

**Ministry of Justice
Special Wine Store Licence Auction Act**

Section Notes

| |
|--------------------------------|
| <i>Section 1 - Definitions</i> |
|--------------------------------|

Purpose:

- Provides definitions necessary for a clear understanding of the Act

Existing Provision:

- None

Significance:

- s.12,s.13
-
- It is important that the definitions of grocery store align since both are used to determine eligibility to have liquor sales in the stores.

Section 2 - Auction to sell right to apply

Purpose:

- Provides the LCLB general manager with the authority to conduct an auction to raise funds and to determine who may apply for a special wine store licence.
- Provides authority to limit by regulation the number of licences to be issued

Existing Provision:

- None

Significance:

- Provides clear statutory authority for the auction and its purpose, i.e. raise revenue for government and decide who will ultimately receive the licences. Under the Liquor Control and Licensing Act (LCLA) there is only authority for licence fees that must relate to the cost of the regulatory regime.
- Provides authority to specifically limit the number of licences that will be issued as this is not otherwise controlled under the LCLA.
- The plan is to issue no more than 18 licences
s.12,s.13

Section 3 - Successful bidders

Purpose:

- Specifies that only successful bidders may apply for the special wine store licence so that eligibility for the licences is restricted to these persons.

Existing Provision:

- None

Significance:

- Will prevent those who were not successful bidders or who did not bid from applying for the new licence. Given that only 18 licences are expected to be issued, a means is necessary to limit who may apply.

Section 4 - Who may bid

Purpose:

- Restricts bidding to persons who own a full service grocery store and who submits the required auction deposit and who offers a bid at least equal to the minimum required bid.

Existing Provision:

- None

Significance:

- Will restrict the issuance of the licences to persons owning grocery stores and aligns with definition in the OIC referenced in Section 1 Notes
- An auction deposit will discourage frivolous or mischevious bids.
- A minimum bid will help ensure government revenues from the auction are maximized

Section 5 - Auction procedures

Purpose:

- Provides that an auction must be conducted in accordance with procedures established by the regulations and/or the general manager
- Requires the general manager to provide these procedures in electronic form (e.g. on the LCLB website) to all prospective bidders

Existing Provision:

- None

Significance:

- It is necessary to have procedures that are described and made available to interested parties.
- Provides flexibility to determine whether the procedures are better placed in regulation or set in policy by the general manager.

Section 6 - Conduct of auctions

Purpose:

- Specifies that the general manager is responsible for conducting an auction but that he may delegate the operation of it to another party who has expertise conducting auctions, subject to his supervision

Existing Provision:

- None

Significance:

- It is necessary that the general manager have the authority to conduct the auction. However, there may be other organization with auction experience that can conduct the auction in a more timely and efficient manner, e.g. BC Auction.

Section 7 - Auction list of successful bidders

Purpose:

- Requires the general manager to keep a list of all successful bidders but the number of successful bidders cannot be greater than the prescribed number of licences to be issued.

Existing Provision:

- None.

Significance:

- The list is needed to determine who may apply for the special wine store licence and pay the bidden price from the auction.

Section 8 – Record of unsuccessful bidders

Purpose:

- Requires the general manager to keep a list of unsuccessful bidders.

Existing Provision:

- None.

Significance:

- The list is necessary In case a successful bidder is not issued a special wine store licence. In this case, the general manager can invite the next highest bidder to apply for the licence (see sections 10 and 11).

Section 9 - Payment of auction price

Purpose:

- Requires a successful bidder to pay the bidden amount within a prescribed time period once the bidder has been notified their application for the licence has been approved.

Existing Provision:

- None

Significance:

- Ensures that the bidden amount is paid before the licence is issued
- Imposes a time period to ensure applications proceed in a timely manner
- Simplifies the payment process by not requiring the bidden amount until the person's licence application is approved. In cases where the licence is not issued this avoids the administrative burden of returning the bidden amount.

Section 10 - Removal from the general manager's list

Purpose:

Provides authority for the general manager to remove a successful bidder from the list if: the bidder hasn't applied for the licence; paid the bid; been refused a licence; or has asked to be removed from the list.

Existing Provision:

None.

Significance:

Provides a mechanism to remove otherwise successful bidders who have not met the requirements of the process, e.g. not paid the bid on time or who decide not to proceed to licensing.

Provides a means (through section 11) to bring the next highest bidders into the process so that the prescribed number of licences can be issued.

Section 11 - Adding bidders to the list

Purpose:

- If the general manager removes a successful bidder under section 10 he can invite the next highest bidder to the general manager's list to be eligible to apply for the licence.

Existing Provision:

- None.

Significance:

- Ensures that if someone is removed from the list another person can be added so that the prescribed number of licences can be issued.
- Provides a mechanism to do this without need of another auction

Section 12 - Forfeiture of deposits

Purpose:

- If a successful bidder is removed from the general manager's list they forfeit their deposit unless they meet any prescribed exceptions in the regulations.

Existing Provision:

- None.

Significance:

- Will discourage frivolous or mischievous bids from persons who may bid up the final successful bid but have no intention to or are not serious about applying for a licence. The next highest bidders might otherwise pay a higher bid than if these persons had not participated in the auction.

Section 13 - Return of Deposits

Purpose:

- Requires the general manager to return a deposit under the following scenarios:
 - to a person who has been issued a licence;
 - to an unsuccessful bidder who wishes to withdraw prior to all the licences being issued; or
 - to all the unsuccessful bidders after all the licences have been issued.

Existing Provision:

- None

Significance:

- Ensures that bidders will be returned their deposit either upon request or after specified stages of the licensing process have been finalized.

