
September 23, 2010

To: All LCLB Staff
All Industry Associations

Re: Clarification of standalone requirements for licensee retail stores (LRS) pursuant to amendments to section 14 of the Liquor Control and Licensing Regulations:

- a) Severing the ownership link between LRS and liquor primary (LP) licences; and**
- b) Prohibiting LRS from appearing to be associated with any other business, no matter where located.**

Purpose

The purpose of this bulletin, which accompanies policy directive 10-05, is to clarify and provide details on the standalone requirements for LRS, including those applying for a structural change, relocation or transfer of ownership. The new policy also applies to applications in progress.

Background

Amendments made in February, 2010 to section 14 the Liquor Control and Licensing Regulation have required the branch to develop further policy around the appearance of association between LRS businesses and any other business.

In December, 2009, the requirement that an LRS licensee also own and operate a liquor-primary (LP) establishment was eliminated. A further amendment to section 14(3) of the Liquor Control and Licensing Regulation in February 2010 prohibits LRS from appearing to be associated with another business, no matter where located.

Section 14 (3) of the Liquor Control and Licensing Regulations now state:

(3) *A licence in respect of a licensee retail store must not be issued, renewed or transferred unless*

(a) *the licensee retail store is located in*

- (i)** *a permanent, free-standing building that does not contain another business, or*

(ii) a building in which there are other businesses, but the licensee retail store has its own entrance and exit separate from any other business and a solid floor-to-ceiling wall between the licensee retail store and any other business, and

(b) in the opinion of the general manager, the licensee retail store does not appear to be associated with another business.

Section 14(3.1) of the regulations provides authority for associations between LRS and an LP, LRS or hotel, as follows:

(3.1) *Despite subsection (3), a licence in respect of a licensed establishment that does not comply with that subsection may be renewed or transferred*

(a) if the location of the licensed establishment was approved by the general manager on a previous occasion in accordance with the law that was in force at the time of the approval, or

(b) if the establishment is associated with another business and the association was permitted by the law that was in force at the time the general manager approved the licence.

Since the LRS model was introduced in 1985, in order to operate an LRS the licensee was also required to be associated with (i.e. own and operate) a qualifying LP establishment. This requirement was removed in December, 2009. The requirement to avoid the appearance of association with another business other than certain types of related businesses (i.e. an LP, another LRS, or licensed hotel [including associated FP]) has been in place since 2002, but a further regulatory amendment was implemented to continue and clarify the policy now that ownership of LRS is no longer restricted.

The rationale for this policy is that government does not support licensee retail stores in premises located in or associated with any other business, with the exceptions of an LP, LRS, or licensed hotel (including associated FP).

LRS STANDALONE POLICY

Detailed requirements for permitted LRS associations are outlined in Part I. A summary of permitted associations for LRS upon transfer of ownership, relocation, or structural change is provided in Appendix 1. Prohibited associations are described in Part II.

PART I: PERMITTED ASSOCIATIONS FOR LRS

LRS associations with an LP, LRS, or licensed hotel (including associated FP) have historically been permitted and continue to be permitted. An association between one or more LP, LRS, or licensed hotel (including associated FP) might include but is not limited to the following:

- A previously linked LP;
- Use of a common name or other visual identifiers;
- Common ownership; or
- A common physical location.

A) LRS MAY BE ASSOCIATED WITH AN LP, LRS, OR LICENSED HOTEL (INCLUDING ASSOCIATED FP) OWNED BY THE SAME LEGAL ENTITY, SUBJECT TO THE FOLLOWING REQUIREMENTS:

1. Location and Physical Requirements

- LRS locations approved by the general manager prior to this policy taking effect may continue;
- Use of an existing approved common staff door may continue but no new common staff doors will be approved; and
- Common liquor storage areas with the associated business are permitted providing the licensee ensures that the liquor purchased under each liquor licence is physically separate, clearly labelled, and clearly identifiable to any reasonable person. Licensees are encouraged to have a completely separate liquor storage area for each liquor licence.

