



Senate Bill 16-197 Statutory Working Group Report: On the Transition to Higher-Strength Beer Sales in Grocery and Convenience Stores and Other Regulatory Changes to the Liquor Industry in Colorado

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Executive Summary

Senate Bill 16-197, signed into law by Governor Hickenlooper on June 10, 2016, made the most significant changes to the Colorado Beer and Liquor Codes, §12-46 and §12-47, C.R.S., respectively, since their codification in 1935 following the repeal of Prohibition in 1933. It addresses the regulation of retail sales of fermented malt beverages (FMB), malt liquor, wine, and spirits for off-premises consumption, and unifies the definitions of FMB and malt liquor effective January 1, 2019. Both are to be defined in their respective statutes on that date as containing not less than one-half percent alcohol by volume, with no upper limit on alcohol content. Thus SB 16-197 effectively removes the distinction between these two products and the limit on alcohol content that has been in place for FMB since 1935.

Duties of the SB 16-197 Working Group: To assist in managing this and other regulatory issues resulting from SB 16-197, the bill directed the State Licensing Authority to convene a liquor industry working group to undertake the following four duties:

- A. **Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.**
- B. **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.**
- C. **Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.**
- D. **Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.**

Working Group Composition: The composition of the SB 16-197 Working Group was defined in the bill to include persons from a variety of organizations and interests, including representatives from all three tiers of the three-tiered liquor distribution system in Colorado – manufacturing, distribution, and retail sales – as well as from various state and local governmental bodies, law enforcement agencies, community prevention groups, and members of the public. Thirty-one persons were appointed to the Working Group in July 2016 and the Liquor Enforcement Division convened nine meetings between August 1, 2016 and September 22, 2017. The meetings were open to the public and nearly 90 persons in addition to the Working Group members attended.

Recommendations: Working Group members submitted a total of 23 original recommendations. Through discussions at the Working Group meetings, some of the original recommendations were revised and re-submitted, some were consolidated, and some were withdrawn, leaving a final set of 12 recommendations containing 40 sub-recommendations. The Working Group voted on these recommendations and sub-recommendations during its final meeting on September 22, 2017, with Working Group members being given the choice of voting Yes, voting No, or taking no position on each item.

The recommendations thus represent the views and positions of the Working Group members who submitted them along with those who took a position on the recommendation and voted in favor, and do not represent the views of the entire Working Group, the Liquor Enforcement Division (except in the case of Recommendation 7 which it submitted), or the Colorado Department of Revenue.

The final recommendations and their background materials are presented in this report, which is hereby submitted to the Senate Business, Labor, and Technology Committee and the House of Representatives Business Affairs and Labor Committee. Following is a brief summary of these recommendations, the full text of which is presented in Chapter 7 of this report and in a quick reference guide provided in Appendix N. Full documentation about the work of the SB 16-197 Working Group and the full text of all original recommendations that were not subsequently withdrawn are available on the LED website.

A. Implementation Process for Grocery and Convenience Stores to Apply for a License: Three of the four recommendations in this category suggest implementation processes for existing 3.2% FMB Off-Premises retail licenses to be able to sell higher-strength beer starting January 1, 2019 and for new businesses to apply for a license to do so after that date.

Recommendation 1 suggests a procedure for “grandfathering in” existing licensees but specifies additional requirements for new licenses and those transfers of ownership starting January 2019.

Recommendation 2 suggests a process for local community members to petition for a local review to be conducted before a grocery or convenience store with a current license is allowed to sell higher-strength beer.

Recommendation 3 suggests a more extensive application process and requirements for both existing and new licenses.

Recommendation 4 suggests that no changes are needed for current licensees to sell higher-strength beer as of January 1, 2019.

B. Impact of Removing the Alcohol Content Limit:

Recommendation 5 suggests the simplification of the licensing process within a single tier for manufacturers, wholesalers, and importers that include both FMB and malt liquor in their product lines.

Recommendation 6 suggests that special attention be given to the effect of any recommendation in this report on the craft brewing industry in Colorado.

Two recommendations make suggestions regarding regulating the public consumption of FMB and malt liquor:

Recommendation 7 suggests that both be prohibited unless a local government specifically allows it, without making any changes to the prohibition of vinous and spirituous liquors.

Recommendation 8 suggests that all alcohol beverages, including FMB, malt liquor, vinous and spirituous liquors, be either prohibited or allowed without distinction.

C. Changes to Promote the Three-Tiered Liquor Distribution System:

Recommendation 9 suggests defining in the Colorado Liquor Rules when the manufacturing process for an alcohol beverage ends.

Recommendation 10 suggests implementing a comprehensive set of reporting requirements for carriers shipping alcohol beverage products into Colorado.

Recommendation 11 suggests an annual briefing to a legislative committee about the state of the three-tiered liquor distribution system in Colorado.

D. Tastings and Growlers at Retail Liquor Stores:

Recommendation 12 suggests a number of statutory and rule changes to update and streamline the laws and rules governing tastings at retail liquor stores and liquor-licensed drugstores. The Working Group decided to make no recommendation regarding expanding the sale of growlers to additional licensees than breweries, where these sales are currently allowed.

Voting Results and Comment Process: For all but three recommendations, a majority of the Working Group members took a position on the recommendation, but on average this majority was not

robust, with 62.6% of Working Group members, or about six in 10, taking a position on all the recommendations considered collectively. As such, very few recommendations were supported by a majority of the whole Working Group, whereas many were supported by a majority of those who took a position, but generally not by strong majorities. Full results of the voting are shown in the detailed presentations of the recommendations in Chapter 7 of this report, and for all recommendations in Appendix J.

The following factors contributed to these voting results:

- (1) The complexity and political nature of many of the issues assigned for the Working Group to discuss and make recommendations on.
- (2) The wide diversity of, and often competing, interests of the Working Group members, who represented many different parts of the alcohol beverage industry, as well as representatives from regulatory agencies, local government, law enforcement, and advocacy groups.
- (3) The fact that for some Working Group members it was challenging to take a position on the recommendations because their sector of the industry was not strongly affected by the issue at hand, or because taking a position might have required them to favor the interests of one type of industry member or business partner over another.

Given these limitations in the voting process, full information about all the final recommendations are included in this report regardless of the voting results, for the benefit of the General Assembly as it moves forward with decision-making about the issues identified. Additionally, Working Group members, other attendees, and members of the public were given the opportunity to submit written comments on any of the recommendations, in order to capture additional information for the General Assembly about the levels of support and dissent for the final recommendations. Comments were received from Working Group members only and are summarized in the tables of supporting, dissenting, and neutral comments in the detailed presentations of each recommendation in Chapter 7 of this report; they are also included in full in Appendix L.

Closing Thoughts: The Department of Revenue and the LED appreciate having had this opportunity to provide information to the General Assembly from this diverse group of stakeholders who participated on the SB 16-197 Working Group. The recommendations and their surrounding materials present multiple options for the General Assembly to consider when deciding how to manage the forthcoming transition to higher-strength beer sales in grocery and convenience stores in 2019 and other potential regulatory changes to the liquor industry in Colorado.

Some of the recommendations suggest alternative or even conflicting pathways for addressing the same issue, such as those related to managing the public consumption of FMB once the alcohol content limit is removed therefrom on January 1, 2019 and those related to developing an implementation process for grocery and convenience stores to apply for a license to sell higher-strength beer starting that date.

It will be important for the General Assembly to consider the information provided in this report, weigh the various options presented, and make important policy decisions regarding how to manage the more contentious issues identified by the Working Group. Clear direction on these issues will greatly assist the DOR, the LED, local licensing authorities, and law enforcement agencies to better prepare for the January 1, 2019 transition.

It is our hope that the findings and recommendations contained in this report will assist the General Assembly in making informed decisions related to changes in Colorado liquor policy in the forthcoming legislative session and beyond.

Acknowledgements

The Executive Director of the Colorado Department of Revenue and the Working Group Chairs would like to thank all of the members of the SB 16-197 Working Group for the considerable time and effort they put into the Working Group meetings and discussions, and in formulating and responding to the recommendations contained in this report.

We would also like to express our gratitude to Dr. Lisa McCann, CEO of CS Policy, for her skills and diligence in synthesizing the work of the Working Group and writing this report on behalf of the DOR.

Our thanks also go out to the following staff members who provided support to the Working Group and to the production of this report:

- Barbara Brohl, Executive Director of the Colorado Department of Revenue through July 31, 2017
- Cory Amend, Deputy Senior Director of the Enforcement Division, Colorado Department of Revenue
- Jacob Baus, Legal and Regulatory Analyst, Liquor Enforcement Division
- Sandra Lowman, Assistant to the Director, Liquor Enforcement Division
- Alan Call, Assistant Attorney General, Colorado Department of Law
- Lynda Atkins, former Assistant Attorney General, Colorado Department of Law
- Wendy Spaulding, Executive Assistant to the Senior Director of Enforcement, Colorado Department of Revenue

1. SB 16-197 and the Establishment of the Working Group

Senate Bill (SB) 16-197, signed into law by Governor Hickenlooper on June 10, 2016, made the most significant changes to the Colorado Beer and Liquor Codes, §12-46 and §12-47, C.R.S., respectively, since their codification in 1935 following the repeal of Prohibition in the U.S. Constitution in 1933.¹ It addresses the regulation of retail sales of fermented malt beverages (FMB), malt liquor, wine, and spirits for off-premises consumption.

FMB has been defined in the Colorado Beer Code, §12-46-103(1), C.R.S., until January 1, 2019, as containing not more than 3.2 percent alcohol by weight, and malt liquor has been defined in the Colorado Liquor Code, §12-47-103(19), C.R.S., as containing more than 3.2 percent alcohol by weight. SB 16-197 unified the definitions of FMB and malt liquor effective January 1, 2019, with both to be defined in their respective statutes as containing not less than one-half percent alcohol by volume (ABV) with no upper limit on alcohol content, effectively removing the distinction between these two products and the limit on alcohol content that has been in place for FMB since the creation of these codes in 1935.

SB 16-197 impacts all liquor licensees in Colorado, and particularly 3.2% FMB licensees, licensed retail liquor stores (RLS), and liquor-licensed drugstores (LLDS). In addition to changing the definitions of FMB and malt liquor, SB 16-197 made the following changes:

- Reduced the hours of operation during which FMB may be sold.
- Prohibited employees of certain alcohol beverage licensees who are under 21 from selling malt, vinous, or spirituous liquors.
- Allowed RLS's to sell a wider array of non-alcohol products, subject to a 20% limit on gross sales.
- Increased the number of licensed RLS and LLDS locations a person may hold, from a single licensed location prior to 2017 to the phase-in schedule listed in Table 1 by which existing licensees may acquire additional licenses, subject to new radius requirements and other conditions.²

¹ The production, importation, transportation, and sale of alcoholic beverages were prohibited by the 18th Amendment of the U.S. Constitution from 1920 to 1933. The 21st Amendment repealed the 18th Amendment and ended Prohibition on December 5, 1933.

² Additional RLS and LLDS licenses must meet the applicable distance restrictions from other retail licensees, and additional LLDS licenses may be acquired only if the current licensee purchases at least two existing RLS licenses, including all such licenses within the applicable distance radius from other retail licensees; the LLDS licensee must also apply to convert these RLS licenses into a LLDS license.

Table 1: Phase-In Schedule of RLS and LLDS Licenses Available to a Single Owner		
Dates	Maximum RLS Licenses	Maximum LLDS Licenses
01/01/2017 - 12/31/2021	2	5
01/01/2022 - 12/31/2026	3	8
01/01/2027 - 12/31/2031	4	13
01/01/2032 - 12/31/2036	4	20
01/01/2037 and thereafter	4	Unlimited

To assist in managing some of these major forthcoming transitions as a result of SB 16-197, Section 5 of the bill, §12-46-109(1), C.R.S., directed the State Licensing Authority to convene a liquor industry working group to undertake the following four tasks:

Duties of the SB 16-197 Working Group, §12-46-109(1), C.R.S.

- A. Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.**
- B. 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.**
- C. Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.**
- D. Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S. to sell growlers containing malt liquors.**

The text of SB 16-197, including Section 5 pertaining to the work of the SB 16-197 Working Group, is included in Appendix A. The Working Group was to start its work by August 1, 2016 and report its findings and recommendations by January 1, 2018 to the Senate Business, Labor, and Technology Committee and the House of Representatives Business Affairs and Labor Committee.

The Working Group was to have the following composition, listed in Table 2 below, with 33 members representing the indicated organizations or interests to be appointed by the Executive Director of the Colorado Department of Revenue (DOR).

Table 2: SB 16-197 Statutory Working Group Membership Requirements		
Type of Organization or Interest Represented:		No. of Members
a	Colorado Department of Revenue	1
b	Liquor Enforcement Division	1
c	Office of the Attorney General	1
d	Municipal Government	1
e	County Government	1
f	Community Prevention	1
g	Law Enforcement	1
h	Large Breweries	2
i	Small Breweries	2
j	National Distillery	1
k	Colorado Distillery	1
l	Retail Liquor Store Licensees, one of which must represent a small RLS licensee	3
m	Statewide Off-Premises Retail Licensee	1
n	Persons Licensed Under §12-47-411, C.R.S., Hotel and Restaurant License	2
o	Persons Licensed Under §12-47-412, C.R.S., Tavern License	1
p	Licensed Wholesalers	2
q	National Vinous Liquors Manufacturer	1
r	Colorado Vinous Liquors Manufacturer	1
s	Attorneys who Practice in the Area of Liquor Law and Regulation	2
t	Mothers Against Drunk Driving	1
u	Grocery Stores	2
v	Convenience Stores	2
w	Members of the Public	2
Total Prescribed Members		33

2. The Three-Tiered Liquor Distribution System in Colorado

One of the important tasks given to the SB 16-197 Working Group was to consider legislative, regulatory, or administrative changes that may be needed to promote the three-tiered liquor distribution system in Colorado. This system dates back to the end of the Prohibition era in Colorado, having been set up in the original 1935 codification of Colorado's liquor laws in the Beer Code, §12-46, C.R.S., and the Liquor Code, §12-47, C.R.S.

The three-tiered system largely divides the (1) manufacturing and importing, (2) wholesale distribution, and (3) retail sales of alcohol beverages into different regulatory structures, and with some exceptions disallows a person who owns or has a financial interest in a license from one tier to own or have a financial interest in a license from another tier.³ For example, persons with a financial interest in a licensed manufacturer or wholesaler may not have a financial interest in a licensed retailer, and retail licensees, with some exceptions, are required to purchase all alcohol beverages from licensed wholesalers.

Within each tier, licensees are generally allowed to hold an unlimited number of licenses, with the exception of RLS's and LLDS's. As mentioned above, these two types of licensees prior to 2017 were allowed to hold only one license each, but following the passage of SB 16-197 have been allowed to obtain additional licenses, subject to certain conditions and according to the phase-in schedule outlined in Table 1 above, which allows LLDS licenses to eventually be unlimited, whereas RLS licenses will be capped at four.

The three tiers are not entirely distinct, and some areas of crossover are statutorily allowed between them. Examples include but are not limited to the following:

- Persons with a financial interest in a licensed vinous or spirituous liquors manufacturer may hold a wholesale license for distributing this manufacturer's own products, but may not have a financial interest in a licensed wholesaler that sells other manufacturers' products.
- Persons with a financial interest in a beer manufacturer, whether for 3.2% FMB or malt liquor, may have a financial interest in a licensed wholesaler.
- Licensed manufacturers including Distilleries, Wineries, and Limited Wineries, as well as licensed Beer Wholesalers may have a limited number of sales rooms from which they may sell and serve alcohol beverages for consumption on the premises or in sealed containers for consumption off the premises, or both.
- On-Premises retail licensees such as Taverns and Hotel and Restaurant licensees may purchase a limited amount of alcohol annually from a RLS or LLDS licensee rather than from a licensed wholesaler.

³ This section was informed by the Colorado Legislative Council Staff Memorandum, "Overview of Colorado Liquor Licensing Law – 2017," Anna Gerstle and Luisa Altmann, Denver, CO, September 6, 2017, available at https://leg.colorado.gov/sites/default/files/update_2016_liquor_law_overview_memo_7142017.pdf.

Within this three-tiered system, there are over 40 types of liquor licenses and permits to address the specific types of activities related to the manufacture and importing, wholesale distribution, and retail sales of alcohol beverages in Colorado. Each unique location is required to have a separate license and/or permit to support its activities. While most licenses are either wholly or mainly concerned with activities within a single tier, several license types allow different types of smaller manufacturers to manufacture, distribute, and sell their products to customers under a single license.⁴

In Colorado, licenses are issued by the state licensing authority, the local (city or county) licensing authority, or both. Manufacturers, importers, and wholesalers apply directly to the state for approval of a license, while retail licenses must apply to both the state and the local licensing authorities.

⁴ These include brew pubs, distillery pubs, limited wineries, and vintner's restaurants.

3. Working Group Structure and Process

Following the passage of SB 16-197, the Executive Director of the DOR appointed the members of the SB 16-197 Working Group in July 2016. A list of appointed members is included in Appendix B. The LED was the convener of the Working Group and held nine meetings between August 1, 2016 and September 22, 2017. These meetings consisted of plenary sessions of the whole Working Group and sub-group meetings for three sub-groups that were formed to address the specific duties given to the Working Group under SB 16-197, with Working Group and sub-group meetings generally being held consecutively on the same day. The Director of the LED chaired the overall Working Group meetings and the chairs of the three sub-groups were assigned as follows:

SB 16-197 Working Group

Chair: Patrick Maroney, Director, Liquor Enforcement Division

Sub-Groups of the SB 16-197 Working Group:

1. **3.2% Beer Sub-Group** - Focused on making recommendations regarding the conversion from 3.2% to full-strength beer starting January 1, 2019
Chair: Patrick Maroney, Director, LED
2. **Three-Tier Sub-Group** - Focused on making recommendations regarding protecting and promoting the three-tiered liquor distribution system in Colorado
Chair: Ron Kammerzell, Senior Director of Enforcement through August 2017 and currently an Advisor to the Enforcement Division, DOR
3. **Tasting and Growlers Sub-Group** - Focused on making recommendations regarding the conduct of tastings and the sale of growlers containing malt liquor at retail liquor stores.
Chair: Donia Amick, Chief of Investigations, LED, who succeeded Lewis Koski, Deputy Senior Director of Enforcement, DOR through December 2016.

The Working Group and sub-group meetings were open to the public, and Working Group members as well as additional industry members, governmental staff, other interested persons attended and participated in discussions at both the plenary and sub-group levels. Nearly 90 persons who were not members of the Working Group attended meetings and are listed in Appendix C.

When discussions had sufficiently matured, Working Group members were invited to submit formal recommendations for the consideration of the Working Group, with two deadlines established for this purpose, an initial deadline of June 5 and a final deadline of August 10, 2017.

A total of 23 original recommendations were submitted by Working Group members. These were posted to the LED website, circulated to the Working Group and other persons registered for the SB 16-197 listserv, and discussed during the meetings.

Recommendations were submitted using a standard template provided by the LED and included in Appendix F. The template requested that Working Group members submit the following information for each recommendation:

- A statement of the recommendation
- The rationale for proposing the recommendation and what issues it is expected to resolve
- To which element of the Working Group’s mandate under SB 16-197 the recommendation applies
- References to any statutory authority or regulations supporting the recommendation
- Information about how stakeholders would be impacted by the recommendation
- An explanation of any dissenting views
- Information on decisions and actions that must be taken in order to implement the recommendation
- Information on the time and costs involved in implementing the recommendation

Following discussions in the Working Group, some of the original recommendations were revised and re-submitted, some were consolidated on the basis of their similar content, and some were withdrawn, leaving a final set of 12 recommendations containing 40 sub-recommendations, on which the Working Group voted during its last meeting on September 22, 2017. These 12 recommendations and their background materials are presented below.

Appendix E contains a summary of meetings and other key developments in the SB 16-197 Working Group process. Full documentation about Working Group and sub-group meetings, materials distributed to the Group, and the full text of the original recommendations that were not subsequently withdrawn are available on the LED website.⁵ Appendix G provides a list of all original recommendations and indicates which were consolidated, which were withdrawn, and the new numbers that were assigned to each of the 12 final recommendations during the formulation of this report.

⁵ LED website, “SB 16-197 Statutory Working Group” sub-site, <https://www.colorado.gov/pacific/enforcement/sb16-197-statutory-working-group>.

4. Consensus Not to Recommend Expansion of Growler Sales

One of the tasks of the Working Group under SB 16-197, Section 5, §12-46-109(1), C.R.S., was to examine and make recommendations regarding future laws that might govern the ability of RLS's, licensed under §12-47-407, C.R.S., to fill and sell growlers containing malt liquors. Although no recommendations regarding growler sales at RLS's are included in the set of recommendations of the Working Group members presented below, this section highlights for the benefit of the General Assembly some of the issues discussed by the Working Group and the complexities involved in expanding growler sales beyond breweries where they are currently allowed.

The Tastings and Growlers Sub-Group discussed extensively the possibility of growler sales in RLS's and how these might be managed. Some of the issues discussed included the following:

- Which party would be responsible for purchasing, maintaining, and ensuring the cleanliness of equipment used for filling growlers on site at RLS's, and which party should be responsible for the cost of labor involved.
- Whether or not refills should be allowed by a customer who brings in an empty growler.
- Whether a food license is required of a RLS in order to fill growlers on site, and which governmental entity would conduct inspections to ensure the health and safety of growler operations.
- How the quality and integrity of the malt liquor could be assured, which is of particular concern to the malt liquor manufacturers.
- How growlers should be positioned in the RLS's to control access and prevent on-site consumption, and who should be allowed to fill them.
- How growlers should be priced when they are sold in RLS's.
- The potential negative effects on business currently conducted by breweries at their on-site tasting and sales rooms, given that breweries have until now been the only type of licensee allowed to fill growlers on site; these challenges would be greatest for small breweries that do not sell packaged versions of their products and depend heavily on commerce from their on-site sales rooms.

Although it was not part of the Working Group's mandate to examine and make recommendations regarding the sale of growlers on the premises of licensees other than RLS's licensed under §12-47-407, C.R.S., it was discussed at length whether or not grocery stores, convenience stores, and Hotel and Restaurant licensees should also be allowed to sell growlers containing malt liquor. The same issues above regarding managing growler sales at RLS's were also discussed related to potential growler sales at these alternative types of licensed locations.

Although it was not part of the Working Group's mandate to examine and make recommendations regarding the sale of growlers of any alcohol beverage other than malt liquor, it was also briefly discussed whether RLS's should be allowed to sell growlers containing wine.

After much discussion, the representatives of RLS's on the Working Group withdrew their pursuit of a recommendation related to the sale of growlers at RLS's in Colorado, citing agreements made during the negotiations surrounding SB 16-197 that growlers were to have been a form of compensation to RLS's in particular for the significant loss of business they will experience with the sale of higher-strength, packaged malt liquor at grocery and convenience stores starting January 1, 2019.

Given the many license types vying for the sale of growlers and that it was not part of the Group's mandate to make recommendations regarding the sale of growlers at the premises of licensees other than RLS's, nor about growlers containing wine, the Working Group came to a consensus not to offer any recommendations regarding expanding the sale of growlers to additional licensees than breweries, where these sales are currently allowed.

5. Summary of the Recommendations of the Working Group

Table 3 below lists the titles of the 12 final recommendations and 40 sub-recommendations submitted by SB 16-197 Working Group members for the consideration of the General Assembly, sorted according to where they best fit relative to the four duties assigned to the Working Group. Brief summaries of the recommendations are presented below, while a full presentation of the recommendations is included in Chapter 7 and includes the full text, submitting organizations, voting results, background materials, and comments from other Working Group members for each recommendation. The full text of all recommendations is also provided in Appendix N.

The text and background materials of all recommendations represent the views of the Working Group members and organizations that submitted them and not the views of the entire Working Group, the LED except for Recommendation 7 which it submitted, or the DOR.

Table 3: List of Final Recommendations, SB 16-97 Working Group

Rec.	Sub-Rec.	Name
A. Implementation Process for Grocery and Convenience Stores to Apply for a License		
1.1-1.3		Aligning Requirements between Licenses in §12-46 and §12-47, C.R.S.
	1.1	Provisions for Existing Off-Premises and On-and-Off Premises FMB Licenses on December 31, 2018
	1.2	Provisions for New FMB Licenses On or After January 1, 2019
	1.3	Provisions for the Transfer of Ownership of Existing FMB Licenses after January 1, 2019
2.0		Local Review Process for Existing 3.2% FMB Licensees to Sell Higher-Strength Beer
3.1-3.2		Application Process for Grocery and Convenience Store Malt Liquor License
	3.3.1	Application Processing Time
	3.3.2	Survey and Needs and Desires Hearing
	3.3.3	No Modification of Premises
	3.3.4	Transition of Current On-and-Off Premises Licenses
	3.3.5	Distance from Schools
	3.3.6	Distance from Retail Liquor Licensed Premises
	3.3.7	Separation of Inventories
	3.3.8	Age of Employees
	3.3.9	ABV Limitation
	3.3.10	Refrigeration Requirement
	3.3.11	Limitation on Refrigerated Beverage Retail Space
	3.3.12	Separation of Malt Liquor and Non-Alcohol Products
	3.3.13	No Sales of Alcohol-Branded Merchandise
	3.3.14	No Sales of Home Brew or Winemaking Equipment
	3.3.15	No Sales Below Invoice Cost
	3.3.16	No Point of Sale (POS) Marketing or Sales of Malt Liquor Products
	3.3.17	Only 6- and 12-Packs Allowed
	3.3.18	Compliance with Other Malt Liquor License Requirements
4.0		No Substantial Statutory Changes or New Licensing Requirements Needed to Manage the Transition to Higher-Strength Beer Sales

Table 3: List of Final Recommendations, SB 16-97 Working Group (continued)

Rec.	Sub-Rec.	Name
B. Impact of Removing the Alcohol Content Limit on FMB		
5.0		Single License for FMB and Malt Liquor
6.0		Review of Recommendations for their Impact on the Craft Brewing Industry
7.0		Prohibiting Public Consumption of FMB and Malt Liquor
8.0		Prohibiting or Allowing the Public Consumption of All Alcohol Beverages
C. Legislative, Regulatory, or Administrative Changes to Promote the Three-Tiered System		
9.0		Defining When the Manufacturing Process Ends
	9.0.1	Option 1: Manufacturing Ends When Beverage has been Released from Bonded Warehouse or Bonded Premises and Placed in Commerce
	9.0.2	Option 2: Manufacturing Ends when Product is Bottled or Packaged so as to be Legally Sold to a Consumer and is Ready to be Placed in Commerce
10.0		Reporting Requirements for Carriers Shipping Alcohol into Colorado
11.0		Annual Briefing on the Three-Tiered System in Colorado
D. Tastings and Growlers at Retail Liquor Stores		
12.1-12.6		Statutory and Rule Changes Regarding Tastings at Retail Liquor Stores
	12.1	Timing and Annual Limit for Tastings
	12.2	Storing Unconsumed Alcohol Beverage Samples in a Locked, Secure Area on the Licensed Premises
	12.3	Allowing Supplier Representatives to Pour Alcohol Products under the Supervision of RLS or LLDS Employees
	12.4	RLS or LLDS Licensees Solely Responsible for Administrative Violations
	12.5	Supplier Pouring at Sampling and Tasting Events not a “Cost of Labor”
	12.6	Clarification Regarding RLS or LLDS Financial Responsibility for a Tasting

A. Implementation Process for Grocery and Convenience Stores to Apply for a License

Four recommendations are presented related to the first task of the Working Group, to develop an implementation process for grocery and convenience stores to apply for a license to sell FMB and malt liquor containing at least 0.5% ABV starting January 1, 2019. These include three recommendations envisioning processes for existing 3.2% FMB Off-Premises retail licenses to be able to sell higher-strength beer starting on January 1, 2019 and for new businesses to apply for a license to do so after that date, and one recommendation suggesting that no changes are needed for current licensees to sell higher-strength beer as of January 1, 2019.

Recommendation 1.1 suggests that all existing Off-Premises and On-and-Off Premises FMB licenses be “grandfathered in” on January 1, 2019 to allow them to sell higher-strength beer as of that date. **Recommendation 1.2** suggests that those applying for new FMB licenses on or after that date would be subject to new requirements to bring these licenses, which will remain under the Colorado Beer Code, §12-46, C.R.S., into closer alignment with requirements for malt liquor licenses in the Colorado Liquor Code, §12-47, C.R.S. **Recommendation 1.3** suggests that, in the

event of a transfer of license after January 1, 2019, the local licensing authorities should have the option to impose the same new restrictions as for new FMB licenses.

Recommendation 2.0 suggests that a process be put into place to allow local community members to petition for a local review before a grocery or convenience store with a current 3.2% FMB license is allowed to sell higher-strength beer.

Recommendations 3.1 and 3.2 suggest an application process for grocery and convenience stores to acquire a new type of license to sell higher-strength beer starting January 1 2019.

Recommendation 3.3 lists out the requirements for this new license type, which differ in some respects for existing 3.2% FMB licenses on January 1, 2019 and new applicants starting that date. Existing licensees would enjoy expedited processing of their applications and would not be required to go through a local "Needs and Desires" hearing unless there were a major modification of premises, but would otherwise be subject to the same requirements as new applicants for this new license type. Working Group members were given the option to vote either on Recommendation 3.1 to agree or disagree with all license requirements listed in 3.3, or on Recommendation 3.2 to vote individually on each of the license requirements.

Recommendation 4.0 suggests that no substantial changes or restrictions, nor any new license, be required before allowing existing FMB licensees on January 1, 2019 to sell higher-strength beer.

B. Impact of Removing the Alcohol Content Limit on FMB

Four recommendations are presented related to the second task of the Working Group, to analyze the impact that removing the ABV limit on FMB will have on the alcohol beverage industry as a whole, as well as on current retail licensees. One recommendation suggests the simplification of the licensing process for manufacturers, wholesalers, and importers that include both FMB and malt liquor in their product lines. One recommendation suggests that special attention be given to the effect of any recommendation in this report on the craft brewing industry in Colorado.

Two recommendations make suggestions regarding the public consumption of FMB and malt liquor, with one suggesting that the public consumption of both be prohibited unless a local government specifically allows it, and the other suggesting that the public consumption of all alcohol beverages be either prohibited or allowed without distinction.

Recommendation 5.0 suggests that a manufacturer, wholesaler, or importer be allowed to have a single license to produce, distribute, or import, respectively, both FMB and malt liquor, with the understanding that the single license applies for activities within a single tier within the three-tiered liquor distribution system.

Recommendation 6.0 suggests that the recommendations in this report be evaluated for their potential positive or negative impact on the craft brewing industry in Colorado.

Recommendation 7.0 suggests that the public consumption of both FMB and malt liquor be prohibited starting January 1, 2019 unless a local government or state entity specifically allows it, while the current prohibition on vinous and spirituous liquors should be maintained.

Recommendation 8.0 suggests that the public consumption of all alcohol beverages, including FMB, malt liquor, vinous liquor, and spirituous liquor, be either (1) prohibited unless a local government or state entity specifically allows it, or (2) allowed without distinction.

C. Legislative, Regulatory, or Administrative Changes to Promote the Three-Tiered System

Three recommendations are presented related to the third task of the Working Group, to suggest legislative, regulatory, and administrative changes to promote the three-tiered liquor distribution system in Colorado. One recommendation suggests formally defining when the manufacturing process for an alcohol beverage ends, one suggests implementing a comprehensive set of reporting requirements for carriers shipping alcohol beverage products into Colorado, and one suggests an annual briefing about the state of the three-tiered system in Colorado.

Recommendation 9.0 suggests specifying in the Colorado Liquor Rules, 1 C.C.R. 203-2, when the manufacturing process for an alcohol beverage product ends, and gives two options for this definition. One option ties the end of the manufacturing process to the product being released from the licensee's own federally bonded premises and placed in commerce, and the other ties it to the product being bottled or packaged in such a way that it could be legally sold to a consumer, and to the product being placed into commerce.

Recommendation 10.0 suggests that a set of comprehensive reporting requirements be adopted for all carriers bringing, carrying, or transporting beer, wine, or spirits into Colorado from outside the state for delivery to consumers inside the state.

Recommendation 11.0 suggests that the LED provide an annual briefing to the Joint House and Senate Business Committee about the state of the three-tiered system in Colorado and how well this system is being protected and promoted, to include an assessment of how any proposed changes in the Colorado Beer or Liquor Codes, §12-46 and §12-47, C.R.S., respectively, and to the Colorado Liquor Rules, 1 C.C.R 203-2, would promote and protect this system.

D. Tastings and Growlers at Retail Liquor Stores

One recommendation is presented related to the fourth task of the Working Group, to examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of RLS's to sell growlers containing malt liquors. Recommendation 12 suggests a number of statutory and rule changes to update and streamline the laws and rules governing tastings.

As discussed above, the Working Group came to a consensus regarding growlers, namely that it would make no recommendations regarding expanding the sale of growlers to additional licensees than breweries, where these sales are currently allowed. As such, no recommendations regarding growler sales at RLS's were presented.

Recommendations 12.1-12.6 suggest the following changes to the laws and rules governing tastings at RLS's and LLDS's, namely that:

Recommendation 12.1 - The allowable days and hours for tastings should be expanded.

Recommendation 12.2 - Retail licensees should be allowed to store open and unconsumed products from a tasting in a locked and secure area on the licensed premises for use at a later tasting.

Recommendation 12.3 - Supplier representatives⁶ should be allowed to pour products during a tasting under the supervision of retail licensee employees.

Recommendation 12.4 - The retail licensee should be solely liable for the conduct and supervision of the tasting, and for any administrative violations incurred by either the retailer or the supplier during a tasting.⁷

Recommendation 12.5 - A supplier pouring products at a tasting should not be considered as a "cost of labor" provided by a supplier to a retailer under 1 C.C.R. 203-2, Regulation 47-322(L)(3).

Recommendation 12.6 - The retail licensee should bear the financial and all other responsibility for a tasting.

⁶ The term "supplier" in Sub-recommendations 12.3-12.5 refers to a licensed Manufacturer.

⁷ An important dissenting comment was registered for this recommendation from the LED, given that if implemented, the recommendation would contradict current law that holds any licensee administratively responsible for its own employees' or agents' actions, and would serve as a disincentive for the supplier to be a responsible steward in the distribution of alcohol. See the LED dissenting comment to this recommendation in the detailed presentation of the recommendation in Chapter 7 and in the LED comment set provided in Appendix L.

6. Summary of the Voting Results

A vote was taken on each recommendation and sub-recommendation at the final meeting of the Working Group on September 22, 2017, with Working Group members being given the choice of voting Yes, voting No, or taking No Position on each item.⁸ A summary of voting results is provided in Table 4 below and full voting results are shown immediately following the text of each recommendation in Chapter 7, and for all recommendations in Appendices I (Simple Vote Count) and J (Complete Voting Results).

Limitations of the Voting Process and Augmenting this Process

The following factors placed limitations on the voting process and should be taken into account when considering the voting results:

- (1) The complexity and political nature of many of the issues assigned for the Working Group to discuss and offer recommendations on.
- (2) The wide diversity of, and often competing, interests of the Working Group members, who represented many different parts of the alcohol beverage industry as well as representatives from regulatory agencies, local government, law enforcement, and advocacy groups.
- (3) The fact that some Working Group members found it challenging to take a position on the recommendations because their sector of the industry was not strongly affected by the issue at hand, for example representatives of on-premises licensees and of the wine industry. Others found it challenging to take a position because to do so might have required them to favor the interests of one type of industry member or business partner over another, for example representatives from DOR, LED, and licensed wholesalers.

Given these factors, not taking a position on a recommendation should not be interpreted as a lack of participation on the part of the Working Group members, who were active and engaged in discussions about the issues and recommendations throughout the Working Group process.

Given these limitations on the voting process, all final recommendations of the Working Group members and their surrounding materials are included in this report regardless of the voting results, for the benefit of the General Assembly as it moves forward with decision-making about the transition to higher-strength beer sales in grocery and convenience stores starting January 1, 2019 and other regulatory changes to the liquor industry in Colorado.

Additionally, Working Group members, other attendees, and members of the public were given the opportunity to submit written comments on the recommendations, to capture additional

⁸ See Appendix H for the instructions sent out to all Working Group members on September 14, 2017, in advance of the vote to be taken at the Working Group meeting on September 22, 2017.

information for the General Assembly about the levels of support and dissent for the recommendations. Comments from a single individual or organization on all recommendations were to be consolidated into a single written submission, not to exceed two pages in length.⁹

Eleven sets of comments were received by Working Group members and none were received by other industry members or members of the public. These comments are summarized in the tables of supporting, dissenting, and neutral comments in the detailed presentations of each recommendation in Chapter 7, and are included in full in Appendix L.

Several written comments were also received throughout the SB 16-197 Working Group process prior to voting on the recommendations. These comments are included in Appendix K.

Table 4: Summary of Voting Results¹⁰

Rec. #	Short Title	Yes		No		Sub-Total		No Position		Total	
		#	% of Position	% of All	#	% of Position	% of All	#	% of All	#	% of All
1.1	Provisions for Existing FMB Licenses on 12/31/18	9	60.0	29.0	6	40.0	19.4	15	48.4	16	51.6
1.2	Provisions for New FMB Licenses On/After 1/1/19	8	42.1	25.8	11	57.9	35.5	19	61.3	12	38.7
1.3	Transfer of FMB Licenses After 1/1/19	9	45.0	29.0	11	55.0	35.5	20	64.5	11	35.5
2.0	Local Review Process to Transition FMB Licenses	5	29.4	16.1	12	70.6	38.7	17	54.8	14	45.2
3.1-3.2 ¹¹	Application Process for GCSML License	4	16.7	12.9	20	83.3	64.5	24	77.4	7	22.6
4.0	No New Requirements for Higher-Strength Beer	13	59.1	41.9	9	40.9	29.0	22	71.0	9	29.0
5.0	Single License for FMB and Malt Liquor	17	81.0	54.8	4	19.0	12.9	21	67.7	10	32.3
6.0	Review for Impact on Craft Brewing Industry	7	38.9	22.6	11	61.1	35.5	18	58.1	13	41.9

⁹ These instructions for consolidating comments into a single set were given verbally at the Working Group meeting on September 22, 2017, and differ somewhat from those sent out in advance of the meeting and included in Appendix H.

¹⁰ Thirty-one of the 33 Working Group members were present at the Working Group meeting of September 22, 2017, when the Group voted on the recommendations.

¹¹ Results are consolidated here for Sub-recommendations 3.1 and 3.2 given that all Working Group members voted using one or the other, and that the two differed only in that voting for Sub-recommendation 3.2 allowed for specific voting on the license requirements listed in Sub-recommendation 3.3. See detailed voting results for these sub-recommendations in Chapter 7 and Appendices I and J.

