

By Senator Kohl-Welles

HB 2179 - S COMM AMD

By Committee on Labor, Commerce & Consumer Protection

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 66.24.010 and 2011 c 195 s 1 are each amended to read
4 as follows:

5 (1) Every license shall be issued in the name of the applicant, and
6 the holder thereof shall not allow any other person to use the license.

7 (2) For the purpose of considering any application for a license,
8 or the renewal of a license, the board may cause an inspection of the
9 premises to be made, and may inquire into all matters in connection
10 with the construction and operation of the premises. For the purpose
11 of reviewing any application for a license and for considering the
12 denial, suspension, revocation, or renewal or denial thereof, of any
13 license, the liquor control board may consider any prior criminal
14 conduct of the applicant including an administrative violation history
15 record with the board and a criminal history record information check.
16 The board may submit the criminal history record information check to
17 the Washington state patrol and to the identification division of the
18 federal bureau of investigation in order that these agencies may search
19 their records for prior arrests and convictions of the individual or
20 individuals who filled out the forms. The board shall require
21 fingerprinting of any applicant whose criminal history record
22 information check is submitted to the federal bureau of investigation.
23 The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply
24 to such cases. Subject to the provisions of this section, the board
25 may, in its discretion, grant or deny the renewal or license applied
26 for. Denial may be based on, without limitation, the existence of
27 chronic illegal activity documented in objections submitted pursuant to
28 subsections (8)((~~d~~)) (e) and (12) of this section. Authority to
29 approve an uncontested or unopposed license may be granted by the board

1 to any staff member the board designates in writing. Conditions for
2 granting such authority shall be adopted by rule. No retail license of
3 any kind may be issued to:

4 (a) A person doing business as a sole proprietor who has not
5 resided in the state for at least one month prior to receiving a
6 license, except in cases of licenses issued to dining places on
7 railroads, boats, or aircraft;

8 (b) A copartnership, unless all of the members thereof are
9 qualified to obtain a license, as provided in this section;

10 (c) A person whose place of business is conducted by a manager or
11 agent, unless such manager or agent possesses the same qualifications
12 required of the licensee;

13 (d) A corporation or a limited liability company, unless it was
14 created under the laws of the state of Washington or holds a
15 certificate of authority to transact business in the state of
16 Washington.

17 (3)(a) The board may, in its discretion, subject to the provisions
18 of RCW 66.08.150, suspend or cancel any license; and all rights of the
19 licensee to keep or sell liquor thereunder shall be suspended or
20 terminated, as the case may be.

21 (b) The board shall immediately suspend the license or certificate
22 of a person who has been certified pursuant to RCW 74.20A.320 by the
23 department of social and health services as a person who is not in
24 compliance with a support order. If the person has continued to meet
25 all other requirements for reinstatement during the suspension,
26 reissuance of the license or certificate shall be automatic upon the
27 board's receipt of a release issued by the department of social and
28 health services stating that the licensee is in compliance with the
29 order.

30 (c) The board may request the appointment of administrative law
31 judges under chapter 34.12 RCW who shall have power to administer
32 oaths, issue subpoenas for the attendance of witnesses and the
33 production of papers, books, accounts, documents, and testimony,
34 examine witnesses, and to receive testimony in any inquiry,
35 investigation, hearing, or proceeding in any part of the state, under
36 such rules and regulations as the board may adopt.

37 (d) Witnesses shall be allowed fees and mileage each way to and
38 from any such inquiry, investigation, hearing, or proceeding at the

1 rate authorized by RCW 34.05.446. Fees need not be paid in advance of
2 appearance of witnesses to testify or to produce books, records, or
3 other legal evidence.

4 (e) In case of disobedience of any person to comply with the order
5 of the board or a subpoena issued by the board, or any of its members,
6 or administrative law judges, or on the refusal of a witness to testify
7 to any matter regarding which he or she may be lawfully interrogated,
8 the judge of the superior court of the county in which the person
9 resides, on application of any member of the board or administrative
10 law judge, shall compel obedience by contempt proceedings, as in the
11 case of disobedience of the requirements of a subpoena issued from said
12 court or a refusal to testify therein.

13 (4) Upon receipt of notice of the suspension or cancellation of a
14 license, the licensee shall forthwith deliver up the license to the
15 board. Where the license has been suspended only, the board shall
16 return the license to the licensee at the expiration or termination of
17 the period of suspension. The board shall notify all vendors in the
18 city or place where the licensee has its premises of the suspension or
19 cancellation of the license; and no employee may allow or cause any
20 liquor to be delivered to or for any person at the premises of that
21 licensee.

