
Commerce & Gaming Committee

HB 1480

Brief Description: Extending certain privileges granted to liquor licensees to mitigate the impact of the coronavirus pandemic.

Sponsors: Representatives MacEwen, Kloba, Sutherland, Robertson, Ormsby, Chambers, Eslick and Tharinger; by request of Liquor and Cannabis Board.

Brief Summary of Bill

- Temporarily codifies liquor license privileges the Liquor and Cannabis Board (LCB) is providing to licensees during the COVID-19 pandemic.
- Includes authorizations related to curbside and takeout service or delivery of alcohol products, the sale of premixed cocktails and cocktail kits by restaurants, and the sale of growlers by certain licensees.
- Eliminates a food-related requirement for wine and beer sampling at farmers markets, directs the LCB to consider revising rules to provide greater flexibility for food-service requirements for liquor licensees, and requires the LCB to adopt other rules.
- Appropriates up to \$150,000 for the LCB to contract for an independent study of the impacts of the new privileges.
- Exempts mini-bottles of spirits sold with cocktail kits by restaurants from the spirits retail license issuance fee and from spirits taxes.

Hearing Date: 2/11/21

Staff: Peter Clodfelter (786-7127).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Temporary Liquor License Privileges.

The Liquor and Cannabis Board (LCB) is currently providing certain liquor licensees with temporary alcohol sales privileges during the COVID-19 pandemic. The LCB's guidance to licensees provides that the temporary privileges will expire within 30 days following the county where the business is located entering Phase 4 of Washington's Safe Start plan.

Curbside Service and Delivery. Temporary privileges include privileges related to curbside service and delivery of liquor products by certain licensees. For example, among other temporary privileges, restaurant licensees may temporarily sell factory sealed bottles and cans of beer, wine, and spirits to customers in combination with the sale of to-go food or by delivery with a food order. Under the LCB's guidance, spirits sold by a restaurant licensee for curbside service or delivery must be in factory sealed bottles or meet the requirements for premixed cocktails, and must be sold in combination with food.

Premixed Cocktails. In accordance with the LCB's guidance, restaurants with a spirits, beer, and wine license may temporarily sell premixed alcoholic drinks (cocktails) for consumption off the licensed premises, subject to requirements. Among the requirements is that the licensee must ensure a complete meal is ordered with the premixed cocktail order and prepared on the licensed premises. Also, premixed cocktails must be packaged in a container with a secure lid or cap and in a manner designed to prevent consumption without removal of the lid or cap. Under the LCB's guidance, additional requirements apply to deliveries of premixed cocktails.

Food Service Requirements for Certain Liquor Licensees.

Certain liquor licensees including restaurants, certain theaters, and hotels are required in statute and rule to have food service in combination with alcohol sales. Certain liquor licensees who sell spirits for on-premises consumption, including spirits, beer, and wine restaurants, hotels, and certain theaters, are required under the LCB's rules to serve least eight complete meals.

The LCB's rules define a "complete meal" as an entree and at least one side dish. Examples of entrees are provided in rule as well as items not constituting entrees. A chef or cook must be on duty while complete meals are offered, and other requirements apply. For restaurants that sell only beer and/or wine but not spirits, they are required to offer "minimum food service" to customers instead of the complete meal requirements.

Required Signature for Home Deliveries.

The LCB's rules pre-dating the COVID-19 pandemic authorize certain licensees to sell and make home deliveries of liquor to customers, subject to a variety of requirements. One requirement is that a private carrier must obtain the signature of the person who receives liquor upon delivery. However, the LCB's guidance during the COVID-19 pandemic provides that the LCB is temporarily relaxing enforcement of the signature requirement. The guidance provides that licensees with a delivery endorsement may choose to photograph the customer's identification, or use other devices such as an application scanning the identification, in lieu of gaining a physical signature to document delivery to the customer.

Beer and Wine Sampling at Farmers Markets.

If a qualifying farmers market and participating winery or microbrewery both hold the appropriate endorsements, the winery or microbrewery may offer samples to customers under a variety of conditions and limitations. One of the requirements is that a winery or microbrewery must have food available for customers to consume while sampling beer or wine, or must be adjacent to a vendor offering prepared food. During the COVID-19 pandemic, the LCB is temporarily relaxing enforcement of food service requirements associated with alcohol sampling at farmers markets.

Spirits Taxes.

Taxes on retail sales of bottled or packaged spirits sold for off-premises consumption include a spirits sales tax of 20.5 percent of the selling price and a spirits liter tax of \$3.7708 per liter, both paid by the consumer. When retailers purchase spirits for later resale to consumers for consumption on the retail premises, the retailer pays a spirits sales tax of 13.7 percent of the selling price and a spirits liter tax of \$2.4408 per liter.

