

SENATE BILL REPORT

SB 5296

As of January 26, 2019

Title: An act relating to the liquor and cannabis board.

Brief Description: Concerning the liquor and cannabis board.

Sponsors: Senator Keiser.

Brief History:

Committee Activity: Labor & Commerce: 1/22/19.

Brief Summary of Bill

- Directs the Liquor and Cannabis Board (LCB) to initiate and maintain rule-making efforts to adopt rules to a range of subject matter areas concerning liquor.
- Requires the LCB to make annual reports to the Legislature regarding specified rule-making activities.
- Adds two legislators as ex officio members to the LCB.
- Makes technical corrections to the LCB's statutes.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Richard Rodger (786-7461)

Background: The LCB is the state's lead regulatory agency covering the licensing and regulation of the liquor, cannabis, tobacco, and vaping industries.

The LCB is composed of three members appointed by the Governor to six-year terms. The LCB holds regular public meetings and work sessions with stakeholders, makes policy and budget decisions, and adjudicates contested license applications and enforcement actions on licensees.

Summary of Bill: The Legislature recognizes the LCB's broad and specific rule-making authority and encourages the LCB to use its rulemaking authority liberally in addressing

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questions or concerns related to liquor raised by the public or on the LCB's own initiative, and requests from its liquor licensees regarding the scope of their approved activities.

The Legislature directs the LCB to initiate and maintain rule-making efforts and, if deemed appropriate by the LCB, to adopt rules to a range of subject matter areas concerning liquor. The list of suggested topics for rule-making include:

- differences between authorities granted differing classes of industry members;
- the use of promotional items;
- advertising and marketing schemes;
- sampling and tasting of products;
- sales at farmers' markets and other off-premises locations;
- conditions for special occasion licenses, banquet permits, raffle permits, and other special permits issued by the LCB;
- limited licenses to provide or sell liquor for specialty businesses, including but not limited to galleries, boutiques, spas, and other appropriate entities;
- direct sales by licensees; and
- such other new activities as deemed reasonable by the LCB.

In consideration of initiating rule making, the LCB must consider stakeholder and public input, promotion of public health and safety, minimization of youth access and consumption of liquor, and issues related to the abuse of alcohol.

The LCB must file an annual report with the appropriate committees of the House of Representatives and the Senate that includes:

- a description of each rule-making request to the LCB, regarding the creation or revision to a liquor rule, where the LCB determined it did not have the legal authority to adopt such a new rule or rule revision; and
- the specific statute or reason that the LCB identified as limiting its authority to adopt the requested new rule or rule revision.

The reporting requirement does not apply to any request for rule making where the LCB did not deem that rulemaking was appropriate. The first report is due to the Legislature by January 1, 2021, and reporting requirements expire on January 1, 2025.

Two ex officio nonvoting members are added to the LCB:

- one member of the Senate, who is the chair of the committee with jurisdiction over the issues before the LCB; and
- one member of the House of Representatives, who is the chair of the committee with jurisdiction over the issues before the LCB.

The appointments of the ex officio members shall coincide with the period for which the legislators serve as chair of each relative committee. The ex officio members shall assist in the policymaking, rather than administrative, functions of the LCB. They may collect data and information related to future legislative proposals and exchange information with the commission. The ex officio members are reimbursed for travel expenses from the LCB's appropriations.

Multiple revisions are made to the LCB's statutes including making technical corrections, deleting expired budgetary directives, merging prior double amendments, and the decodification of an old directive to the agency.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

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

Staff Summary of Public Testimony: PRO: The legislature had been involved in the minutia of the liquor system, especially since we privatized the system. We wanted to have pretty tight limits and controls for public safety reasons. Now may be the time to let the LCB take care of some of these less substantive issues that we've been grappling with over the last few years. We generally support the legislation, but we're not seeking authority to create new license or permit types or to adjust any fees. That authority should remain with the Legislature and the governor. It makes sense for the Legislature to explicitly encourage the agency to address a number of issues that do not constitute a public safety risk or raise concerns about youth access. The quorum for the LCB should only include the voting members, as the legislative members may find it difficult to attend the LCB's hearings during the legislative sessions. In our view, the reason there are so many bills is because of a LCB unwritten policy saying whatever is not permitted expressly is prohibited.

CON: We think the policy decisions on both expanding sales and marketing of alcohol need to be made by the Legislature not the LCB. Any changes to the prohibitions regarding alcohol sales should also be made by the Legislature. While many of bill's policy changes may seem small, we think Legislature's process is the correct way to revise the law and it should not be transferred to an agency. Most of the issues before the Legislature have been resolved successfully resolved after careful consideration of their effect, not just on public health and safety, but also effective administration in the system, and by maintaining open market place. The emerging and competing interests in the liquor industry should be resolved by the Legislature, as it is the body best suited to balance the market needs versus the public safety needs. Our industry has made a great effort to bring consensus legislation before this body to help reduce it's workload.

We believe that the legislative ideas you hear has of great policy importance for both fiscal and health related reasons. There is a recent study concluding that there is no safe level of alcohol consumption and the Center for Disease Control estimates that excessive drinking cost the United States trillions of dollars each year and that Washington has the highest fiscal impact for excessive drinking. The prevention community agree with the industry members testifying here today.

OTHER: The technical corrections made in the bill are overdue. Before making changes to the LCB or moving forward with changes to the rulemaking process, legislators and stakeholders should take a comprehensive look at the statutes and potential fixes and report back with any recommended changes. We have some concerns with granting more policy

authority to the LCB. The provisions blur the lines between the policy makers and the regulators. The committee should look transparency and the enforcement activities by the LCB, as there are inconsistencies in their actions.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Paul Beveridge, Family Wineries of Washington State; Rick Garza, LCB.

CON: Scott Hazlegrove, Washington Beer and Wine Distributors Association; James McMahan, Washington Association of Sheriffs and Police Chiefs; Seth Dawson, Washington Association for Substance Abuse and Violence Prevention; Ron Main, Association of Washington Spirits and Wine Distributors.

OTHER: Zachary Lindahl, Washington Hospitality Association; Carolyn Logue, Washington Food Industry Association; Josh McDonald, Washington Wine Institute.

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