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**SUBSTITUTE SENATE BILL 5301**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Braun and Mullet)

READ FIRST TIME 03/19/15.

1 AN ACT Relating to spirits retailers when selling for resale;  
2 amending RCW 66.24.055 and 66.24.630; and adding a new section to  
3 chapter 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 Beginning on the effective date of this section, the license  
8 issuance fee under RCW 66.24.630(4) does not apply to any spirits  
9 retail licensee with respect to sales of spirits in original  
10 containers to retailers licensed to sell spirits for consumption on  
11 the premises.

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

14 (1) There is a license for spirits distributors to (a) sell  
15 spirits purchased from manufacturers, distillers, or suppliers  
16 including, without limitation, licensed Washington distilleries,  
17 licensed spirits importers, other Washington spirits distributors, or  
18 suppliers of foreign spirits located outside of the United States, to  
19 spirits retailers including, without limitation, spirits retail  
20 licensees, special occasion license holders, interstate common

1 carrier license holders, restaurant spirits retailer license holders,  
2 spirits, beer, and wine private club license holders, hotel license  
3 holders, sports entertainment facility license holders, and spirits,  
4 beer, and wine nightclub license holders, and to other spirits  
5 distributors; and (b) export the same from the state.

6 (2) By January 1, 2012, the board must issue spirits distributor  
7 licenses to all applicants who, upon December 8, 2011, have the right  
8 to purchase spirits from a spirits manufacturer, spirits distiller,  
9 or other spirits supplier for resale in the state, or are agents of  
10 such supplier authorized to sell to licensees in the state, unless  
11 the board determines that issuance of a license to such applicant is  
12 not in the public interest.

13 (3)(a) As limited by (b) and (c) of this subsection and subject  
14 to ~~((e))~~ (d) of this subsection, each spirits distributor licensee  
15 must pay to the board, for deposit into the liquor revolving fund, a  
16 license issuance fee calculated as follows:

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

20 (ii) In the twenty-eighth month of licensure and each month  
21 thereafter, five percent of the total revenue from all the licensee's  
22 sales of spirits made during the month for which the fee is due,  
23 respectively.

24 (b) The fee required under this subsection (3) is calculated only  
25 on sales of items which the licensee was the first spirits  
26 distributor or other licensee in the state to have received:

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

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

31 (c) The fee required under this subsection (3) is only required  
32 to be paid by the spirits distributor or other licensee that is the  
33 first in the state to possess the spirits.

34 (d) By March 31, 2013, all persons holding spirits distributor  
35 licenses on or before March 31, 2013, must have paid collectively one  
36 hundred fifty million dollars or more in spirits distributor license  
37 fees. If the collective payment through March 31, 2013, totals less  
38 than one hundred fifty million dollars, the board must, according to  
39 rules adopted by the board for the purpose, collect by May 31, 2013,  
40 as additional spirits distributor license fees the difference between

1 one hundred fifty million dollars and the actual receipts, allocated  
2 among persons holding spirits distributor licenses at any time on or  
3 before March 31, 2013, ratably according to their spirits sales made  
4 during calendar year 2012. Any amount by which such payments exceed  
5 one hundred fifty million dollars by March 31, 2013, must be credited  
6 to future license issuance fee obligations of spirits distributor  
7 licensees according to rules adopted by the board.

8 ~~((d))~~ (e) A retail licensee selling for resale must pay a  
9 distributor license fee under the terms and conditions in this  
10 section on resales of spirits the licensee has purchased on which no  
11 other distributor license fee has been paid. The board must establish  
12 rules setting forth the frequency and timing of such payments and  
13 reporting of sales dollar volume by the licensee, with payments due  
14 quarterly in arrears.

15 ~~((e))~~ (f) No spirits inventory may be subject to calculation of  
16 more than a single spirits distributor license issuance fee.

17 (4) In addition to the payment set forth in subsection (3) of  
18 this section, each spirits distributor licensee renewing its annual  
19 license must pay an annual license renewal fee of one thousand three  
20 hundred twenty dollars for each licensed location.

21 (5) There is no minimum facility size or capacity for spirits  
22 distributor licenses, and no limit on the number of such licenses  
23 issued to qualified applicants. License applicants must provide  
24 physical security of the product that is substantially as effective  
25 as the physical security of the distribution facilities currently  
26 operated by the board with respect to preventing pilferage. License  
27 issuances and renewals are subject to RCW 66.24.010 and the  
28 regulations promulgated thereunder, including without limitation  
29 rights of cities, towns, county legislative authorities, the public,  
30 churches, schools, and public institutions to object to or prevent  
31 issuance of local liquor licenses. However, existing distributor  
32 premises licensed to sell beer and/or wine are deemed to be premises  
33 "now licensed" under RCW 66.24.010(9)(a) for the purpose of  
34 processing applications for spirits distributor licenses.