2. Naming and Appearance Requirements

- The LRS may use a common name and other visual identifiers of the associated business (e.g. logos, trademarks, signage, colour schemes).

3. Separation of Business Requirements

- LRS must not operate as a loss leader in support of any other business.

4. Advertising and Promotional Requirements

- Joint advertising and promotions between the LRS and any associated LP, LRS, or licensed hotel (including associated FP) are permitted. The LRS may:
 - a) Sell trademarked or brand name non-liquor products of the associated business;
 - b) Conduct joint advertising with the associated business;
 - c) Offer discounts by or in an LRS, based on purchases in the associated business;
 - d) Offer gift cards that are associated with or redeemable by the associated business; and
 - e) Operate a customer loyalty program with the associated business.

B) LRS MAY BE ASSOCIATED WITH AN LP, LRS, OR LICENSED HOTEL (INCLUDING ASSOCIATED FP) OWNED BY A DIFFERENT LEGAL ENTITY, SUBJECT TO THE FOLLOWING REQUIREMENTS:

1. Location and Physical Requirements

- LRS locations approved by the general manager prior to this policy taking effect may continue;
- Use of an existing approved common staff door may continue but no new common staff doors will be approved; and
- Common liquor storage areas with the associated business are not permitted.

2. Naming and Appearance Requirements

- The LRS may use a common name and other visual identifiers of the associated business (e.g. logos, trademarks, signage, colour schemes).

3. Separation of Business Requirements

- LRS must maintain and have available upon request separate business and financial records (e.g. bank accounts, credit accounts) for each LRS licence; and
- LRS must not operate as a loss leader in support of any other business.

4. Advertising and Promotional Requirements

- Joint advertising and promotions between the LRS and any associated LP, LRS, or licensed hotel (including associated FP) are permitted. The LRS may:
 - a) Sell trademarked or brand name non-liquor products of the associated business;
 - b) Conduct joint advertising with the associated business;
 - c) Offer discounts by or in an LRS, based on purchases in the associated business;
 - d) Offer gift cards that are associated with or redeemable by the associated business; and
 - e) Operate a customer loyalty program with the associated business.

C) FOR OWNERSHIP TRANSFERS WHERE THE LRS AND ANY ASSOCIATED LP, LRS, OR LICENSED HOTEL (INCLUDING ASSOCIATED FP) ARE BEING SOLD TO THE SAME LEGAL ENTITY:

Same policies as for Part 1, A.

D) FOR OWNERSHIP TRANSFERS WHERE THE LRS OR ANY ASSOCIATED LP, LRS, OR LICENSED HOTEL (INCLUDING ASSOCIATED FP) ARE BEING SOLD TO DIFFERENT LEGAL ENTITIES:

Same policies as for Part 1, B.

E) FOR RELOCATION APPLICATIONS WHERE THE LRS AND ANY ASSOCIATED LP, LRS, OR LICENSED HOTEL (INCLUDING ASSOCIATED FP) ARE OWNED BY THE SAME LEGAL ENTITY:

1. Location and Physical Requirements

- LRS must be located in
 - A permanent, free standing building that does not contain another business; or
 - If in a building in which there are other businesses, the LRS must have its own entrance and exit separate from any other business and a solid floor-to-ceiling wall between the LRS and any other business.
- A separate and dedicated public entrance must be maintained for both the LRS and the shared or adjoining area with no public entrance to either facility from the other, although they may share a common public thoroughfare such as a lobby;
- Common staff door links with any other business are not permitted; and
- Common liquor storage areas with any other business are not permitted.

2. Naming and Appearance Requirements

- The LRS may use a common name and other visual identifiers of the associated business (e.g. logos, trademarks, signage, colour schemes).

3. Separation of Business Requirements

- LRS must not operate as a loss leader in support of any other business.

4. Advertising and Promotional Requirements

- Joint advertising and promotions between the LRS and any associated LP, LRS, or licensed hotel (including associated FP) are permitted. The LRS may:
 - a) Sell trademarked or brand name non-liquor products of the associated business;
 - b) Conduct joint advertising with the associated business;
 - c) Offer discounts by or in an LRS, based on purchases in the associated business;

- d) Offer gift cards that are associated with or redeemable by the associated business; and
- e) Operate a customer loyalty program with the associated business.

