
SUBSTITUTE HOUSE BILL 2204

State of Washington

66th Legislature

2020 Regular Session

By House Commerce & Gaming (originally sponsored by Representatives Kirby, Vick, Walen, Corry, Jenkin, Hoff, Fey, Chapman, and Wylie)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to the creation of a limited spirits retail
2 license; amending RCW 66.24.055; and adding new sections to chapter
3 66.24 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 66.24
6 RCW to read as follows:

7 (1) There is a limited spirits retail license to:

8 (a) Sell spirits in original containers to consumers for
9 consumption off the licensed premises and to permit holders; and

10 (b) Export spirits.

11 (2) For the purposes of this title, a limited spirits retail
12 license is a retail license, and a sale by a limited spirits retailer
13 is a retail sale.

14 (3)(a) Except as otherwise provided in (c) or (e) of this
15 subsection, the board may issue limited spirits retail licenses to
16 applicants holding licenses for off-premises sales of either beer or
17 wine, or both, issued pursuant to RCW 66.24.360(1), but only to
18 applicants that:

19 (i) Do not hold any endorsement issued pursuant to RCW 66.24.360
20 (2), (3), (6), or (10);

1 (ii) Do not hold a restricted license issued pursuant to RCW
2 66.24.360(7);

3 (iii) Satisfy all reasonable requirements imposed by statute or
4 regulation for issuance of a retail liquor license, including any
5 enhanced employee training requirements required by the board for
6 holders of limited spirits retail licenses;

7 (iv) The board determines will maintain systems for inventory
8 management, employee training, employee supervision, and physical
9 security of the product substantially as effective with respect to
10 preventing sales to, or pilferage by, underage or inebriated persons
11 as those systems currently used by stores holding spirits retail
12 licenses issued pursuant to RCW 66.24.630;

13 (v) The board determines have not committed more than one safety
14 violation within the three years preceding the filing of the
15 application; and

16 (vi) Except as provided in (e) of this subsection, the board
17 determines are not located, or proposed to be located, within a one-
18 mile radius of a spirits retail licensee who is operating on the
19 effective date of this section and obtained the spirits retail
20 license for the location through rights purchased at the auction held
21 under RCW 66.24.620.

22 (b)(i) License issuances and renewals pursuant to this section
23 are subject to RCW 66.24.010 and the regulations adopted thereunder,
24 including, without limitation, rights of the public, churches,
25 schools, and public institutions to object to local liquor licenses.

26 (ii) Nothing in this section prevents a city, town, or county
27 legislative authority from adopting an ordinance or resolution that
28 institutes a ban or moratorium on the issuance of a limited spirits
29 retail license within its jurisdiction.

30 (c) The board may deny a limited spirits retail license to an
31 otherwise qualified applicant if:

32 (i) The board reasonably determines that issuance of the limited
33 spirits retail license to the applicant would not be in the best
34 interests of the community to be served by the applicant because it
35 would result in an excessive number of locations where spirits could
36 be purchased in the community;

37 (ii) The board reasonably determines that issuance of the limited
38 spirits retail license to the applicant would otherwise pose an
39 unacceptable risk to the health and welfare of the community to be
40 served; or

1 (iii) Issuance of the limited spirits retail license would cause
2 the total number of liquor licenses for the sale of alcohol for off-
3 premises consumption to exceed any limits imposed by the legislature
4 on the number of licenses permitted to be active in the state or any
5 defined portion of the state at the time the application is
6 processed.

7 (d) Any spirits sold by the holder of a limited spirits retailer
8 license must have been purchased from a spirits distributor licensed
9 to do business within the state of Washington or from a licensed
10 distiller or licensed craft distiller authorized to sell spirits to a
11 retail licensee for off-premises consumption.

12 (e) Three years after the effective date of this section the
13 board shall stop using (a)(vi) of this subsection as a basis for
14 denying a license to an otherwise qualified applicant and nothing
15 prevents an otherwise qualified applicant from being issued a limited
16 spirits retail license for a location regardless if it is located
17 within a one-mile radius of any other spirits retail licensee.