7.0	Prohibit Public Consumption of Beer	14	63.6	45.2	8	36.4	25.8	22	71.0	9	29.0	31
Table 4: Summary of Voting Results (continued)												
Rec. #	Short Title		Yes			No		Sub-Total		No Position		Total
		#	% of Position	% of All	#	% of Position	% of All	#	% of All	#	% of All	#
8.0	Prohibit or Allow Public Consumption of All	10	52.6	32.3	9	47.4	29.0	19	61.3	12	38.7	31
9.0¹²	Defining When Manufacturing Ends	10	100.0	32.3	0	0.0	0	10	32.3	21	67.7	31
10.0	Reporting Requirements for Shipments into CO	12	85.7	38.7	2	14.3	6.5	14	45.2	17	54.8	31
11.0	Annual Briefing on the Three-Tiered System	7	36.8	22.6	12	63.2	38.7	19	61.3	12	38.7	31
12.1	Timing and Annual Limit for Tastings	19	90.5	61.3	2	9.5	6.5	21	67.7	10	32.3	31
12.2	Storing Unconsumed Samples on Premises	17	94.4	54.8	1	5.6	3.2	18	58.1	13	41.9	31
12.3¹³	Allowing Suppliers to Pour Alcohol Products	21	91.3	67.7	2	8.7	6.5	23	74.2	8	25.8	31
12.4¹⁴	RLS or LLDS Responsible for Violations	20	83.3	64.5	4	16.7	12.9	24	77.4	7	22.6	31
12.5	Supplier Pouring Not a “Cost of Labor”	19	95.0	61.3	1	5.0	3.2	20	64.5	11	35.5	31
12.6	RLS or LLDS Financially Responsible for Tastings	21	91.3	67.7	2	8.7	6.5	23	74.2	8	25.8	31
Averages		13	66.1	41.1	7	33.9	21.6	19	62.6	12	37.4	31

Taking a Position

For all but three recommendations, a majority of the Working Group members took a position on the recommendation, but in most cases this majority was not robust, with an average of 62.6% of

¹² An auxiliary vote was also taken among those who took a position on this recommendation and voted Yes, to specify their preferences for the two options given for defining the end of the manufacturing process (Sub-recommendations 9.0.1 and 9.0.2). See detailed voting results for this auxiliary vote in Chapter 7 and Appendices I and J.

¹³ The term “supplier” in Sub-recommendations 12.3-12.5 refers to a licensed Manufacturer.

¹⁴ Although a majority of the Working Group members took a position on and supported this recommendation, an important dissenting comment was registered from the LED, given that if implemented, the recommendation would contradict current law that holds any licensee administratively responsible for its own employees’ or agents’ actions, and would serve as a disincentive for the supplier to be a responsible steward in the distribution of alcohol. See the LED dissenting comment to this recommendation in the detailed presentation of the recommendation in Chapter 7 and in the LED comment set provided in Appendix L.

Working Group members taking a position on all the recommendations considered collectively (see Table 4 above). Thus for the valid reasons mentioned above, only about six out of 10 Working Group members actively participated in decision-making about the recommendations.

Following are the recommendations for which the greatest number of Working Group members took a position:

Recommendation 12.4 related to the retail licensee taking sole responsibility for tastings (77.4%).

Recommendations 3.1 and 3.2 related to a new license type for grocery and convenience stores to sell higher-strength beer (77.4%).

Recommendation 12.3 related to allowing suppliers to pour products during tastings (74.2%).

Recommendation 12.6 related to the retail licensee taking full financial responsibility for tastings (74.2%).

For the following three recommendations, less than half the Working Group members took a position:

Recommendation 9.0 related to defining the end of the manufacturing process (32.3%).

Recommendation 10.0 related to implementing comprehensive reporting requirements for carriers bringing alcohol beverage products into Colorado (45.2%).

Recommendation 1.1 related to provisions for current 3.2% FMB licenses as of December 31, 2018 to sell higher-strength beer starting January 1, 2019 (48.4%).

Majorities of the Whole Working Group

Given the extent to which Working Group members refrained from taking a position on the recommendations, very few recommendations were supported by a majority of the whole Working Group.

Only **Recommendations 12.1 - 12.6** related to statutory and rule changes regarding tastings at RLS's were supported by a majority of the whole Working Group, with the following recommendations having the strongest majorities of the whole in favor:

Recommendations 12.3 related to suppliers being allowed to pour products during tastings (67.7% of the whole supported).

Recommendation 12.6 related to the retailer being financially responsible for tastings (67.7% of the whole supported).

Recommendation 12.4 related to the retailer rather than the supplier being responsible for administrative violations during tastings (64.5% of the whole supported).

Only one recommendation was opposed by a majority of the whole Working Group, namely the consolidated results for **Recommendations 3.1 and 3.2** related to a new license type for grocery and convenience stores to sell higher-strength beer (**64.5%** of the whole opposed).

Majorities of Those Who Took a Position

Many of the recommendations were supported by a majority of those Working Group members who took a position, but these results must be considered in tandem with the rate by which members of the Working Group as a whole took a position. The strongest majorities among those who took a position were for the following recommendations:

Recommendation 9.0 related to defining when the manufacturing process of an alcohol beverage product ends (**100.0%** of those who took a position supported, but only **32.3%** took a position).

Recommendation 12.5 related to a supplier pouring alcohol beverage products not being considered a “cost of labor” in the Colorado Liquor Rules, 1 C.C.R 203-2 (**95.0%** of those who took a position supported, and **64.5%** took a position).

Recommendation 12.2 related to allowing retailers to store unconsumed alcohol beverage product samples in a locked, secure area on the premises for future tastings (**94.4%** of those who took a position supported, and **58.1%** took a position).

Recommendation 12.3 related to suppliers being allowed to pour products during tastings (**91.3%** of those who took a position supported, and **74.2%** took a position).

Recommendation 12.6 related to retailers being financially responsible for tastings (**91.3%** of those who took a position supported, and **74.2%** took a position).

Five recommendations were opposed by a majority of the Working Group members who took a position, and these too must be considered in tandem with the rate by which members of the Working Group as a whole took a position. The strongest opposition among those who took a position was for the following recommendations:

Recommendations 3.1 - 3.2 related to a new license type for grocery and convenience stores to sell higher-strength beer (**83.3%** of those who took a position opposed, and **77.4%** took a position).

Recommendation 2.0 related to instituting a local review process to transition 3.2% FMB licenses (**70.6%** of those who took a position opposed, and **54.8%** took a position).

Recommendation 11.0 related to instituting an annual briefing on the three-tiered liquor distribution system in Colorado (**63.2%** of those who took a position opposed, and **61.3%** took a position).

7. Recommendations Submitted by the Working Group Members

Format of the Recommendations

The detailed presentations below of the 12 final recommendations and 40 sub-recommendations of the Working Group members contain the following elements:

- **Text of the Recommendation and Submitting Organization(s)**
- **Duties of the SB 16-197 Working Group to which the Recommendation Applies**
- **Voting Results**
- **Background Materials for the Recommendation**
- **Implementing Authorities for the Recommendation**
- **Supporting, Dissenting, and Neutral Comments From Other Working Group Members**

The text and background materials of all recommendations represent the views of the Working Group members and organizations that submitted them and not the views of the entire Working Group, the LED (except for Recommendation 7 which it submitted), or the DOR.

A quick reference guide to the text and implementing authorities for all recommendations is provided in Appendix N.

Text of the Recommendation and Submitting Organization(s)

The text of the recommendations, upon which votes were taken, was adapted from the original recommendation templates submitted by the Working Group members and organizations that submitted them.¹⁵ In some cases the text of the recommendation was developed by consolidating multiple original recommendations that were very similar to one another. The text of all final recommendations was submitted to the Working Group members on September 14, 2017, in preparation for voting.

¹⁵ These templates are available on the LED website, “SB 16-197 Statutory Working Group” sub-site, <https://www.colorado.gov/pacific/enforcement/sb16-197-statutory-working-group>.

Duties of the SB 16-197 Working Group to which the Recommendation Applies

The tables just below the text of the recommendations identify which of the four duties given to the Working Group in SB 16-197, §12-46-109 (1) C.R.S., the recommendation fulfills. In some cases the recommendation fulfills more than one of these duties.

Voting Results

A vote was taken on each recommendation and sub-recommendation at the final meeting of the Working Group on September 22, 2017, with Working Group members being given the choice of voting Yes, voting No, or taking No Position on the recommendation.¹⁶ **The text of each recommendation thus represents the views of the Working Group members and organizations that submitted them, along with those who took a position on the recommendation and voted in favor.**

Detailed results of the voting for each recommendation are presented below. Consolidated results of the voting for all recommendations are presented in Table 4 above and Appendices I (Simple Vote Count) and J (Complete Voting Results).

Background Materials for the Recommendation

The following background materials are included with each recommendation, based on information provided on the original recommendation templates by the Working Group members and organizations that submitted them:

- **Submitter's Rationale for the Recommendation and the Issues it is Expected to Resolve:** Presents the Submitter's rationale for the recommendation, why it is important, and what issues it is expected to resolve.
- **Submitter's Assessment of the Stakeholders Impacted by the Recommendation:** Presents the Submitter's assessment of what stakeholders would be positively or negatively impacted by the recommendation, and how they would be impacted.
- **Statutory Authority or Regulations Supporting the Recommendation:** Contains references to statutes and rules of relevance to the recommendation or its rationale.

As with the text of the recommendations, in some cases the background materials from multiple recommendation templates have been merged when recommendations were very similar to one another and were consolidated for voting. **The background materials for each recommendation represent the views of the Working Group members and organizations that submitted them.**

¹⁶ See Appendix H for the instructions that were sent out to all Working Group members on September 14, 2017, in advance of the vote to be taken at the Working Group meeting on September 22, 2017.

Implementing Authorities for the Recommendation

The authorities that are expected to play a role in implementing the recommendation are listed, based on information provided by the Working Group members that submitted them, as well as an assessment by the LED and the DOR.

Supporting, Dissenting, and Neutral Comments from Other Working Group Members

As discussed in the Summary of Voting Results above, many Working Group members refrained from taking a position on the recommendations and few recommendations were supported by a majority of the whole. To capture additional information for the General Assembly about the levels of support and dissent for the recommendations, Working Group members, other attendees, and members of the public were given the opportunity to submit formal written comments on the recommendations.

Eleven sets of comments were received by Working Group members only, and these are summarized in the tables of supporting, dissenting, and neutral comments that follow the recommendations below. Comments within each category are presented in alphabetical order by the name of the organization that submitted them. Full original versions of the comments are included in Appendix L.

Several written comments were also received throughout the SB 16-197 Working Group process prior to voting on the recommendations. These comments are included in Appendix K.

A. Implementation Process for Grocery and Convenience Stores to Apply for a License

Recommendation 1: Aligning Requirements between Licenses in §12-46 and §12-47, C.R.S.

Submitted By: Colorado Municipal League

1.1 Provisions for Existing Off-Premises and On-and-Off Premises FMB Licenses on December 31, 2018:

- a. The General Assembly should outline in statute that all existing Off-Premises and On-and-Off Premises Fermented Malt Beverage (FMB) licenses at December 31, 2018 are to be honored as current, active licenses on January 1, 2019 and that these licensees will be allowed to sell both FMB and malt liquor, as these products are to be statutorily defined starting on January 1, 2019, without any requirement to obtain a new license and without having to meet any new distance requirements from other licensees and schools as may be required for new FMB licenses issued on or after January 1, 2019.
- b. These “grandfathered” FMB licenses will be subject to all applicable laws and rules, and shall remain exempt from the new distance requirements as long as the same ownership is maintained.

1.2 Provisions for New FMB Licenses Issued On or After January 1, 2019:

- a. The General Assembly should enact legislation to impose a moratorium on the issuance of any new FMB licenses starting July 1, 2018 and continuing through December 31, 2018, but should allow the governing bodies of municipalities and counties to adopt local moratoria starting at an earlier or later date if they so choose.
- b. Given that FMB and malt liquor will be statutorily synonymous as of January 1, 2019, the General Assembly should revise the following FMB license requirements in the Colorado Beer Code, §12-46, C.R.S., to be more consistent with the requirements for alcohol beverage licenses in the Colorado Liquor Code, §12-47, C.R.S. for all FMB licenses issued on or after January 1, 2019:
 - i. New FMB licenses should be subject to the same distance restrictions from other FMB licensees and alcohol beverage licensees as is stipulated for alcohol beverage licenses in §12-47, C.R.S. Namely, any new FMB license issued on or after January 1, 2019 should be located at least one thousand five hundred feet from another FMB license or premises licensed under §12-47, C.R.S. For a new FMB license located in a municipality with a population of ten thousand or fewer, the minimum distance should be three thousand feet. See §12-47-301(12)(a), §12-47-407(1)(a)(II), and §12-47-408(1)(a)(I).
 - ii. New FMB licenses should be subject to the same distance restrictions from schools as for alcohol beverage licenses in §12-47, C.R.S. Namely, any new FMB license issued on or after January 1, 2019 should be located at least five hundred feet from any public or parochial school or the principal campus of any college, university, or seminary, but the local licensing authority or governing bodies of a city or county may reduce or eliminate these distance restrictions or one or more types of schools or campuses from the application of the distance restriction. See §12-47-313(d).
 - iii. New FMB licenses may be denied if the local licensing authority determines that the issuance of the new license would result in or add to an undue concentration of FMB licenses or of a combination of FMB and other alcohol beverage licenses issued under §12-47, C.R.S. See §12-47-301(b).

1.3 Provisions for the Transfer of Ownership of Existing FMB Licenses after January 1, 2019:

In the event of an application after January 1, 2019 to transfer ownership of an FMB license that existed prior to January 1, 2019, the local licensing authority shall have the option to impose the same distance restrictions from other licensees and schools as for new FMB license applicants, and to deny the transfer of the license if the local licensing authority determines that the transfer would result in or add to an undue concentration of licenses.

Duties of the SB 16-197 Working Group to which the Recommendation Applies		
A.	Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.	✓
B.	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.	
C.	Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.	
D.	Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.	

Voting Results													
Summary:													
Rec. 1.1: Just over half of the Working Group members (16, 51.6%) chose not to take a position on this recommendation regarding “grandfathering in” of existing 3.2% FMB licenses. Of those who took a position, a majority (60%) voted in favor.													
Rec. 1.2: A majority of Working Group Members (61.3%) took a position on this recommendation regarding managing new FMB licenses starting January 1, 2019. Of those who took a position, a majority (57.9%) voted against the recommendation.													
Rec. 1.3: A majority of Working Group Members (64.5%) took a position on this recommendation regarding transfer of ownership after January 1, 2019. Of those who took a position, a majority (55.0%) voted against the recommendation.													
Rec. No.	Yes			No			Sub-Total, Position			No Position		Total	
	#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All
1.1	9	60.0	29.0	6	40.0	19.4	15	100.0	48.4	16	51.6	31	100.0
1.2	8	42.1	25.8	11	57.9	35.5	19	100.0	61.3	12	38.7	31	100.0
1.3	9	45.0	29.0	11	55.0	35.5	20	100.0	64.5	11	35.5	31	100.0

Submitter's Rationale for the Recommendation and Issues it is Expected to Resolve

This recommendation recognizes that SB 16-197 did anticipate an application process for grocery and convenience stores to be able to sell FMB and malt liquor containing at least one-half percent ABV starting on January 1, 2019. However, it allows for current 3.2% FMB licensees to begin these sales directly on January 1, 2019 without having to obtain a new license or meet any new distance limitations from other licensees or schools that may be imposed for new FMB licenses issued on or after January 1, 2019.

There is no indication in SB 16-197 that a lawfully operating 3.2% FMB licensee would be required to surrender a valid, existing license that has been duly issued by the local and state licensing authorities, and to apply for an entirely new license, nor that all existing 3.2% FMB licenses would be reviewed prior to allowing the license holders to sell higher-strength beer starting January 1, 2019. Such requirements would impose an undue burden on local licensing authorities, and would constitute an unfunded mandate.

This recommendation allows for existing 3.2% FMB licensees whose licenses were issued prior to January 1, 2019 to be “grandfathered in,” regardless of their location relative to other licensees or schools, and allows these licensees to sell FMB and malt liquor as these are to be defined starting January 1, 2019, that is with alcohol content of 0.5% ABV or higher. They may continue to renew these licenses as long as they continue to comply with all other existing laws and regulations, and as long as they maintain ownership of the business.

To recognize the fact that FMB licensees will be allowed to sell a higher-strength product as of January 1, 2019, new applicants for FMB licenses as of that date would be subject to the same distance restrictions from other FMB and alcohol beverage licensees and schools as is required for current RLS and LLDS licenses in §12-47, C.R.S.

To prevent a rush of applicants wishing to avoid the new distance restrictions or possible denial by local licensing authorities due to an undue concentration of FMB or and/or other liquor licensees, this recommendation includes a moratorium on new 3.2% FMB licenses from July 1, 2018 through December 31, 2018, but allows local governments to impose a more restrictive local moratorium that could begin at an earlier date.

This recommendation resolves the challenge created by SB 16-197 about how to establish a licensing process as envisioned in the bill while simultaneously allowing current 3.2% FMB licensees to smoothly transition to higher-strength beer sales on January 1, 2019.

By keeping the FMB licensing process within the Colorado Beer Code, §12-46, C.R.S., after January 1, 2019, this recommendation alleviates potential complications that could arise if a new FMB license were to be created within the Colorado Liquor Code, §12-47, C.R.S.

Submitter's Assessment of the Stakeholders Impacted

Many stakeholders involved in the processes of continuing the use of an existing 3.2% FMB license, applying for a new FMB license to sell higher-strength beer, or transferring ownership of a FMB license after January 1, 2019 would benefit from greater clarity in these processes. This recommendation does not introduce any new concepts that would harm stakeholders who were already supportive or neutral toward SB 16-197.

Statutory Authority or Regulations Supporting the Recommendation

§12-46-109(1) C.R.S., directs the State Licensing Authority to “convene a liquor industry working group to 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.”

Implementing Authorities

Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Licensing Authorities

Supporting Comments from Other Working Group Members		
No.	Submitted By	Comment
N/A	N/A	None registered

Dissenting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Licensed Beverage Association	CLBA understands and acknowledges that SB 16-197 directed so-called “automatic conversion” from 3.2% FMB to higher-strength beer sales. However, the bill also clearly required a process to accompany automatic conversion, to ensure and enhance public safety considerations as well as business parity. CLBA does not believe that the General Assembly intended for automatic conversion to take place in such a way that constituents, especially school-age children and local neighborhoods, would be put at risk, nor that the General Assembly intended to codify unfair competition by permitting a vast number of new entrants into higher-strength beer sales on substantially lesser terms and conditions relative to existing RLS’s that currently sell the same products. CLBA members have made substantial investments in their stores, and to protect their licenses they must adhere to a high standard of public safety, including prescriptive density and distance requirements. Simple fairness would dictate that these same standards should apply equally to everyone who seeks to sell higher-strength beer.

Dissenting Comments from Other Working Group Members (continued)		
2.	Colorado Restaurant Association	This recommendation appears to propose a process for <u>ALL</u> FMB license holders to apply for a change in their license that would allow them to sell beer with an ABV above 0.05%, and as such would violate the scope of the Working Group by contemplating a licensing process that would apply to more than just “grocery and convenience stores,” as was indicated in SB 16-197. As such, the General Assembly should disregard this recommendation unless it takes steps to clarify that it is to impact only <i>Off-Premises</i> licenses. This clarification to the text of the recommendation was not allowed at the time the vote was taken, but is necessary to reflect its true intent and the discussions surrounding it, which is not accurately reflected in the precise language of the recommendation as it was voted on is submitted in this report to the relevant Senate and House committees.

Neutral Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Distilled Spirits Council	We support the spirit and the letter of SB16-197 until such time as a compromise can be reached between our industry partners.
2.	Wine and Spirit Wholesalers of Colorado	We did not take a position on this recommendation, but feel that since it protects the provisions of SB 16-197 through a ‘grandfather’ clause, it would be an appropriate starting point for discussions between RLS’s and current 3.2% FMB licensees wishing to expand their operations to include higher-strength beer.

Recommendation 2: Local Review Process for Existing 3.2% FMB Licensees to Sell Higher-Strength Beer

Submitted By: Colorado Association of Chiefs of Police and Colorado Distillers Guild

2.0 Given the public safety issues that are likely to result from any automatic conversion process for current grocery and convenience stores with 3.2% Fermented Malt Beverage (FMB) licenses to begin selling higher-strength beer as of January 1, 2019, such as an increase in underage drinking and the development of an inappropriately high concentration of liquor outlets in a given location, a process should be put into place through statute and rule whereby local community members may petition their local liquor authority for a review to be conducted before a current 3.2% FMB licensee is allowed to sell higher-strength beer.

Duties of the SB 16-197 Working Group to which the Recommendation Applies		
A	Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.	✓
B.	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.	
C.	Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.	
D.	Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.	

Voting Results													
Summary: A slim majority (54.8%) of the Working Group members took a position on this recommendation. Of those who took a position, a majority (70.6%) opposed the recommendation.													
Rec. No.	Yes			No			Sub-Total, Position			No Position		Total	
	#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All
2.0	5	29.4	16.1	12	70.6	38.7	17	100.0	54.8	14	45.2	31	100.0

Submitter's Rationale for the Recommendation and Issues it is Expected to Resolve

SB 16-197 was introduced toward the end of the 2016 legislative session and was discussed and passed as an agreement between various industry factions without local law enforcement input. As such, the bill did not appropriately consider the potentially detrimental effects that an automatic conversion of current 3.2% FMB licenses to full-strength beer licenses on January 1, 2019 would have on local public safety, nor did it include a process for local review regarding decisions to convert these licenses.

There is a strong public safety concern that without additional legislation, any current 3.2% FMB licensee would be able to sell full-strength beer at grocery and convenience stores starting January 1, 2019, which could lead to an increase in underage drinking and an inappropriately high concentration of liquor outlets in certain locations.

Unlike RLS's, grocery and convenience stores are frequented by juveniles, who are influenced by point-of-sale marketing. Therefore, there is a greater potential for problems with underage drinking when full-strength beers are sold in grocery and convenience stores. Research has shown that alcohol outlet density leads to both juvenile abuse of alcohol, especially when alcohol outlets are within walking distance of places that are frequented by juveniles, and to other harm-inducing behavior.¹⁷ As such, reducing outlet density is recommended as a means of enhancing public safety.

In addition to the public safety concerns, local community members in the vicinity of current 3.2% FMB licensees may not want to have full-strength beer sales in certain locations, for example near schools or in areas where there is already a high concentration of alcohol beverage licenses or other 3.2% FMB licenses.

While local review of every conversion from a 3.2% FMB to a full-strength beer license would be burdensome to local licensing authorities, there must be some means for a community to weigh in as to whether the conversion to full-strength beer sales is appropriate in a given location.

The Colorado Liquor Code, §12-47, C.R.S., grants combined authority for liquor licensing to state and local licensing authorities. It allows for several elements of review by the local licensing authority prior to issuing an alcohol beverage license, including its own investigation, the reasonable requirements of the neighborhood, the desires of the adult inhabitants, the concentration of alcohol beverage outlets in the neighborhood, and other pertinent matters (see Statutory Authority section below).

Without additional legislation to allow for local review in the case of conversions from 3.2% FMB to full-strength beer licenses, this local input would be eroded.

¹⁷ Campbell, C.A. et al., (2009), "The Effectiveness of Limiting Alcohol Outlet Density as a Means of Reducing Excessive Alcohol Consumption and Alcohol-Related Harms," *Journal of Preventive Medicine* 37(6): 556-569.

Submitter's Assessment of the Stakeholders Impacted

Local licensing authorities would be affected by this recommendation, as it would require that they put into place a process by which to receive and respond to community requests to review a current 3.2% FMB license prior to allowing the licensee to sell higher-strength beer. Local law enforcement agencies would also be affected as they would likely be consulted regarding the public safety aspects of allowing a higher-strength beer license in a given location.

The recommendation could negatively affect some existing grocery and convenience store 3.2% FMB licensees if a community decides they are not appropriate for a license to sell higher-strength beer starting January 1, 2019.

Statutory Authority or Regulations Supporting the Recommendation

SB 16-197, Section 5, codified in **§12-46-409(1), C.R.S.**, anticipates an application process for grocery and convenience stores to sell malt liquor and FMB containing at least one-half percent ABV starting January 1, 2019.

§12-47-312(2)(a), C.R.S., stipulates that before entering any decision approving or denying the application, the local licensing authority shall consider the facts and evidence adduced as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the desires of the adult inhabitants, the number, type, and availability of alcohol beverage outlets already located in or near the neighborhood under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

Implementing Authorities

Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Licensing Authorities, Local Law Enforcement Agencies

Supporting Comments from Other Working Group Members		
No.	Submitted By	Comment
N/A	N/A	None registered

Dissenting Comments from Other Working Group Members

No.	Submitted By	Comment
1.	Target	<p>We greatly appreciate the insights and concerns of law enforcement and are working with them to find a solution, but we feel strongly that this issue deserves more discussion to develop a more fair and reasonable policy than is suggested in this recommendation.</p> <p>The recommendation would treat current 3.2% FMB license holders unfairly by creating new standards related to concentration of alcohol outlets and considerations related to crime that would not apply equally to RLS's or LLDS's. If a new policy is developed related to creating a local review process, it should treat all types of licenses fairly and equally.</p> <p>Since 3.2% FMB licenses are essentially going away in 2019, this recommendation would lead to a situation where a rejected conversion of an existing license would result in the licensing authority taking away the license entirely.</p>

Neutral Comments from Other Working Group Members

No.	Submitted By	Comment
1.	Distilled Spirits Council	We support the spirit and the letter of SB16-197 until such time as a compromise can be reached between our industry partners.
2.	Wine and Spirit Wholesalers of Colorado	We support the intent of this recommendation, but feel that local liquor authorities already have the authority to conduct a review of any license they feel threatens public safety.

Recommendation 3: Application Process for Grocery and Convenience Store Malt Liquor License

Submitted By: Colorado Licensed Beverage Association

3.1 The General Assembly should create a new, statutory, “Grocery and Convenience Store Malt Liquor (GCSML) license,” for which **ALL** requirements 3.3.1 - 3.3.18, listed in Table 5 below would apply.

3.2 The General Assembly should create a new, statutory, “Grocery and Convenience Store Malt Liquor (GCSML) license,” for which **SOME** of the requirements 3.3.1 - 3.3.18, listed in Table 5 would apply.

For both 3.1 and 3.2, the requirements 3.3.1 - 3.3.18 in Table 5 apply as indicated:

- (1) For existing 3.2% Fermented Malt Beverage (FMB) licensees as of January 1, 2019, which must apply for the new license type to replace their current licenses; and
- (2) For new grocery and convenience stores that apply for the new license type starting January 1, 2019.

Table 5: Requirements for New Grocery and Convenience Store Malt Liquor (GCSML) License

No.	Requirement	Existing FMB Licensees as of January 1, 2019 Applying for a GCSML License:	New Grocery and Convenience Stores Applying for a GCSML license starting January 1, 2019:
3.3.1	Application Processing Time	Expedited	Normal
3.3.2	Survey and Needs and Desires Hearing	Not required unless there is a major modification of premises	The application shall include a survey and Needs and Desires hearing
3.3.3	No Modification of Premises	The licensee shall not make any substantial modifications to shelf space and product offerings from the licensee’s practices as of July 1, 2016; any substantial modification by the licensee would require a review of the license and possibly a survey and Needs and Desires hearing	Not applicable
3.3.4	Transition of Current On-and-Off Premises Licenses	All current On-and-Off Premises licenses may be converted to a GCSML license for on-premises sales or off-premises sales, but not both	Not applicable

Table 5: Requirements for New Grocery and Convenience Store Malt Liquor (GCSML) License (continued)

No.	Requirement	Existing FMB Licensees as of January 1, 2019 Applying for a GCSML License:	New Grocery and Convenience Stores Applying for a GCSML license starting January 1, 2019:
3.3.5	Distance from Schools	The licensee's premises must be at least 1500 feet from the nearest public or private daycare center, pre-school, kindergarten, elementary school, secondary school, or vocational school. The distance shall be measured in a straight line from the nearest property boundary of the school property to the address point of the licensee	
3.3.6	Distance from Retail Liquor Licensed Premises	The licensee's premises must be at least 1500 feet from the nearest retail liquor licensed premises	
3.3.7	Separation of Inventories	The licensee shall not warehouse products for multiple stores at one licensed premises or transfer products between multiple stores	
3.3.8	Age of Employees	Employees who check ID's, make sales, handle, stock, receive, or carry out malt liquor must be at least 21 years of age	
3.3.9	ABV Limitation	The licensee shall not sell or offer for sale any malt liquor products containing more than 6% ABV	
3.3.10	Refrigeration Requirement	Malt liquor products must be refrigerated	
3.3.11	Limitation on Refrigerated Beverage Retail Space	The licensee shall not dedicate more than 20% of its refrigerated beverage retail space (excluding space used for dairy products) to malt liquor, and shall not use freezers, low-temperature and spot cases, or service cases to display malt liquor products	
3.3.12	Separation of Malt Liquor and Non-Alcohol Products	The licensee shall not comingle malt liquor products with non-alcohol products in the same refrigerated case door	
3.3.13	No Sales of Alcohol-Branded Merchandise	The licensee shall not sell general merchandise branded by alcohol manufacturers or distributors	
3.3.14	No Sales of Home Brew or Winemaking Equipment	The licensee shall not sell home brew or winemaking equipment	
3.3.15	No Sales Below Invoice Cost	The licensee shall not sell malt liquor products at below-invoice cost	
3.3.16	No Point of Sale (POS) Marketing or Sales of Malt Liquor Products	The licensee shall not have any POS marketing or sales of malt liquor products	
3.3.17	Only 6- and 12-Packs Allowed	The licensee shall be eligible to sell only 6-packs and 12-packs of malt liquor	
3.3.18	Compliance with Other Malt Liquor License Requirements	The licensee shall comply with all other requirements of a malt liquor license	

Duties of the SB 16-197 Working Group to which the Recommendation Applies		
A.	Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.	✓
B.	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.	✓
C.	Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.	
D.	Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.	

Voting Results													
<p>Summary: Working Group members were asked to vote either on Recommendation 3.1 to approve or deny the recommendation for a new Grocery and Convenience Store Malt Liquor license with all its specific requirements, or on Recommendation 3.2 in order to approve the recommendation for the license but have the option to approve or deny each the specific requirements for the license. Thirty of the 31 Working Group members chose to vote on Recommendation 3.1 and one chose to vote on Recommendation 3.2.</p> <p>Rec. 3.1: A majority (76.7%) of the 30 Working Group members who voted on this recommendation took a position on it, and of these, a strong majority (87.0%) voted against it, while three members (13.0%) voted for it.</p> <p>Rec. 3.2: The one Working Group member who voted on Recommendation 3.2 approved it and cast additional votes on each of the specific requirements for the license, approving 12 of the 18 requirements and taking no position on the remaining six.</p>													
Rec. No.	Yes			No			Sub-Total, Position			No Position		Total	
	#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All
3.1	3	13.0	10.0	20	87.0	66.7	23	100.0	76.7	7	23.3	30	100.0
3.2	1	100.0	100.0	0	0.0	0.0	1	100.0	100.0	0	0.0	1	100.0
3.3.1	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0
3.3.2	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0
3.3.3	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0
3.3.4	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0
3.3.5	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0
3.3.6	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0
3.3.7	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0
3.3.8	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0
3.3.9	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0
3.3.10	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0
3.3.11	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0
3.3.12	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0
3.3.13	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0
3.3.14	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0
3.3.15	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0
3.3.16	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0
3.3.17	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0
3.3.18	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0

Submitter's Rationale for the Recommendation and Issues it is Expected to Resolve

This recommendation provides a means of implementing SB 16-197 as it was written regarding developing a process for grocery and convenience stores to apply for a license to sell FMB and malt liquor as they will be identically defined starting in January 1, 2019, rather than being automatically allowed to do so. It mitigates major disruptions to the RLS industry and supports a balance between the desire for greater accessibility of higher-strength malt liquors, the economic interests of the different segments of the alcohol beverage industry, and important considerations related to preventing underage consumption of alcohol and protecting public health and safety.

It should be noted that, with the exception of Sub-Recommendation 3.3.4 related to transitioning current On-and-Off Premises licenses, all provisions of this recommendation refer to a proposed new Off-Premises retail license to sell malt liquor as it will be defined starting on January 1, 2019, and not to an On-Premises license or an On-and-Off Premises license related to malt liquor sales.¹⁸

Impact on the Alcohol Beverage Industry and on Retail Licensees

SB 16-197, Section 5, §12-46-109(1), C.R.S., directed the SB 16-197 Working Group to analyze the impact that removing the alcohol content limit on FMB would have on the alcohol beverage industry as a whole, as well as on current retail licensees. Two provisions of SB 16-197 will significantly challenge the viability of hundreds of small businesses holding RLS licenses in Colorado, namely removing the 3.2% ABV cap on FMB, which under its current definition is sold mainly in grocery and convenience stores, and expanding the number of RLS and LLDS licenses that may be held by a single owner.

A 2009 study of the projected economic impact of removing the 3.2% ABV cap on FMB found that more than half of current RLS's in Colorado would face closure within five years if all current 3.2% FMB licensees were allowed to convert to full-strength beer sales, which are currently a popular product at many RLS's.¹⁹ The study also found that the RLS closures would significantly inhibit the craft beer and wine industries from accessing retail markets for their products. Thus, what consumers would gain in quantity of malt liquor outlets, they would lose in quality and the variety of choices currently offered by RLS's. In an analogous example, in Tennessee where grocery stores and

¹⁸ An On-Premises license allows for the sale of alcohol beverages for consumption on the premises. An Off-Premises license allows for the sale of alcohol beverages in sealed containers for consumption off the licensed premises. An On-and-Off Premises license is for the sale of alcohol beverages both for consumption on the premises and in sealed containers for consumption off the licensed premises.

¹⁹ Summit Economics (2009), "Economic Impact of Replacing 3.2 Beer Sales with Full Strength Beer Sales," Colorado Springs, CO, available at http://kaobr.memberlodge.com/Resources/Documents/Colorado_32_beer_study.16170004.pdf. These findings were reiterated in an unpublished 2011 review by Summit Economics.

“big box” stores were recently authorized to sell wine, distributors have reported a 30-50% decline in wine sales at RLS’s.²⁰

Given this data, allowing all current 3.2% FMB licensees in Colorado to sell full-strength malt liquor would lead to an over-saturation of the malt liquor market and a substantial loss of revenue to current RLS’s. This would force many RLS’s across the state to close, many of which are deeply rooted in their communities. This recommendation would mitigate these potential losses to the RLS industry by implementing an application process for retail malt liquor licenses that places some limitations on the licenses that are similar to those already in place for RLS and LLDS licenses.

Developing an Implementation Process for Grocery and Convenience Stores to Apply for a License

The recommendation appropriately implements SB 16-197, Section 5, §12-46-109(1), C.R.S., which instructs the SB 16-197 Working Group “to 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” (emphasis added).

The bill made no reference to “automatic conversion” of current 3.2% FMB licenses to allow them to sell higher-strength FMB or malt liquor as of January 1, 2019, but rather directed the Working Group to develop a process by which grocery and convenience stores could *apply* to do so. Allowing all current 3.2% FMB licenses to automatically convert to higher-strength malt liquor sales would be in direct contradiction to the language in §12-46-109(1), C.R.S., and would be detrimental to the health and safety of Colorado communities.

RLS licensees are highly regulated and must comply with a wide range of rules designed to deter underage drinking and ensure public health and safety. They are subject to school distance restrictions and must complete local needs and desires hearings to obtain approval. Many additionally have a business practice not to permit underage individuals even to enter the premises unless accompanied by a person over the age of 21. These provisions substantially limit underage exposure to alcohol and alcohol-related products and advertising.

In contrast, due to their diverse range of products and the lower alcohol content in the products they sell, grocery and convenience stores are not under similar restrictions. Teenagers and other underage consumers often frequent grocery and convenient stores unaccompanied by adults to buy snacks, drinks, and everyday items, particularly when these stores are located near schools, with students flocking to these stores in large numbers before and after school and during breaks.

To allow all grocery and convenience stores that now sell 3.2% FMB to sell full-strength FMB and malt liquor products, some of which can exceed the ABV of most hard liquors, under their current 3.2% FMB regulatory structure would introduce significant public health and safety challenges. Easy

²⁰ Market Watch (2017), “Tennessee’s Evolving Liquor License Laws,” May 4, 20-17, available at: http://marketwatchmag.com/tennessees-evolving-liquor-license-laws/?utm_medium=email&utm_source=JH-Retailer-Report-05082017&utm_campaign=JH_Retail_Rpt_050817.

access to alcohol contributes to disciplinary problems and delinquency in youth. Research consistently shows that the availability of and exposure to alcohol and alcohol-related products strongly contributes to underage drinking, which in turn makes youth much more likely to develop alcohol dependence or abuse later in life.²¹ A 2005 Rand Health study found that exposure to alcohol is directly linked to subsequent drinking in mid-adolescence, and that in-store beer displays particularly influenced the initiation of underage drinking.²² As such, implementing a process for 3.2% retail FMB licensees to apply for a higher-strength malt liquor license and limiting product displays to refrigerated spaces, as set forth in this recommendation, would help to reduce underage exposure and its associated negative impacts.

In addition to increasing the likelihood of underage drinking, a dramatic increase in the number of outlets selling higher-ABV alcohol products through automatic conversion would also be likely to increase alcohol consumption by the general public, with attendant negative consequences. Research has shown that increased alcohol outlet density leads to increased alcohol consumption as well as numerous related harms, which include injuries, motor vehicle crashes, hospital admissions, liver cirrhosis deaths, suicides, crime, and violence.²³ Given this close association between outlet density, increased alcohol consumption, and negative public health and safety consequences, the Community Preventive Services Task Force (CPSTF) and the Centers for Disease Control and Prevention (CDC) recommended limiting alcohol outlet density in their 2009 Guide to Community Preventive Services.²⁴ The Community Anti-Drug Coalitions of America (CADCA), in partnership with the Center on Alcohol Marketing and Youth (CAMY) at the Johns Hopkins University School of Public Health (JHSPH) followed suit and created a 2011 Action Guide for regulating alcohol outlet density.²⁵

²¹ The Centers for Disease Control and Prevention (CDC) reported that youth who start drinking before age 15 years are six times more likely to develop alcohol dependence or abuse later in life than those who start drinking at or after age 21 years. CDC (2016), "Fact Sheets – Underage Drinking," Atlanta, GA, <https://www.cdc.gov/alcohol/fact-sheets/underage-drinking.htm>, quoted from the U.S. Substance Abuse and Mental Health Services Administration SAMHSA), Center for Behavioral Health Statistics and Quality (2016), "2015 National Survey on Drug Use and Health: Detailed Tables," Rockville, MD.

²² Rand Health, (2006), "Forging the Link Between Alcohol Advertising and Underage Drinking," Santa Monica, CA, http://www.rand.org/content/dam/rand/pubs/research_briefs/2006/RAND_RB9073.pdf

²³ Campbell, C.A. et al., (2009), "The Effectiveness of Limiting Alcohol Outlet Density as a Means of Reducing Excessive Alcohol Consumption and Alcohol-Related Harms," *Journal of Preventive Medicine* 37(6): 556-569; Ibanez, A. (2015), "Bridget Freisthler's Research Shows Correlation Between Alcohol Density and Crime," UCLA Luskin School of Public Affairs, Los Angeles, CA, <http://luskin.ucla.edu/bridget-freisthlers-research-shows-correlation-between-alcohol-density-and-crime/>; Denver Public Health, (2017), "Liquor Retailer Density Analysis: Council District 3," Denver, CO, http://denverpublichealth.org/Portals/32/Public-Health-and-Wellness/Public-Health/Health-Information/Docs/DPH-District-3-Alcohol-Density-Report_FINAL_20170415.pdf?ver=2017-05-09-090433-473.

²⁴ CPSTF, CDC (2009), "Alcohol - Excessive Consumption: Regulation of Alcohol Outlet Density," Guide to Community Preventive Services, Atlanta, GA, <https://www.thecommunityguide.org/findings/alcohol-excessive-consumption-regulation-alcohol-outlet-density>.