Section 14 - Power to make regulations

Purpose:

- Provide authority to have regulations related to the auction
- These regulations may address matters such as setting the deposit amount and setting auction procedures including how the successful bidders will be determined.

Existing Provision:

- None

Significance:

- More research and consultation is required before government can determine the best way to conduct the auction. The regulations provide government with flexibility to implement auction procedures and rules that are the most efficient and effective.

Section 15 - Power to make rules

Purpose:

- Provides the general manager with authority to make rules respecting how the auction will be conducted.

Existing Provision:

- None.

Significance:

- Depending on how the auction is eventually structured, it may be preferable for the general manager to set these rules rather than placing them in regulation.

Section 16 - Regulations prevail

Purpose:

- Ensures if there is any conflict between rules set by the general manager in section 15 vs rules set in regulation in section 14 then the regulations prevail

Existing Provision:

- None

Significance:

- Provides clear legal direction about which rules have primacy in case of any conflict between two sets of rules.

Section 17 - Amendment to the Liquor Control and Licensing Act

Purpose:

- Section 16 of the LCLA requires a licensee to have valid interest in the property where the business is located and must own the business.
- This exemption provision, which is also found in the pending rewrite of the LCLA, will allow a class of licence to be exempted from these valid interest requirements.
- This provision is necessary to address a legal issue for VQA wine stores.
- The store licences are held by the BC Wine Institute but the businesses are operated by third party operators under contract to the BCWI, i.e. the BCWI does not hold valid interest in the business location nor own the wine store business.
- This was a pre-existing situation that was permitted to continue when these stores transitioned in 2013 from agency stores appointed under the Liquor Distribution Act to licensee status under the LCLA.
- The transition provisions from 2013 require these stores to sell VQA wine only but government may wish to allow these stores to sell 100% BC wine to align with the new licences being issued through this auction process.

Existing Provision:

- None

Significance:

- Providing this authority will allow government to exempt VQA stores from them through this means rather than through the transition powers used in 2013. As such, it would then be possible to amend the regulations to permit VQA stores to sell all types of 100% BC wine instead of only VQA.
- The BCWI has requested that they be permitted to sell these additional wine products.

Section 18 - Government immunity

Purpose:

- **Please note: Legislative drafting on this section is still in progress**
- To prevent a person holding one of these licences from taking action against Government claiming damages or compensation for any future changes to Provincial liquor policy such as issuing additional licences or amending the terms and conditions of licences that might negatively impact the value of the business for which the licence is issued.

Existing Provision:

- None.

Significance:

- s.12,s.13
- Subsequent changes to the liquor regulatory and distribution schemes may impact the ability of successful bidders to re-coup their investments/costs.
- This section protects Government by stating that the successful bidders have no right of action if Government makes any changes to the regulatory or distribution schemes.

Section 19 - Repeal of Act

Purpose:

- Provides authority to repeal the Act by way of regulation once the auction is completed and the licences issued

Existing Provision:

- None

Significance:

- s.12,s.13

Section 20 - Commencement by regulation

Purpose:

- Allows for the Act to come into force by regulation which can occur after government has developed the auction procedures and the licence class regulations.

Existing Provision:

- None.

Significance:

- There is no need for the legislation until the auction procedures are developed.



Legislative Review Committee

Briefing Note (2015 Legislative Program)

Minister: Suzanne Anton, Attorney General and Minister of Justice

Ministry: Justice

Date: 19/02/2015

Ministry Document #:

Legislation: *Special Wine Store Licence Auction Act*

Summary and Purpose:

The purpose of the proposed legislation is to provide authority for the General Manager of the Liquor Control and Licensing Branch (LCLB) to hold an auction that relates to a new class of liquor licence to sell BC wines from the grocery store shelves. A limited number of this class of licence will be issued, currently anticipated to be 18 in total.

The purpose of the auction is two-fold: to limit the applicants for this class of licence to the successful bidders, and to raise additional revenue for Government. As auction revenues will be considered a direct tax, the authority for their collection must be set out in a statute.

Issues to be Resolved by the Bill:

The auction will determine who is eligible to apply for the licence. Without such a mechanism it may be challenging to determine who to issue such a limited number of licences. The Bill provides the authority to determine how the auction will be conducted, who is eligible to bid, and the type of licence the successful bidder may apply for.

Previous review of policy:

s.12

Significant Policy Changes:

s.12,s.13



s.12,s.13

The legislation and the bidding process will ensure that bidders are informed that they have no financial recourse if Government makes changes to the liquor regulatory or distribution schemes that adversely impacts the value of individual licences, e.g. by issuing additional licences. However, this may reduce what prospective auction bidders are prepared to pay.

Areas That May be Controversial Or Contentious and Why:

s.12,s.13

How the Initiative Relates to Other Jurisdictions:

Other jurisdictions in Canada have not taken this approach to liquor licensing.

Consultations:

Consultations have taken place with the grocery industry, the BC Wine Institute, and industry associations representing private liquor retailers regarding the issuance of new



licences for the sale of BC in grocery stores but the auction aspect has not been discussed.

Consultations are not required with Treaty First nations.

Financial Implications:

s.12,s.13

There will be costs associated with conducting the auction but they are unknown at this time. There may be an opportunity to run the auction through the Province's BC Auction website.

Issuance of the licences will be similar to other liquor licences with cost recovery application and annual licence fees.



Contact: Barry Bieller, Director Policy
Liquor Control and Licensing
(250) 952-5755

Honourable First Name Last Name

Date Signed



Legislation Privacy Impact Assessment

Why do I need to do a PIA?

