



Senate Labor and Commerce

September 28, 2020

Washington State Liquor and Cannabis Board (WSLCB)

Rick Garza, Director

Justin Nordhorn, Director of Education and Enforcement

Becky Smith, Director of Licensing and Regulation

Chris Thompson, Director of Legislative Relations



Overview

- LCB response to Covid-19 restrictions
- LCB efforts to assist regulated industries
- Enforcement action during Covid-19 restrictions
- Status of LCB work to implement recent alcohol-related legislation.
- Cannabis policy update, including social equity (E2SHB2870)
- Cannabis sales/revenue data for FY2020 and during Covid-19 restrictions



LCB Response to Covid-19

- **Governor Issues Stay Home, Stay Healthy Directive**
 - March 2020
- Immediately prepared an **Incident Management Team** made up of Management Team and Board Chair
 - This team met first thing daily to make critical decisions
 - Team determined that most LCB staff could adequately continue serving licensees while working remotely.
 - Sent staff home with basics following Governor's directive



LCB Response to Covid-19

- **External Communications**
 - Created website to communicate agency decisions and how to get help
 - Issued regular messages licensees via GovDelivery
- **Enforcement**
 - Established protocols for driving alone in vehicles
 - Suspended compliance checks with minors
- **Licensing**
 - Immediately beefed up customer service
 - Staff set up a new email account and triaging to answering initial onslaught of questions from licensees using a single email address



LCB Efforts to Assist Regulated Industries

- **Licensees that Sell Alcohol**
 - Among the hardest hit of all financial sectors
 - Hospitality and leisure sector down 63 percent since March (Dept. of Commerce dashboard)
- **LCB Communication and Organization**
 - **Direct communication** with licensees (throughout)
 - Immediately formed **Legal and Policy Team**
 - Board chair, agency leadership, key staff
 - Met daily to make immediate allowances for industries
 - Top priority was public safety then help for struggling industries
 - Executive, Licensing and Enforcement
 - Met regularly with Governor's Office and trade organizations to provide flexibility and subsequently, income.
 - Currently working with 19 cities to seek ways to allow outdoor seating and shared space
 - Met last week with Tacoma Mayor, Governors' Office restaurants and trade groups to keep business during down months



LCB Efforts to Assist Regulated Industries

- **Creative Allowances for Liquor Licensees** (Over 125 liquor issues)
 - **All licensees**
 - Emergency Board actions to allow for late payments without penalties and other rule changes
 - **Restaurants**
 - Initially cocktail kits but later moved to mixed cocktails to go with sales of food
 - Opened up delivery services for beer and wine
 - Opened up bar seating for minors to allow for additional space
 - Sped up process for approving outdoor alcohol service
 - **Distilleries**
 - Allowed distillers to make sanitizer
 - **Nightclubs, Breweries, Wineries, Distilleries and Taverns**
 - Helped wineries, distillers, taverns and breweries that don't serve food quickly transition to a license where they could stay open.



LCB Efforts to Assist Regulated Industries

Creative Allowances (continued)