²⁵ CADCA, CAMY and JHSPH (2011), *Strategizer 55: Regulating Alcohol Outlet Density, An Action Guide*, http://www.camy.org/_docs/research-to-practice/place/alcohol-outlet-density/outlet-density-strategizer-nov-2011.pdf. See also JHSPH (2013), "Regulating Density of Alcohol Outlets a Promising Strategy to Improve Public Health," JHSPH Health News; and Jernigan et al. (2013), "Using Public Health and Community Partnerships to

Eliminating the 3.2% ABV restriction on FMB does not result simply in grocery and convenience stores being able to sell full-strength instead of 3.2% beer. It also enables them to sell a wide range of products that will also fit under the new, common definition of FMB and malt liquor that goes into effect on January 1, 2019 under 12-46-103(1) and 12-47-103(19), C.R.S. Higher-strength malt liquor products come in an array of styles and flavors that are especially attractive to underage drinkers, such as “hard” root beers and cream sodas.²⁶ Some malt liquor products contain more ABV than most whiskeys,²⁷ and many are offered in packaging that resembles products typically marketed and sold to children and youth. It is important that these malt liquor beverages, which are often hard to distinguish from their non-alcohol counterparts, be sold only in designated areas, as proposed in this recommendation.

Submitter’s Assessment of the Stakeholders Impacted

This recommendation would help to preserve the revenue and viability of current RLS licensees, as well as the quality and variety of choices they bring to consumers, by placing limits on higher-strength malt liquor licenses that are similar to those in place for RLS and LLDS licenses. These limits would reduce the number of higher-strength malt liquor licenses issued, which in turn would help to avoid saturation in the malt liquor market.

The recommendation would benefit youth and the entire community by imposing distance restrictions from schools and limits on in-store exposure to alcohol and alcohol-related products. This would reduce the likelihood of underage access and exposure to alcohol, which would reduce the longer-term, negative consequences of alcohol dependence and abuse.

The recommendation would also benefit the entire community by preventing a dramatic increase in alcohol outlet density, given that it implements a process for applying for a higher-strength malt liquor license and imposes distance restrictions from the premises of existing RLS and LLDS licenses. Preventing such an increase in outlet density would help to limit the increase in alcohol consumption and a host of attendant harms both to individuals and the community.

The recommendation would significantly increase the workloads of state and local licensing authorities.

Reduce Density of Alcohol Outlets,” *Preventing Chronic Disease* (10).
https://www.cdc.gov/pcd/issues/2013/pdf/12_0090.pdf.

²⁶ For example, “Not Your Father’s” and “Not Your Mom’s” products, <http://smalltownbrewery.com/our-beers/nyfrb/>.

²⁷ For example, Shorschbrau “Schorschbock” contains 57% ABV (114 proof),
<https://www.beeradvocate.com/beer/profile/6513/73368/>.

Statutory Authority or Regulations Supporting the Recommendation

SB 16-197, §12-46-109 (1), C.R.S., lists the following duties of the liquor industry working group that relate to this recommendation:

- Develop an implementation process for grocery and convenience stores to apply for a license to sell malt liquor and FMB containing at least one-half percent ABV starting January 1, 2019.
- Analyze the impact that removing the alcohol content limit on FMB will have on the alcohol beverage industry as a whole, as well as on current retail licensees.

SB 16-197, §12-46-103(1) and §12-47-103(19), C.R.S., define FMB and malt liquor identically starting January 1, 2019, as follows: Beer and any other beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water containing not less than one half of one percent ABV.

Implementing Authorities

Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Licensing Authorities

Supporting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Licensed Beverage Association	<p>This recommendation included a wide range of substantive and robust policy suggestions directed toward two goals: (1) Ensuring public safety; and (2) Protecting the viability of CLBA member businesses, given the instruction to the Working Group to consider the effects of removing the AVB cap on existing retail licensees. These two goals are critical considerations for the General Assembly when it deliberates this matter during the 2018 legislative session.</p> <p>We understand and acknowledge that SB 16-197 directed “automatic conversion” from 3.2% ABV beer sales to malt liquor. However, the bill also required a process to accompany this conversion, to ensure and enhance public safety considerations and business parity. The General Assembly did not intend for automatic conversion to put their constituents at risk, especially school-age children and local neighborhoods. Nor did it intend to codify competitive unfairness by permitting a vast number of new entrants into liquor sales on substantially lesser terms and conditions relative to existing retailers. CLBA members have made substantial investments in their stores. To protect their licenses they must adhere to a high standard of public safety, including prescriptive density and distance requirements. Simple fairness dictates that these same standards must apply equally to everyone who seeks to sell malt liquor.</p>

Dissenting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Beer Distributors Association	The onerous provisions of this recommendation, which were soundly rejected by those who took a position on it, represent an attempt to rewrite what the alcohol industry agreed to and what the Colorado General Assembly passed in SB 16-197. Many of the same proposals in this recommendation were already proposed and rejected during the negotiations for SB 16-197, and were rejected here again.
2.	Colorado Brewers Guild	The establishment of a new license type such as the “GCSML” license suggested in this recommendation is unnecessary. Moreover, this proposed license included several restrictions that would unduly restrict craft breweries’ access to a changing market, and particularly the following: (1) Imposing an ABV limit on malt liquor products that may be sold; (2) Restricting the amount of retail space a retailer may dedicate to malt liquor; (3) Restricting how malt liquor products are stored and displayed; (4) Prohibiting the sale of general merchandise branded by alcohol manufacturers or distributors; (5) Restricting the sales to 6-packs and 12-packs only; and (6) Prohibiting any “point of sale” sales or marketing of malt liquor products.
3.	Colorado Restaurant Association	This recommendation appears to propose a process for <u>ALL</u> FMB license holders to apply for a change in their license that would allow them to sell beer with an ABV above 0.05%, and as such would violate the scope of the Working Group by contemplating a licensing process that would apply to more than just “grocery and convenience stores,” as was indicated in SB 16-197. As such, the General Assembly should disregard this recommendation unless it takes steps to clarify that it is to impact only <i>Off-Premises</i> licenses. This clarification to the text of the recommendation was not allowed at the time the vote was taken, but is necessary to reflect its true intent and the discussions surrounding it, which is not accurately reflected in the precise language of the recommendation as it was voted on and is submitted in this report to the relevant Senate and House committees.
4.	Target	(1) This recommendation presents an unrealistic list of policies that would severely restrict our ability to sell full-strength beer. It is impractical relative to how we market products and sell merchandise in our stores. (2) The recommendation severely limits our ability to market to and provide customers with the choices they demand for craft beer in Colorado. Limitations on ABV and the requirement to sell only six- and twelve-packs would deny customers options that should be available in a reasonably free market. (3) The recommendation demands that existing 3.2% FMB license holders go through a new survey and needs and desires hearing if there is a major modification of premises, which could drag out for considerable periods of time. Since 3.2% FMB licenses will essentially go away in 2019, rejection of a request to convert an existing license would result in the licensing authority taking away that license entirely. (4) The recommendation imposes unreasonable distance restrictions of 1500 feet, which were resoundingly rejected by stakeholders in the original SB 16-197 discussions. (5) Overall, this proposal is unreasonable to those who fairly negotiated SB 16-197 and is impractical for our company to execute.

Dissenting Comments from Other Working Group Members (continued)		
5.	Wine and Spirit Wholesalers of Colorado	We supported the passage of SB 16-197 in its entirety, but the extensive list of requirements for the new license proposed in this recommendation would erode the agreements made in SB 16-197. These requirements are so expansive that it would be nearly impossible to convert a current 3.2% FMB license to the new license type, and in fact would eliminate a good number of the current licensees. We have strongly encouraged the 3.2% FMB licensees and the liquor stores to work together to resolve their disputes while maintaining the integrity of SB 16-197.

Neutral Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Brewers Guild	Despite our concerns about the necessity of this license type and several of its restrictions that would unduly restrict craft breweries' access to a changing market (see dissenting comment above), certain changes are indeed appropriate and necessary to ensure fair competition amongst different licensees selling craft beer products, and should be considered by the General Assembly, such as the following: (1) Ensuring a proper distance between a retail licensee and school property in a manner consistent with other current distance restrictions; and (2) Prohibiting the sale of malt liquor products at below-invoice cost.
2.	Distilled Spirits Council	We support the spirit and the letter of SB16-197 until such time as a compromise can be reached between our industry partners.

Recommendation 4: No Substantial Statutory Changes or New Licensing Requirements Needed to Manage the Transition to Higher-Strength Beer Sales

Submitted By: Colorado Wyoming Petroleum Marketers Association, 7-Eleven, Kum & Go Convenience Stores, CST Brands, Circle K, Safeway, MillerCoors, Colorado Beer Distributors Association

4.0 The General Assembly need not make any substantial changes to current law in order to manage the transition on January 1, 2019, when the 3.2% cap on alcohol by volume (ABV) will be statutorily removed from the definition of fermented malt beverages (FMB), which will thereafter be defined as having not less than 0.5% ABV.

Rather, this transition can be managed by following the provisions already outlined in SB 16-197, including maintaining the provisions for the licensing of beer under the Colorado Beer Code, §12-46, C.R.S., rather than the Colorado Liquor Code, §12-47, C.R.S.

No substantial changes or new trade or operational restrictions need to be introduced for FMB licenses under §12-46, C.R.S., starting on January 1, 2019, and existing FMB licensees at that time should not be required to apply for a new license or alter their existing licenses to be able to sell FMB starting on January 1, 2019, as FMB is to be defined as of that date.

Duties of the SB 16-197 Working Group to which the Recommendation Applies			
A.	Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.		✓
B.	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.		✓
C.	Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.		
D.	Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.		

Voting Results													
Summary: A majority of Working Group members (71.0%) took a position on this recommendation. Of those who took a position, a majority (59.1%) voted in favor.													
Rec. No.	Yes			No			Sub-Total, Position			No Position		Total	
	#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All
4.0	13	59.1	41.9	9	40.9	29.0	22	100.0	71.0	9	29.0	31	100.0

Submitter's Rationale for the Recommendation and Issues it is Expected to Resolve

Honoring the Compromise of SB 16-197

SB-16-197 is the result of a compromise between various types of Off-Premises retail licensees and other alcohol industry partners to find a legislative solution in lieu of a ballot measure that, had it been brought to the ballot and passed, would have directly revised provisions for the retail sale of FMB and malt liquor in Colorado. Representatives of the grocery and convenience store industries on the SB 16-197 Working Group worked in good faith and with the expectation that the benefits granted under SB 16-197 to the various alcohol beverage industry groups would be maintained in the Working Group's process.

The compromise for 3.2% FMB retail licensees in the discussions surrounding SB 16-197 was that they would agree to wait until 2019 when the ABV cap on FMB would be removed and they could first enter the full-strength beer market. In the meantime, RLS licensees would be granted immediate benefits starting in 2016 in order to strengthen their financial viability prior to the January 1, 2019 transition and compensate them for the competition they would see in the beer market after that date. RLS licensees were given access to a broader range of products and the benefit of barriers to entry for would-be competitors for the off-premises sale of vinous and spirituous liquors.

RLS licensees were given additional benefits in 2017 under SB 17-269, which allowed them to exclude four important categories of non-alcohol products from the calculation of the 20% limit imposed on the annual revenues they may receive from the sale of non-alcohol products.²⁸ This measure granted RLS licensees unrestricted access to the sale of many products that are also important to the financial viability of grocery and convenience stores.

The grocery and convenience store industries supported these changes, which went into effect long before the anticipated lifting of the ABV limit on FMB in 2019 that would allow them to begin reaping the agreed-on benefits. Alcohol beverage industry members have been using this transition period to plan and make strategic investments for the forthcoming changes, which are being made not only in Colorado but also in Kansas and Oklahoma.

No New Licensing Processes or Restrictions Needed

This recommendation acknowledges the charge of the General Assembly to the liquor industry working group in SB 16-197, §12-46-109(1), C.R.S., “to 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.”

However, SB 16-197 does not mandate or require the establishment of a new license to sell FMB as of January 1, 2019. An “implementation process” could simply mean making some administrative

²⁸ These four categories are (1) lottery products; (2) cigarettes, tobacco, and nicotine products; (3) ice, soft drinks, and mixers; and (4) non-food items related to the consumption of malt, vinous, or spirituous liquors. SB 17-269, §12-47-103 and §12-47-407, C.R.S.

changes to the format and wording of FMB licenses issued under the Beer Code. Similarly, §12-46-109(1), C.R.S., does not request that the Working Group recommend any changes to the current FMB license under the Beer Code related to trade or operational restrictions, either before or after the January 1, 2019 change in the definition of FMB.

As such, and absent any additional legislation, this plain language of SB 16-197 allowing for current licensees under the Beer Code to sell full-strength beer as of January 1, 2019 should prevail.

SB 16-197, §12-46-109(1), C.R.S., also charges the liquor industry working group to “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.” Again, this charge does not imply a mandate or instruction for the Working Group to suggest policy changes related to FMB licensing under the Beer Code after January 1, 2019.

This recommendation interprets the language of SB 16-197 regarding the removal of the ABV cap on FMB, §12-46-103(1), C.R.S., to mean that existing 3.2% FMB license holders on January 1, 2019 should be allowed to sell full-strength beer as of that date, without the need to create any new licensing processes, institute any new ABV caps, or impose any distance restrictions or other competitive trade restrictions that would unduly burden the grocery and convenience store industries from entering the full-strength beer market.

This transition to full-strength beer sales at grocery and convenience stores can be safely implemented under the current Colorado Beer Code, §12-46, C.R.S., and its related rules and regulations. 3.2% FMB Off-Premises retail licensees already go through a similar application and community review process as is required for RLS and LLDS licensees, and local licensing authorities have similar requirements for all alcohol beverages licenses, whether they fall under the Colorado Beer Code, §12-46, C.R.S., or the Colorado Liquor Code, §12-47, C.R.S.

This recommendation would relieve local licensing authorities from having to receive applications for, hold hearings for, and issue new licenses for existing 3.2% FMB licensees. Using current law, new applicants for FMB licenses after January 1, 2019 would go through the usual state and local licensing processes to obtain a license to sell higher-strength FMB. State and local licensing authorities already have the needed tools to assess and vet candidates for entry into this market, and local authorities additionally take into account community needs and desires when considering whether or not to approve the license. The state or local licensing authorities may deny any applicant that does not qualify.

The grocery and convenience store industries in Colorado have a long history of responsible sales of age-restricted products, which will not change with the transition to higher-strength beer. Compliance check data published on the LED website indicate that the compliance record for 3.2% beer licensees, specific to the sale of alcohol to underage persons, is better than the compliance

record for RLS and LLDS licensees as well as for various types of On-Premises licensees.²⁹ As with current 3.2% FMB sales, employees of FMB licensees will continue to undergo extensive alcohol sales training and will be subject to the same penalties for the sale of higher-strength FMB to minors and to visibly intoxicated persons.

The minimum point-of-sales age for employees of FMB retail licensees should be maintained at eighteen years, given this good compliance record of FMB licensees and the dependence of these businesses on the labor of 18-20 year olds. Many grocery and convenience stores are located in parts of Colorado where the pool of qualified employee candidates is limited, and many convenience stores in Colorado are small businesses with limited resources.

As a failsafe and also under current law, upon renewal of any FMB license, the local licensing authorities may require a hearing should they have reasonable cause for concern related to violations of state or local laws or ordinances, and they may choose to authorize, restrict, or deny FMB sales by any licensee.

Submitter's Assessment of the Stakeholders Impacted

This recommendation would benefit current 3.2% FMB licensees by upholding the language of SB 16-197 and the compromise made when the bill was passed, namely granting them the ability to sell full-strength beer starting on January 1, 2019 without having to overcome additional regulatory barriers that were not in place when they applied for their current licenses.

The recommendation would also benefit RLS licensees by respecting the provisions already in place to protect their financial viability, including increased allowable sales of non-alcohol products and the establishment of barriers to entry for their competitors.

The recommendation would not restrict or hamper the manufacturing or wholesaler levels of the three-tiered liquor distribution system for alcohol in Colorado.

The recommendation would benefit the state and local licensing authorities, who will not have to receive applications for, hold hearings for, and issue new licenses for existing 3.2% FMB licensees.

²⁹An analysis of 2016 compliance check data for sales to underage persons showed that 3.2% Beer licensees had a 7.5% failure rate compared to 12.0% for RLS's, 16.7% for LLDS's, 9.6% for Taverns, 10.3% for Beer and Wine licensees, and 11.3% for Hotel and Restaurant licensees, noting that the sample size of LLDS's checked was small given the small number of such licenses in Colorado. This data can be generated from the LED website at <https://apps.colorado.gov/apps/dor/mip/searchCCR.jsf>. A listing of all violators in Colorado with their violations and the associated fines paid is also published annually on the LED website at <https://www.colorado.gov/pacific/enforcement/liquor-enforcement-summaries> and monthly in *The Colorado Beverage Analyst* magazine.

The recommendation would benefit consumers by increasing the number of Off-Premises retail licensees that offer full-strength beer, which would increase competition among retailers and lower prices for consumers.

Statutory Authority or Regulations Supporting the Recommendation

SB 16-197, §12-46-102(1), C.R.S., confirms that provisions for FMB licensing in Colorado following the removal of the ABV cap on FMB on January 1, 2019 will be maintained both in the Colorado Beer Code, **§12-46, C.R.S.**, and in the Colorado Liquor Code, **§12-47, C.R.S.** However, the bill qualifies in **§12-46-102(2), C.R.S.**, that, because FMB and malt liquor are separate and distinct from, and have a unique regulatory history in relation to, vinous and spirituous liquors, the regulatory framework in the Beer Code will be retained as the principal regulatory framework for FMB and malt liquor, whereas the Liquor Code shall apply to the regulation of FMB except when otherwise expressly provided for in the Beer Code.

SB 16-197, §12-46-103(1), C.R.S., changes the definition of FMB as of January 1, 2019 to the following: "beer and any other beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water containing not less than one half of one percent alcohol by volume." **§12-47-103(19), C.R.S.**, changes the definition of malt liquor on the same date to be identical with the new definition of FMB.

SB 16-197, §12-46-109(1), C.R.S., charges the liquor industry working group to "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" and to "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."

SB 17-269, §12-47-103 and §12-47-407, C.R.S., allows RLS's to exclude four categories of non-alcohol products from the calculation of the 20% limit imposed on the annual revenues they may receive from the sale of non-alcohol products.

Implementing Authorities

Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Licensing Authorities

Supporting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Beer Distributors Association	<p>In the Legislative Declaration of SB 16-197, the Colorado General Assembly recognized that FMB and malt liquor will essentially be the same product starting January 1, 2019, and that FMB has a unique regulatory history relative to vinous and spirituous liquors, such that a separate and distinct regulatory framework under §12-46, C.R.S., is required and should be retained.</p> <p>This declaration and the changes to the definitions of FMB and malt liquor in SB 16-197 indicate that the General Assembly intended to treat all beer similarly under the law. Therefore, FMB licensees should be able to sell beer of any strength starting January 1, 2019 and the General Assembly should take no further action on this issue.</p>

Dissenting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Licensed Beverage Association	<p>CLBA understands and acknowledges that SB 16-197 directed so-called “automatic conversion” from 3.2% FMB to higher-strength beer sales. However, the bill also clearly required a process to accompany automatic conversion, to ensure and enhance public safety considerations as well as business parity. CLBA does not believe that the General Assembly intended for automatic conversion to take place in such a way that constituents, especially school-age children and local neighborhoods, would be put at risk, nor that the General Assembly intended to codify unfair competition by permitting a vast number of new entrants into higher-strength beer sales on substantially lesser terms and conditions relative to existing RLS’s that currently sell the same products. CLBA members have made substantial investments in their stores, and to protect their licenses they must adhere to a high standard of public safety, including prescriptive density and distance requirements. Simple fairness would dictate that these same standards should apply equally to everyone who seeks to sell higher-strength beer.</p>

Neutral Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Distilled Spirits Council	We support the spirit and the letter of SB16-197 until such time as a compromise can be reached between our industry partners.
2.	Wine and Spirit Wholesalers of Colorado	We fully support SB 16-197, which set the date of January 1, 2019 to begin treating ‘beer’ as ‘beer,’ regardless of ABV. We have encouraged 3.2% licensees and RLS’s to resolve their dispute, and have chosen not to take a position on one side or the other, but are opposed to making any changes related to managing 3.2% licenses until the parties are able to convene stakeholder groups and gather further information.

B. Impact of Removing the Alcohol Content Limit on FMB**Recommendation 5: Single License for FMB and Malt Liquor***Submitted By: Colorado Beer Distributors Association and MillerCoors*

5.0 Given that fermented malt beverages and malt liquor will be defined identically in §12-46-103(1) and §12-47-103(19), C.R.S., respectively, starting on January 1, 2019 and that there will no longer be any legal distinction between these two products, the General Assembly should make such statutory changes as necessary to allow for any resident manufacturer, non-resident manufacturer, wholesaler, or importer to have a single license as of January 1, 2019 to include in its product line both fermented malt beverages and malt liquor.

Duties of the SB 16-197 Working Group to which the Recommendation Applies		
A.	Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.	
B.	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.	✓
C.	Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.	✓
D.	Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.	

Voting Results													
Summary: Just over two-thirds of the Working Group members (67.7%) took a position on this recommendation, and of those who took a position, a strong majority (81.0%) voted in favor.													
Rec. No.	Yes			No			Sub-Total, Position			No Position		Total	
	#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All
5.0	17	81.0	54.8	4	19.0	12.9	21	100.0	67.7	10	32.3	31	100.0

Submitter's Rationale for the Recommendation and Issues it is Expected to Resolve

Currently a manufacturer, wholesaler, or importer must have two distinct licenses to include in its product line both FMB, defined until January 1, 2019 in §12-46-103(1), C.R.S., as containing up to 3.2% ABV and malt liquor, defined until January 1, 2019 in §12-47-103(19), C.R.S., as containing more than 3.2% alcohol by weight or 4.0% ABV.

SB 16-197 unifies the statutory definitions of FMB and malt liquor effective January 1, 2019, with both to be identically defined in §12-46-103(1) and §12-47-103(19), C.R.S., and both to contain not less than 0.5% ABV.

Because FMB and malt liquor will be synonymous in statute starting January 1, 2019, it should be allowed for each manufacturer, wholesaler, or importer to obtain a single license to produce, distribute, or import, respectively, both FMB and malt liquor.

This recommendation creates consistency in statute and eliminates what would otherwise be redundant and duplicate licensing both for the LED and for manufacturers, wholesalers, and importers.

Submitter's Assessment of the Stakeholders Impacted

Manufacturers, wholesalers, and importers would incur lower licensing costs. The LED would have fewer licenses to issue and renew, thereby lowering its workload, but the state would collect less revenue from licensing fees.

Statutory Authority or Regulations Supporting the Recommendation

§12-46-103(1), C.R.S., defines FMB and §12-47-103(19), C.R.S., defines malt liquor, with the definitions of both to be unified on 1/1/2019. The Colorado Beer Code, §12-46, C.R.S., addresses licensing for FMB and the Colorado Liquor Code, §12-47, C.R.S., addresses licensing for malt liquor.

Implementing Authorities

Colorado General Assembly, Department of Revenue, Liquor Enforcement Division

Supporting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Brewers Guild	This recommendation should be clarified as follows. Currently, a brewery manufacturing malt liquor and FMB must obtain a separate license to manufacture each type of product, and the same is true for non-resident manufacturers, wholesalers, and importers. Because starting January 1, 2019, FMB and malt liquor will become synonymous, each of those licensees should only be required to hold a single license for their activities related to all FMB or malt liquor products <i>within the same tier</i> . The recommendation should not be understood to mean that manufacturing, importing, and wholesaling of FMB and malt liquor would be combined into a single license.
2.	Liquor Enforcement Division	<p>The recommendation as currently written is ambiguous. One interpretation is that a single license should be created, under which the licensee could conduct manufacturer, wholesaler, and importer functions. However, this recommendation <i>should not</i> be interpreted in this manner. A single license that would collapse the purposeful separation between the independent tiers of the three-tiered liquor distribution system in Colorado should not be created.</p> <p>Rather, the intent of the recommendation was to eliminate the need for two separate and distinct licenses to transact beer <i>within the same tier</i> of the three-tiered system. For example, Brewery ABC would not need to hold a manufacturer license for FMB and a manufacturer license for malt liquor. Rather, Brewery ABC could hold a single manufacturer license to manufacture beer, whether FMB or malt liquor, in anticipation that there will be no distinction between these products based upon ABV as of January 1, 2019.</p>

Dissenting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Restaurant Association	<p>The requirement in SB 16-197, Section 5, §12-46-109(1), C.R.S., to consider necessary changes to promote the three-tiered liquor distribution system in Colorado was not given sufficient account in the language chosen for this recommendation. If the “plain meaning” or “literal” rule of statutory construction were followed, this recommendation could be understood to mean that FMB licenses in the first two tiers of manufacturing and distribution could be collapsed. This would in no way promote the three-tiered liquor distribution system and would be outside of the scope of the Working Group.</p> <p>As such, the General Assembly should disregard this recommendation unless it is adapted to clarify that a single license for FMB and malt liquor may be given to a licensee within a single tier in the three-tiered system, given that this was the context within which the recommendation was discussed in the Working Group. This clarification is necessary to reflect its true intent and the discussions surrounding it, which is not accurately reflected in the precise language of the recommendation as it was voted on and is submitted in this report to the relevant Senate and House committees.</p>
2.	Wine and Spirit Wholesalers of Colorado	The language of this recommendation should be reviewed to consider impacts on wholesalers that currently possess 3.2% beer licenses as well as malt liquor, wine and spirit licenses.

Recommendation 6: Review of Recommendations for their Impact on the Craft Brewing Industry

Submitted By: Colorado Brewers Guild and Small Brewery Representatives

6.0 All recommendations provided in the SB 16-197 Working Group Report should be evaluated for their potential positive or negative impact on Colorado craft brewers, using the following criteria:

1. What impact will the recommendation have on the consumer?
2. Will the recommendation impact the ability of a manufacturing brewery to hold and exercise the current rights of a wholesaler license? Any recommendation that impacts those rights should be examined to determine whether they endanger the already limited rights held by craft brewers.
3. How will the recommendation impact competition by independent craft brewers, and does it limit their ability to compete in the marketplace?
4. How will the recommendation impact the ability of a craft brewer, through its wholesaler's license, to offer and sell beer in its tasting room or to open additional tasting rooms? If products such as growlers can be offered outside a tasting room, what measures will be taken to ensure the quality of the growler?

Duties of the SB 16-197 Working Group to which the Recommendation Applies		
A.	Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.	
B.	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.	✓
C.	Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.	✓
D.	Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.	✓

Voting Results													
Summary: A majority of Working Group Members (58.1%) took a position on this recommendation. Of those, a majority (61.1%) voted against the recommendation.													
Rec. No.	Yes			No			Sub-Total, Position			No Position		Total	
	#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All
6.0	7	38.9	22.6	11	61.1	35.5	18	100.0	58.1	13	41.9	31	100.0

Submitter's Rationale for the Recommendation and Issues it is Expected to Resolve

Senate Bill 16-197 represents the largest change in the Colorado liquor laws since ending Prohibition. While the full impact of SB 16-197 on the business operations, customer relations, and continued market access of craft brewers in Colorado is still unknown, it is expected that craft brewers, the majority of whom are small brewers relying heavily on Colorado's supportive business and regulatory structures in order to thrive, will be particularly affected by the forthcoming changes.

The Colorado craft beer industry is an important economic driver and a key employer in the state. This industry was estimated to have had a total economic impact of over \$3 billion in Colorado in 2016.³⁰

Given the importance of the craft brewing industry to the Colorado economy and the particular vulnerability of craft brewers with the forthcoming changes under SB 16-197, a set of criteria is needed for examining any recommendation submitted by this Working Group for its impact on the Colorado craft brewing industry.

Submitter's Assessment of the Stakeholders Impacted

This recommendation would benefit the craft brewing industry in Colorado and would not negatively impact other stakeholders.

Statutory Authority or Regulations Supporting the Recommendation

SB 16-197, §12-46-109(1), C.R.S., charges the industry working group to “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.” Craft brewers are an important group of licensees who will be affected by this legislation.

Implementing Authorities

Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Government

³⁰ This impact was calculated as a measure of the total impact of beer brewed by Colorado craft brewers as it moves through the three-tiered liquor distribution system of breweries, wholesalers, and retailers, as well as of all non-beer products such as food and merchandise that brewpub restaurants and brewery taprooms sell. Brewers Association for Small and Independent Craft Brewers (2016), “Economic Impact: The Craft Brewing Industry Contributed \$67.8 Billion to the U.S. Economy in 2016, more than 456,000 Jobs,” Boulder, CO, available at <https://www.brewersassociation.org/statistics/economic-impact-data/>.

Supporting Comments from Other Working Group Members		
No.	Submitted By	Comment
N/A	N/A	None registered

Dissenting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Restaurant Association	A wide variety of stakeholders were appointed to this Working Group to ensure that all parts of the industry would be represented in the process. As a representative from the hotel and restaurant industry, the Colorado Restaurant Association reviewed the recommendations based on how they would impact the hotel and restaurant industry and not the craft brewing industry. We believe that the recommendations of the Working Group should be analyzed to determine their impact on the ENTIRE industry rather than a single part of it.
2.	Distilled Spirits Council	<p>The General Assembly should reject this recommendation because it is unreasonable, and look rather at all sectors of the alcohol beverage industry and the entirety of the marketplace when making decisions that will impact the various sectors' ability to grow and compete in the Colorado and global markets. To look at only one sector could privilege that sector and negatively impact the growth of other sectors.</p> <p>Not only craft breweries but also distilleries are experiencing tremendous growth in Colorado. The Colorado Department of Revenue Annual Reports show that the number of "Manufacturer-Distillery/Rectifier" licenses has increased from 22 in 2011 to 83 in 2016, indicating a 277% growth rate during this 5-year period.³¹</p>
3.	Wine and Spirit Wholesalers of Colorado	We do not support this special recommendation that benefits only one segment of the alcohol beverage industry in Colorado. This type of regulated or planned evaluation of a single segment is not beneficial to the alcohol beverage market as a whole.

³¹ DOR (2015 and 2016), *Annual Report: 2015*, p. 27 and *Annual Report: 2016*, p. 28. Denver, Colorado, available at <https://www.colorado.gov/pacific/revenue/annual-report>.

Recommendation 7: Prohibiting Public Consumption of FMB and Malt Liquor

Submitted By: The Colorado Liquor Enforcement Division and the Colorado Association of Chiefs of Police

7.0 In order to provide clear guidance to all Colorado communities regarding the public consumption of alcohol, and because state statutes related to public consumption do not take into account the forthcoming changes in the definitions of fermented malt beverages (FMB) and malt liquor that render the two synonymous and remove the alcohol by volume (ABV) limit from both, and because to not prohibit the public consumption of alcohol beverages higher than 3.2% ABV would have a deleterious effect on public safety, the General Assembly should prohibit the public consumption of both FMB and malt liquor starting on January 1, 2019, unless a local, county, or state entity allows it by ordinance, resolution, or rule; the current statutory prohibition on the public consumption of vinous and spirituous liquors should be maintained.

Duties of the SB 16-197 Working Group to which the Recommendation Applies		
A.	Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.	
B.	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.	✓
C.	Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.	✓
D.	Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.	

Voting Results													
Summary: A majority of Working Group members (71.0%) took a position on this recommendation. Of these, a majority (63.6%) voted in favor.													
Rec. No.	Yes			No			Sub-Total, Position			No Position		Total	
	#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All
7.0	14	63.6	45.2	8	36.4	25.8	22	100.0	71.0	9	29.0	31	100.0

Submitter's Rationale for the Recommendation and Issues it is Expected to Resolve

The definitions of FMB in §12-46-103(1), C.R.S., and of malt liquor in §12-47-103(19), C.R.S., will change starting January 1, 2019, from FMB containing less than 3.2% ABV and malt liquor containing more than 3.2% alcohol by weight or 4.0% ABV, to both FMB and malt liquor being identically defined and containing not less than 0.5% ABV, with no upper limit.

Current Colorado statute §12-47-901(1)(h)(I), C.R.S., prohibits the public consumption of malt, vinous, and spirituous liquors, but does not prohibit the public consumption of FMB, as malt liquors and FMB are currently and differentially defined. However, many local jurisdictions have laws prohibiting the public possession of open alcohol beverage containers, which effectively limit where FMB can be publicly consumed. This exceptional allowance for the public consumption of FMB is found mainly in local parks if allowed by local ordinance and at state parks if allowed by park policy.

Unless additional statutory changes are adopted prior to January 1, 2019, this forthcoming change in the definitions of FMB and malt liquor would significantly change the current arrangements for public consumption to a situation where beer with any level of alcohol content could be consumed in public. Allowing the public consumption of high-strength beer would constitute a major shift in public policy and would lead to a higher incidence of public intoxication and significant public health and safety concerns.

Individual citizens, law enforcement officers, and communities as a whole need consistent laws regarding the public consumption of alcohol beverages, as well as a clear statutory definition of public consumption that would codify legal and illegal behaviors. State-level guidance is also needed regarding the public consumption of alcohol in state parks and other state facilities. This recommendation to prohibit the public consumption of both FMB and malt liquor given their new definitions as of January 1, 2019 would apply throughout the state, but local communities would have the option to allow it by putting specific ordinances in place delineating where such beverages may be legally consumed.

This recommendation would prevent a major shift in public policy by disallowing the public consumption of FMB and malt liquor, whose alcohol content will no longer be capped starting January 1, 2019, and thereby avert the public health and safety issues that would have otherwise been created.

Submitter's Assessment of the Stakeholders Impacted

Current state statute already prohibits the public consumption of higher-strength alcohol beverages through the ban on malt liquor as it is currently defined, as well as on wine and spirits. As such, clarifying that, as of January 1, 2019 because of the removal of the cap on its alcohol content, FMB will also be banned, would be consistent with existing laws and would not constitute a major change for Colorado communities. Prohibiting public consumption of higher-strength beers would benefit the

entire community by reducing public intoxication and avoiding negative public health and safety effects.

Local and state entities would benefit from having the option to put ordinances into place to allow for the public consumption of FMB and malt liquor within parks and other designated areas.

Statutory Authority or Regulations Supporting the Recommendation

§12-47-901(1)(h)(I), C.R.S., prohibits the consumption of malt, vinous, and spirituous liquor in any public place except on any licensed premises permitted under the Colorado Liquor Code, **§12-47, C.R.S.**, to sell such liquor by the drink for consumption thereon.

§12-46-103(1), C.R.S., defines FMB as follows (emphasis added):

Until January 1, 2019: Any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water *containing not less than one-half of one percent alcohol by volume and not more than three and two-tenths percent alcohol by weight or four percent alcohol by volume.*

Effective January 1, 2019: Beer and any other beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water *containing not less than one half of one percent alcohol by volume.*

§12-47-103(19), C.R.S., defines malt liquor as follows (emphasis added):

Until January 1, 2019: Includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof, in water *containing more than three and two-tenths percent of alcohol by weight or four percent alcohol by volume.*

Effective January 1, 2019: Includes beer and means any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof, in water *containing not less than one-half of one percent alcohol by volume.*

Implementing Authorities

Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Government, State and Local Law Enforcement

Supporting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Boulder County Government	We support a statewide ban on public consumption with the option for local governments to pass a rule, ordinance, or resolution to allow it. However, the General Assembly should ensure that statutory counties may also opt to allow public consumption, rather than limiting this option to home rule cities and counties.
2.	Liquor Enforcement Division	Absent any new statutory changes and effective January 1, 2019, SB 16-197 would allow for public consumption of FMB, regardless of its ABV. Allowing the public consumption of higher-ABV beer would dramatically shift long-standing public policy, and would create significant public safety issues.

Dissenting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Restaurant Association	This recommendation as written would cause a drastic shift in policy regarding the public consumption of alcohol in Colorado. Currently, an individual may consume 3.2% FMB in a state or city park, provided that the park or the city does not have an ordinance or rule prohibiting it. This recommendation would prohibit ANY public consumption of FMB or malt liquor unless a city allows it, but the recommendation does not refer to allowing this public consumption ONLY in parks. Rather, the recommendation as stated would allow local jurisdictions to pass an ordinance allowing for the public consumption of FMB and malt liquor ANYWHERE in their jurisdictions. Such unregulated public consumption of alcohol would lead to significant and detrimental impacts on public safety.
2.	Distilled Spirits Council	This recommendation provides a process to allow public consumption of FMB and malt liquor while disregarding the public's desire for a choice of products including wine and spirits. Thus it unreasonably discriminates against wine and spirits and gives preferential treatment to FMB and malt liquor in the marketplace after the lifting of the ABV cap on FMB under SB16-197. Any public consumption ordinances that the General Assembly may permit should allow for consumer choice and not discriminate between beer, wine and spirits.
3.	Representative of the Public	Currently, state law allows for the public consumption of 3.2% beer in public unless prohibited by a local ordinance, but prohibits the consumption of wine or any spirituous beverage regardless of their alcohol content. Generally this means that people in a state park can consume only 3.2% ABV beer, but this restriction is widely ignored, since most beer consumed in Colorado has an ABV content greater than 3.2%. The distinction of allowing only 3.2% beer has no rational basis and should be removed, whereas what should be prohibited is public intoxication and bad behavior. People want to be able to reasonably and safely consume alcohol in a state park or at the base of ski hill.

Neutral Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Brewers Guild	We support this recommendation but encourage local and state officials to engage with their communities and stakeholders regarding how to best manage the public consumption of alcohol with the forthcoming elimination of the 3.2% ABV cap on FMB. Regulated public consumption of malt liquor products complements outdoor activities in state and local parks and has become an important part of Coloradan culture. As such, customers should be able to continue to enjoy Colorado craft beer in local and state recreational areas, accompanied by appropriate regulation. Decisions about the public consumption of malt liquor products should remain a local issue and not come under a “one-size-fits-all” prescription that would prohibit public consumption of all malt liquor products.
2.	Wine and Spirits Wholesalers of Colorado	We believe that if public consumption is to be allowed by a local, county, or state entity, all forms of alcohol, including beer, wine, and distilled spirits, should be treated with parity.

Recommendation 8: Prohibiting or Allowing the Public Consumption of All Alcohol Beverages

Submitted By: Distilled Spirits Council and Colorado Distillers Guild

8.0 Current Colorado law prohibits the public consumption of malt, vinous and spirituous liquors, but allows for the public consumption of fermented malt beverages (FMB), which are currently defined as having 3.2% or less alcohol by volume (ABV). Effective January 1, 2019, because the definitions of FMB and malt liquor are changing to where both will be defined as having more than 0.5% ABV, it could be the case that any beer over 0.5% ABV could be legally consumed in public unless legislative action is taken to prevent it.

Given that some malt liquors may contain 50% or more ABV, while some wines may contain less than 5.5% ABV and some spirits less than 15% ABV, the General Assembly should re-examine the current laws regarding public consumption of all alcohol beverages effective January 1, 2019, and modify the laws in order to either:

- (1) Prohibit the public consumption of FMB, malt liquor, vinous, and spirituous liquors unless a local, county, or state entity allows for their consumption by rule, ordinance or resolution; or
- (2) Allow for the public consumption of FMB, malt liquor, vinous, and spirituous liquors without distinction and to allow for greater consumer choice.

Duties of the SB 16-197 Working Group to which the Recommendation Applies		
A.	Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.	
B.	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.	✓
C.	Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.	
D.	Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.	