Section 69(5) of the *Freedom of Information and Protection of Privacy Act* (FOIPPA) states that the head of a ministry must conduct a privacy impact assessment (PIA) in accordance with the directions of the minister responsible for the FOIPPA. Section 69 (5.1) states that the PIA must be submitted to the minister responsible for the FOIPPA Act for review during the development of any new project, program or activity, system or proposed enactment, or when making changes to an existing one. Knowledge and Information Services (KIS) is the representative of the Minister for the purposes of PIAs. Ministries must attach a Legislation PIA (LPIA) to their RFLs when submitting to KIS for review and comment. If you have not prepared an RFL, please attach the LPIA to your draft legislation. If you have any questions regarding this process or when filling out the LPIA, please contact KIS at 250 356 0361.

What if my proposed enactment does not include personal information?

Ministries need to complete a PIA and submit it to KIS even if it is thought that no personal information is involved. This allows KIS to ensure that the proposed or revised enactment has been accurately assessed.

Part 1 – GENERAL

| | | | |
|----------------------|--|--------|--------------|
| Name of Legislation: | Special Wine Store Licence Auction Act | | |
| Date of RFL: | February 10, 2015 | | |
| Name of Ministry: | Justice | | |
| Ministry Contact: | Janice Carlson | Phone: | 250 952-5756 |
| Email: | Janice.Carlson@gov.bc.ca | | |

1. Please indicate whether the legislation is:

| | |
|---|---------|
| <input checked="" type="checkbox"/> | New |
| <input type="checkbox"/> | Amended |
| Name of the Act being replaced (if applicable): | |

2. Provide a brief summary of the legislative proposal.

The proposed legislation provides authority for the general manager of the Liquor Control and Licensing Branch to hold an auction to determine eligibility to apply for a new class of liquor licence which will allow the sale of BC wines from grocery store shelves.

The purpose of the auction is to limit applicants for this class of licence to the highest bidder and to raise revenue for government.

Successful bidders will subsequently apply for the wine store licenses and proceed through the normal licence approval process.



Legislation Privacy Impact Assessment

3. Please advise:

| | | |
|----|---|------------------------------|
| a) | For which legislative session is the proposed amendment scheduled? | Spring 2015 |
| b) | Do you have a policy committee date? | Yes Date: March 3, 2015 |
| c) | Has Knowledge and Information Services Branch (KIS) reviewed any part of this amendment for a previous legislative session? (If yes, please list relevant parts, date reviewed and changes that have been made since. If you previously completed an LPIA or PIA, please attach a copy.) | No |
| | | |

Part 2 - PRIVACY (Protection of Privacy)

In the following questions “**proposed legislation**” means the new or amended legislation that is being put forward by your Ministry. This PIA does not assess your compliance under the *Freedom of Information and Protection of Privacy Act* as it applies to existing legislation or the programs that are operational under your legislation.

4. a) Within the proposed legislation, what personal information, if any, is authorized to be collected, used or disclosed?

None

b) Will there be a change to the scope (amount or type) of personal information being collected, used or disclosed? (If so, please describe.)

None

5. Collection of personal information

| | | | |
|---|---|---------------------------------------|------------------------|
| a) | Does the proposed legislation <u>specifically authorize the collection</u> of personal information? | | |
| | Yes | <input checked="" type="checkbox"/> X | No (Go to question 6) |
| If yes, please describe and provide the rationale to support the collection. | | | |
| | | | |
| b) | Will the personal information be collected directly from the individual concerned? | | |
| | Yes (Go to question 6) | <input type="checkbox"/> | No |
| If no, will the proposed legislation authorize the indirect collection of the personal information? (Please | | | |

Legislation Privacy Impact Assessment

specify)

6. Use of personal information

a) Does the proposed legislation specifically authorize the use of personal information?

☐ Yes

☒ X

No (Go to question 7)

If yes, please describe and provide the rationale to support the use.

7. Disclosure of personal information

a) Does the proposed legislation specifically authorize the disclosure of personal information?

☐ Yes

☒ X

No (Go to question 8)

If yes, please describe and provide the rationale to support the disclosure.

b) Does the proposed legislation permit or require the disclosure of personal information outside Canada? (This includes information posted on the internet)

☐ Yes (Please describe and provide the rationale)

☐ No (Go to question 8)

8. Does the proposed legislation address the retention/disposal of personal information? If so, please explain.

No

9. Will the proposed legislation support a regulation-making function related to the administration of personal information?

☐ Yes – please explain (Please follow-up with KIS during the regulation development)



Legislation Privacy Impact Assessment

| | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | No |
| <input type="checkbox"/> | Unknown (If one is developed please follow-up with KIS during the regulation development) |

Part 3 – ACCESS (Freedom of Information)

10. Does the proposed legislation include a section that overrides or limits provisions of the *Freedom of Information and Protection of Privacy (FOIPP) Act* (examples of this include a notwithstanding clause or “despite the FOIPP Act” clause)?

| | | | |
|--------------------------|---|-------------------------------------|-------------------------|
| <input type="checkbox"/> | Yes | <input checked="" type="checkbox"/> | No (Go to question 11) |
| a) | Identify the provisions of the FOIPP Act that will be affected, | | |
| | | | |
| b) | cite section in proposed legislation (if available), and | | |
| | | | |
| c) | explain why the override or limitation is necessary. | | |
| | | | |

11. Does the proposed legislation include a confidentiality clause or any other provision that limits the access of an individual to their personal information or other records of the public body?

| | | | |
|--------------------------|---|-------------------------------------|----|
| <input type="checkbox"/> | Yes | <input checked="" type="checkbox"/> | No |
| a) | Cite section reference in proposed legislation (if available) | | |
| | | | |
| b) | Explain why the confidentiality clause or other limiting provision is necessary | | |
| | | | |

Part 4 – Conclusion

This LPIA is based on the RFL dated and identified on page one. If there are any changes in scope from the original RFL you may need to complete a new Legislation Privacy Impact Assessment. Please inform Knowledge and Information Services if you make any changes to the scope.



