A Brief Review of Local Government Issues in Washington’s Liquor Privatization

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Liquor Stores: How Big?

“...Initiative 1183 will not permit your neighborhood gas station in Tacoma to sell liquor. In fact, it will prohibit every neighborhood gas station, yes even in Omak, from selling liquor.”

~Yes on 1183 campaign

“There is a major loophole in the measure that would allow convenience stores and gas stations to carry liquor. According to I-1183, if there is not a 10,000-square foot grocery store in a neighborhood or ‘trade area,’ then any store regardless of size, including mini-marts and gas stations, cannot be denied a liquor license by the Liquor Control Board.”

~No on 1183 campaign

“I-1183 limits those outlets that can sell liquor to stores of 10,000 or more square feet, with limited exceptions.”

~Washington Policy Center

“Getting the state out of the liquor business may be a sensible goal, but should voters simply trade a state monopoly for a private one? [One of the] unfair advantages that Costco has written into the initiative [is that b]ecause the measure limits licenses to stores that are 10,000 square feet or bigger, many smaller, independent neighborhood groceries such as Ken’s Market, IGA, Ralph’s, and PCC, which are typically between 7,000 and 9,900 square feet, won’t be able to sell booze, while the nearby Costco or Safeway will.”

~PubliCola

“A city or county could not likely prevent an existing store of 10,000 square feet or larger that sells beer and wine from obtaining a license to sell liquor. Standalone liquor stores are also permitted, subject to criteria in Initiative 1183. There is no maximum size for a liquor store.”

~Municipal Research & Services Center
## LIST OF ACRONYMS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>CY</td>
<td>Calendar year</td>
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<tr>
<td>FY</td>
<td>Fiscal year</td>
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<td>LMC</td>
<td>Lakewood Municipal Code</td>
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<td>MRSC</td>
<td>Municipal Research and Services Center</td>
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<td>NABCA</td>
<td>National Alcohol Beverage Control Association</td>
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<td>OFM</td>
<td>Washington State Office of Financial Management</td>
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<tr>
<td>RCW</td>
<td>Revised Code of Washington</td>
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<td>WAC</td>
<td>Washington Administrative Code</td>
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<td>WSLCB</td>
<td>Washington State Liquor Control Board</td>
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Background

Prohibition was repealed with ratification of the 21st Amendment to the US Constitution in 1933, but the amendment still recognized state laws prohibiting transport or import of liquor. Thereafter, regulation of the manufacture, delivery and sale of liquor fell to the states. It took over 30 years for repeal of all state-level prohibition laws. Even today, “dry” counties remain where states gave local jurisdictions the choice of independent prohibition; Washington State law continues to provide for local elections prohibiting sale of liquor.

Some states chose to exert direct governmental control over liquor, but in others, alcohol is regarded as a free-market product. So-called “control states” are also known as “monopoly” states, recognizing that the government has a monopoly over liquor. Until now, Washington has been one of 19 remaining control states in the nation. Even as Washington’s system is privatized, the northwestern US forms the largest contiguous geographic control state bloc, including Oregon, Idaho, Montana, Wyoming and Utah.

While liquor laws differ from state to state, control states are supported by an association dating back to 1937. The National Alcohol Beverage Control Association (NABCA) has, to some degree, standardized certain functional elements and practices, such as forms and coding, related to state liquor store operations; and offers members a clearinghouse for best practices, policy research, and media coverage. NABCA also advocates for retaining “a controlled distribution system which substitutes the state for the private marketplace …so that economic incentives for maximum sales [are] eliminated and policies [exist] supporting moderate consumption.”

Following the 2010 defeat of Washington’s liquor privatization Initiatives 1100 and 1105, 2011 saw a flurry of initiative activity – no fewer than eight liquor initiatives were filed. Only Initiative 1183 proceeded to the ballot and ultimately went on to be adopted by the voters.¹

As campaigning for Initiative 1183 heated up, it was impossible to ignore media stories about Costco being a major backer. According to the state Public Disclosure Commission, Costco was the largest single donor, at over $20.5 million (besides the financial support it had given in the previous year). In addition to a handful of individual donors, other corporate supporters included Safeway and Trader Joe’s, which each donated $50,000. Trader Joe’s, headquartered in California, was the only out-of-state donor; but of course it already has a physical presence here in Washington. The “no” campaign had a greater variety of donors in terms of location – industry groups such as producers and distributors associations and organized labor from all over the US.

¹ The entire text of Initiative 1183 may be viewed at <http://www.sos.wa.gov/elections/initiatives/text/i1183.pdf>. As codified within the Revised Code of Washington (RCW) it may be viewed at <http://apps.leg.wa.gov/rcw/default.aspx?Cite=66>. Two pending lawsuits, one in King County and one in Cowlitz County, would potentially kill the initiative. For the purposes of this inquiry, we are assuming these lawsuits will not succeed and the new law will go on to take effect.
Many reasons are offered by both control and privatization advocates for the two different approaches to managing liquor availability and distribution to our society. The purpose of this report is not to revisit those arguments, but to explore the outcome of Washington voters’ decision to privatize at implementation level and in the local context.