Voting Results													
Summary: A majority of Working Group members (61.3%) took a position on this recommendation. Of those who took a position, a slim majority (52.6%) voted in favor.													
Rec. No.	Yes			No			Sub-Total, Position			No Position		Total	
	#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All
8.0	10	52.6	32.3	9	47.4	29.0	19	100.0	61.3	12	38.7	31	100.0

Submitter's for the Recommendation and Issues it is Expected to Resolve

Public consumption of 3.2% FMB is not prohibited in the Colorado Beer Code, §12-46, C.R.S., but due to open container laws in many cities and counties, public consumption of 3.2% FMB is seen mostly in local parks if allowed by local ordinance, and state parks if allowed by park policy. Malt liquor, provisions for which are contained in the Colorado Liquor Code, §12-47, C.R.S., has been treated similarly to vinous and spirituous liquors with regard to public consumption, with all three types of alcohol beverages being prohibited under §12-47-901(1)(h)(I), C.R.S.

With the passage of SB 16-197 and the unification of the definitions of FMB and malt liquor starting on January 1, 2019 under §12-46-103(1) and §12-47-103(19), C.R.S., respectively, public consumption of the then higher-strength FMB, and therefore of malt liquor given their identical definitions, may be interpreted as being also not prohibited under statute, as has been the case for 3.2% FMB. However, malt liquor products may contain 50% or more ABV, similar to many spirituous liquors, while some wines and spirits contain less ABV than many malt liquor products.

If the public consumption of malt liquor is to be allowed starting January 1, 2019, the public consumption of vinous and spirituous liquors should also be allowed without distinction, in order to treat similar products similarly, treat all alcohol beverage products equitably under the law, and provide persons over the age of 21 with a wider range of choices regarding which type of alcohol beverage products they would like to consume while in public.

Alternatively and also to promote greater equity, the public consumption of all alcohol beverages could be prohibited in Colorado regardless of the type of beverage, unless a local, county, or state entity chooses to allow for the consumption of all of these products in specific locations.

Submitter's Assessment of the Stakeholders Impacted

If the public consumption of all types of alcohol beverages is allowed, Colorado residents over the age of 21 would benefit from greater freedom of choice regarding which type of alcohol beverage products they would like to consume while in public.

If the public consumption of all types of alcohol beverages is prohibited, local and state governments will have the option to allow the consumption of all of these products in specific areas such as parks. In such areas, persons over the age of 21 would benefit from greater freedom of choice.

In both cases the manufacturers, distributors, and retailers of beer, wine, and spirits would all have their products treated equitably under the law.

Statutory Authority or Regulations Supporting the Recommendation

The Colorado Beer Code, §12-46, C.R.S., does not prohibit the public consumption of FMB.

The Colorado Liquor Code, §12-47, C.R.S., prohibits the public consumption of malt liquor as well as vinous and spirituous liquor. §12-47-901(1)(h)(I), C.R.S., prohibits the consumption of these products in any public place except on any licensed premises permitted under §12-47, C.R.S., to sell such liquor by the drink for consumption thereon.

FMB and malt liquor will be very similarly defined in the Colorado statutes starting January 1, 2019:

§12-46-103(1), C.R.S., will define FMB as follows (emphasis added): Beer and any other beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water *containing not less than one half of one percent alcohol by volume*.

§12-47-103(19), C.R.S., will define malt liquor as follows (emphasis added): Includes beer and means any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof, in water *containing not less than one-half of one percent alcohol by volume*.

Implementing Authorities

Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Government, State and Local Law Enforcement

Supporting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Wine Institute Development Board (CWIDB)	The decision to prohibit or allow public consumption of alcohol should rest with the local government and the community. In view of the legal changes under SB16-197 that will take effect on January 1, 2019 and remove the distinction between 3.2% and full-strength beer, some of which has a higher alcohol content than many wines, local governments will be considering whether or not to allow the public consumption of full-strength beer. In this process, they should also have the option to allow the public consumption of wine and spirits. The CWIDB is not advocating for or against the public consumption of alcohol, but would like to see equal treatment of wine, beer, and spirits under local public consumption laws.
2.	Distilled Spirits Council	Beer, wine, and spirit products should be treated fairly and equitably by government regulators. Any public consumption ordinances that may be allowed by local governments should not limit consumer choice, discriminate between beer, wine and spirits, or give preferential treatment to one product type over another in the marketplace.

Supporting Comments from Other Working Group Members (continued)		
3.	Wine and Spirit Wholesalers of Colorado	We support this recommendation because it provides parity for all forms of alcohol beverages - beer, wine, and distilled spirits.

Dissenting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Boulder County Government	This recommendation forces local governments to either allow public consumption of all types of alcohol or not allow public consumption at all. Local governments should not be forced into an “all or nothing” decision, but rather should have the opportunity to decide what is best for their communities and whether beer, wine, and/or liquor may be consumed in public.
2.	Liquor Enforcement Division	<p>Current state law does not allow the public consumption of malt liquor, nor of vinous or spirituous liquors. However, it does not prohibit the public consumption of FMB, which until January 1, 2019 has a maximum alcohol content of 3.2% ABV. Permitting FMB consumption in public occurs primarily in local parks if allowed by ordinance and in state parks if allowed by park policy.</p> <p>Absent any new statutory changes and effective January 1, 2019, SB 16-197 would allow for public consumption of FMB, regardless of its ABV. Allowing the public consumption of higher-ABV beer and potentially also of vinous or spirituous liquor would dramatically shift long-standing public policy, and would create significant public safety issues.</p>

Neutral Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Representative of the Public	Currently, state law allows for the public consumption of 3.2% beer in public unless prohibited by a local ordinance, but prohibits the consumption of wine or any spirituous beverage regardless of their alcohol content. Generally this means that people in a state park can consume only 3.2% ABV beer, but this restriction is widely ignored, since most beer consumed in Colorado has an ABV greater than 3.2%. The distinction of allowing only 3.2% beer has no rational basis and should be removed, whereas what should be prohibited is public intoxication and bad behavior. People want to be able to reasonably and safely consume alcohol in a state park or at the base of ski hill.

C. Legislative, Regulatory, or Administrative Changes to Promote the Three-Tiered System

Recommendation 9: Defining When the Manufacturing Process Ends

Submitted By: The Colorado Wine Industry Development Board and Wine Institute

9.0 In order to clarify the parameters and procedures of the manufacturing process for the purposes of tax collection, implementation, and control of premises, create a definition in the Colorado statutes as necessary, and in the Colorado Liquor Rules, 1 C.C.R. 203-2, Regulation 47-100(B), “Definitions,” to specify when the manufacturing process for an alcohol beverage ends, to include one of the two options below. Add this language to the existing list of licenses in Regulation 47-100(B) that qualify as a “Manufacturer.”

9.0.1 Option 1: Define that the manufacturing process of an alcohol beverage ends when the beverage has been released from a bonded warehouse or from the licensee’s own federally bonded premises and placed in commerce, for example if it is sold directly by a winery to a consumer or a licensed retail outlet, or taken by a distributor for distribution, or taken by a common carrier for delivery.

9.0.2 Option 2: Recognize that the manufacturing process continues until such time as the product is bottled or packaged in such a way that it could be legally sold to a consumer, in accordance with state and federal rules governing labeling and packaging, and the product is ready to be placed into commerce. This would apply whether the product is sold by the manufacturer to a wholesaler or directly to a retailer or the final consumer, either in person or through delivery by common carrier, if such sales are allowed by the manufacturer’s license.

Duties of the SB 16-197 Working Group to which the Recommendation Applies		
A.	Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.	
B.	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.	
C.	Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.	✓
D.	Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.	

Voting Results													
Summary: Just over two-thirds of the Working Group Members (67.7%) did not take a position on this recommendation. Of the 10 who took a position, all voted in favor. Of those who voted in favor, 80% chose to define the end of the manufacturing process using Option 2.													
Rec. No.	Yes			No			Sub-Total, Position			No Position		Total	
	#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All
9.0	10	100.0	32.3	0	0.0	0	10	100.0	32.3	21	67.7	31	100.0
9.0.1	2	20.0	-	-	-	-	2	-	-	-	-	2	-
9.0.2	8	80.0	-	-	-	-	8	-	-	-	-	8	-

Submitter's Rationale for the Recommendation and Issues it is Expected to Resolve

The lack of a definition of when the manufacturing process of an alcohol beverage ends has led to inconsistent regulation by the LED and confusion among licensees. Defining the end of the manufacturing process in statute and rule would promote the three-tiered liquor distribution system in Colorado by better distinguishing the manufacturing and distribution tiers, clarifying when excise tax should be paid on a product, and improving the control of licensed premises and products.

One option for defining the end of the manufacturing process would be to align Colorado law with federal law on this issue, as in Option 1, which specifies that the manufacturing process is complete when an alcohol product is released from bond, whether that be from a bonded warehouse, a bonded winery, or another type of bonded manufacturing facility, and the product is placed into commerce. Examples include when the manufacturer: (1) Sells the product directly to a consumer or a licensed retail outlet; (2) Delivers the product to an in-state or out-of-state wholesaler for distribution; or (3) places the product on a common carrier for delivery.

Option 2 for defining the end of the manufacturing process would be to specify that it ends once the product has been packaged in such a way that it can be legally sold to the customer or consumer. The product would be ready to enter commerce once the product has been packaged, regardless of the party to whom the product is "first sold." See below for the definition of "first sold" in §12-47-5-3(3), C.R.S.

Per Option 2, when an alcohol beverage product has been sealed in a package that could be sold to a consumer, a Colorado manufacturer could make the "first sale" in Colorado to a licensed wholesaler, directly to a consumer through a manufacturer sales room, or directly to a retail account provided the manufacturer had the appropriate licenses and permits to make such sales. At that point, the finished and packaged product would be subject to excise tax payments to the State of Colorado. A sale from manufacturer to manufacturer in bulk form, for example in unlabeled "shiners," or in otherwise unfinished and unpackaged product would not count as "first sale."

Submitter's Assessment of the Stakeholders Impacted

This recommendation would positively impact both the tax payers, namely the manufacturers, and the tax collectors, namely DOR and LED staff, who will both be more aware of when the “first sale” takes place and therefore when the product is subject to excise tax.

Statutory Authority or Regulations Supporting the Recommendation

§12-47-503(3), C.R.S., provides for a manufacturer to sell the product subject to excise tax to a wholesaler or consumer. It specifies that the excise taxes and surcharges shall be paid to the DOR upon the filing of a verified return with the state licensing authority and shall be delivered to the Department on or before the twentieth day of the month following the month in which such alcohol beverages are *first sold* in Colorado. “*First sold*” is defined as “*the sale or disposal that occurs when a licensed wholesaler sells, transfers, or otherwise disposes of a product, when a manufacturer sells to a licensed wholesaler or a consumer, or when a holder of a winery direct shipper’s permit ships to a personal consumer in the state*” (emphasis added).

Implementing Authorities

Colorado General Assembly, Department of Revenue, Liquor Enforcement Division

Supporting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Wine Institute Development Board (CWIDB)	<p>Although it would bring Colorado’s regulation into closer alignment with federal rules as well as with those in other states, Option 1 (Sub-recommendation 9.o.1) would necessitate a significant change to the Colorado Liquor Code. Given that the General Assembly and the LED may not be able to devote the resources and energy to such a significant revision of the Colorado Liquor Code, we offered Option 2 (Sub-recommendation 9.o.2) as an alternative.</p> <p>While the CWIDB would like to see the General Assembly consider future revisions to the Colorado Liquor Code that would simplify compliance for Colorado manufacturers, wholesalers, and any other businesses that must comply with both state and federal regulation, for the sake of expediency we would be satisfied with the implementation of Option 2, which would require no major Liquor Code changes at this time.</p>

Dissenting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Wine and Spirit Wholesalers of Colorado	We prefer to recognize legal sales to consumers and existing state and federal rules when attempting to define when the manufacturing process ends.

Neutral Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Liquor Enforcement Division	<p>Current state law specifies that excise taxes be paid upon first sale, while federal law specifies that excise taxes be paid once the product is removed from a bonded area. Sub-recommendation 9.0.1 thus suggests that Colorado adopt the federal process for determining when excise taxes should be paid.</p> <p>While the LED is neutral regarding this recommendation, this option for defining the end of the manufacturing process would require significant statutory and rule changes and a large amount of resources to implement. The LED suggests that a separate working group be established to ensure that all relevant stakeholders are able to give input, and to specifically include the DOR Tax Division, since it was not part of the SB 16-197 Statutory Working Group.</p>

Recommendation 10: Reporting Requirements for Carriers Shipping Alcohol into Colorado

Submitted By: Wine and Spirits Wholesalers of Colorado

10.0 To ensure that proper tax is reported and collected on all wine, beer, and distilled spirits entering Colorado through any type of carrier, the Colorado General Assembly should adopt legislation to specify comprehensive reporting requirements for all such carriers and shipments. Suggested language for this legislation is as follows:

It shall be the duty of every railroad company, express company, common carrier, contract carrier, firm, or corporation (hereafter referred to as “Carrier”) that shall bring, carry, or transport wine, beer, or distilled spirits (as these items are defined by the state of Colorado), from outside the state for delivery to consumers inside the state, to prepare and file monthly with the Department of Revenue (DOR), or according to the same timeline as for state-licensed shippers of wine, beer, and distilled spirits, a report of known shipments of wine, beer, or distilled spirits. The report shall include the following information:

1. Name of the Carrier making the transport or shipment
2. Period of time covered by the report
3. Name and business address of the consignor of the wine, beer, or distilled spirits being carried
4. Name and address of each consignee the wine, beer, or distilled spirits being carried
5. Weight of the package delivered to each consignee
6. Unique tracking number
7. Date of delivery

The DOR shall make all such Carrier reports available to the public in the same manner as for other state alcohol filings, and shall also make the reports available to any law enforcement or regulatory body in the state in which the Carrier is located or does business.

Upon the DOR’s written request, any records supporting these Carrier reports shall be made available to the DOR within a reasonable time after the request is made, and shall be made open and available to inspection by DOR staff. Any records containing information relating to such reports shall be maintained and preserved by the Carrier for a period of not less than two years, unless their earlier destruction is authorized in writing by the DOR.

Any Carrier that willfully fails to submit reports as outlined in this section or to comply with any of the rules and regulations of the DOR for the administration and enforcement of this section is subject to a notification of violation. In the case of a continuing failure to submit reports, the Carrier will be subject to the possible suspension or revocation of its license, at the DOR’s discretion and if applicable based on state licensure requirements.

Duties of the SB 16-197 Working Group to which the Recommendation Applies		
A.	Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.	
B.	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.	
C.	Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.	✓
D.	Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.	

Voting Results													
Summary: Just over half of the Working Group members (17, 54.8%) did not take a position on this recommendation. Of those who took a position, a strong majority (85.7%) voted in favor.													
Rec. No.	Yes			No			Sub-Total, Position			No Position		Total	
	#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All
10.0	12	85.7	38.7	2	14.3	6.5	14	100.0	45.2	17	54.8	31	100.0

Submitter's Rationale for the Recommendation and Issues it is Expected to Resolve

Currently there is no comprehensive reporting structure in place for carriers when they are shipping beer, wine or spirits into Colorado. This recommendation is important to ensure that the proper tax is collected on all beer, wine and spirit shipments entering the state.

Submitter's Assessment of the Stakeholders Impacted

This recommendation would benefit the state of Colorado and its residents by highlighting illegal shipments of alcohol beverages into the state and identifying appropriate tax revenues that are being lost for these shipments.

The recommendation would benefit state-licensed carriers by reducing unfair competition in the form of illegal shipments from outside the state.

Compliance measures such as these are not uncommon for carriers transporting highly regulated products. Because carriers shipping alcohol beverage products into Colorado already track this data, generating the required reports and sending them to the LED should not be overly burdensome. This recommendation would also serve as a shield of liability for carriers.

Common carrier reporting clearly defines carriers' duties to the state and penalizes only those carriers that withhold information about known alcohol shipments. Carriers who do not meet the requirements would risk enforcement action.

Statutory Authority or Regulations Supporting the Recommendation

SB 16-197, §12-46-109(1), C.R.S., lists the following duty for the liquor industry working group that relates to this recommendation: Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered liquor distribution system in Colorado. This recommendation helps to preserve the three-tiered system in the state by appropriately tracking shipments originating from out-of-state carriers and ensuring that the proper tax is collected on these shipments.

Implementing Authorities

Colorado General Assembly, Department of Revenue, Out-of State Carriers

Supporting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Brewers Guild	The illegal shipment of alcohol is an important issue that must be addressed. Under current Colorado law, only Colorado-licensed RLS's and certain Colorado and out-of-state wineries are permitted to ship alcohol directly to consumers. However, numerous other out-of-state manufacturers and retailers illegally ship alcohol directly to consumers in the state, to the detriment of Colorado licensees. By requiring the carriers that deliver the products to report these shipments, the LED will have better access to the information necessary to halt these illegal practices.
2.	Colorado Wine Industry Development Board	Receiving and managing the additional monthly reports from carriers as a result of this recommendation will require additional manpower and other resources at the LED. Because of this and in order to ensure the proper collection and payment of all taxes due on alcohol beverages shipped to Colorado consumers from both in-state and out-of-state producers and suppliers, the General Assembly should increase the amount of resources available for enforcement operations at the DOR.
3.	Wine and Spirit Wholesalers of Colorado	This recommendation is necessary to ensure that the proper tax is reported and collected on all alcohol beverages entering Colorado. This proactive language ensures that Colorado is tracking all shipments of wine, beer, and distilled spirits originating outside the state for delivery to consumers inside the state. The common carrier language in this recommendation lays out suggested reporting requirements that would yield valuable data for comparing in-state and out-of-state sales and tax collection.

Dissenting Comments from Other Working Group Members		
No.	Submitted By	Comment
N/A	N/A	None registered

Neutral Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Liquor Enforcement Division	While the LED is neutral regarding this recommendation, its implementation and administration would require considerable resources. First, it would be necessary to promulgate additional statutes to assert jurisdiction over the out-of-state carriers that would be required to comply with the requirements outlined in the recommendation. Second, the LED would need to prepare a significant fiscal note to obtain the necessary resources to conduct a rule-making process and adequately administer and enforce the new requirements.

Recommendation 11: Annual Briefing on the Three-Tiered System in Colorado*Submitted By: Colorado Beer Distributors Association and Wine and Spirits Wholesalers of Colorado*

11.0 The General Assembly should require that the Colorado Liquor Enforcement Division (LED) provide annually to the Joint House and Senate Business Committee, through the SMART Act hearings process (HB 13-1299), a briefing about the state of the three-tiered liquor distribution system in Colorado for the manufacturing, distribution, and retail sales of alcohol, and how well this system is being protected and promoted. This briefing should include an assessment of how well any proposed changes to §12-46 and §12-47, C.R.S. and to the Colorado Liquor Rules, 1 C.C.R. 203-2, promote and protect the three-tiered system. The report of this annual briefing should be made available to the public.

Duties of the SB 16-197 Working Group to which the Recommendation Applies		
A.	Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.	
B.	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.	
C.	Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.	✓
D.	Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.	

Voting Results													
Summary: A majority of the Working Group members (61.3%) took a position on this recommendation. Of these, a majority (63.2%) voted against it.													
Rec. No.	Yes			No			Sub-Total, Position			No Position		Total	
	#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All
11.0	7	36.8	22.6	12	63.2	38.7	19	100.0	61.3	12	38.7	31	100.0

Submitter's Rationale for the Recommendation and Issues it is Expected to Resolve

The three-tiered system of alcohol distribution in Colorado promotes a safe, responsible, and effective regulatory system for the production, distribution, and sale of alcohol beverages in the state. This recommendation would help to maintain the integrity of this system, and fulfills the mandate outlined in SB 16-197, §12-46-109(1), C.R.S., related to promoting the three-tiered system in Colorado.

Submitter's Assessment of the Stakeholders Impacted

Members of the Colorado General Assembly and the general public would benefit from receiving annual updates about the integrity and viability of the three-tiered liquor distribution system in Colorado.

Statutory Authority or Regulations Supporting the Recommendation

SB 16-197, Section 5, §12-46-109(1), C.R.S., charges the liquor industry working group to “consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.”

Implementing Authorities

Colorado General Assembly, Department of Revenue, Liquor Enforcement Division

Supporting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Wine and Spirit Wholesalers of Colorado	We support this recommendation as part of SB 16-197's provision directing this Working Group to examine changes necessary to promote the three-tiered liquor distribution system in Colorado. This system is the most efficient one for delivering a wide variety of products from anywhere in the world. It controls access, delivers tax revenue to local, state, and federal governments, and ensures product safety and consumer protection.

Dissenting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Colorado Brewers Guild	The three-tiered liquor distribution system is not a well-defined term in Colorado statute, and it is not clear that it needs protection. The LED is part of the executive branch of the Colorado state government whose role it is to enforce the laws enacted by the General Assembly. It is not the LED's proper role to determine which aspects or members of the Colorado liquor industry need protection or promotion, which would jeopardize its neutrality and impartiality as a state enforcement agency. The recommendation also requires the LED to take on additional study and provide an educational role to the General Assembly, which would not be the most efficient use of its limited resources.
2.	Distilled Spirits Council	Although we are a strong proponent of the three-tiered liquor distribution system, we do not believe that the LED should be put in a position to make determinations regarding how any changes to the Colorado liquor laws might impact this system.
3.	Liquor Enforcement Division	The LED opposes this recommendation. As a regulatory and enforcement body, the LED takes seriously its responsibilities to provide subject matter expertise and remain neutral toward potentially political issues. However, requiring the LED to provide subjective opinions on how well the three-tiered liquor distribution system is being protected and promoted would likely force it to compromise its neutrality.

D. Tastings and Growlers at Retail Liquor Stores

Recommendation 12: Statutory and Rule Changes Regarding Tastings at Retail Liquor Stores³²

Submitted By: Colorado Licensed Beverage Association, Wine Institute, Colorado Wine Industry Development Board, Distilled Spirits Guild, and Colorado Distillers Guild

12.1-12.6 The General Assembly and the Liquor Enforcement Division should make the following statutory and rule changes to update and streamline the laws and rules governing tastings on the premises of retail liquor store (RLS) and liquor-licensed drugstore (LLDS) licensees:

- 12.1** Amend §12-47-301(10)(c), C.R.S. to permit tastings to occur as follows:
 - a. On any day of the week and for any number of days per week
 - b. Beginning no earlier than 11 a.m. and ending no later than 9 p.m., and for a total of not more than 8 hours per day
 - c. Total tastings are not to exceed one hundred fifty (150) days per year
- 12.2** Amend §12-47-301(10)(c)(VII), C.R.S. to permit a licensee to store any open and unconsumed alcohol beverage samples from a tasting in a locked and secure area on the licensed premises for use at a later tasting, and that the samples may be removed from the locked and secure area only during a subsequent tasting or to destroy the samples or remove them from the licensed premises.
- 12.3** Amend §12-47-301(10)(c)(I), C.R.S. to allow for supplier representatives, employees, or agents to pour alcohol products to patrons with the permission of, and under the supervision of, RLS or LLDS employees. If required by the RLS or LLDS management, the supplier representative, employee, or agent must have completed a responsible server training program.
- 12.4** Clarify by statute or rule that the RLS or LLDS licensee shall be solely liable for the conduct and supervision of the tasting, including but not limited to verifying the age of all patrons participating in the tasting as well as whether the patron is showing any visible signs of intoxication. The RLS or LLDS licensee is therefore solely responsible for any administrative violations incurred during a tasting, whether committed by the RLS or LLDS licensee's employees or by the supplier's representative, employee, or agent.
- 12.5** Make clear through statute or rule that a supplier representative, employee, or agent pouring alcoholic products, whether for a consumer sampling at the premises of an On-Premises licensee for the purpose of sales promotion (1 C.C.R. 203-2, Regulation 47-322(B)(2)), or in a consumer tasting on the premises of a licensed RLS or LLDS licensee (§12-47-301(10), C.R.S.), would not be considered as a cost of labor provided by a supplier to a retail licensee as described in Regulation 47-322(L)(3), because by pouring products during these two types of events, the supplier's representative, employee, or agent is promoting the supplier's product and not providing a service to the retail licensee.
- 12.6** Retain and further clarify the requirement in §12-47-301(10)(c)(XII), C.R.S. that the RLS or LLDS licensee bears the financial and all other responsibility for a tasting.

³² The term "supplier" in Sub-recommendations 12.3-12.5 refers to a licensed Manufacturer.

Duties of the SB 16-197 Working Group to which the Recommendation Applies		
A.	Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019.	
B.	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.	
C.	Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.	
D.	Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors.	✓

Voting Results

Summary: A majority of Working Group members took a position on all six sub-recommendations related to statutory and rule changes to better regulate tastings on the premises of RLS's and LLDS's. The strongest majority taking a position (77.4%) was for sub-recommendation 12.4 regarding responsibility for the conduct of tastings and the weakest majority taking a position (58.1%) was for sub-recommendation 12.2 regarding granting RLS and LLDS licensees the right to store unconsumed products in a safe, locked location on the premises for use in future tastings.

Of those who took a position, a majority of Working Group members voted in favor of each sub-recommendation. The strongest majority (95.0%) was for sub-recommendation 12.5 regarding pouring during tastings not being considered as cost of labor, and the weakest majority (83.3%) was for sub-recommendation 12.4 regarding RLS responsibility for the conduct, supervision, and administrative violations related to tastings.

Rec. No.	Yes			No			Sub-Total, Position			No Position		Total	
	#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All
12.1	19	90.5	61.3	2	9.5	6.5	21	100.0	67.7	10	32.3	31	100.0
12.2	17	94.4	54.8	1	5.6	3.2	18	100.0	58.1	13	41.9	31	100.0
12.3	21	91.3	67.7	2	8.7	6.5	23	100.0	74.2	8	25.8	31	100.0
12.4	20	83.3	64.5	4	16.7	12.9	24	100.0	77.4	7	22.6	31	100.0
12.5	19	95.0	61.3	1	5.0	3.2	20	100.0	64.5	11	35.5	31	100.0
12.6	21	91.3	67.7	2	8.7	6.5	23	100.0	74.2	8	25.8	31	100.0

Submitter's Rationale for the Recommendation and Issues it is Expected to Resolve

The limits imposed on the conduct of tastings and samplings at the RLS's and LLDS's under current laws and regulations are excessive and have had the effects of unnecessarily limiting consumer engagement, creating waste, and leading to inadvertent violations. Some of these laws and regulations are based on technical details that do not make good sense or serve a valuable public policy purpose.

Given several years of successful experience with the conduct of tastings at RLS's and LLDS's under the current provisions of §12-47-301(10), C.R.S., it is important to take this opportunity to make some adjustments to the legal and regulatory structure governing these events. The modest, common-

sense adjustments suggested in this recommendation will make the regulatory structure more logical and less wasteful, and will provide additional opportunities for consumer engagement without compromising responsible service or consumer safety.

It should be noted that the recommended amendments to §12-47-301(10)(c), C.R.S., in Recommendation 12.1 regarding the allowable days of the week, hours and duration of tastings, and total tastings per year fall within the larger context of §12-47-301(10)(a), C.R.S., which specifies that a local government must pass an ordinance or resolution allowing tastings in their jurisdictions for any of the provisions related to tastings to apply, and that they may impose stricter limitations on tastings than are provided for in §12-47-301(10), C.R.S.

Submitter's Assessment of the Stakeholders Impacted

Consumers, manufacturers, wholesalers, and retailers would all be positively impacted by this recommendation. In-store tastings allow consumers to try new or different products and enhance their shopping experience, and allow manufacturers, wholesalers, and retailers to better disseminate information about their products. Craft beer manufacturers in particular find tastings to be one of the best ways of introducing their unique products to consumers.

Having streamlined and more common-sense laws and regulations related to tastings will help manufacturers, wholesalers, and retailers to offer them more easily while continuing to manage them in a well-controlled environment that protects public safety.

Statutory Authority or Regulations Supporting the Recommendation

SB 16-197, Section 5, §12-46-109 (1), C.R.S., charges the liquor industry working group to examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under the **Colorado Liquor Code, §12-47, C.R.S.**, and the ability of RLS's licensed under **§12-47-407, C.R.S.**, to sell growlers containing malt liquors.

§12-47-301(10), C.R.S., outlines provisions for the conduct of tastings at the premises of RLS's and LLDS's licensed under **§12-47, C.R.S.**

§12-47-301(10)(a), C.R.S., specifies that the provisions in **§12-47-301(10), C.R.S.**, related to tastings shall apply only within in a county, city and county, or municipality if their respective governing bodies adopt an ordinance or resolution authorizing such tastings, and that such ordinances or resolutions may provide for stricter limits in regard to tastings per year, days on which tastings may occur, and number of hours a tasting may last, than are outlined in **§12-47-301(10), C.R.S.**

§12-47-301(10)(c), C.R.S., specifies the limitations on these tastings.

The Colorado Liquor Rules, 1 C.C.R 203-2, outline the rules and regulations related to implementing §12-47, C.R.S., Regulation 47-322 regulates unfair trade practices and competition. **Section (B)** addresses on-site sales promotions. **Section (L)** addresses the “Value of Labor” involved when suppliers provide labor on the premises of retail licensees, and when the cost of this labor should be reimbursed.

Implementing Authorities

Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Licensing Authorities

Supporting Comments from Other Working Group Members		
No.	Submitted By	Comment
N/A	N/A	None registered

Dissenting Comments from Other Working Group Members		
No.	Submitted By	Comment
1.	Liquor Enforcement Division	<p>Sub-recommendation 12.4 would shift sole responsibility from a supplier licensee to the retail licensee for any administrative violation occurring during a tasting on the retail premises, even if the violation was committed by a supplier’s employee or agent.</p> <p>If enacted, this recommendation would yield absurd results. Current law holds the fundamental principle that a licensee is administratively responsible for its employees’ or agents’ actions. Creating an exception to this fundamental principle would undermine common sense agency principles, and erode the ability for the State Licensing Authority to hold a licensee responsible for its employees’ or agents’ actions. If a licensee is no longer responsible for its employees’ or agents’ actions, there would be no incentive for that licensee to act as a responsible steward in the distribution of alcohol. Furthermore, there would be no recourse for the State Licensing Authority to take action against a licensee for violations committed under its license by its employees or agents.</p>
2.	Wine and Spirits Wholesalers of Colorado	We opposed Recommendation 12.3 regarding liability for administrative violations during tastings because it does not clearly specify that a wholesaler’s license would not be placed at risk as a result of such a violation.

8. Closing Thoughts

The DOR and the LED appreciate having had this opportunity to provide information to the Senate Business, Labor, and Technology Committee and the House of Representatives Business Affairs and Labor Committee from the diverse group of stakeholders who participated on the SB 16-197 Working Group. This group has spent more than a year developing the 12 recommendations and 40 sub-recommendations contained in this report, in order to provide valuable input for future policy-making regarding the forthcoming transition to higher-strength beer sales in grocery and convenience stores and other regulatory changes to the liquor industry in Colorado.

The SB 16-197 Working Group enjoyed an open, transparent, and lively dialogue throughout its 14-month process of meetings and discussions leading to the finalization of the recommendations. Working Group meetings were well-attended not only by the Working Group members, but also by other industry members and members of the public, as attested by the count of nearly 90 persons who attended in addition to Working Group members.

The 12 recommendations were presented under these four categories of duties given to the Working Group in SB 16-197, §12-46-109(1), C.R.S.:

- A. Develop an implementation process for grocery and convenience stores to apply for a license to sell fermented malt beverages and malt liquor containing at least 0.5% alcohol by volume starting January 1, 2019** (four recommendations).
- B. 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** (four recommendations).
- C. Consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado** (three recommendations).
- D. Examine and make recommendations regarding laws governing tastings conducted on retail premises licensed under §12-47, C.R.S., and the ability of retail liquor stores licensed under §12-47-407, C.R.S., to sell growlers containing malt liquors** (one recommendation).

Some of the recommendations suggest alternative or even conflicting pathways for addressing the same issue, such as those related to managing the public consumption of FMB once the alcohol content limit is removed therefrom on January 1, 2019 and those related to developing an implementation process for grocery and convenience stores to apply for a license to sell higher-strength beer starting that date.

Given the complex nature of many of the issues under consideration and the Working Group's varied composition, interests, and roles in the liquor industry, some Working Group members refrained from taking a position on the recommendations, and few recommendations garnered support either from a majority of the whole Working Group or from strong majorities of those members who did take a position.

As such, full information on all recommendations has been provided for the consideration of the General Assembly, from the viewpoints of both the Working Group members and organizations that submitted them and those who provided written comments on the recommendations after the votes were taken.

It will be important for the General Assembly to consider the information provided in this report, weigh the various options presented, and make important policy decisions regarding how to manage the more contentious issues identified by the Working Group. Clear direction on these issues will greatly assist the DOR, the LED, local licensing authorities, and law enforcement agencies to better prepare for the January 1, 2019 transition.

It is our hope that the findings and recommendations contained in this report will assist the General Assembly in making informed decisions related to changes in Colorado liquor policy in the forthcoming legislative session and beyond.

9. Appendices

Appendix A: Text of SB 16-197

Note: The text related to the SB 16-197 Working Group is in Section 5.

NOTE: The governor signed this measure on 6/10/2016.



SENATE BILL 16-197

BY SENATOR(S) Steadman, Baumgardner, Grantham, Heath, Hill, Hodge, Holbert, Martinez Humenik, Ulibarri, Woods, Cadman;
also REPRESENTATIVE(S) Williams and Nordberg, Arndt, Becker K., Esgar, Ginal, Joshi, Kraft-Tharp, Navarro, Roupe, Ryden, Thurlow.

CONCERNING THE RETAIL SALE OF ALCOHOL BEVERAGES, AND, IN CONNECTION THEREWITH, RESTRICTING THE ISSUANCE OF NEW LIQUOR-LICENSED DRUGSTORE AND RETAIL LIQUOR STORE LICENSES EXCEPT UNDER SPECIFIED CIRCUMSTANCES; ALLOWING LIQUOR-LICENSED DRUGSTORE AND RETAIL LIQUOR STORE LICENSEES TO OBTAIN ADDITIONAL LICENSES UNDER LIMITED CIRCUMSTANCES; REPEALING THE LIMIT ON THE ALCOHOL CONTENT OF FERMENTED MALT BEVERAGES ON JANUARY 1, 2019; AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 12-47-408, **amend** (1), (2), and (4); **repeal** (5); and **add** (6) and (7) as follows:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

12-47-408. Liquor-Licensed drugstore license – multiple licenses permitted – requirements – repeal. (1) (a) (I) A liquor-licensed drugstore license shall be issued to persons selling malt, vinous, and spirituous liquors in sealed containers not to be consumed at the place where sold. ON AND AFTER JULY 1, 2016, EXCEPT AS PERMITTED UNDER PARAGRAPH (b) OF THIS SUBSECTION (1), THE STATE AND LOCAL LICENSING AUTHORITIES SHALL NOT ISSUE A NEW LIQUOR-LICENSED DRUGSTORE LICENSE IF THE LICENSED PREMISES FOR WHICH A LIQUOR-LICENSED DRUGSTORE LICENSE IS SOUGHT IS LOCATED:

(A) WITHIN ONE THOUSAND FIVE HUNDRED FEET OF A RETAIL LIQUOR STORE LICENSED UNDER SECTION 12-47-407; OR

(B) FOR A DRUGSTORE PREMISES LOCATED IN A MUNICIPALITY WITH A POPULATION OF TEN THOUSAND OR FEWER, WITHIN THREE THOUSAND FEET OF A RETAIL LIQUOR STORE LICENSED UNDER SECTION 12-47-407.

(II) Nothing in this subsection (1) ~~shall prohibit~~ PROHIBITS:

(A) THE RENEWAL OR TRANSFER OF OWNERSHIP OF A LIQUOR-LICENSED DRUGSTORE LICENSE INITIALLY ISSUED PRIOR TO JULY 1, 2016.

(B) A liquor-licensed drugstore licensee from allowing tastings ~~to be conducted on his or her~~ THE licensed premises if ~~an authorization for the~~ APPLICABLE LOCAL LICENSING AUTHORITY HAS AUTHORIZED THE LIQUOR-LICENSED DRUGSTORE TO CONDUCT tastings ~~has been granted pursuant to section 12-47-301~~ ON ITS LICENSED PREMISES IN ACCORDANCE WITH SECTION 12-47-301 (10).

(b) (I) ON OR AFTER JANUARY 1, 2017, TO QUALIFY FOR AN ADDITIONAL LIQUOR-LICENSED DRUGSTORE LICENSE UNDER THIS SECTION, A LIQUOR-LICENSED DRUGSTORE LICENSEE, OR A RETAIL LIQUOR STORE LICENSEE THAT WAS LICENSED AS A LIQUOR-LICENSED DRUGSTORE ON FEBRUARY 21, 2016, MUST APPLY TO THE STATE AND LOCAL LICENSING AUTHORITIES, AS PART OF A SINGLE APPLICATION, FOR A TRANSFER OF OWNERSHIP OF AT LEAST TWO LICENSED RETAIL LIQUOR STORES THAT WERE LICENSED OR HAD APPLIED FOR A LICENSE ON OR BEFORE MAY 1, 2016, A CHANGE OF LOCATION OF ONE OF THE RETAIL LIQUOR STORES, AND A MERGER AND CONVERSION OF THE RETAIL LIQUOR STORE LICENSES INTO A SINGLE LIQUOR-LICENSED DRUGSTORE LICENSE. THE APPLICANT MAY APPLY FOR A TRANSFER, CHANGE OF LOCATION, AND MERGER AND CONVERSION ONLY IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

(A) THE RETAIL LIQUOR STORES THAT ARE THE SUBJECT OF THE TRANSFER OF OWNERSHIP ARE LOCATED WITHIN THE SAME LOCAL LICENSING AUTHORITY JURISDICTION AS THE DRUGSTORE PREMISES FOR WHICH THE APPLICANT IS SEEKING A LIQUOR-LICENSED DRUGSTORE LICENSE, AND, IF ANY RETAIL LIQUOR STORES ARE LOCATED WITHIN ONE THOUSAND FIVE HUNDRED FEET OF THE DRUGSTORE PREMISES OR, FOR A DRUGSTORE PREMISES LOCATED IN A MUNICIPALITY WITH A POPULATION OF TEN THOUSAND OR FEWER, WITHIN THREE THOUSAND FEET OF THE DRUGSTORE PREMISES, THE APPLICANT APPLIES TO TRANSFER OWNERSHIP OF ALL RETAIL LIQUOR STORES LOCATED WITHIN THAT DISTANCE. IF THERE ARE NO LICENSED RETAIL LIQUOR STORES OR ONLY ONE LICENSED RETAIL LIQUOR STORE WITHIN THE SAME LOCAL LICENSING AUTHORITY JURISDICTION AS THE DRUGSTORE PREMISES FOR WHICH A LIQUOR-LICENSED DRUGSTORE LICENSE IS SOUGHT, THE APPLICANT SHALL APPLY TO TRANSFER OWNERSHIP OF ONE OR TWO RETAIL LIQUOR STORES, AS NECESSARY, THAT ARE LOCATED IN THE LOCAL LICENSING AUTHORITY JURISDICTION THAT IS NEAREST TO THE JURISDICTION IN WHICH THE DRUGSTORE PREMISES IS LOCATED.

(B) UPON TRANSFER AND CONVERSION OF THE RETAIL LIQUOR STORE LICENSES TO A SINGLE LIQUOR-LICENSED DRUGSTORE LICENSE, THE DRUGSTORE PREMISES FOR WHICH THE LIQUOR-LICENSED DRUGSTORE LICENSE IS

SOUGHT WILL BE LOCATED AT LEAST ONE THOUSAND FIVE HUNDRED FEET FROM ALL LICENSED RETAIL LIQUOR STORES THAT ARE WITHIN THE SAME LOCAL LICENSING AUTHORITY JURISDICTION AS THE DRUGSTORE PREMISES OR, FOR A DRUGSTORE PREMISES LOCATED IN A MUNICIPALITY WITH A POPULATION OF TEN THOUSAND OR FEWER, AT LEAST THREE THOUSAND FEET FROM ALL LICENSED RETAIL LIQUOR STORES THAT ARE WITHIN THE SAME LOCAL LICENSING AUTHORITY JURISDICTION AS THE DRUGSTORE PREMISES.