Legislation Privacy Impact Assessment

| | | | | | |
|--------------------|----------------|--------|-----------------------|-------|-------------------|
| LPIA Completed by: | Janice Carlson | Title: | Senior Policy Analyst | Date: | February 11, 2015 |
|--------------------|----------------|--------|-----------------------|-------|-------------------|

Please note that KIS's review and comment on your PIA is confirmed through the summary it sends to Cabinet Operations.



The Honourable Michael de Jong
Minister of Finance
Room 153
Parliament Buildings
Victoria, BC
V8V 1X4

Dear Colleague:

As you are aware, government plans to issue a limited number of new liquor licences to sell 100% B.C. wine on grocery store shelves. We will be holding an auction to determine who may receive these licences by awarding the right to apply for the licence to the highest bidder.

The decision to issue new licences for the sale of B.C. wine in grocery stores was made by Cabinet Priorities and Planning committee on January 30, 2014 and July 9, 2014 and direction to do this by way of auction was approved by Cabinet Priorities and Planning on January 27, 2015.

The revenue raised by the auction is expected to exceed the cost of processing applications and as a result may be considered a tax. While it is difficult to accurately estimate revenue generated through a bidding process,

s.12,s.13

In order for a grocery store to be eligible to participate in the auction, approximately 75% of sales must come from food products and they must be a minimum of 10,000 square feet. There will be a minimum bid and the auction process may be run by BC Auction, a government agency.

s.12,s.13

I am writing to let you know we are engaging your staff to develop legislation that will enable us to auction these licences, and would be pleased to answer any questions you may have on this file.

Yours very truly,

Suzanne Anton QC
Attorney General
Minister of Justice

pc: Lori Wanamaker, Deputy Solicitor General
Douglas S. Scott, Assistant Deputy Minister and General Manager
Anne Foy, Strategic Advisor, Tax Policy Branch

LIQUOR POLICY REVIEW
POLICY ISSUES
October 23, 2014

Part 1: Liquor Control and Licensing Act Rewrite

Policy Decisions

1. Drinking in Parks

The Act prohibits the consumption of liquor in an unlicensed public place but there is a provision that permits consumption at a public beach, park or campground by way of local government bylaw or “order” by the Canadian or BC government and subject to terms and conditions imposed by the LCLB General Manager.

No such bylaw or order has ever been made.

s.12,s.13

Policy Decisions

s.12,s.13,s.14

Risks/Mitigation

s.12,s.13

Next Steps

Finalize drafting with Leg Counsel

Consultations Undertaken

s.12,s.13

Confidential Advice For Minister – Draft

s.12,s.13

Policy Decision

s.12,s.13,s.14

Risk/Mitigation

s.12,s.13

Next Steps

- s.12,s.13

Confidential Advice For Minister – Draft

Consultations Undertaken

s.12,s.13

Appendix A

s.12,s.13

s.12,s.13

Part 2: Liquor Policy Review Recommendations

Recommendation 68. Allow private and public retail liquor stores to sell growlers.

Policy decision:

s.12,s.13,s.14

Risks:

s.12,s.13

s.12,s.13

Risk mitigation:

s.12,s.13

Next steps:

s.12,s.13

Consultations Undertaken:

s.12,s.13

BC Wine in Grocery – Status Update

s.12,s.13,s.14

LIQUOR POLICY REVIEW
POLICY ISSUES
September 19, 2014

Part 1: Liquor Control and Licensing Act Rewrite Policy Decisions

1. Drinking in Parks

The Act prohibits the consumption of liquor in an unlicensed public place but there is a provision that permits consumption at a public beach, park or campground by way of local government bylaw or “order” by the Canadian or BC government and subject to terms and conditions imposed by the LCLB General Manager.

No such bylaw or order has ever been made.

s.12,s.13

Options

A. s.12,s.13,s.14

B.

Risks/Mitigation

s.12,s.13

Next Steps

- Provide drafting direction to Legislative Counsel

Consultations Undertaken

s.12,s.13

2. Dormant licences

Under the existing Act there are no restrictions on a licensee continuing to renew their licence even if the establishment is closed on an ongoing basis. Licensees typically close their business due to fires or financial difficulties.

s.12,s.13

Policy Decision

s.12,s.13,s.14

Risks/Mitigation

s.12,s.13

Next Steps

- Provide Legislative Counsel with drafting instructions.

Consultations Undertaken

s.12,s.13

s.12,s.13

Policy Decision

s.12,s.13

Risk/Mitigation

s.12,s.13

Next Steps

- s.12,s.13

Consultations Undertaken

s.12,s.13

4.

s.12,s.13

s.12,s.13

Policy Decision

s.12,s.13,s.14

Risks/Mitigation

s.12,s.13

Next Steps

- s.12,s.13

Consultations Undertaken

s.12,s.13

Part 2

LPR Policy Decisions

Recommendations #3, 4 and 5 – Develop and require the display of social responsibility messaging in licensed establishments.

