

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2991 HB	<b>Title:</b>	<b>Agency:</b> 195-Liquor and Cannabis Board
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

### Estimated Expenditures from:

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	0.0	2.3	1.2	0.6	0.6
<b>Account</b>					
Liquor Revolving Account-State 501-1	0	428,617	428,617	121,474	121,474
<b>Total \$</b>	0	428,617	428,617	121,474	121,474

### Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

<http://www.ofm.wa.gov/tax/default.asp>

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☒ Requires new rule making, complete Part V.

<b>Legislative Contact:</b>	<b>Phone:</b>	<b>Date:</b> 02/14/2018
<b>Agency Preparation:</b> Colin O'Neill	<b>Phone:</b> (360) 664-1675	<b>Date:</b> 02/16/2018
<b>Agency Approval:</b> Aaron Hanson	<b>Phone:</b> 360-664-1701	<b>Date:</b> 02/16/2018
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## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Section 1 strikes the definition of "craft distillery" and adds definitions for two new license types:

- Distilled Spirits Brand Owner – a licensee whose primary business is the marketing of distilled spirits without being substantially involved in the manufacturing process. (The Washington State Liquor and Cannabis Board (“Board”) shall establish rules for what defines “substantially involved”).
- Distilled Spirits Producer – a licensee whose primary business is distilling, redistilling, rectifying, blending, bottling, and warehousing of distilled spirits.

#### DISTILLED SPIRITS PRODUCERS LICENSE:

Section 2(1)(a):

- Distilled Spirits Producers producing 10,000 gallons or less per year, license fee is \$300/year.
- Distilled Spirits Producers producing more than 10,000 gallons per year, less than 100,000 gallons per year, license fee is \$1,000 per year.
- Distilled Spirits Producers producing more than 100,000 gallons per year, license fee is \$5,000 per year.

Section 2(1)(a)(ii):

- Authorizes a Distilled Spirits Producer to distill, redistill, rectify, blend, flavor, bottle, or contract bottled distilled spirits under contract for another entity entitled to purchase, market, or resell such spirits, or to produce distilled spirits for a manufacturer or Distilled Spirits Brand Owner.
- Authorizes a Distilled Spirits Producer to operate a warehouse off the premises of its production facility for the storage and distribution of spirits according to RCW 66.24.640.

Section 2(1)(a)(iii):

- Requires licenses and privileges authorized under this act to be automatically granted to a distillery or craft distillery holding a license on the day before the effective date of this section.

#### DISTILLED SPIRITS BRAND OWNER LICENSE:

Section 2(1)(b):

- Distilled Spirits Brand Owners selling 10,000 gallons or less per year, the license fee is \$2,500 per year.
- Distilled Spirits Brand Owners selling more than 10,000 gallons per year, license fee is \$5,000 per year.
- The license includes the right to store product in a warehouse covered by the license.

Section 2(1)(b)(ii):

- Each Distilled Spirits Brand Owner must pay on a monthly basis a “bond removal excise fee” of \$0.25/liter of finished bottles or packages removed from a bond tax determined or transferred in bond.

#### SPECIAL OCCASION ENDORSEMENT:

##### Section 3(2):

- Establishes a special occasion endorsement to a Distilled Spirits Producer license. The endorsement fee is \$100 per year.
- At events held by special occasion licensees, a Distilled Spirits Producer can take orders for spirits of its own production under the following conditions:
  - (a) Spirits are served for on-premises consumption by the special occasion licensee;
  - (b) Spirits must be delivered to the consumer on a date after the conclusion of the special occasion event;
  - (c) Spirits must be delivered to the consumer at a different location than the special occasion event;
  - (d) Must comply with 66.20 RCW as it relates to direct sale of spirits to consumers; and
  - (e) Spirits may not be sold for resale.

