepresentations
13 of market conditions and the applicability of certain taxes and fees
14 on the business being sold or transferred to these private parties.
15 The state received over thirty million dollars from these small
16 business people, the majority of whom are minority business owners,
17 for the right to continue operations that were previously state-owned
18 and operated. It is the intent of the legislature to mitigate the
19 economic hardships facing these small businesses and create
20 opportunities for them to restructure their enterprises to meet
21 current market conditions.

1 **Sec. 2.** RCW 66.24.630 and 2012 2nd sp.s. c 6 s 401 are each
2 amended to read as follows:

3 (1) There is a spirits retail license to: Sell spirits in
4 original containers to consumers for consumption off the licensed
5 premises and to permit holders; sell spirits in original containers
6 to retailers licensed to sell spirits for consumption on the
7 premises, for resale at their licensed premises according to the
8 terms of their licenses, although no single sale may exceed twenty-
9 four liters, unless the sale is by a licensee that was a contract
10 liquor store manager of a contract liquor store at the location of
11 its spirits retail licensed premises from which it makes such sales;
12 and export spirits.

13 (2) For the purposes of this title, a spirits retail license is a
14 retail license, and a sale by a spirits retailer is a retail sale
15 only if not for resale. Nothing in this title authorizes sales by on-
16 sale licensees to other retail licensees. The board must establish by
17 rule an obligation of on-sale spirits retailers to:

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

21 (b) Provide, not more frequently than quarterly, a report for
22 each scheduled item containing the identity of the purchasing on-
23 premises ~~((on-premises))~~ licensee and the quantities of that
24 scheduled item purchased since any preceding report to:

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

27 (ii) A distiller acting as distributor of the scheduled item in
28 the area.

29 (3)(a) Except as otherwise provided in (c) of this subsection,
30 the board may issue spirits retail licenses only for premises
31 comprising at least ten thousand square feet of fully enclosed retail
32 space within a single structure, including storerooms and other
33 interior auxiliary areas but excluding covered or fenced exterior
34 areas, whether or not attached to the structure, and only to
35 applicants that the board determines will maintain systems for
36 inventory management, employee training, employee supervision, and
37 physical security of the product substantially as effective as those
38 of stores currently operated by the board with respect to preventing
39 sales to or pilferage by underage or inebriated persons.

1 (b) License issuances and renewals are subject to RCW 66.24.010
2 and the regulations promulgated thereunder, including without
3 limitation rights of cities, towns, county legislative authorities,
4 the public, churches, schools, and public institutions to object to
5 or prevent issuance of local liquor licenses. However, existing
6 grocery premises licensed to sell beer and/or wine are deemed to be
7 premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of
8 processing applications for spirits retail licenses.

9 (c) The board may not deny a spirits retail license to an
10 otherwise qualified contract liquor store at its contract location or
11 to the holder of former state liquor store operating rights sold at
12 auction under RCW 66.24.620 on the grounds of location, nature, or
13 size of the premises to be licensed. The board may not deny a spirits
14 retail license to applicants that are not contract liquor stores or
15 operating rights holders on the grounds of the size of the premises
16 to be licensed, if such applicant is otherwise qualified and the
17 board determines that:

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

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

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

24 (d) A retailer authorized to sell spirits for consumption on or
25 off the licensed premises may accept delivery of spirits at its
26 licensed premises or at one or more warehouse facilities registered
27 with the board, which facilities may also warehouse and distribute
28 nonliquor items, and from which the retailer may deliver to its own
29 licensed premises and, pursuant to sales permitted under subsection
30 (1) of this section:

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

33 (ii) To other registered facilities; or

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

38 (e) A group of individual retailers authorized to sell spirits
39 for consumption off the licensed premises may accept delivery of
40 spirits intended for multiple licensees at the licensed premises of

1 any one of the individual licensees, or at a warehouse facility
2 registered with the board.

3 (4)(a) Except as otherwise provided in RCW 66.24.632, or in (b)
4 or (c) of this subsection, each spirits retail licensee must pay to
5 the board, for deposit into the liquor revolving fund, a license
6 issuance fee equivalent to seventeen percent of all spirits sales
7 revenues under the license, exclusive of taxes collected by the
8 licensee and of sales of items on which a license fee payable under
9 this section has otherwise been incurred. The board must establish
10 rules setting forth the timing of such payments and reporting of
11 sales dollar volume by the licensee, with payments required quarterly
12 in arrears. The first payment is due October 1, 2012.

