
HOUSE BILL 1807

State of Washington

64th Legislature

2015 Regular Session

By Representatives Condotta and Hurst

Read first time 01/29/15. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to assisting small businesses licensed to sell
2 spirits in Washington state; amending RCW 66.24.630, and 66.28.330;
3 adding a new section to chapter 66.28 RCW; creating a new section;
4 and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that in the wake of
7 the implementation of Initiative Measure No. 1183, many small
8 business owners suffered severe losses in assuming the operation of
9 state-owned and contract liquor stores. Approximately one-third of
10 these small businesses have already failed, and many more are in
11 imminent danger of failure. These losses were due, in part, to
12 regulatory actions of the state and unintentional misrepresentations
13 of market conditions and the applicability of certain taxes and fees
14 on the business being sold or transferred to these private parties.
15 The state received over thirty million dollars from these small
16 business people, the majority of whom are minority business owners,
17 for the right to continue operations that were previously state-owned
18 and operated. It is the intent of the legislature to mitigate the
19 economic hardships facing these small businesses and create
20 opportunities for them to restructure their enterprises to meet
21 current market conditions.

1 **Sec. 2.** RCW 66.24.630 and 2012 2nd sp.s. c 6 s 401 are each
2 amended to read as follows:

3 (1) There is a spirits retail license to: Sell spirits in
4 original containers to consumers for consumption off the licensed
5 premises and to permit holders; sell spirits in original containers
6 to retailers licensed to sell spirits for consumption on the
7 premises, for resale at their licensed premises according to the
8 terms of their licenses, although no single sale may exceed twenty-
9 four liters, unless the sale is by a licensee that was a contract
10 liquor store manager of a contract liquor store at the location of
11 its spirits retail licensed premises from which it makes such sales;
12 and export spirits.

13 (2) For the purposes of this title, a spirits retail license is a
14 retail license, and a sale by a spirits retailer is a retail sale
15 only if not for resale. Nothing in this title authorizes sales by on-
16 sale licensees to other retail licensees. The board must establish by
17 rule an obligation of on-sale spirits retailers to:

18 (a) Maintain a schedule by stock-keeping unit of all their
19 purchases of spirits from spirits retail licensees, indicating the
20 identity of the seller and the quantities purchased; and

21 (b) Provide, not more frequently than quarterly, a report for
22 each scheduled item containing the identity of the purchasing on-
23 premises ~~((on-premises))~~ licensee and the quantities of that
24 scheduled item purchased since any preceding report to:

25 (i) A distributor authorized by the distiller to distribute a
26 scheduled item in the on-sale licensee's geographic area; or

27 (ii) A distiller acting as distributor of the scheduled item in
28 the area.

29 (3)(a) Except as otherwise provided in (c) of this subsection,
30 the board may issue spirits retail licenses only for premises
31 comprising at least ten thousand square feet of fully enclosed retail
32 space within a single structure, including storerooms and other
33 interior auxiliary areas but excluding covered or fenced exterior
34 areas, whether or not attached to the structure, and only to
35 applicants that the board determines will maintain systems for
36 inventory management, employee training, employee supervision, and
37 physical security of the product substantially as effective as those
38 of stores currently operated by the board with respect to preventing
39 sales to or pilferage by underage or inebriated persons.

1 (b) License issuances and renewals are subject to RCW 66.24.010
2 and the regulations promulgated thereunder, including without
3 limitation rights of cities, towns, county legislative authorities,
4 the public, churches, schools, and public institutions to object to
5 or prevent issuance of local liquor licenses. However, existing
6 grocery premises licensed to sell beer and/or wine are deemed to be
7 premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of
8 processing applications for spirits retail licenses.

9 (c) The board may not deny a spirits retail license to an
10 otherwise qualified contract liquor store at its contract location or
11 to the holder of former state liquor store operating rights sold at
12 auction under RCW 66.24.620 on the grounds of location, nature, or
13 size of the premises to be licensed. The board may not deny a spirits
14 retail license to applicants that are not contract liquor stores or
15 operating rights holders on the grounds of the size of the premises
16 to be licensed, if such applicant is otherwise qualified and the
17 board determines that:

18 (i) There is no (~~retail~~) spirits retail license holder in the
19 trade area that the applicant proposes to serve;

20 (ii) The applicant meets, or upon licensure will meet, the
21 operational requirements established by the board by rule; and

22 (iii) The licensee has not committed more than one public safety
23 violation within the three years preceding application.