#### SPIRITS LICENSE ISSUANCE FEE EXEMPTIONS/CREDITS:

##### Section 5(4)(b)(ii):

Distilled Spirits Producer licensees are not considered spirits retail licensees for purposes of RCW 66.24.630(4)

(a) (17% spirits retail license issuance fee), thus the fee does not apply to:

- Aging product put into barrels or vessels prior to the effective date of this section by a Distilled Spirits Producer who held a “craft distillery” up to or on the day before the effective date of this section;
- Spirits product already in finished packages or bottles produced by a Distilled Spirits Producer who held a “craft distillery” license up to or on the day before the effective date of this section; and
- On or after the effective date of this section, Distilled Spirits Producers producing spirits with at least 70% of the raw materials used in the production grown in WA State.

##### Section 5(4)(b)(iii):

- On or after the effective date of this section, Distilled Spirits Producers producing spirits with less than 70% of the raw materials used in the production grown in WA State are allowed a credit of up to 75% against the fee.

##### Section 5(4)(b)(iv):

- Distilled Spirits Producers are required to inform the Liquor and Cannabis Board upon application for a license and license renewal whether it will qualify for a credit against the 17% license issuance fee.

- Credit amounts are applied for that license year.

- A licensee can change its declared credit level once per year by notifying the Board in writing and paying a \$100 fee.

- A licensee that claims a credit amount greater than what they are entitled is required to refund the excess credit amount and pay a 10% penalty on the amount of the excess credit.

##### Section 5(4)(b)(v):

For purposes of calculating qualifying raw material percentages the totals must:

- Exclude agave juice, agave syrup, sugar cane, sugar cane juice, molasses from sugar cane, or any other derivative of agave or sugar cane used to ferment a spirits product;
- Include either the raw ingredients used to make the base spirit of finished products or the fruit, spice or herb flavorings blended or added to make finished product;
- Exclude ingredients used from food or beverage waste or by-products; and
- Exclude water, creams, and sugar or syrup derivatives.

#### EFFECTIVE DATE:

Section 17 sets the effective date of this act as January 1, 2019.

#### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

This bill creates a number of new licenses and endorsements, a credit level change fee, an excise fee, and a retail license issuance fee credit for Distilled Spirits Producers. The Washington State Liquor and Cannabis Board ("Board") makes a number of assumptions (shown below) in an attempt to quantify the cash receipt effect.

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#### SUMMARY OF CASH RECEIPT IMPACT:

- License and Endorsement Fees: estimated net revenue increase: FY19 (\$6,000); FY20 \$9,500; FY21 \$25,000; FY22 \$40,500; FY23 \$56,000
- Fee Credit: estimated revenue loss: FY19 (\$91,308); FY20 (\$182,616); FY21 (\$182,616); FY22 (\$182,616); FY23 (\$182,616)
- Credit Level Change Fee: it is unknown how many Distilled Spirits Producers would ask to have their credit level changed between renewals, so the effect of this fee is shown as \$0/year.
- Excise Fee: The Board does not have a basis on which to make an assumption, so the effect of this fee is indeterminate.

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#### DETAIL OF CASH RECEIPT IMPACT:

The new license types, endorsements, excise fees, and credits are listed below.

#### LICENSE AND ENDORSEMENT FEES:

##### DISCONTINUED LICENSES

- Craft distillery license - \$100/year x 93 licensees = loss of \$9,300/year
- Distiller license - \$2,000/year x 36 licensees = loss of \$72,000/year

##### NEW LICENSES

#### DISTILLED SPIRITS PRODUCER (DSP):

There are currently 129 licensed distillers. FY 2017 data shows 123 distillers produced less than 10,000 gallons of spirits, 5 produced between 10,000 and 100,000 gallons and 1 produced more than 100,000 gallons.

