

HOUSE BILL REPORT

HB 1416

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to liquor licensees' promotion of retailers' events, including licensed events and other events and activities at retail locations.

Brief Description: Concerning liquor licensees' promotion of retailers' events, including licensed events and other events and activities at retail locations.

Sponsors: Representatives Stanford, Jenkin, Fey, Vick, Stonier and Eslick.

Brief History:

Committee Activity:

Commerce & Gaming: 1/29/19, 2/4/19 [DPS].

Brief Summary of Substitute Bill

- Provides that the "moneys' worth" prohibition in the liquor industry tied-house laws does not prohibit liquor manufacturers, distributors, or their licensed representatives from posting and sharing on websites and social media accounts, promotional information and images, related to certain events at on-premises liquor retailers' premises or licensed special occasion events.
- Requires events to feature a product of the manufacturer's own production or a product sold by the distributor, to qualify for the authorization.
- Specifies that the promotional information posted and shared may include links to purchase event tickets.
- Specifies there is no obligation on liquor manufacturers, distributors, or their licensed representatives to post or share information, and retailers may not require the posting or sharing of information related to retailer events.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Stanford, Chair; Reeves, Vice Chair; MacEwen, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Blake, Dufault, Kirby, Kloba, Vick and Young.

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.

Staff: Peter Clodfelter (786-7127).

Background:

Built into the post-prohibition legal framework regulating liquor manufacturing, distribution, and sales is a separation between the three tiers of the liquor industry: (1) manufacturing; (2) distributing; and (3) retailing. Liquor licensees in the manufacturing and distributing tiers of the industry, and their authorized representatives, are defined as "industry members" for certain purposes in liquor statutes. The full definition of "industry member" is a licensed manufacturer, producer, supplier, importer, wholesaler, distributor, authorized representative, certificate of approval holder, warehouse, and any affiliates, subsidiaries, officers, directors, partners, agents, employees, and representatives of any industry member.

There are two primary prohibitions that provide the separation between the tiers of the industry. First, generally industry members are prohibited from having financial interests in another industry member or a business within the retail tier of the industry, and vice versa. Secondly, industry members are prohibited from providing "money or moneys' worth," under any type of business practice or arrangement, to a business in the retail tier of the industry. Retailers are similarly prohibited from receiving money or moneys' worth from industry members.

In addition to these two general prohibitions, there are numerous specific exceptions authorizing various business practices that may otherwise be prohibited. Examples of exceptions to the moneys' worth prohibition include, among others, the following authorizations:

- for industry members to provide branded promotional items of nominal value to retailers, such as lighters, coasters, glasses, shirts, hats, and similar items, when used exclusively by the retailer or its employees and subject to other restrictions;
- for industry members to perform, and retailers to receive, services of building, rotating, and restocking displays and stock room inventories, as well as rotating and rearranging can and bottle displays of their own products and providing point of sale material and brand signs;
- for special occasion licensees to pay for beer, wine, or spirits immediately following the end of the event; and
- for industry members to list on their websites information related to retailers who sell or promote their products, including direct links to the retailers' websites.

One type of retail liquor license available is a special occasion license, which is available to nonprofit organizations or societies to hold events lasting a day or several days at which beer, wine, or spirits may be sold to adults age 21 and over for on-premises consumption, and which may include booths at which different manufacturers' liquor products may be purchased, consumed, and learned about. With approval from the Liquor and Cannabis Board, a special occasion licensee may also sell spirits, beer, and wine in original, unopened containers for off-premises consumption.

Summary of Substitute Bill:

It is provided that the "moneys' worth" prohibition of the liquor industry tied-house laws does not prohibits manufacturers, distributors, or their licensed representatives from using websites or social media accounts in their name to post, repost, or share promotional information or images about events featuring a product of the manufacturer's own production or a product sold by the distributor, held at an on-premises licensed liquor retailer's location or a licensed special occasion event. The promotional information may include links to purchase event tickets. Manufacturers, distributors, or their licensed representatives may not pay a third party to enhance viewership of a specific post. Industry members, or their licensed representatives, are not obligated to post, repost, or share information or images on a website or on social media. A licensed liquor retailer may not require an industry member or their licensed representative to post, repost, or share information or images on a website or on social media as a condition for selling any alcohol to the retailer or participating in a retailer's event.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- provides that websites and social media accounts must be in the industry member's name to fall under the new authorization, rather than being owned by the industry member;
- specifies that the information that may be posted, reposted, and shared is promotional information;
- specifies that the industry members who may post, repost, and share promotional information and images related to retailers' events are manufacturers, distributors, and their licensed representatives;
- narrows the events for which manufacturers, distributors, and their licensed representatives may post, repost, and share promotional information and images to events featuring a product of the manufacturer's own production or a product sold by the distributor, and that are held at an on-premises liquor retailer's location or at a licensed special occasion event;
- prohibits manufacturers, distributors, and their licensed representatives from paying a third party to enhance viewership of a specific post; and
- prohibits licensed liquor retailers from requiring an industry member or their licensed representative to post, repost, or share information or images on a website or on social media as a condition for selling any alcohol to the retailer.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The state should continually update laws and adapt to technological change, especially with the growth of social media. This bill does not change the prohibition on liquor industry members paying liquor retailers for advertising, it just allows industry members to make web posts and say they will be at an event, which is reasonable. The Liquor and Cannabis Board (LCB) supports the bill and recognizes that when liquor laws were enacted, we did not envision the way that people would communicate in the future. Current law limits the alcohol industry regarding what businesses can post and share on social media and this has resulted in confusion, violations, and warnings. This is a common sense update, which could reduce confusion in the law and lead to a slight reduction in workload for the LCB's licensing staff. The hospitality industry, breweries, and wineries all support the bill. Many businesses host these types of events and want to ensure customers who are interested have a way to learn about the events and manufacturers' products. For wineries, these types of events are a prime way for wineries to directly engage with customers and educate customers about wineries' products. This bill is a practical update, and in line with other nominal services that breweries and other industry members may provide for retailers. Stakeholders have possible amendment language to narrow the focus of the types of retail events, to include only on-premises licensed retailer events and special occasion licensed events. Allowing posts to include links to event tickets will also help charities raise money.

(Opposed) None.

Persons Testifying: Representative Stanford, prime sponsor; Chris Thompson, Liquor and Cannabis Board; Zachary Lindahl, Washington Hospitality Industry; Annie McGrath, Washington Brewers Guild; and Josh McDonald, Washington Wine Institute.

Persons Signed In To Testify But Not Testifying: None.