22 (5)(a) At the time of the original issuance of a spirits, beer, and
23 wine restaurant license, the board shall prorate the license fee
24 charged to the new licensee according to the number of calendar
25 quarters, or portion thereof, remaining until the first renewal of that
26 license is required.

27 (b) Unless sooner canceled, every license issued by the board shall
28 expire at midnight of the thirtieth day of June of the fiscal year for
29 which it was issued. However, if the board deems it feasible and
30 desirable to do so, it may establish, by rule pursuant to chapter 34.05
31 RCW, a system for staggering the annual renewal dates for any and all
32 licenses authorized by this chapter. If such a system of staggered
33 annual renewal dates is established by the board, the license fees
34 provided by this chapter shall be appropriately prorated during the
35 first year that the system is in effect.

36 (6) Every license issued under this section shall be subject to all
37 conditions and restrictions imposed by this title or by rules adopted
38 by the board. All conditions and restrictions imposed by the board in

1 the issuance of an individual license may be listed on the face of the
2 individual license along with the trade name, address, and expiration
3 date. Conditions and restrictions imposed by the board may also be
4 included in official correspondence separate from the license.

5 (7) Every licensee shall post and keep posted its license, or
6 licenses, and any additional correspondence containing conditions and
7 restrictions imposed by the board in a conspicuous place on the
8 premises.

9 (8)(a) Unless (b) of this subsection applies, before the board
10 issues a new or renewal license to an applicant it shall give notice of
11 such application to the chief executive officer of the incorporated
12 city or town, if the application is for a license within an
13 incorporated city or town, or to the county legislative authority, if
14 the application is for a license outside the boundaries of incorporated
15 cities or towns.

16 (b) If the application for a special occasion license is for an
17 event held during a county, district, or area fair as defined by RCW
18 15.76.120, and the county, district, or area fair is located on
19 property owned by the county but located within an incorporated city or
20 town, the county legislative authority shall be the entity notified by
21 the board under (a) of this subsection. The board shall send a
22 duplicate notice to the incorporated city or town within which the fair
23 is located.

24 (c) If the chief executive officer of the incorporated city or town
25 has objections to the application, the application shall be reviewed by
26 the city or town legislative authority. The chief executive officer
27 must notify the legislative authority about the objections within
28 twenty days after the date of transmittal of such notice for
29 applications, or at least sixty days prior to the expiration date for
30 renewal.

31 (d) The (~~incorporated city or town through the official or~~
32 ~~employee selected by it, or the~~) city, town, or county legislative
33 authority or the official or employee selected by it(~~(7)~~) shall have
34 the right to file with the board within twenty days after the date of
35 transmittal of such notice for applications or notice of the chief
36 executive officer's objections, or at least thirty days prior to the
37 expiration date for renewals, written objections against the applicant

1 or against the premises for which the new or renewal license is asked.
2 The board may extend the time period for submitting written objections.

3 ~~((d))~~ (e) The written objections shall include a statement of all
4 facts upon which such objections are based, and in case written
5 objections are filed, the city ~~((c))~~ town or county legislative
6 authority may request and the liquor control board may in its
7 discretion hold a hearing subject to the applicable provisions of Title
8 34 RCW. If the board makes an initial decision to deny a license or
9 renewal based on the written objections of an incorporated city ~~((c))~~
10 town or county legislative authority, the applicant may request a
11 hearing subject to the applicable provisions of Title 34 RCW. If such
12 a hearing is held at the request of the applicant, liquor control board
13 representatives shall present and defend the board's initial decision
14 to deny a license or renewal.

15 ~~((e))~~ (f) Upon the granting of a license under this title the
16 board shall send written notification to the chief executive officer of
17 the incorporated city or town in which the license is granted, or to
18 the county legislative authority if the license is granted outside the
19 boundaries of incorporated cities or towns. When the license is for a
20 special occasion license for an event held during a county, district,
21 or area fair as defined by RCW 15.76.120, and the county, district, or
22 area fair is located on county-owned property but located within an
23 incorporated city or town, the written notification shall be sent to
24 both the incorporated city or town and the county legislative
25 authority.