18 (4) Each limited spirits retail licensee must pay to the board,
19 for deposit into the liquor revolving fund, a license issuance fee
20 equivalent to seventeen percent of all spirits sales revenues under
21 the license, exclusive of taxes collected by the licensee and of
22 sales of items on which a license fee payable under this section has
23 otherwise been incurred. The board must establish rules setting forth
24 the timing of the payments and reporting of sales dollar volume by
25 the licensee, with payments required quarterly in arrears.

26 (5) In addition to the payments required under subsection (4) of
27 this section, each limited spirits retail licensee must pay an annual
28 license renewal fee of one hundred sixty-six dollars. The board must
29 periodically review and adjust the renewal fee as may be required to
30 maintain it as comparable to annual license renewal fees for spirits
31 retail licenses issued pursuant to RCW 66.24.630 or 66.24.035. If
32 required by law at the time, any increase of the annual renewal fee
33 becomes effective only upon ratification by the legislature.

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

1 first engages in the sale of spirits and must be renewed at least
2 every five years. The licensee must maintain records documenting the
3 nature and frequency of the training provided. An employee training
4 program is presumptively sufficient if it incorporates all enhanced
5 employee training requirements required by the board for holders of
6 limited spirits retail licenses.

7 (7) The maximum penalties prescribed by the board in WAC
8 314-29-020 through 314-29-040 relating to fines and suspensions are
9 doubled for violations relating to the sale of spirits by limited
10 spirits retail licensees. Licensees who comply with all employee
11 training and education requirements established by the board for
12 limited spirits retail licensees are not subject to the doubling of
13 penalties provided in this section for a single violation in any
14 period of twelve calendar months.

15 (8) Limited spirits retail licensees must comply with all laws
16 and regulations governing spirits retail licensees, except to the
17 extent that doing so would result in a violation of, or failure to
18 fully comply with, this section.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 66.24
20 RCW to read as follows:

21 (1)(a) In addition to the spirits distributor license fees
22 required by RCW 66.24.055, each spirits distributor selling spirits
23 to a limited spirits retail licensee must pay to the board, for
24 deposit into the liquor revolving fund, a mitigation fee equivalent
25 to five percent of the amount paid for the spirits by the limited
26 spirits retail licensee, exclusive of any taxes and fees that may be
27 included in the invoice to the retailer.

28 (b) Each distiller or craft distiller selling spirits to a
29 limited spirits retail licensee must pay to the board, for deposit
30 into the liquor revolving fund, a mitigation fee equivalent to five
31 percent of the amount paid for the spirits by the limited spirits
32 retail licensee, exclusive of any taxes and fees that may be included
33 in the invoice to the retailer.

34 (2) On or before January 31st of each year, the board will
35 determine the total amount of mitigation fees paid into the liquor
36 revolving fund during the preceding year and disburse those moneys as
37 follows:

1 (a) The board will retain the first three hundred thousand
2 dollars of mitigation fees collected during a calendar year in the
3 liquor revolving fund and use it for general enforcement purposes.

4 (b) To the extent sufficient mitigation fees were collected
5 during the preceding calendar year, the board will distribute one
6 million five hundred thousand dollars of the fees to the department
7 of commerce for distribution to countywide community mobilization
8 programs as provided in RCW 43.270.020.

9 (c) After the distributions pursuant to (a) and (b) of this
10 subsection, and to the extent sufficient mitigation fees were
11 collected during the preceding calendar year, the board will transfer
12 two million dollars from the liquor revolving fund to a repayment
13 fund to be disbursed in accordance with subsection (3) of this
14 section.

15 (d) After the distributions pursuant to (a) through (c) of this
16 subsection, and to the extent sufficient mitigation fees were
17 collected during the preceding calendar year, the board will
18 distribute five hundred thousand dollars of the fees to the
19 Washington association of sheriffs and police chiefs, or such other
20 law enforcement group or agency as the board may designate, for use
21 in enforcement activities related to alcohol sales or consumption.

