

**Senate Bill 16-197 Working Group
Legislative Report Recommendation Form**

1. Work Group Sponsor (s): **Colorado Municipal League – Kevin Bommer**

2. Describe the Recommendation:
 1. Revise the Fermented Malt Beverage (FMB) license in Article 46 to be more consistent with other liquor licenses also allow to sell malt liquor

 2. Grandfather existing FMB licenses as to location and distance rules

 3. No requirement to obtain a new type of license.

 4. The proposal is for the change to apply to off-premise and on/off-premise FMB licenses. CML would like to engage the Working Group on whether or not it should also apply on on-premise FMB licenses.

- **FMB licenses issued after January 1, 2019**
 - ✓ Moratorium on new FMB licenses beginning July 1, 2018. Permissive language governing bodies of municipalities and counties to adopt local moratoria at any time.

 - ✓ Any FMB license issued after January 1, 2019 shall be subject to new restrictions in Article 46.
 - Same distance restrictions (500 feet from schools, etc.) as licenses in Art. 47, duplicating the authority for the local governing body to reduce or eliminate the distance restriction.

 - New licenses may be denied if the local licensing authority determines an undue concentration of FMB licenses exists OR a FMB + retail liquor stores and/or liquor licensed pharmacies.

 - ✓ Active FMB licenses as of 1/1/19 will remain active, subject to compliance with all applicable laws and rules, and exempt from distance restrictions as long as ownership is maintained.

 - ✓ Applications for transfer to new owner may (at local option) be subject to the same restrictions as new licenses, regardless of location.

3. Which portion or portions of Senate Bill 16-197 does this recommendation address (underline all those that apply)?
- Develop an implementation process for grocery and convenience stores to apply for a license to sell malt liquor and fermented malt beverages containing at least one-half percent alcohol by volume starting January 1, 2019.**
 - Analyze the impact that removing the alcohol content limit on fermented malt beverages will have on the alcohol beverage industry as a whole, as well as on current retail licensees.
 - Legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.
 - Laws governing tastings conducted on retail premises licensed under article 47 of this title and the ability of retail liquor stores licensed under section 12-47-407 to sell growlers containing malt liquors.

4. Please summarize the rationale for the recommendation – why is it important?
This recommendation recognizes that SB 17-197 contemplates an application process but still allows FMB licensees to begin selling malt liquor on 1/1/19. CML does not believe there was intent in SB 197 for a change in law to require a lawfully operating licensee to surrender a license previously granted and renewed by the local and state licensing authority, and requiring a review of all FMB licenses for such purpose would be an undue burden and unfunded mandate upon municipalities. Licensees with a license issued prior to 1/1/19 will be grandfathered regardless of location, proximity of schools, etc. – so long as they continue to comply with all other existing laws and maintain ownership. In order to prevent a rush of applicants wanting to avoid distance restrictions or possible determination of undue concentrations, the proposal also includes a moratorium on new FMB licenses starting 7/1/18 and allows local governments the option for a local moratorium at any time.

5. What issue or issues does your recommendation resolve? Please identify the issues.
Resolves the conflict created by SB 197 that allows malt liquor to be sold by FMB licensees starting on 1/1/19 without establishing a licensing process – a different one having been contemplated in SB 197. Alleviates unintentional conflicts that would exist between a Article 47 and a new license type for FMB licensees in Art. 47 (i.e. CML’s earlier proposal – Rec. 197-10)

6. What stakeholders would be positively or negatively impacted by this recommendation, and how would they be impacted?
Certainty of a process should be a benefit to all stakeholders. CML believes there are no new concepts that would harm any stakeholder that was supportive of or neutral on SB 197.

7. Which of the following does the recommendation impact (underline those that apply):
- Statute (legislation)**
 - Policy
 - Rules and Regulations**

d. Other: *(please describe)*

8. Who owns implementation of the recommendation (underline those that apply):

- a. State Legislature
- b. Department of Revenue
- c. Local Government
- d. Other: *(please describe)*

9. Is there a dissenting voice on the working group concerning this recommendation? If yes, please provide a summary of the minority opinion about this recommendation.

Unknown, although the League expects opposition to the potential restrictions on transfers of grandfathered licenses to new owners.

10. Are you aware of any statutory authority or regulation that supports the basis of this recommendation? If yes, please include it here.

12-46-109 (1) C.R.S. While creating no mandated outcome, SB 197 directs the working group to recommend “an implementation process for grocery and convenience stores to apply for a license to sell malt liquor and fermented malt beverages.”

11. Is the implementation of your recommendation dependent on another decision or action? If yes, specifically what actions or decisions are required before this recommendation can be implemented?

Requires legislation and supporting rulemaking. Working group would need to make some local determination of how to deal with on, off, and on/off premises licenses (i.e. how to create a distinction if deemed necessary)

12. Will the recommendation have a cost to implement? If yes, please explain the reason for the cost and provide an estimate.

Yes. State and local governments will have fiscal impacts that will need to be mitigated with appropriate license and application fees.

13. Provide an estimate of how long it would take to implement the recommendation.

Legislation, if so adopted, should have a safety clause. Actual implementation would take place between enactment and January 1, 2019.