

SHB 1557 - H AMD 56

By Representative MacEwen

ADOPTED 03/11/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 66.24.010 and 2012 c 39 s 4 are each amended to
4 read as follows:

5 (1) Every license must be issued in the name of the applicant,
6 and the holder thereof may not allow any other person to use the
7 license.

8 (2) For the purpose of considering any application for a license,
9 or the renewal of a license, the board may cause an inspection of the
10 premises to be made, and may inquire into all matters in connection
11 with the construction and operation of the premises. For the purpose
12 of reviewing any application for a license and for considering the
13 denial, suspension, revocation, or renewal or denial thereof, of any
14 license, the (~~liquor control~~) board may consider any prior criminal
15 conduct of the applicant including an administrative violation
16 history record with the board and a criminal history record
17 information check. The board may submit the criminal history record
18 information check to the Washington state patrol and to the
19 identification division of the federal bureau of investigation in
20 order that these agencies may search their records for prior arrests
21 and convictions of the individual or individuals who filled out the
22 forms. The board must require fingerprinting of any applicant whose
23 criminal history record information check is submitted to the federal
24 bureau of investigation. The provisions of RCW 9.95.240 and of
25 chapter 9.96A RCW do not apply to such cases. Subject to the
26 provisions of this section, the board may, in its discretion, grant
27 or deny the renewal or license applied for. Denial may be based on,
28 without limitation, the existence of chronic illegal activity
29 documented in objections submitted pursuant to subsections (8)(d) and
30 (12) of this section. Authority to approve an uncontested or
31 unopposed license may be granted by the board to any staff member the
32 board designates in writing. Conditions for granting such authority

1 must be adopted by rule. No retail license of any kind may be issued
2 to:

3 (a) A person doing business as a sole proprietor who has not
4 resided in the state for at least one month prior to receiving a
5 license, except in cases of licenses issued to dining places on
6 railroads, boats, or aircraft;

7 (b) A copartnership, unless all of the members thereof are
8 qualified to obtain a license, as provided in this section;

9 (c) A person whose place of business is conducted by a manager or
10 agent, unless such manager or agent possesses the same qualifications
11 required of the licensee;

12 (d) A corporation or a limited liability company, unless it was
13 created under the laws of the state of Washington or holds a
14 certificate of authority to transact business in the state of
15 Washington.

16 (3)(a) The board may, in its discretion, subject to the
17 provisions of RCW 66.08.150, suspend or cancel any license; and all
18 rights of the licensee to keep or sell liquor thereunder must be
19 suspended or terminated, as the case may be.

20 (b) The board must immediately suspend the license or certificate
21 of a person who has been certified pursuant to RCW 74.20A.320 by the
22 department of social and health services as a person who is not in
23 compliance with a support order. If the person has continued to meet
24 all other requirements for reinstatement during the suspension,
25 reissuance of the license or certificate is automatic upon the
26 board's receipt of a release issued by the department of social and
27 health services stating that the licensee is in compliance with the
28 order.

29 (c) Upon written notification by the department of revenue in
30 accordance with RCW 82.08.155 that a person is more than thirty days
31 delinquent in reporting or remitting spirits taxes to the department,
32 the board must suspend all spirits licenses held by that person. The
33 board must also refuse to renew any existing spirits license of, or
34 issue any new spirits license to, the person or any other applicant
35 controlled directly or indirectly by that person. The board may not
36 reinstate a person's spirits license or renew or issue a new spirits
37 license to that person, or an applicant controlled directly or
38 indirectly by that person, until such time as the department of
39 revenue notifies the board that the person is current in reporting
40 and remitting spirits taxes or that the department consents to the

1 reinstatement or renewal of the person's spirits license or the
2 issuance of a new spirits license to the person. For purposes of this
3 section: (i) "Spirits license" means any license issued by the board
4 under the authority of this chapter that authorizes the licensee to
5 sell spirits; and (ii) "spirits taxes" has the same meaning as in RCW
6 82.08.155.

