

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2113

Chapter 473, Laws of 2007

60th Legislature
2007 Regular Session

LIQUOR LICENSES--OBJECTIONS

EFFECTIVE DATE: 07/22/07

Passed by the House April 16, 2007
Yeas 89 Nays 1

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 4, 2007
Yeas 47 Nays 0

BRAD OWEN

President of the Senate

Approved May 14, 2007, 3:48 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2113** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 15, 2007

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2113

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Representatives Williams, Goodman, Green, Hunt and Simpson

Read first time 02/08/2007. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to objections by cities, towns, and counties to the
2 issuance of liquor licenses; and amending RCW 66.24.010.

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

4 **Sec. 1.** RCW 66.24.010 and 2006 c 359 s 1 are each amended to read
5 as follows:

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

8 (2) For the purpose of considering any application for a license,
9 or the renewal of a license, the board may cause an inspection of the
10 premises to be made, and may inquire into all matters in connection
11 with the construction and operation of the premises. For the purpose
12 of reviewing any application for a license and for considering the
13 denial, suspension ~~((or))~~, revocation, or renewal or denial thereof, of
14 any license, the liquor control board may consider any prior criminal
15 conduct of the applicant including an administrative violation history
16 record with the board and a criminal history record information check.
17 The board may submit the criminal history record information check to
18 the Washington state patrol and to the identification division of the
19 federal bureau of investigation in order that these agencies may search

1 their records for prior arrests and convictions of the individual or
2 individuals who filled out the forms. The board shall require
3 fingerprinting of any applicant whose criminal history record
4 information check is submitted to the federal bureau of investigation.
5 The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply
6 to such cases. Subject to the provisions of this section, the board
7 may, in its discretion, grant or (~~refuse~~) deny the renewal or license
8 applied for. Denial may be based on, without limitation, the existence
9 of chronic illegal activity documented in objections submitted pursuant
10 to subsections (8)(d) and (12) of this section. Authority to approve
11 an uncontested or unopposed license may be granted by the board to any
12 staff member the board designates in writing. Conditions for granting
13 such authority shall be adopted by rule. No retail license of any kind
14 may be issued to:

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

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

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

24 (d) A corporation or a limited liability company, unless it was
25 created under the laws of the state of Washington or holds a
26 certificate of authority to transact business in the state of
27 Washington.

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

32 (b) The board shall immediately suspend the license or certificate
33 of a person who has been certified pursuant to RCW 74.20A.320 by the
34 department of social and health services as a person who is not in
35 compliance with a support order. If the person has continued to meet
36 all other requirements for reinstatement during the suspension,
37 reissuance of the license or certificate shall be automatic upon the

1 board's receipt of a release issued by the department of social and
2 health services stating that the licensee is in compliance with the
3 order.

4 (c) The board may request the appointment of administrative law
5 judges under chapter 34.12 RCW who shall have power to administer
6 oaths, issue subpoenas for the attendance of witnesses and the
7 production of papers, books, accounts, documents, and testimony,
8 examine witnesses, and to receive testimony in any inquiry,
9 investigation, hearing, or proceeding in any part of the state, under
10 such rules and regulations as the board may adopt.

11 (d) Witnesses shall be allowed fees and mileage each way to and
12 from any such inquiry, investigation, hearing, or proceeding at the
13 rate authorized by RCW 34.05.446, as now or hereafter amended. Fees
14 need not be paid in advance of appearance of witnesses to testify or to
15 produce books, records, or other legal evidence.

16 (e) In case of disobedience of any person to comply with the order
17 of the board or a subpoena issued by the board, or any of its members,
18 or administrative law judges, or on the refusal of a witness to testify
19 to any matter regarding which he or she may be lawfully interrogated,
20 the judge of the superior court of the county in which the person
21 resides, on application of any member of the board or administrative
22 law judge, shall compel obedience by contempt proceedings, as in the
23 case of disobedience of the requirements of a subpoena issued from said
24 court or a refusal to testify therein.

25 (4) Upon receipt of notice of the suspension or cancellation of a
26 license, the licensee shall forthwith deliver up the license to the
27 board. Where the license has been suspended only, the board shall
28 return the license to the licensee at the expiration or termination of
29 the period of suspension. The board shall notify all vendors in the
30 city or place where the licensee has its premises of the suspension or
31 cancellation of the license; and no employee may allow or cause any
32 liquor to be delivered to or for any person at the premises of that
33 licensee.

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

1 (b) Unless sooner canceled, every license issued by the board shall
2 expire at midnight of the thirtieth day of June of the fiscal year for
3 which it was issued. However, if the board deems it feasible and
4 desirable to do so, it may establish, by rule pursuant to chapter 34.05
5 RCW, a system for staggering the annual renewal dates for any and all
6 licenses authorized by this chapter. If such a system of staggered
7 annual renewal dates is established by the board, the license fees
8 provided by this chapter shall be appropriately prorated during the
9 first year that the system is in effect.

10 (6) Every license issued under this section shall be subject to all
11 conditions and restrictions imposed by this title or by rules adopted
12 by the board. All conditions and restrictions imposed by the board in
13 the issuance of an individual license shall be listed on the face of
14 the individual license along with the trade name, address, and
15 expiration date.

16 (7) Every licensee shall post and keep posted its license, or
17 licenses, in a conspicuous place on the premises.

18 (8)(a) Unless (b) of this subsection applies, before the board
19 issues a new or renewal license to an applicant it shall give notice of
20 such application to the chief executive officer of the incorporated
21 city or town, if the application is for a license within an
22 incorporated city or town, or to the county legislative authority, if
23 the application is for a license outside the boundaries of incorporated
24 cities or towns.

25 (b) If the application for a special occasion license is for an
26 event held during a county, district, or area fair as defined by RCW
27 15.76.120, and the county, district, or area fair is located on
28 property owned by the county but located within an incorporated city or
29 town, the county legislative authority shall be the entity notified by
30 the board under (a) of this subsection. The board shall send a
31 duplicate notice to the incorporated city or town within which the fair
32 is located.

33 (c) The incorporated city or town through the official or employee
34 selected by it, or the county legislative authority or the official or
35 employee selected by it, shall have the right to file with the board
36 within twenty days after date of transmittal of such notice, written
37 objections against the applicant or against the premises for which the

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

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

15 (e) Upon the granting of a license under this title the board shall
16 send written notification to the chief executive officer of the
17 incorporated city or town in which the license is granted, or to the
18 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 issue no beer retailer license for either on-premises or off-
34 premises consumption or wine retailer license for either on-premises or
35 off-premises consumption or spirits, beer, and wine restaurant license
36 covering any premises not now licensed, if such premises are within
37 five hundred feet of the premises of any tax-supported public
38 elementary or secondary school measured along the most direct route

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

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

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

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

1 (11)(a) Nothing in this section prohibits the board, in its
2 discretion, from issuing a temporary retail or distributor license to
3 an applicant to operate the retail or distributor premises during the
4 period the application for the license is pending. The board may
5 establish a fee for a temporary license by rule.

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

11 (c) Refusal by the board to issue or extend a temporary license
12 shall not entitle the applicant to request a hearing. A temporary
13 license may be canceled or suspended summarily at any time if the board
14 determines that good cause for cancellation or suspension exists. RCW
15 66.08.130 applies to temporary licenses.

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

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

1 premises as indicated by the reported statements given to law
2 enforcement upon arrest.

Passed by the House April 16, 2007.

Passed by the Senate April 4, 2007.

Approved by the Governor May 14, 2007.

Filed in Office of Secretary of State May 15, 2007.