Policy Decision

s.12,s.13,s.14

Risk/Mitigation

s.12,s.13

Next Steps

s.12,s.13

Consultations Undertaken

s.12,s.13

Recommendation#15 – Appeal/Tribunal Process

Policy Decision

- s.12,s.13

Recommendation#19 – Permit a limited number new licences for sale of 100% BC wine in grocery stores: Sale or Issuing of Licence

Policy Decision

s.12,s.13,s.14

Risks/Mitigation

s.12,s.13

Next Steps

s.12,s.13

Consultations Undertaken

s.12,s.13

Recommendation#33 – Provide for off-site tasting rooms for manufacturers

Policy Decision

s.12,s.13,s.14

Risk/Mitigation

s.12,s.13

Next Steps

s.12,s.13

Consultations Undertaken

s.12,s.13

Recommendation #64 - Allow hotel patrons to carry liquor throughout designated areas of the hotel

Discussion regarding approach

s.12,s.13,s.14

Part 3

Wholesale Pricing

Issue:

Today, the shelf price at government liquor stores includes applicable taxes. A significant modification is required in LDB IT systems for this practice to continue under the wholesale pricing model.

s.12,s.13

Mitigation:

On April 1st, LDB will begin using the product price before taxes on shelves. This will be consistent with the private retailers in the province. Products will appear cheaper on the shelves going forward from this date.

Implications:

The practice of charging tax at the till is predominant in BC, therefore, (with effective communication) this is not expected to present a significant issue for government.

Appendix A: s.12,s.13
s.12,s.13

Appendix B: Liquor Appeal Tribunal Framework

15. *Applicants and licensees seeking a review of LCLB decisions should have access to a new and separate decision-making body outside the licensing branch. The Ministry of Justice should review current processes and determine how best to provide independent decision-making for those seeking appeal.*

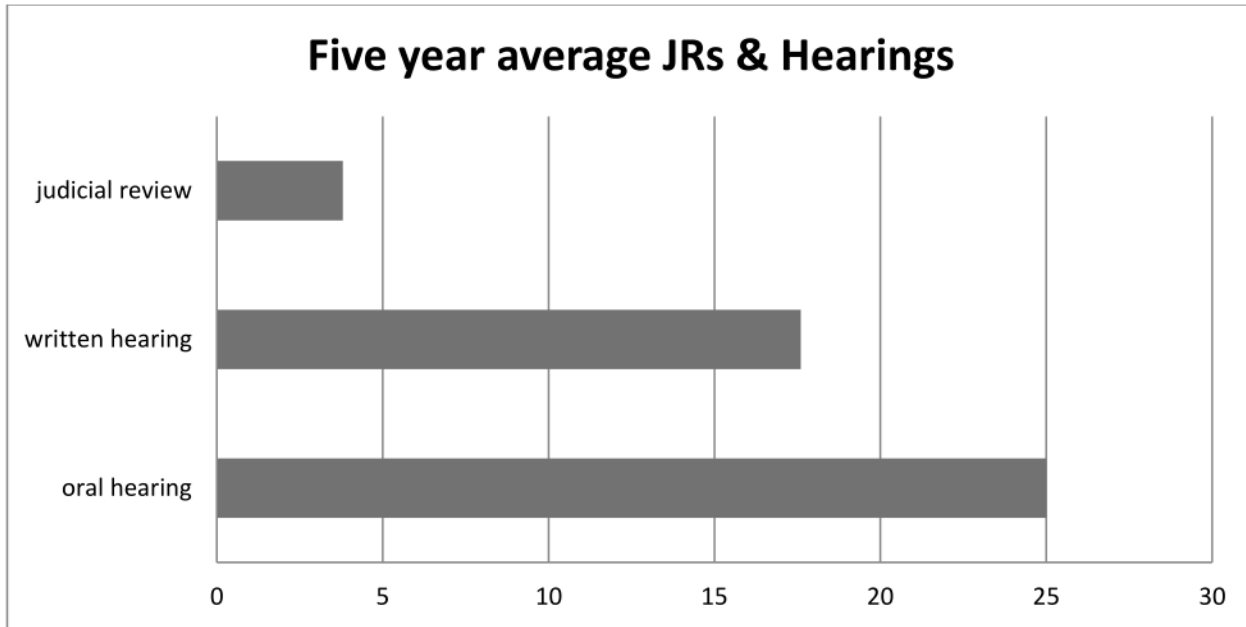
Current best practices for tribunals are to encourage early resolution, avoid re-hearings, keep costs down, encourage deference of the courts, and to make the process an accessible alternative to courts.

s.12,s.13,s.14

Page 50 to/à Page 52

Withheld pursuant to/removed as

s.12;s.14;s.13



Note: It is unlikely that written hearings will be appealed or go to judicial review, as the only issue in dispute is the penalty.

NEW WEST PARTNERSHIP TRADE AGREEMENT

NOTICE OF INTENT FORM

When a ministry has received clear direction to proceed with developing a new or revising an existing measure related to trade, investment and labour, the Notice of Intent Form is to be completed and shared with their ministry counterparts in British Columbia, Alberta or Saskatchewan.

For more information on how to complete and email the Notice of Intent Form, please review the *Notice of Intent Guidelines*.