**What is the issue?**

In December 2011, the Municipal Research and Services Center (MRSC) published a brief entitled “Concerned about Mega-Liquor Stores? Initiative 1183 and Zoning for Liquor Stores” which alerted City staff to the possibility of big-box liquor stores situating in Lakewood. MRSC Planning Consultant Carol Tobin flagged numerous provisions of Initiative 1183 as related to local zoning. Of most concern to City staff was MRSC’s observation that “there is no maximum size for a liquor store.” At its core, the issue is whether Lakewood wants to allow mega liquor stores. This report was initially scoped in on simply the City’s zoning, but as the Council will see in the following sections, there are some broader considerations involved. The following sections explore various aspects of the mega store question.

**Policy Considerations**

**Free Market Activity**

According to NABCA, Washington’s density of liquor stores is six outlets per 100,000 residents. This is less than half of the national average (14) for control states and is only a fifth of the national average for free-market states. For comparison, among control states, Michigan has the highest density of 53 outlets/thousand, while there are only four control states having lower density than Washington. NABCA says that privatization generally results in higher outlet density leading to greater physical availability, and well as longer and later hours of sale.

Even though it will no longer be operating liquor stores, the Washington State Liquor Control Board (WSLCB) is still charged with licensure of spirits businesses. Conditions in Initiative 1183 also add a layer of complexity to business start-ups or expansions that everyday businesses need not consider. Some applicants are likely to move forward while others will, for whatever reason, be unable to meet requirements for spirits licenses. Even if there is a rush of new spirits retailers, only the best capitalized and situated businesses will be most likely to endure as market saturation occurs. This is likely to limit the market as poorly capitalized businesses will be less viable and competitive. Also, some percentage of issued licenses will undoubtedly be rescinded over time due to regulatory issues such as failing to “maintain systems for inventory management, employee training, employee

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2 The entire brief may be viewed at <http://www.mrsc.org/subjects/planning/megaliq.aspx>.
3 See information on Michigan municipal stores included in Appendix A.
supervision, and physical security of the product substantially as effective as [current WSLCB stores].” These all serve as moderating factors on a large expansion of liquor stores.

Locally, it appears there may be some competition related to JBLM. On base, liquor is available at several outlets and is somewhat less expensive than in WSLCB stores. A recent informal survey conducted by City staff showed that per-bottle spirits prices on base undercut WSLCB stores by an average of $1.50 a bottle. The initiative requires that the transition to privatization “must include, without limitation, a provision for applying operating and asset sale revenues of [WSLCB] to just and reasonable measures to avert harm to interests of …military buyers…under then existing contracts for supply…” It also states that “Purchases by the federal government from any [WSLCB licensee] of spirits for resale through commissaries at military installations are exempt from sales tax based on selling price levied by RCW 82.08.150.” It is possible this could dampen free-market interest in Lakewood.

The primary clause contained within the initiative that moderates market expansion is the size threshold for licensed premises. In order to receive a spirits license, a premises must be at least 10,000 square feet “of fully enclosed retail space within a single structure, including storerooms and other exterior auxiliary areas but excluding covered or fenced exterior areas, whether or not attached to the structure.” To this, WSLCB has added, within the new WAC, a proviso that it is “not encumbered by a lease or rental agreement.”

There are two exceptions to this size threshold. One is a situation where, in part, “there is no retail spirits license holder in the trade area that the applicant proposes to serve….” “Trade area” is not defined, either in the initiative or the new WAC, but it seems unlikely that this criterion would come into play within an urban environment. This appears to be intended chiefly for those areas where, for instance, a single convenience store may exist at a rural crossroads, with no other commercial uses for miles around; or perhaps within a small town that has no stores that meet the size threshold.

The size exception also applies to situations where either an existing contract liquor store or WSLCB store is too small. WSLCB is to auction off rights to its current locations. In Lakewood, this includes the 100th Street store and the one in Oakbrook Plaza. Sized at 4,913 sq. ft. and 4,442 sq. ft., respectively, these stores could not be opened under the new law. However, the initiative states that WSLCB “may not deny a spirits retail license…to the holder of former state liquor store operating rights [purchased at auction] on the grounds of location, nature, or size of the premises to be licensed.” This would enable the current WSLCB stores in Lakewood to stay in business despite their square footage. At the same time, a license could still potentially be denied if the buyer at auction doesn’t qualify for some other reason.

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4 Based on a limited sample of popular brands
5 The initiative gives WSLCB rulemaking authority to define "trade area," but the Board has announced that it is deferring rulemaking on this point until after June 1, 2012, so that it has “an opportunity to know how many spirits retail licenses there are statewide as it creates rules.”
Staff has reviewed current Lakewood retail licenses and found that there are 15 currently licensed beer/wine retailers in structures over 10,000 square feet. Data limitations, however, prevent us from determining whether that is their “fully enclosed retail space” (et al) as described above, or if the square footage includes space that would not be counted against the licensing size threshold. WSLCB tells us, too, that they have a similar data limitation; and they’re setting aside applications where the size threshold is questionable and requesting more information. There also may be other reasons they would not qualify or may not choose to apply. Some of the following licensees may not upgrade to spirits licenses, but might be eligible based solely on their square footage:

Albertsons, 8611 Steilacoom Blvd. SW
Asian Market, 11715 Bridgeport Way
Boo Han Super Market, 9122 South Tacoma Way
Hess Bakery & Deli, 6108 Mt. Tacoma Drive
Pal-Do World, 9701 South Tacoma Way
Reddy 2 Go, 8225 Steilacoom Blvd. SW
Rite Aid, 5700 – 100th St. SW
Saar’s Marketplace, 6111 Lakewood Towne Center
Safeway, 10223 Gravelly Lake Drive
Sales Corner, 10406 Sales Road
Tacoma Grocery Outlet, 11011 Pacific Hwy. SW
Target, 5618 Lakewood Towne Center
Walgreens, 9505 Bridgeport Way
Walgreens, 8224 Steilacoom Blvd. SW
Wal-Mart, 7001 Bridgeport Way SW

WSLCB has notified the City that Albertsons and Safeway have already applied for spirits licensure.