7 (d) The board may request the appointment of administrative law
8 judges under chapter 34.12 RCW who must have power to administer
9 oaths, issue subpoenas for the attendance of witnesses and the
10 production of papers, books, accounts, documents, and testimony,
11 examine witnesses, and to receive testimony in any inquiry,
12 investigation, hearing, or proceeding in any part of the state, under
13 such rules and regulations as the board may adopt.

14 (e) Witnesses are allowed fees and mileage each way to and from
15 any such inquiry, investigation, hearing, or proceeding at the rate
16 authorized by RCW 34.05.446. Fees need not be paid in advance of
17 appearance of witnesses to testify or to produce books, records, or
18 other legal evidence.

19 (f) In case of disobedience of any person to comply with the
20 order of the board or a subpoena issued by the board, or any of its
21 members, or administrative law judges, or on the refusal of a witness
22 to testify to any matter regarding which he or she may be lawfully
23 interrogated, the judge of the superior court of the county in which
24 the person resides, on application of any member of the board or
25 administrative law judge, must compel obedience by contempt
26 proceedings, as in the case of disobedience of the requirements of a
27 subpoena issued from said court or a refusal to testify therein.

28 (4) Upon receipt of notice of the suspension or cancellation of a
29 license, the licensee must forthwith deliver up the license to the
30 board. Where the license has been suspended only, the board must
31 return the license to the licensee at the expiration or termination
32 of the period of suspension. The board must notify all vendors in the
33 city or place where the licensee has its premises of the suspension
34 or cancellation of the license; and no employee may allow or cause
35 any liquor to be delivered to or for any person at the premises of
36 that licensee.

37 (5) (a) (~~(At the time of)~~) For the original issuance of a
38 (~~(spirits, beer, and wine restaurant)~~) liquor license, including the
39 approval of a conditional license as provided in (b) of this
40 subsection, the board must (~~(prorate the license fee charged to the~~

1 ~~new licensee according to the number of calendar quarters, or portion~~
2 ~~thereof, remaining until the first renewal of that license is~~
3 ~~required.~~

4 ~~(b) Unless sooner canceled, every license issued by the board~~
5 ~~must expire at midnight of the thirtieth day of June of the fiscal~~
6 ~~year for which it was issued. However, if the board deems it feasible~~
7 ~~and desirable to do so, it may establish, by rule pursuant to chapter~~
8 ~~34.05 RCW, a system for staggering the annual renewal dates for any~~
9 ~~and all licenses authorized by this chapter. If such a system of~~
10 ~~staggered annual renewal dates is established by the board, the~~
11 ~~license fees provided by this chapter must be appropriately prorated~~
12 ~~during the first year that the system is in effect.)) set the~~
13 ~~expiration date of the license to the last day of the calendar month~~
14 ~~that is twelve months from the calendar month in which final approval~~
15 ~~of the license is granted. Upon renewal, the expiration date of the~~
16 ~~license, including licenses approved under (b) of this subsection,~~
17 ~~may subsequently be prorated as necessary in accordance with chapter~~
18 ~~19.02 RCW.~~

19 (b) (i) When an applicant for a liquor license is qualified for
20 approval of the license in every way except having executed a lease
21 or purchase agreement for the proposed licensed premises, the board
22 must grant conditional approval to the applicant.

23 (ii) Upon notification to the board of execution of the lease or
24 purchase agreement putting the applicant in control of the premises,
25 the board must immediately grant final approval of the license
26 issuance, and the licensee may immediately begin exercising all
27 privileges provided under the license, except as otherwise provided
28 under this title.

29 (iii) For the purposes of this title, the term "license" includes
30 "conditional license."

31 (6) Every license issued under this section is subject to all
32 conditions and restrictions imposed by this title or by rules adopted
33 by the board. All conditions and restrictions imposed by the board in
34 the issuance of an individual license may be listed on the face of
35 the individual license along with the trade name, address, and
36 expiration date. Conditions and restrictions imposed by the board may
37 also be included in official correspondence separate from the
38 license. All spirits licenses are subject to the condition that the
39 spirits license holder must report and remit to the department of
40 revenue all spirits taxes by the date due.