Assuming these production levels plus 10 new DSP licenses producing less than 10,000 gallons per year, the cash receipt impact would be:

FY19 – \$49,900 (133 DSP's x \$300 license fee) + (5 DSP's x \$1,000 license fee) + (1 DSP x \$5,000 license fee)

FY20 – \$52,900 (143 DSP's x \$300 license fee) + (5 DSP's x \$1,000 license fee) + (1 DSP x \$5,000 license fee)

FY21 – \$55,900 (153 DSP's x \$300 license fee) + (5 DSP's x \$1,000 license fee) + (1 DSP x \$5,000 license fee)

FY22 – \$58,900 (163 DSP's x \$300 license fee) + (5 DSP's x \$1,000 license fee) + (1 DSP x \$5,000 license fee)

FY23 – \$61,900 (173 DSP's x \$300 license fee) + (5 DSP's x \$1,000 license fee) + (1 DSP x \$5,000 license fee)

#### DISTILLED SPIRITS BRAND OWNER:

The annual license fee for selling 10,000 gallons or less of spirits is \$2,500. The annual license fee for selling more than 10,000 gallons of spirits is \$5,000. Assuming 5 new licenses per year for selling 10,000 gallons or less (sales volume is unknown, thus the lesser license fee is assumed for this fiscal note), the cash receipt impact would be:

FY19 - \$12,500

FY20 - \$25,000

FY21 - \$37,500

FY22 - \$50,000

FY23 - \$62,500

#### ENDORSEMENT to a Distilled Spirits Producer license:

The annual fee for a Special Occasion endorsement is \$100. Assuming all 129 currently licensed distilleries would apply for this endorsement each year, the annual cash receipt impact would be \$12,900.

#### CREDIT LEVEL CHANGE FEE:

A Distilled Spirits Producer may change its credit level once per year for a fee of \$100. The cash receipt impact from this fee is assumed to be \$0 for the purpose of this fiscal note as it is unknown how many of the licensees per year would request this change.

#### FEE CREDIT:

Credit to the 17% retail license issuance fee for Distilled Spirits Producers (credit is based on percentage of raw materials grown in Washington state that are used for production of spirits) - Total revenue loss FY19 \$91,308, \$182,616/year ongoing. This estimate is based on FY17 sales amounts and assumes all current craft distillers would meet the 70% Washington grown requirement, and all current distillers would fall into the "less than 70%" category. (Note: the FY17 sales amounts show that not all current distiller licenses are producing.)

- 70% Washington grown - 100% credit against the 17% fee: \$0 - Craft distillers currently do not pay the 17% fee so this would be no change from current statute.

- Less than 70% - assumed 75% credit against the 17% fee: \$182,616 annually, with \$91,308 in FY19 due to Jan 1, 2019 start date. (The Board collected license issuance fees of \$243,488 from distiller sales to consumers in FY17. 75% credit against this amount is \$182,616/year, so ongoing revenue from the 17% would be \$60,872/year)

#### EXCISE FEE:

- Distilled Spirits Brand Owner Bond Removal Excise Fee - \$.25/liter - indeterminate as the Board does not have a basis on which to make an assumption.

## II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

#### LICENSING:

The impact to the Licensing Division is estimated to be 0.10 FTE's in FY19, 0.20 FTE's ongoing. In the first fiscal year, the increase is driven primarily by processing the changes from distillery licenses to the new license types, and new applications for special occasion endorsements. Ongoing, the workload impact is from processing license renewals and the special occasion endorsements as well as applications for new licenses that are assumed. Please see the attached "2991 HB Updating Spirits Industry Regulations Licensing Staff calculator" for workload assumptions.

#### Estimates of new applications:

Licenses: FY19: 146; 17 new applications each year thereafter

Endorsements: 129 each year (special occasion endorsements must be re-evaluated each year, thus are counted as "new")

Licensing Specialist: 0.05 FTE in FY19: \$3,745 (\$3,607 in salary/benefits, \$138 in associated costs); 0.1 FTE ongoing: \$7,488 (\$7,213 in salary/benefits, \$275 in associated costs)

Customer Service Specialist 2: 0.05 FTE in FY19: \$3,270 (\$3,132 in salary/benefits, \$138 in associated costs); 0.1 FTE ongoing: \$6,538 (\$6,263 in salary/benefits, \$275 in associated costs)

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#### ENFORCEMENT:

The LCB Enforcement Division utilizes a methodology called "Field Increments" (also known as "FI") when determining the workload impact of an enforcement activity. Enforcement officers spend portions of their time driving, training, being in the office, and taking leave. Time spent in these activities is time that an officer is unavailable for field work directly engaging in activities such as premise checks, inspections, and investigations. Field increments are the amount of time that it takes to do an activity in the field. Each FI is 1/10th of an hour (6 minutes). For example, if a tavern premise check takes 2 FI's and two officers, it is anticipated that one check will consume 4 FI's (24 minutes of field work time - 2 FI's x 2 officers x 6 minutes). Using historical data, the Enforcement Division has determined that an officer is available for 4,220 FI's each year.