Zoning

Under Lakewood’s current zoning code, liquor stores are not a specifically listed land use. In such cases, the code authorizes the Community Development Director to make a best-fit determination about how specific uses will be regulated. (LMC 18A.02.215) However, in this instance an administrative determination has not been sought or formally issued. Instead, the Director has confirmed staff’s opinion that off-premise alcohol sales fit within the purview of “new merchandise sales” as described within the Sales of General Merchandise use type. (LMC 18A.20.600.T)

Sales of General Merchandise. Establishments that sell new general merchandise including apparel and accessories; auto parts; bookstores which do not otherwise constitute Sexually Oriented Business Commercial use types; legal pharmaceuticals; optical goods; furniture and home furnishings; and computers and electronics. Does not include establishments primarily engaged in selling lumber and other building materials, paint, glass, wallpaper, hardware, nursery stock, and lawn and garden supplies, which are instead treated as Building/Garden Supply and Nurseries Commercial use types. May include usable and/or scrap tire piles of up to a total of two hundred (200) tires as an accessory use.

Level 1: Establishments of up to five thousand (5,000) gross square feet primarily engaged in retail sales activities.
Level 2: Establishments of between five thousand (5,000) and thirty thousand (30,000) gross square feet primarily engaged in retail sales activities.
Level 3: Establishments of up to thirty thousand (30,000) gross square feet primarily engaged in retail/wholesale sales activities.
Level 4: Establishments exceeding thirty thousand (30,000) gross square feet primarily engaged in retail/wholesale sales activities.
This is a general-purpose category that can be applied to a wide variety of merchandise and, as such, is allowed at various levels in all of the City’s commercial zones.

New liquor stores could not be established as Sales of General Merchandise Level 1 uses because the maximum size (5,000 square feet) is too small to accommodate the required minimum liquor store size of 10,000 square feet. At the minimum size needed for state licensure, a store would fall into at least the Level 2 category but could potentially be upwards of 30,000 square feet in size at Level 4. These would be allowed6 in various zoning districts as follows:

### Zones Where Liquor Stores Could Situate, by Size/Process

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Primary Permitted</th>
<th>Administrative Use Permit (staff approval)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neighborhood Commercial 1 (NC1)</td>
<td>X</td>
<td>Level 2</td>
</tr>
<tr>
<td>Neighborhood Commercial 2 (NC2)</td>
<td>Level 2</td>
<td>X</td>
</tr>
<tr>
<td>Transit-Oriented Commercial (TOC)</td>
<td>Level 2/3</td>
<td>X</td>
</tr>
<tr>
<td>Central Business District (CBD)</td>
<td>Level 2/3/4</td>
<td>X</td>
</tr>
<tr>
<td>Commercial 1 (C1)</td>
<td>Level 2</td>
<td>Level 3/4</td>
</tr>
<tr>
<td>Commercial 2 (C2)</td>
<td>Level 2/3/4</td>
<td></td>
</tr>
<tr>
<td>Industrial 2 (I2)</td>
<td>Level 4</td>
<td>X</td>
</tr>
</tbody>
</table>

X = not allowed

Numerous illustrations of types, sizes, and locations of existing liquor stores are included in Appendix A, both the current WSLCB model and those in other states that may or may not be allowed here. These include mega stores, which seem to favor suburban environments. As a point of comparison, the vacant Joe’s Sporting Goods (aka G.I. Joe’s) space across the street from City Hall is just over 45,000 square feet in size. Given the current zoning, size, and location, it might be a desirable space for a mega liquor store to situate. It seems likely that as mega stores move into the Washington liquor market, they will “pick the low-hanging fruit” in terms of adaptively reusing existing tenant spaces rather than seeking raw land or undertaking new construction. A specific example is included in Appendix A, where a closed Linens’n’Things store was taken over by a mega liquor purveyor.

The question has been raised of whether liquor stores can have drive throughs. Under Lakewood’s code, they potentially could. Sales of General Merchandise uses may or may not have collocated drive throughs. The ability to add a drive-through window is not allowed by right under the LMC. A separate use type (“Drive-Through Facilities”) use type has been established, and any such uses must meet specific design requirements set forth in LMC 18A.50.241.H. If they cannot, they may be denied and are ineligible for variances. Regardless, this is not an issue; we are informed by WSLCB that the Board’s rules7 would prohibit either collocated drive throughs or drive-through structures. These, are well as several other physical arrangements that would not be allowed by WSLCB, are included at the end of Appendix A.

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6 Although MRSC states its belief that a city could require a conditional use permit for liquor stores, in no case would one be required under the City’s current zoning.

“Deleterious Secondary Effects”?