22 (e) In the event mitigation fees from the prior year remain in
23 the liquor revolving fund after the distributions pursuant to (a)
24 through (d) of this subsection have been made, the board will
25 distribute:

26 (i) Forty percent of the excess fees to the department of
27 commerce for distribution to countywide community mobilization
28 programs as provided in RCW 43.270.020;

29 (ii) Fifty percent of the excess fees to the repayment fund to be
30 disbursed in accordance with subsection (3) of this section; and

31 (iii) Ten percent of the excess fees to the Washington
32 association of sheriffs and police chiefs, or such other law
33 enforcement group or agency as the board may designate, for use in
34 enforcement activities related to alcohol sales or consumption.

35 (3) The board will adopt regulations governing disbursements from
36 the repayment fund and make appropriate disbursements, consistent
37 with the following:

38 (a) Any person who purchased former state liquor store operating
39 rights at auction under RCW 66.24.620(4)(c) is eligible for
40 reimbursement of the full amount paid at the auction, together with

1 interest in an amount to be determined by the board, provided the
2 person:

3 (i) Acquired a spirits retail license to exercise the operating
4 rights purchased at auction;

5 (ii) Operated a spirits retail store pursuant to the license as
6 of December 31, 2019;

7 (iii) Submits to the board, within sixty days after the effective
8 date of this section, written notice of intent to seek reimbursement
9 through the repayment fund; and

10 (iv) Applies to the board for reimbursement, on a form developed
11 by the board, within sixty days after the board makes the application
12 form available to the public.

13 (b) The board will promptly create an application form for use by
14 persons seeking reimbursement pursuant to this section and will make
15 the application form available to the public within ninety days after
16 the effective date of this section.

17 (c) The board will establish procedures for processing the
18 applications and for appealing any determinations made by the board
19 as to an applicant's eligibility for reimbursement or the amounts to
20 be reimbursed to an applicant.

21 (d) As soon as reasonably practicable after beginning to process
22 the applications, the board will notify each applicant as to whether
23 the applicant is eligible for reimbursement and, if so, the amount to
24 be reimbursed.

25 (e) The board's determination will be binding upon an applicant
26 unless the applicant challenges the determination, in accordance with
27 rules adopted by the board for that purpose, within forty-five days
28 after the applicant learns of the determination.

29 (f) When the board determines that there is enough money in the
30 repayment fund, it will cease moving moneys into the repayment fund
31 and will promptly reimburse each eligible applicant in the amount
32 approved by the board or established pursuant to an appeal by the
33 applicant under (c) of this subsection.

34 (g) Any person electing to receive reimbursement from the
35 repayment fund may continue to operate under their spirits retail
36 license before and after receiving reimbursement. There is no
37 requirement that a spirits retail license be relinquished in order to
38 qualify for or receive reimbursement through the repayment fund.

39 (4) On or before the 31st day of January following the cessation
40 of transfers to the repayment fund and reimbursement to all eligible

1 applicants, and on or before each January 31st thereafter, the board
2 will disburse mitigation fees as follows:

3 (a) Seventy percent of the available mitigation fees will be
4 disbursed to the department of commerce for distribution to
5 countywide community mobilization programs as provided in RCW
6 43.270.020.

7 (b) Thirty percent of the available mitigation fees will be
8 retained in the liquor revolving fund and used by the board solely
9 for enforcement of liquor and cannabis laws.

10 **Sec. 3.** RCW 66.24.055 and 2013 2nd sp.s. c 12 s 1 are each
11 amended to read as follows:

12 (1) There is a license for spirits distributors to (a) sell
13 spirits purchased from manufacturers, distillers, or suppliers
14 including, without limitation, licensed Washington distilleries,
15 licensed spirits importers, other Washington spirits distributors, or
16 suppliers of foreign spirits located outside of the United States, to
17 spirits retailers including, without limitation, spirits retail
18 licensees, special occasion license holders, interstate common
19 carrier license holders, restaurant spirits retailer license holders,
20 spirits, beer, and wine private club license holders, hotel license
21 holders, sports entertainment facility license holders, and spirits,
22 beer, and wine nightclub license holders, and to other spirits
23 distributors; and (b) export the same from the state.

