

HOUSE BILL REPORT

ESHB 1557

As Passed House:
March 11, 2019

Title: An act relating to updating the liquor licensing process for annual licenses to address issues typically occurring between the time an applicant submits an application through the first renewal.

Brief Description: Concerning liquor licenses.

Sponsors: House Committee on Commerce & Gaming (originally sponsored by Representatives MacEwen and Stanford).

Brief History:

Committee Activity:

Commerce & Gaming: 2/4/19, 2/5/19 [DPS];
Appropriations: 2/20/19, 2/25/19 [DPS(COG)].

Floor Activity:

Passed House: 3/11/19, 98-0.

Brief Summary of Engrossed Substitute Bill

- Modifies the liquor licensing process for annual liquor licenses.
- 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.
- Eliminates existing provisions that currently: (1) make liquor licenses expire on June 30 of the fiscal year of license issuance; (2) require prorating of license fees for spirits, beer, and wine restaurant licensees during their first license year; and (3) grant the LCB discretion to prorate other liquor license fees through rule.
- Establishes a conditional license approval process for liquor license applicants who are otherwise qualified but the premises proposed to be licensed remains subject to a pending lease or purchase agreement.

HOUSE COMMITTEE ON COMMERCE & GAMING

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.

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; Dufault, Kirby, Kloba, Morgan, Vick and Young.

Staff: Peter Clodfelter (786-7127).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Commerce & Gaming be substituted therefor and the substitute bill do pass. Signed by 33 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger, Volz and Ybarra.

Staff: Linda Merelle (786-7092).

Background:

The Liquor and Cannabis Board (LCB) issues various liquor licenses to qualified applicants wishing to engage in the manufacture, distribution, or retail sale of liquor in Washington state. Unless cancelled sooner, every liquor license issued by the LCB expires at midnight of June 30 of the fiscal year for which the license was issued.

The LCB may, if the LCB deems it feasible and desirable to do so, establish by rule a system for staggering the annual renewal dates for any and all liquor licenses. If the LCB establishes such a staggered license renewal system, license fees must be appropriately prorated during the first year the system is in effect. However, for one liquor license type, prorating of license fees is required in law: at the time of the original license issuance of a spirits, beer, and wine restaurant license, the LCB must prorate the license fee according to the number of calendar quarters, or portions thereof, remaining until the first renewal of the license.

When considering applications for liquor licenses and renewals of liquor licenses, the LCB may inspect the premises proposed to be licensed, and may inquire into all matters in connection with the construction and operation of the premises. The LCB may consider any prior criminal conduct of the applicant including an administrative violation history record with the LCB and a criminal history record information check.

The LCB also sends notice of the application and any license renewal application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the license is for an application outside of an incorporated city or town. The local government may file written objections with the LCB against the applicant or against the premises for which the new or renewal license applies, and may request a hearing that the LCB has discretion to hold.

Before the LCB issues any liquor license it must give due consideration to the proposed location with respect to the proximity of churches, schools, and public institutions. Churches are defined as buildings erected for and used exclusively for religious worship and schooling or other connected activity. Public institutions are defined as institutions of higher education, parks, community centers, libraries, and transit centers.

The LCB must send written notice of the application to public institutions identified by the LCB as appropriate to receive the notice, churches, and schools within 500 feet of the premises proposed to be licensed. The LCB may not issue a liquor license for either on-premises or off-premises consumption covering any premises not currently licensed, if the premises is within 500 feet of any tax-supported public elementary or secondary school and the LCB receives written objection, within 20 days after receiving the notice, from an official representative(s) of the school indicating there is an objection to the issuance of the license due to proximity to the school.

Every liquor license issued is subject to all conditions and restrictions imposed by law and LCB rules, which if imposed may be listed on the face of the license along with the licensee's trade name, address, and the license expiration date.

Summary of Engrossed Substitute Bill:

The liquor licensing and renewal process for annual liquor licenses is modified. For the original issuance of a liquor license, including approval of a condition 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 of the license may subsequently be prorated as necessary in accordance with the Business Licensing Service Act.

Accordingly, provisions are repealed that currently make every liquor license issued by the LCB expire at midnight of June 30 of the fiscal year for which the license was issued. Similarly, provisions currently authorizing the LCB to establish by rule a system for staggering the annual renewal dates for liquor licenses and providing for prorated license fees during the first year of any such system established by rule are repealed. Additionally, the requirement that the LCB must prorate the license fee charged to a new spirits, beer, and wine restaurant licensee in the first license year is repealed.

Provisions are added related to liquor license applications involving premises subject to a pending lease or purchase agreement. When an applicant for a liquor license is qualified for approval of the license in every way except for having executed a lease or purchase agreement for the proposed licensed premises, the LCB must grant conditional license approval to the applicant. Upon notification to the LCB of execution of the lease or purchase agreement putting the applicant in control of the premises, the LCB must immediately grant final approval of the license issuance, and the licensee may immediately begin exercising all privileges provided under the license, except as otherwise provided in liquor laws. For the purposes of this new requirement, the term "license" in liquor statutes includes "conditional license."

Outdated references to "Liquor Control Board" are corrected, to reflect the agency's new name.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2020.

Staff Summary of Public Testimony (Commerce & Gaming):

(In support) There is a great saying in the food and beverage industry: if you want to make a small fortune in the industry, start with a large fortune. Generally speaking, this is what this bill addresses. Right now in the liquor licensing process, for a number of reasons, it takes time for an application to be processed and approved. The operator pays money up front and goes through a review process to get final approval for their liquor license. The timing of the review process can come up against the next renewal time for the license if the review process is lengthy. In other words, businesses are paying for a liquor license they are unable to use yet, and this bill mitigates this issue. The bill resets the renewal period for liquor licenses to be one year from when the license is finally approved and issued. The second part to the bill relates to how current law requires an applicant to have control of the premises to be qualified for a liquor license. This can be a problem because an applicant must sign a lease or buy a property without a guarantee that the liquor licensing review process will result in an issued liquor license, which is an expensive proposition. The bill allows a person to apply for a liquor license for a physical location, go through the licensing process to ensure the person is qualified, and then when the lease or purchase agreement is executed, the conditionally granted license becomes fully effective. This bill helps mitigate some of the up-front, cash flow concerns associated with opening a new businesses and obtaining a liquor license.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) None.

Persons Testifying (Commerce & Gaming): Representative MacEwen, prime sponsor.

Persons Testifying (Appropriations): None.

Persons Signed In To Testify But Not Testifying (Commerce & Gaming): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.