This Notice of Intent Form is subject to the *NWPTA Confidentiality Agreement Guidelines*.

| |
|---|
| Government (indicate British Columbia, Alberta or Saskatchewan): British Columbia |
| Responsible Ministry, Crown Corporation, Agency or Regulatory Authority: Minister of Justice, Liquor Control and Licensing Branch |
| Purpose of Notification: <input type="checkbox"/> New Measure <input checked="" type="checkbox"/> Modification to existing measure: |

| | | |
|---|---|--|
| Relevant Act / Bylaw / Regulation / Code / Standard / Measure: Liquor Control and Licensing Act and Special Wine Store Licence Auction Act | | |
| Description of Proposed Measure: The purpose of the proposed legislation is to provide authority for the General Manager of the Liquor Control and Licensing Branch (LCLB) to hold an auction that relates to a new class of liquor licence to sell BC wines from the grocery store shelves. It is expected that a very limited number of this class of licence will be issued. The purpose of the auction is two-fold: to limit the applicants for this class of licence to the successful bidders, and to raise additional revenue for government. As auction revenues will be considered a direct tax, the authority for their collection must be set out in a statute. | | |
| Date of Notification: 2015/02/27 YYYY MM DD | Deadline for Providing Comments: 2015/03/13 YYYY MM DD | Planned Date of Entry into Force: By regulation, fall 2015 YYYY MM DD |

| | | |
|------------------------------|------------------------------|---|
| Contact Information: | | |
| Barry Bieller Name | 250 952-5755 Phone | Barry.Bieller@gov.bc.ca Email |



Cabinet Submission – Request for Legislation

Minister: Honourable Suzanne Anton, Attorney General and Minister of Justice

Ministry: Justice

Date: 28/01/2015

Ministry Document #:

Name of Act:

New Stand-alone Act Associated with the Liquor Control and Licensing Act (LCLA)

Purpose:

The purpose of the proposed legislation is provide authority for the Liquor Control and Licensing Branch (LCLB) to hold a revenue raising liquor licence auction so that persons may bid to obtain the right to subsequently apply for a prescribed licence class.

More specifically, it will permit Government to raise additional revenue from the issuance of new licences to grocery stores to sell 100% BC wine on grocery store shelves and determine who will receive the licences.

A very limited number of these new licences will be issued and many grocery stores have expressed interest in the model so it is expected the licences will be in demand. The auction process provides a simple way to determine who will ultimately receive the limited number of new licences by awarding the right to apply for the licence to the highest bidder. Without such a process it would be challenging to determine the best applicants given that the model simply proposes the sale of BC wine on grocery store shelves.

The auction is a means to raise funds for government. However, from a legal perspective the auction revenues will be considered a tax and the authority for their collection must be in a statute.

Successful bidders will subsequently apply for the wine store licences and proceed through the approval process in a way similar to other licence classes, including the payment of application and licensing fees in line with other fees charged by the LCLB.



Provided the applicant is considered “fit and proper” to hold a licence (e.g. criminal record search and no affiliation with criminal gangs) and local government zoning is in place there will be little reason to not issue a wine store licence to a successful bidder.

s.12,s.13

Legislation:

The legislation delivers the direction Minister Anton has received from Government to issue new wine store licences for the sale of 100% BC wine on grocery store shelves and does so in a manner that will generate additional revenue to the Province.

s.12

In regard to timing, Government has announced that liquor will be eligible to be sold in grocery stores starting April 2015. The first step will involve the relocation of existing licensee retail stores and wine stores. The issuance of new wine store licences to sell BC wine on grocery store shelves under the proposed auction process cannot proceed without legislative change.

It is proposed that the amendments be placed in a new standalone Act associated with the existing LCLA and not in the new liquor Act which will replace the LCLA and planned for introduction in the Legislature in Spring 2015.

s.12,s.13



s.12,s.13,s.17

Consultations – Internal:

s.12,s.13

The Asset Investment Recovery Branch of the Ministry of Technology, Innovation and Citizens' Services BC has been consulted and discussions continue regarding whether



the wine store licences could be auctioned on their BC Auction website to eligible bidders, i.e. grocery stores.

Consultations have not yet occurred with the Regulatory Reform Office or the Dispute Resolution Office.

Consultations – External and Intergovernmental:

s.12,s.13,s.16

Signature(s):

Deputy Minister's signature for the
consultation section

Date Signed



Sponsoring Minister(s) must
sign the RFL

Honourable First Name Last Name

Date Signed

Ministry's Instructing Officer:
Barry Bieller, Director Policy
Liquor Control and Licensing Branch
(250) 952-5755

Ministry Solicitor:
Diane Roberts
Legal Services Branch
(250) 356-8459

Appendices:

- Appendix A: Legislative Counsel Advice and Opinions to Cabinet
- Appendix B: Treasury Board Staff Comments
- Appendix C: Three Column Document
- Appendix D: Drafting Instructions – *for Legislative Counsel copy only*

**APPENDIX C: RFL
THREE COLUMN DOCUMENT**

A new stand-alone Act connected to the Liquor Control and Licensing Act

| Current | Proposed | Reasons |
|------------------|--|--|
| 1. No provision. | Permit the general manager, subject to the Act and regulations, to conduct an auction to raise revenue and to determine eligibility, based on the highest bids, to apply for a prescribed category of licence that will permit the sale of BC wine on grocery store shelves. | <p>To provide clear statutory authority for the auction and its purpose, i.e. raise revenue for government and to determine who will ultimately receive the licences since there is expected to be much more interest in the licences than the limited number that will be issued.</p> <p>The revenue raised by the auction is functionally a direct tax and therefore requires legislative authority.</p> |
| 2. No provision | Specify that the successful bidders in the auction are not approved for a licence but only the privilege of applying for the prescribed category of licence. | To make clear that if an applicant won the auction they are not entitled to the prescribed liquor licence but must go through the standard application process to hold a liquor licence, e.g. being deemed “fit and proper.” |
| 3. No provision | Limit auction participation eligibility to grocery stores meeting the prescribed criteria. | The licence class to be issued is for sale of BC wine on grocery store shelves so there is a need to restrict eligibility to grocery stores who meet the licensing criteria, e.g. meeting minimum size requirements and focus on food sales |

