

# HOUSE BILL REPORT

## HB 1375

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**As Reported by House Committee On:**  
Regulated Substances & Gaming

**Title:** An act relating to liquor licensee privileges for the delivery of alcohol.

**Brief Description:** Concerning liquor licensee privileges for the delivery of alcohol.

**Sponsors:** Representatives Reeves, Chambers and Reed.

**Brief History:**

**Committee Activity:**

Regulated Substances & Gaming: 1/26/23, 2/14/23 [DPS].

**Brief Summary of Substitute Bill**

- Removes the July 1, 2023, expiration date for most liquor license privileges that were temporarily codified in 2021 based on allowances the Washington State Liquor and Cannabis Board (LCB) provided during the COVID-19 pandemic.
- Eliminates the privileges for curbside alcohol sales by various licensees and sales of cocktail kits by restaurants, requires a 95 percent compliance rate to maintain delivery privileges, and requires the LCB to create alcohol delivery endorsements at a cost of \$50 to certain liquor licenses.
- Requires an employee conducting alcohol deliveries for an endorsement holder to be at least age 21, to have a class 12 alcohol server permit, and have completed an approved alcohol server permit course with a curriculum component covering best practices for alcohol delivery.
- Imposes a \$5 fee on employees of liquor licensees who conduct deliveries at the time of issuance and replacement of their class 12 permit, to fund substance abuse prevention, education, and treatment services.

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*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.*

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## HOUSE COMMITTEE ON REGULATED SUBSTANCES & GAMING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Kloba, Co-Chair; Wylie, Co-Chair; Stearns, Vice Chair; Chambers, Ranking Minority Member; Cheney, Morgan, Reeves and Waters.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Robertson, Assistant Ranking Minority Member; Orwall and Walsh.

**Staff:** Peter Clodfelter (786-7127).

### **Background:**

In 2021 the Legislature enacted Engrossed Second Substitute House Bill 1480 to temporarily codify liquor license privileges, similar to the allowances the Washington State Liquor and Cannabis Board (LCB) had temporarily provided to liquor licensees during the COVID-19 pandemic. The liquor license privileges have a July 1, 2023, expiration date.

Under the temporary privileges, licensees are required to obtain a no-cost endorsement to engage in the activities authorized by the temporary privileges. The temporary privileges include the ability for the following liquor licensees to sell alcohol products at retail for curbside service, takeout, and for 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.

The temporary privileges also authorize spirits, beer, and wine restaurant licensees to sell premixed alcohol drinks (cocktails) and cocktail kits for curbside service, takeout, and delivery, pursuant to rules the LCB may adopt. The sale of mini-bottles of spirits as part of cocktail kits are excluded from the spirits license issuance fee and spirits taxes while the temporary privileges are in effect. "Mini-bottles" are defined as original factory-sealed containers holding not more than 50 milliliters of a spiritous beverage.

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.

The temporary privileges provided greater flexibility for sales of growlers for off-premises consumption, and specified that 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. The term "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 2021 law requires that, 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.

The LCB was granted authority to adopt rules governing the manner in which all the new activities must be conducted. The LCB was also required to adopt rules to allow for outdoor service of alcohol by on-premises licensees holding specific on-premises liquor licenses. Additionally, the LCB was required to 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 service. The LCB adopted rules in December 2021 updating food service menu requirements and providing temporary rules for outdoor alcohol service by on-premises licensees.

The LCB was required to contract with an independent entity to conduct a study of the impacts of the new privileges granted to businesses with liquor licenses. The LCB conducted a request for proposal and competitive bid process to select the vendor for the report, which was completed with findings and recommendations and available to the Legislature in December 2022.