F) FOR RELOCATION APPLICATIONS WHERE THE LRS AND ANY ASSOCIATED LP, LRS, OR LICENSED HOTEL (INCLUDING ASSOCIATED FP) ARE OWNED BY A DIFFERENT LEGAL ENTITY:

1. Location and Physical Requirements

- LRS must be located in
 - A permanent, free standing building that does not contain another business; or
 - If in a building in which there are other businesses, the LRS must have its own entrance and exit separate from any other business and a solid floor-to-ceiling wall between the LRS and any other business.
- A separate and dedicated public entrance must be maintained for both the LRS and the shared or adjoining area with no public entrance to either facility from the other, although they may share a common public thoroughfare such as a lobby;
- Common staff door links with any other business are not permitted; and
- Common liquor storage areas with any other business are not permitted.

2. Naming and Appearance Requirements

- The LRS may use a common name and other visual identifiers of the associated business (e.g. logos, trademarks, signage, colour schemes).

3. Separation of Business Requirements

- LRS must maintain and have available upon request separate business and financial records (e.g. bank accounts, credit accounts) for each LRS licence; and
- LRS must not operate as a loss leader in support of any other business.

4. Advertising and Promotional Requirements

- Joint advertising and promotions between the LRS and any associated LP, LRS, or licensed hotel (including associated FP) are permitted. The LRS may:
 - a) Sell trademarked or brand name non-liquor products of the associated business;
 - b) Conduct joint advertising with the associated business;
 - c) Offer discounts by or in an LRS, based on purchases in the associated business;
 - d) Offer gift cards that are associated with or redeemable by the associated business; and
 - e) Operate a customer loyalty program with the associated business.

G) FOR LRS STRUCTURAL CHANGE APPLICATIONS WHERE THE LRS AND ANY ASSOCIATED LP, LRS, OR LICENSED HOTEL (INCLUDING ASSOCIATED FP) ARE OWNED BY THE SAME OR DIFFERENT LEGAL ENTITY:

1. Location and Physical Requirements

- LRS locations approved by the general manager prior to this policy taking effect may continue;
- Use of an approved existing common staff door may continue but for applications that affect the immediate staff door area no new common staff doors will be approved.

2. Naming and Appearance Requirements

- Not applicable to structural change

3. Separation of Business Requirements

- Not applicable to structural change

4. Advertising and Promotional Requirements

- Not applicable to structural change

PART II: PROHIBITED ASSOCIATIONS FOR LRS

LRS are prohibited from appearing to be associated with any other business that is not an LP, LRS, or licensed hotel (including associated FP). Standalone policy for LRS not associated with an LP, LRS, or licensed hotel (including associated FP) is as follows:

1. Location and Physical Requirements

- LRS must be located in
 - A permanent, free standing building that does not contain another business; or
 - If in a building in which there are other businesses, the LRS must have its own entrance and exit separate from any other business and a solid floor-to-ceiling wall between the LRS and any other business.
- A separate and dedicated public entrance must be maintained for both the LRS and the shared or adjoining area with no public entrance to either facility from the other, although they may share a common public thoroughfare such as a lobby;
- Common staff door links with any other business are not permitted; and
- Common liquor storage areas with any other business are not permitted.

2. Naming and Appearance Requirements

- An LRS may not use a name or other visual identifier (e.g. logos, trademarks, signage, colour schemes) of another business.

3. Separation of Business Requirements

- LRS must maintain and have available upon request separate business and financial records (e.g. bank accounts, credit accounts) for each liquor licence; and
- LRS must not operate as a loss leader in support of any other business.

4. Advertising and Promotional Requirements

- Selling trademarked or brand name non-liquor products of another business is prohibited in an LRS, unless these products are also available for wholesale purchase by other licensees and do not share the other business' name.
- LRS may advertise the products sold in the LRS, but joint advertising involving an LRS and another business is prohibited.
- Offering discounts by or in an LRS based on purchases in another business is prohibited.
- Gift cards may not be associated with or redeemable by another business.
- Operating a customer loyalty program in an LRS which recognizes purchases made in another business is prohibited.

