
February 26, 2015

To: All LCLB staff
All Industry Associations
All Local Government, First Nations, and Police Agencies

Re: **Liquor Policy Review Recommendations #19 and 20: Phased-in
Implementation of Liquor in Grocery stores**

Introduction

The implementation of the Liquor Policy Review (LPR) report recommendations will permit the implementation of liquor sales in grocery stores, effective April 1, 2015.

This directive describes the following key policies that will allow liquor and wine sales in grocery stores effective April 1, 2015:

- Grocery store eligibility has been defined
- Grocery stores may sell liquor either in a store-within-a-store or 100% BC wine on the shelf, but not both at the same location
- Licensee Retail Stores (LRS) and BC Liquor Stores (BCLS) may relocate to a store-within-a-store grocery store, subject to distance restrictions
- The 1 km distance criteria separating LRS's has been retained and extended to include BCLS's
- The regulation restricting LRS relocation outside its local government/First Nation jurisdiction (i.e. the 5 km rule) has been repealed
- The LRS moratorium has been maintained
- Wine stores, other than winery-owned and sacramental wine stores, may relocate to grocery stores in either a store-within-a-store model or for the sale of 100% BC wine off store shelves
- LRS's and wine stores owned by or located within eligible grocery stores may co-brand

Statutory Authority and Policy Rationale

Government has approved regulations setting out an application lottery procedure for the initial relocation applications. Sections 14.01, 14.02 and 14.03 have been added to the regulations. The new sections of the regulations have been posted to the LCLB website at www.pssg.gov.bc.ca/lclb.

Government intends to bring into force the necessary regulations prior to the April 1, 2015 implementation date to allow the movement of liquor and wine into grocery stores. The policy outcomes of these additional regulations are reflected below.

The following summarizes changes to the policies and regulations and describes the eligibility criteria, application period, application process, and related procedures.

Grocery stores

Eligibility

To be eligible for liquor sales, a grocery store must have a minimum of 10,000 square feet of space, including storage space, and must be primarily engaged in retailing a general line of foods including canned, dry and frozen food, fresh fruits and vegetables, fresh and prepared meats, fish and poultry, dairy products, baked products and snack foods, and non-liquor beverages.

To maintain eligibility, these conditions must continue to be met, along with the following additional requirements: that the sales revenue from food and non-liquor beverages:

- totals at least 70% of non-liquor sales, and
- totals at least 50% of all sales, including liquor sales from a retailer located in the grocery store.¹

Convenience stores and multipurpose stores are not eligible.

Liquor stores within grocery stores

The liquor store within the grocery store must be at least 1 km away from any other LRS or BC Liquor Store. Distance is measured from the front door of the other liquor store to the front door of the store within the grocery store, as the crow flies.

Liquor stores within grocery stores must be physically separated from the rest of the grocery store with controlled access and separate cash tills within the liquor store. The same shopping cart will be permitted to move between the grocery and liquor stores.

The entire perimeter of the licensed area must be identifiable. The majority of the perimeter of the licensed area must be bounded by a fixed and immovable barrier. For the portion of the perimeter that is not fixed and immovable, the barrier must be sufficient to:

- monitor and control entrance to the licensed area,
- prevent unaccompanied minors from accessing the area,
- secure the retail area when required (i.e. when operating hours for the liquor retail area do not align with grocery store hours), and
- identify the main entrance (including what is considered to be the front door) to the licensed area.

An eligible grocery store will be able to co-brand with an LRS that is located within the grocery store or with any stand-alone LRS that the eligible grocery store owns, regardless of its location. The owner of the grocery store and the associated LRS must be the same legal entity for stand-alone stores.

¹ Original wording was revised on March 17th, 2015 to clarify the eligibility requirements for grocery stores.

Wine in Store

Effective April 1, 2015, wine store licences, other than winery-owned or sacramental wine stores, may be relocated to a grocery store.

A wine store licence can relocate within a grocery store, either in a separate store or on shelf.

There is no distance restriction between other liquor retail or wine store outlets that prohibits the relocation of a wine store.

Wine stores within grocery stores must be physically separated from the rest of the grocery store in the same manner as a liquor store within a grocery store, as described above.

The wine store-within-a-store may sell any type of wine that is permitted under the terms and conditions of their licence. For example, an independent wine store can sell any imported or domestic product. A BC VQA store can only sell BC VQA wine.

An eligible grocery store will be able to co-brand with a wine store that is located within the grocery store or with any stand-alone wine store that the grocery store owns. The owner of the grocery store and the wine store must be the same legal entity for stand-alone stores.

Wine on Shelf

A wine store licence can relocate to a shelf within a grocery store effective April 1, 2015.

The wine store licensee must transfer the wine store licence to the grocery store owner. The exception is for BC VQA stores whose licences are held by the BC Wine Institute (BCWI). In that case, the BCWI will continue to hold the licence but must apply to appoint the grocery store as the third party operator.