– **Farmers Markets**

- Relaxed food service requirements at farmer's markets associated with sampling

– **St. Patrick's Day Inventory**

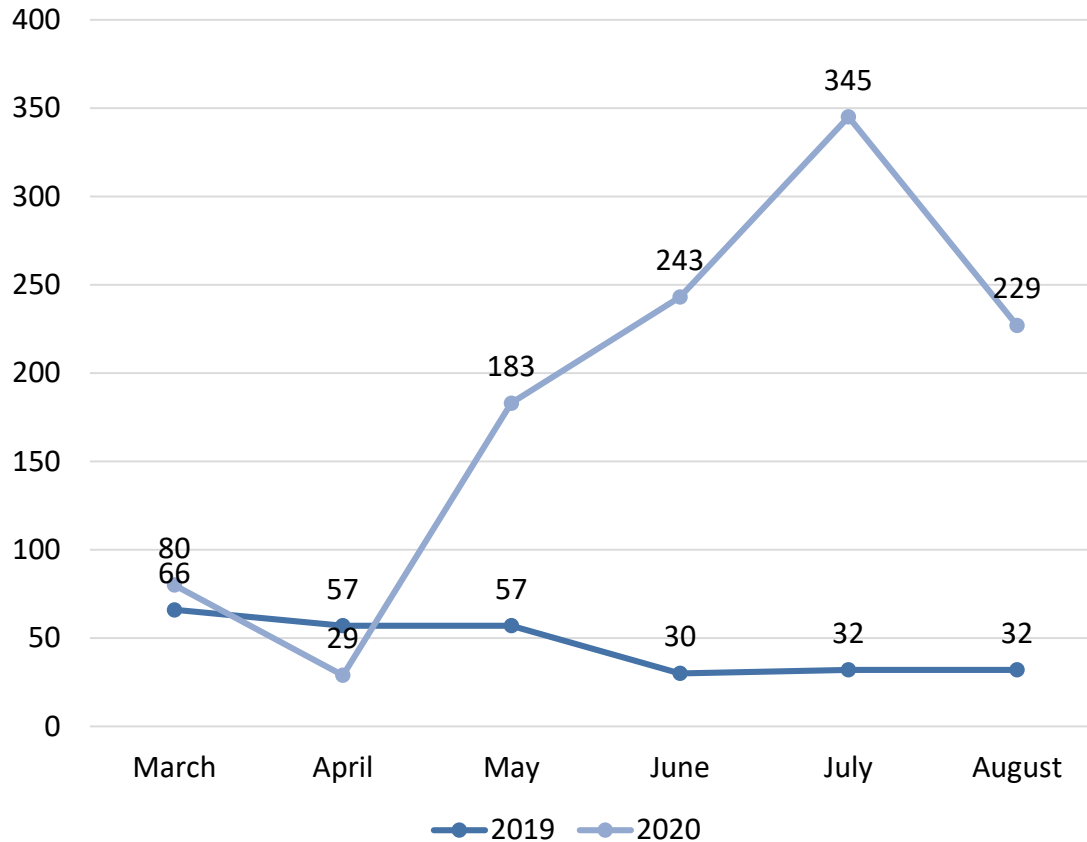
- Created opportunities for taverns, nightclubs, etc. that built up for St. Patrick's Day sales to return product for refund

– **Trucking services for liquor licensed distributors**

- Temporary allowance to permit licensed distributors, and other industry members, to sell trucking and distribution services for non-liquor items to licensed retailers



Licensing Alteration Requests During Restrictions



COVID-19 Impact

- Temporary allowances for outside service
- Collaboration with local cities and counties
- Reallocated resources to expedite requests



LCB Efforts to Assist Regulated Industries

- **Cannabis Industry Remained Open**
 - Governor listed cannabis retailers as “essential” due to stores being only place to legally acquire the product.
 - Cannabis producers/processors essential because they supply/support retailers.
 - Unlike alcohol licensees, all remained open throughout
- **Allowances for Cannabis Industry**
 - Allowing kids under age 16 on producer farms (child care needs, often on remote farms)
 - Curbside service
 - Relaxed timelines related to maximum delivery times due to wildfires

