

S T E F A N S H A R K A N S K Y

September 7, 2010

Executive Ethics Board  
PO Box 40149  
Olympia, WA 98504-0149

To the Board:

This letter is an amendment to my complaint to the EEB, dated August 31, 2010, regarding Rick Garza and the Liquor Control Board. I present these additional facts to support my allegation that senior LCB officials are engaged in ongoing violations of RCW 42.52.180, authorizing the use of public facilities to oppose statewide ballot initiative I-1100.

- 1) On June 7, 2010 the online news service Crosscut reported that some state liquor stores were distributing flyers with the headline "**Benefits of Washington's Liquor Retail and Distribution System**". During that time period proponents of Initiative 1100 were collecting signatures to qualify the initiative for the ballot. LCB spokesman Brian Smith was quoted in the article explaining that the purpose of the flyers was to address customer questions about proposed initiative 1100. Additional statements attributed to Smith indicated that public facilities were used to prepare and distribute the flyers. (A copy of the Crosscut article is attached as Exhibit L)
- 2) On June 9, 2010 I visited State Liquor Store #96 at 5101 25<sup>th</sup> Ave NE, Seattle and made a purchase. At the checkout counter was a stack of flyers matching the description of the flyer in the June 7 Crosscut article. I took a flyer with me. (A copy is attached as Exhibit M).
- 3) I've visited state liquor stores on numerous occasions, but had never seen similar flyers at any state liquor store prior to that time. I do not believe that distributing such flyers to customers is "part of the normal and regular conduct" of the LCB.
- 4) The flyer does not mention any proposed initiative and its appearance suggests that it provides objective factual information. However, its content is not objective or factual, but is biased and misleading. It could only be plausibly explained as a promotional effort to influence the public to support the state stores and oppose Initiative 1100. Specific objections to the flyer follow in the addendum.

Sincerely,

Stefan Sharkansky

**Addendum: Factual objections to Liquor Control Board flyer**

1) Consider the statement:

Each year, revenues earned through the sale and taxation of alcohol are returned to fund essential state and local services. In Fiscal Year 2009, the WSLCB sent more than \$332 million [to other government programs].

That statement might be defensible in isolation. In the context of the headline “Benefits of Washington’s Liquor Retail and Distribution System”, placement at state store cash registers and the sub-headline “Where Your Liquor Dollars Go”, the clear implication is that state store sales produce \$332 million, which would not otherwise be available if the private sector sold all alcohol in the state. In fact, approximately \$45 million of the “\$332 million” is attributable exclusively to current private sector alcohol sales (license fees and penalties; taxes on beer and wine, nearly of which is currently sold by the private sector). Roughly \$225 million is attributable to taxes which would still be collected if the same products currently sold by state stores were to be sold by the private sector. As I pointed out in my original complaint, the state store system produced only \$58 million in surplus revenues from liquor sales in FY 2009.

- 6) The claim of “Public Safety and Societal Benefits of Washington’s System” based on the subsequent bullet points is at best unfounded speculation, and at worst simply untrue.
- a. As I noted in my original complaint, the purported “private sector compliance rate” is computed using an invalid method for estimating the true compliance rate in private sector retail stores. Furthermore, the magnitude of any “public safety and societal benefit” resulting from any difference in compliance rates alone is merely speculative. Some research suggests that a relatively small fraction of alcohol consumed by minors is actually purchased in retail stores by minors<sup>1</sup>. The (lack of) proof is in the pudding – despite Washington’s claim of strict controls on availability of alcohol to minors, this state’s underage drinking rate is somewhat higher than the national average<sup>2</sup>.
  - b. The claim of a “Greater Financial Return” due to “profits” derived from sale of alcohol in state system stores is, to be charitable, ambitious. First, the LCB both reserves to itself a monopoly on all off-premise sales of distilled spirits in Washington state and sets the mark-up arbitrarily high in order to generate revenue for other government programs. Individuals who import more than a set amount of alcohol into the state for personal use are also required to pay the LCB the equivalent of the product’s state store mark-up<sup>3</sup>. To

