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March 15, 2022

Shellie Hughes
Executive Director
Nevada State Dept. of Taxation
1550 College Parkway, Suite 115
Carson City, NV 89706-7937

Re: Proposed Regulation LCB File No. R068-21

Dear Director Hughes:

On behalf of Whole Foods Market (“WFM”), thank you for the opportunity to submit these written comments in advance of the workshop on the Liquor Control Board’s (“LCB”) proposed permanent regulation R068-21.

WFM operates five (5) grocery store locations within the state, which are licensed as retail liquor stores, employing approximately 700 Nevada residents. Our corporate partner, Amazon, employs more than 20,000 additional Nevadans in its operations across the state. We appreciate the opportunity to share our views on the proposed regulation of beverage alcohol delivery in Nevada.

As stated in the workshop announcement, existing law authorizes a retail liquor store, or a delivery support service acting on behalf of a retail liquor store, to deliver liquor in its original package to a consumer in connection with a retail sale of such liquor if: (1) the liquor was purchased by the retail liquor store from a licensed wholesaler; and (2) the delivery takes place in a jurisdiction where the retail liquor store is licensed to sell liquor at retail. (Section 4.7 of Senate Bill No. 307, chapter 294, Statutes of Nevada 2021). In other states where allowed, WFM partners with Amazon’s grocery delivery support service—Amazon Flex—to fulfill orders containing beverage alcohol. WFM anticipates bringing this service to our Nevada customers.

Below, please find WFM’s comments on each pertinent section of the proposed regulation:

Section 2

WFM wishes to address one provision of this section, related to the delivery area. As a licensed retail liquor store, each licensed WFM purchases all its beverage alcohol inventory from the wholesaler in whose marketing area it is located. Customers may place orders containing beverage alcohol in advance, but alcohol deliveries only leave the licensed premises during lawful business hours, consistent with the proposed requirements. However, it is not clear from the proposed requirements of this section where deliveries are required to terminate. It appears that deliveries must both originate from and end in the locality where the premises are licensed. This creates an undue hardship on licensees to ensure that deliveries only occur within a limited geographic area, with no underlying policy justification. To illustrate, a WFM licensed in Henderson would be unable to complete a delivery in unincorporated Clark County a few short miles from the premises. These limitations render compliance difficult at best. We



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recommend a static delivery radius from point of origin, such as a maximum of 50 miles as exists in North Carolina.

Section 3

WFM wishes to address one provision of this section, related to training. Amazon Flex drivers fulfilling orders containing beverage alcohol on behalf of WFM have completed an internal training curriculum prior to their onboarding. This curriculum includes content on age verification, visible signs of intoxication, and discretion to refuse to complete deliveries if, in the driver's judgement, the delivery is unlawful or otherwise inappropriate. Imposing a requirement for delivery drivers to complete yet another training course is duplicative and unnecessary to ensure compliance with the Department's goals of preventing sales and deliveries to minors and intoxicated persons. We recommend exempting delivery drivers and couriers delivering on behalf of licensees from the requirement to obtain a valid alcohol education card.

Section 4

WFM has no additional comments to share on this section.

Sections 5 and 6

WFM wishes to combine our comments on these two sections to address delivery record-keeping requirements as a whole. The Department has proposed a requirement for licensees or their associated delivery support services to retain delivery records for a period four (4) years. While both WFM and Amazon Flex are capable of maintaining records for this amount of time, this time period is inconsistent with other states that have record-retention requirements. Most jurisdictions require records to be kept for two (2) or three (3) years, not four (4). WFM and Amazon take customer privacy and privacy concerns very seriously, and recommend as little time as practicable for record retention to maintain that trust. At a minimum, we recommend the Department ensure its regulations are consistent with other states.

Additionally, the Department proposes a requirement to collect the delivery recipient's signature as part of the overall record. We recommend against this requirement while we are still in the midst of a global pandemic. Prior to the pandemic, Amazon Flex delivery drivers would collect customers' signatures via "finger signing" the driver's handheld delivery device. We suspended this step in the process in order to maintain safe, social distance. Until it is safe to resume said activity, we recommend a temporary reprieve or suspension of this requirement.

Section 7

WFM has no additional comments to share on this section and concurs with the Department's penalty structure.



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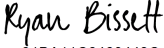
Section 8

We applaud the department for requiring local jurisdictions within Nevada to adopt ordinances consistent with this proposed regulation. This will ensure licensees and delivery support services have a reasonable assurance that they are compliant with delivery regulations, irrespective of location within the state.

We thank the Committee again for the opportunity to submit these comments and look forward to the discussion on March 22nd.

Sincerely,

DocuSigned by:


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