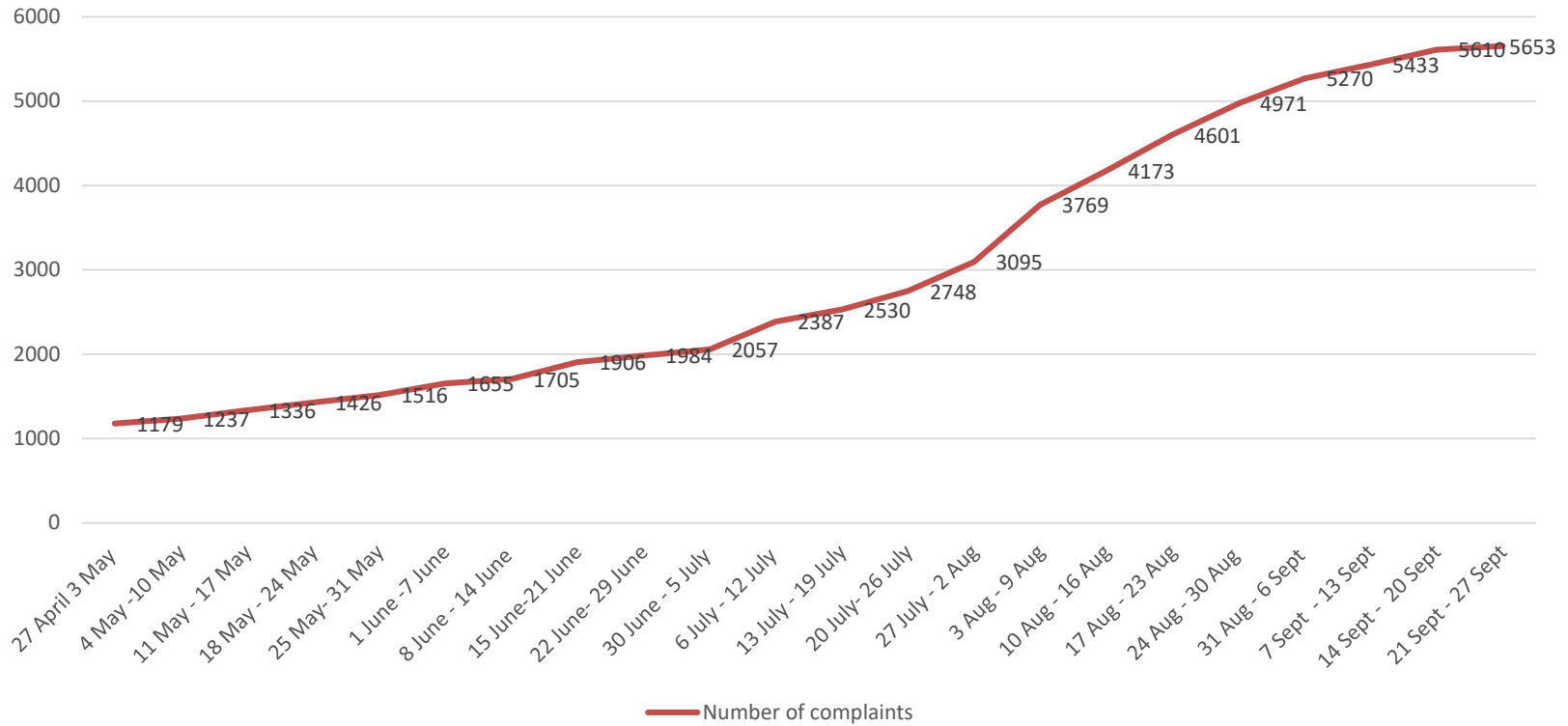


Current Status with Covid Restrictions

- **Allowances**
 - Highly received by licensees, govt. leaders of Seattle, Tacoma and Spokane, and hospitality industry
 - Prevention community and law enforcement have expressed concerns
 - Policy and Rules Unit analyzing all allowances and developing recommendations for amending where appropriate
 - Slated to expire within 30 days of county entering Phase 4
- **LCB Employees and Public**
 - Communicated that we're teleworking through 2020
 - Incident Management Team meets twice weekly to address staff issues
 - How to support staff at home
 - Engaging staff about their well being during Covid, fires, and current issues
 - Legal and Policy meets twice per week to address emerging issues



Total Cumulative Complaints Received





Complaints and Enforcement Actions

COVID - 19

Type of Complaint	Percentage
Employee Safety	1.74%
Large Gatherings	3.91%
Mask Enforcement	48.80%
Non-COVID	0.14%
On-premises Sales	12.13%
Open Non-Essential	6.37%
Social Distancing	26.34%
10pm	0.58%
Grand Total	100.00%

In addition to licensee education; the LCB works with other agencies, including DOH, L&I, and the Governor’s Office on a weekly basis to provide consistent interpretation and application of the Governor’s Proclamations.

