

FINAL BILL REPORT

E2SHB 1480

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Synopsis as Enacted

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

Sponsors: House Committee on Appropriations (originally sponsored by Representatives MacEwen, Kloba, Sutherland, Robertson, Ormsby, Chambers, Eslick and Tharinger; by request of Liquor and Cannabis Board).

House Committee on Commerce & Gaming

House Committee on Appropriations

Senate Committee on Labor, Commerce & Tribal Affairs

Background:

Temporary Liquor License Privileges.

The Liquor and Cannabis Board (LCB) is providing liquor licensees with temporary alcohol sales privileges during the COVID-19 pandemic.

Curbside Service, Takeout, and Delivery. Temporary privileges include privileges related to curbside service, takeout, 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, takeout, or delivery must be in factory sealed bottles or meet the requirements for premixed alcohol drinks (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 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

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secure lid or cap and in a manner designed to prevent consumption without removal of the lid or cap.

Growlers. The LCB's guidance temporarily authorizes certain licensees to sell and deliver growlers to customers for off-premises consumption. The guidance also allows licensees to prefill growlers subject to requirements, including that prefilling is limited to daily quantities expected to sell each day and pre-filled growlers may not be stored beyond the current business day use. In general, a growler is a sanitary container supplied by a customer or licensee and filled with an alcoholic beverage like beer, cider, or mead, at the tap at the time of sale. The federal Alcohol and Tobacco Tax and Trade Bureau classifies growlers as either a bottle (and subject to federal labeling requirements) if filled in advance of sale, or a large glass if filled at the time of sale. Different federal tax provisions also apply depending on when a growler is filled.

Food Service Requirements for Certain Liquor Licensees.

Certain liquor licensees including restaurants, certain theaters, and hotels are required in statute to have food service in combination with alcohol sales. The LCB's rules establishing food service requirements generally require these licensees to serve eight complete meals. The LCB's rules define a "complete meal" as an entree and at least one side dish. Restaurants that sell only beer and/or wine but not spirits are required to offer "minimum food service" to customers instead of the complete meal requirements.

Required Signature for Home Deliveries.

The LCB's rules predating the COVID-19 pandemic authorize certain licensees like grocery stores, beer and wine specialty shops, and spirits retail licensees, to sell and make deliveries of liquor to customers, subject to 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 subject to requirements. 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-related 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 and a spirits liter tax of \$2.4408 per liter.

Summary:

Temporary Liquor License Privileges.

Liquor license privileges similar to privileges 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, at no cost, 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 before engaging in the authorized activities.

Curbside Service, Takeout, and Delivery. The following liquor licensees may sell alcohol products at retail for curbside service, takeout, and 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 alcohol drinks (cocktails) and cocktail kits for curbside service, takeout, and delivery, pursuant to rules the LCB may adopt. 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.

Wine Drinks. Restaurant licensees are temporarily also authorized to sell wine by the glass and premixed wine drinks for curbside service, takeout, and delivery. Restaurant licensees who may sell spirits may also sell premixed wine and spirits cocktails for curbside service, takeout, and delivery. The LCB is granted rule-making authority to establish the manner in which wine by the glass and cocktails for off-premises consumption must be provided.

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 service, takeout, and delivery. Sales of growlers must meet federal Alcohol and Tobacco Tax and Trade Bureau requirements.

Beer and wine specialty shops, domestic breweries, and microbreweries may sell prefilled growlers for off-premises consumption through curbside service, takeout, and delivery, if prefilled 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.

Temporary Rulemaking Authority. The LCB may adopt rules governing the manner in which the new activities must be conducted. The LCB must adopt or revise 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.

Signature Upon Delivery. Upon delivery of any alcohol product authorized to be delivered under the temporary liquor privileges, the signature of the person age 21 or over receiving the delivery must be obtained. It is specified that any temporary authorization or relaxation of requirements provided by the LCB, in effect on the effective date of the act, related to authorizing the photographing or scanning of customer identification in lieu of obtaining a physical signature to document liquor product delivery or verify the age of customers, expires at the end of the Governor's proclamation of emergency related to COVID-19.

All of the temporary liquor license privileges expire on July 1, 2023.

Additional Rulemaking by the Liquor and Cannabis Board, Revisiting Current Food Service Requirements.

The LCB must consider revising 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.

It is specified that any temporary authorization or relaxation of statutory requirements provided by the LCB related to food requirements associated with wine and beer sampling

at farmers markets expires at the end of the Governor's proclamation of emergency related to COVID-19.

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.

Votes on Final Passage:

House	86	12
Senate	46	3

Effective: April 14, 2021