Separate from the temporary liquor privileges, the LCB regulates a mandatory alcohol server education program and certifies training entities to provide class 12 permits to a manager or bartender who has successfully completed an LCB-certified course. A class 12 permit is for a manager or bartender selling or mixing alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility. There is also a class 13 permit available for a person who only serves alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

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### **Summary of Substitute Bill:**

The July 1, 2023, expiration date of liquor license privileges provided by Engrossed Second Substitute House Bill 1480 (2021) is eliminated, to continue most of the privileges. However, the temporary privileges of curbside alcohol sales by various licensees and sales by restaurants of cocktail kits containing mini-bottles of spirits is eliminated. The temporary exemption from spirits taxes and the spirits retail license issuance fee, related to

sales by restaurants of cocktail kits, is also eliminated.

A definition of "delivery" is added to liquor statutes. The term "delivery" means the transportation of alcohol to an individual located within Washington from a licensed location holding an alcohol delivery endorsement as part of a to-go order. The term "delivery" does not include services provided by common carriers.

The Washington State Liquor and Cannabis Board (LCB) is required to create an alcohol delivery endorsement at a cost of \$50 to the following licenses:

- beer and wine restaurant license;
- spirits, beer, and wine restaurant license;
- tavern license;
- domestic winery license;
- domestic brewery license;
- microbrewery license;
- distillery license; and
- craft distillery license.

Delivery services conducted by beer and wine restaurant licensees and spirits, beer, and wine restaurant licensees must be accompanied by a purchased meal prepared and sold by the license holder.

A licensee delivering alcohol under the authorization must maintain a compliance rate of at least 95 percent per year in ensuring that all deliveries of alcohol are made only to a person who is 21 years of age or older who signs for the delivery. The LCB may adopt rules establishing procedures to revoke the delivery privileges of a licensee who, in the LCB's discretion, is not in compliance.

Every person whose duties include the delivery of alcohol under the authorization must have a class 12 alcohol server permit before engaging in alcohol delivery and must pay a \$5 fee to the LCB at the time of issuance and replacement of a class 12 permit separate from the general cost of the class 12 permit. Moneys collected from this additional \$5 fee are allocated to the Health Care Authority or the Department of Health for substance abuse prevention, education, and treatment. A delivery employee whose duties include the delivery of alcohol under the authorization must complete an approved class 12 permit course that includes a curriculum component that covers best practices for delivery of alcohol.

#### **Substitute Bill Compared to Original Bill:**

The privilege allowing curbside sales of alcohol by various liquor licensees and the privilege allowing sales of cocktail kits with mini-bottles of spirits by restaurants are both eliminated. A requirement is added that liquor licensees conducting deliveries pursuant to the authorization must maintain a compliance rate of at least 95 percent per year in ensuring

that deliveries of alcohol are made only to a person who is 21 years of age or older who signs for the delivery. The proposed creation of a third-party alcohol delivery license is eliminated. It is specified that deliveries pursuant to the privileges must be conducted by an employee of the licensee selling the alcohol who has a class 12 alcohol server permit, is age 21 or over, and has completed an approved class 12 permit course that includes a curriculum component that covers best practices for delivery of alcohol. A \$5 fee is imposed on employees of licensees who conduct deliveries pursuant to the privileges at the time of issuance and replacement of a class 12 permit. It is provided that this fee is in addition to the general cost of the alcohol server permit and is to be allocated to the Health Care Authority or the Department of Health for substance abuse prevention, education, and treatment services.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 15, 2023.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) Allowing delivery of alcohol can reduce the occurrence of driving under the influence while enabling people to responsibly enjoy beverages at home. The bill includes enforcement mechanisms, requires accountability of operators, and is not intended to increase alcohol access. Businesses like restaurants, breweries, wineries, and distilleries appreciate the Legislature and the Washington State Liquor and Cannabis Board's (LCB) work in enabling the temporary privileges, which provide a path to continued economic recovery for these businesses while ensuring responsibility. The ability to continue home delivery and outdoor seating is very important. For wineries, wine sales have been flat and tasting room visits down. The bill keeps customers safe and allows businesses to remain open. The industry appreciates the LCB's rules on outdoor seating and alcohol service and emphasizes the critical importance of continuing that privilege. There are important retail opportunities in this bill for businesses such as small distilleries that do not have distribution options. Recommendations from the study required by House Bill 1480 (2021) were that third-party delivery privileges should sunset unless a new third-party delivery license is available for these companies. Hospitality industry businesses with liquor licenses support the bill. Restaurant operators are still struggling despite COVID-19 emergency orders ending. Many operators have taken on significant debt and some continue to close their doors permanently. Consumer habits continue to change and to-go and delivery service is more popular than ever. Without the ability to sell alcohol to-go and through delivery services, more businesses will surely close doors permanently. There are ways to ensure accountability while continuing the privileges.