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<sup>1</sup> Wagenaar, et al, “Sources of Alcohol for Underage Drinkers”, *Journal of Studies on Alcohol*, May 1996

<sup>2</sup> National Survey on Drug Use and Health State Estimates of Underage Drinking 2006 (data from 2003-2004)  
<http://www.oas.samhsa.gov/2k6/stateUnderageDrinking/underageDrinking.htm>

<sup>3</sup> RCW 66.12.120, WAC 314-68

call the surplus mark-up a “profit” is an Orwellian redefinition of the word “profit”. “Profit” sounds nicer than “tax”, but it’s no more objective to call the LCB’s surplus mark-up a “profit” than it would be to characterize motor vehicle registration fees as “profits” of the Department of Transportation.

Second, it is merely speculative to claim that the financial return from state stores is necessarily “Greater” than if alcohol were sold exclusively by the private sector. The LCB cannot predict whether or how the Legislature might change the excise tax on spirits if the business were privatized, nor can it predict any potential change in alcoholic beverage sales and tax collections.

- c. The claim of “Lower Consumption” is outrageous. It might be correct to state that the average per-capita alcohol consumption across all control states is slightly lower than the average per-capita alcohol consumption across all license states. But I am not aware of any credible evidence that this difference is *caused* by state monopoly control. It is no less plausible to explain the difference by the fact that states with religious and cultural traditions that eschew alcohol consumption (e.g. Utah, West Virginia) would have been more likely than other states to choose to become control states in the first place. Alcohol consumption in some license states (e.g. Kentucky) is far below the national average, while consumption in some control states (e.g. Wyoming) is far above the national average<sup>4</sup>.

Pointing to the specific examples of Washington and California is misleading. As I noted in my original complaint, Washington’s per-capita alcohol consumption is slightly higher than the national average and also slightly higher than in California.

The implication that Washington’s purported but non-existent “Lower Consumption” “translates to lower societal costs in areas such as medical costs and alcohol-related crimes and violence” is even more outrageous. In fact, there’s substantial evidence that the opposite is true. By most measures of alcohol consequences for which state-by-state data is available, both California and the average license state actually incur lower societal costs than Washington (see table on next page).

I am not aware of any reports which show that Washington’s medical costs and violent crimes attributable to alcohol consumption are lower than in other states. If the LCB even has any specific reports which show this, let alone provide evidence that the LCB’s liquor monopoly has had any impact on reducing such societal costs, they don’t seem to have made these reports public.

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<sup>4</sup> National Institute on Alcohol Abuse and Alcoholism  
<http://www.niaaa.nih.gov/Resources/DatabaseResources/QuickFacts/AlcoholSales/consum03.htm>

<b>Measure</b>	<b>Washington</b>	<b>California</b>	<b>License state average</b>
Underage drinking (% of teenagers self-reporting) <sup>5</sup>	31.3%	26.3%	28.7%
Underage binge drinking (% of teenagers self-reporting) <sup>6</sup>	21.5%	16.9%	19.0%
Heavy drinkers (adult men having more than two drinks per day and adult women having more than one drink per day) <sup>7</sup>	5.5%	6.1%	5.2%
Binge drinkers (males having five or more drinks on one occasion, females having four or more drinks on one occasion) <sup>8</sup>	15.2%	15.8%	15.3%
DUI arrests per 10,000 residents <sup>9</sup>	57.4	55.7	36.3
Percentage of highway fatalities caused by alcohol <sup>10</sup>	34.9%	30.0%	31.6%
Percentage of all deaths due to alcohol-related illness <sup>11</sup>	1.44%	1.66%	0.97%

<sup>5</sup> National Survey on Drug Use and Health  
<http://www.oas.samhsa.gov/2k6/stateUnderageDrinking/underageDrinking.htm>

<sup>6</sup> Ibid

<sup>7</sup> CDC National Center for Chronic Disease Prevention and Health Promotion  
<http://apps.nccd.cdc.gov/brfss/page.asp?yr=2009&state=All&cat=AC#AC>