13 (b) From July 1, 2015, through December 31, 2017, those licensees
14 who are either holders of former state liquor store operating rights
15 under RCW 66.24.620, or the owners of former contract liquor stores,
16 who are qualified as a small business under RCW 19.85.020 and are
17 licensed under subsection (3)(c) of this section, are subject to the
18 following requirements regarding the payment of license issuance
19 fees:

20 (i) Licensees with monthly gross receipts of three hundred
21 thousand dollars or less must pay a license issuance fee of seven
22 percent on the first fifty thousand dollars of its monthly retail
23 spirits sales revenues and must pay seventeen percent on the
24 remainder of its monthly retail spirits sales revenues; and

25 (ii) Licensees with monthly gross receipts of more than three
26 hundred thousand dollars must pay a license issuance fee of seventeen
27 percent on the full amount of its monthly retail spirits sales
28 revenues.

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

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

38 (6) As a condition to receiving and renewing a (~~retail~~) spirits
39 retail license the licensee must provide training as prescribed by
40 the board by rule for individuals who sell spirits or who manage

1 others who sell spirits regarding compliance with laws and
2 regulations regarding sale of spirits, including without limitation
3 the prohibitions against sale of spirits to individuals who are
4 underage or visibly intoxicated. The training must be provided before
5 the individual first engages in the sale of spirits and must be
6 renewed at least every five years. The licensee must maintain records
7 documenting the nature and frequency of the training provided. An
8 employee training program is presumptively sufficient if it
9 incorporates a "responsible vendor program" promulgated by the board.

10 (7) The maximum penalties prescribed by the board in WAC
11 314-29-020 through 314-29-040 relating to fines and suspensions are
12 doubled for violations relating to the sale of spirits by (~~retail~~)
13 spirits retail licensees.

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

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

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

27 (d) To participate in the responsible vendor program, licensees
28 must submit an application form to the board. If the application
29 establishes that the licensee meets the qualifications to join the
30 program, the board must send the licensee a membership certificate.

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

33 (i) Provide ongoing training to employees;

34 (ii) Accept only certain forms of identification for alcohol
35 sales;

36 (iii) Adopt policies on alcohol sales and checking
37 identification;

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

39 (v) Keep records verifying compliance with the program's
40 requirements.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 66.28
2 RCW to read as follows:

3 (1) If a licensee subject to the license issuance fee
4 requirements of RCW 66.24.630(4) fails to submit its quarterly
5 reports or payment to the board, the board may assess a penalty at a
6 rate no higher than one-half percent per month on the balance of the
7 unpaid license issuance fee.

8 (2) Any penalty imposed on a licensee for its failure to pay the
9 license issuance fee that accrued prior to the effective date of this
10 section shall be waived, and all penalty payments made by licensees
11 prior to the effective date of this section, if any, must be credited
12 towards any outstanding balance of unpaid license issuance fee or
13 towards the future payments of its license issuance fee.

14 (3) A holder of the right to operate a former contract liquor
15 store or former state liquor store who has any outstanding balance of
16 unpaid license issuance fee accrued prior to the effective date of
17 this section shall not be denied the ability to reopen its closed
18 store, to relocate its store to a new location, or to lease its right
19 to a new licensee during the twenty-four months following the
20 effective date of this section, for reason of nonpayment of the
21 license issuance fee. The right holder's failure to pay the license
22 issuance fee until after said twenty-four months will be a sufficient
23 ground for suspending or revoking its license or any third party's
24 license then associated with the holder's operating right.

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

27 (1) No price for spirits or wines sold in the state by a
28 distributor, retailer, or other licensee acting as a distributor or
29 retailer pursuant to this title may be below the seller's acquisition
30 cost plus any license issuance fee imposed on the licensee by
31 operation of law on the selling price of the sale of spirits unless
32 the item sold below acquisition cost has been stocked by the seller
33 for a period of at least six months. The seller may not restock the
34 item for a period of one year following the first effective date of
35 such below cost price.

36 (2) Spirits sold to retailers for resale for consumption on or
37 off the licensed premises may be delivered to the retailer's licensed
38 premises, to a location specified by the retailer and approved for

1 deliveries by the board, or to a carrier engaged by either party to
2 the transaction.

3 (3) In selling spirits to another retailer, to the extent
4 consistent with the purposes of chapter 2, Laws of 2012, a spirits
5 retail licensee must comply with all provisions of and regulations
6 under this title applicable to wholesale distributors selling spirits
7 to retailers.

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

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

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

25 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of
27 the state government and its existing public institutions, and takes
28 effect July 1, 2015.

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