26 (9)(a) Before the board issues any license to any applicant, it
27 shall give (i) due consideration to the location of the business to be
28 conducted under such license with respect to the proximity of churches,
29 schools, and public institutions and (ii) written notice, with receipt
30 verification, of the application to public institutions identified by
31 the board as appropriate to receive such notice, churches, and schools
32 within five hundred feet of the premises to be licensed. The board
33 shall not issue a liquor license for either on-premises or off-premises
34 consumption covering any premises not now licensed, if such premises
35 are within five hundred feet of the premises of any tax-supported
36 public elementary or secondary school measured along the most direct
37 route over or across established public walks, streets, or other public
38 passageway from the main entrance of the school to the nearest public

1 entrance of the premises proposed for license, and if, after receipt by
2 the school of the notice as provided in this subsection, the board
3 receives written objection, within twenty days after receiving such
4 notice, from an official representative or representatives of the
5 school within five hundred feet of said proposed licensed premises,
6 indicating to the board that there is an objection to the issuance of
7 such license because of proximity to a school. The board may extend
8 the time period for submitting objections. For the purpose of this
9 section, "church" means a building erected for and used exclusively for
10 religious worship and schooling or other activity in connection
11 therewith. For the purpose of this section, "public institution" means
12 institutions of higher education, parks, community centers, libraries,
13 and transit centers.

14 (b) No liquor license may be issued or reissued by the board to any
15 motor sports facility or licensee operating within the motor sports
16 facility unless the motor sports facility enforces a program reasonably
17 calculated to prevent alcohol or alcoholic beverages not purchased
18 within the facility from entering the facility and such program is
19 approved by local law enforcement agencies.

20 (c) It is the intent under this subsection (9) that a retail
21 license shall not be issued by the board where doing so would, in the
22 judgment of the board, adversely affect a private school meeting the
23 requirements for private schools under Title 28A RCW, which school is
24 within five hundred feet of the proposed licensee. The board shall
25 fully consider and give substantial weight to objections filed by
26 private schools. If a license is issued despite the proximity of a
27 private school, the board shall state in a letter addressed to the
28 private school the board's reasons for issuing the license.

29 (10) The restrictions set forth in subsection (9) of this section
30 shall not prohibit the board from authorizing the assumption of
31 existing licenses now located within the restricted area by other
32 persons or licenses or relocations of existing licensed premises within
33 the restricted area. In no case may the licensed premises be moved
34 closer to a church or school than it was before the assumption or
35 relocation.

36 (11)(a) Nothing in this section prohibits the board, in its
37 discretion, from issuing a temporary retail or distributor license to

1 an applicant to operate the retail or distributor premises during the
2 period the application for the license is pending. The board may
3 establish a fee for a temporary license by rule.

4 (b) A temporary license issued by the board under this section
5 shall be for a period not to exceed sixty days. A temporary license
6 may be extended at the discretion of the board for additional periods
7 of sixty days upon payment of an additional fee and upon compliance
8 with all conditions required in this section.

9 (c) Refusal by the board to issue or extend a temporary license
10 shall not entitle the applicant to request a hearing. A temporary
11 license may be canceled or suspended summarily at any time if the board
12 determines that good cause for cancellation or suspension exists. RCW
13 66.08.130 applies to temporary licenses.

14 (d) Application for a temporary license shall be on such form as
15 the board shall prescribe. If an application for a temporary license
16 is withdrawn before issuance or is refused by the board, the fee which
17 accompanied such application shall be refunded in full.

18 (12) In determining whether to grant or deny a license or renewal
19 of any license, the board shall give substantial weight to objections
20 from an incorporated city or town or county legislative authority based
21 upon chronic illegal activity associated with the applicant's
22 operations of the premises proposed to be licensed or the applicant's
23 operation of any other licensed premises, or the conduct of the
24 applicant's patrons inside or outside the licensed premises. "Chronic
25 illegal activity" means (a) a pervasive pattern of activity that
26 threatens the public health, safety, and welfare of the city, town, or
27 county including, but not limited to, open container violations,
28 assaults, disturbances, disorderly conduct, or other criminal law
29 violations, or as documented in crime statistics, police reports,
30 emergency medical response data, calls for service, field data, or
31 similar records of a law enforcement agency for the city, town, county,
32 or any other municipal corporation or any state agency; or (b) an
33 unreasonably high number of citations for violations of RCW 46.61.502
34 associated with the applicant's or licensee's operation of any licensed
35 premises as indicated by the reported statements given to law
36 enforcement upon arrest."

1 On page 1, line 2 of the title, after "governments;" strike the
2 remainder of the title and insert "and amending RCW 66.24.010."

EFFECT: The entity that receives notice of liquor license applications is the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns. If the application is for a license within an incorporated city or town and the chief executive officer has objections to the application, the chief executive officer must notify the legislative authority of the city or town about the objections within the specified time period. The city, town, or county legislative authority or the official or employee selected by it has the right to file objections to the application with the board within the specified time period.

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