| | | |
|------------------|--|---|
| 4. No provision | Permit the general manager, subject to the regulations, to set out the rules for how the auction will be conducted including specifying a minimum bid to participate in an auction, the auction bidding process and public notification requirements | Provides authority to specify the auction rules. Unknown at this time all the details of how the auction will be conducted so need the flexibility to set these out later in regulation and/or policy. Some rules might be better placed in regulation to provide greater certainty while others might be best imposed by the general manager. |
| 5. No provision | Provide regulation making authority to set the auction rules | Same as 4 above. |
| 6. No provision | Provide regulation making authority to issue a prescribed number of licences within a licence class and tie this to the auction process | To prevent the issuance of more licences for the sale of BC wine on grocery store shelves than directed by government. The LCLA does not provide clear authority to impose such a limitation. |
| 7. No provision. | Restrict eligibility to apply for the prescribed licence to grocery store applicants who are the highest bidders in the auction and up to the number needed to issue the prescribed number of wine in grocery licences. | Required to ensure only successful bidders may apply for the licence. |
| 8. No provision | Permit the general manager to delegate the technical operation of the auction to another person | It is possible the auction process itself might be run by BC Auction, a government agency. |
| 9. No provision | If a successful bidder is not successful in obtaining the prescribed licence then permit the general manager to ask the highest bidder not successful to apply for the licence. | Provides ability to issue the prescribed number of licences without going through another auction process, subject to the auction process generating more interest than the number of licences available. |

| | | |
|------------------|--|--|
| 10. No provision | If an auction does not generate sufficient interest to ultimately issue the prescribed number of licences to be issued then permit the general manager to conduct a subsequent auction or auctions until there is sufficient interest to issue the prescribed number of licences to be issued. | Required in case the initial auction hasn't been successful, e.g. there are no bids above the specified minimum bid. This will allow a subsequent auction to be conducted without an additional OIC. |
| 11. No Provision | s.12,s.13,s.14 | |

APPENDIX D: RFL

DRAFTING INSTRUCTIONS

Stand-alone Act associated with the Liquor Control and Licensing Act

Item 1: Permit the LCLB General Manager to operate a liquor licence auction

Problem and Background

The government plans to issue a limited number of new licences for the sale of BC wine in grocery stores. Interest in the licences appears to exceed the number of licences that will be issued and the auction provides a means to determine who will receive the licences.

The government wishes to obtain financial benefit from the issuance of the licences but under the Act there is no authority to do so. There is a fee authority but fees must relate to the cost of the service. The revenue raised by the auction is functionally a direct tax and therefore requires legislative authority.

Objective and Rationale

To provide clear statutory authority for the auction and its purpose, i.e. raise revenue for government and assist in determining who will receive a licence.

Specifics of the Proposed Legislation

Permit the general manager, subject to the Act and regulations, to conduct an auction to raise revenue and to determine eligibility, based on the highest bids, to apply for a prescribed category of licence that will permit the sale of BC wine on grocery store shelves.

Item 2: Clarify outcome for successful auction participants

Problem and Background

Want to ensure that potential and actual bidders are aware they are only bidding for the privilege of subsequently applying for the wine in grocery licence. The auction gives the applicant no guarantee of obtaining that licence.

Objective and Rationale

Specify that the successful bidders in the auction are not approved for a licence but only the privilege of applying for the prescribed category of licence and proceeding through all the licensing steps associated with that licence (to be described in regulation just as for other licence types).

Specifics of the Proposed Legislation

See above

Item 3: Restrict who can enter the auction

Problem and Background

It is desirable to limit auction entry to those persons who are ultimately eligible to hold a wine in grocery licence, i.e. a grocery store meeting prescribed criteria, e.g. minimum size and required focus on food service.

Objective and Rationale

To ensure persons not eligible to obtain this type of licence do not participate in the auction.

Specifics of the Proposed Legislation

Limit auction participants to grocery stores meeting prescribed criteria. The prescribed criteria will be part of separate liquor in grocery initiative being implemented by OIC that is expected to come into force in late February 2015. It can be utilized for this purpose as well.

Item 4: Permit general manager to set auction rules (part 1)

Problem and Background

An auction needs rules so that all parties are aware of the process that will be undertaken. The final details of how the auction might occur are not yet known so it is desirable to allow the rules to be set in regulation or by the general manager. This will avoid the problem of potentially placing rules in the statute which are later found not to be desirable.

Objective and Rationale

Permit the general manager to set rules for the auction but through item 5 also have authority to set rules in regulation and have the general manager's rules be subject to those.

Specifics of the Proposed Legislation

Permit the general manager, subject to the regulations, to set out the rules for how the auction will be conducted, including rules related to requirements respecting a minimum bid to participate in an auction, the auction bidding process, public notification requirements, and method of determining who will be deemed eligible to apply for the prescribed licence

Item 5: Provide authority to set auction rules by regulation (part 2)

Problem and Background

An auction needs rules so that all parties are aware of the process that will be undertaken. The final details of how the auction might occur are not yet known so it is desirable to allow the rules to be set in regulation or by the general manager once these have been determined. This will avoid the problem of potentially placing rules in the statute which are later found not to be desirable.

Objective and Rationale

To ensure there is authority to set the auction rules.

Specifics of the Proposed Legislation

Provide authority to have regulations that specify auction rules and if necessary itemize at a higher level the types of rules that might be placed in regulation, e.g. rules related to requirements respecting a minimum bid to participate in an auction, the auction bidding process, public notification requirements, and method of determining who will be deemed eligible to apply for the prescribed licence.

Item 6: Provide authority to limit the number of licences that may be issued within a prescribed category**Problem and Background**

The licence class for the sale of BC wine on grocery shelves will be in the LCLAct regulations, along with the other licence classes. The legislation will need to provide clear authority to restrict in regulation the number of licences that will be issued for this licence class as there is presently little or no authority to do this.