NEW LICENSING PROCEDURES

LRS Transfers of Ownership and Relocations

The application forms for LRS Transfer of Ownership (LCLB001C) and Transfer of Location (LCLB092) will be amended to advise applicants that the proposed licence change may affect any associations with a LP, LRS, or licensed hotel (including associated FP), and that they should review Policy Directive 10-05 before submitting their application.

The application form will also require the applicant to disclose any associations with an LP, LRS, or licensed hotel (including associated FP) as part of the licence change, and this information will be entered into the notes tab on POSSE. Where an association is disclosed by the applicant, the case manager will detail permitted associations in the inspector interview letter.

Establishment Name Changes

The permanent change application form (LCLB012 – Part 8 Establishment/Licence Name Change) will be amended to advise the applicant that an LRS may not use a name or other visual identifier (e.g. logos, trademark, signage, colour schemes, etc) of another business unless that name is a permitted association under Policy Directive 10-05. Licensing staff should also conduct a web search to identify any businesses with the same name.

NEW COMPLIANCE AND ENFORCEMENT PROCEDURES

Inspectors will:

- Review the policy during the inspector interview and education session and discuss existing and new associations and how licence changes may affect associations.
- Detail any identified common name, common liquor storage/cooler area and/or a connecting door on the final inspector interview form.
- Take photos of the associations that exist at the time of inspection.

Recommendation to approve the licence change may be withheld by the inspector where evidence of unauthorized association with another business is observed during the final inspection process.

Unauthorized association with another business might include any unreported changes, shared liquor storage areas, joint advertising and promotions or any visual identifiers (e.g. signage or logos) which link the LRS to an unauthorized business.

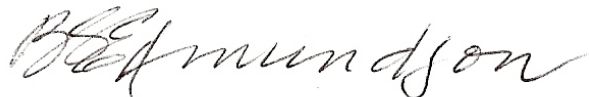
Contraventions of the standalone policy observed during routine inspections will be dealt with according to standard procedure.

WHERE CLARIFICATION IS REQUIRED

If you have any questions or require further clarification regarding these changes in operational procedures please contact Katherine Colquhoun Assistant Manager, Licensing Administration at katherine.colquhoun@gov.bc.ca.



Cheryl Y. Caldwell
Deputy General Manager
Licensing and Local Government Liaison



Bruce Edmundson
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Compliance and Enforcement

**Appendix 1: Summary of Permitted Associations for LRS upon
Transfer of Ownership, Relocation, or Structural Change***

	Location and Physical Requirements		Naming and Appearance	Separation of Business Requirements		Advertising and Promotional Requirements
	Use of existing common staff door	Common liquor storage		Maintain separate business and financial records	Operate LRS as a loss leader	
			Use of common name and other visual identifiers			Joint advertising and promotions with LP or another LRS
TRANSFER OF OWNERSHIP						
Part 1C: LRS and LP together (same owner)						
a) Side by side	May continue where currently exists	May continue where currently exists	Permitted	Not required	Not permitted	Permitted
b) Not side by side	N/A	N/A	Permitted	Not required	Not permitted	Permitted
Part 1D: LRS or LP separately (different owner)						
a) Side by side	May continue where currently exists	Not permitted	Permitted	Required	Not permitted	Permitted
b) Not side by side	N/A	Not permitted	Permitted	Required	Not permitted	Permitted
RELOCATION						
Part 1E: Same owner	Not permitted	Not permitted	Permitted	Not required	Not permitted	Permitted
Part 1F: Different owner	Not permitted	Not permitted	Permitted	Required	Not permitted	Permitted
STRUCTURAL CHANGE						
Part 1G: Same owner or different owner						
a) Side by side	May continue where currently exists	N/A	N/A	N/A	N/A	N/A
b) Not side by side	N/A	N/A	N/A	N/A	N/A	N/A

*Please refer to Part 1 of this operational bulletin for full details.