35 **Sec. 3.** RCW 66.24.630 and 2012 2nd sp.s. c 6 s 401 are each  
36 amended to read as follows:

37 (1) There is a spirits retail license to: Sell spirits in  
38 original containers to consumers for consumption off the licensed  
39 premises and to permit holders; sell spirits in original containers

1 to retailers licensed to sell spirits for consumption on the  
2 premises, for resale at their licensed premises according to the  
3 terms of their licenses, although (~~no single sale may exceed twenty-~~  
4 ~~four~~) sales by a single spirits retail licensee to a single retailer  
5 licensed to sell for consumption on the premises on any business day  
6 may not exceed sixty liters, unless the sale is by a licensee that  
7 was a contract liquor store manager of a contract liquor store at the  
8 location of its spirits retail licensed premises from which it makes  
9 such sales; and export spirits. Until July 1, 2017, sales made to  
10 retailers licensed to sell spirits for consumption on the premises  
11 must be made at the location of the spirits retail licensed premises  
12 and may not be delivered to a retailer licensed to sell spirits for  
13 consumption on the premises. The restriction on delivery does not  
14 apply to licensees that were contract liquor store managers of  
15 contract liquor stores or holders of former state liquor stores  
16 operating rights under RCW 66.24.620.

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

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

25 (b) Provide, not more frequently than quarterly, a report for  
26 each scheduled item containing the identity of the purchasing on-  
27 premises licensee and the quantities of that scheduled item purchased  
28 since any preceding report to:

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

31 (ii) A distiller acting as distributor of the scheduled item in  
32 the area.

33 (3)(a) Except as otherwise provided in (c) of this subsection,  
34 the board may issue spirits retail licenses only for premises  
35 comprising at least ten thousand square feet of fully enclosed retail  
36 space within a single structure, including storerooms and other  
37 interior auxiliary areas but excluding covered or fenced exterior  
38 areas, whether or not attached to the structure, and only to  
39 applicants that the board determines will maintain systems for  
40 inventory management, employee training, employee supervision, and

1 physical security of the product substantially as effective as those  
2 of stores currently operated by the board with respect to preventing  
3 sales to or pilferage by underage or inebriated persons.

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

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

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

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

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

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

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

36 (ii) To other registered facilities; or

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

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

11 (b) This subsection (4) does not apply to craft distilleries.

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

20 (6) As a condition to receiving and renewing a retail spirits  
21 license the licensee must provide training as prescribed by the board  
22 by rule for individuals who sell spirits or who manage others who  
23 sell spirits regarding compliance with laws and regulations regarding  
24 sale of spirits, including without limitation the prohibitions  
25 against sale of spirits to individuals who are underage or visibly  
26 intoxicated. The training must be provided before the individual  
27 first engages in the sale of spirits and must be renewed at least  
28 every five years. The licensee must maintain records documenting the  
29 nature and frequency of the training provided. An employee training  
30 program is presumptively sufficient if it incorporates a "responsible  
31 vendor program" promulgated by the board.

32 (7) The maximum penalties prescribed by the board in WAC  
33 314-29-020 through 314-29-040 relating to fines and suspensions are  
34 doubled for violations relating to the sale of spirits by retail  
35 spirits licensees.

36 (8)(a) The board must promulgate regulations concerning the  
37 adoption and administration of a compliance training program for  
38 spirits retail licensees, to be known as a "responsible vendor  
39 program," to reduce underage drinking, encourage licensees to adopt  
40 specific best practices to prevent sales to minors, and provide

1 licensees with an incentive to give their employees ongoing training  
2 in responsible alcohol sales and service.

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

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

9 (d) To participate in the responsible vendor program, licensees  
10 must submit an application form to the board. If the application  
11 establishes that the licensee meets the qualifications to join the  
12 program, the board must send the licensee a membership certificate.

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

15 (i) Provide ongoing training to employees;

16 (ii) Accept only certain forms of identification for alcohol  
17 sales;

18 (iii) Adopt policies on alcohol sales and checking  
19 identification;

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

21 (v) Keep records verifying compliance with the program's  
22 requirements.

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