<sup>8</sup> Ibid

<sup>9</sup> US DoJ Bureau of Justice Statistics, Sourcebook of Criminal Justice Statistics Online  
[http://www.albany.edu/sourcebook/tost\\_4.html#4\\_c](http://www.albany.edu/sourcebook/tost_4.html#4_c)

<sup>10</sup> National Highway Traffic Safety Administration <http://www-nrd.nhtsa.dot.gov/Pubs/811250.PDF>

<sup>11</sup> CDC National Center for Health Statistics [http://www.cdc.gov/NCHS/data/nvsr/nvsr57/nvsr57\\_14.pdf](http://www.cdc.gov/NCHS/data/nvsr/nvsr57/nvsr57_14.pdf)



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June 07, 2010

## Liquor Board fights fire with flyer

By Ronald Holden

As a counterpoint to the [petition drive](#) to do away with the Washington State Liquor Control Board, the Board is fighting back with flyers at its retail outlets.

The board's mission, the flyer says, "is to contribute to the safety and financial stability of our communities by ensuring the responsible sale, and preventing the misuse of, alcohol and tobacco."

Arguments in Bureaucratese continue: The no-sales-to-minors compliance rate is higher with liquor-board enforcement than with private-sector enforcement. Revenues (\$330 million a year) flow directly to essential state and local government services. And the kicker: Consumption is lower. The Board argues that 5 to 20 percent less alcohol is consumed in "control states" like Washington than "open states" like California, which in turn translates to "lower societal costs." Those costs, according to the WSLCB, are not just medical but associated with alcohol-related crimes and violence.

No outright lobbying, just the flyers, headlined "Benefits of Washington's Liquor Retail and Distribution System." The board's spokesman, Brian Smith, explains that he wrote the flyer during the legislative session, when bills to privatize liquor sales were under consideration. Pointing out that state employees are forbidden from taking positions on ballot measures, Smith said the flyers are available now to address customer questions without cashiers having to engage in long conversations about the proposed Initiative 1100.

The flyers were made available electronically for individual stores to print and circulate, Smith said. They were not printed by the state's [Department of Printing](#), as initially reported here.

Seattle writer Ronald Holden blogs at [Cornichon.org](#). He can be reached at [editor@crosscut.com](mailto:editor@crosscut.com).

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Posted Mon, Jun 7, 3:42 p.m.

Too bad they cannot be held to the same truth in advertising standards private industry must abide by.

— Cameron

Posted Mon, Jun 7, 4:25 p.m.

**Crosscut Writer** Interesting. Is that handout the same one incorporated into <http://liq.wa.gov/BusinessAdvisoryCouncil/business%20advisory%20council%20minutes%201-20>

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## Washington State Liquor Control Board

### Benefits of Washington's Liquor Retail and Distribution System

#### Agency Mission

The Washington State Liquor Control Board's mission is to contribute to the safety and financial stability of our communities by ensuring the responsible sale, and preventing the misuse of, alcohol and tobacco.

#### Where Your Liquor Dollars Go:

Each year, revenues earned through the sale and taxation of alcohol are returned to fund essential state and local services. In Fiscal Year 2009, the WSLCB sent more than \$332 million to the State General Fund, cities and counties, the Basic Health Program, prevention programs, and research.

#### Public Safety and Societal Benefits of Washington's System

- **No-Sales-to-Minors Compliance Rate.** The WSLCB 12 month rolling no-sales-to-minors compliance rate is 94 percent. The private sector compliance rate is 76-84 percent.
- **Greater Financial Return.** Profits derived from the sale of alcohol in Washington's state and contract stores flow directly to essential state and local government services.
- **Lower Consumption.** Studies show consumption is between 5-20 percent less in control states with limited access (like Washington) compared to open states (like California). This translates to lower societal costs in areas such as medical costs and alcohol-related crimes and violence.

For more information regarding the Liquor Control Board, please visit our Web site at [www.liq.wa.gov](http://www.liq.wa.gov).