

SENATE BILL REPORT

SB 5682

As of February 28, 2019

Title: An act relating to allowing certain beer and wine license holders to sell small amounts of spirits.

Brief Description: Allowing certain beer and wine license holders to sell small amounts of spirits.

Sponsors: Senators King, Takko, Braun, Mullet, Walsh and Wilson, L..

Brief History:

Committee Activity: Labor & Commerce: 2/07/19, 2/18/19 [DPS].
Ways & Means: 2/25/19.

Brief Summary of First Substitute Bill

- Authorizes the Liquor and Cannabis Board to waive the grocery store size requirement for certain license holders who lack a spirits retail license.
- Allows the stores to sell spirits in bottles with 375 milliliters or smaller, subject to specified restrictions.
- Limits eligible stores to those located (1) in a city or town with a population of less than 30,000, or in an unincorporated area of a county, and (2) not located near a existing store that is former contract liquor store or operated by a holder of former state liquor store operating rights.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5682 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Braun, Saldaña, Walsh and Wellman.

Staff: Richard Rodger (786-7461)

SENATE COMMITTEE ON WAYS & MEANS

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: Alia Kennedy (786-7405)

Background: In privatizing spirits sales in the state in 2011, Initiative 1183 created a spirits retail license, issued by the Liquor and Cannabis Board (LCB), to qualified applicants. A spirits retail license authorizes the retail sale of bottled spirits in their original containers to customers for off-premises consumption, to permit holders, and to retailers for resale for on-premises consumption.

When selling spirits in original containers to other retailers for resale for on-premises consumption at their licensed premises, no single sale may exceed 24 liters, unless the sale is by a licensee that was a contract liquor store manager of a contract liquor store.

Generally, only larger stores with at least 10,000 square feet of fully enclosed retail space within a single structure are eligible for a spirits retail license. However, there are two exceptions to this requirement.

One exception enables otherwise qualified contract liquor stores, at their contract location, and holders of former state liquor store operating rights sold at auction, to qualify for a spirits retail license despite being smaller than 10,000 square feet in size.

The second exception enables other applicants who are smaller than 10,000 square feet in size, but otherwise qualified, to obtain a spirits retail license if the following requirements are met:

- there is not another spirits retail licensee in the trade area the applicant proposes to serve;
- the applicant meets, or upon licensure will meet, the operational requirements established under the LCB's rules; and
- the applicant has not committed, as a licensee, more than one public safety violation within the three years preceding the application.

Sales of spirits by spirits retail licensees are subject to a license issuance fee equivalent to 17 percent of all spirits sales revenues, paid by each licensee into the Liquor Revolving Fund. However, an exception is provided for sales of spirits by former contract liquor stores and former-state-store auction buyers, when sales are made to other retailers who sell spirits for on-premises consumption. For these sales, the 17 percent fee does not apply.

A grocery store license is available for stores meeting certain qualifications, such as having a minimum of \$3,000 inventory of food products, not including pop, beer, strong beer, or wine. A grocery store licensee may sell beer and wine to customers for off-premises consumption, but a separate license is required to sell spirits.

Summary of Bill (First Substitute): The LCB may approve a waiver of the 10,000 square foot requirement for grocery store licensees to sell spirits on 375 milliliter bottles, under limited conditions. Grocery stores eligible for waiver include grocery stores who do not hold a spirits retail license, subject to the following requirements and limitations:

- the store is not part of an entity that has more than three stores, or part of a franchise or network that employs more than 100 employees;

- the store sells fresh meat, seafood, poultry, and produce; deli products; and prepared dinners;
- the spirits are kept behind the counter where the public is not permitted or in a locked display case requiring employee assistance;
- the store is located in a city or town with a population of less than 30,000, or in an unincorporated area of a county; and
- the store is not located within 7.5 miles from the premises of a former contract liquor store or a holder of former state liquor store operating rights, that was active at that location as of January 1, 2019.

The spirits sold by these licensees are subject to a fee equivalent to 17 percent of all spirits sales revenues.

The LCB must establish rules setting forth the timing of payments of the 17 percent fee and reporting of sales dollar volume by the licensee, with payments required quarterly in arrears.

The limitation that a contract liquor store must be at its contract location, to qualify for a spirits retail license, is removed. An obsolete reference to a implementation date is removed.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute): Allows the LCB to issue a waiver to the 10,000 square foot requirement for certain grocery store license holders, who do not hold a spirits retail license, under specified conditions. The conditions include the store is located:

- in a city or town with a population of less than 30,000; or
- in an unincorporated area of a county; and
- is not located within 7.5 miles from the premises of a former contract liquor store or a holder of former state liquor store operating rights, that was active at that location as of January 1, 2019.

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 (Labor & Commerce): *The committee recommended a different version of the bill than what was heard.* PRO: The large grocery and box stores dominate the liquor market. The spirits laws are out of balance and this bill will help level the playing field. The Initiative that created the new system was written by Costco and is unfair to the small grocery stores. The fiscal note is shocking, as the LCB already has enforcement officers in all of our stores. Smaller stores can better monitor the spirits, and the bill contains protections including locked cabinets or storing products behind the counter.

CON: A recent report from the University of Washington indicates the health risks associated with alcohol are massive in terms of death, cancer, and cardiovascular disease.

There is no safe level of consumption and this bill, along with nineteen other liquor bills, will greatly expand access and availability to alcohol. The contract liquor stores and purchasers of the old state stores bought the right to sales within the zone of the licenses purchased. We paid millions of dollars for the right to exclusive areas to sell spirits. Our major profitability comes from the smaller size bottles of spirits and this bill would run the contract stores out of what little business we have left.

OTHER: We are not opposed to this legislation, but want to ensure there are enough enforcement officers and the spirits are not accessible by minors.

Persons Testifying (Labor & Commerce): PRO: Senator Curtis King, Prime Sponsor; Walt Hannon, Walt's Market; Jan Gee, Washington Food Industry Association; Jim Hendrickson, Hendrickson, Inc.; John Klein, Vice President, Southern Glazer's Wine & Spirits; Joe Daniels, Young's Market Company; Lyset Cadena, Southern Glazer's Wine & Spirits.

CON: Seth Dawson, Washington Association for Substance Abuse & Violence Prevention; Brad Tower, Washington Liquor Store Association; Joanne Tollefson-Clements, Eatonville Graham Liquor; Navneet Kaur, Boulevard Liquor; PD Sandhu, Pacific Liquor.

OTHER: Chris Thompson, Liquor and Cannabis Board.

Persons Signed In To Testify But Not Testifying (Labor & Commerce): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): CON: The bill weakens the property rights of former state contract liquor stores. There are some protections for remaining operators, but the ones most harmed are those already put out of business in which the property right remains but is not being utilized by the owner.

OTHER: The enforcement costs associated with this bill are a bit high. These stores are already selling beer and wine and are thus already under the enforcement authority of the LCB. The limitations in this bill continue to exclude those stores located in rural areas.

Persons Testifying (Ways & Means): CON: Brad Tower, Washington Liquor Store Association.

OTHER: Carolyn Logue, Washington Food Industry Association.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.