



Washington State Liquor Control Board

May 30, 2012

Statement of Board Member Chris Marr regarding the City of Seattle's petition to open-rulemaking on WAC 314-11-070

I disagree with my fellow board members in casting my vote in favor of opening formal rule-making on WAC-134. This would have enabled the Liquor Control Board begin a process which in the end, might or might not have resulted in rules which allowed cities to petition the Board to extend hours of alcohol service within their jurisdiction. For me, this was less about creating an opportunity for extended hours to become a reality, and more about this Board redefining its mission after Initiative 1183—one that centers on balancing the public's apparent desire for increased access to alcohol, with the need to maintain public safety and mitigate the social impacts that accompany expanded availability. Sadly, it appears this will be an opportunity missed.

From the outset, the issue before us was fraught with misunderstanding. Despite our best efforts, this debate fixated on a City of Seattle proposal which has yet to be drafted—when it really should have been about how we as a statewide regulatory body should evaluate any extended hours petition that came before us. Despite this, we did receive constructive feedback which provided some direction on how the Board could craft a thoughtful process for moving forward. It pointed to the need to establish a formal work-plan that convened an inclusive statewide process that identified related crime metrics, which would have driven a public safety management plan developed by local police using guidelines established by our own enforcement division. Other important outcomes from the rulemaking process would have addressed licensee education, possible local licensing resulting in additional regulation and enforcement resource generation, penalties, enhanced agency compliance efforts, mitigation of regional migration impacts, and a myriad of issues raised in stakeholder comments.

In the last week, I approached fellow Board Members and the petitioner with a proposal to enter into a much lengthier and in-depth process than we previously proposed, or that we have undertaken in the past around our more technical rulemaking efforts. This would involve a one year timeline with the possibility, but no guarantee, of final rule adoption on 5/31/13. In the interim, the Board would begin a period of significant staff research and outreach to other states, provinces and municipalities who have addressed the extended hours issue. The resulting draft rules would then trigger a 3-6 month period of intensive stakeholder engagement to address needed revisions based on empirically-driven concerns and measurable impacts. As in any rulemaking process, the Board could then decide NOT to proceed.

Mayor McGinn and the City of Seattle have expressed openness to an extended process designed to more thoughtfully consider the complexities of impacts surrounding a decision to accept an

extended hours petition. In a communication last week, they have also committed the City to a parallel process which involves intensive local outreach to their own prevention community, neighborhood representatives and business organizations—a process which would be helpful in informing our own rulemaking efforts.

Unfortunately, my fellow Board members were not moved to change their vote today. As I said, in my opinion this represents a huge opportunity lost. In the aftermath of Initiative 1183, overwhelmingly passed by the voters, which increases the number of retail spirits outlets five-fold and extends off-premise availability in many cases to 2AM; given legislation to introduce wine sampling in retail stores and farmer's markets and spirits sampling in state stores, as well as popular proposals to loosen restrictions on service in movie theaters and other venues, it is clear that we are faced with growing public support for access to alcohol in responsible, regulated settings. In the past, our mission has centered on using our monopoly in the wholesale and retail spirits market, to devise the control structure to restrict access and regulate licensees in a way that mitigates public safety impacts. With the passage of 1183, that mission has evolved. Lacking the ability to restrict access on the supply side—which the voters took away—we now must rely on adopting a thoughtful regulatory framework, which emerges from an in-depth understanding of community impacts of increased access and effective strategies to address them.

Not examining the issue of expanding alcohol access through expanded hours of service for on-premise licensees ignores our mission and does a disservice to citizens and all affected stakeholders. As long as we as a Board offer no commitment as to outcome, we should not be deterred from a process that is designed to develop a greater understanding of the issue. We are not the Liquor Prevention Board, we are the Liquor Control Board. Our job is to determine, after fully examining the facts, if we can establish rules which adequately mitigate the clearly identified risks of expanded hours of alcohol availability at on-premise establishments. If at the end of the process, we cannot accomplish that end in rule, we should proceed no further. However, if it can be done by establishing rules and requirements (including ironclad resource commitments from petitioning cities) that must be met by a petitioning city—no matter how high that bar—then we have a duty to put those rules in place, and expect Seattle or any city bringing forth a petition to meet those standards before approval is granted.

Our decision today begs the question of what exactly is the role of this three-person Board in the wake of Initiative 1183? If it is not to oversee a healthy public dialogue on complex, contentious issues that deal with alcohol access, what is it? That's not for me to answer here today, but I do believe it is a conversation that will begin in the near future, and our inaction today is as good a starting point as any.

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