24 (d) A retailer authorized to sell spirits for consumption on or
25 off the licensed premises may accept delivery of spirits at its
26 licensed premises, at another licensed premises as designated by the
27 retailer, or at one or more warehouse facilities registered with the
28 board, which facilities may also warehouse and distribute nonliquor
29 items, and from which the retailer may deliver to its own licensed
30 premises and, pursuant to sales permitted under subsection (1) of
31 this section:

32 (i) To other retailer premises licensed to sell spirits for
33 consumption on the licensed premises;

34 (ii) To other registered facilities; or

35 (iii) To lawful purchasers outside the state. The facilities may
36 be registered and utilized by associations, cooperatives, or
37 comparable groups of retailers, including at least one retailer
38 licensed to sell spirits.

39 (4)(a) Except as otherwise provided in RCW 66.24.632, or in (b)
40 or (c) of this subsection, each spirits retail licensee must pay to

1 the board, for deposit into the liquor revolving fund, a license
2 issuance fee equivalent to seventeen percent of all spirits sales
3 revenues under the license, exclusive of taxes collected by the
4 licensee and of sales of items on which a license fee payable under
5 this section has otherwise been incurred. The board must establish
6 rules setting forth the timing of such payments and reporting of
7 sales dollar volume by the licensee, with payments required quarterly
8 in arrears. The first payment is due October 1, 2012.

9 (b) Those licensees who are either holders of former state liquor
10 store operating rights under RCW 66.24.620, or the owners of former
11 contract liquor stores, who are qualified as a small business under
12 RCW 19.85.020 and are licensed under subsection (3)(c) of this
13 section, are subject to the following requirements regarding the
14 payment of license issuance fees:

15 (i) Licensees with monthly gross receipts of three hundred
16 thousand dollars or less must pay a license issuance fee of seven
17 percent on the first fifty thousand dollars of its monthly retail
18 spirits sales revenues and must pay seventeen percent on the
19 remainder of its monthly retail spirits sales revenues; and

20 (ii) Licensees with monthly gross receipts of more than three
21 hundred thousand dollars must pay a license issuance fee of seventeen
22 percent on the full amount of its monthly retail spirits sales
23 revenues.

24 (c) This subsection (4) does not apply to craft distilleries.

25 (5) In addition to the payment required under subsection (4) of
26 this section, each licensee must pay an annual license renewal fee of
27 one hundred sixty-six dollars. The board must periodically review and
28 adjust the renewal fee as may be required to maintain it as
29 comparable to annual license renewal fees for licenses to sell beer
30 and wine not for consumption on the licensed premises. If required by
31 law at the time, any increase of the annual renewal fee becomes
32 effective only upon ratification by the legislature.

33 (6) As a condition to receiving and renewing a (~~retail~~) spirits
34 retail license the licensee must provide training as prescribed by
35 the board by rule for individuals who sell spirits or who manage
36 others who sell spirits regarding compliance with laws and
37 regulations regarding sale of spirits, including without limitation
38 the prohibitions against sale of spirits to individuals who are
39 underage or visibly intoxicated. The training must be provided before
40 the individual first engages in the sale of spirits and must be

1 renewed at least every five years. The licensee must maintain records
2 documenting the nature and frequency of the training provided. An
3 employee training program is presumptively sufficient if it
4 incorporates a "responsible vendor program" promulgated by the board.

5 (7) The maximum penalties prescribed by the board in WAC
6 314-29-020 through 314-29-040 relating to fines and suspensions are
7 doubled for violations relating to the sale of spirits by (~~retail~~)
8 spirits retail licensees.

9 (8)(a) The board must promulgate regulations concerning the
10 adoption and administration of a compliance training program for
11 spirits retail licensees, to be known as a "responsible vendor
12 program," to reduce underage drinking, encourage licensees to adopt
13 specific best practices to prevent sales to minors, and provide
14 licensees with an incentive to give their employees ongoing training
15 in responsible alcohol sales and service.