Total Contacts	Total Hours
20522	4435
All Complaints	
Closed Substantiated	1041
Closed	
Unsubstantiated	4228
Closed, Education	
Provided	46
Open	338
Total	5653
Corrective Actions	Number Issued
Notice To Correct	1
Verbal Warning	175
Written Warning	52
AVN	12
Total	240



Liquor Legislation Implementation

Bill	Legislative Action
SB 5549	Modernizing distillery marketing and sales restrictions Phase 1: Effective June 11, 2020 <ul style="list-style-type: none">▪ Expanded off-premises sales to spirits of another Washington distillery▪ Allowed on-premises purchase and consumption▪ Requires food options and a list of local restaurants Phase 2: Effective January 1, 2021 <ul style="list-style-type: none">▪ New off-site tasting room license▪ Distilleries, breweries, and wineries may jointly operate off-site tasting rooms
HB 2412	Brewery Locations Effective June 11, 2020 <ul style="list-style-type: none">▪ Increase from two to four retail locations▪ Eliminates keg sale requirement▪ Dogs allowed on-premises at breweries that do not provide food service



Liquor Legislation Implementation

New License Types – Effective June 11, 2020

Bill	Legislative Action	Applications Approved
SB 5006	On-Premises Endorsement for Wineries and Breweries <ul style="list-style-type: none">Allows for three offerings of beer to be served at wineries, and three offerings of wine to be sold at breweries.	94
SB 6392	Wine Association License <ul style="list-style-type: none">Allows local wine associations to hold events for the purpose of promoting Washington wine.	2



Liquor Licenses

License Type	January 2020	August 2020	Change
Retail			
Beer/Wine Grocery & Specialty Shops	5,352	5,372	+20
Spirit Retailers	1,452	1,482	+30
Beer and Wine Restaurants	3,484	3,510	+26
Beer, Wine and Spirit Restaurants	5,210	5,275	+65
Tavern	262	281	+19
Hotel	233	240	+7
Nightclub	145	112	-33
Non Retail			
Brewery	468	475	+7
Distillery	149	154	+5
Winery	1,011	1,034	+23



Covid-19 Restrictions and LCB Response

- Cannabis businesses were not required to close
- Several health-related issues emerged
 - Protecting health of employees
 - Health risks for customers
- Licensees revised operational procedures
 - Mask wearing
 - Social distancing
 - Hand sanitizing
 - Handling of products, menus



Agency Policy Responses

- Closure of schools and child care facilities/programs
 - LCB guidance allowing minors on location at production facilities
 - Guardrails: Under 16 years of age only; no work activity allowed; time limited
- Curbside service
 - LCB re-interpreted requirements for transactions on premises; premises include retail store's parking lot



Supporting Cannabis Licensee Success

- Full implementation of ESHB 5318, Part One
 - Extensive collaboration with industry, licensees and others to completely redesign and co-construct marijuana penalty rule structure.
 - Established process for issuance of Notice of Correction as opposed to civil penalty
 - Reduced cumulative effect of escalating penalties to two years
 - Added a deferral option for first-time offences
 - Restructured penalty grids and established categories based on violation severity
 - Collaborative rule development process resulted in one affirmative comment at hearing, and one comment from public health.
 - Rules adopted January 22, 2020