Since the City has experience with the principle of deleterious secondary effects in relation to its past consideration of zoning for sexually oriented businesses, it is worth examining in relation to privatized retail spirits land uses. Case law has recognized as “content neutral” (in other words, not affecting free speech/expression) those regulations based on the existence of certain negative impacts associated with concentrations of adult businesses, such as prostitution, crime, lowered property values, etc. This is the foundation for requiring separation distances between such uses and “sensitive receptors” such as churches and schools, and separation distances between the businesses themselves. But does this same principle apply to liquor stores?

Existing case law does not appear to associate deleterious secondary effects with liquor stores in the same manner it does with sexually oriented businesses, possibly in that the act of purchasing liquor does not equate to constitutionally protected speech or expression.

A brief literature review revealed that many of the documents asserting dire effects of liquor stores were produced by organizations having a particular bias as a basis for pursuing zoning or licensure limitations on the selling of liquor. There does exist a similar effect called “liquorlining,” though, which is the tendency of liquor stores to concentrate in low-income and minority neighborhoods.

A 1997 report by the Woodstock Institute entitled Liquorlining: Liquor Store Concentration and Community Development in Lower-Income Cook County Neighborhoods typifies negative effects of excessive liquor store density as potentially including underage service, littering, loitering, harassment and intimidation of pedestrians and customers, public urination, drug dealing, prostitution, assault, and homicide. The Institute asserts that jurisdictions should aim to reduce liquor store density by restricting new liquor stores from entering oversaturated areas while taking certain steps to mitigate the impacts of those already in operation. The paper acknowledges that “more systematic, quantitative evidence of the uneven distribution of liquor stores …is needed to document the extent of the problem. …Detailed data on liquor store patterns are also important to redefining the problem as one of urban planning and development policy and not simply a matter of poor management by individual owners or of the demand for alcohol.”

In a state or community where “corner liquor stores” are statutorily enabled and prevalent, this may be more of a concern and lead to separation distance or other requirements. Some communities have established liquor laws designed to separate retail liquor establishments from certain other land uses that, again drawing a parallel to adult business regulations, might be regarded as “sensitive receptors.” As an example, here are some of Chicago’s licensing restrictions, which include targeted separating liquor-serving premises:

Proximity to Churches, Schools, Homes for the Aged, Day Care Centers
Licenses for the retail sale of alcoholic liquor will not be issued for establishments within 100 feet of any church (some exceptions to this rule exist pertaining to locations near churches), school (other than an institution of higher learning), hospital, or home for the aged or
indigent. In some cases, day care centers may be classified as schools. Distances are measured in several ways: the distance from a church is measured from the property line of the licensed premises to the nearest part of any building used for worship services or educational programs; the distance from a school is measured from the property line of the school to the property line of the premises to be licensed. Streets, alleys and public ways are included in the measurements mentioned above.

Proximity to Libraries
Licenses for the retail sale of alcohol will not be issued to any establishment within 100 feet of any library, with the exception of the main library. Streets, alleys, and public ways are not included in the measurement from property lines of the library to the property line of the premises to be licensed.

Proximity to Other Taverns
No new tavern licenses can be issued to any location that is within 400 feet of existing businesses already licensed for the sale of alcoholic liquor in certain zoning districts. Measurements are made from the property line and exclude streets, alleys, and public ways. This prohibition does not apply to restaurants, hotels offering restaurant services, or not-for-profit clubs.

In Washington’s case, however, the size threshold has been preemptive of a wealth of new “mini mart” type liquor stores; their size is simply precluded. Upgraded existing licenses will be associated with larger premises, and as may be seen in the examples included in Appendix A, newer stores, regardless of size, tend to strive for a more upscale appearance. The type of issues associated with liquorlining do not appear to be a pressing concern with these business models, or at least any more so than with the current WSLCB stores.

Additionally, existing Washington state law recognizes certain land uses as being potentially incompatible with licensed premises. RCW 66.24.010(9)(a) calls out schools, churches, and public institutions including higher ed facilities, parks, community centers, libraries, and transit centers. It does not ban licenses in relation to such establishments per se, but it does give “due consideration” to their proximity to the premises seeking licensure and requires that those within 500 feet be notified of a licensing application. There is a provision within this section prohibiting new licensure if the business is within 500 feet of a public elementary or secondary school and the school objects to the licensure. (A separate provision extends that privilege to private schools as well.) A nearby example would be the relationship of Saar’s Marketplace to Park Lodge Elementary School. Would allowing Saar’s to offer spirits in its beer and wine aisle have a negative effect upon the school? Since it’s within 500 feet, Clover Park School District would have the opportunity to weigh in.

Subsection 12 of this RCW requires WSLCB to “give substantial weight to objections from an incorporated city or town or county legislative authority based upon [an applicant’s] chronic illegal activity,” including “a pervasive pattern of activity that threatens the public health, safety, and welfare…including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or

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8 Initiative 1183 provides that “existing grocery premises” currently holding beer/wine licenses are deemed to be “now licensed” premises in relation to this specific passage in the RCW. In short, this would mean that even if a school within 500 feet objected, the license could be upgraded to a spirits license. However, the premises would still need to meet the 10,000-square-foot minimum size requirement.
similar records...” or “an unreasonably high number of citations for violations of RCW 46.41.5029...”

These portions of the code were unaltered by the initiative (except as relating to upgrading current beer/wine retailers to spirits licenses), which recognizes “without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or present issuance of local liquor licenses.”

**Economic Development Opportunity**

Of any of the private mega stores examined for this report, industry giants BevMo! and Total Wine & More seem best positioned to take advantage of liquor privatization in Washington and begin expanding into this market.