The division anticipates an increase in special occasion license checks, complaint investigations, and education efforts. Please see the attached "2991 HB Updating Spirits Industry Regulations - Enforcement Field Increment Calculator" for the breakdown of the expected workload.

LCB Enforcement Officer 2 (LEO2): 0.2 FTE in FY19: \$23,356 (\$20,046 in salary/benefits, \$3,310 in associated costs); 0.4 FTE ongoing: \$46,711 (\$40,091 in salary/benefits, \$6,620 in associated costs)

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#### INFORMATION TECHNOLOGY:

This bill creates a number of new licenses and endorsements, which will need to be added to the agency's systems. The timeline to implement will be 9 -12 months, therefore the costs have been reflected in FY19.

Systems impacted:

- ArcGIS: 12 contractor hours (\$3,240), and staff time
- iSeries (licensing system): 800 contractor hours (\$120,000), and staff time
- Beer/Wine Tax system: staff time
- Enforcement Notebook: 280 contractor hours (\$28,000)
- Oracle: staff time
- Replication: staff time
- SharePoint: staff time
- Spirits Fee system: staff time

The onetime staff hours to implement these changes is estimated at 2 FTE's in FY19, of Information Technology Specialist 5 (ITS5). Costs for staff workload is \$247,006 (\$241,116 in salary/benefits, \$2,140 in associated costs, \$3,750 for setup).

### Part III: Expenditure Detail

#### III. A - Expenditures by Object Or Purpose

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years		2.3	1.2	0.6	0.6
A-Salaries and Wages		198,645	198,645	74,580	74,580
B-Employee Benefits		69,256	69,256	32,554	32,554
C-Professional Service Contracts		151,240	151,240		
E-Goods and Other Services		3,508	3,508	5,268	5,268
G-Travel		2,232	2,232	8,928	8,928
J-Capital Outlays		3,736	3,736	144	144
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total:</b>	\$0	\$428,617	\$428,617	\$121,474	\$121,474

**III. B - Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2018	FY 2019	2017-19	2019-21	2021-23
Customer Service Specialist 2	41,856		0.1	0.0	0.1	0.1
Information Technology Specialist 5	90,000		2.0	1.0		
LCB Enforcement Officer 2	70,320		0.2	0.1	0.4	0.4
Licensing Specialist	49,752		0.1	0.0	0.1	0.1
<b>Total FTE's</b>	251,928		2.3	1.2	0.6	0.6

**III. C - Expenditures By Program (optional)**

Program	FY 2018	FY 2019	2017-19	2019-21	2021-23
Licensing Division (050)		7,015	7,015	28,052	28,052
Enforcement Division (060)		23,356	23,356	93,422	93,422
Information Technology Division (070)		398,246	398,246		
<b>Total \$</b>		428,617	428,617	121,474	121,474

## Part IV: Capital Budget Impact

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Section 1(13) - Regarding Distilled Spirits Producers, the Washington State Liquor and Cannabis Board ("Board") shall establish rules for what defines "substantially involved".



