

SENATE BILL REPORT

E2SHB 1480

As of March 11, 2021

Title: An act relating to extending certain privileges granted to liquor licensees to mitigate the impact of the coronavirus pandemic.

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).

Brief History: Passed House: 2/25/21, 86-12.

Committee Activity: Labor, Commerce & Tribal Affairs: 3/11/21.

Brief Summary of Bill

- Extends certain privileges granted by the Liquor and Cannabis Board (LCB) to liquor licensees during the COVID-19 pandemic until July 1, 2023.
- Includes authorizations related to curbside delivery and takeout service or delivery of alcohol products, the sale by restaurants of premixed cocktails, cocktail kits, and wine drinks, and the sale of growlers by certain licensees.
- Requires LCB to adopt rules related to the temporary privileges, directs LCB to consider revising rules to provide greater flexibility for paired food and alcohol sales, and addresses the LCB's temporary relaxation of certain requirements.
- Directs LCB to study the impacts of granted privileges with specific initiation and reporting dates.

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.

SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

Staff: Matt Shepard-Koningsor (786-7627)

Background: Licensee Privileges. As a result of the COVID-19 pandemic in Washington State, LCB instituted certain temporary privileges to help licensees during the pandemic. Specific privileges are applied by industry and accompanied by state guidance and requirements. Privileges exist for certain licensees such as adding or extending outside liquor service, selling premixed cocktails for off-premises consumption, and selling liquor for curbside service or delivery.

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. LCB rules establishing food service requirements require certain licensees like spirits, beer, and wine restaurants, hotels, and certain theaters to serve eight complete meals. LCB rules define a complete meal as an entree and at least one side dish. For restaurants that sell beer or wine, but not spirits, the restaurant must offer minimum food service to customers instead of the complete meal requirements.

Required Signature for Home Deliveries. LCB rules predating the 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, LCB is temporarily relaxing enforcement of the signature requirement during the pandemic. Certain licensees with a delivery endorsement may choose to photograph the customer's identification (ID), or use other devices such as an application scanning the ID, in lieu of obtaining a physical signature to document delivery.

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 requirement is that a winery or microbrewery must have food available while sampling beer or wine, or must be adjacent to a vendor offering prepared food. During the pandemic, LCB is temporarily relaxing enforcement of food-related requirements associated with alcohol sampling at farmers' markets.

Spirits Fees and Taxes. Spirits retail licensees must pay a 17 percent license issuance fee on all sales of spirits. 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 on-premises consumption, the retailer pays a spirits sales tax of 13.7 percent and a spirits liter tax of \$2.4408 per liter.

Summary of Bill: Definitions. "Growlers" means sanitary containers brought to the

premises by the purchaser, or furnished by the licensee and filled by the retailer at the time of sale. "Mini-bottles" means original, factory-sealed containers holding not more than 50 milliliters of a spirituous beverage.

Licensee Privilege Extension. Following LCB endorsement approval, the following licensees are allowed to sell alcohol for curbside takeout and delivery: restaurants, taverns, domestic wineries, domestic breweries and microbreweries, distilleries, snack bars, nonprofit arts licensees, and caterers. Spirits, beer, and wine restaurant licensees and beer and wine restaurant licensees may sell wine by the glass and premixed wine and spirits cocktails for takeout or curbside service and delivery. Spirits, beer, and wine restaurant licensees may sell premixed cocktails and cocktail kits for takeout or curbside service and delivery. For sales of cocktail kits, only mini-bottles may be sold.

Certain licensees previously authorized to sell growlers for on-premises consumption may sell growlers for off-premises consumption. Growler sales must comply with applicable federal requirements. Without obtaining an endorsement, beer and wine specialty shops and domestic breweries and microbreweries may sell pre-filled growlers for off-premises consumption if sold the same day as prepared.

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

Temporary Rulemaking Authority. LCB may adopt rules governing the manner in which the new activities are conducted. LCB must consider revising current rules to provide flexibility on requirements relating to paired food and alcohol sales. 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.

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

Beer and Wine Sampling at Farmers' Markets. Any temporary authorization or relaxation

of statutory requirements provided by LCB 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 the pandemic.

Liquor and Cannabis Board Study. LCB must contract with an independent entity to conduct a study of the impacts of the privileges granted above. The study must examine relevant issues, such as:

- quantitative data relating to liquor sales, enforcement, alcohol-related hospital visits, underage drinking, and other issues related to alcohol use;
- qualitative data from licensees, law enforcement, behavioral health service providers, youth prevention and intervention specialists, and revenue stakeholders; and
- additional relevant issues.

The study must be started by January 1, 2022, and reported to the Legislature and Governor by December 1, 2022.

Fees and Taxes. Until July 1, 2023, mini-bottles sold with cocktail kits are exempt from the spirits license issuance fee and spirits sales and liter taxes. The tax exemption is explicitly exempt from provisions relating to expiration and performance statements on tax preferences.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: These privileges will help the industry get through the pandemic. The bill goes a long way in changing policy in the future to assist local businesses and economies. The study is important to provide a path forward and additional information surrounding these allowances after the pandemic but the appropriation that was removed is necessary. In contrast to comments received to both the House and Senate bills, we have not seen violations involving underage alcohol deliveries. The House amendments to this bill are supported. LCB has worked with licensees to develop this bill. LCB hopes this bill will be funded by the general fund and will look at rulemaking to prevent underage alcohol deliveries.

CON: The intent section has extraneous language having nothing to do with COVID-19 relief. The last sentence of Section 1 should be deleted.

OTHER: The sunset provision should be changed from 2023 to 2022. We are asking for distilleries to be added into the cocktail privileges. The term cocktails is used numerous

times in the bill but is not defined.

Persons Testifying: PRO: Chris Thompson, Liquor and Cannabis Board; Robert Thoms, City of Tacoma; Katie Doyle, Washington Hospitality Association; Josh McDonald, Washington Wine Institute; Annie McGrath, Washington Brewers Guild; Rowland Thompson, The Wine Institute.

CON: Paul Beveridge, Wilridge Winery.

OTHER: Jim Hedrick, Washington Distillers Guild; Seth Dawson, Washington Association for Substance Abuse & Violence Prevention.

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