1 (7) Every licensee must post and keep posted its license, or
2 licenses, and any additional correspondence containing conditions and
3 restrictions imposed by the board in a conspicuous place on the
4 premises.

5 (8) (a) Unless (b) of this subsection applies, before the board
6 issues a new or renewal license to an applicant it must give notice
7 of such application to the chief executive officer of the
8 incorporated city or town, if the application is for a license within
9 an incorporated city or town, or to the county legislative authority,
10 if the application is for a license outside the boundaries of
11 incorporated cities or towns.

12 (b) If the application for a special occasion license is for an
13 event held during a county, district, or area fair as defined by RCW
14 15.76.120, and the county, district, or area fair is located on
15 property owned by the county but located within an incorporated city
16 or town, the county legislative authority must be the entity notified
17 by the board under (a) of this subsection. The board must send a
18 duplicate notice to the incorporated city or town within which the
19 fair is located.

20 (c) The incorporated city or town through the official or
21 employee selected by it, or the county legislative authority or the
22 official or employee selected by it, has the right to file with the
23 board within twenty days after the date of transmittal of such notice
24 for applications, or at least thirty days prior to the expiration
25 date for renewals, written objections against the applicant or
26 against the premises for which the new or renewal license is asked.
27 The board may extend the time period for submitting written
28 objections.

29 (d) The written objections must include a statement of all facts
30 upon which such objections are based, and in case written objections
31 are filed, the city or town or county legislative authority may
32 request and the ((~~liquor control~~)) board may in its discretion hold a
33 hearing subject to the applicable provisions of Title 34 RCW. If the
34 board makes an initial decision to deny a license or renewal based on
35 the written objections of an incorporated city or town or county
36 legislative authority, the applicant may request a hearing subject to
37 the applicable provisions of Title 34 RCW. If such a hearing is held
38 at the request of the applicant, ((~~liquor control~~)) board
39 representatives must present and defend the board's initial decision
40 to deny a license or renewal.

1 (e) Upon the granting of a license under this title the board
2 must send written notification to the chief executive officer of the
3 incorporated city or town in which the license is granted, or to the
4 county legislative authority if the license is granted outside the
5 boundaries of incorporated cities or towns. When the license is for a
6 special occasion license for an event held during a county, district,
7 or area fair as defined by RCW 15.76.120, and the county, district,
8 or area fair is located on county-owned property but located within
9 an incorporated city or town, the written notification must be sent
10 to both the incorporated city or town and the county legislative
11 authority.

12 (9)(a) Before the board issues any license to any applicant, it
13 shall give (i) due consideration to the location of the business to
14 be conducted under such license with respect to the proximity of
15 churches, schools, and public institutions and (ii) written notice,
16 with receipt verification, of the application to public institutions
17 identified by the board as appropriate to receive such notice,
18 churches, and schools within five hundred feet of the premises to be
19 licensed. The board may not issue a liquor license for either on-
20 premises or off-premises consumption covering any premises not now
21 licensed, if such premises are within five hundred feet of the
22 premises of any tax-supported public elementary or secondary school
23 measured along the most direct route over or across established
24 public walks, streets, or other public passageway from the main
25 entrance of the school to the nearest public entrance of the premises
26 proposed for license, and if, after receipt by the school of the
27 notice as provided in this subsection, the board receives written
28 objection, within twenty days after receiving such notice, from an
29 official representative or representatives of the school within five
30 hundred feet of said proposed licensed premises, indicating to the
31 board that there is an objection to the issuance of such license
32 because of proximity to a school. The board may extend the time
33 period for submitting objections. For the purpose of this section,
34 "church" means a building erected for and used exclusively for
35 religious worship and schooling or other activity in connection
36 therewith. For the purpose of this section, "public institution"
37 means institutions of higher education, parks, community centers,
38 libraries, and transit centers.

39 (b) No liquor license may be issued or reissued by the board to
40 any motor sports facility or licensee operating within the motor

1 sports facility unless the motor sports facility enforces a program
2 reasonably calculated to prevent alcohol or alcoholic beverages not
3 purchased within the facility from entering the facility and such
4 program is approved by local law enforcement agencies.