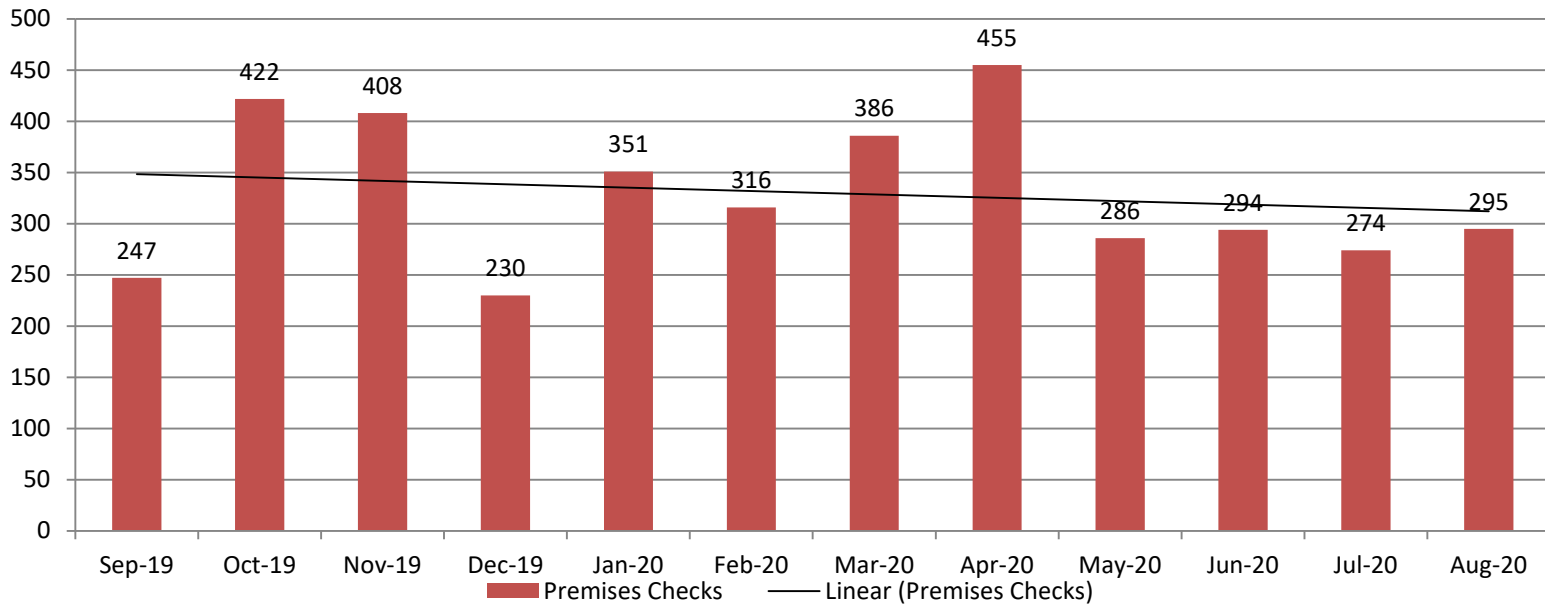


Supporting Cannabis Licensee Success

- Full implementation of ESHB 5318, Part Two
 - Collaborated with industry representatives, licensees and others to co-design a voluntary consultation and education program.
 - Rules frame frequency, manner and method for provision of consultative and educational services designed to support licensee success.
 - Extensive collaborative rule development resulted in no written or oral comment at public hearing.
 - Final rules will be presented to the Board for adoption on September 30, 2020



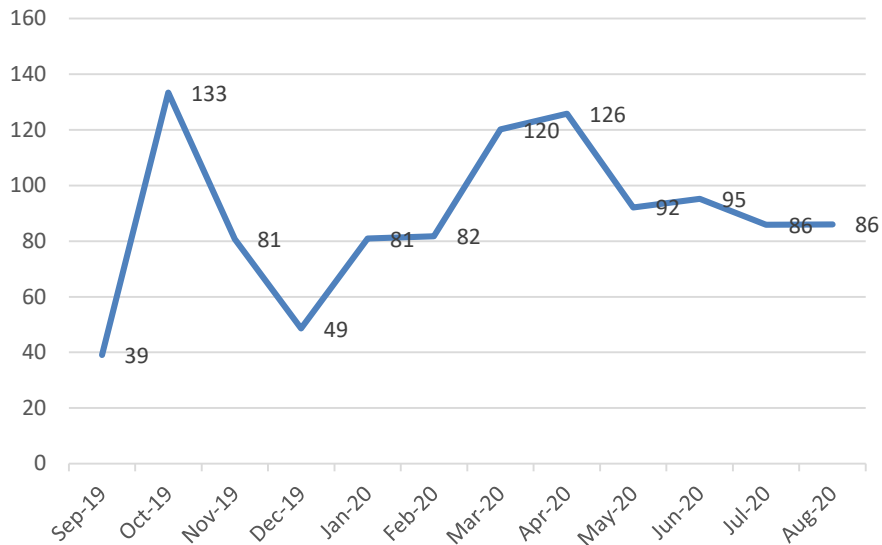
Marijuana Premises Checks





Educational Efforts

Educational hours



Top 5 Educational Events

	Topic	Number of events.
1	Regulatory	783
2	Covid-19	709
3	Youth Access to Cannabis	129
4	Failure to utilize and/or maintain traceability.	114
5	Advertising	109



