

HOUSE BILL REPORT

SSB 5448

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: Senate Committee on Labor & Commerce (originally sponsored by Senators MacEwen, Mullet, Nguyen and Shewmake).

Brief History:

Committee Activity:

Regulated Substances & Gaming: 3/21/23, 3/23/23 [DPA].

Brief Summary of Substitute Bill
(As Amended By Committee)

- Removes the July 1, 2023, expiration date for certain liquor license privileges temporarily enacted in 2021 during the COVID-19 pandemic.
- Continues the privileges related to: (1) alcohol sales for takeout and, until July 1, 2025, for delivery; (2) sales by restaurants of premixed cocktails, wine by the glass, and premixed wine drinks; (3) sales and refilling of growlers; and (4) rules allowing outdoor service of alcohol.
- Eliminates the temporary privileges for curbside sales of alcohol by certain licensees and sales of cocktail kits by restaurants.
- Requires sales of alcohol by restaurants for takeout or delivery under the privileges to be accompanied by a purchased meal.
- Requires deliveries to be conducted by an employee of a licensee who is age 21 or over with a class 12 alcohol server permit who completed an approved permit course with a curriculum component on best practices for alcohol delivery.
- Requires a report by the Liquor and Cannabis Board with

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recommendations for a comprehensive alcohol delivery policy, by
November 1, 2023.

HOUSE COMMITTEE ON REGULATED SUBSTANCES & GAMING

Majority Report: Do pass as amended. Signed by 10 members: Representatives Kloba, Co-Chair; Wylie, Co-Chair; Stearns, Vice Chair; Chambers, Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Morgan, Orwall, Reeves, Walsh and Waters.

Staff: Peter Clodfelter (786-7127).

Background:

In 2021 the Legislature enacted Engrossed Second Substitute House Bill 1480 to temporarily establish 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 no-cost endorsements to engage in most 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. The term "mini-bottles" is defined as the 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 rulemaking authority to establish the manner in which wine by the glass and cocktails for off-premises consumption must be provided.

The temporary privileges authorized the sale of growlers by takeout, curbside service, and delivery, for certain licensees who could previously sell growlers. The temporary privileges also specified that wine specialty shops, domestic breweries, and microbreweries may sell prefilled growlers for off-premises consumption through curbside service, takeout, and delivery, if the 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 a proposal and competitive bid process to select the vendor for the report, which was completed with findings and recommendations and was made 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.

Summary of Amended Bill:

The July 1, 2023, expiration date of certain liquor license privileges provided by Engrossed Second Substitute House Bill 1480 (2021) is eliminated, continuing certain privileges. The following privileges are continued indefinitely: (1) sales of alcohol for takeout by the specified licensees; (2) sales by restaurants of premixed cocktails, wine by the glass, and premixed wine drinks; (3) sales and prefilling of growlers; and (4) rules allowing outdoor service of alcohol. The requirement to obtain no-cost endorsements for most of the privileges is also extended.

However, the temporary privilege of the sale of alcohol for curbside service by specified licensees is eliminated. Additionally, the temporary privilege for restaurants to sell cocktail kits containing mini-bottles of spirits is eliminated.

The authorization for specified licensees to sell alcohol for delivery under the temporary privileges is extended only until July 1, 2025. No alcohol products may be sold by delivery under the privileges after July 1, 2025.

While delivery sales are authorized, alcohol delivery must be performed by an employee of an alcohol delivery endorsement holder who is 21 years of age or older and possesses a class 12 alcohol server permit. The employee must have completed an approved alcohol server permit course with a curriculum component on best practices for alcohol delivery. The signature requirement is extended so that upon delivery of any alcohol product authorized to be delivered under the temporary liquor privilege through July 1, 2025, the signature of the person age 21 or over receiving the delivery must be obtained.

A requirement is added that any alcohol product sold for takeout or delivery pursuant to the privileges must be in a factory sealed container or a tamper-resistant container.

A requirement is added that sales of alcohol products by takeout and delivery 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 definition of "delivery" is added to liquor statutes. The term "delivery" is defined as the transportation of alcohol to an individual located within Washington from a licensed location holding an alcohol delivery endorsement as part of a delivery order. The definition of the term "delivery" does not include services provided by common carriers.