(II) FOR PURPOSES OF DETERMINING WHETHER THE DISTANCE REQUIREMENTS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) ARE SATISFIED, THE DISTANCE SHALL BE DETERMINED BY A RADIUS MEASUREMENT THAT BEGINS AT THE PRINCIPAL DOORWAY OF THE DRUGSTORE PREMISES FOR WHICH THE APPLICATION IS MADE AND ENDS AT THE PRINCIPAL DOORWAY OF THE LICENSED RETAIL LIQUOR STORE.

(III) IN MAKING ITS DETERMINATION ON THE TRANSFER OF OWNERSHIP, CHANGE OF LOCATION, AND LICENSE MERGER AND CONVERSION APPLICATION, THE LOCAL LICENSING AUTHORITY SHALL CONSIDER THE REASONABLE REQUIREMENTS OF THE NEIGHBORHOOD AND THE DESIRES OF THE ADULT INHABITANTS IN ACCORDANCE WITH SECTION 12-47-312.

(IV) IN ADDITION TO ANY OTHER REQUIREMENTS FOR LICENSURE UNDER THIS SECTION OR ARTICLE, A PERSON APPLYING FOR A NEW LIQUOR-LICENSED DRUGSTORE LICENSE IN ACCORDANCE WITH THIS PARAGRAPH (b) ON OR AFTER JANUARY 1, 2017, OR TO RENEW A LIQUOR-LICENSED DRUGSTORE LICENSE ISSUED ON OR AFTER JANUARY 1, 2017, UNDER THIS PARAGRAPH (b) MUST:

(A) PROVIDE EVIDENCE TO THE STATE AND LOCAL LICENSING AUTHORITIES THAT AT LEAST TWENTY PERCENT OF THE LICENSEE'S GROSS ANNUAL INCOME DERIVED FROM TOTAL SALES DURING THE PRIOR TWELVE MONTHS AT THE DRUGSTORE PREMISES FOR WHICH A NEW OR RENEWAL LICENSES IS SOUGHT IS FROM THE SALE OF FOOD ITEMS, AS DEFINED BY THE STATE LICENSING AUTHORITY BY RULE; AND

(B) BE OPEN TO THE PUBLIC.

(2) (a) ~~Every~~ A person ~~selling~~ LICENSED UNDER THIS SECTION TO SELL malt, vinous, and spirituous liquors as provided in this section shall:

(I) Purchase ~~such~~ malt, vinous, and spirituous liquors only from a wholesaler licensed ~~pursuant to~~ UNDER this article;

(II) NOT SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS TO CONSUMERS AT A PRICE THAT IS BELOW THE LIQUOR-LICENSED DRUGSTORE'S COST TO PURCHASE THE MALT, VINOUS, OR SPIRITUOUS LIQUORS;

(III) NOT ALLOW CONSUMERS TO PURCHASE MALT, VINOUS, OR SPIRITUOUS LIQUORS AT A SELF-CHECKOUT OR OTHER MECHANISM THAT ALLOWS THE CONSUMER TO COMPLETE THE ALCOHOL BEVERAGE PURCHASE WITHOUT ASSISTANCE FROM AND COMPLETION OF THE TRANSACTION BY AN EMPLOYEE OF THE LIQUOR-LICENSED DRUGSTORE;

(IV) REQUIRE, IN ACCORDANCE WITH SECTION 12-47-901 (10), CONSUMERS ATTEMPTING TO PURCHASE MALT, VINOUS, OR SPIRITUOUS LIQUORS TO PRESENT A VALID IDENTIFICATION, AS DETERMINED BY THE STATE LICENSING AUTHORITY BY RULE; AND

(V) NOT SELL CLOTHING OR ACCESSORIES IMPRINTED WITH ADVERTISING, LOGOS, SLOGANS, TRADEMARKS, OR MESSAGES RELATED TO ALCOHOL BEVERAGES.

(b) A PERSON LICENSED UNDER THIS SECTION ON OR AFTER JANUARY 1, 2017, SHALL NOT PURCHASE MALT, VINOUS, OR SPIRITUOUS LIQUORS FROM A WHOLESALER ON CREDIT AND SHALL EFFECT PAYMENT UPON DELIVERY OF THE ALCOHOL BEVERAGES.

(4) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), it is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a liquor-licensed drugstore to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article. ~~except that such a~~

(b) AN OWNER, PART OWNER, SHAREHOLDER, OR person INTERESTED DIRECTLY OR INDIRECTLY IN A LIQUOR-LICENSED DRUGSTORE may have an interest in:

(I) An arts license ~~or~~ GRANTED UNDER THIS ARTICLE;

(II) An airline public transportation system license granted under this article; ~~or in~~

(III) A financial institution referred to in section 12-47-308 (4);

(IV) FOR A LIQUOR-LICENSED DRUGSTORE LICENSED ON OR BEFORE JANUARY 1, 2016, ADDITIONAL LIQUOR-LICENSED DRUGSTORE LICENSES AS FOLLOWS, BUT ONLY IF OBTAINED IN ACCORDANCE WITH PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION:

(A) ON OR AFTER JANUARY 1, 2017, AND BEFORE JANUARY 1, 2022, FOUR ADDITIONAL LIQUOR-LICENSED DRUGSTORE LICENSES, FOR A MAXIMUM OF FIVE TOTAL LIQUOR-LICENSED DRUGSTORE LICENSES;

(B) ON OR AFTER JANUARY 1, 2022, AND BEFORE JANUARY 1, 2027, UP TO SEVEN ADDITIONAL LIQUOR-LICENSED DRUGSTORE LICENSES, FOR A MAXIMUM OF EIGHT TOTAL LIQUOR-LICENSED DRUGSTORE LICENSES;

(C) ON OR AFTER JANUARY 1, 2027, AND BEFORE JANUARY 1, 2032, UP TO TWELVE ADDITIONAL LIQUOR-LICENSED DRUGSTORE LICENSES, FOR A MAXIMUM OF THIRTEEN TOTAL LIQUOR-LICENSED DRUGSTORE LICENSES;

(D) ON OR AFTER JANUARY 1, 2032, AND BEFORE JANUARY 1, 2037, UP TO NINETEEN ADDITIONAL LIQUOR-LICENSED DRUGSTORE LICENSES, FOR A MAXIMUM OF TWENTY TOTAL LIQUOR-LICENSED DRUGSTORE LICENSES; AND

(E) ON OR AFTER JANUARY 1, 2037, AN UNLIMITED NUMBER OF ADDITIONAL LIQUOR-LICENSED DRUGSTORE LICENSES.

~~(5) A licensee under the provisions of this section with a valid license in effect on July 1, 2000, may apply to a local licensing authority to convert or transfer such license to a retail liquor store license issued under the provisions of section 12-47-407 and may continue to operate as a retail liquor store licensee notwithstanding the limitations with respect to location within five hundred feet from any public or parochial school or the principal campus of any college, university, or seminary pursuant to the provisions of section 12-47-313 (1) (d) (i). The local licensing authority may, but shall not be required to, consider the reasonable requirements of the neighborhood pursuant to section 12-47-312 in making a determination on the conversion or transfer to a retail liquor store license.~~

(6) (a) A LIQUOR-LICENSED DRUGSTORE LICENSED UNDER THIS SECTION SHALL NOT STORE ALCOHOL BEVERAGES OFF THE LICENSED PREMISES.

(b) A LICENSED WHOLESALER SHALL MAKE ALL DELIVERIES OF ALCOHOL BEVERAGES TO A LIQUOR-LICENSED DRUGSTORE:

(I) THROUGH A COMMON CARRIER, A CONTRACT CARRIER, OR ON VEHICLES OWNED BY THE WHOLESALER;
AND

(II) ONLY TO THE BUSINESS ADDRESS OF THE LIQUOR-LICENSED DRUGSTORE.

(7) (a) A LIQUOR-LICENSED DRUGSTORE LICENSED UNDER THIS SECTION ON OR AFTER JANUARY 1, 2017, SHALL HAVE AT LEAST ONE MANAGER PERMITTED UNDER SECTION 12-47-425 WHO WORKS ON THE LICENSED PREMISES. THE LIQUOR-LICENSED DRUGSTORE SHALL DESIGNATE AT LEAST ONE PERMITTED MANAGER ON THE LICENSED PREMISES TO CONDUCT THE LIQUOR-LICENSED DRUGSTORE'S PURCHASES OF ALCOHOL BEVERAGES FROM A LICENSED WHOLESALER. A LICENSED WHOLESALER SHALL TAKE ORDERS FOR ALCOHOL BEVERAGES ONLY FROM A PERMITTED MANAGER DESIGNATED BY THE LIQUOR-LICENSED DRUGSTORE.

(b) A LIQUOR-LICENSED DRUGSTORE THAT IS INVOLVED IN SELLING ALCOHOL BEVERAGES MUST OBTAIN AND MAINTAIN A CERTIFICATION AS A RESPONSIBLE ALCOHOL BEVERAGE VENDOR IN ACCORDANCE WITH PART 10 OF THIS ARTICLE.

(c) AN EMPLOYEE OF A LIQUOR-LICENSED DRUGSTORE WHO IS UNDER TWENTY-ONE YEARS OF AGE SHALL NOT DELIVER OR OTHERWISE HAVE ANY CONTACT WITH MALT, VINOUS, OR SPIRITUOUS LIQUORS OFFERED FOR SALE ON, OR SOLD AND REMOVED FROM, THE LICENSED PREMISES.

SECTION 2. In Colorado Revised Statutes, **add** 12-47-425 as follows:

12-47-425. Liquor-licensed drugstore manager's permit. (1) THE STATE LICENSING AUTHORITY MAY ISSUE A MANAGER'S PERMIT TO AN INDIVIDUAL WHO IS EMPLOYED BY A LIQUOR-LICENSED DRUGSTORE LICENSED UNDER SECTION 12-47-408 AND WHO WILL BE IN ACTUAL CONTROL OF THE LIQUOR-LICENSED DRUGSTORE'S ALCOHOL BEVERAGE OPERATIONS.

(2) AN INDIVIDUAL SEEKING A MANAGER'S PERMIT SHALL APPLY TO THE STATE LICENSING AUTHORITY IN THE FORM AND MANNER REQUIRED BY THE STATE LICENSING AUTHORITY. TO OBTAIN A MANAGER'S PERMIT, THE INDIVIDUAL MUST DEMONSTRATE THAT HE OR SHE:

(a) HAS NOT BEEN CONVICTED OF A CRIME INVOLVING THE SALE OR DISTRIBUTION OF ALCOHOL BEVERAGES WITHIN THE EIGHT YEARS IMMEDIATELY PRECEDING THE DATE ON WHICH THE APPLICATION IS SUBMITTED;

(b) HAS NOT BEEN CONVICTED OF ANY FELONY WITHIN THE FIVE YEARS IMMEDIATELY PRECEDING THE DATE ON WHICH THE APPLICATION IS SUBMITTED; EXCEPT THAT IN CONSIDERING THE CONVICTION OF A FELONY, THE STATE LICENSING AUTHORITY IS GOVERNED BY SECTION 24-5-101, C.R.S.;

(c) IS AT LEAST TWENTY-ONE YEARS OF AGE; AND

(d) HAS NOT HAD A MANAGER'S PERMIT OR ANY SIMILAR PERMIT ISSUED BY THE STATE, A LOCAL JURISDICTION, OR ANOTHER STATE OR FOREIGN JURISDICTION REVOKED BY THE ISSUING AUTHORITY WITHIN THE THREE YEARS IMMEDIATELY PRECEDING THE DATE ON WHICH THE APPLICATION IS SUBMITTED.

(3) IT IS UNLAWFUL FOR AN INDIVIDUAL WHO HAS A MANAGER'S PERMIT ISSUED UNDER THIS SECTION TO BE INTERESTED DIRECTLY OR INDIRECTLY IN:

- (a) A WHOLESALER LICENSED PURSUANT TO SECTION 12-47-406;
- (b) A LIMITED WINERY LICENSED PURSUANT TO SECTION 12-47-403;
- (c) AN IMPORTER LICENSED PURSUANT TO SECTION 12-47-404;
- (d) A MANUFACTURER LICENSED PURSUANT TO SECTION 12-47-402 OR 12-47-405; OR

(e) ANY BUSINESS LICENSED UNDER THIS ARTICLE THAT HAS HAD ITS LICENSE REVOKED BY THE STATE LICENSING AUTHORITY WITHIN THE EIGHT YEARS IMMEDIATELY PRECEDING THE DATE ON WHICH THE INDIVIDUAL APPLIES FOR A MANAGER'S PERMIT UNDER THIS SECTION.

(4) IN RECOGNITION OF THE STATE'S FLOURISHING LOCAL BREWERIES, WINERIES, AND DISTILLERIES THAT LOCALLY PRODUCE HIGH-QUALITY MALT, VINOUS, AND SPIRITUOUS LIQUORS, MANAGERS OF LIQUOR-LICENSED DRUGSTORES ARE ENCOURAGED TO PURCHASE AND PROMOTE LOCALLY-PRODUCED ALCOHOL BEVERAGE PRODUCTS IN THEIR LIQUOR-LICENSED DRUGSTORES.

SECTION 3. In Colorado Revised Statutes, **amend** 12-46-102 as follows:

12-46-102. Legislative declaration. (1) The general assembly hereby declares that it is in the public interest that fermented malt beverages shall be manufactured, imported, and sold only by persons licensed as provided in this article AND ARTICLE 47 OF THIS TITLE. The general assembly further declares that it is lawful to manufacture and sell fermented malt beverages ~~containing not more than three and two tenths percent alcohol by weight~~ subject to the provisions of this article and applicable provisions of articles 47 and 48 of this title.

(2) The general assembly FURTHER recognizes that fermented malt beverages AND MALT LIQUORS are separate and distinct from, ~~malt~~ AND HAVE A UNIQUE REGULATORY HISTORY IN RELATION TO, vinous and spirituous liquors, and as such require THE RETENTION OF a separate and distinct regulatory framework under this article. To aid administrative efficiency, however, ~~the provisions in article 47 of this title shall apply~~ APPLIES to the regulation of fermented malt beverages, except when otherwise expressly provided for in this article.

SECTION 4. In Colorado Revised Statutes, 12-46-103, **amend** (1) as follows:

12-46-103. Definitions. Definitions applicable to this article also appear in article 47 of this title. As used in this article, unless the context otherwise requires:

(1) (a) "Fermented malt beverage" means BEER AND any OTHER beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water containing not less than one half of one percent alcohol by volume. ~~and not more than three and two tenths percent alcohol by weight or four percent alcohol by volume; except that~~

(b) "Fermented malt beverage" ~~shall~~ DOES not include confectionery containing alcohol within the limits prescribed by section 25-5-410 (1) (i) (II), C.R.S.

SECTION 5. In Colorado Revised Statutes, **add** 12-46-109 as follows:

12-46-109. Liquor industry working group - creation - duties - report - repeal. (1) THE STATE LICENSING AUTHORITY SHALL CONVENE A LIQUOR INDUSTRY WORKING GROUP TO 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. THE WORKING GROUP SHALL 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, AND SHALL CONSIDER OTHER LEGISLATIVE, REGULATORY, OR ADMINISTRATIVE CHANGES NECESSARY TO PROMOTE THE THREE-TIERED DISTRIBUTION SYSTEM IN COLORADO. ADDITIONALLY, THE WORKING GROUP SHALL EXAMINE AND MAKE RECOMMENDATIONS REGARDING 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.

(2) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL APPOINT THE FOLLOWING MEMBERS TO SERVE ON THE LIQUOR INDUSTRY WORKING GROUP:

- (a) A MEMBER FROM THE DEPARTMENT OF REVENUE;
- (b) A MEMBER FROM THE LIQUOR ENFORCEMENT DIVISION IN THE DEPARTMENT OF REVENUE;
- (c) A MEMBER FROM THE ATTORNEY GENERAL'S OFFICE;
- (d) A MEMBER REPRESENTING MUNICIPAL GOVERNMENT;
- (e) A MEMBER REPRESENTING COUNTY GOVERNMENT;
- (f) A MEMBER REPRESENTING COMMUNITY PREVENTION;
- (g) A MEMBER REPRESENTING LAW ENFORCEMENT;
- (h) TWO MEMBERS REPRESENTING LARGE BREWERIES;
- (i) TWO MEMBERS REPRESENTING SMALL BREWERIES;
- (j) ONE MEMBER REPRESENTING A NATIONAL DISTILLERY;
- (k) ONE MEMBER REPRESENTING A COLORADO DISTILLERY;
- (l) THREE MEMBERS REPRESENTING RETAIL LIQUOR STORE LICENSEES, ONE OF WHICH MUST REPRESENT A SMALL RETAIL LIQUOR STORE LICENSEE;
- (m) ONE MEMBER REPRESENTING A STATEWIDE OFF-PREMISES RETAIL LICENSEE;
- (n) TWO MEMBERS REPRESENTING PERSONS LICENSED UNDER SECTION 12-47-411;

- (o) ONE MEMBER REPRESENTING PERSONS LICENSED UNDER SECTION 12-47-412;
- (p) TWO MEMBERS REPRESENTING LICENSED WHOLESALERS;
- (q) ONE MEMBER REPRESENTING A NATIONAL VINOUS LIQUORS MANUFACTURER;
- (r) ONE MEMBER REPRESENTING A COLORADO VINOUS LIQUORS MANUFACTURER;
- (s) TWO ATTORNEYS WHO PRACTICE IN THE AREA OF LIQUOR LAW AND REGULATION;
- (t) ONE MEMBER REPRESENTING MOTHERS AGAINST DRUNK DRIVING OR ITS SUCCESSOR ORGANIZATION;
- (u) TWO MEMBERS REPRESENTING GROCERY STORES;
- (v) TWO MEMBERS REPRESENTING CONVENIENCE STORES; AND
- (w) TWO MEMBERS OF THE PUBLIC.

(3) THE LIQUOR INDUSTRY WORKING GROUP SHALL CONVENE AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS SECTION, BUT NO LATER THAN AUGUST 1, 2016, AND BY JANUARY 1, 2018, SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS FOR AN IMPLEMENTATION PROCESS, INCLUDING ANY LEGISLATIVE OR ADMINISTRATIVE RECOMMENDATIONS, TO THE SENATE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE AND THE HOUSE OF REPRESENTATIVES BUSINESS AFFAIRS AND LABOR COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

SECTION 6. In Colorado Revised Statutes, 12-47-103, **amend** (19) and (31) as follows:

12-47-103. Definitions. As used in this article and article 46 of this title, unless the context otherwise requires:

(19) "Malt liquors" includes beer and ~~shall be construed to mean~~ MEANS any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof, in water containing ~~more than three and two-tenths percent of alcohol by weight or four percent alcohol by volume~~ NOT LESS THAN ONE-HALF OF ONE PERCENT ALCOHOL BY VOLUME.

(31) "Retail liquor store" means an establishment engaged only in the sale of malt, vinous, and spirituous liquors and ~~soft drinks and mixers, all in sealed containers for consumption off the premises; tobaccos, tobacco products, smokers' supplies, and nonfood items related to the consumption of such beverages; and liquor-filled candy and food items approved by the state licensing authority, which are prepackaged, labeled, and directly related to the consumption of such beverages and are sold solely for the purpose of cocktail garnish in containers up to sixteen ounces. Nothing in this section shall be construed to authorize the sale of food items that could constitute a snack, a meal, or portion of a meal~~ NONALCOHOL PRODUCTS, BUT ONLY IF THE ANNUAL GROSS REVENUES FROM THE SALE OF NONALCOHOL PRODUCTS DOES NOT EXCEED TWENTY PERCENT OF THE RETAIL LIQUOR STORE'S TOTAL ANNUAL GROSS REVENUES.

SECTION 7. In Colorado Revised Statutes, 12-47-202, **amend** (2) (a) (I) introductory portion; **repeal** (2) (a) (I) (S); and **add** (2) (b) (II.5) as follows:

12-47-202. Duties of state licensing authority. (2) (a) (I) Rules ~~made~~ ADOPTED pursuant to paragraph (b) of subsection (1) of this section may cover, ~~but shall not be limited to~~ WITHOUT LIMITATION, the following subjects:

(S) ~~The testing of the alcohol content of malt liquor and fermented malt beverage sold by persons licensed pursuant to this article or article 46 of this title. The state licensing authority shall adopt such rules no later than January 1, 2011.~~

(b) (II.5) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, A LIQUOR-LICENSED DRUGSTORE LICENSED UNDER SECTION 12-47-408 ON OR AFTER JANUARY 1, 2017, SHALL NOT PURCHASE ALCOHOL BEVERAGES ON CREDIT OR ACCEPT AN OFFER OR EXTENSION OF CREDIT FROM A LICENSEE AND SHALL EFFECT PAYMENT UPON DELIVERY OF THE ALCOHOL BEVERAGES.

SECTION 8. In Colorado Revised Statutes, 12-47-301, **amend** (9); and **add** (12) as follows:

12-47-301. Licensing in general. (9) (a) (I) A licensee may move his or her permanent location to any other place in the same city, town, or city and county for which the license was originally granted, or in the same county if such license was granted for a place outside the corporate limits of any city, town, or city and county, but it shall be unlawful to sell any alcohol beverage at any such place until permission to do so is granted by all the licensing authorities provided for in this article.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), FOR A RETAIL LIQUOR STORE LICENSED ON OR BEFORE JANUARY 1, 2016, THE LICENSEE MAY APPLY TO MOVE THE PERMANENT LOCATION TO ANOTHER PLACE WITHIN OR OUTSIDE THE MUNICIPALITY OR COUNTY IN WHICH THE LICENSE WAS ORIGINALLY GRANTED. IT IS UNLAWFUL FOR THE LICENSEE TO SELL ANY ALCOHOL BEVERAGES AT THE NEW LOCATION UNTIL PERMISSION IS GRANTED BY THE STATE AND LOCAL LICENSING AUTHORITIES.

(b) (I) In permitting ~~such~~ A change of location, ~~such~~ THE licensing authorities shall consider the reasonable requirements of the neighborhood to which the applicant seeks to change his or her location, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all reasonable restrictions that are or may be placed upon the new district by the council, board of trustees, or licensing authority of the city, town, or city and county or by the board of county commissioners of any county.

(II) IF THE STATE AND LOCAL LICENSING AUTHORITIES APPROVE AN APPLICATION FOR A CHANGE OF LOCATION SUBMITTED UNDER SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (9) BY A RETAIL LIQUOR STORE LICENSED ON OR BEFORE JANUARY 1, 2016, THE LICENSEE MUST CHANGE THE LOCATION OF ITS PREMISES WITHIN THREE YEARS AFTER THE APPROVAL IS GRANTED.

(12) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, ON AND AFTER JULY 1, 2016, THE STATE AND LOCAL LICENSING AUTHORITIES SHALL NOT ISSUE A NEW LICENSE UNDER THIS ARTICLE AUTHORIZING THE SALE AT RETAIL OF MALT, VINOUS, OR SPIRITUOUS LIQUORS IN SEALED CONTAINERS FOR CONSUMPTION OFF THE LICENSED PREMISES IF THE PREMISES FOR WHICH THE RETAIL LICENSE IS SOUGHT IS LOCATED:

(I) WITHIN ONE THOUSAND FIVE HUNDRED FEET OF ANOTHER LICENSED PREMISES LICENSED TO SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS AT RETAIL FOR OFF-PREMISES CONSUMPTION; OR

(II) FOR A PREMISES LOCATED IN A MUNICIPALITY WITH A POPULATION OF TEN THOUSAND OR FEWER, WITHIN THREE THOUSAND FEET OF ANOTHER LICENSED PREMISES LICENSED TO SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS AT RETAIL FOR OFF-PREMISES CONSUMPTION.

(b) FOR PURPOSES OF THIS SUBSECTION (12), A LICENSE UNDER THIS ARTICLE AUTHORIZING THE SALE AT RETAIL OF MALT, VINOUS, OR SPIRITUOUS LIQUORS IN SEALED CONTAINERS FOR CONSUMPTION OFF THE LICENSED PREMISES INCLUDES A LICENSE UNDER THIS ARTICLE AUTHORIZING THE SALE OF MALT AND VINOUS LIQUORS IN SEALED CONTAINERS NOT TO BE CONSUMED AT THE PLACE WHERE THE MALT AND VINOUS LIQUORS ARE SOLD.

(c) FOR PURPOSES OF DETERMINING WHETHER THE DISTANCE REQUIREMENTS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (12) ARE SATISFIED, THE DISTANCE SHALL BE DETERMINED BY A RADIUS MEASUREMENT THAT BEGINS AT THE PRINCIPAL DOORWAY OF THE PREMISES FOR WHICH THE APPLICATION IS MADE AND ENDS AT THE PRINCIPAL DOORWAY OF THE OTHER RETAIL LICENSED PREMISES.

SECTION 9. In Colorado Revised Statutes, 12-47-303, **amend** (1) (c) and (2); and **add** (1) (d) as follows:

12-47-303. Transfer of ownership and temporary permits. (1) (c) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (c), for any other transfer of ownership, application ~~shall~~ **must** be made to the state and local licensing authorities on forms prepared and furnished by the state licensing authority. In determining whether to permit a transfer of ownership, the licensing authorities shall consider only the requirements of section 12-47-307 and 1 CCR 203-2, rule 47-302, entitled "Changing, Altering, or Modifying Licensed Premises", or any analogous successor rule. The local licensing authority may ~~cause~~ **conduct** a hearing on the application for transfer of ownership ~~to be held. No hearing provided for by this paragraph (c) shall be held by the local licensing authority until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing~~ AFTER PROVIDING NOTICE IN ACCORDANCE WITH SUBPARAGRAPH (III) OF THIS PARAGRAPH (c). Any transfer of ownership hearing by the state licensing authority ~~shall be pursuant to~~ **MUST BE HELD** IN ACCORDANCE WITH section 12-47-305 (2).

(II) A LICENSE MERGER AND CONVERSION AS PROVIDED FOR IN SECTION 12-47-408 (1) (b) INCLUDES A TRANSFER OF OWNERSHIP OF AT LEAST TWO RETAIL LIQUOR STORES, A CHANGE OF LOCATION OF ONE OF THE RETAIL LIQUOR STORES, AND A MERGER AND CONVERSION OF THE RETAIL LIQUOR STORE LICENSES INTO A SINGLE LIQUOR-LICENSED DRUGSTORE LICENSE, ALL AS PART OF A SINGLE TRANSACTION, AND THE LIQUOR-LICENSED DRUGSTORE APPLICANT NEED NOT APPLY SEPARATELY FOR A TRANSFER OF OWNERSHIP UNDER THIS SECTION. THE LIQUOR-LICENSED DRUGSTORE APPLYING FOR A LICENSE MERGER AND CONVERSION PURSUANT TO SECTION 12-47-408 (1) (b) IS INELIGIBLE FOR A TEMPORARY PERMIT PURSUANT TO THIS SECTION. THE LOCAL LICENSING AUTHORITY SHALL CONSIDER THE REASONABLE REQUIREMENTS OF THE NEIGHBORHOOD PURSUANT TO SECTION 12-47-312 WHEN MAKING A DETERMINATION ON THE MERGER AND CONVERSION OF THE RETAIL LIQUOR STORE LICENSES INTO A SINGLE LIQUOR-LICENSED DRUGSTORE LICENSE. THE LOCAL LICENSING AUTHORITY MAY HOLD A HEARING ON THE APPLICATION FOR THE LICENSE MERGER AND CONVERSION AFTER PROVIDING NOTICE IN ACCORDANCE WITH SUBPARAGRAPH (III) OF THIS PARAGRAPH (c).

(III) PRIOR TO HOLDING A HEARING AS PROVIDED IN THIS PARAGRAPH (c), THE LOCAL LICENSING AUTHORITY SHALL NOTIFY THE APPLICANT OF THE HEARING AT LEAST TEN DAYS BEFORE THE HEARING AND SHALL POST, OR MAY DIRECT THE LICENSE APPLICANT TO POST, A NOTICE OF THE HEARING IN A CONSPICUOUS LOCATION ON THE LICENSED PREMISES FOR AT LEAST TEN CONSECUTIVE DAYS BEFORE THE HEARING.

(d) THE STATE OR A LOCAL LICENSING AUTHORITY SHALL NOT APPROVE A TRANSFER OF OWNERSHIP UNDER THIS SUBSECTION (1) UNTIL THE APPLICANT FILES WITH THE LOCAL LICENSING AUTHORITY CONFIRMATION FROM EACH WHOLESALER LICENSED UNDER THIS ARTICLE THAT HAS SOLD ALCOHOL BEVERAGES TO THE TRANSFEROR THAT THE WHOLESALER HAS BEEN PAID IN FULL FOR ALL ALCOHOL BEVERAGES DELIVERED TO THE TRANSFEROR.

(2) Notwithstanding ~~the provisions~~ ANY PROVISION of this article to the contrary, a local licensing authority ~~shall have discretionary authority to~~ MAY issue a temporary permit to a transferee of any retail class of alcohol beverage license issued by the local licensing authority pursuant to this article or article 46 of this title; ~~Such~~ EXCEPT THAT A LOCAL LICENSING AUTHORITY SHALL NOT ISSUE A TEMPORARY PERMIT TO A LIQUOR-LICENSED DRUGSTORE THAT HAS ACQUIRED OWNERSHIP OF LICENSED RETAIL LIQUOR STORES IN ACCORDANCE WITH SECTION 12-47-408 (1) (b). A temporary permit ~~shall authorize~~ AUTHORIZES a transferee to continue selling ~~such~~ alcohol beverages as permitted under the permanent license during the period in which an application to transfer the ownership of the license is pending.

SECTION 10. In Colorado Revised Statutes, 12-47-312, **amend** (2) (a) as follows:

12-47-312. Results of investigation - decision of authorities. (2) (a) Before entering any decision approving or denying the application, the local licensing authority shall consider, except where this article specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the desires of the adult inhabitants, the number, type, and availability of alcohol beverage outlets located in or near the neighborhood under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed; except that the reasonable requirements of the neighborhood shall not be considered in the issuance of a club liquor license. ~~The reasonable requirements of the neighborhood may, but are not required to, be considered in the conversion or transfer of a liquor-licensed drugstore license to a retail liquor store license~~ FOR THE MERGER AND CONVERSION OF RETAIL LIQUOR STORE LICENSES TO A SINGLE LIQUOR-LICENSED DRUGSTORE LICENSE IN ACCORDANCE WITH SECTION 12-47-408 (1) (b), THE LOCAL LICENSING AUTHORITY SHALL CONSIDER THE REASONABLE REQUIREMENTS OF THE NEIGHBORHOOD AND THE DESIRES OF THE ADULT INHABITANTS OF THE NEIGHBORHOOD.

SECTION 11. In Colorado Revised Statutes, 12-47-401, **add** (1) (x) as follows:

12-47-401. Classes of licenses and permits. (1) For the purpose of regulating the manufacture, sale, and distribution of alcohol beverages, the state licensing authority in its discretion, upon application in the prescribed form made to it, may issue and grant to the applicant a license or permit from any of the following classes, subject to the provisions and restrictions provided by this article:

(x) MANAGER'S PERMIT.

SECTION 12. In Colorado Revised Statutes, 12-47-406, **add** (4) as follows:

12-47-406. Wholesaler's license - discrimination in wholesale sales prohibited. (4) (a) A WHOLESALER SHALL MAKE AVAILABLE TO ALL LICENSED RETAILERS IN THIS STATE WITHOUT DISCRIMINATION ALL MALT, VINOUS, AND SPIRITUOUS LIQUORS OFFERED BY THE WHOLESALER FOR SALE AT WHOLESALE. A WHOLESALER SHALL USE ITS BEST EFFORTS TO MAKE AVAILABLE TO LICENSED RETAILERS EACH BRAND OF ALCOHOL BEVERAGE THAT THE WHOLESALER HAS BEEN AUTHORIZED TO DISTRIBUTE.

(b) NOTHING IN THIS SECTION PROHIBITS A WHOLESALER FROM ESTABLISHING REASONABLE ALLOCATION PROCEDURES WHEN THE ANTICIPATED DEMAND FOR A PRODUCT IS GREATER THAN THE SUPPLY OF THE PRODUCT.

SECTION 13. In Colorado Revised Statutes, 12-47-407, **amend** (1) and (4); **repeal** (5); and **add** (6) as follows:

12-47-407. Retail liquor store license. (1) (a) (I) A retail liquor store license shall be issued to persons selling only malt, vinous, and spirituous liquors in sealed containers not to be consumed at the place where sold. Malt, vinous, and spirituous liquors in sealed containers shall not be sold at retail other than in retail liquor stores except as provided in section 12-47-408.

(II) ON AND AFTER JULY 1, 2016, THE STATE AND LOCAL LICENSING AUTHORITIES SHALL NOT ISSUE A NEW RETAIL LIQUOR STORE LICENSE IF THE PREMISES FOR WHICH THE RETAIL LIQUOR STORE LICENSE IS SOUGHT IS LOCATED:

(A) WITHIN ONE THOUSAND FIVE HUNDRED FEET OF ANOTHER RETAIL LIQUOR STORE LICENSED UNDER THIS SECTION OR A LIQUOR-LICENSED DRUGSTORE LICENSED UNDER SECTION 12-47-408; OR

(B) FOR A PREMISES LOCATED IN A MUNICIPALITY WITH A POPULATION OF TEN THOUSAND OR FEWER, WITHIN THREE THOUSAND FEET OF ANOTHER RETAIL LIQUOR STORE LICENSED UNDER THIS SECTION OR A LIQUOR-LICENSED DRUGSTORE LICENSED UNDER SECTION 12-47-408.

(b) In addition, retail liquor stores may sell ~~nonfood items related to the consumption of such liquors, liquor filled candy, and food items approved by the state licensing authority that are prepackaged, labeled, directly related to the consumption of such liquors, and sold solely for the purpose of cocktail garnish in containers up to sixteen ounces. Nothing in this section shall be construed to authorize the sale of food items that could constitute a snack, a meal, or a portion of a meal~~ ANY NONALCOHOL PRODUCTS, BUT ONLY IF THE ANNUAL GROSS REVENUES FROM THE SALE OF NONALCOHOLIC PRODUCTS DO NOT EXCEED TWENTY PERCENT OF THE RETAIL LIQUOR STORE'S TOTAL ANNUAL GROSS REVENUES.

(c) Nothing in this section or in section 12-47-103 (31) ~~shall be construed to prohibit the sale of items by~~ PROHIBITS a LICENSED retail liquor store FROM:

(I) SELLING ITEMS on behalf of or to benefit a charitable organization, as defined in section 39-26-102, C.R.S., or a nonprofit corporation subject to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., and determined to be exempt from federal income tax by the federal internal revenue service, if the retail liquor store does not receive compensation for ~~any such~~ THE sale; ~~Nothing in this section shall prohibit a retail liquor store licensee~~

(II) At the option of the licensee, ~~from~~ displaying promotional material furnished by a manufacturer or wholesaler, which material permits a customer to purchase other items from a third person, ~~if SO LONG AS the retail liquor store licensee does not receive payment from the third person and if the ordering of CUSTOMER ORDERS the additional merchandise is done by the customer directly from the third person; Nothing in this subsection (1) shall prohibit a retail liquor store licensee from~~ OR

(III) Allowing tastings to be conducted on ~~his or her~~ THE licensed premises if ~~an~~ THE LICENSEE HAS RECEIVED authorization ~~for the~~ TO CONDUCT tastings ~~has been granted~~ pursuant to section 12-47-301.

(4) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), it is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a retail liquor store to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article. ~~except that such a~~

(b) AN OWNER, PART OWNER, SHAREHOLDER, OR person INTERESTED DIRECTLY OR INDIRECTLY IN A RETAIL LIQUOR STORE may have an interest in:

(I) An arts license ~~or~~ GRANTED UNDER THIS ARTICLE;

(II) An airline public transportation system license granted under this article;

(III) FOR A RETAIL LIQUOR STORE LICENSED ON OR BEFORE JANUARY 1, 2016, AND WHOSE LICENSE HOLDER IS A COLORADO RESIDENT, ADDITIONAL RETAIL LIQUOR STORE LICENSES AS FOLLOWS, BUT ONLY IF THE PREMISES FOR WHICH A LICENSE IS SOUGHT SATISFIES THE DISTANCE REQUIREMENTS SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION:

(A) ON OR AFTER JANUARY 1, 2017, AND BEFORE JANUARY 1, 2022, ONE ADDITIONAL RETAIL LIQUOR STORE LICENSE, FOR A MAXIMUM OF UP TO TWO TOTAL RETAIL LIQUOR STORE LICENSES;

(B) ON OR AFTER JANUARY 1, 2022, AND BEFORE JANUARY 1, 2027, UP TO TWO ADDITIONAL RETAIL LIQUOR STORE LICENSES, FOR A MAXIMUM OF THREE TOTAL RETAIL LIQUOR STORE LICENSES; AND

(C) ON OR AFTER JANUARY 1, 2027, UP TO THREE ADDITIONAL RETAIL LIQUOR STORE LICENSES, FOR A MAXIMUM OF FOUR TOTAL RETAIL LIQUOR STORE LICENSES; ~~or in~~

(IV) A financial institution referred to in section 12-47-308 (4).

(5) ~~A licensee under the provisions of section 12-47-408 with a valid license in effect on July 1, 2000, may apply to a local licensing authority to convert or transfer such license to a retail liquor store license issued under the provisions of this section and may continue to operate as a retail liquor store licensee notwithstanding the limitations with respect to location within five hundred feet from any public or parochial school or the principal campus of any college, university, or seminary pursuant to the provisions of section 12-47-313 (1) (d) (I). The local licensing authority may, but shall not be required to, consider the reasonable requirements of the neighborhood pursuant to section 12-47-312 in making a determination on the conversion or transfer to a retail liquor store license.~~

(6) A LIQUOR-LICENSED DRUGSTORE MAY APPLY TO THE STATE AND LOCAL LICENSING AUTHORITIES, AS PART OF A SINGLE APPLICATION, FOR A MERGER AND CONVERSION OF RETAIL LIQUOR STORE LICENSES TO A SINGLE LIQUOR-LICENSED DRUGSTORE LICENSE AS PROVIDED IN SECTION 12-47-408 (1) (b).

SECTION 14. In Colorado Revised Statutes, 12-47-501, **amend** (2) (a) (XIV); and **add** (1) (u), (2) (a) (XVI), and (2) (a) (XVII) as follows:

12-47-501. State fees. (1) The following license and permit fees shall be paid to the department of revenue annually in advance:

(u) FOR EACH MANAGER'S PERMIT, ONE HUNDRED DOLLARS.

(2) (a) The state licensing authority shall establish fees for processing the following types of applications, notices, or reports required to be submitted to the state licensing authority:

(XIV) Notice of change of name or trade name pursuant to section 12-47-301 and rules adopted pursuant to that section; ~~and~~

(XVI) APPLICATIONS FOR TRANSFER OF OWNERSHIP, CHANGE OF LOCATION, AND LICENSE MERGER AND CONVERSION PURSUANT TO SECTION 12-47-408 (1) (b);

(XVII) APPLICATIONS FOR MANAGER'S PERMITS PURSUANT TO SECTION 12-47-425.

