SENATE BILL REPORT
SB 5001

As of January 27, 2021

Title: An act relating to providing small winery tax relief.

Brief Description: Providing small winery tax relief.

Sponsors: Senators Warnick, Keiser, Brown, Conway, Holy, King, Kuderer, Mullet, Wagoner and Wilson, C..

Brief History:

Committee Activity: Labor, Commerce & Tribal Affairs: 1/27/21.

Brief Summary of Bill

- Exempts the first 20,000 gallons of wine sold by small wineries from most wine and cider excise taxes.
- Exempts the tax preference from automatic expiration and performance statement requirements.

SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

Staff: Matt Shepard-Koningsor (786-7627)

Background: Definitions. Wine means any alcoholic beverage obtained by fermentation of fruits, such as grapes, berries, or apples, or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than 24 percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and angelica, not exceeding 24 percent of alcohol by volume and not less than 0.5 percent of alcohol by volume.

Domestic winery means a place where wines are manufactured or produced within the state.

Winery means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

Wine distributor means a person who buys wine from a domestic winery, wine certificate of approval holder, or wine importer, or who acquires foreign produced wine from a source outside of the United States.

Cider means table wine that contains not less than 0.5 percent of alcohol by volume and not more than 7 percent of alcohol by volume and is made from normal alcoholic fermentation of the juice of sound, ripe apples or pears, and includes flavored, sparkling, or carbonated cider.

Tax preference means an exemption, exclusion, deduction, credit, deferral, or preferential rate, for a tax administered by the Department of Revenue.

Wine & Cider Excise Taxes. The Liquor and Cannabis Board (LCB) administers taxes relating to wine. Wine sold to wine distributors, directly to consumers on the winery premises, and in direct shipments to consumers and retailers is subject to the following taxes:

- base tax of $0.2025 per liter for wine and $0.0359 for cider;
- additional tax of 7 percent of the base tax—$0.0142 for wine and $0.0025 for cider;
- additional tax of $0.0025 per liter for wine and $0.0005 per liter for cider; and
- additional tax of $0.01 per liter for wine and $0.0018 per liter for cider.

In addition to the taxes above, a $0.0407 per liter tax is imposed on all cider. Fortified wine is taxed the same as table wine except the additional tax listed above is $0.2344. A domestic winery or certificate of approval holder distributing its own wine must pay the taxes above. Wine sold or shipped in bulk from one winery to another is not required to pay the taxes above. The base tax rates for wine and cider are distributed to the Liquor Revolving Fund. LCB is authorized to distribute $0.25 per liter to Washington State University (WSU) solely for wine and grape research. Additional taxes on wine and cider are deposited into the general fund, except for the additional per liter wine tax of $0.25 and $0.05 for cider, which are distributed to the Washington Wine Commission (WWC) to finance its activities.

Tax Preferences. In 2013, the Legislature established new tax preference transparency requirements. New tax preferences automatically expire in ten years unless an express expiration date applies. All bills that enact, extend, or expand a tax preference must include a performance statement unless an explicit exemption is included. The amount claimed by a taxpayer for a new tax preference may be publicly disclosed 24 months after the preference is claimed, with some exceptions.

Summary of Bill: Wine & Cider Excise Taxes. If a winery produces less than 50,000 gallons of wine in a calendar year, the winery's sales of the first 20,000 gallons of wine in a calendar year are exempt from most wine and cider excise taxes. The exemption does not apply to taxes collected and distributed to WSU or the WWC.

Tax Preferences. The tax preference is exempt from provisions relating to automatic tax preference expiration and tax preference performance statements.

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: PRO: The global pandemic has hurt the wine industry and this tax benefit could not have come at a better time. The tax exemption would assist small wineries to stay in businesses and would help the business grow by making more wine and contributing to the economy. This is a good equalization for the small wineries in Washington. This is a good bill, constitutional, and fiscally responsible. There is support for expansion of the bill to cover more wineries. There should be a sense of urgency on this bill because small wineries do not have access to normal wine outlets. This is harming small wineries. Even with low sales, tax must still be paid to LCB. Only big distributors can get on the grocery store shelves. There is support for extending the tax break to all wineries, regardless of size.

OTHER: The tax relief would mostly go to out-of-state wineries importing wines, which is likely not the intent of the bill. Due to the cap, small Washington wineries are left out and we would encourage supporting all wineries in the state. Washington breweries and distilleries have been hit hard by the pandemic as well. We would ask for the same tax relief in the craft and general distillers' license space. Consider making this a beer, spirits, and wine tax relief because all industries are hurting. The fiscal note does take into account the out-of-state wineries and would be substantially higher in reality. The problem here is that the Interstate Commerce Clause interferes with Washington's ability to give preferential treatment to in-state wineries. We are opposed to anything that would be in conflict with the Interstate Commerce Clause. If tax relief is applied, it should be applied to the class.

Persons Testifying: PRO: Senator Judy Warnick, Prime Sponsor; Scott Greenberg, Convergence Zone Cellars; Paul Beveridge, Wilridge Winery/Family Wineries; John Bell, Family Wineries of Washington State; Stephanie Swanberg, Tri-City Regional Chamber of Commerce; Sandi Grimnes Moreno, Family Wineries of Washington.

OTHER: Jim Hedrick, Washington Distillers Guild; Annie McGrath, Washington Brewers Guild; Rowland Thompson, The Wine Institute; Josh McDonald, Washington Wine Institute; Chris Thompson, Liquor and Cannabis Board.

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