Objective and Rationale

To be able to limit in regulation the number of licences that may be issued in regard to a prescribed licence class.

Specifics of the Proposed Legislation

As described above.

Item 7: Restrict who may apply for a licence**Problem and Background**

If an auction is held to determine who is eligible to apply for a licence, there needs to be authority to restrict licensing eligibility to these persons. There is presently in the regulations a

moratorium on this issuance of new wine store licences. The government intends to issue new wine store licences but only to grocery stores. There needs to be a way to limit application eligibility to those who have gone through the auction process and “won” the auction. Without this, there would be no way to prohibit other interested parties from applying for these licences.

Objective and Rationale

As described above, to provide authority to restrict by regulation who may apply for this prescribed category of licence so that only those who have gone through an auction process and won are eligible to apply for the licence.

Specifics of the Proposed Legislation

As described above.

Item 8: Permit the general manager to delegate the holding of the auction

Problem and Background

The LCLB general manager has no experience holding auctions. Preliminary discussions have been held with BC Auction, a BC government agency, about hosting the auction under the rules set by regulation or the general manager. The agency has the infrastructure and experience to run auctions.

Objective and Rationale

BC Auction is an experienced auction house and may be better able to run the auction and do so more efficiently than if organized and run by the general manager.

Specifics of the Proposed Legislation

Permit the general manager to delegate the holding of the auction

Item 9: Mechanism to issue all the licences desired if one or more successful bidders are not successful in obtaining the prescribed licence.

Problem and Background

It is possible that a successful bidder may ultimately not be successful in obtaining the liquor licence. If the auction had more interest than the number of licences to be issued then it would be preferable to provide a mechanism for the next eligible bidder to apply for this licence so that all the licences may be issued.

Objective and Rationale

This will potentially permit the issuance of all the prescribed licences without having to undertake another auction or alternatively not issue the number of licences desired.

Specifics of the Proposed Legislation

If a successful bidder is not successful in obtaining the prescribed licence then permit the general manager to ask the highest bidder not successful to apply for the licence provided this person otherwise meets the qualifications.

Item 10: Provide authority for the general manager to conduct a subsequent auction if the first does not meet the stated objective**Problem and Background**

There is the possibility that an auction might not obtain enough bids to issue the number of licences the government is prepared to issue, e.g. no bids above a specified minimum bid. Instead of requiring a new set of regulations to run another auction the general manager could run a subsequent auction with the same criteria and rules in the hope of obtaining additional bids to meet the number of remaining licences to be issued.

Objective and Rationale

The objective is to enable the holding of a subsequent auction without having to redo regulations, and to generate revenue for government. Given that the process and eligibility criteria will be the same as the initial auction it makes sense not to require new regulations.

Specifics of the Proposed Legislation

As described above

Item 11: Provide for repeal of the legislation after one year**Problem and Background**

The auction provision is needed only for the issuance of licences for the sale of BC on grocery shelves.^{s.12,s.13}

Objective and Rationale

s.12,s.13,s.14

Specifics of the Proposed Legislation

s.12,s.13,s.14

Ministry of Justice
SPECIAL WINE STORE LICENCE AUCTION ACT
RELATED TO
LIQUOR CONTROL AND LICENSING ACT
Speaking Points

ISSUE SUMMARY:

- To review the bill that provides authority for the auction of Special Wine Store Licences to permit the sale of BC wines in grocery stores
- To obtain approval to introduce the bill in the House

BACKGROUND:

- This bill provides authority for the general manager of LCLB to hold an auction for a new class of liquor licence.
- The new licence will allow grocery stores to sell BC wines from grocery store shelves.
- The decision to allow the issuance of new licences was made by Cabinet Planning and Priorities committee, who also directed that eligibility for these licences should be done by way of auction.
- A limited number of licences (18) are expected to be issued.
- These new licences cannot be issued without legislative authority.
- The purpose of the auction is to raise revenue for government and to limit the applicants for this class of licence.
- After the auction, successful bidders will proceed through the application process normally.

• s.12,s.13

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Withheld pursuant to/removed as

s.12;s.13;s.17

TEMPLATE

Request for Legislation Treasury Board Staff (TBS) Comments

Section 1: General Information (to be completed by the sponsoring ministry)

Honourable Suzanne Anton

Ministry of Justice

Name of Legislation: Special Wine Store Licence Auction Act (working title)

Draft/ID Number:

Sent Date: February 11, 2015

Originator: Barry Bieller/Janice Carlson

RFL Summary: The proposed legislation provides authority for the general manager of the Liquor Control and Licensing Branch to hold an auction to determine eligibility to apply for a new class of liquor licence which will allow the sale of BC wines from grocery store shelves.

The purpose of the auction is to limit applicants for this class of licence to the highest bidder and to raise revenue for government.

Successful bidders will subsequently apply for the wine store licenses and proceed through the normal licence approval process.

Section 2: TBS Comments (to be completed by TBS)

Financial Implications Reviewed by TBS: (Yes/No)

Requires Treasury Board Approval: (Yes/No)

Costs/Savings Identified: (Yes/No/NA and provide explanatory text if necessary)

Funding Source(s): (If applicable, identify funding sources, e.g., existing ministry voted appropriation, Contingencies Vote, etc.; if revenue generation, also note if recoveries to vote or to CRF)

Comments/Recommendation: (Identify other issues such as consultation, other TBS comments and recommendations, as appropriate)

Section 3: TBS Contact Information

Analyst Name: (Insert Name)

Phone Number: (Insert Phone Number)

Date: (Insert date completed and sent to ministry)