Headquartered in California, BevMo! currently operates 115 stores, 53 in Northern California, 52 in Southern California, and ten in Arizona. Locations are based in and around the major metropolitan markets of San Francisco, Sacramento, Los Angeles and San Diego. BevMo! states that its stores average 10,000 square feet in size, but clearly some are larger. Inventory includes over 3,100 wines, 1,600 spirits, and 1,000 beers and “goes with” products such as specialty foods and snacks, cigars, glassware and related bar and wine accessories. BevMo! is a “click and brick” business, including both web-based sales and physical storefronts. Shipping of beer and spirits is limited to California and Arizona, but where allowed by law, wine may be shipped to other states as well.

BevMo! is wholly owned by TowerBrook Capital Partners, LP, an investment management firm with approximately $5 billion of capital under management. With offices in New York, London, and San Francisco, TowerBrook focuses on investing in North American and European companies.

BevMo! CEO Alan Johnson indicates that in addition to demographics (age/income) and physical considerations such as traffic and access, proximity to other businesses providing for everyday needs such as groceries and toiletries is a factor in site selection. Once permits are approved, BevMo! can generally construct and open a store open in ten to 12 weeks. “The trick here is to be fast, but be smart,” Johnson says. “We have studied the markets, looked at competition and mapped trade areas. Now, we are armed, ready and dangerous.”

Industry bloggers speculate the recent proliferation of BevMo! stores has been in response to Total Wine & More’s 2008 entry into the California and Arizona markets. According to the Facebook page “Bring BevMo to Washington,” BevMo! is currently (or was recently) recruiting for a Seattle district manager.

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9 This is a cross-reference to the law prohibiting driving under the influence. If a large number of people tell arresting officers “I was drinking at Joe Blow’s place,” then this would enable the City to contest a Joe Blow license within Lakewood, even if the problem premises is elsewhere; or to contest renewal of a license for a problem premises in Lakewood.

Total Wine, headquartered in Potomac, Maryland, is the largest privately-owned, multi-state beverage alcohol retailer in the US. Current stores range from 9,000 to 50,000 square feet in 76 locations across ten states. Each store carries approximately 8,000 wines, 3,000 spirits (where allowed by law) and 2,500 beers as well as cigars, accessories, and gifts.

Total Wine is owned by brothers David and Robert Trone, who began with two Delaware stores in 1991. Co-owner David Trone said of company expansion plans in an interview, “We feel that opening eight to ten new stores a year, each in the 20,000- to 25,000-square-foot range, is a good pace. We’ll continue to focus on the markets that have the greatest opportunity for expansion.” In late 2011, it was reported that Total Wine is “exploring real estate opportunities in Washington state, following the recent vote there to end state control of beverage alcohol sales.” More recently, The Seattle Times quoted Trone in late January as stating “We have three [Washington] leases moving along very quickly, two in Seattle and one in Spokane.” Eventually, the Times says, Total Wine plans to open ten stores in Washington, including venues in Tacoma and Vancouver.

The Times also names Liquor Depot as another mega store that may be eyeing Washington. Liquor Stores N.A. Ltd. is Canada’s largest private liquor retailer, currently operating 240 stores in Canada and the US under the brand names Liquor Depot and Liquor Barn in Alberta and British Columbia; Brown Jug in Alaska, and Liquor Barn “The Ultimate Party Source” and Liquor Barn Express in Kentucky. The company has made no statements about entering the Washington market; however, just this month it announced that it had entered into a $150 million revolving credit agreement with three major Canadian banks, to be used in part for funding store acquisition and construction.

Revenue Implications

When considering liquor stores, there is not a direct association between zoning decisions and City revenue. Both liquor excise tax and liquor profits are a part of local government revenue sharing (discussed further below), and distribution is based on population rather than on actual sales within a given jurisdiction. It is the overall volume of sales within the state, together with its population, that determines how much revenue the City of Lakewood might gain from these two shared revenue categories. At the same time, there are some key variables at work right now that make it impossible to definitively evaluate revenue impacts. Liquor pricing and sales volume are “moving targets” on the market side, while state revenue sharing practices are also an important determinant.

Alcohol consumption varies between control and free-market states, says NABCA. People in control states consume 13 percent fewer spirits per person, and studies project that privatization will result in increased consumption. At 0.70 gallons per capita (gpc), Washington already outstrips the national control state average consumption of 0.62 gpc and

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14 Based on official April 1 Office of Financial Management (OFM) population estimate
is closer to the national average for free-market states (0.71 gpc). NABCA says there is often increased consumption associated with privatization, at least in the short term. Perhaps this is simply a “novelty” effect which heightens purchasing at the onset.

NABCA says that there exists a negative price elasticity of demand for alcohol, meaning that consumers tend to reduce their consumption if prices go up. The association notes that price responsiveness has been found to vary depending on the type of beverage (beer, wine, or spirits), age, gender, and type of drinker (heavy, moderate, or light). Research has shown that 1) price increases do not always lead to decreased consumption across all demographic groups and for all alcoholic beverages; 2) price responsiveness can vary depending on how heavily one drinks; 3) social/societal factors may outweigh economic factors in affecting changes in consumption over time; and 4) price responsiveness can vary by beverage type. Beer has the least elastic response while spirits has the most; in other words, increasing the price of spirits would cause the highest reduction in consumption.