5 (c) It is the intent under this subsection (9) that a retail
6 license may not be issued by the board where doing so would, in the
7 judgment of the board, adversely affect a private school meeting the
8 requirements for private schools under Title 28A RCW, which school is
9 within five hundred feet of the proposed licensee. The board must
10 fully consider and give substantial weight to objections filed by
11 private schools. If a license is issued despite the proximity of a
12 private school, the board must state in a letter addressed to the
13 private school the board's reasons for issuing the license.

14 (10) The restrictions set forth in subsection (9) of this section
15 do not prohibit the board from authorizing the assumption of existing
16 licenses now located within the restricted area by other persons or
17 licenses or relocations of existing licensed premises within the
18 restricted area. In no case may the licensed premises be moved closer
19 to a church or school than it was before the assumption or
20 relocation.

21 (11)(a) Nothing in this section prohibits the board, in its
22 discretion, from issuing a temporary retail or distributor license to
23 an applicant to operate the retail or distributor premises during the
24 period the application for the license is pending. The board may
25 establish a fee for a temporary license by rule.

26 (b) A temporary license issued by the board under this section
27 must be for a period not to exceed sixty days. A temporary license
28 may be extended at the discretion of the board for additional periods
29 of sixty days upon payment of an additional fee and upon compliance
30 with all conditions required in this section.

31 (c) Refusal by the board to issue or extend a temporary license
32 shall not entitle the applicant to request a hearing. A temporary
33 license may be canceled or suspended summarily at any time if the
34 board determines that good cause for cancellation or suspension
35 exists. RCW 66.08.130 applies to temporary licenses.

36 (d) Application for a temporary license must be on such form as
37 the board shall prescribe. If an application for a temporary license
38 is withdrawn before issuance or is refused by the board, the fee
39 which accompanied such application must be refunded in full.

1 (12) In determining whether to grant or deny a license or renewal
2 of any license, the board must give substantial weight to objections
3 from an incorporated city or town or county legislative authority
4 based upon chronic illegal activity associated with the applicant's
5 operations of the premises proposed to be licensed or the applicant's
6 operation of any other licensed premises, or the conduct of the
7 applicant's patrons inside or outside the licensed premises. "Chronic
8 illegal activity" means (a) a pervasive pattern of activity that
9 threatens the public health, safety, and welfare of the city, town,
10 or county including, but not limited to, open container violations,
11 assaults, disturbances, disorderly conduct, or other criminal law
12 violations, or as documented in crime statistics, police reports,
13 emergency medical response data, calls for service, field data, or
14 similar records of a law enforcement agency for the city, town,
15 county, or any other municipal corporation or any state agency; or
16 (b) an unreasonably high number of citations for violations of RCW
17 46.61.502 associated with the applicant's or licensee's operation of
18 any licensed premises as indicated by the reported statements given
19 to law enforcement upon arrest.

20 NEW SECTION. **Sec. 2.** This act takes effect January 1, 2020."

21 Correct the title.

EFFECT: Strikes all of the changes to the liquor licensing process in the substitute bill. Provides that for the original issuance of a liquor license, the Liquor and Cannabis Board (LCB) must set the expiration date of the license to the last day of the calendar month that is 12 months from the calendar month in which final approval of the license is granted. Upon renewal, the expiration date may subsequently be prorated in accordance with the Business Licensing Service Act.

Removes provisions from current law that make liquor licenses expire at midnight of June 30th of the fiscal year for which the license was issued, provisions that require prorating of a spirits, beer, and wine restaurant liquor license, and provisions that grant the LCB discretion to establish a staggered system of annual liquor license renewals.

Provides that when an applicant for a liquor license is qualified for license approval in every way except having executed a lease or purchase agreement for the proposed licensed premises, the LCB must grant conditional approval to the applicant. Final license approval must be granted upon notification to the LCB of the execution of the lease or purchase agreement putting the applicant in control of the premises.

Adds a January 1, 2020, effective date to the bill.

--- **END** ---