The LCB is required to submit a report with recommendations to the Governor and the Legislature for a comprehensive alcohol delivery policy by November 2023. The recommendations in the report must include a consistent, equitable structure for alcohol delivery licenses, endorsements, permits, and fees, and a comprehensive plan to help ensure all deliveries of alcohol are made only to persons who are 21 years of age or older.

Amended Bill Compared to Substitute Bill:

The amended bill makes the following changes to the substitute bill:

- prohibits alcohol products from being sold by delivery, after July 1, 2025, pursuant to the privileges that were established in Engrossed Second Substitute House Bill 1480 (2021);
- requires alcohol sold for takeout, and not only for delivery, by beer and wine restaurant licensees and spirits, beer, and wine restaurant licensees pursuant to the privileges to be accompanied by a purchased meal prepared and sold by the license holder;
- requires any alcohol product sold for takeout or delivery pursuant to the privileges to be in a factory sealed container or a tamper-resistant container;
- eliminates the proposed requirement that a licensee delivering alcohol pursuant to the privileges 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;
- changes the proposed definition of "delivery" in liquor statutes;
- eliminates the proposed \$5 additional fee at the time of issuance and replacement of a class 12 permit of an employee who conducts deliveries for a delivery endorsement holder pursuant to the privileges;
- eliminates the proposed requirement for the Liquor and Cannabis Board (LCB) to create a \$50 license endorsement for restaurants, taverns, wineries, breweries, and distilleries to conduct alcohol deliveries under the privileges, to continue applying the existing requirement that these licensees must obtain a no-cost endorsement from the LCB to conduct the delivery privileges;
- requires the LCB to submit a report with recommendations to the Governor and the Legislature for a comprehensive alcohol delivery policy, by November 2023; and
- changes the effective date to July 1, 2023, from immediately.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 23, 2023.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect on July 1, 2023.

Staff Summary of Public Testimony:

(In support) Many businesses in the hospitality industry with liquor licenses support this bill. Continued discussions about the policy have led to several changes to improve the bill as it continues to move through the legislative process. These changes are focused on tightening language about permissible containers for alcohol products to require them to be factory sealed or tamper proof. The sunset provision is also extended to 2025, but only for delivery. By November 1, 2023, the Liquor and Cannabis Board (LCB) would be required to make recommendations to the Legislature about a comprehensive alcohol delivery policy

that could be equitably applied across all license types. There is agreement that by adding this requirement, it makes sense to eliminate the component of the bill that would have required a 95 percent compliance rate for licensees to maintain their delivery privileges. That provision was not implementable. There are several other technical change as well. Wineries and breweries strongly support the bill and the most recent changes to the language. The current temporary privilege that modernizes outdoor seating and alcohol service is one of the most important of the privileges for licensees. The outdoor seating provisions are particularly common sense and have proved vital for businesses seeking to keep their customers and staff safe and healthy. The rules the LCB adopted on outdoor seating are working well and the extension of this allowance is appreciated. The temporary privilege for wineries to sell and deliver products to consumers' homes has also been valuable for wineries. Winery sales are currently flat, tourist visits are down, and the industry could use the help and support provided in the bill. Breweries also support and appreciate these provisions on delivery, and support the most recent changes being proposed in the committee striking amendment. The ability to sell alcohol for delivery continues to play an important role in the recovery of the hospitality industry.

(Opposed) The policies in this bill are important to get right. Only about 45 percent of delivery drivers passed youth alcohol compliance checks during the COVID-19 pandemic, based on available information. Another problem with the temporary delivery allowances included alcohol being left unattended on front porches without any human contact. There is also a misconception that having alcohol delivered to a person at home eliminates public safety risks. People may choose to drive after they have consumed a home-delivered alcohol product. With that said, the work done to improve the bill to address concerns is appreciated and the most recent proposed changes for the committee striking amendment sound agreeable.

Persons Testifying: (In support) Senator Drew MacEwen, prime sponsor; Riley Smith, Washington Hospitality Association; Josh McDonald, Washington Wine Institute; and Daniel Olson, Washington Brewers Guild.

(Opposed) Scott Waller, Washington Association of Substance Misuse and Violence Prevention.

Persons Signed In To Testify But Not Testifying: None.