Licensing staff calculator 2991 HB Updating spirits industry regulations							
Staff Type	1st yr	2nd yr	3rd yr	4th yr	5th yr	6th yr	7th yr
Licensing Specialist (LS)	0.08	0.08	0.08	0.08	0.08	0.08	0.08
Licensing Specialist Senior (LSS)	-	-	-	-	-	-	-
Customer Service Specialist (CSS2)	0.11	0.06	0.06	0.06	0.06	0.06	0.06
Office Assistant 3 (OA3)	0.01	0.00	0.00	0.00	0.00	0.00	0.00

Application Type	1st yr	2nd yr	Ongoing
New Licenses	17	17	17
Distillers change to new licenses	129	-	-
<b>Total License applications</b>	<b>146</b>	<b>17</b>	<b>17</b>
1 hour endorsements	129	129	129
<b>Total Endorsement applications</b>	<b>129</b>	<b>129</b>	<b>129</b>
<b>Total applications</b>	<b>275</b>	<b>146</b>	<b>146</b>

Note: years are expressed as "1st yr, 2nd yr", not fiscal years since the bill takes effect January 1, 2019. 1/2 of the FTE shown in "1st yr" will be in FY19, 1/2 in FY20. 1/2 of 2nd yr effect will be in FY20, 1/2 in FY21, and so on

new license applications										
				Applications						
				1st yr	2nd yr	3rd yr	4th yr	5th yr	6th yr	7th yr
				17	17	17	17	17	17	17
Staff	Task	Time Factor	Time	FTE						
Licensing Specialist (LS)	Investigate	Minutes	600	0.08	0.08	0.08	0.08	0.08	0.08	0.08
Licensing Specialist Senior (LSS)	Investigate	Minutes		-	-	-	-	-	-	-
Customer Service Specialist (CSS2)	Process	Minutes	10	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Office Assistant 3 (OA3)	Issue	Minutes	10	0.00	0.00	0.00	0.00	0.00	0.00	0.00
				17	17	17	17	17	17	17

	1st yr	2nd yr	Ongoing
Distilled Spirits Brand owner warehouse	1	1	1
Distilled Spirits Producer warehouse	1	1	1
Distillers Spirits Brand Owner	5	5	5
Distilled Spirits Producer	10	10	10
	17	17	17

1 hour endorsements										
				Applications						
				1st yr	2nd yr	3rd yr	4th yr	5th yr	6th yr	7th yr
				129	129	129	129	129	129	129
Staff	Task	Time Factor	Time	FTE						
Licensing Specialist (LS)	Investigate	Minutes		-	-	-	-	-	-	-
Licensing Specialist Senior (LSS)	Investigate	Minutes		-	-	-	-	-	-	-
Customer Service Specialist (CSS2)	Process	Minutes	60	0.06	0.06	0.06	0.06	0.06	0.06	0.06
Office Assistant 3 (OA3)	Issue	Minutes		-	-	-	-	-	-	-
				129	129	129	129	129	129	129

	1st yr	2nd yr	Ongoing
Special Occasion endorsement	129	129	129
	129	129	129

Changing existing distiller licenses to new license types (one-time process)										
				Applications						
				1st yr	2nd yr	3rd yr	4th yr	5th yr	6th yr	7th yr
				129	-	-	-	-	-	-
Staff	Task	Time Factor	Time	FTE						
Licensing Specialist (LS)	Investigate	Minutes		-	-	-	-	-	-	-
Licensing Specialist Senior (LSS)	Investigate	Minutes		-	-	-	-	-	-	-
Customer Service Specialist (CSS2)	Process	Minutes	45	0.05	-	-	-	-	-	-
Office Assistant 3 (OA3)	Issue	Minutes	10	0.01	-	-	-	-	-	-

	1st yr	2nd yr	Ongoing
Switch from Distiller to new type	129	-	-

HB 2991 - Enforcement Field Increment (FI) Calculator				
2991 HB Updating Spirits Industry Regulations				
	Number of events	Time Factor	Staffing Factor	FI Total
Special Occasion Licenses Checks	129	5	1.3	839
Complaint Investigations Liquor	10	10	1.3	130
Non RVP Member Support and Education	77	7	1	539

Total FI's	1,508
Total Field Increments per FTE	4,220
FTE's required	0.36
Round	0.4 FTE

Notes: Assumes 129 existing distillers will have 4 events per year (129 x 4 = 516)

Permits	Frequency	Number of events
Special Occasion Licenses Checks	25%	129
Complaint Investigations Liquor	2%	10
Non RVP Member Support and Education	15%	77