Early reports indicate that spirits prices may go up with Initiative 1183’s implementation, due to higher prices from distilleries as private distributors set up operations under the new law. The Seattle Times says the prospect of higher prices has distillers and distributors worried about making a profit while not driving away customers under the new system. NABCA reports that the results of privatization on price are less clear and would depend on a variety of factors. Total Wine’s David Trone speculates that liquor prices will fall over time. “What you’ve got going for you is brutal competition between people like me and Safeway and Costco and BevMo!,” he told the Times.

Current WSLCB liquor prices in Washington have several components:

- Standard cost of goods sold, including manufacturer cost and delivery price
- Taxes applied to the cost
- Mark-up for WSLCB costs
- WSLCB-imposed surcharges

The following graphic, produced by WSLCB, illustrates the distribution of FY 2010 liquor revenue broken down by the various pricing components, based on the average (2010) cost of a bottle of spirits.
Liquor profits and excise tax are two elements of state revenue sharing and are distributed quarterly to cities, towns, and counties. According to the state treasurer’s office, 80 percent of liquor excise tax is distributed to cities and towns, while 20 percent goes to counties. Three-tenths of one percent of liquor profits are distributed to certain cities and counties according to a formula prescribed by the RCW. Forty percent is distributed to cities and towns, ten percent is distributed to counties, and the remaining 50 percent is transferred to the state general fund.15 The “bottle breakdown” graphic above shows that for every bottle of $15.95 liquor sold in 2010, $0.57 of the tax on the purchase was distributed to cities and counties; and $0.52 of the markup was distributed to cities.

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15 Two percent of the total of both distributions to any local government must be spent on alcoholism treatment programs.
According to MSRC, two items in the current (2011-13) state operating budget affect both liquor profits and liquor excise tax distributions to local governments. First, the state decreased its revenue sharing to cities and counties; and over the course of the biennium, $645,000 is being deducted from city liquor profits and county liquor excise taxes to fund an unrelated program, fiscal note writing.

During its 2009 session, the Legislature voted to increase the mark-up on liquor sales; some of this revenue was appropriated for cities and counties in the 2009-2011 biennium. Largely as a result of implementation of this increased mark-up, the 2010 actual net distribution of liquor profits to cities and counties increased by 17.4 percent ($6.6 million) over 2009. However, there is a projected decrease in profits of $4.5 million (2011) and $3 million (2012) due to other legislative actions that result in the reduction of distributions to cities and counties.

Liquor taxes distributed in 2010 increased 3.6 percent ($901,000) over 2009 and are expected to continue a slight positive trend in 2011 and 2012. However, as with WSLCB profits, the state has reduced the local distribution share. The MSRC indicates this will reduce city and county revenues by 1.7 percent in CY 2011 and 3.4 percent in CY 2012.

<table>
<thead>
<tr>
<th>Local Share of State-Shared Liquor Revenue 2009-2012¹⁶</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquor Profits</td>
</tr>
<tr>
<td>All cities/towns</td>
</tr>
<tr>
<td>2009</td>
</tr>
<tr>
<td>$28,014,708</td>
</tr>
<tr>
<td>Lakewood only</td>
</tr>
<tr>
<td>404,466</td>
</tr>
<tr>
<td>Liquor Excise Tax</td>
</tr>
<tr>
<td>All cities/towns</td>
</tr>
<tr>
<td>2009</td>
</tr>
<tr>
<td>19,902,527</td>
</tr>
<tr>
<td>Lakewood only</td>
</tr>
<tr>
<td>289,374</td>
</tr>
<tr>
<td>Local TOTAL</td>
</tr>
<tr>
<td>693,840</td>
</tr>
<tr>
<td>Diff./prev. year</td>
</tr>
<tr>
<td>XX</td>
</tr>
</tbody>
</table>

It’s important to keep in mind that the Legislature is currently in session and considering budget cuts to address the state’s shortfall, so a firm revenue picture is impossible at the moment. In October 2011, the Governor explored budget reduction alternatives that potentially would have eliminate both liquor profit sharing and excise tax sharing entirely. Initiative 1183 provides for continued distribution of a portion of liquor profits to cities and, as MRSC points out, “It would be difficult to reduce the liquor profits…since it takes a two-thirds vote from the Legislature to change an initiative.” The proposal that moved ahead into the Governor’s budget¹⁷ accommodates Initiative 1183 requirements; however, liquor excise tax would still be eliminated:

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¹⁶ This table combines Lakewood actuals with WSLCB forecasts provided by MRSC. For more detailed information on statewide aggregates, please refer to MRSC Information Bulletin No. 539, Budget Suggestions for 2012. This publication will be supplanted by a new version for the coming budget year later in 2012.

¹⁷ Source: <http://www.ofm.wa.gov/budget12/highlights/14_LocalGovt.pdf>
**Reduce liquor profits sharing - $43.8 million**
Fifty percent of revenues received by the Liquor Control Board and deposited into the Liquor Revolving Fund are distributed to 39 counties and 281 cities and towns. Section 302 of Initiative 1183 requires border areas, counties, cities and towns to receive, in the aggregate, no less than they received from the Liquor Revolving Fund during comparable periods prior to the effective date of the initiative, plus an additional $10 million. It is estimated that border areas, counties, cities and towns will receive $48 million during fiscal year 2013 due to Section 302 of Initiative 1183. However, any remaining funds in the Liquor Revolving Fund will be deposited into the General Fund.