Seizures/Destruction Events

Outside Agency Assistance

- 2 seizures for emergency suspension
- 4 seizures based on assistance to outside agencies.
- 2 seizures unlicensed locations

Licensed Locations

- 4 seizures for pesticides usage
- 3 closed businesses
- 2 Retail stores requested assistance in the destruction of product
- 9 Traceability violations



Impacts of COVID-19

Officer Actions /Activities	Sept 2018- August 2019	Sept 2019- August 2020	Difference
Compliance Checks conducted	1245	418	-827
Marijuana Premises Checks conducted	5004	3964	-1040
Seizures/Destruction events	72	26	-46
AVNS Issued	234	65	-169
Warnings Issued	509	181	-328
Education Hours Conducted	662	1070	408

The agency has had a change in emphases since the outbreak of COVID 19. Education given to businesses on the changes to rules due to COVID 19 has required more officer capacity. Educational hours have increased while other areas officer actions have decreased.



Marijuana Excise Tax

Background

- Tax is paid the 20th of the month following the actual sales
 - The month listed reflects the excise tax collected from the previous month's sales. For example, April collections reflect March's sales.
 - Highlighted cells are the months of Stay Home, Stay Healthy

Analysis

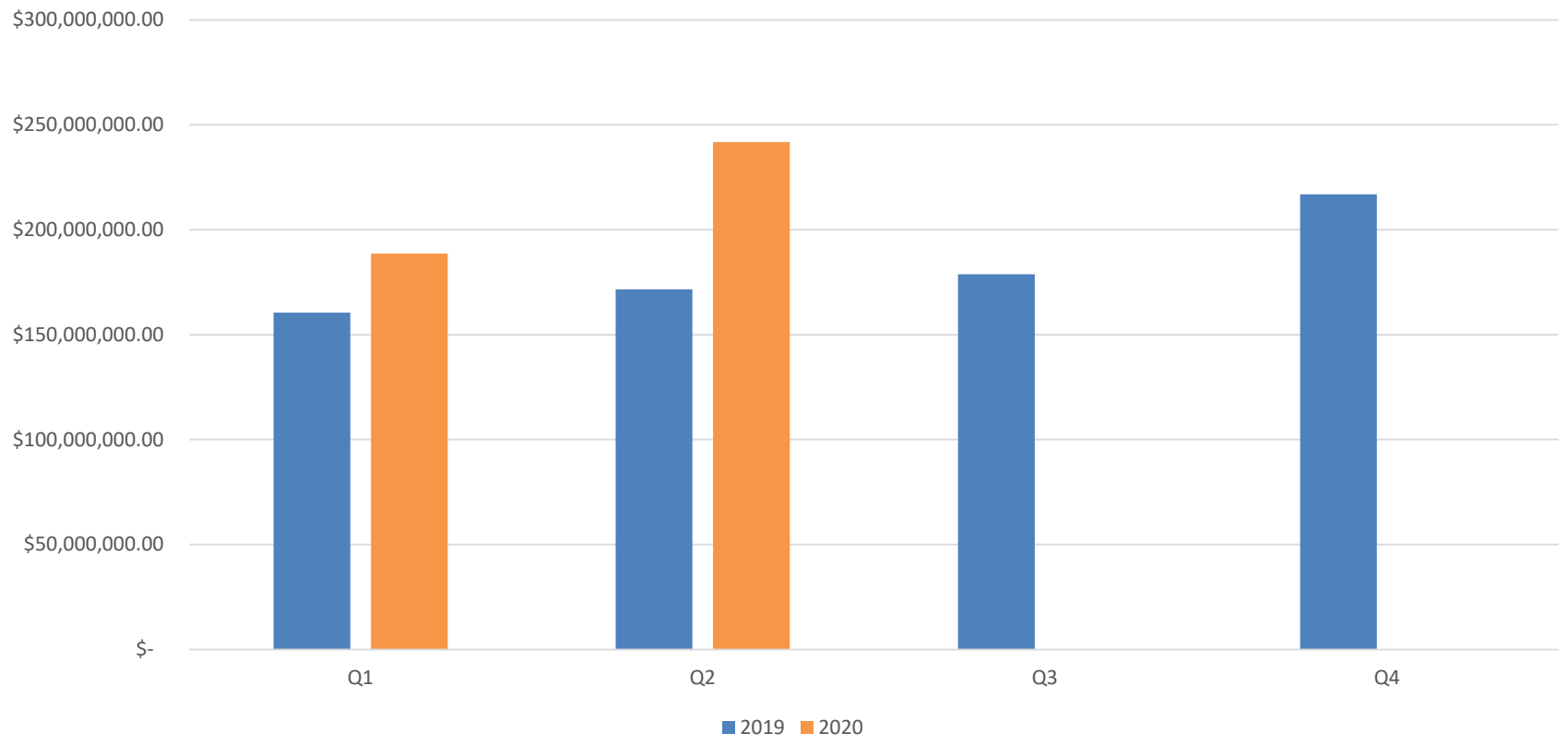
- Strong cannabis sales growth continues year over year
- Covid months' collections far exceed growth of non-Covid months
- FY20 August collections (for July sales) topped \$50 million for the first time ever and were 41% higher than August FY19.
- Total Excise Tax collected since first sales in July 2014: \$1.2 billion