Summary of Bill:

Temporary Liquor License Privileges.

Several liquor license privileges that the Liquor and Cannabis Board (LCB) is temporarily providing to liquor licensees during the COVID-19 pandemic are added to law through July 1, 2023. Licensees must generally obtain an endorsement from the LCB to engage in the authorized activities. But licensees are not required to wait for the LCB to finalize rules and other actions such as the completion of information systems changes, to engage in the authorized activities.

Curbside Service and Delivery. The following liquor licensees may sell alcohol products at retail for curbside and takeout service or delivery:

- beer and wine restaurants;
- spirits, beer, and wine restaurants;
- taverns;
- domestic wineries;
- domestic breweries and microbreweries;
- distilleries;
- snack bars;
- nonprofit arts licensees; and
- caterers.

Premixed Cocktails and Cocktail Kits. Spirits, beer, and wine restaurant licensees may also sell premixed cocktails and cocktail kits for takeout or curbside service and for delivery, pursuant to rules the LCB may adopt regulating these sales. It is provided that this new authorization does not allow the sale of full bottles of spirits by licensees for off-premises consumption, with the exception of mini-bottles as part of cocktail kits.

Mini-bottle sales as part of authorized cocktail kits are exempted from the spirits license issuance fee and spirits taxes, and an explicit exemption from the requirements for tax preference performance statements is included. "Mini-bottles" are defined as original factory-sealed containers holding not more than 50 milliliters of a spirituous beverage.

Growlers. Licensees that were authorized by statute or rule before January 1, 2020, to sell growlers for on-premises consumption may sell growlers for off-premises consumption through curbside, takeout, or delivery service. Sales of growlers must meet federal Alcohol and Tobacco Tax and Trade Bureau requirements.

Without obtaining an endorsement, beer and wine specialty shops and domestic breweries and microbreweries may sell pre-filled growlers for off-premises consumption through takeout or curbside service and delivery, if pre-filled growlers are sold the same day they are prepared for sale and not stored overnight for sale on future days. "Growler" is defined as a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled by the retailer at the time of sale.

The LCB may adopt rules governing the manner in which the new activities must be conducted. The LCB must adopt or revise current rules to allow for outdoor service of alcohol by on-premises licensees holding the following liquor licenses:

- beer and wine restaurant license;
- spirits, beer, and wine restaurant license;
- tavern license;
- domestic winery license;
- domestic brewery or microbrewery license;
- distillery license;
- snack bar license; and
- private club license.

All of the above new authorizations and endorsements expire on July 1, 2023.

Additional Rulemaking by the LCB, Including Revisiting Food-Service Requirements.

The LCB must adopt rules authorizing licensees with a delivery endorsement to photograph or scan customer identification in lieu of obtaining a physical signature to document liquor product delivery and verify the age of customers. The LCB must consider revising current rules in order to provide greater flexibility regarding food service menu requirements that businesses holding a liquor license issued by the LCB must provide in conjunction with alcohol sales. It is specified that the scope of the rules does not apply to licensees that were not required to provide food service under rules in effect on January 1, 2020.

Beer and Wine Sampling at Farmers Markets.

When conducting wine and beer sampling at a farmers market, the existing statutory requirement is eliminated that a winery or microbrewery must have food available for customers to consume while sampling beer or wine, or must be adjacent to a vendor offering prepared food.

Contract for Independent Study of Impacts.

The LCB must contract with an independent entity to conduct a study of the impacts of the new privileges granted to businesses with liquor licenses. The study must examine relevant issues including, but not limited to, the following:

- quantitative measures of impact such as liquor sales data, licensee locations, enforcement activity, hospital and other health provider visits for alcohol-related causes, underage drinking, alcohol dependence treatment, alcohol-related traffic violations, and motor vehicle crash deaths or injuries;
- qualitative investigation of relevant impacts using methods such as key informant interviews and supplemental data collection with licensees, law enforcement, behavioral health service providers, youth prevention and intervention specialists, and revenue stakeholders; and
- additional issues deemed relevant to the goals and results of the legislation.

The study must be started by January 1, 2022. A report with findings and any recommendations must be provided to the Legislature and the Governor by December 1, 2022.

Appropriation: The sum of \$150,000, or as much thereof as may be necessary, is appropriated for the fiscal biennium ending June 30, 2023, from the Liquor Revolving Fund to the Liquor and Cannabis Board for the purposes of the study in Section 5.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.