



Bill Description: Modernizing resident distillery marketing and sales restrictions

Bill Number: E2SSB 5549

Bill Sponsor: Senator Marco Liias

Effective Date: Sections 3, 5, 6, 7, and 10 take effect January 1, 2021; other sections take effect June 11, 2020

Amends: RCW 66.24.140; RCW 66.24.145; RCW 66.28.040; RCW 266.24.630; and RCW 66.28.310; reenacts and amends RCW 42.56.270; and adds new sections to chapter 66.24 RCW

Background

For the past few years, distillers have sought legislation to grant expanded privileges, particularly for retail sales. Washington's distilling industry has grown significantly, but many distilleries remain small businesses with limited production. Distillers maintain that many face great difficulty persuading distributors to carry their products; distributors that don't carry their products are, in turn, not urging retailers to stock these products. Without high production volume, many distillers have difficulty gaining access to the retail market.

There are 113 distilleries and craft distilleries in Washington State. For about half of those distilleries, their only access to the retail market is selling their products from their own tasting rooms. Washington wineries many years ago were given the privilege of being able to act as their own distributors and retailers. Small local distilleries formerly had good access to the retail market when the state operated liquor stores and stocked their products, but that market access was lost with passage of I-1183. Distilleries are looking for privileges similar to those that wineries and breweries enjoy, such as the ability to sell products from other Washington State licensees, and the ability to market their products more widely. The proponents of the bill argued numerous distilleries have already gone out of business in the last few years, and that many more Washington distilleries will fail without the new privileges.

Bill Summary

- Authorizes distilleries and craft distilleries to sell, for **off-premises** consumption, spirits, vermouth, and sparkling wine products of their own production, or produced by another Washington State licensee; however, spirits or other alcohol products made by another licensee in Washington State cannot constitute more than 25 percent of the alcohol stock-keeping units (SKUs) offered by the distillery or craft distillery. If a distillery or craft distillery sells fewer than 20 alcohol stock-keeping units of products of its own production, it may sell up to five alcohol stock keeping units of another Washington State licensee.
- When selling spirits produced by other Washington distillers for off-premise consumption, distillers must pay the 17% **spirits license issuance fee**; however, **craft** distillers are exempt from the 17% fee for sales of spirits of their own production.

- Distillers and craft distillers may **serve samples** of spirits for free or a charge, and may **sell servings** of spirits, vermouth or sparkling wine for on-premise consumption at their distillery or off-site tasting rooms. Unadulterated *samples* must be half an ounce or less of spirits, with a limit per person of two ounces of unadulterated spirits. Any additional *samples or servings* for on-premise consumption must be adulterated (with water, ice, mixer, or other alcohol). *Servings* of spirits must be adulterated. Selling *servings* is authorized conditionally: it is allowed only if revenue derived from the sale of servings for on-premise consumption does not constitute more than 30 percent of the overall gross revenue annually earned in the tasting room.
- Any distiller or craft distiller who sells adulterated products must file an **annual report** with the LCB summarizing the distiller's revenue sources.
- Distillers and craft distillers may obtain a **tasting room license**, which may be off-site or at the production facility; no more than **two off-site** tasting rooms are allowed. Tasting rooms may be indoors, outdoors, or a combination. Each *off-site* tasting room requires a separate license, but a separate license is not required for tasting rooms located at the production facility. The annual fee for the **license is \$2,000**. At tasting rooms the licensee may engage in selling, serving and sampling of spirits and other authorized alcohol products for on- or off-premise consumption.
- Tasting rooms must provide **food offerings** to customers, for free or a charge.
 - Food offerings may be hors d'oeuvres, cheeses, fruits, vegetables, deli-style meats, chips, pretzels, nuts, popcorn, crackers or similar items.
 - Requirements for food offerings are to be determined by the LCB, but those requirements must allow food to be pre-packaged or pre-prepared off-site, cannot require any warming, heating or cooking, and must not require any food heating device.
 - In addition to providing food offerings, tasting rooms must conspicuously post a list of at least five local restaurants or food trucks where customers can purchase food for consumption in the tasting room.
- Off-site **tasting rooms may be shared by distilleries, craft distilleries and domestic wineries**, to be **jointly occupied and co-operated**. They may sample, serve and sell products of their own production and other products that may be sampled, served and sold under their license. The licensees must maintain separate product storage and financial records.
- A **conjoined consumption area** is allowed for LCB-licensed **breweries, wineries and distilleries** if their property parcels or buildings are in direct physical proximity to one another; at these jointly operated consumption areas each licensee may sample, serve and sell for on premise consumption any product they are authorized to sample, serve and sell under their licenses. It appears this type of facility counts as one of the off-site distillery tasting rooms which are capped at 150.
- Licensees in both settings described above – the jointly operated off-site tasting rooms and the conjoined consumption areas – must use **distinctively marked glassware** or serving containers to identify the source of the product being consumed. Every person participating in the sale or service of samples or servings must obtain an alcohol server permit.
- **All licensees** participating in either the jointly operated off-site tasting room or the conjoined consumption area must share staff resources and are **jointly responsible** for

any violations unless it can be demonstrated that the violation was due to one or more licensee's specific conduct or action.

- Off-site tasting rooms may have an identified and segregated space that is federally bonded and used for **storage** of bulk or packaged spirits.
- Limitations related to people **under 21 years of age** are included for both distilleries and craft distilleries:
 - Minors are not permitted in tasting rooms unless accompanied by a parent or legal guardian;
 - Every distillery tasting room must include a designated area where minors are allowed to enter; this may be a separate room or a designated area with the tasting room separated from the remaining space of the tasting room as authorized by the Board;
 - Minors are not permitted on the premises of the tasting room after 9 p.m.; and
 - Minors are permitted in any area of the tasting room at any hour if they are children of the owner, operator or manager and are under the direct supervision of their parent or legal guardian.
- An alcohol **server permit** is required for anyone serving or selling alcohol.
- Tasting rooms may obtain a spirits, beer and wine **restaurant license**.
- There is a statewide limit established for off-site tasting rooms of 150; this limit of 150 licenses for off-site tasting rooms does not include tasting rooms at the distiller's production facility and does not include any off-site tasting room license that also holds a spirits, beer, and wine restaurant license.
- Distillers and craft distillers are authorized to sell **nonalcoholic products** at retail.
- Distilleries, craft distilleries, and spirits certificate of approval holders are allowed to provide **branded promotional items** of nominal value to nonprofits.
- Certain unaggregated financial, proprietary, or commercial information collected by state and local agencies from distillery applicants is exempt from **disclosure** under the Public Records Act.
- There is a delayed **effective date** of January 1, 2021 for the sections of the bill creating the off-site tasting room license, the jointly operated off-site tasting rooms and conjoined consumption areas, the limit of 150 off-site tasting rooms, the authorization for tasting rooms to obtain a spirits, beer and wine restaurant license, and the section allowing branded promotional items of nominal value being provided to nonprofits.

Contact Information:

If you have questions, please contact [Chris Thompson, Director of Legislative Relations](#).