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
FY21	45,967,712	50,262,806											96,230,518
	32.1%	41.1%											
FY20	34,801,751	35,617,301	36,268,258	35,882,305	36,244,481	35,542,632	38,243,017	34,333,983	34,376,476	41,146,515	47,386,182	44,318,545	454,161,446
	4.5%	16.2%	6.1%	13.8%	11.1%	12.6%	11.1%	13.9%	13.4%	22.3%	43.8%	31.3%	16.7%



Alcohol Sales during Pandemic: Spirits ↑

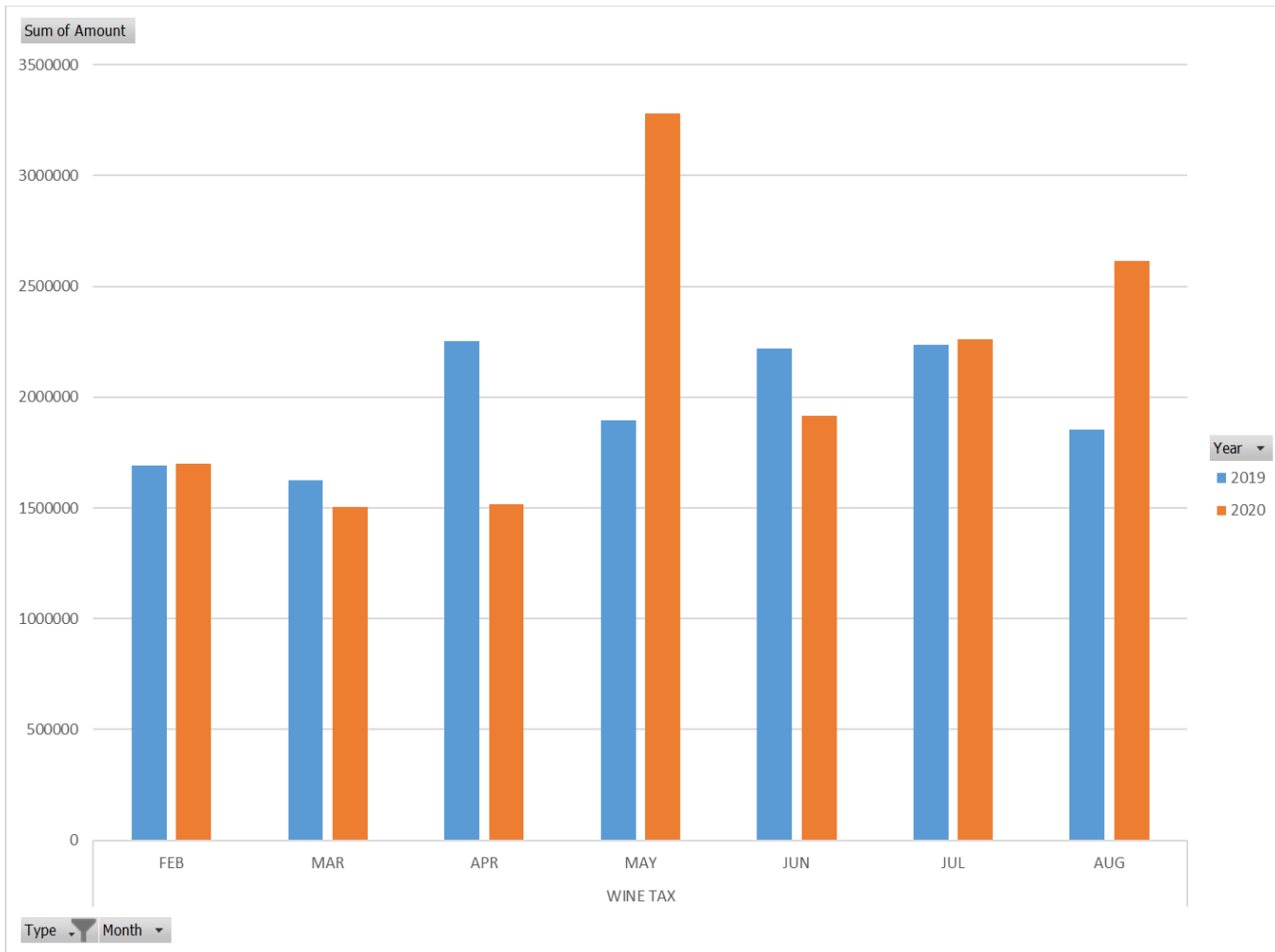
Spirit Retailer Sales





Washington State Liquor and Cannabis Board

Alcohol Sales during Pandemic: Beer/Wine Sales Uneven





Implementing Cannabis Legislation: Social Equity

- LCB Board Members identified three priorities in 2019
 - Social Equity, medical market viability and small producer sustainability
- Agency-request legislation social equity proposed by LCB
 - HB 2870 by Rep. Eric Pettigrew
 - Companion SB 6604 – Prime Sponsored by Sen. Keiser
 - Co-sponsored by Sens. Conway, Saldana, Hasegawa and others



Purpose of E2SHB 2870

- Reduce barriers to entry into cannabis industry for those most adversely impacted by cannabis prohibition enforcement
- Disproportionate Impact well documented
 - Nationwide, African Americans arrested at four times the rate of White Americans, despite similar usage rates
 - In Washington, Latino and Native American residents arrested for marijuana possession 1.6 times more often than White residents from 2000 to 2010
 - Even after passage of I-502, African Americans in Washington arrested at twice the rate of White residents.



Key Elements

- Cannabis retail licenses forfeited, revoked, cancelled or never issued will become available
 - Approximately 34 licenses
- Legislative Task Force on Social Equity in Marijuana created
 - Guide the LCB in development of program details
 - Recommendations on potential future development of the program
- Pandemic has delayed launch of Task Force work
- Lt. Gov. and House Speaker appointed 17 members
- Task force plans to hold their initial meeting in the coming weeks



LCB Assisting Task Force

- Governor's Interagency Council on Health Disparities provides Task Force staff support
- LCB assisting Task Force staff as requested
- LCB posting information on website with periodic implementation updates
- LCB organizing community outreach meetings (Sept. 29, Oct. 5 and 12)



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Questions?