**Eliminate liquor excise tax sharing - $26.4 million**
Eliminates the state’s liquor excise tax revenue sharing (35 percent of all collections) that counties, cities and towns receive. Distributed by population, 20 percent goes to 39 counties and 80 percent goes to 281 cities and towns. These tax revenues are deposited into the Liquor Excise Tax Account and are not protected by Initiative 1183.

Additionally, as OFM pointed out in the fiscal impact statement it issued prior to Initiative 1183’s passage, actual fiscal impacts depend on per-bottle, private market cost and the markup applied by private distributors and retailers. Therefore, OFM concluded, there is a wide range of potential fiscal impacts. Notable is the fact that irrespective of any state funding decisions, the new license fees set by the initiative must go toward maintaining Liquor Revolving Fund distributions to cities and others “in an amount no less than the amount received in comparable periods.” The model used by OFM estimates that local distributions will exceed the maintenance level required by the initiative each year, however, and the disposition of the difference isn’t clear.

As this report is being finalized, the newly released House budget is also proposing reductions to revenue sharing. Clearly, the nature of the current economic situation and budget debate could weaken the reliability of available revenue forecasts.

Outside of these revenue implications, there may be an indirect association between zoning and revenue in the sense that new retail store creation in any category can lead to increased permit activity and business licensure. Permit fees are allocated toward the expenses involved in reviewing permits, inspecting improvements, etc. In addition, short-term jobs associated with construction or tenant improvements and long-term jobs associated with new retail operations may result. These are not direct revenue sources but may have revenue associations on their own.

**Public Opinion**

The City has engaged in no public outreach on this issue to date, so staff has no information to offer that might indicate the level of public support or opposition that may exist within the community relating to the scale of liquor store facilities within Lakewood. It is possible that some would view this as a “public morals” type of issue. As noted previously, there are differing positions on alcohol availability in a community, but many of them would revert

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18 The entire document, including forecasts through 2017 based on high/low assumptions, may be viewed at <http://www.ofm.wa.gov/initiatives/2011/1183.pdf>.
back to revisiting the appropriateness of privatization. The following information is included for Council’s consideration, if public support for Initiative 1183 might be viewed as an indicator of public position:

### Voting Outcome on Initiative 1183

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statewide</td>
<td>58.74%</td>
<td>41.26%</td>
</tr>
<tr>
<td>Pierce County</td>
<td>60.35%</td>
<td>39.65%</td>
</tr>
<tr>
<td>Lakewood</td>
<td>57.75%</td>
<td>42.25%</td>
</tr>
</tbody>
</table>

If additional perspectives are desired, NABCA’s publication *Alcohol Policy Research and Alcoholic Beverage Control Systems: An Annotated Bibliography and Review (2nd ed.)* offers many resource documents on the background effects of liquor availability.

### Next Steps

This report is intended as a springboard for discussion by the City Council and direction to staff. It appears that there are three primary courses of action the City Council could choose to undertake at this time:

1. Place a moratorium upon new spirits businesses in Lakewood while directing staff to prepare changes to the zoning code that establish a separate zoning category ("use type" under LMC 18A.20.600) for spirits businesses, with limited or no ability for big-box liquor purveyors to situate here.

2. Do nothing. Referred to in the environmental review context as the “no action alternative,” this would leave the zoning as is and let the market dictate what happens.

3. Take advantage of liquor privatization. Direct staff to engage in economic development activities intended to expand the spirits market in Lakewood, inviting in big-box purveyors.

In any case, it would behoove the City to follow state decisions related to revenue sharing, particularly as related to liquor privatization, and their outcome on the City’s own budget. If more specific or detailed financial information is desired, the City Council may wish to request that the Finance Department prepare an additional report.

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19 Based on just under 50% voter turnout across Pierce Co.

20 Data limitations: There are 24 entire precincts and one partial precinct within Lakewood. Tabulations are based on whole precinct data. In some cases, precincts are so small that individual reporting is viewed as a violation of voter privacy, so although they are included in overall countywide results, results are not reported for those individual precincts. One Lakewood precinct fell within this limitation. Data limitations are not broad enough to have significantly skewed the outcome.

21 Downloadable free of charge at <http://www.nabca.org/Resources/Files/2009_WEB_AB2.pdf>

22 MRSC believes that a moratorium could be enacted as long as it applies only to new liquor stores and not existing WSLCB stores or stores that currently have beer/wine licenses, as they are presumed to be grandfathered under the terms of the initiative.
Appendix A: Liquor Store Scale & Design

Following are photographs of a variety of liquor store sizes and designs from all over the country. Please keep in mind that in terms of their size or array of products and services offered, the examples included here may or may not be able to situate in Washington under the new law. They are intended to give a visual impression of the “real-life” look and feel of liquor stores resulting from various regulatory approaches.

The photos are arranged so as to first show what we are accustomed to seeing here, typical WSLCB stores; followed by others both publicly and privately owned (depending on regulations in their respective locations). Where actual or approximate square footages are known, they are noted. Also included is a brief description of the stores’ context in relation to surrounding land uses, where it was possible to view them using Google Maps.
State of Washington Stores

The old, “traditional” model WSLCB liquor store

The more recent model of WSLCB tenant spaces (Des Moines)

The two existing Lakewood stores are under this model.
New upscale concept WSLCB store (West Seattle)

6,694 sq. ft.