SECTION 15. In Colorado Revised Statutes, 12-47-505, **amend** (4) (a) introductory portion; and **add** (4) (a) (V) as follows:

12-47-505. Local license fees. (4) (a) Each application for a license provided for in this article and article 46 of this title filed with a local licensing authority ~~shall~~ **MUST** be accompanied by an application fee in an amount determined by the local licensing authority to cover actual and necessary expenses, subject to the following limitations:

(V) FOR A TRANSFER OF OWNERSHIP, CHANGE OF LOCATION, AND LICENSE MERGER AND CONVERSION PURSUANT TO SECTION 12-47-408 (1) (b), NOT TO EXCEED ONE THOUSAND DOLLARS.

SECTION 16. In Colorado Revised Statutes, 12-47-901, **amend** (5) introductory portion, (5) (a) (I), and (5) (c); **repeal** (8); and **add** (5) (p) and (10) as follows:

12-47-901. Unlawful acts - exceptions - definitions. (5) It is unlawful for any person licensed to sell at retail pursuant to this article ~~OR ARTICLE 46 OF THIS TITLE:~~

(a) (I) To sell an alcohol beverage to any person under the age of twenty-one years, to a habitual drunkard, or to a visibly intoxicated person. ~~or to permit any alcohol beverage to be sold or dispensed by a person under eighteen years of age, or to permit any such person to participate in the sale or dispensing thereof.~~ If a person who, in fact, is not twenty-one years of age exhibits a fraudulent proof of age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this article or article 46 of this title. ~~Notwithstanding any provision in this subparagraph (I) to the contrary, no person under twenty one years of age shall be employed to sell or dispense malt, vinous, or spirituous liquors~~

~~unless he or she is supervised by another person who is on premise and has attained twenty one years of age. No employee of a tavern licensed pursuant to section 12-47-412, that does not regularly serve meals as defined in section 12-47-103 (20), or a retail liquor store shall sell malt, vinous, or spirituous liquors unless such person is at least twenty one years of age.~~

(c) Except as provided in section 18-13-122, C.R.S., ~~for any person~~ to sell fermented malt beverages to any person under the age of twenty-one years or to any person between the hours of 12 midnight and ~~5 a.m.~~ 8 A.M.;

(p) (I) (A) TO PERMIT A PERSON UNDER EIGHTEEN YEARS OF AGE TO SELL, DISPENSE, OR PARTICIPATE IN THE SALE OR DISPENSING OF ANY ALCOHOL BEVERAGE; OR

(B) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (p), TO EMPLOY A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE BUT UNDER TWENTY-ONE YEARS OF AGE TO SELL OR DISPENSE MALT, VINOUS, OR SPIRITUOUS LIQUORS UNLESS THE EMPLOYEE IS SUPERVISED BY ANOTHER PERSON WHO IS ON THE LICENSED PREMISES AND IS AT LEAST TWENTY-ONE YEARS OF AGE;

(II) IF LICENSED AS A TAVERN UNDER SECTION 12-47-412, A RETAIL LIQUOR STORE UNDER SECTION 12-47-407, OR A LIQUOR-LICENSED DRUGSTORE UNDER SECTION 12-47-408, TO PERMIT AN EMPLOYEE WHO IS UNDER TWENTY-ONE YEARS OF AGE TO SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS; OR

(III) IF LICENSED AS A RETAIL LIQUOR STORE UNDER SECTION 12-47-407 OR A LIQUOR-LICENSED DRUGSTORE UNDER SECTION 12-47-408, TO PERMIT AN EMPLOYEE WHO IS UNDER TWENTY-ONE YEARS OF AGE TO DELIVER OR OTHERWISE HAVE ANY CONTACT WITH MALT, VINOUS, OR SPIRITUOUS LIQUORS OFFERED FOR SALE ON, OR SOLD AND REMOVED FROM, THE LICENSED PREMISES OF THE RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE.

(8) ~~It is unlawful for any manufacturer or wholesaler licensed pursuant to article 46 of this title to sell, deliver, or cause to be delivered to any person licensed pursuant to section 12-47-407 or 12-47-408 any beverage containing alcohol in excess of three and two tenths percent by weight or four percent by volume, or for any fermented malt beverage retailer licensed pursuant to article 46 of this title to sell, possess, or permit the consumption on the premises of any of the beverages containing alcohol in excess of three and two tenths percent by weight or four percent by volume, or for any fermented malt beverage retail licensee licensed pursuant to article 46 of this title to hold or operate under any license for the sale of any beverages containing alcohol in excess of three and two tenths percent by weight or four percent by volume for the same premises. Any violation of this subsection (8) by any fermented malt beverage licensee licensed pursuant to article 46 of this title immediately invalidates the license granted under article 46 of this title.~~

(10) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (10), IT IS UNLAWFUL FOR A RETAIL LICENSEE OR AN EMPLOYEE OF A RETAIL LICENSEE TO SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS TO A CONSUMER FOR CONSUMPTION OFF THE LICENSED PREMISES UNLESS THE RETAIL LICENSEE OR EMPLOYEE VERIFIES THAT THE CONSUMER IS AT LEAST TWENTY-ONE YEARS OF AGE BY REQUIRING THE CONSUMER TO PRESENT A VALID IDENTIFICATION, AS DETERMINED BY THE STATE LICENSING AUTHORITY BY RULE. THE RETAIL LICENSEE OR EMPLOYEE SHALL MAKE A DETERMINATION FROM THE INFORMATION PRESENTED WHETHER THE PURCHASER IS AT LEAST TWENTY-ONE YEARS OF AGE.

(b) IT IS NOT UNLAWFUL FOR A RETAIL LICENSEE OR EMPLOYEE OF A RETAIL LICENSEE TO SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS TO A CONSUMER WHO IS OR REASONABLY APPEARS TO BE OVER FIFTY YEARS OF AGE AND WHO FAILED TO PRESENT AN ACCEPTABLE FORM OF IDENTIFICATION.

(c) AS USED IN THIS SUBSECTION (10), "RETAIL LICENSEE" MEANS A PERSON LICENSED UNDER SECTION 12-46-104 (1) (c), 12-47-407, OR 12-47-408.

SECTION 17. In Colorado Revised Statutes, 12-47-104, **amend** (2) (c) as follows:

12-47-104. Wine shipments - permits. (2) A winery direct shipper's permit may be issued to only a person who applies for such permit to the state licensing authority and who:

(c) Except as provided in sections 12-47-402 (1) and 12-47-406 (3), does not directly or indirectly have any financial interest in a Colorado wholesaler or retailer licensed pursuant to section 12-47-406, ~~or~~ 12-47-407, OR 12-47-408.

SECTION 18. Appropriation. (1) For the 2016-17 state fiscal year, \$398,682 is appropriated to the department of revenue. This appropriation is from the liquor enforcement division and state licensing authority cash fund created in section 24-35-401, C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$153,195 for use by the liquor and tobacco enforcement division for personal services, which amount is based on an assumption that the division will require an additional 2.4 FTE;

(b) \$17,463 for use by the liquor and tobacco enforcement division for operating expenses; and

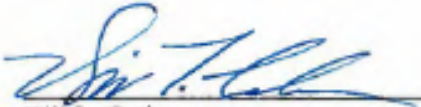
(c) \$228,024 for the purchase of legal services.


(2) For the 2016-17 state fiscal year, \$228,024 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of revenue under paragraph (c) of subsection (1) of this section and is based on an assumption that the department of law will require an additional 1.3 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of revenue.

(3) For the 2016-17 state fiscal year, \$2,135 is appropriated to the department of public safety for use by the Colorado bureau of investigation. This appropriation is from the Colorado bureau of investigation identification unit fund created in section 24-33.5-426, C.R.S. To implement this act, the bureau may use this appropriation for personal services and operating expenses related to identification.

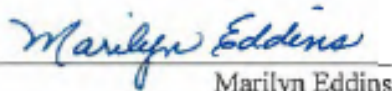
SECTION 19. Effective date. This act takes effect July 1, 2016; except that sections 3 and 4 of this act, section 12-47-103 (19), Colorado Revised Statutes, as amended in section 6 of this act, section 12-47-202 (2) (a) (I) (S), Colorado Revised Statutes, as repealed in section 7 of this act, and section 12-47-901 (8), Colorado Revised Statutes, as repealed in section 16 of this act, take effect January 1, 2019.

SECTION 20. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

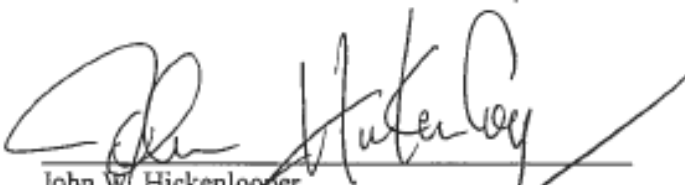

Bill L. Cadman
PRESIDENT OF
THE SENATE


Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES


Effie Ameen
SECRETARY OF
THE SENATE


Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED 2:58 PM 6/10/16


John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

Appendix B: SB 16-197 Working Group Members

	Type of Organization or Interest Represented	No.	Appointed Member
A	Colorado Department of Revenue	1	Ron Kammerzell, succeeded in September 2017 by Cory Amend, DOR
B	Liquor Enforcement Division	1	Patrick Maroney, LED
C	Office of the Attorney General	1	Jennifer Anderson, Office of the Attorney General
D	Municipal Government	1	Kevin Bommer, Colorado Municipal League
E	County Government	1	Christopher Mallory, succeeded in July 2017 by Kristen Huber, Boulder County Government
F	Community Prevention	1	Jenny Wood, Colorado Department of Human Services
G	Law Enforcement	1	Carl Terry, succeeded in September 2017 by Joseph Delmonico, Denver Police Department
H	Large Breweries	2	Bob Hunt, MillerCoors Garin Vorthmann, Colorado Legislative Services and Anheuser Busch
I	Small Breweries	2	Kevin Delange, Colorado Brewers Guild and Dry Dock Brewery, succeeded in August 2017 by Andres Gil Zaldana, Colorado Brewers Guild Laura Long, Craft Beer Colorado and Weist Capital Group
J	National Distillery	1	Joan Andrew Green Turner, Distilled Spirits Council and J. Andrew Green & Associates, Inc.
K	Colorado Distillery	1	Steve Gould, Colorado Distillers Guild and Golden Moon Distillery Proxy Kara Miller voted on recommendations
L	Retail Liquor Store Licensees, one of which must represent a small RLS licensee	3	Bruce Dierking, Hazel's Beverage World (large RLS) Jim Shpall, Applejack Wine and Spirits (large RLS) Charles Carlson, Mulberry Wine and Spirits, Inc. (small RLS)
M	Statewide Off-Premises Retail Licensee	1	Jeanne McEvoy, Colorado Licensed Beverage Association
N	Persons Licensed Under §12-47-411, C.R.S., Hotel and Restaurant License	2	Nicholas Hoover, Colorado Restaurant Association Amie Mayhew, Colorado Hotel and Lodging Association NB: Did not attend any meetings
O	Persons Licensed Under §12-47-412, Tavern License	1	Stephanie Fransen, Tavern League of Colorado
P	Licensed Wholesalers	2	Steve Findley, Colorado Beer Distributors Association Micki Hackenberger, Wine and Spirits Wholesalers of Colorado
Q	National Vinous Liquors Manufacturer	1	Tyler Rudd, Wine Institute
R	Colorado Vinous Liquors Manufacturer	1	Doug Caskey, Colorado Wine Industry Development Board, Colorado Department of Agriculture

Type of Organization or Interest Represented		No.	Appointed Member
S	Attorneys who Practice in the Area of Liquor Law and Regulation	2	Adam Stapen , Dill, Dill, Carr, Stonebraker & Hutchings, P.C. John Tipton , The Tipton Law Firm, P.C.
T	Mothers Against Drunk Driving	1	Ilana Kurtzig , succeeded in January 2017 by Fran Lanzer , Mothers Against Drunk Driving Proxy Amanda Prince voted on recommendations
U	Grocery Stores	2	Lloyd Felix , Target Corporation Joshua Phair , succeeded in July 2017 by Ryan Irsik , Walmart
V	Convenience Stores	2	Jason Bassett , Kum & Go Kathryn Works , 7-Eleven
W	The Public	2	Blake Harrison , Advocate for liberalization of beer sales in Colorado Kurt Morrison , Office of Governor Hickenlooper Proxy Matt Hastings voted on recommendations
Total Members		33	

Appendix C: Additional Participants in the Working Group Meetings

The following persons who were not members of the SB 16-197 Working Group attended one or more Working Group Meetings:³³

No.	First Name	Last Name	Organization
1	Donia	Amick	Liquor Enforcement Division
2	Lacee	Artist	Colorado Restaurant Association
3	Lynda	Atkins	Office of the Attorney General, State of Colorado
4	Amy	Attwood	Attwood Public Affairs
5	Grier	Bailey	Colorado Wyoming Petroleum Marketers Association
6	Angie	Baker	Kum & Go
7	Jacob	Baus	Liquor Enforcement Division
8	Greg	Borphy	Colorado Licensed Beverage Association
9	Jauton	Burke	Crooked Stave Artisans Distributing
10	Alan	Call	Office of the Attorney General, State of Colorado
11	Phil	Catalino	Colorado Eagle Budweiser
12	Mary Lou	Chapman	Rocky Mountain Food Industry Association
13	Scott	Chase	Coloradans for Safety
14	Matt	Cheroutes	Delaware North
15	Thomas	Conklin	J. William Artist & Associates
16	Kacy	Crawford	Colorado Department of Public Health and Environment
17	JP	Dean	Colorado Licensed Beverage Association
18	Lino	Di Felice	Grapes N Wine
19	Meg	Dubruy	Walmart Stores, Inc.
20	Eric	Foster	US Association of Cider Makers
21	Adrian	Garcia	Denver Resident
22	Lynn	Granger	DOR
23	Curtis	Hancock	Office of Behavioral Health, Colorado Department of Human Services
24	Matt	Hastings	Office of Governor Hickenlooper
25	Eric	Hatlestad	Rocky Mountain Cider Association
26	Alex	Hayes	Colorado Licensed Beverage Association
27	Phil	Hayes	Target
28	Brock	Herzberg	Wine Institute
29	Jay	Hicks	Kum & Go
30	Mary Kay	Hogan	King Soopers
31	Jason	Hopfer	Support Your Local Liquor Store LLC
32	Larry	Hudson	Safeway
33	Heidi	Humphreys	DOR
34	John	Jennings	Ireland Stapleton Law Firm
35	Annmarie	Jensen	Colorado Association of Chiefs of Police and Jensen Public Affairs
36	Jesse	Jensen	Jensen Public Affairs

³³ This list was compiled from the sign-in sheets from the meetings. If persons who attended meetings did not sign in or their sign-in information was not clear, they may not be listed here.

No.	First Name	Last Name	Organization
37	Michelle	Kees	Office of the Attorney General, State of Colorado
38	Tanya	Kelly-Bowry	Applejack Wine & Spirits
39	Lewis	Koski	Enforcement Division, DOR
40	Mike	Laszlo	LaszloLaw
41	Andrew	Lemley	New Belgium Brewing Company
42	Alan	Lewis	Natural Grocers by Vitamin Cottage
43	Sandra	Lowman	Liquor Enforcement Division
44	Sol	Malick	Colorado Licensed Beverage Association
45	Mary Alice	Mandarich	Support Your Local Liquor Store LLC
46	Tom	Marrondis	Wine & Spirit Wholesalers of Colorado
47	Jenise	May	Colorado Licensed Beverage Association
48	Lisa	McCann	CS Policy
49	Charles	McDonald	Colorado Licensed Beverage Association
50	Kelli	McGannon	King Soopers
51	Kara	Miller	Colorado Distillers Guild
52	Roger	Morris	Lewis Roca Rothgerber Christie LLP
53	Erik	Nielsen	Pioneer Wine & Spirits
54	Jonathan	Noller	Colorado Licensed Beverage Association
55	Steve	Nosow	Peak Beverage
56	Peggi	O'Keefe	7-Eleven
57	Steven	Oliver	Growler USA
58	Richard	Oneslager	Bottle Shop 33
59	Jenn	Penn	MillerCoors
60	Dylan	Peper	Applejack Wine & Spirits
61	Amanda	Prince	Mothers Against Drunk Driving
62	Mackenzie	Ramos	Unknown
63	Totsy	Rees	Rees Consulting, Inc.
64	Stewart	Ressler	Aviation Club
65	Jean	Robinson	DOR
66	Chas	Runco	Runco Law and Colorado Brewers Guild
67	Kyle	Schlachter	Colorado Wine Industry Development Board, Colorado Department of Agriculture
68	Ed	Sealover	Denver Business Journal
69	Jep	Seman	Colorado Licensed Beverage Association
70	Wendy	Spaulding	Enforcement Division, DOR
71	Kris	Staaf	Safeway & Albertsons
72	Robby	Staley	Office of the Attorney General, State of Colorado
73	Nicki	Stallings	Southern Glazer Wine & Spirits
74	Michael	Steppat	Wine and Spirit Wholesalers of Colorado
75	Tom	Strathman	Anheuser Busch
76	Charlie	Summers	Colorado Eagle Budweiser
77	Meghan	Tanis	Enforcement Division, DOR
78	Ron	Terrin	High Country Beverage
79	Patrick	Thomas	Total Beverage
80	Jeff	Thormodsgaard	Colorado Licensed Beverage Association
81	Cory	Tipton	Tipton Law Firm

No.	First Name	Last Name	Organization
82	Blair	Tobler	Lewis Roca Rothgerber Christie LLP
83	Wendy	Turk	Fintech.net
84	Amber	Valdez	MillerCoors
85	Trevor	Vaughan	City of Aurora
86	Megan	Wagner	Colorado Beer Distributors Association
87	Rebekah	Watada	Office of the Denver City Attorney
88	Dave	Watson	CR Goodman Inc.
89	Dan	Williams	Colorado Beer Distributors Association

Appendix D: Staff Who Supported the Work of the SB 16-197 Working Group

No.	Name	Organization	Role
1	Donia Amick	LED	Chair of the Tastings and Growlers Sub-Group
2	Lewis Koski	Enforcement Division, DOR	Chair of the Tastings and Growlers Sub-Group, succeeded in January 2017 by Donia Amick
3	Lisa McCann	CS Policy	Consultant and Writer of the SB 16-197 Working Group Report
4	Jacob Baus	LED	Legal Support
5	Alan Call	Office of the Attorney General, State of Colorado	Legal Support
6	Sandra Lowman	LED	Program Support
7	Wendy Spaulding	Enforcement Division, DOR	Program Support

Appendix E: Meetings and Key Developments of the SB 16-197 Working Group

Date	Time	Location	Activities and Key Developments
2016			
05/09/16			SB 16-197 passed in the Senate, 34-1-0
05/11/16			SB 16-197 passed in the House, 57-7-1, and re-passed in the Senate as amended, 31-4-0
06/10/16			SB 16-197 signed into law by Governor
08/01/16	9:00 am - 10:15 am	Ralph L. Carr Colorado Judicial Center, 1300 Broadway, Denver	Working Group Meeting 1
10/13/16	8:00 am - 3:00 pm	Colorado Department of Agriculture, 305 Interlocken Parkway, Broomfield	Working Group Meeting 2 and Sub-Group Meetings
11/17/16	8:00 am - 3:30 pm	Colorado Department of Agriculture, 305 Interlocken Parkway, Broomfield	Working Group Meeting 3 and Sub-Group Meetings
12/13/16	9:00 am - 12:00 pm	Colorado Department of Agriculture, 305 Interlocken Parkway, Broomfield	Working Group Meeting 4 and Sub-Group Meetings
2017			
01/20/17	1:00 pm - 3:30 pm	Ralph L. Carr Colorado Judicial Center, 1300 Broadway, Denver	Working Group Meeting 5 and Sub-Group Meetings
05/19/17	1:00 pm - 2:30 pm	Lewis Roca Rothgerber Christie LLP, 1200 17th St., Suite 3000, Denver	Working Group Meeting 6 and Sub-Group Meetings
06/05/17	5:00 PM	By email	First deadline for submission of recommendations by Working Group Members
07/21/17	1:00 pm - 4:30 pm	Division of Gaming, 17301 W. Colfax Avenue, Golden	Working Group Meeting 7 and review of recommendations submitted
08/10/17	5:00 PM	By email	Final deadline for submission of recommendations by the Working Group
08/18/17	1:00 pm - 4:30 pm	LED, 1880 Pierce Street, Entrance B, Denver	Working Group Meeting 8 and review of recommendations submitted
09/14/17	6:00 PM	By email	Text of final recommendations for voting circulated to Working Group members
09/22/17	1:00 pm - 5:00 pm	LED, 1880 Pierce Street, Entrance B, Denver	Working Group Meeting 9 and vote on final recommendations
09/29/17	5:00 PM	By email	Deadline for Working Group Members and members of the public to submit written comments on the recommendations
2018			
01/01/18			Deadline for submission of the SB 16-197 Working Group Report to the Senate Business, Labor, and Technology Committee and the House of Representatives Business Affairs and Labor Committee

Appendix F: Template for Recommendations

Rec. No. SB 16-197- ____

Senate Bill 16-197 Working Group Legislative Report Recommendation Form

1. Work Group Sponsor(s):
2. Describe the Recommendation:
3. Which portion or portions of Senate Bill 16-197 does this recommendation address (underline all those that apply)?
 - a. 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.
 - b. 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.
 - c. Legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.
 - d. 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?
5. What issue or issues does your recommendation resolve? Please identify the issues.
6. What stakeholders would be positively or negatively impacted by this recommendation, and how would they be impacted?
7. Which of the following does the recommendation impact (underline those that apply):
 - a. Statute (legislation)
 - b. Policy
 - c. 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.
10. Are you aware of any statutory authority or regulation that supports the basis of this recommendation? If yes, please include it here.
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?
12. Will the recommendation have a cost to implement? If yes, please explain the reason for the cost and provide an estimate.
13. Provide an estimate of how long it would take to implement the recommendation.

Appendix G: Original Recommendations and Recommendations Withdrawn and Combined

The full text of all original recommendations that were not subsequently withdrawn is available on the LED website at: <https://www.colorado.gov/pacific/enforcement/sb16-197-statutory-working-group>.

No.	Orig. Rec. #	Final Rec. #	Status	Title	Submitted By
1	1	N/A	Withdrawn to be addressed by LED in Rule	Expanding and Clarifying Regulation 47-322, Unfair Trade Practices and Competition	Colorado Beer Wholesalers Association
2	2	N/A	Included in combined Orig. Rec. 22+23	No Additional Legislation Needed for Sales of FMB Licenses as Defined on January 1, 2019	Colorado Beer Distributors Association
3	3	N/A	Included in Orig. Rec. 19	Analysis by the Liquor Enforcement Division Regarding Legislation, Rules, and Promotion of the Three-Tiered Liquor Distribution System	Colorado Beer Distributors Association
4	4	N/A	Included in combined Orig. Rec. 22+23	No Action Required Related to the Change in the Definition of FMB	Safeway
5	5.1	9.0	Voted on	Defining When the Manufacturing Process Ends	Colorado Wine Industry Development Board and Wine Institute
6	5.2	9.0.1	Voted on	Option 1: Manufacturing Ends When Beverage has been Released from Bonded Warehouse or Bonded Premises and Placed in Commerce	Colorado Wine Industry Development Board and Wine Institute
7	5.3	9.0.2	Voted on	Option 2: Manufacturing Ends when Product is Bottled or Packaged so as to be Legally Sold to a Consumer and is Ready to be Placed into Commerce	Colorado Wine Industry Development Board and Wine Institute
8	6.1	6.0	Voted on	Review of Recommendations for their Impact on the Craft Brewing Industry	Colorado Brewers Guild and Small Brewery Representatives
9	6.2	N/A	Withdrawn	Treatment of Public Consumption as a Local Issue	Colorado Brewers Guild and Small Brewery Representatives

No.	Orig. Rec. #	Final Rec. #	Status	Title	Submitted By
10	6.3	N/A	Withdrawn to be addressed by LED in Rule	Better Defining “Value of Labor” Practices	Colorado Brewers Guild and Small Brewery Representatives
11	7	10.0	Voted on	Reporting Requirements for Carriers Shipping Alcohol into Colorado	Wine and Spirits Wholesalers of Colorado
12	8	N/A	Included in Orig. Rec. 19	Annual Briefing on the Three-Tiered System in Colorado	Wine and Spirits Wholesalers of Colorado
13	9.1	3.1	Voted on	Application Process for Grocery and Convenience Store Malt Liquor License (<i>Accept or deny all license requirements</i>)	Colorado Licensed Beverage Association
14	9.2	3.2	Voted on	Application Process for Grocery and Convenience Store Malt Liquor License (<i>Accept some license requirements</i>)	Colorado Licensed Beverage Association
15	9.3	3.3.1	Voted on	Application Processing Time	Colorado Licensed Beverage Association
16	9.4	3.3.2	Voted on	Survey and Needs and Desires Hearing	Colorado Licensed Beverage Association
17	9.5	3.3.3	Voted on	No Modification of Premises	Colorado Licensed Beverage Association
18	9.6	3.3.4	Voted on	Transition of Current On-and-Off Premises Licenses	Colorado Licensed Beverage Association
19	9.7	3.3.5	Voted on	Distance from Schools	Colorado Licensed Beverage Association
20	9.8	3.3.6	Voted on	Distance from Retail Liquor Licensed Premises	Colorado Licensed Beverage Association
21	9.9	3.3.7	Voted on	Separation of Inventories	Colorado Licensed Beverage Association
22	9.10	3.3.8	Voted on	Age of Employees	Colorado Licensed Beverage Association
23	9.11	3.3.9	Voted on	ABV Limitation	Colorado Licensed Beverage Association
24	9.12	3.3.10	Voted on	Refrigeration Requirement	Colorado Licensed Beverage Association
25	9.13	3.3.11	Voted on	Limitation on Refrigerated Beverage Retail Space	Colorado Licensed Beverage Association
26	9.14	3.3.12	Voted on	Separation of Malt Liquor and Non-Alcohol Products	Colorado Licensed Beverage Association
27	9.15	3.3.13	Voted on	No Sales of Alcohol-Branded Merchandise	Colorado Licensed Beverage Association
28	9.16	3.3.14	Voted on	No Sales of Home Brew or Winemaking Equipment	Colorado Licensed Beverage Association
29	9.17	3.3.15	Voted on	No Sales Below Invoice Cost	Colorado Licensed Beverage Association

No.	Orig. Rec. #	Final Rec. #	Status	Title	Submitted By
30	9.18	3.3.16	Voted on	No Point of Sale Marketing or Sales of Malt Liquor Products	Colorado Licensed Beverage Association
31	9.19	3.3.17	Voted on	Only 6- and 12-Packs Allowed	Colorado Licensed Beverage Association
32	9.20	3.3.18	Voted on	Compliance with Other Malt Liquor License Requirements	Colorado Licensed Beverage Association
33	9.21	N/A	Withdrawn	Retention of Local Licensing Fees for Existing Licensees Applying for a GCSML License	Colorado Licensed Beverage Association
34	10	N/A	Withdrawn in favor of Orig. Rec. 18	Conversion of FMB Licenses from §12-46 to §12-47, C.R.S.	Colorado Municipal League
35	11 + 15	5.0	Voted on	Single License for FMB and Malt Liquor	Colorado Beer Distributors Association and MillerCoors
36	12 + 17	7.0	Voted on	Prohibiting Public Consumption of FMB and Malt Liquors	Colorado Liquor Enforcement Division and Colorado Association of Chiefs of Police
-	13.1-13.6	12.1-12.6	Voted on	Statutory and Rule Changes Regarding Tastings at Retail Liquor Stores	Colorado Licensed Beverage Association, Wine Institute, Colorado Wine Industry Development Board, Distilled Spirits Guild, and Colorado Distillers Guild
37	13.1	12.1	Voted on	Timing and Annual Limit for Tastings	Colorado Licensed Beverage Association, Wine Institute, Colorado Wine Industry Development Board, Distilled Spirits Guild, and Colorado Distillers Guild
38	13.2	12.2	Voted on	Storing Unconsumed Alcohol Beverage Samples in a Locked, Secure Area on the Licensed Premises	Colorado Licensed Beverage Association, Wine Institute, Colorado Wine Industry Development Board, Distilled Spirits Guild, and Colorado Distillers Guild
39	13.3	12.3	Voted on	Allowing Supplier Representatives to Pour Alcohol Products under the Supervision of the RLS or LLDS Employees	Colorado Licensed Beverage Association, Wine Institute, Colorado Wine Industry Development Board, Distilled Spirits Guild, and Colorado Distillers Guild
40	13.4	12.4	Voted on	RLS or LLDS Licensees Solely Responsible for Administrative Violations	Colorado Licensed Beverage Association, Wine Institute, Colorado Wine Industry Development Board, Distilled Spirits Guild, and Colorado Distillers Guild

No.	Orig. Rec. #	Final Rec. #	Status	Title	Submitted By
41	13.5	12.5	Voted on	Supplier Pouring at Sampling and Tasting Events not a “Cost of Labor”	Colorado Licensed Beverage Association, Wine Institute, Colorado Wine Industry Development Board, Distilled Spirits Guild, and Colorado Distillers Guild
42	13.6	12.6	Voted on	Clarification Regarding RLS or LLDS Financial Responsibility for a Tasting	Colorado Licensed Beverage Association, Wine Institute, Colorado Wine Industry Development Board, Distilled Spirits Guild, and Colorado Distillers Guild
43	14	N/A	Included in Orig. Rec. 22+23	No Changes Needed Regarding the Transition to Full- Strength FMB	MillerCoors
44	15	N/A	Consolidated with Orig. Rec. 11	Single License for FMB and Malt Liquor	MillerCoors
45	16	2.0	Voted on	Local Review Process for Existing 3.2% FMB Licensees to Sell Higher-Strength Beer	Colorado Association of Chiefs of Police and Colorado Distillers Guild
46	17	N/A	Consolidated with Orig. Rec. 12	Prohibiting Public Consumption of Alcohol Beverages Above 0.5% Alcohol by Volume	Colorado Association of Chiefs of Police
-	18.1-18.3	1.1-1.3	Voted on	Aligning Requirements between Licenses in §12-46 and §12-47, C.R.S.	Colorado Municipal League
47	18.1	1.1	Voted on	Provisions for Off-Premises and On-and-Off Premises FMB Licenses on December 31, 2018	Colorado Municipal League
48	18.2	1.2	Voted on	Provisions for New FMB Licenses On or After January 1, 2019	Colorado Municipal League
49	18.3	1.3	Voted on	Provisions for the Transfer of Ownership of Existing FMB Licenses after January 1, 2019	Colorado Municipal League
50	19	11.0	Voted on	Annual Briefing on the Protection and Promotion of the Three-Tier System in Colorado (Includes Orig. Recs. 3 & 8)	Colorado Beer Distributors Association and Wine and Spirits Wholesalers of Colorado
51	20	N/A	Withdrawn to be addressed by LED in Rule	Participation of Consumers in the Manufacturing Process	Colorado Wine Industry Development Board and Wine Institute

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No.	Orig. Rec. #	Final Rec. #	Status	Title	Submitted By
52	21	8.0	Voted on	Prohibiting or Allowing the Public Consumption of All Alcohol Beverages	Distilled Spirits Council and Colorado Distillers Guild
53	22 + 23	4.0	Voted on	No Substantial Statutory Changes or New Licensing Requirements Needed to Manage the Transition to Higher-Strength Beer Sales <i>(includes Orig. Recs. 2, 4 & 14)</i>	Colorado Wyoming Petroleum Marketers Association, 7-Eleven, Kum & Go Convenience Stores, CST Brands, Circle K, Safeway, MillerCoors, Colorado Beer Distributors Association
54	23	N/A	Consolidated with Orig. Rec. 22	No Additional Legislation Needed to Carry Out Change Regarding Removal of Alcohol By Volume Restriction on FMB	Safeway, MillerCoors, Colorado Beer Distributors Association

Appendix H: Voting Instructions for Working Group Members



September 14, 2017

Dear SB 16-197 Statutory Working Group Members and Stakeholders:

The SB 16-197 Statutory Working Group (“Working Group”) will convene to vote on recommendations presented by Working Group members. The recommendations and voting results for each recommendation will be reflected in the report submitted to the General Assembly. The voting procedures described below are based upon voting procedures used by past working groups administered by the Department of Revenue.

The Working Group will meet to vote on the recommendations at 1:00 p.m. on Friday, September 22, 2017, at:

Liquor Enforcement Division
1881 Pierce Street (Entrance B – Room 110)
Lakewood, Colorado 80214

The meeting is open to the public.

I. Eligible Voters

Only those specific individuals appointed as members of the Working Group by the State Licensing Authority are permitted to vote on the recommendations. However, any Working Group member who is not available to attend the meeting on Friday, September 22, 2017, in person, may designate a specific individual to serve as his/her proxy by following the procedure detailed below.

Any Working Group member wishing to appoint a proxy to vote on his/her behalf must submit a written proxy statement signed by the Working Group member to **dor_led@state.co.us no later than 5:00 p.m. on Tuesday, September 20, 2017**. The proxy statement must identify the Working Group member who is designating a proxy, identify the individual who will serve as proxy, and provide the proxy’s contact information. Any Working Group member who designates a proxy shall be solely responsible for determining who will be appointed as his/her proxy, and for instructing the proxy how to vote on each recommendation on the Working Group member’s behalf.

The vote of any Working Group member who fails to attend in person, or whose properly designated proxy fails to attend in person, shall not be counted.

II. Recommendations Presented for Voting

A vote will be taken on each numbered recommendation formally submitted by the Working Group members, unless the recommendation was withdrawn or consolidated with another. To avoid uncertainty and clearly present the results of the vote to the General Assembly, recommendations containing multiple topics have been broken into subparts and clearly marked, so that each vote concerns a single topic.

Attached are the recommendations in the form to be used when voting, which have been extracted from the recommendation forms sent in by Working Group members and distilled down so that only the recommendation itself appears. Additional information from Section 2 of the recommendation form that was deemed not to be central to the recommendation has been removed from the text of the recommendation, but will be retained and included as supporting information to the recommendations in the report to the General Assembly.

Complete copies of each SB 16-197 Working Group Legislative Report Recommendation Form, submitted by the Working Group member making the recommendation, are available on the Liquor Enforcement Division's website at: <https://www.colorado.gov/pacific/enforcement/sb16-197-statutory-working-group>.

III. Voting Procedure

Voting will be conducted by oral roll call. When called upon, each Working Group member (or his/her designated proxy, if any) shall vote on each recommendation using one of the following responses:

- Yes
- No
- No Position

IV. Written Comments by Working Group Members³⁴

Working Group members may submit one written comment for each recommendation, and the comments of the Working Group members will be summarized and included in the report to the General Assembly. Any written comment must be one (1) page or less, single-spaced, and use no less than a twelve (12) point font size.

Written comments by Working Group members must be submitted to dor_led@state.co.us no later than 5:00 p.m. on Friday, September 29, 2017.

³⁴ These instructions for Working Group members and members of the public to submit written comments were adapted at the September 22, 2017 meeting. Comments from a single individual or organization on all recommendations were to be consolidated into a single written submission, not to exceed two pages in length.

V. Written Comments by Members of the Public

While members of the public are not eligible to vote, they may also submit a written comment regarding any of the recommendations. Written comments from members of the public that comply with the following limitations will be summarized and included in the report to the General Assembly. Any written comment by a member of the public must be one (1) page or less, single-spaced, and use no less than a twelve (12) point font size.

Written comments by members of the public must be submitted to dor_led@state.co.us no later than 5:00 p.m. on Friday, September 29, 2017.


VI. Report to the General Assembly

Following the vote, a report will be prepared for the General Assembly summarizing each of the recommendations and the results of the voting. Given the short timeline to prepare the report, there will be no opportunity for Working Group members or members of the public to review and comment upon a draft report to the General Assembly before it is submitted. Accordingly, it is important to submit written comments, following the procedures detailed above, if you wish to have those comments considered by the General Assembly.


The report to the General Assembly will reflect whether each recommendation is supported unanimously, supported by a majority, or supported by a minority of the Working Group members. While the report to the General Assembly will not identify how any particular Working Group member voted, the meeting on September 22, 2017, including the voting by oral roll call, will be recorded, and may be considered a public record for purposes of the Colorado Open Records Act.

The State Licensing Authority and the Liquor Enforcement Division sincerely thank you for your time, participation, and commitment to the SB 16-197 Working Group.

Sincerely,



Michael S. Hartman
Executive Director
Department of Revenue



Patrick Maroney
Director
Liquor Enforcement Division

Appendix I: Simple Vote Count³⁵

No.	Rec. #	Title	Yes	No	No Position	Total
1	1.1	Provisions for Existing Off-Premises and On-and-Off Premises FMB Licenses on December 31, 2018	9	6	16	31
2	1.2	Provisions for New FMB Licenses On or After January 1, 2019	8	11	12	31
3	1.3	Provisions for the Transfer of Ownership of Existing FMB Licenses after January 1, 2019	9	11	11	31
4	2.0	Local Review Process for Existing 3.2% FMB Licensees to Sell Higher-Strength Beer	5	12	14	31
5	3.1 ³⁶	Application Process for Grocery and Convenience Store Malt Liquor License (<i>Accept or deny all license requirements</i>)	3	20	7	30
6	3.2	Application Process for Grocery and Convenience Store Malt Liquor License (<i>Accept some license requirements</i>)	1	0	0	1
7	3.3.1	Application Processing Time	1	0	0	1
8	3.3.2	Survey and Needs and Desires Hearing	1	0	0	1
9	3.3.3	No Modification of Premises	1	0	0	1
10	3.3.4	Transition of Current On-and-Off Premises Licenses	1	0	0	1
11	3.3.5	Distance from Schools	0	0	1	1
12	3.3.6	Distance from Retail Liquor Licensed Premises	0	0	1	1
13	3.3.7	Separation of Inventories	1	0	0	1
14	3.3.8	Age of Employees	1	0	0	1
15	3.3.9	ABV Limitation	0	0	1	1
16	3.3.10	Refrigeration Requirement	0	0	1	1
17	3.3.11	Limitation on Refrigerated Beverage Retail Space	0	0	1	1
18	3.3.12	Separation of Malt Liquor and Non-Alcohol Products	0	0	1	1
19	3.3.13	No Sales of Alcohol-Branded Merchandise	1	0	0	1
20	3.3.14	No Sales of Home Brew or Winemaking Equipment	1	0	0	1
21	3.3.15	No Sales Below Invoice Cost	1	0	0	1
22	3.3.16	No Point of Sale Marketing or Sales of Malt Liquor Products	1	0	0	1
23	3.3.17	Only 6- and 12-Packs Allowed	0	0	1	1
24	3.3.18	Compliance with Other Malt Liquor License Requirements	1	0	0	1
25	4.0	No Substantial Statutory Changes or New Licensing Requirements Needed to Manage the Transition to Higher-Strength Beer Sales	13	9	9	31
26	5.0	Single License for FMB and Malt Liquor	17	4	10	31

³⁵ Thirty-one of the 33 Working Group members were present at the Working Group meeting of September 22, 2017, when the Group voted on the recommendations.

³⁶ Working Group members were asked to vote EITHER for Sub-recommendation 3.1 to approve or deny the recommendation for a GCSML License with ALL of its requirements, listed in Sub-Recommendations 3.3.1 - 3.3.18, OR for Sub-recommendation 3.2 in order to approve the recommendation for the GCSML license in principle but have the option to vote individually on the requirements of the license. As such, the vote counts for these Sub-recommendations do not total 31. Only one Working Group member opted to vote on Sub-Recommendation 3.2 and the individual license requirements 3.3.1 – 3.3.18.