The types of products that may be sold off the shelf will be determined by the type of wine store licence as described below.

If the wine store licence allows the sale of only BC VQA wines, then only BC VQA wines can be sold off the shelf.

If the wine store licence allows wine to be sold that is made from 100% BC agricultural products, all types of BC wine, including cider, mead and sake, can be sold off the shelf.

If the wine store licence allows all types of wine (imported and domestic) to be sold, only 100% BC produced wine (including cider, mead and sake) may be sold off the shelf, and the terms and conditions of the wine store licence will be amended to reflect this restriction.

Wine that is sold off the shelf may be purchased at designated tills or regular tills. Regardless of the type of till, the staff making the sale must have Serving it Right certification and be at least 19 years of age.

Floor plans/separation requirements for wine on the shelf

The licensee is responsible for determining their product display area and the tasting area, if tastings are offered. The product display area does not need to be bounded and may encompass a variety of shelf configurations such as a small corner of the store, a kiosk, multiple shelves on one or both sides of an aisle, etc. as long as the following conditions are met:

- All product to which the public has access must be within one contiguous product display area within the grocery store; separate “wine sections” are not permitted.
- The liquor must be able to be secured and inaccessible to the public during the hours that liquor is not available for sale (e.g. when licensed hours do not align with the grocery store’s hours of operation)

The licensee may move the product display area within the grocery store without notifying the Branch, as long as it continues to meet the above-noted conditions.

Liquor inventory may be securely stored within the non-public areas of the store (i.e. stockroom) or in an approved off-site storage using the form found here: <http://www.pssg.gov.bc.ca/lclb/docs-forms/LCLB027.pdf>).

The licensee must submit a security plan to the LCLB indicating how they will guard against shop-lifting and ensure minors do not access the product on the shelf.

One tasting area is permitted. It must be immediately adjacent to the product display area and must be defined by a physical barrier (e.g. ropes and stanchions). Only product sold off the shelves may be offered for tasting. For additional information about tastings, please refer to the guidebook for wine store licensees at <http://www.pssg.gov.bc.ca/lclb/docs-forms/guide-winestore.pdf>.

Liquor Retail Stores

LRS distance and relocation criteria

Effective April 1, 2015 the restriction that limited LRS relocation to its own local government/First Nation jurisdiction or up to five kilometers if moving outside the jurisdiction will be eliminated. LRS’s can now apply to relocate anywhere in the province.

The regulation prohibiting the relocation of a LRS to within one kilometre of another LRS has been maintained.

BC Liquor Store Relocations

Effective April 1, 2015, the one kilometre rule is extended to BC Liquor Stores, prohibiting them from locating within one kilometre of a LRS and vice versa. There is an exception for BC Liquor Stores that already have store relocations in process. If a BCLS can demonstrate they had valid interest the new location prior to February 27, 2015, they will be exempt from the one kilometre rule. The same exception was applied

previously to LRS's when the distance restriction was implemented.

Application Process to relocate liquor stores from February 27 to March 27, 2015

The elimination of the 5 kilometre restriction may create an initial surge of LRS relocation applications. Due to the 1 km rule, it is critical to determine the order of applications. This is because applications assessed first may negatively affect applications assessed later if the proposed sites are within close proximity.

To ensure a fair process, Sections 14.01, 14.02 and 14.03 have been added to the regulations. These sections establish a lottery system to determine the order of applications.

Relocation Lottery

LRS licensees and BC Liquor Stores will have a four week window from February 27 to March 27, 2015 to apply to relocate. All complete applications received during this window will be placed in the lottery with the order of applications determined on April 1, 2015 and then communicated to applicants. Incomplete applications will not be entered into the lottery and will be dealt with after the lottery applications are processed.

On Friday 27 February 2015, the Liquor Control and Licensing Branch (LCLB) will no longer accept applications for consideration under the previous rules and procedures.

From Friday 27 February until 4:30pm on Friday 27 March 2015, all LRS and BCLS relocation applications received by the LCLB will be set aside to determine eligibility for the lottery. Applicants wishing to be included in the lottery process must download an updated application form package which lays out instructions and criteria for submitting a complete application. Other than for processing payments, the LCLB will not be contacting applicants until after the lottery takes place on April 1, 2015.

Only one application may be submitted per LRS licence number or BCLS store number. Once the application package has been submitted, the LCLB will not accept amendments to the application. Applicants have the option of contacting the LCLB to terminate their application if they wish to withdraw and submit a new application package during the lottery window; application fees will not be refunded. If an applicant submits a second application without cancelling the first one, the second application will be returned to the applicant.

Any applications received by the LCLB after 4:30pm on Friday 27 March 2015, will be reviewed and considered in the order they are received, but only following all the applications received during the lottery intake period.

