

SENATE BILL REPORT

SB 6531

As Reported by Senate Committee On:
Labor & Commerce, February 4, 2020

Title: An act relating to the performance of personal services by a craft distillery, distiller, spirits certificate of approval holder, or distributor.

Brief Description: Concerning the performance of personal services by a craft distillery, distiller, spirits certificate of approval holder, or distributor. [**Revised for 1st Substitute:** Concerning the performance of personal services by a craft distillery, distiller, or spirits certificate of approval holder.]

Sponsors: Senators Braun, Takko and Schoesler.

Brief History:

Committee Activity: Labor & Commerce: 2/03/20, 2/04/20 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Exempts certain spirits industry members from the three-tier prohibitions, allowing the performance of personal services at specified retailers and events.
- Allows instructional activities, including furnishing consumers not more than three tastings of spirits of 0.5 ounce each, per day.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 6531 be substituted therefor, and the substitute bill do pass.

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

Minority Report: Do not pass.

Signed by Senator Stanford.

Minority Report: That it be referred without recommendation.

Signed by Senator Saldaña.

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: Richard Rodger (786-7461)

Background: Three-Tier System Prohibition. The legal framework regulating liquor manufacturing, distribution, and sales is a separation between the three-tiers of the liquor industry—manufacturing, distributing, and 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. There are two primary prohibitions that provide the separation between the tiers of the industry. First, generally liquor licensees in the manufacturing and distributing tiers are prohibited from having financial interests in a business within the retail tier of the industry, and vice versa. Second, 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.

Exceptions. An exception to the three-tier laws allows domestic wineries and wine certificate-of-approval holders to offer personal services like pourings, bottle-signing events, and similar informational activities at the premises of certain licensed liquor retailers like restaurants, specialty wine shops, grocery stores with a tasting endorsement, special occasion events, and others. Personal services must be intended to inform, educate, or enhance customers' knowledge or experience of the wineries' products. If the personal services include sampling wine, the sampling costs may not be borne by the winery.

Another similar exception allows domestic breweries, microbreweries, and beer certificate-of-approval holders to offer the same types of personal services to grocery store licensees with a tasting endorsement during a tasting event.

Wineries, breweries, and certificate-of-approval holders are not required to perform any personal services.

Summary of Bill (First Substitute): The spirits industry is given an exception to the tied-house laws for personal services performed by a craft distillery, distiller, or spirits certificate of approval holder. The services may be offered at a restaurant holding a spirits, beer, and wine license, a special occasion license, or a private club license. The services must be conducted at a licensed premise and intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products.

The services may include participation and pouring, bottle-signing events, and other similar informational or educational activities. The instruction may include furnishing not more than three tastings to any individual in one day. A single tasting may not exceed 0.5 ounce.

There is no obligation on spirits industry members to perform personal services. The restaurant licensee may not require the performance of personal services as a condition for selling any alcohol to the retail licensee, or as a condition for including any spirits product in any tasting.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):

- Removes distributors from the list of the spirits industry members who may perform personal services for a restaurant holding a spirits, beer, and wine license, a special occasion license, or a private club license.

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: *The committee recommended a different version of the bill than what was heard.* PRO: Forty-two other states have similar programs as proposed here for the spirits industry. The federal code of regulations recognizes the use of personal services as an acceptable practice. The sample size for spirits is one-half the amount of alcohol currently allowed for beer and wine sampling. We agree that distributors should be removed from the bill and that training should be provided to the individuals involved in serving the spirits.

CON: We oppose this bill as our beer & wine distributors also deliver spirits. The bill gives a greater advantage to the very large spirits manufacturers, who already have a greater ability to market their products versus our small local businesses. Distributors should be removed from the bill and the spirits industry should not be allowed to perform these services to a more expansive list of entities than allowed for the beer industry.

OTHER: Our concern is beyond the language of the bill and relates more of how it might be implemented. We would find it objectionable if a server asked customers if they would like to sample free spirits. We would prefer the server to simply ask if the customers would like a beverage and if they request a beverage with spirits, then let them know about any special offerings. Hopefully this can be addressed through rules or in training.

Persons Testifying: PRO: Senator John Braun, Prime Sponsor; Charlie Brown, DIAGEO; Stephenie Shah, DIAGEO.

CON: Amy Brackenbury, Washington Beer and Wine Distributors Association.

OTHER: Seth Dawson, Washington Association for Substance Abuse and Violence Prevention.

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