24 ~~((By January 1, 2012, the board must issue spirits~~
25 ~~distributor licenses to all applicants who, upon December 8, 2011,~~
26 ~~have the right to purchase spirits from a spirits manufacturer,~~
27 ~~spirits distiller, or other spirits supplier for resale in the state,~~
28 ~~or are agents of such supplier authorized to sell to licensees in the~~
29 ~~state, unless the board determines that issuance of a license to such~~
30 ~~applicant is not in the public interest.~~

31 ~~(3))~~ (a) As limited by (b) of this subsection ~~((and subject to~~
32 ~~(e) of this subsection)), each spirits distributor licensee must pay~~
33 to the board, for deposit into the liquor revolving fund, a license
34 issuance fee calculated as ~~((follows:~~

35 ~~(i) In each of the first twenty-seven months of licensure, ten~~
36 ~~percent of the total revenue from all the licensee's sales of spirits~~
37 ~~made during the month for which the fee is due, respectively; and~~

38 ~~(ii) In the twenty-eighth month of licensure and each month~~
39 ~~thereafter,)) five percent of the total revenue from all the~~

1 licensee's sales of spirits made during the month for which the fee
2 is due, respectively.

3 (b) The fee required under this subsection (~~((3))~~) (2) is
4 calculated only on sales of items which the licensee was the first
5 spirits distributor in the state to have received:

6 (i) In the case of spirits manufactured in the state, from the
7 distiller; or

8 (ii) In the case of spirits manufactured outside the state, from
9 an authorized out-of-state supplier.

10 (c) (~~By March 31, 2013, all persons holding spirits distributor~~
11 ~~licenses on or before March 31, 2013, must have paid collectively one~~
12 ~~hundred fifty million dollars or more in spirits distributor license~~
13 ~~fees. If the collective payment through March 31, 2013, totals less~~
14 ~~than one hundred fifty million dollars, the board must, according to~~
15 ~~rules adopted by the board for the purpose, collect by May 31, 2013,~~
16 ~~as additional spirits distributor license fees the difference between~~
17 ~~one hundred fifty million dollars and the actual receipts, allocated~~
18 ~~among persons holding spirits distributor licenses at any time on or~~
19 ~~before March 31, 2013, ratably according to their spirits sales made~~
20 ~~during calendar year 2012. Any amount by which such payments exceed~~
21 ~~one hundred fifty million dollars by March 31, 2013, must be credited~~
22 ~~to future license issuance fee obligations of spirits distributor~~
23 ~~licensees according to rules adopted by the board.~~

24 ~~(d))~~) A retail licensee selling for resale must pay a distributor
25 license fee under the terms and conditions in this section on resales
26 of spirits the licensee has purchased on which no other distributor
27 license fee has been paid. A limited spirits retail licensee must
28 also pay a mitigation fee equivalent to five percent of all spirits
29 sales revenues under the license on resales of spirits the licensee
30 has purchased on which no other distributor license fee has been
31 paid. The board must establish rules setting forth the frequency and
32 timing of such payments and reporting of sales dollar volume by the
33 licensee, with payments due quarterly in arrears. The board will
34 process and distribute mitigation fees paid under this section in the
35 same manner and subject to the same regulations as the mitigation
36 fees established in section 2 of this act.

37 (~~((e))~~) (d) No spirits inventory may be subject to calculation of
38 more than a single spirits distributor license issuance fee.

39 (~~((4))~~) (3) In addition to the payment set forth in subsection
40 (~~((3))~~) (2) of this section, each spirits distributor licensee

1 renewing its annual license must pay an annual license renewal fee of
2 one thousand three hundred twenty dollars for each licensed location.
3 ~~((5))~~ (4) There is no minimum facility size or capacity for
4 spirits distributor licenses, and no limit on the number of such
5 licenses issued to qualified applicants. License applicants must
6 provide physical security of the product that is substantially as
7 effective as the physical security of the distribution facilities
8 currently operated by the board with respect to preventing pilferage.
9 License issuances and renewals are subject to RCW 66.24.010 and the
10 regulations promulgated thereunder, including without limitation
11 rights of cities, towns, county legislative authorities, the public,
12 churches, schools, and public institutions to object to or prevent
13 issuance of local liquor licenses. (~~However, existing distributor~~
14 ~~premises licensed to sell beer and/or wine are deemed to be premises~~
15 ~~"now licensed" under RCW 66.24.010(9)(a) for the purpose of~~
16 ~~processing applications for spirits distributor licenses.~~)

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