No.	Rec. #	Title	Yes	No	No Position	Total
27	6.0	Review of Recommendations for their Impact on the Craft Brewing Industry	7	11	13	31
28	7.0	Prohibiting Public Consumption of FMB and Malt Liquor	14	8	9	31
29	8.0	Prohibiting or Allowing the Public Consumption of All Alcohol Beverages	10	9	12	31
30	9.0 ³⁷	Defining When the Manufacturing Process Ends	10	0	21	31
31	9.0.1	Option 1: Manufacturing Ends When Beverage has been Released from Bonded Warehouse or Bonded Premises and Placed in Commerce	2	-	-	2
32	9.0.2	Option 2: Manufacturing Ends when Product is Bottled or Packaged so as to be Legally Sold to a Consumer and is Ready to be Placed in Commerce	8	-	-	8
33	10.0	Reporting Requirements for Carriers Shipping Alcohol into Colorado	12	2	17	31
34	11.0	Annual Briefing on the Three-Tiered System in Colorado	7	12	12	31
35	12.1	Timing and Annual Limit for Tastings	19	2	10	31
36	12.2	Storing Unconsumed Alcohol Beverage Samples in a Locked, Secure Area on the Licensed Premises	17	1	13	31
37	12.3	Allowing Supplier Representatives to Pour Alcohol Products under the Supervision of the RLS or LLDS Employees	21	2	8	31
38	12.4	RLS or LLDS Licensees Solely Responsible for Administrative Violations	20	4	7	31
39	12.5	Supplier Pouring at Sampling and Tasting Events not a “Cost of Labor”	19	1	11	31
40	12.6	Clarification Regarding RLS or LLDS Financial Responsibility for a Tasting	21	2	8	31

³⁷ Working Group members who voted Yes on Recommendation 9.0 were asked to vote EITHER for Sub-recommendation 9.0.1 OR for Sub-recommendation 9.0.2, in order to register their preference for how to define the end of the manufacturing process. As such, the totals for Sub-recommendations 9.0.1 and 9.0.2 do not total 31.

Appendix J: Complete Voting Results

No.	Rec. #	Orig. Rec. #	Title	Yes			No			Sub-Total			No Position		Total		
				#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All	
A. Implementation Process for Grocery and Convenience Stores to Apply for a License																	
-	1.1-1.3	18	Aligning Requirements between Licenses in §12-46 and §12-47, C.R.S.	-	-	-	-	-	-	-	-	-	-	-	-	-	
1	1.1	18.1	Provisions for Existing Off Premises and On-and-Off Premises FMB Licenses on December 31, 2018	9	60.0	29.0	6	40.0	19.4	15	100.0	48.4	16	51.6	31	100.0	
2	1.2	18.2	Provisions for New FMB Licenses On or After January 1, 2019	8	42.1	25.8	11	57.9	35.5	19	100.0	61.3	12	38.7	31	100.0	
3	1.3	18.3	Provisions for the Transfer of Ownership of Existing FMB Licenses after January 1, 2019	9	45.0	29.0	11	55.0	35.5	20	100.0	64.5	11	35.5	31	100.0	
4	2.0	16	Local Review Process for Existing 3.2% Fermented Malt Beverage Licensees to Sell Higher-Strength Beer	5	29.4	16.1	12	70.6	38.7	17	100.0	54.8	14	45.2	31	100.0	
NB: Vote was EITHER on Rec. 3.1, inclusive of all license requirements 3.3.1-3.3.18, OR on Rec. 3.2 with the on each license requirement 3.3.1-3.2.18																	
5	3.1	9.1	Application Process for Grocery and Convenience Store Malt Liquor License (Accept or deny all license requirements)	3	13.0	10.0	20	87.0	66.7	23	100.0	76.7	7	23.3	30	100.0	
6	3.2	9.2	Application Process for Grocery and Convenience Store Malt Liquor License (Accept some license requirements)	1	100.0	100.0	0	0.0	0.0	1	100.0	100.0	0	0.0	1	100.0	
7	3.3.1	9.3	Application Processing Time	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0	
8	3.3.2	9.4	Survey and Needs and Desires Hearing	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0	
9	3.3.3	9.5	No Modification of Premises	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0	
10	3.3.4	9.6	Transition of Current On and Off Premises Licenses	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0	
11	3.3.5	9.7	Distance from Schools	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0	
12	3.3.6	9.8	Distance from Retail Liquor Licensed Premises	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0	
13	3.3.7	9.9	Separation of Inventories	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0	
14	3.3.8	9.10	Age of Employees	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0	
15	3.3.9	9.11	ABV Limitation	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0	
16	3.3.10	9.12	Refrigeration Requirement	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0	
17	3.3.11	9.13	Limitation on Refrigerated Beverage Retail Space	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0	
18	3.3.12	9.14	Separation of Malt Liquor and Non-Alcohol Products	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0	
19	3.3.13	9.15	No Sales of Alcohol-Branded Merchandise	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0	
20	3.3.14	9.16	No Sales of Home Brew or Winemaking Equipment	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0	
21	3.3.15	9.17	No Sales Below Invoice Cost	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0	
22	3.3.16	9.18	No Point of Sale (POS) Marketing or Sales of Malt Liquor Products	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0	
23	3.3.17	9.19	Only 6- and 12-Packs Allowed	0	-	0.0	0	-	0	0	-	0.0	1	100.0	1	100.0	
24	3.3.18	9.20	Compliance with Other Malt Liquor License Requirements	1	100.0	100.0	0	0.0	0	1	100.0	100.0	0	0.0	1	100.0	
25	4.0	22 + 23	No Substantial Statutory Changes or New Licensing Requirements Needed to Manage the Transition to Higher-Strength Beer Sales	13	59.1	41.9	9	40.9	29.0	22	100.0	71.0	9	29.0	31	100.0	

SB 16-197 Statutory Working Group Report

No.	Rec. #	Orig. Rec. #	Title	Yes			No			Sub-Total			No Position		Total		
				#	% of Position	% of All	#	% of Position	% of All	#	% Total, Position	% of All	#	% of All	#	% Total, All	
B. Impact of Removing the Alcohol Content Limit on FMB																	
26	5.0	11 + 15	Single License for FMB and Malt Liquor	17	81.0	54.8	4	19.0	12.9	21	100.0	67.7	10	32.3	31	100.0	
27	6.0	6.1	Review of Recommendations for their Impact on the Craft Brewing Industry	7	38.9	22.6	11	61.1	35.5	18	100.0	58.1	13	41.9	31	100.0	
28	7.0	12 + 17	Prohibiting Public Consumption of FMB and Malt Liquor	14	63.6	45.2	8	36.4	25.8	22	100.0	71.0	9	29.0	31	100.0	
29	8.0	21	Prohibiting or Allowing the Public Consumption of All Alcohol Beverages	10	52.6	32.3	9	47.4	29.0	19	100.0	61.3	12	38.7	31	100.0	
C. Legislative, Regulatory, or Administrative Changes to Promote the 3-Tiered System in Colorado																	
30	9.0	5.1	Defining When the Manufacturing Process Ends	10	100.0	32.3	0	0.0	0	10	100.0	32.3	21	67.7	31	100.0	
NB: Those who voted Yes on 9.0 went on to specify preference for 9.0.1 (Option 1) or 9.0.2 (Option 2)																	
31	9.0.1	5.2	Option 1: Manufacturing Ends When Beverage has been Released from Bonded Warehouse or Bonded Premises and Placed in Commerce	2	20.0	-	-	-	-	2	-	-	-	-	2	-	
32	9.0.2	5.3	Option 2: Manufacturing Ends when Product is Bottled or Packaged so as to be Legally Sold to a Consumer and is Ready to be Placed in Commerce	8	80.0	-	-	-	-	8	-	-	-	-	8	-	
33	10.0	7	Reporting Requirements for Carriers Shipping Alcohol into Colorado	12	85.7	38.7	2	14.3	6.5	14	100.0	45.2	17	54.8	31	100.0	
34	11.0	19	Annual Briefing on the Three-Tiered System in Colorado	7	36.8	22.6	12	63.2	38.7	19	100.0	61.3	12	38.7	31	100.0	
D. Tastings and Growlers at Retail Liquor Stores																	
-	12.1-12.6	13	Statutory and Rule Changes Regarding Tastings on the Premises of Retail Liquor Stores	-	-	-	-	-	-	-	-	-	-	-	-	-	
35	12.1	13.1	Timing and Annual Limit for Tastings	19	90.5	61.3	2	9.5	6.5	21	100.0	67.7	10	32.3	31	100.0	
36	12.2	13.2	Storing Unconsumed Alcohol Beverage Samples in a Locked, Secure Area on the Licensed Premises	17	94.4	54.8	1	5.6	3.2	18	100.0	58.1	13	41.9	31	100.0	
37	12.3	13.3	Allowing Supplier Representatives to Pour Alcohol Products under the Supervision of the RLS or LLDS Employees	21	91.3	67.7	2	8.7	6.5	23	100.0	74.2	8	25.8	31	100.0	
38	12.4	13.4	RLS or LLDS Licensees Solely Responsible for Administrative Violations	20	83.3	64.5	4	16.7	12.9	24	100.0	77.4	7	22.6	31	100.0	
39	12.5	13.5	Supplier Pouring at Sampling and Tasting Events not a "Cost of Labor"	19	95.0	61.3	1	5.0	3.2	20	100.0	64.5	11	35.5	31	100.0	
40	12.6	13.6	Clarification Regarding RLS or LLDS Financial Responsibility for a Tasting	21	91.3	67.7	2	8.7	6.5	23	100.0	74.2	8	25.8	31	100.0	

Appendix K: Comments from Working Group Members During the Working Group Process

Note: Comments are presented in the order in which they were received.

Comment 1: Colorado Association of Chiefs of Police (CACP)

Date: January 16, 2017

Subject: Department of Revenue Response

From: Annmarie Jensen <aj@jensenpublicaffairs.com>

To: Patrick Maroney <patrick.maroney@state.co.us>

There are concerns about the instantaneous bringing online of many new liquor outlets and how that impacts juveniles in particular. The committee discussed the need for community input, since other licensed beverage entities are required to go through a community input process, and how do we incorporate the existing set back requirements from schools, as well as community needs and desires, and outlet density.

The state should tread carefully in adding new outlets of alcohol, and consider these concerns. However, the CACP is uncertain that local law enforcement is the appropriate vehicle to express these concerns, and thinks they should be addressed through City attorneys, and planning departments. The concerns about juvenile alcohol consumption, while focused on the eventual criminal justice system problems, could be addressed through establishing a local needs and desires process for conversion to full-strength beer and wine outlets, and giving schools, school officials, and parents the opportunity to comment.

Annmarie Jensen

www.jensenpublicaffairs.com

720-999-4765

Comment 2: MillerCoors

Date: June 6, 2017

Subject: Interim Liquor Enforcement Division Working Group Comments MillerCoors

From: Hunt, Bob <Robert.Hunt@millercoors.com>

To: Maroney, Patrick <patrick.maroney@state.co.us>

Patrick,

Now that the states of Colorado, Oklahoma and Kansas have made significant changes to their alcohol beverage laws which have the net effect of transitioning those states out of 3.2 ABW strength beer, MillerCoors has been proactive in planning for the Colorado conversion effective January 1, 2019. With that said, we are actively working to identify a clear path for our brewery operations, our distributors, our retailers and our consumers in laying out a plan of action which has specific operational and time sensitive milestones given changing environment of the Colorado beer market based on the effective date of the new law. In this regard, we respectfully believe that it is essential that no additional changes be proposed by the Interim Liquor Enforcement Division Working Group that would delay and/or modify the agreement made by various stakeholders during the 2016 legislative session.

Bob



Bob Hunt • Director, State Government Affairs Central Region

7800 North Dallas Parkway Suite 400 • Plano, Texas • 75024

bob.hunt@millercoors.com • O (214) 6187440 • C (404) 3689138

Comment 3: Wine Institute



June 6, 2017

Patrick Maroney
 Director, Liquor & Tobacco Enforcement
 Colorado Dept. of Revenue
 1881 Pierce Street, Suite 108
 Lakewood, CO 80214

RE: SB 197 Workgroup Issues

Dear Patrick,

I appreciate the opportunity for the Wine Institute to submit our thoughts and suggestions regarding the issues before the SB 197 Workgroup. In an effort to promote further discussion and to make progress to the final report to the legislature, below are our answers to questions posed at the previous workgroup meeting along with additional thoughts and suggestions.

I. 3.2% Beer Subgroup – no recommendations

II. Three Tier Subgroup

Question: When does the manufacturing process end? When is it contained and ready to present to the consumer?

Answer: The Wine Institute considers the manufacturing process to end when the product is “released from bond,” meaning the wine has been released from a bonded warehouse or from the winery itself and placed in commerce (e.g. taken by a distributor). We believe this is essentially the same as the wine being “ready to present to the consumer.”

Question: When does the retail sale take place for online sales?

Answer: The sale is transacted when the consumer is charged for the product, but it is not consummated until the product is delivered. Model language for the direct shipment of wine includes a provision requiring wineries that ship accept the jurisdiction of the recipient state to regulate interstate on-line sales and delivery.

III. Growlers/Tasting Subgroup

Question: During retail store tastings, who should be allowed to pour alcoholic beverages for tastings?

Answer: In addition to the ability for retail store employees pouring wine, beer, and liquor tastings, Wine Institute members would also like the ability to have either their employees or their paid agents or representatives to be able to pour. We believe this benefits both our members – by allowing the ability to not only discuss the wines themselves, but also pour the wine – and the retail store – by allowing their employees to focus on sales.

Question: Who pays for the product?

Answer: Wine Institute members support the current law that requires retailers to pay for the product.

Question: Do those who pour for tastings need to be “server trained”?

Answer: Most of Wine Institute members whose employees or agents perform tastings go through a server training, but not all do in every state. One issue that members have faced in other states is an overly burdensome training requirement for pouring, such as day-long state-specific training sessions. Considering the liability for tastings will fall on the retailer, Wine Institute believes the choice of server training should reside with the retailer.

Question: Who should have the liability for problems that may arise with tastings?

Answer: As is current law, and as stated above, the Wine Institute believes the liability should rest on the retailer considering they have final control over all activities on their premises.

I hope that this provides some assistance in working through the issues facing the SB197 Working Group. I understand there is a recommendation form, and I will transmit our recommendations on that form so that they may resemble other recommendations. In the meantime, however, I wanted to simply share our answers with you to some of the questions posed.

With best regards,

Tyler Rudd
Central States Counsel

Comment 4: Colorado Licensed Beverage Association



July 26, 2017

Mr. Patrick Maroney, Director
Tobacco and Liquor Enforcement Division
State of Colorado Department of Revenue
1881 Pierce Street, Suite 108
Lakewood, CO. 80214

Re: Liquor Rules Working Group follow up

Dear Patrick:

Although I was unable to attend the Working Group meeting last Friday, July 21, 2017, I am troubled by aspects of the meeting and believe it is important to raise our concerns with you.

According to my team who attended, during the Friday meeting several members of the Working Group offered or supported “motions” and urged members to “vote no” on the proposal proffered by the CLBA. As you know, every member of the Working Group was invited and encouraged to submit proposals for discussion to respond to the legislative directive to, “...convene a liquor industry working group to *develop an implementation process* for grocery and convenience stores to *apply for a license...*” (§12-46-109(1) C.R.S., EMPHASIS ADDED). Several Working Group members have submitted thoughtful ideas and recommendations, including my organization, the Colorado Licensed Beverage Association (CLBA).

The CLBA proposal was submitted in good faith and with the understanding it would be part of the Working Group discussion and collaboration on its merits. Unfortunately, it appears that several of those members have decided it is preferable to attack the CLBA proposal, to suppress any discussion and to offer motions urging members to “vote no”. This struck members of my team as more ambush tactics than collaboration and I urge you to address this problem – and facilitate honest discussion of the merits – when we convene as a group next month.

It is important to underscore that the CLBA submittal is our best attempt to capture what our members would ideally like to achieve. We understand that no single group will achieve everything that it proposes or requests. We are engaged and fully prepared to negotiate toward a consensus recommendation which captures the best of everyone’s ideas and suggestions. The behavior last Friday of some members of the Working Group is clearly inconsistent with this goal and detrimental to our overall effort.

- First, I am not aware the Working Group had plans to vote on individual proposals nor to my mind has the group agreed to or adopted any protocols, voting process or procedures;
- Second, all submittals should be made available (and perhaps even proactively shared with legislators who played a key role in the development and passage of SB16-197) and the effort to encourage “no” votes suppresses this transparency and should not be permitted;
- Third, any attempt to develop a Working Group voting system will be impossible and riddled with fundamental unfairness – for example, my vote on behalf of 1,600 small business owners/CLBA members does not equate to the vote of a member representing a single brewery or consumer.

As you know, the CLBA represents the small business women and men throughout Colorado whose lives and livelihoods are in the balance and will be truly affected by the SB16-197 Working Group decision making process. The bill text itself charges the Working Group to carefully examine and weigh the impacts on current retail licensees. Ensuring the process is fair, collaborative and transparent is critical to my members.

Thank you for considering these concerns. We appreciate the difficult task you have undertaken, applaud your efforts to date to manage this process to a good outcome and pledge our continued active participation and constructive support.

Sincerely,

Jeanne McEvoy
President/CEO
Colorado Licensed Beverage Association
1600 Broadway, Suite 1350
Denver, CO 80202

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720-299-7398 jeanne@myclba.com myclba.com

Appendix L: Comments from Working Group Members on the Final Recommendations

Working Group members as well as other attendees at the Working Group meetings and the general public were given the opportunity to submit written comments on the 12 final recommendations of the Working Group on which the Working Group voted on September 22, 2017. Comments on all recommendations were to be limited to two pages of text and were due by email to the LED by 5:00 pm on September 29, 2017.

Eleven sets of comments were received, all from members of the Working Group. Following are the original comments submitted by these Working Group members, to which the new recommendation numbers in this report have been added as footnotes when the original recommendation numbers were cited.

Comments on specific recommendations have been summarized from these comment sets and are included in the tables of supporting, dissenting, and neutral comments that follow the presentation of each recommendation in Chapter 7 of this report.

These comments are presented in the order in which the representatives of the various organizations and interests on the liquor industry working group are presented in SB 16-197, Section 5.

Comment 1: Liquor Enforcement Division



COLORADO

Department of Revenue

Enforcement Division - Liquor & Tobacco

Physical Address:
1881 Pierce Street
Lakewood, CO 80214
Office: 303-205-2300

Mailing Address:
P.O. Box 173350
Denver, CO 80217-3350
Fax: 303-205-2341

Re: Liquor Enforcement Division's SB 16-197 Statutory Working Group Comments

I. Recommendation 5.2³⁸ – Defining When the Manufacturing Process Ends, Option 1

Current state law specifies that excise taxes be paid upon first sale, while federal law specifies that excise taxes be paid once the product is removed from a bonded area. This recommendation thus suggests that Colorado adopt the federal process for determining when excise taxes should be paid.

While the LED is neutral regarding this recommendation, this option for defining the end of the manufacturing process would require significant statutory and rule changes and a large amount of resources to implement. The LED suggests that a separate working group be established to ensure that all relevant stakeholders are able to give input, and to specifically include the DOR Tax Division, since it was not part of the SB 16-197 Statutory Working Group.

II. Recommendation 7³⁹ – Reporting Requirements for Carriers Shipping Beer, Wine, and Distilled Spirits into Colorado

While the LED is neutral regarding this recommendation, its implementation and administration would require considerable resources. First, it would be necessary to promulgate additional statutes to assert jurisdiction over the out-of-state carriers that would be required to comply with the requirements outlined in the recommendation. Second, the LED would need to prepare a significant fiscal note to obtain the necessary resources to conduct a rule-making process and adequately administer and enforce the new requirements.

III. Recommendations 11 & 15 combined⁴⁰ - Single License for Fermented Malt Beverages and Malt Liquor

The recommendation as currently written is ambiguous. One interpretation is that a single license should be created, under which the licensee could conduct manufacturer, wholesaler, and importer functions. However, this recommendation **should not** be interpreted in this manner. A single license that would collapse the purposeful separation between the independent tiers of the three-tiered liquor distribution system in Colorado should not be created.

Rather, the intent of the recommendation was to eliminate the need for two separate and distinct licenses to transact beer *within the same tier* of the three-tiered system. For example, Brewery ABC would not need to hold a manufacturer license for FMB and a manufacturer license for malt liquor. Rather, Brewery ABC could hold a single manufacturer license to manufacture beer, whether FMB or malt liquor, in anticipation that there will be no distinction between these products based upon ABV as of January 1, 2019.

³⁸ Recommendation no. 9.0.1 in this report.

³⁹ Recommendation no. 10.0 in this report.

⁴⁰ Recommendation no. 5.0 in this report.

IV. Recommendations 12 & 17 combined⁴¹ - Prohibiting Public Consumption of Fermented Malt Beverages and Malt Liquor

Current state law does not allow the public consumption of malt liquor, nor of vinous or spirituous liquors. However, it does not prohibit the public consumption of FMB, which until January 1, 2019 has a maximum alcohol content of 3.2% ABV. Permitting FMB consumption in public occurs primarily in local parks if allowed by ordinance and in state parks if allowed by park policy.

Absent any new statutory changes and effective January 1, 2019, SB 16-197 would allow for public consumption of FMB, regardless of its ABV. Allowing the public consumption of higher-ABV beer would dramatically shift long-standing public policy, and would create significant public safety issues.

V. Recommendation 13.4⁴² - Statutory and Rule Changes Regarding Tastings on the Premises of Retail Liquor Stores and Liquor-Licensed Drugstores

Sub-recommendation 13.4 would shift sole responsibility from a supplier licensee to the retail licensee for any administrative violation occurring during a tasting on the retail premises, even if the violation was committed by a supplier's employee or agent.

If enacted, this recommendation would yield absurd results. Current law holds the fundamental principle that a licensee is administratively responsible for its employees' or agents' actions. Creating an exception to this fundamental principle would undermine common sense agency principles, and erode the ability for the State Licensing Authority to hold a licensee responsible for its employees' or agents' actions. If a licensee is no longer responsible for its employees' or agents' actions, there would be no incentive for that licensee to act as a responsible steward in the distribution of alcohol. Furthermore, there would be no recourse for the State Licensing Authority to take action against a licensee for violations committed under its license by its employees or agents.

VI. Recommendation 19⁴³ – Annual Briefing on the Protection and Promotion of the Three-Tier System in Colorado

The LED opposes this recommendation. As a regulatory and enforcement body, the LED takes seriously its responsibilities to provide subject matter expertise and remain neutral toward potentially political issues. However, requiring the LED to provide subjective opinions on how well the three-tiered liquor distribution system is being protected and promoted would likely force it to compromise its neutrality.

VII. Recommendation 21⁴⁴ – Prohibiting or Allowing the Consumption of All Alcohol Beverages

Current state law does not allow the public consumption of malt liquor, nor of vinous or spirituous liquors. However, it does not prohibit the public consumption of FMB, which until January 1, 2019 has a maximum alcohol content of 3.2% ABV. Permitting FMB consumption in public occurs primarily in local parks if allowed by ordinance and in state parks if allowed by park policy.

Absent any new statutory changes and effective January 1, 2019, SB 16-197 would allow for public consumption of FMB, regardless of its ABV. Allowing the public consumption of higher-ABV beer and potentially also of vinous or spirituous liquor would dramatically shift long-standing public policy, and would create significant public safety issues.

⁴¹ Recommendation no. 7.0 in this report.

⁴² Recommendation no. 12.4 in this report.

⁴³ Recommendation 11.0 in this report.

⁴⁴ Recommendation 8.0 in this report.

Comment 2: County Government - Boulder County Government



Administrative Services Department

East Wing Courthouse • 2025 14th Street, 1st Floor • Boulder, Colorado 80302 • 303.441.3525 Fax: 303.441.3526
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

September 29, 2017

Dear Liquor Enforcement Division,

As the representative for county government on the SB16-197 Statutory Working Group, I would like to provide the following written comments regarding the voting results for the SB16-197 Recommendations to the Legislature:

1. Recommendation 12+17⁴⁵ - Prohibiting Public Consumption of FMB and Malt Liquor

We understand and support a statewide ban on public consumption with the option for local governments to pass a rule, ordinance, or resolution to allow it. If the legislature adopts this recommendation, we would like to ensure that the final language allows statutory counties to opt-in to allow public consumption, and does not limit this option to home rule cities and counties.

2. Recommendation 21⁴⁶ - Prohibiting or Allowing the Public Consumption of All Alcohol Beverages

As stated above, we understand and support a statewide ban on public consumption with the option for local governments to pass a rule, ordinance, or resolution to allow it. However, we disagree with this recommendation, which forces local governments to either allow public consumption of all types of alcohol or not allow public consumption at all. Instead, we believe local governments should have the opportunity to decide whether beer, wine, and/or liquor may be consumed in public. For example, Boulder County currently allows public consumption of fermented malt beverages on open space lands, as long as they are not in glass. If the legislature adopts this recommendation, Boulder County would be forced to decide between allowing public consumption of all types of alcohol or completely banning public consumption on open space lands. Instead, we believe local governments should be able to decide what is best for their community and not be forced into an “all or nothing” decision.

Thank you for the opportunity to participate in the SB16-197 Statutory Working Group and provide written comments regarding the voting results for the SB16-197 Recommendations to the Legislature.

Sincerely,

Kristen Huber
Licensing Program Manager
Boulder County Marijuana & Liquor Licensing
P.O. Box 471, Boulder, CO 80306
Phone: 303-441-3829
Email: khuber@bouldercounty.org

⁴⁵ Recommendation no. 7.0 in this report.

⁴⁶ Recommendation no. 8.0 in this report.

Comment 3: Small Breweries - Colorado Brewers Guild



SB16-197 Working Group: Colorado Brewers Guild and Small Brewery Representative Comments

The Colorado Brewers Guild is a non-profit trade association formed in 1995 to support the growing craft brewery industry in Colorado. Our mission is to protect and promote Colorado craft beer breweries and improve business conditions for all of our brewers through advocacy, education, and promotion. The Guild is the voice of the Colorado craft brewery industry and represents the majority of Colorado craft breweries within our state.

The Colorado Brewers Guild believes that there should be an equal and level playing field and access to market for all manufacturers beginning January 1, 2019. The votes cast by the Guild and the small brewery representative were submitted with this belief in mind. However, the Guild would like to provide comment on several of the votes to provide additional clarification on these subjects.

The Colorado Brewers Guild and the small brewery representative voted in favor of Recommendation 7⁴⁷ because we view the illegal shipment of alcohol is an issue that needs addressed. Under Colorado law, only Colorado licensed retail liquor stores, and certain Colorado and out of state wineries are permitted to ship alcohol directly to consumers. Numerous other manufacturers and retailers from out of state illegally ship alcohol directly to consumers in Colorado to the detriment of Colorado licensees. By requiring the carriers that deliver the product to report these shipments, the Liquor Enforcement Division will have greater access to the information necessary to halt these illegal practices.

The Colorado Brewers Guild and the small brewery representative voted against Recommendations 9.1-9.20⁴⁸ because the establishment of a new license type, such as the Grocery and Convenience Store Malt Liquor (“GCSML”) license, is unnecessary. Moreover, the GCSML contained several restrictions that would unduly restrict craft breweries’ access to a changing market, especially with respect to the following conditions:

- (1) An alcohol by volume (“ABV”) limit on malt liquor products permitted to be sold by any retail licensee;
- (2) Restrictions on the amount of retail space which a retailer may dedicate to malt liquor;
- (3) Restrictions on how malt liquor products are stored and displayed;
- (4) Prohibitions on the sale by a licensee of general merchandise branded by alcohol manufacturers or distributors;
- (5) Restrictions on sales to 6-packs and 12-packs only; and
- (6) Prohibitions on any “point of sale” sales or marketing of malt liquor products.

Despite these concerns, the Colorado Brewers Guild recognizes that there are certain changes that are necessary to ensure fair competition amongst different licensees selling our products. In this spirit, the Colorado Brewers Guild supports concepts such as (1) ensuring a proper distance of a retail licensee from school property in a manner that would be consistent with other current distance restrictions and (2)

⁴⁷ Recommendation no. 10.0 in this report.

⁴⁸ Recommendation nos. 3.1 - 3.3 in this report.

prohibitions on selling malt liquor products at below-invoice cost. Such changes are appropriate and should be considered by the General Assembly.

The Colorado Brewers Guild and small brewery representative voted in favor of Recommendations 11 and 15, combined;⁴⁹ however, we would like to clarify this position. Currently, a brewery manufacturing malt liquor and fermented malt beverages must obtain a separate license to manufacture each type of product. The same is true for wholesalers, importers, and non-resident manufacturers. As of January 1, 2019, the two products become synonymous, and, therefore, it is the Guild's position that each of those licensees only be required to hold one license for all malt beverage products. It is not the recommendation of the Guild that manufacturing, importing, and wholesaling be combined into one single license.

We support Recommendations 12 and 17⁵⁰ regarding the public consumption of alcohol, as local and state officials should engage with their communities and stakeholders on this issue with the elimination of 3.2% alcohol by volume beer. However, the Colorado Brewers Guild strongly believes that regulated public consumption of malt liquor products complements outdoor activities in state and local parks and have largely become a part of Coloradan culture.

With this in mind, the Colorado Brewers Guild looks forward to working with state and local officials to ensure that our customers continue to be able to enjoy Colorado craft beer in local and state recreational areas, accompanied by appropriate regulation. Such decisions on the public consumption of malt liquor products should, in effect, remain a local issue. In addition, the Colorado Brewers Guild believes that such decisions should not fall under a "one-size-fits-all" recommendation that would prohibit public consumption of all malt liquor products.

We oppose Recommendation 19⁵¹ regarding the annual briefings to the legislature on the three-tier system. The system referenced in this recommendation is not a defined term in Colorado statute, nor has it been determined by any governing body to be a concept in need of protection. The Colorado Liquor Enforcement Division is part of the executive branch of Colorado's government. Their job is to enforce the laws enacted by the legislature, not to determine which aspects or members of the Colorado liquor industry need protection or promotion over others, which would jeopardize its position as an impartial enforcement agency. Further, we view the recommendation to take on additional study and educational roles as a waste of the Liquor Enforcement Division's already limited resources.

The Colorado Brewers Guild looks forward to working with all stakeholders on these important issues. We urge policymakers to consider the impact of any additional legislation on the craft beer and small business community, as well as the ability of the ultimate consumer to purchase our products.

⁴⁹ Recommendation no. 5.0 in this report.

⁵⁰ Recommendation no. 7.0 in this report.

⁵¹ Recommendation no. 11.0 in this report.

Comment 4: National Distillery - Distilled Spirits Council

Distilled Spirits Council

Comments on SB 16-197 Working Group Recommendations For Inclusion in the Final Report to the Colorado General Assembly

Recommendation 6.1⁵²

Review of Recommendation for their Impact on the Craft Brewing Industry

The legislature should reject this unreasonable recommendation by the Colorado Brewers Guild and the Small Brewery Representatives. The legislature should look at the entirety of the marketplace when making decisions. To only look at one industry sector could significantly impact the growth in today's marketplace for other industry sectors. For example, Colorado distilleries are experiencing tremendous growth. According to the Colorado Department of Revenue Annual Reports, the number of licenses for distilleries in Colorado has increased from 22 licenses in 2011 to 83 licenses in 2016. That is a 277% growth rate. The legislature should consider this and all sectors of the industry when making decisions that will impact their ability to grow and compete in the Colorado and world marketplace.

Recommendation 9.1⁵³

Application Process for Grocery and Convenience Store Malt Liquor License

Distilled Spirits Council supports the spirit and the letter of SB16-197 until such time as a compromise can be reached with our industry partners.

Recommendation 12+17⁵⁴

Prohibiting Public Consumption of Fermented Malt Beverages and Malt Liquor

This recommendation's title is misleading as it actually provides a process to allow public consumption of FMB and malt liquors while disregarding the public's desire for a choice of products including wine and spirits. This option unreasonably discriminates against wine and spirits products and gives preferential treatment to FMB and malt liquors in the marketplace post SB16-197. Any public consumption ordinances that the legislature permits should allow for consumer choice and not discriminated between beer, wine or spirits.

Recommendation 16⁵⁵

Local Review Process for 3.2% Fermented Malt Beverage Licensees to Sell Higher –Strength Beer

Distilled Spirits Council supports the spirit and the letter of SB16-197 until a compromise can be reached between the industry partners.

⁵² Recommendation no. 6.0 in this report.

⁵³ Recommendation no. 3.1 in this report.

⁵⁴ Recommendation no. 7.0 in this report.

⁵⁵ Recommendation no. 2.0 in this report.

Recommendation 18.1 - 18.3⁵⁶

Aligning Requirements between FMB Licenses in 12-46, C.R.S., and Alcohol Beverage Licenses 12-47, C.R.S.

Distilled Spirits Council supports the spirit and the letter of SB16-197 until a compromise can be reached by our industry partners

Recommendation 19⁵⁷

Annual Briefing on the Protection and Promotion of the Three-Tiered System in Colorado

Although the Distilled Spirits Council is a strong proponent of the three tiered system, the Colorado Liquor Enforcement Division should not be put in a position of making the determination as to whether ANY changes to Colorado liquor laws impacts the three tiered system.

Recommendation 21⁵⁸

Prohibiting or allowing the Public Consumption of all Alcohol Beverages

Beer, wine and spirit products should be treated fairly and equitably in the marketplace by the government. Any public consumption ordinances that may be allowed by local governments should not discriminate between beer, wine or spirits, give preferential treatment to one product type or limit consumer choice.

Recommendation 22⁵⁹

No Substantial Statutory Changes or New Licensing Requirements Needed to Manage the Transition of removing the Alcohol by Volume Cap on Fermented Malt Beverages.

Distilled Spirits Council supports the spirit and the letter of SB16-197 until a compromise can be reached between our industry partners.

⁵⁶ Recommendation nos. 1.1 - 1.3 in this report.

⁵⁷ Recommendation no. 11.0 in this report.

⁵⁸ Recommendation no. 8.0 in this report.

⁵⁹ Recommendation no. 4.0 in this report. Note that original Recommendation nos. 22 and 23 were combined into a single recommendation prior to voting, Recommendation 4.0 in this report.

Comment 5: Statewide Off-Premises Retail Licensees - Colorado Licensed Beverage Association



September 29, 2017

Tobacco and Liquor Enforcement Division
State of Colorado Department of Revenue
1881 Pierce Street, Suite 108
Lakewood, CO. 80214

To Whom It May Concern:

The Colorado Licensed Beverage Association (CLBA) appreciates the opportunity to participate in the Liquor Enforcement Division SB16-197 Statutory Working Group. SB16-197 was the product of considerable compromise amongst stakeholders throughout the retail alcohol industry. The result was a highly consequential bill with profound impacts for the Colorado liquor industry for years to come. That said, legislation is only as good as its implementation and this Working Group was given the important task of developing an implementation process for the more impactful provisions of the bill.

Specifically, this Working Group was tasked with the following:

“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 (emphasis added). The working group shall 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, and shall consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado. Additionally, the working group shall examine and make recommendations regarding 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.”

CLBA took seriously the request for policy recommendations and our goal was to respond to the legislative directive of SB16-197, “to develop an implementation process for grocery and convenience stores to apply for a license to sell malt liquor”. The CLBA recommendations regarding the transition from 3.2% ABV beer to malt liquor sales in grocery and convenience stores included a wide range of substantive and robust policy suggestions directed toward two goals: (1) ensuring public safety and (2) protecting the viability of CLBA member businesses (per statutory requirement). These two goals are critical considerations for the legislature when it deliberates this matter during the 2018 legislative session.

We would also like to register our strong concern about the LED process. Specifically, we believe it is inappropriate that the Working Group will not have an opportunity to review the summary report before it is submitted to legislators. Given the complicated nature of these issues, we are concerned that the CLBA and other recommendations not be mischaracterized.

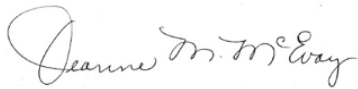
Importantly, the CLBA understands and acknowledges that SB16-197 directed so-called “automatic conversion” from 3.2% ABV beer sales to malt liquor. However, SB16-197 just as clearly required *a process* to accompany automatic conversion to ensure and enhance public safety considerations and business parity. The legislature never intended for automatic conversion to put their constituents at risk – especially school-age children and local neighborhoods. Nor did the legislature intend to codify competitive unfairness by permitting a vast

number of new entrants into liquor sales on substantially lesser terms and conditions relative to existing retailers. CLBA members have made substantial investments in their stores and to protect their licenses they must adhere to a high standard of public safety - including prescriptive density and distance requirements. Simple fairness dictates that these same standards must apply equally to everyone who seeks to sell malt liquor.

The CLBA will continue to work to ensure public safety throughout Colorado and to ensure that our “mom and pop” liquor stores have a viable future. Accordingly, we will redouble our efforts to work closely with all stakeholders to develop and negotiate the details of our recommendations to reach a consensus. We do not consider the conclusion of the Working Group and its report to the legislature as the end, but rather another step toward setting the table for fair and reasonable solutions during the 2018 legislative session.

Thank you again.

Sincerely,



Jeanne M. McEvoy
Executive Director
Colorado Licensed Beverage Association

Colorado Licensed Beverage Association
1600 Broadway, Suite 1350
Denver, CO 80202
Myclba.com **jeanne@myclba.com** **720-299-7398**

Comment 6: Hotel and Restaurant Licensees - Colorado Restaurant Association



Comments on Senate Bill 16-197 Working Group submitted by

Nick Hoover, Manager of Government Affairs, Colorado Restaurant Association

As a member of the Senate Bill 16-197 statutory working group, I submit the following comments on the process and the recommendations voted on by the working group to be included in the final report.

Senate Bill 16-197 was legislation negotiated by the liquor store industry and the liquor licensed drug store industry that was intended to develop a solution to problems in the OFF-premise liquor industry. This is clear by the creation of the working group in Senate Bill 16-197 where the legislation states under C.R.S. 12-46-109(1):

The State Licensing Authority shall convene a liquor industry working group to develop an implementation process for grocery and convenience stores to apply for a license to sell malt liquor and fermented malt beverage...

It is clear that this requirement, set by the legislature, was ignored. The legislation very clearly directly states that the group should be dealing with a licensing process for OFF-premise only, however many of the recommendations submitted were drafted so broadly, that the recommendations inadvertently included the ON-premise industry. It is a clear over reach by the working group when submitting recommendations to the legislature that are OUTSIDE of the legislated scope of the working group.

Recommendations 197-009 and 197-018⁶⁰ both propose a process for ALL Fermented Malt Beverage (FMB) license holders to apply for a change in their license that would allow them to sell beer with an ABV above .05%. Recommendations 197-009 and 197-018 clearly violate the scope of the working group by contemplating a licensing process that would include more than just “grocery and convenience stores”. It is my advice is that the legislature ignore both of these recommendations because they fall outside of the scope of this working group. At a minimum, if the legislature is going to take action on either of these recommendations, the legislature should understand that when these recommendations were discussed in the working group, it was made clear in conversation that these recommendations were only supposed to impact the OFF-premise industry. This was a clarification that I was not allowed to make the day of voting. This clarification is needed because the conversation around and original intent of both 009 and 018 were different than the language being voted on and ultimately submitted to the legislature.

In addition to the issue of FMB licenses, the working group was supposed to propose recommendations that would “promote the three tiered system” as stated in C.R.S. 12-46-109 (1):

...shall consider other legislative, regulatory, or administrative changes necessary to promote the three-tiered distribution system in Colorado.