Interior
Other Contemporary “Control State” Stores

New upscale concept state store (New Hope, PA)

(square footage unavailable)
Located in a commercial node adjacent to a state highway, outside of town & abutting residential neighborhoods & open space. The New Jersey state line is nearby.

New state liquor store (Heber City, UT)

12,900 sq. ft. (Constructed on raw land in an area typified by suburban sprawl. It appears to have been an island of “artifact” agricultural land in between established suburban strip-type development to the west and newer single- and multi-family development to the west.)
At 20,000 sq. ft. & certified LEED Gold, this new store is the prototype for new state liquor stores in New Hampshire. Two stores are currently being replaced with this same design, & the state will be adapting the design to smaller stores in the future. Only 11 of the 77 stores are standalone; the remainder are typically in leased commercial strip space. The state is in the process of upgrading the lighting, shelving & other interior components in its leased spaces. New Hampshire stores sell only spirits, no beer or wine, & are marketed as having “outlet” pricing.
Minnesota Municipal Stores

Following Prohibition’s repeal, the State of Minnesota enabled municipalities to license as well as directly operate liquor stores. All of the stores pictured below are owned/operated by the cities where they are located.

Standalone stores (Bemidji, MN)

7,000 sq. ft.                                              5,500 sq. ft.

The City of Bemidji’s website states that these two stores “employ two full-time and 17 part-time personnel and contribute over $400,000 annually toward city projects which help hold down property taxes.”

Anchor tenant space in “town center” style com’l development (Monticello, MN)

8,800 sq. ft.
Apple Valley, MN

15,400 sq. ft. green development, including innovative geothermal heating system that utilizes heat generated by the refrigerant system for the beer room

Interior
“Free Market” Stores

Standalone, mixed-use store (Silver Creek, NY)

Approx. 2,000 sq. ft. (store area alone)
Solo commercial use along arterial in single-family residential area; apartment(s) upstairs

Small standalone store (Lewiston, ID)

2,500 sq. ft. (The builder indicates this location is now closed & relocated to a structure approx. 500 sq. ft. larger)
Small tenant space in strip commercial development (Medford, OR)

Located in a newer, 13,000 sq. ft. commercial/industrial development near Medford airport & adjacent to I-5

Tenant space in larger commercial building (Columbia, MO)

4,500 sq. ft. adaptive reuse within 16,000 sq. ft. building
Located along commercial arterial approx. 1 block from elementary/high school site
Standalone mega liquor store (Glassboro, NJ)

Interior

2 stories with 1 floor dedicated to wine
15,000 sq. ft. includes warehouse space
Within larger commercial node along arterial; largely surrounded by residential
Standalone frontage pad in strip commercial development (Loveland, CO)

Interior

18,000 sq. ft. “conveniently located between Sam's Club & Wal Mart Super Center”
5,000 wines, spirits & 800 beers

Business opened at 10,500 sq. ft. in 2003, with 7,500 sq. ft. addition in 2006
Located on a commercial arterial with neighborhoods nearby
Standalone anchor in commercial node of planned community (Highlands Ranch, CO)

Interior

24,000 sq. ft. with a 13,000 sq. ft. basement warehouse
Single-family residential abuts to the rear & across the street
Anchor tenant space in strip commercial development (Norwalk, CT)

Wine Nation mega store – adaptive reuse of closed Linens’n’Things store
7,000 wines, 1,500 beers, & 2,000 spirits in 29,000 sq. ft.
Located along commercial arterial adjacent to freeway interchange
Standalone mega store (Kenmore, NY)

(square footage unavailable)
Located along commercial arterial abutting single-family neighborhoods
Standalone mega store (Colorado Springs, CO)

Cheers Liquor Mart - remodeled to over 35,000 sq. ft. in the late 90s
8,000 wines, 3,500 spirits & over 1,200 beers
BevMo! mega stores

Examples:

Chandler, AZ       Glendale, CA

San Diego, CA      San Francisco, CA

Scottsdale, AZ     Sunnyvale, CA
Organized community opposition to a BevMo! store in Santa Barbara, Calif. (which was subsequently approved & built) citing concerns with compatibility, traffic, parking issues, & design/layout
Total Wine & More mega stores

Examples:

Reno, NV

Glendale, AZ

Redondo Beach, CA

Greensboro, NC

(All of Total Wine’s physical storefronts may be viewed at <http://www.totalwine.com/Store.aspx>.)
NOT ALLOWED PER WSLCB

Drive-through service windows

Paducah, KY
Denver, CO (in mega liquor store)

Hutchinson, KS (in adaptive reuse of former fast-food restaurant)

Walk-up service windows

Little Rock, AR
Medicine Bow, WY (just for fun)
Collocated land uses (except for grocery/general purpose stores)

Rib joint/liquor store
Chicago, IL

Schulenburg, TX  (also offering hunting & fishing licenses)

Drive-through structures

When they’re associated with liquor stores, drive throughs can mean something other than what we typically think of. In this context, buildings are constructed so that vehicles can literally drive through the middle. These also appear to be popular in Australia; called drive-through “bottle shops.” There, they may be attached to walk-in stores, creating a much larger building footprint. There did not appear to be examples of such collocations in the US...yet.

Council Bluffs, IA

Austin, TX
Outer Banks, NC (including views from entry, interior & exit)