

SENATE BILL REPORT

SB 5537

As Reported by Senate Committee On:
Commerce, Labor & Sports, February 15, 2017

Title: An act relating to authorizing licensed spirits and wine distributors to sell spirits and wine products to their employees in certain circumstances.

Brief Description: Authorizing licensed spirits and wine distributors to sell spirits and wine products to their employees in certain circumstances.

Sponsors: Senators King and Keiser.

Brief History:

Committee Activity: Commerce, Labor & Sports: 2/13/17, 2/15/17 [DPS, w/oRec].

Brief Summary of Substitute Bill

- Authorizes licensed spirits distributors to sell spirits, and licensed wine distributors to sell wine, that cannot reasonably be sold in the normal course of business, directly to their full-time employees, subject to restrictions.
- Requires that all sales to employees are subject to the same taxes that a consumer would pay at a retail sale.

SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

Majority Report: That Substitute Senate Bill No. 5537 be substituted therefor, and the substitute bill do pass.

Signed by Senators Baumgartner, Chair; Braun, Vice Chair; Keiser, Ranking Minority Member; Conway, Hasegawa, King, Rossi and Wilson.

Minority Report: That it be referred without recommendation.

Signed by Senator Saldaña.

Staff: Richard Rodger (786-7461)

Background: Licensed Spirits Distributors. Licensed spirits retailers may sell spirits purchased from a variety of sources to spirits retailers that sell spirits for both on-premises

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and off-premises consumption. Spirits distributors must pay to the Liquor and Cannabis Board a spirits distributor license issuance fee of 5 percent, which is deposited into the Liquor Revolving Fund. Spirits sales to on-premises licensees are subject to a 13.7 percent sales tax and a per liter tax of \$2.4408. Spirits sales to consumers also include a liquor sales tax of 20.5 percent and a per liter tax of \$3.77.

Licensed Wine Distributors. Licensed wine distributors may sell wine purchased from a variety of sources to licensed wine retailers and other wine distributors. Although generally wholesale sales of wine are subject to a liter tax based on the gross proceeds of the sale, sales of beverages solely for immediate consumption at the seller's place of business are exempt from the liter tax. Retail sales of wine to consumers also include the applicable sales tax.

Summary of Bill (First Substitute): Licensed Spirits Distributors. Licensed spirits distributors may sell spirits directly to full-time employees of the spirits distributor if the spirits cannot reasonably be sold in the normal course of business, such as because of damage to the label on individual bottles, and are subject to the following requirements:

- the spirits may not be sold for less than the licensed spirits distributor's cost of acquisition;
- the sale is subject to the same taxes that a consumer would pay at a retail sale;
- the spirits may be sold only to a person who has been employed by the spirits distributor for 90 or more days and who is 21 years of age or older; and
- the person purchasing the spirits must use the spirits for personal use and may not sell any of the purchased spirits by the drink or otherwise to a third person.

Licensed Wine Distributors. Licensed wine distributors may sell wine directly to full-time employees of the wine distributor if the wine cannot reasonably be sold in the normal course of business, such as because of damage to the label on individual bottles, and are subject to the following requirements:

- the wine may not be sold for less than wine distributor's cost of acquisition;
- the sale is subject to the same taxes that a consumer would pay at a retail sale;
- the wine may be sold only to a person who has been employed by the wine distributor for 90 or more days and who is 21 years of age or older; and
- the person purchasing the wine must use the wine for personal use and may not sell any of the purchased wine by the glass or otherwise to a third person.

EFFECT OF CHANGES MADE BY COMMERCE, LABOR & SPORTS COMMITTEE (First Substitute):

- Requires that all sales to employees are subject to the same taxes that a consumer would pay at a retail sale.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill will help distributors to sell products that they would otherwise have to discard. I support the amendment that ensures all the products sold would be subject to all the taxes that are paid by retail consumers. This helps distributors recover their costs when one bottle breaks in a case and ruins the labels on the eleven other bottles. The bill has safeguards to ensure the alcohol is sold for only personal consumption. The restrictions in the bill assure that the three tiers of the industry are protected from degradation. Oregon has a similar law, but it allows for the sale of damaged products to the public, not to the employees as provided in this bill. We are just trying to recoup our money on these damaged products.

CON: Our view is that the bill weakens the protections that keep the three tiers of the industry separate. It allows the distributor to act as a retailer. No matter how small the impact of this bill is, we must protect the separation between the producers, distributors, and retailers.

Persons Testifying: PRO: Senator Curtis King, Prime Sponsor; Joe Daniels, Young's Market Company; Vicki Christophersen, Association of Washington Spirits and Wine Distributors.

CON: Scott Hazlegrove, WA Beer & Wine Distributors Association.

Persons Signed In To Testify But Not Testifying: No one.