16 (b) Licensees who join the responsible vendor program under this
17 section and maintain all of the program's requirements are not
18 subject to the doubling of penalties provided in this section for a
19 single violation in any period of twelve calendar months.

20 (c) The responsible vendor program must be free, voluntary, and
21 self-monitoring.

22 (d) To participate in the responsible vendor program, licensees
23 must submit an application form to the board. If the application
24 establishes that the licensee meets the qualifications to join the
25 program, the board must send the licensee a membership certificate.

26 (e) A licensee participating in the responsible vendor program
27 must at a minimum:

28 (i) Provide ongoing training to employees;

29 (ii) Accept only certain forms of identification for alcohol
30 sales;

31 (iii) Adopt policies on alcohol sales and checking
32 identification;

33 (iv) Post specific signs in the business; and

34 (v) Keep records verifying compliance with the program's
35 requirements.

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 66.28
37 RCW to read as follows:

38 (1) If a licensee subject to the license issuance fee
39 requirements of RCW 66.24.630(4) fails to submit its quarterly

1 reports or payment to the board, the board may assess a penalty at a
2 rate no higher than one-half percent per month on the balance of the
3 unpaid license issuance fee.

4 (2) Any penalty imposed on a licensee for its failure to pay the
5 license issuance fee that accrued prior to the effective date of this
6 section shall be waived, and all penalty payments made by licensees
7 prior to the effective date of this section, if any, must be credited
8 towards any outstanding balance of unpaid license issuance fee or
9 towards the future payments of its license issuance fee.

10 (3) A holder of the right to operate a former contract liquor
11 store or former state liquor store who has any outstanding balance of
12 unpaid license issuance fee accrued prior to the effective date of
13 this section shall not be denied the ability to reopen its closed
14 store, to relocate its store to a new location, or to lease its right
15 to a new licensee during the twenty-four months following the
16 effective date of this section, for reason of nonpayment of the
17 license issuance fee. The right holder's failure to pay the license
18 issuance fee until after said twenty-four months will be a sufficient
19 ground for suspending or revoking its license or any third party's
20 license then associated with the holder's operating right.

21 **Sec. 4.** RCW 66.28.330 and 2012 c 2 s 120 are each amended to
22 read as follows:

23 (1) No price for spirits or wines sold in the state by a
24 distributor, retailer, or other licensee acting as a distributor or
25 retailer pursuant to this title may be below acquisition cost unless
26 the item sold below acquisition cost has been stocked by the seller
27 for a period of at least six months. The seller may not restock the
28 item for a period of one year following the first effective date of
29 such below cost price. For the purpose of this section, "acquisition
30 cost" includes any license issuance fee imposed on the licensee by
31 operation of law on the selling price of the sale of spirits.

32 (2) Spirits sold to retailers for resale for consumption on or
33 off the licensed premises may be delivered to the retailer's licensed
34 premises, to a location specified by the retailer and approved for
35 deliveries by the board, or to a carrier engaged by either party to
36 the transaction.

37 (3) In selling spirits to another retailer, to the extent
38 consistent with the purposes of chapter 2, Laws of 2012, a spirits
39 retail licensee must comply with all provisions of and regulations

1 under this title applicable to wholesale distributors selling spirits
2 to retailers.

3 (4) A distiller holding a license or certificate of compliance as
4 a distiller under this title may act as distributor in the state of
5 spirits of its own production or of foreign-produced spirits it is
6 entitled to import. The distiller must, to the extent consistent with
7 the purposes of chapter 2, Laws of 2012, comply with all provisions
8 of and regulations under this title applicable to wholesale
9 distributors selling spirits to retailers.

10 (5) With respect to any alleged violation of this title by sale
11 of spirits at a discounted price, all defenses under applicable trade
12 regulation laws are available, including without limitation good
13 faith meeting of a competitor's lawful price and absence of harm to
14 competition.

15 (6) Notwithstanding any other provision of law, no licensee may
16 import, purchase, distribute, or accept delivery of any wine that is
17 produced outside of the United States or any distilled spirits
18 without the written consent of the brand owner or its authorized
19 agent.

20 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of
22 the state government and its existing public institutions, and takes
23 effect immediately.

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