LCLB staff will determine the applications that are eligible to be placed into the lottery. Eligible and ineligible applicants will be notified regarding their status and any options for going forward, but not prior to the lottery being completed. Eligible applications will have their LRS licence number or BCLS store number entered into the lottery.

On April 1, 2015, the LCLB will conduct the lottery to determine the order in which eligible applications will be reviewed and considered for relocation. The procedures for the lottery draw are attached as Appendix A.

If an application is unsuccessful because it is within 1 km of another application drawn earlier in the lottery, the application fee will be returned to the unsuccessful applicant. The application fee will not be refundable if the proposed location is within 1 km of a LRS or BCLS whose address was posted on the LCLB website prior to February 27, 2015.

Complete Applications

Only complete applications will be eligible to be entered into the lottery. To be complete, the application must include:

1. The application form, with all fields completed
2. The application fee of \$330
3. Proof of valid interest for the proposed LRS or BC Liquor Store location
4. Scaled site plan of the proposed liquor store site showing all the buildings and entrances of those buildings, including any street names. The location for the front entrance door of the proposed LRS establishment must be identified on the site plan.
5. Photographs showing the proposed site
6. Grocery Store Declaration if the proposed liquor store site is located within a grocery store.

Applicants will not be advised if their application is incomplete until after the lottery has been concluded.

The application form, application guide, application checklist, grocery store declaration can be found at <http://www.pssg.gov.bc.ca/lclb/policy/relocation.htm>. The onus is on the applicant to ensure that all requirements set out in the application materials are complete and received at the Liquor Control and Licensing Branch no later than 4.30 p.m. on March 27, 2015. Any application received after that time will not be eligible to be entered into the lottery regardless of the reason.

Failure to provide the above documentation will result in an incomplete application with the following consequences:

- Incomplete applications will not be reviewed for compliance with the 1 km distance criteria
- Incomplete applications will not secure your proposed site or the 1 km radius surrounding it
- Incomplete applications will not be put into lottery

Structural changes and relocations

Structural changes are changes to existing construction, and are defined in detail in section 6.2.1 of the Liquor Licensing Policy Manual.

Where an LRS proposes to move to an address at the same site and within the existing building (with the same parcel identifier number) or to a location that is attached to or abutting the existing building, this is considered a structural change application.

A structural alteration that meets this criteria is not considered a relocation and is not subject to the 1 km distance restriction.

If a LRS or BCLS is attached to or abutting an eligible grocery store, they can apply for a structural alteration to remove the wall to create a store-in-store liquor store. The LRS or BCLC can submit an application for structural change as of February 27, 2015, together with the Grocery Store Declaration. The licensee cannot begin structural alterations until they have received approval in principle from LCLB. The final approval to complete the licensing of the store-within-a store cannot be concluded prior to April 1, 2015 when the prohibition against a LRS co-branding with an eligible grocery store is eliminated.

LRS Applications after March 27, 2015

All LRS relocation applications received after 4.30 p.m. on March 27, 2015 will be reviewed in the date order they are received and only after the applications received during the lottery intake period.

Further Information

Further information regarding liquor control and licensing in British Columbia is available on the Liquor Control and Licensing Branch website at <http://www.pssg.govbc.ca/lclb>. If you have any questions regarding these changes, please contact the Liquor Control and Licensing Branch toll free in Canada at 1-866-209-2111 or 250 952-5787 if calling within the Victoria area.

Original signed by:

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Assistant Deputy Minister and General Manager

Appendix A – Procedures for the Lottery Draw

Lottery Timeline

On February 27, 2015, a four week lottery relocation application acceptance period begins, closing on March 27, 2015, at 4:30 p.m.

LRS licence (or BCLS) numbers will be copied from the application forms and recorded on a Draw List and also matched with a single raffle ticket. This raffle ticket will be stapled directly to the matching application.

On April 1, 2015, the lottery draw will occur and will be witnessed by an independent auditor. In addition, the Draw List will be reviewed by the General Manager of the LCLB. The counterfoils (duplicate mirror part of the raffle tickets) will be separated from the raffle tickets stapled to each application and placed in an empty draw receptacle.

Draw process

1. The General Manager will tumble the receptacle in a manner satisfactory to ensure a random selection of counterfoil tickets.
2. With a bare arm the General Manager will reach into the receptacle without looking and will select a single counterfoil ticket, and then another ticket and so forth.
3. The draw numbers of these counterfoil tickets will be recorded in the order in which they are drawn.
4. The counterfoil tickets will be placed in a new envelope, for audit purposes if necessary.
5. This continues until all counterfoil tickets are drawn.
6. The applications (with raffle tickets attached) will be matched with the drawn counterfoil numbers and placed in draw order – first drawn/first in line, and so forth. This will be signed by the General Manager of LCLB and the independent Auditor.
7. This resultant list will be used to put in order of priority LRS relocation applications.