

SENATE BILL REPORT

SB 5417

As Reported by Senate Committee On:
Labor, Commerce & Tribal Affairs, February 11, 2021
Ways & Means, February 22, 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: Senators King, Conway, Nguyen, Randall and Wilson, C.; by request of Liquor and Cannabis Board.

Brief History:

Committee Activity: Labor, Commerce & Tribal Affairs: 2/08/21, 2/11/21 [DPS-WM, DNP].

Ways & Means: 2/18/21, 2/22/21 [DPS (LCTA), DNP, w/oRec].

Brief Summary of First Substitute Bill

- Extends certain privileges granted to licensees during the COVID-19 pandemic until July 1, 2023.
- Directs the Liquor and Cannabis Board (LCB) to adopt or revise current rules relating to outdoor alcohol sales, delivery documentation, and age verification.
- Removes current requirement for wineries and breweries to have food available while sampling at farmers' markets.
- Directs LCB to study impacts of granted privileges with specific initiation and reporting dates.
- Exempts certain sales of spirits mini-bottles from the spirits license issuance fee and certain spirits taxes.

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

Majority Report: That Substitute Senate Bill No. 5417 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Conway, Vice Chair, Labor; Stanford, Vice Chair, Commerce & Tribal Affairs; King, Ranking Member; Braun, Robinson, Saldaña and Schoesler.

Minority Report: Do not pass.

Signed by Senator Honeyford.

Staff: Matt Shepard-Koningsor (786-7627)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5417 as recommended by Committee on Labor, Commerce & Tribal Affairs be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Schoesler, Assistant Ranking Member, Capital; Braun, Conway, Dhingra, Gildon, Hunt, Keiser, Liias, Mullet, Muzzall, Pedersen and Warnick.

Minority Report: Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member, Capital; Darneille and Van De Wege.

Minority Report: That it be referred without recommendation.

Signed by Senators Brown, Assistant Ranking Member, Operating; Carlyle, Hasegawa, Rivers, Wagoner and Wellman.

Staff: Alia Kennedy (786-7405)

Background: Definitions. Liquor includes the following four varieties of liquor defined in statute—alcohol, spirits, wine, and beer, and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous, or malt liquor, or otherwise intoxicating; and every liquid, solid, semisolid, or other substance, patented or not, containing alcohol, spirits, wine, or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than 1 percent alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain 1 percent or less of alcohol by weight.

Licensee Privileges. As a result of the COVID-19 pandemic in Washington State, the Liquor and Cannabis Board (LCB) instituted certain temporary allowances to help licensees during the hardships posed by COVID-19. Specific allowances are applied by industry and

accompanied by state guidance and requirements. Allowances exist for certain licensees such as adding or extending outside liquor service; selling pre-mixed cocktails for off-premises consumption; and selling liquor for curbside service and delivery.

Summary of Bill (First Substitute): 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 pre-mixed 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. 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.

LCB must adopt or revise current rules for outdoor service of alcohol for specified licensees, which may include provisions for clear accountability in locations where multiple licensees use shared space for serving customers. These provisions expire on July 1, 2023 (expiration date).

Permanent Rule Changes. LCB must adopt or revise current rules to authorize licensees with a delivery endorsement to use a photograph or scanned identification instead of physical signature to document delivery and verify customer age. LCB must consider revising current rules to provide flexibility on requirements relating to paired food and alcohol sales.

Farmers' Market Food Service. The requirement that wineries and microbreweries must have food available for customers when sampling beer or wine at farmers' markets is removed.

Liquor Control Board Study. LCB must contract with an independent entity to conduct a one-year study of the impacts of 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 the expiration date, mini-bottles sold with cocktail kits are exempt from the 17 percent spirits license issuance fee and spirits sales and liter taxes.

Tax Preference Exclusions. The tax exemption on spirits mini-bottles is exempt from provisions relating to expiration and performance statements on tax preferences.

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

- Authorizes spirits, beer, and wine restaurant licensees and beer and wine restaurant licensees to sell wine by the glass and premixed wine and spirits cocktails for takeout or curbside service and delivery.
- Explains the reasoning for the temporary tax exemption on mini-bottles of spirits sold in cocktail kits and related exemption for tax preference expiration and reporting.

Appropriation: The bill contains an appropriation totaling \$150,000 from the liquor revolving fund.

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 on Original Bill (Labor, Commerce & Tribal Affairs): *The committee recommended a different version of the bill than what was heard.*

PRO: This bill takes valuable allowances and makes them more permanent. The sunset provision is problematic because of the study dates. LCB will be studying data in 2022 while businesses are still trying to recover. Washington wineries have been hit hard and this bill would allow the wineries to keep their doors open by continuing sales. The benefits of maintaining these businesses outweighs the public safety concerns. Many of these businesses have suffered due to the pandemic and this bill is a way to help them. The study is supposed be about reviewing the bill's privileges and determining what works and what does not. This bill contains well-crafted temporary policies that have provided flexibility and new opportunities to safely sell beer to-go. Distilleries are struggling to find avenues to stay in business and we ask the bill also allow distilleries to participate in the cocktail provisions. We hope to expand to include wine by the glass, thus treating wine equally with

spirits. The mission of the LCB is public safety and the study included in this bill addresses concerns surrounding that mission.

CON: Scanning identification is problematic with easy access for youths to obtain fake identification. It is strongly recommended the sunset provision be changed to July 2022 and extend it during next legislative session if needed. This is a temporary situation and the bill should reflect that.

OTHER: After the Governor's orders, this bill is redundant. It is detrimental to youths and adults. Youths and adults drink to cope with stress and this is up during the pandemic. Relaxing alcohol regulation has a direct correlation with an effect on youths. If this bill does pass, it should remain temporary.

Persons Testifying (Labor, Commerce & Tribal Affairs): PRO: Senator Curtis King, Prime Sponsor; Josh McDonald, Washington Wine Institute; Katie Doyle, Washington Hospitality Association; Annie McGrath, Washington Brewers Guild; Rick Garza, Washington State Liquor and Cannabis Board; Scott Hazlegrove, Washington Beer and Wine Distributors Association; Rowland Thompson, The Wine Institute.

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

OTHER: Megan Moore, Prevention Voices Washington; Jim Hedrick, Washington Distillers Guild.

Persons Signed In To Testify But Not Testifying (Labor, Commerce & Tribal Affairs): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: The hospitality industry was devastated by the COVID-19 pandemic. The additional funding associated with this bill is necessary to allow the LCB to provide the full staff necessary to oversee an increase in alcohol related services. This expansion of services allows businesses to recover from the impact of shutdowns. The bill takes a thoughtful approach in the types of alcohol allowed to be served under the expanded services, in that mini bottles of liquor are allowed while full size bottles are excluded. The mini-bottle tax exemption alleviates the burden of tax collection on both the state and businesses. The study gives the LCB the ability to evaluate the impact on the community of expanding permitted liquor license services.

Persons Testifying (Ways & Means): PRO: Chris Thompson, Liquor and Cannabis Board; Annie McGrath, Washington Brewer's Guild; Josh McDonald, Washington Wine Institute; Katie Doyle, Washington Hospitality Association.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.