(Opposed) There are significant concerns related to traffic safety. Alcohol impairment is involved in nearly a third of fatal crashes and there has been a dramatic increase in traffic fatalities over the last three years in Washington, from 538 in 2019 to an estimated 745 fatalities in 2022. These are the highest rates in nearly three decades. The United States Centers for Disease Control (CDC) identifies the consequences of excessive alcohol consumption, including injuries and diseases, as the third highest preventable cause of death in the United States. The CDC also found that laws reducing excessive drinking also reduce impaired driving. Making permanent the curbside service, takeout, and delivery privileges for alcohol products including premixed cocktails will not improve traffic safety at a time when the focus should be on saving lives. There is a lack of justification for extending the temporary alcohol privileges and the privileges should be allowed to expire as scheduled. The privilege that allows an on-premise restaurant licensee to sell spirits in the original packaging for off-premises consumption was intended to be temporary, and licensees who operate former state-run and contract liquor stores object to the proposed continuation of this policy. That privilege and the related exemption from spirits taxes and the spirits retail license issuance fee for restaurants interacts with the industry practice of channel pricing to allow restaurants to obtain a price advantage in purchasing packaged mini-bottles of spirits for resale, and could lead to a new market for these mini-bottles of packaged spirits at low cost. Section 3 of the original bill creating the alcohol delivery license should ensure it does not accidentally require liquor licensees with off-premises sales privileges to obtain the license while simultaneously excluding them from being eligible.

(Other) Requiring a class 12 permit for alcohol delivery drivers is not the right fit and a class 13 permit or other option is preferable. The class 12 training is primarily for fulltime bartenders and covers topics inapplicable to delivery drivers who may spend a small portion of their time delivering alcohol. Drivers for third-party delivery companies feel they would be negatively impacted by the requirement for a class 12 permit and it would cause reduced earnings for drivers. Supplemental income for application-based delivery drivers would be lost. A policy should enable app-based delivery drivers to continue to deliver alcohol without obtaining a full mandatory alcohol server permit but while ensuring proper training is provided on issues likely to be faced by delivery drivers such as checking valid identification, not delivering to minors, and other delivery issues. Application-based delivery operators' programs have industry leading safety features including a two-step process for uploading a valid identification and a way for drivers to scan the front of a person's identification for verification. Some application-based delivery operators already require their drivers to take an alcohol course and have measures to promote compliance. These types of trainings by delivery operators should be required instead of a class 12 permit for drivers.

**Persons Testifying:** (In support) Representative Kristine Reeves, prime sponsor; Riley Smith, Washington Hospitality Association; Daniel Olson, Washington Brewers Guild; Josh McDonald and Jessica Zander, Washington Wine Institute; Derek Baziotis, Bene's and Inferno Wings; and Jim Hedrick, Washington Distillers Guild.

(Opposed) Mark McKechnie, Washington Traffic Safety Commission; and Brad Tower, Washington Liquor Store Association.

(Other) Allison Ford, Uber Technologies; Anna Powell, DoorDash; Michael Wolfe, Drive Forward; and Scott Waller, Washington Prevention First! for Safe and Healthy Communities.

**Persons Signed In To Testify But Not Testifying:** None.