Again, this requirement set by the Colorado Legislature was blatantly ignored by two recommendations submitted by members of the working group. As these are recommendations for legislation, the Plain Meaning Rule of statutory construction should apply and a plain text reading of recommendations 197-011 and 197-015⁶¹ would collapse licenses that exist in both the first and second tiers of the liquor industry. Because these

⁶⁰ Recommendation nos. 3.1 - 3.3 and 1.1 - 1.3 in this report.

⁶¹ Recommendation no. 5.0 in this report.

recommendations in no way promote the three-tier system and are clearly outside of the scope of the working group, I would ask the legislature that both of these recommendations be completely ignored. At a minimum, if the legislature is going to take action on either of these recommendations, the legislature should understand that when these recommendations were discussed in the working group, it was made clear in conversation that they were to only collapse like licenses within the same tier so that you would only need one of each license instead of two of each. This was a clarification that I was not allowed to make the day of voting, even though I thought it was needed because the conversation around and intent of both 011 and 015⁶² were different than the language being voted on and ultimately submitted to the legislature.

I voted to oppose recommendation 197-006⁶³ because it would have required all recommendations to be reviewed to determine the impacts each would have on the craft beer industry. The reason there was a wide variety of people appointed to this committee, from all parts of the liquor industry, was so that all parts of the industry would be represented in this process. I was appointed to represent the Hotel & Restaurant industry and my review of these recommendations was based on how the recommendation would impact the industry I am representing, not the craft beer industry. We believe that these recommendations should be analyzed to determine their impact on the ENTIRE industry, not just one part of it.

I voted to oppose recommendations 197-012 and 197-017⁶⁴ because they are a drastic shift of public consumption policy in the State of Colorado. Currently, an individual can consume FMB in a state or city park, as long as the park or city doesn't have a rule or ordinance prohibiting it. Recommendations 197-012 and 197-017 would prohibit ANY public consumption unless a city allows it, however, this recommendation does not refer to ONLY parks. This is a recommendation to allow local jurisdictions to pass an ordinance that would allow for public consumption ANYWHERE in their jurisdiction. This is a policy that the Colorado Restaurant Association and our members oppose because of the significant and detrimental impacts unregulated public consumption of alcohol would have on public safety.

It is the belief of the Colorado Restaurant Association that the process this working group experienced was flawed. This is evident by the fact that many of the recommendations were written in a manner that was inconsistent with the sponsor's intent, as well as the discussion of the work group. When errors in drafting were discovered, we worked with the sponsor of the recommendation to make sure they agreed with our proposed clarification. We were told by LED and the sponsors that we would have the opportunity to add clarifying statements the day of the final meeting. However, the working group decided at the last minute that the members had to vote on the language of the recommendation and that clarifying comments shouldn't be made. The lack of opportunity for language change resulted in several proposals being voted on that were in direct conflict with the intent of the recommendation.

⁶² Recommendation no. 5.0 in this report.

⁶³ Recommendation no. 6.0 in this report.

⁶⁴ Recommendation no. 7.0 in this report.

Comment 7: Licensed Wholesalers - Colorado Beer Distributors Association (CBDA)

September 29, 2017

Senate Bill 16-197

Advisory Committee Member: Colorado Beer Distributors Association

Final Recommendation Comments

Re: Recommendations 9.1, 18.1 – 18.3, and 22&23⁶⁵



The Colorado Beer Distributors Association negotiated, supported and lobbied for the passage of SB 16-197 (“SB 197”). Like most in the industry, we did not seek, either through legislation or ballot initiative of our own, the sweeping changes to the alcohol industry brought about by SB 197. However, once the compromise was being forged, we became part of the coalition to draft language and work for the passage of the legislation.

Many of the recommendations of the Senate Bill 197 Advisory Committee contained in this report are consistent with what the Colorado Beer Distributors Association and the industry coalition negotiated, and what the legislature passed. This is specifically highlighted by many of the vote counts from the Advisory Committee, with a specific eye toward the overall vote counts and taking in to consideration the “No Position” votes. The trend of the Committee is toward what was passed in Senate Bill 197: on January 1, 2019, the definition of fermented malt beverage (FMB) changes, and the 3.2% alcohol by weight cap is removed. CBDA and Industry agreed to delay the trigger on the definition change for two and a half years to give industry time to prepare for the change. In his testimony to the Senate Business and Technology Committee on SB 197, Steve Findley, Executive Director of the Colorado Beer Distributors Association made it clear why his association was supporting the legislation:

“In the bill on the last page the amendment January 1, 2019 when the fermented malt beverage definition changes, that is satisfactory for us and yes indeed we know this (3.2% beer) will go away and we will be able to plan for the future as well as the rest of our customers. With that we are here to support the coalition and this bill.”

The onerous provisions proposed to the Advisory Committee in recommendation 9.1,⁶⁶ and soundly rejected on a 3-20 vote, attempted to rewrite what industry agreed to, and what the legislature passed, in SB 197. Many of the same issues/proposals seen in recommendation 9.1 were proposed and rejected during negotiations on the bill, and rejected here again.

The Colorado Beer Distributors Association submitted original recommendation #2 (subsequently combined into recommendations 22 & 23)⁶⁷ to the Advisory Committee which stated that no additional statutory change is required, and the previously negotiated and agreed upon definition change of fermented malt beverage should be implemented. In Section 3 of the bill as part of the Legislative Declaration, the legislature recognized that fermented malt beverages and malt liquor are now, for all intents and purposes, the same product. The legislature also recognized that fermented malt beverages and malt liquor (beer) “HAVE A UNIQUE REGULATORY HISTORY IN RELATION TO, vinous and spirituous liquors, and as such require THE RETENTION OF a separate and distinct framework under this article.”

⁶⁵ Recommendation nos. 3.1, 1.1 - 1.3, and 4.0, respectively, in this report.

⁶⁶ Recommendation no. 3.1 in this report.

⁶⁷ Recommendation no. 4.0 in this report.

This declaration, along with the statutory changes to the definition of fermented malt beverage makes clear the legislature's intent that, in essence, beer is beer and will be treated as such under law. Therefore, fermented malt beverage licensees may, on January 1, 2019, begin selling any strength beer as the law now reads.

Given the work the legislature put in on SB 197, and the hundreds of hours collectively put in by the Liquor Enforcement Division, Department of Revenue, the Attorney General's Office and the members of the Advisory committee we believe the 3.2/malt liquor is settled. We encourage the legislature to take no further action on the issue.

Comment 8: Licensed Wholesalers - Wine and Spirit Wholesalers of Colorado

Written Comments for SB 16-197 Statutory Working Group Report to the Legislature

Wine and Spirit Wholesalers of Colorado

Recommendation # 5.1-5.3⁶⁸

The Wine & Spirit Wholesalers of Colorado prefer the version of this recommendation that recognizes legal sales to consumers and existing state and federal rules when attempting to define when the manufacturing process ends.

Recommendation # 6.1⁶⁹

The Wine & Spirit Wholesalers of Colorado do not support this special recommendation that benefits only one industry segment. This type of regulated/planned evaluation is not beneficial for the alcohol beverage market, as a whole, in Colorado.

Recommendation # 7⁷⁰

The Wine & Spirit Wholesalers of Colorado feel that this recommendation is necessary to ensure that proper tax is reported and collected on all alcohol beverages entering in to Colorado. This proactive language ensures that Colorado is tracking all wine, beer and distilled spirits shipments from outside of the state for delivery to consumers inside the state. The common carrier language lays out reporting requirements that will yield valuable data on in state vs. out-of-state sales and tax collection.

Recommendation # 9.1, inclusive of 9.3 – 9.20⁷¹

The Wine & Spirit Wholesalers of Colorado (WSWC) supported the passage of SB 16-197 in its entirety. The laundry list of provisions listed in 9.3 – 9.20⁷² not only erodes, but are so expansive that it would make it virtually impossible for one to convert a license and in fact would eliminate a good portion of the current licensees. WSWC has strongly encouraged the 3.2 license-holders and the liquor stores to work together to resolve their disputes while maintaining the integrity of SB 16-197.

Recommendation # 11 + 15⁷³

The Wine & Spirit Wholesalers of Colorado would request additional review of this language to consider impacts on wholesalers that possess both beer, wine and spirit licenses.

⁶⁸ Recommendation no. 9.0 in this report.

⁶⁹ Recommendation no. 6.0 in this report.

⁷⁰ Recommendation no. 10.0 in this report.

⁷¹ Recommendation no. 3.1, inclusive of nos. 3.3.1 - 3.3.18 in this report.

⁷² Recommendation nos. 3.3.1 – 3.3.18 in this report.

⁷³ Recommendation no. 5.0 in this report.

Recommendation # 12 + 17⁷⁴

The Wine & Spirit Wholesalers of Colorado believe that, if public consumption is going to be allowed by a local, county, or state entity then all forms of alcohol (wine, beer and distilled spirits) should be treated with parity.

Recommendation # 13.1 – 13.6⁷⁵

The Wine & Spirit Wholesalers of Colorado opposition is based solely on concerns that 13.3,⁷⁶ regarding liability, does not specify that a wholesaler's license would not be placed at risk as a result of a violation. Liquor Enforcement Division has stated that they do not support removing wholesaler liability. Because the current structure would place a wholesaler's license at risk, and we have received no assurance from Liquor Enforcement Division to the contrary, we oppose.

Recommendation # 16⁷⁷

The Wine & Spirit Wholesalers of Colorado supports the intent of this statement but feels that local liquor authorities currently possess the power to conduct a review of any license they feel threatens public safety.

Recommendation # 18.1 – 18.3⁷⁸

The Wine & Spirit Wholesalers of Colorado has no position on this recommendation but feels that since it protects the provisions in SB 16-197 through a 'grandfather' clause, that this proposal would be an appropriate starting point for discussions between current 3.2 licensees that may expand their holdings and liquor stores.

Recommendation # 19⁷⁹

The Wine & Spirit Wholesalers of Colorado supports this recommendation as part of SB 16-197's provision directing this working group to examine changes necessary to promote the three-tier system in Colorado. The three-tier system is the most efficient distribution system that delivers the widest variety of products available anywhere in the world. The system controls access for of-age consumers, delivers tax revenue to local, state and federal governments and also ensures product safety and consumer protection.

Recommendation #21⁸⁰

The Wine & Spirit Wholesalers of Colorado supports this recommendation as it provides parity for all forms of alcohol beverage (beer, wine and distilled spirits).

Recommendation # 22 and 23⁸¹

Wine & Spirit Wholesalers of Colorado fully supports SB 16-197, which contained the date of January 1, 2019, treating 'beer' as 'beer', and believes and has encouraged 3.2 license holders and liquor stores to resolve their dispute. Therefore, we have chosen not to take a position on either side and oppose all changes until the parties convene stakeholder groups.

⁷⁴ Recommendation no. 7.0 in this report.

⁷⁵ Recommendation nos. 12.1 - 12.6 in this report.

⁷⁶ Recommendation no. 12.3 in this report.

⁷⁷ Recommendation no. 2.0 in this report.

⁷⁸ Recommendation nos. 1.1 - 1.3 in this report.

⁷⁹ Recommendation no. 11.0 in this report.

⁸⁰ Recommendation no. 8.0 in this report.

⁸¹ Recommendation no. 4.0 in this report.

Comment 9: Local Vinous Liquor Manufacturer - Colorado Wine Industry Development Board



COLORADO DEPARTMENT OF AGRICULTURE
Colorado Wine Industry Development Board

25 September 2017

SB16-197 Working Group Member Comment on Recommendations to the Colorado Legislature

Submitted by Doug Caskey, executive director, Colorado Wine Industry Development Board (CWIDB), representing Colorado Wineries

#5.1-5.3:⁸² The CWIDB and the Wine Institute offered two options for approaching the definition of manufacturing recommended to the Legislature in #5.1: Option 1⁸³ would necessitate a significant change to the Colorado Liquor Code although it would bring Colorado's regulation into closer alignment with federal rules as well as with those in other states. Recognizing that the Liquor Enforcement Division, and probably the Legislature, would be unable to devote the resources and energy to such a significant rewrite of the Colorado Liquor Code, we offered Option 2.⁸⁴ **While the CWIDB would like to see the State Legislature consider future revisions to the Colorado Liquor Code that would simplify compliance for Colorado manufacturers, wholesalers and any other business that must comply with both state and federal regulation,** we are satisfied with the implementation of Option 2 that would require no major Liquor Code changes at this time for the sake of expediency.

#7:⁸⁵ In addition to the language of this recommendation, the CWIDB would like to see **the Legislature make increased resources available to the enforcement operations of the Department of Revenue in order to insure the proper collection and payment of all taxes due** on beverage alcohol shipped to Colorado consumers from in-state or out-of-state producers and suppliers. The receiving and filing of the monthly reports from Carriers created by this recommendation will require additional manpower for LED at the very least.

#21:⁸⁶ The Colorado wine industry believes that the decision to allow or prohibit the public consumption of alcohol should rest with the local government and the community. We are not advocating for or against public consumption of alcohol. That said, in view of the legal changes precipitated by SB16-197 on January 1, 2019 which will remove the distinction between 3.2% and full-strength beer—some of which has a higher alcohol content than many wines, the Colorado wine industry would like **local governments to have the option of allowing the public consumption of wine and spirits** as they consider whether to allow public consumption of full-strength beer. We are recommending equal treatment of wine, beer and spirits under local public consumption laws.

305 Interlocken Parkway, Broomfield, CO 80021 P 303.869.9177
Markets Division: P 303.869.9170 F 303.466.8515 www.coloradoagriculture.com
www.coloradowine.com



⁸² Recommendation no. 9.0, including nos. 9.0.1 - 9.0.2, in this report.

⁸³ Recommendation no. 9.0.1 in this report.

⁸⁴ Recommendation no. 9.0.2 in this report.

⁸⁵ Recommendation no. 10.0 in this report.

⁸⁶ Recommendation no. 8.0 in this report.

Comment 10: Grocery Stores - Target



September 29, 2017

Colorado Department of Revenue
Liquor Enforcement Division
Patrick Maroney, Chair
1881 Pierce Street #108
Lakewood, CO 80214

RE: SB16-197 Statutory Working Group on 3.2 Beer Conversion

Dear Mr. Maroney:

Thank you for the opportunity to comment on the proposed 3.2 Beer Conversion SB16-197 Statutory Working Group recommendations. We are pleased to be a member of the group and for the thoughtful process led by your team to establish policies that allow successful 3.2 beer conversion in 2019.

Target was a key stakeholder in the development and passage of SB 16-197. We stood with the Colorado Licensed Beverage Association, Coloradoans for Safe Sales, and the larger industry coalition that includes wineries, distillers, breweries, Colorado craft brewers, distributors, and wholesalers to create new laws for consumers and opportunity for business growth. We recognize the difficulties that come with changing 81 years of complex laws, and we appreciate the thoughtful process that went into the law's negotiations and the on-going statutory study groups.

Overall, we are supportive of a number of the recommendations put forth, however, there are two sections that we, along with a majority of the committee, oppose. We want to take the opportunity to outline those concerns here:

Rec 197-009⁸⁷

- First, the proposal represents an unrealistic laundry list of policies that would severely restrict our ability to sell full strength beer that we believe is impractical for the way we sell merchandise and market products in our stores.
- Second, the proposal severely limits our ability to market and provide customers with the choices they demand for craft beer in Colorado. Limitations on ABV and restrictions to sell only six and twelve packs deny customers options that should exist in a reasonable free market.
- Third, this proposal demands that existing 3.2 license holders go through completely new needs and desires process, which could clog up local licensing authorities for years as this transition takes place. Since 3.2 licenses are going away in 2019, rejection of a conversion of an existing license would result in the licensing authority taking away our license entirely.

⁸⁷ Recommendation nos. 3.1 - 3.3 in this report.

- Also, the proposal seeks to force unreasonable distance restrictions of 1500 feet that were resoundingly rejected by stakeholders in the original SB 16-197 discussions.
- Overall, this proposal is unreasonable to those who fairly negotiated on SB 16-197 and impractical for our company to execute.

Rec. 197-016⁸⁸

- We greatly appreciate the insights and concerns of law enforcement and are working with them to find a solution that works for us both. We feel strongly that this deserves more discussion to develop a more reasonable and fair policy.
- The proposal would treat current 3.2 holders unfairly by creating new standards for concentration and crime related considerations that would not equally apply to retail liquor stores or liquor licensed drug stores. If a new policy related to these issue is developed, that policy should treat all types of licenses equally and fairly.
- Since 3.2 licenses are going away in 2019, a rejection of a conversion of an existing license would result in the licensing authority taking away our license entirely as a result of this proposed policy.

Target is committed to serving our guests throughout Colorado where we have 41 stores, 1 regional distribution center and employ more than 6,500 team members. Target is interested in expanding our assortment in Colorado as part of Target's philosophy to deliver a convenient, affordable, one-stop shopping experience for our guests.

Target's alcohol business is established and growing. We have sold alcohol in our stores across the country since 1996, and currently have over 1,400 stores that sell alcohol in 38 states – currently about 75% of our stores. We have a history of responsible alcohol sales and have many processes in place to safely and securely sell beer, wine and spirits. We have sold 3.2 beer in Colorado since 2000 and we have sold beer, wine, spirits at our Glendale store since 2002.

Thank you for our consideration of our comments and for your leadership on this committee as Colorado debates important changes to its alcohol laws that will best serve Colorado consumers, communities and businesses.

Sincerely,



Lloyd Felix

Food and Beverage Director, Target Corp

Member of the SB16-197 Statutory Working Group on 3.2 Beer Conversion

Government Affairs
1000 Nicollet Mall, TPN-1101
Minneapolis, MN 55403

⁸⁸ Recommendation no. 2.0 in this report.

Comment 11: Representative of the Public

SB16-197 Statutory Working Group

Blake Harrison Member at Large CONSUMER ADVOCATE

Written Comments

I started my involvement on these issues in 2001 when I led a ballot initiative to allow liquor stores to be open on Sundays. In 2016, I was the lead proponent of initiative #104 to allow Grocery stores to sell Beer and Wine.

Throughout my involvement in these issues, the legislature has routinely sought the input of the many business interests that are impacted by changes in Colorado's alcohol laws. In my opinion, the legislature should first consider the desires of their constituents, the people and the consumer. Any changes should first benefit the people over any particular business interest. Consistently, polls have shown that the people want convenience, low-prices and choice. Generally, this means fewer restrictions on who can sell what products. Any changes to improve SB – should strongly consider the wants of the people.

Getting rid of 3.2 beer has other consequences. Currently, state law allows people to consume 3.2 beer in public (subject to local ordinances that prohibit public consumption). Generally, this means that someone in a state park can consume only 3.2 beer. This restriction is universally ignored as most beer consumed in Colorado is greater than 3.2% alcohol. Further, this law makes it illegal for someone to consume wine or any spirituous beverage regardless of the alcohol content. That distinction has no ration basis and should be removed. What should be prohibited is public intoxication and bad behavior. The people want to be able to reasonably and safely consume alcohol in a state park or at the base of ski hill.

The reasons for my previous ballot initiatives were to give the people more freedom, more choice and lower prices. I believe any bills that attempt to improve upon SB16-197 can easily do that. The changes should be for the people not for the business interests.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Blake Harrison". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

J. Blake Harrison

Consumer advocate

Appendix M: Acronyms Used in this Report

Acronym	Name
ABV	Alcohol by Volume
ABW	Alcohol by Weight
CACP	Colorado Association of Chiefs of Police
CADCA	Community Anti-Drug Coalitions of America
CAMY	Center on Alcohol Marketing and Youth
CBDA	Colorado Beer Distributors Association
CDC	Centers of Disease Control and Prevention
CLBA	Colorado Licensed Beverage Association
CPSTF	Community Preventive Services Task Force
CRS	Colorado Revised Statutes
CWIDB	Colorado Wine Industry Development Board
DOR	Colorado Department of Revenue
FMB	Fermented Malt Beverages
GCSML License	Grocery and Convenience Store Malt Liquor License
HB 12-1299	House Bill 13-1299, Concerning Change to the SMART Act of 2010
JHSPH	Johns Hopkins University School of Public Health
LED	Liquor Enforcement Division, DOR
LLDS	Liquor-Licensed Drugstore
POS	Point of Sale
RLS	Retail Liquor Store
SAMHSA	U.S. Substance Abuse and Mental Health Services Administration
SB 16-197	Senate Bill 16-197, Concerning the Retail Sale of Alcohol Beverages
WSWC	Wine and Spirits Wholesalers of Colorado

Appendix N: Quick Reference Guide to SB 16-197 Working Group Recommendations

Rec. #	Title	Submitted By:
1.1-1.3	Aligning Requirements between Licenses in §12-46 and §12-47, C.R.S.	Colorado Municipal League
Implementing Authorities: Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Licensing Authorities		
<p>1.1 Provisions for Existing Off-Premises and On-and-Off Premises FMB Licenses on December 31, 2018:</p> <ul style="list-style-type: none"> a. The General Assembly should outline in statute that all existing Off-Premises and On-and-off Premises Fermented Malt Beverage (FMB) licenses at December 31, 2018 are to be honored as current, active licenses on January 1, 2019 and that these licensees will be allowed to sell both FMB and malt liquor, as these products are to be statutorily defined starting on January 1, 2019, without any requirement to obtain a new license and without having to meet any new distance requirements from other licensees and schools as may be required for new FMB licenses issued on or after January 1, 2019. b. These “grandfathered” FMB licenses will be subject to all applicable laws and rules, and shall remain exempt from the new distance requirements as long as the same ownership is maintained. <p>1.2 Provisions for New FMB Licenses Issued On or After January 1, 2019:</p> <ul style="list-style-type: none"> a. The General Assembly should enact legislation to impose a moratorium on the issuance of any new FMB licenses starting July 1, 2018 and continuing through December 31, 2018, but should allow the governing bodies of municipalities and counties to adopt local moratoria starting at an earlier or later date if they so choose. b. Given that FMB and malt liquor will be statutorily synonymous as of January 1, 2019, the General Assembly should revise the following FMB license requirements in the Colorado Beer Code, §12-46, C.R.S., to be more consistent with the requirements for alcohol beverage licenses in the Colorado Liquor Code, §12-47, C.R.S., for all FMB licenses issued on or after January 1, 2019: <ul style="list-style-type: none"> i. New FMB licenses should be subject to the same distance restrictions from other FMB licensees and alcohol beverage licensees as is stipulated for alcohol beverage licenses in §12-47, C.R.S. Namely, any new FMB license issued on or after January 1, 2019 should be located at least one thousand five hundred feet from another FMB license or premises licensed under §12-47, C.R.S. For a new FMB license located in a municipality with a population of ten thousand or fewer, the minimum distance should be three thousand feet. See §12-47-301(12)(a), §12-47-407(1)(a)(II), and §12-47-408(1)(a)(I). ii. New FMB licenses should be subject to the same distance restrictions from schools as for alcohol beverage licenses in §12-47, C.R.S. Namely, any new FMB license issued on or after January 1, 2019 should be located at least five hundred feet from any public or parochial school or the principal campus of any college, university, or seminary, but the local licensing authority or governing bodies of a city or county may reduce or eliminate these distance restrictions or one or more types of schools or campuses from the application of the distance restriction. See §12-47-313(d). iii. New FMB licenses may be denied if the local licensing authority determines that the issuance of the new license would result in or add to an undue concentration of FMB licenses or of a combination of FMB and other alcohol beverage licenses issued under §12-47, C.R.S. See §12-47-301(b). <p>1.3 Provisions for the Transfer of Ownership of Existing FMB Licenses after January 1, 2019: In the event of an application after January 1, 2019 to transfer ownership of an FMB license that existed prior to January 1, 2019, the local licensing authority shall have the option to impose the same distance restrictions from other licensees and schools as for new FMB license applicants, and to deny the transfer of the license if the local licensing authority determines that the transfer would result in or add to an undue concentration of licenses.</p>		

Rec. #	Title	Submitted By:
2.0	Local Review Process for Existing 3.2% FMB Licensees to Sell Higher-Strength Beer	Colorado Association of Chiefs of Police and Colorado Distillers Guild
Implementing Authorities: Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Licensing Authorities, Local Law Enforcement Agencies		
<p>2.0 Given the public safety issues that are likely to result from any automatic conversion process for current grocery and convenience stores with 3.2% Fermented Malt Beverage (FMB) licenses to begin selling higher-strength beer as of January 1, 2019, such as an increase in underage drinking and the development of an inappropriately high concentration of liquor outlets in a given location, a process should be put into place through statute and rule whereby local community members may petition their local liquor authority for a review to be conducted before a current 3.2% FMB licensee is allowed to sell higher-strength beer.</p>		
3.1-3.3	Application Process for Grocery and Convenience Store Malt Liquor License	Colorado Licensed Beverage Association
Implementing Authorities: Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Licensing Authorities		
<p>3.1 The General Assembly should create a new, statutory, “Grocery and Convenience Store Malt Liquor (GCSML) license,” for which ALL requirements 3.3.1 - 3.3.18, listed in Table 6 below would apply.</p> <p>3.2 The General Assembly should create a new, statutory, “Grocery and Convenience Store Malt Liquor (GCSML) license,” for which SOME of the requirements 3.3.1 - 3.3.18, listed in Table 6 would apply.</p> <p>For both 3.1 and 3.2, the requirements 3.3.1 – 3.3.18 in Table 6 apply as indicated:</p> <p>(1) For existing 3.2% Fermented Malt Beverage (FMB) licensees as of January 1, 2019, which must apply for the new license type to replace their current licenses; and</p> <p>(2) For new grocery and convenience stores that apply for the new license type starting January 1, 2019.</p>		

Table 6: Requirements for New Grocery and Convenience Store Malt Liquor (GCSML) License

Rec. #	Requirement:	Existing FMB Licensees as of January 1, 2019 Applying for a GCSML License:	New Grocery and Convenience Stores Applying for a GCSML license starting January 1, 2019:
3.3.1	Application Processing Time	Expedited	Normal
3.3.2	Survey and Needs and Desires Hearing	Not required unless there is a major modification of premises	The application shall include a survey and Needs and Desires hearing
3.3.3	No Modification of Premises	The licensee shall not make any substantial modifications to shelf space and product offerings from the licensee’s practices as of July 1, 2016; any substantial modification by the licensee would require a review of the license and possibly a survey and Needs and Desires hearing	Not applicable
3.3.4	Transition of Current On-and-Off Premises Licenses	All current On-and-Off Premises licenses may be converted to a GCSML license for on-premises sales or off-premises sales, but not both	Not applicable

Table 6: Requirements for New Grocery and Convenience Store Malt Liquor (GCSML) License (continued)

Rec. #	Requirement:	Existing FMB Licensees as of January 1, 2019 Applying for a GCSML License:	New Grocery and Convenience Stores Applying for a GCSML license starting January 1, 2019:
3-3-5	Distance from Schools	The licensee's premises must be at least 1500 feet from the nearest public or private daycare center, pre-school, kindergarten, elementary school, secondary school, or vocational school. The distance shall be measured in a straight line from the nearest property boundary of the school property to the address point of the licensee	
3-3-6	Distance from Retail Liquor Licensed Premises	The licensee's premises must be at least 1500 feet from the nearest retail liquor licensed premises	
3-3-7	Separation of Inventories	The licensee shall not warehouse products for multiple stores at one licensed premises or transfer products between multiple stores	
3-3-8	Age of Employees	Employees who check ID's, make sales, handle, stock, receive, or carry out malt liquor must be at least 21 years of age	
3-3-9	ABV Limitation	The licensee shall not sell or offer for sale any malt liquor products containing more than 6% ABV	
3-3-10	Refrigeration Requirement	Malt liquor products must be refrigerated	
3-3-11	Limitation on Refrigerated Beverage Retail Space	The licensee shall not dedicate more than 20% of its refrigerated beverage retail space (excluding space used for dairy products) to malt liquor, and shall not use freezers, low-temperature and spot cases, or service cases to display malt liquor products	
3-3-12	Separation of Malt Liquor and Non-Alcohol Products	The licensee shall not comingle malt liquor products with non-alcohol products in the same refrigerated case door	
3-3-13	No Sales of Alcohol-Branded Merchandise	The licensee shall not sell general merchandise branded by alcohol manufacturers or distributors	
3-3-14	No Sales of Home Brew or Winemaking Equipment	The licensee shall not sell home brew or winemaking equipment	
3-3-15	No Sales Below Invoice Cost	The licensee shall not sell malt liquor products at below-invoice cost	
3-3-16	No Point of Sale (POS) Marketing or Sales of Malt Liquor Products	The licensee shall not have any POS marketing or sales of malt liquor products	
3-3-17	Only 6- and 12-Packs Allowed	The licensee shall be eligible to sell only 6-packs and 12 packs of malt liquor	
3-3-18	Compliance with Other Malt Liquor License Requirements	The licensee shall comply with all other requirements of a malt liquor license	

Rec. #	Title	Submitted By:
4.0	No Substantial Statutory Changes or New Licensing Requirements Needed to Manage the Transition to Higher-Strength Beer Sales	Colorado Wyoming Petroleum Marketers Association, 7-Eleven, Kum & Go Convenience Stores, CST Brands, Circle K, Safeway, MillerCoors, Colorado Beer Distributors Association
Implementing Authorities: Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Licensing Authorities		
<p>4.0 The General Assembly need not make any substantial changes to current law in order to manage the transition on January 1, 2019, when the 3.2% cap on alcohol by volume (ABV) will be statutorily removed from the definition of fermented malt beverages (FMB), which will thereafter be defined as having not less than 0.5% ABV.</p> <p>Rather, this transition can be managed by following the provisions already outlined in SB 16-197, including maintaining the provisions for the licensing of beer under the Colorado Beer Code, §12-46, C.R.S., rather than the Colorado Liquor Code, §12-47, C.R.S.</p> <p>No substantial changes or new trade or operational restrictions need to be introduced for FMB licenses under §12-46, C.R.S., starting on January 1, 2019, and existing FMB licensees at that time should not be required to apply for a new license or alter their existing licenses to be able to sell FMB starting on January 1, 2019, as FMB is to be defined as of that date.</p>		
5.0	Single License for FMB and Malt Liquor	Colorado Beer Distributors Association and MillerCoors
Implementing Authorities: Colorado General Assembly, Department of Revenue, Liquor Enforcement Division		
<p>5.0 Given that fermented malt beverages and malt liquor will be defined identically in §12-46-103(1) and §12-47-103(19), C.R.S., respectively, starting on January 1, 2019 and that there will no longer be any legal distinction between these two products, the General Assembly should make such statutory changes as necessary to allow for any resident manufacturer, non-resident manufacturer, wholesaler, or importer to have a single license as of January 1, 2019 to include in its product line both fermented malt beverages and malt liquor.</p>		
6.0	Review of Recommendations for their Impact on the Craft Brewing Industry	Colorado Brewers Guild and Small Brewery Representatives
Implementing Authorities: Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Government		
<p>6.0 All recommendations provided in the SB 16-197 Working Group Report should be evaluated for their potential positive or negative impact on Colorado craft brewers, using the following criteria:</p> <ol style="list-style-type: none"> 1. What impact will the recommendation have on the consumer? 2. Will the recommendation impact the ability of a manufacturing brewery to hold and exercise the current rights of a wholesaler license? Any recommendation that impacts those rights should be examined to determine whether they endanger the already limited rights held by craft brewers. 3. How will the recommendation impact competition by independent craft brewers, and does it limit their ability to compete in the marketplace? 4. How will the recommendation impact the ability of a craft brewer, through its wholesaler's license, to offer and sell beer in its tasting room or to open additional tasting rooms? If products such as growlers can be offered outside a tasting room, what measures will be taken to ensure the quality of the growler? 		

Rec. #	Title	Submitted By:
7.0	Prohibiting Public Consumption of FMB and Malt Liquor	Colorado Liquor Enforcement Division and Colorado Association of Chiefs of Police
Implementing Authorities: Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Government, State and Local Law Enforcement		
<p>7.0 In order to provide clear guidance to all Colorado communities regarding the public consumption of alcohol, and because state statutes related to public consumption do not take into account the forthcoming changes in the definitions of fermented malt beverages (FMB) and of malt liquors that render the two synonymous and remove the alcohol by volume (ABV) limit from both, and because to not prohibit the public consumption of alcohol beverages higher than 3.2% ABV would have a deleterious effect on public safety, the General Assembly should prohibit the public consumption of both FMB and malt liquors starting on January 1, 2019, unless a local, county, or state entity allows it by ordinance, resolution, or rule; the current statutory prohibition on the public consumption of vinous and spirituous liquors should also be maintained.</p>		
8.0	Prohibiting or Allowing the Public Consumption of All Alcohol Beverages	Distilled Spirits Council and Colorado Distillers Guild
Implementing Authorities: Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Government, State and Local Law Enforcement		
<p>8.0 Current Colorado law prohibits the public consumption of malt, vinous and spirituous liquors, but allows for the public consumption of fermented malt beverages (FMB), which are currently defined as having 3.2% or less alcohol by volume (ABV). Effective January 1, 2019, because the definitions of FMB and malt liquor are changing to where both will be defined as having more than 0.5% ABV, it could be the case that any beer over 0.5% ABV could be legally consumed in public unless legislative action is taken to prevent it.</p> <p>Given that some malt liquors may contain 50% or more ABV, while some wines may contain less than 5.5% ABV and some spirits less than 15% ABV, the General Assembly should re-examine the current laws regarding public consumption of all alcohol beverages effective January 1, 2019, and modify the laws in order to either:</p> <p>(1) Prohibit the public consumption of FMB, malt liquor, vinous, and spirituous liquors unless a local, county, or state entity allows for their consumption by rule, ordinance or resolution; or</p> <p>(2) Allow for the public consumption of FMB, malt liquor, vinous, and spirituous liquors without distinction and to allow for greater consumer choice.</p>		

Rec. #	Title	Submitted By:
9.0	Defining When the Manufacturing Process Ends	Colorado Wine Industry Development Board and Wine Institute
<p>Implementing Authorities: Colorado General Assembly, Department of Revenue, Liquor Enforcement Division</p> <p>9.0 In order to clarify the parameters and procedures of the manufacturing process for the purposes of tax collection, implementation, and control of premises, create a definition in the Colorado statutes as necessary, and in the Colorado Liquor Rules, 1 C.C.R. 203-2, Regulation 47-100(B), “Definitions,” to specify when the manufacturing process for an alcohol beverage product ends, to include one of the two options below. Add this language to the existing list of licenses in Regulation 47-100(B) that qualify as a “Manufacturer.”</p> <p>9.0.1 Option 1: Define that the manufacturing process of an alcohol beverage product ends when the beverage has been released from a bonded warehouse or from the licensee’s own federally bonded premises and placed in commerce, for example if it is sold directly by a winery to a consumer or a licensed retail outlet, or taken by a distributor for distribution, or taken by a common carrier for delivery.</p> <p>9.0.2 Option 2: Recognize that the manufacturing process continues until such time as the product is bottled or packaged in such a way that it could be legally sold to a consumer, in accordance with state and federal rules governing labeling and packaging, and the product is ready to be placed into commerce. This would apply whether the product is sold by the manufacturer to a wholesaler or directly to a retailer or the final consumer, either in person or through delivery by common carrier, if such sales are allowed by the manufacturer’s license.</p>		

Rec. #	Title	Submitted By:
10.0	Reporting Requirements for Carriers Shipping Alcohol into Colorado	Wine and Spirits Wholesalers of Colorado
Implementing Authorities: Colorado General Assembly, Department of Revenue, Out-of State Carriers		
<p>10.0 To ensure that proper tax is reported and collected on all wine, beer, and distilled spirits entering Colorado through any type of carrier, the Colorado General Assembly should adopt legislation to specify comprehensive reporting requirements for all such carriers and shipments. Suggested language for this legislation is as follows:</p> <p>It shall be the duty of every railroad company, express company, common carrier, contract carrier, firm, or corporation (hereafter referred to as “Carrier”) that shall bring, carry, or transport wine, beer, or distilled spirits (as these items are defined by the state of Colorado), from outside the state for delivery to consumers inside the state, to prepare and file monthly with the Department of Revenue (DOR), or according to the same timeline as for state-licensed shippers of wine, beer, and distilled spirits, a report of known shipments of wine, beer, or distilled spirits. The report shall include the following information:</p> <ol style="list-style-type: none"> 1. Name of the Carrier making the transport or shipment 2. Period of time covered by the report 3. Name and business address of the consignor of the wine, beer, or distilled spirits being carried 4. Name and address of each consignee the wine, beer, or distilled spirits being carried 5. Weight of the package delivered to each consignee 6. Unique tracking number 7. Date of delivery <p>The DOR shall make all such Carrier reports available to the public in the same manner as for other state alcohol filings, and shall also make the reports available to any law enforcement or regulatory body in the state in which the Carrier is located or does business.</p> <p>Upon the DOR’s written request, any records supporting these Carrier reports shall be made available to the DOR within a reasonable time after the request is made, and shall be made open and available to inspection by DOR staff. Any records containing information relating to such reports shall be maintained and preserved by the Carrier for a period of not less than two years, unless their earlier destruction is authorized in writing by the DOR.</p> <p>Any Carrier that willfully fails to submit reports as outlined in this section or to comply with any of the rules and regulations of the DOR for the administration and enforcement of this section is subject to a notification of violation. In the case of a continuing failure to submit reports, the Carrier will be subject to the possible suspension or revocation of its license, at the DOR’s discretion and if applicable based on state licensure requirements.</p>		
11.0	Annual Briefing on the Three-Tiered System in Colorado	Colorado Beer Distributors Association and Wine and Spirits Wholesalers of Colorado
Implementing Authorities: Colorado General Assembly, Department of Revenue, Liquor Enforcement Division		
<p>11.0 The General Assembly should require that the Colorado Liquor Enforcement Division (LED) provide annually to the Joint House and Senate Business Committee, through the SMART Act hearings process (HB 13-1299), a briefing about the state of the three-tiered liquor distribution system in Colorado for the manufacturing, distribution, and retail sales of alcohol, and how well this system is being protected and promoted. This briefing should include an assessment of how well any proposed changes to §12-46 and §12-47, C.R.S., and to the Colorado Liquor Rules, 1 C.C.R. 203-2, promote and protect the three-tiered system. The report of this annual briefing should be made available to the public.</p>		

Rec. #	Title	Submitted By:
12.1-12.6	Statutory and Rule Changes Regarding Tastings at Retail Liquor Stores	Colorado Licensed Beverage Association, Wine Institute, Colorado Wine Industry Development Board, Distilled Spirits Guild, and Colorado Distillers Guild
Implementing Authorities: Colorado General Assembly, Department of Revenue, Liquor Enforcement Division, Local Licensing Authorities		
<p>12.1-12.6 The General Assembly and the Liquor Enforcement Division should make the following statutory and rule changes to update and streamline the laws and rules governing tastings on the premises of retail liquor store (RLS) and liquor-licensed drugstore (LLDS) licensees:</p> <p>12.1 Amend §12-47-301(10)(c), C.R.S., to permit tastings to occur as follows:</p> <ol style="list-style-type: none"> On any day of the week and for any number of days per week Beginning no earlier than 11 a.m. and ending no later than 9 p.m., and for a total of not more than 8 hours per day Total tastings are not to exceed one hundred fifty (150) days per year <p>12.2 Amend §12-47-301(10)(c)(VII), C.R.S., to permit a licensee to store any open and unconsumed alcohol beverage samples from a tasting in a locked and secure area on the licensed premises for use at a later tasting, and that the samples may be removed from the locked and secure area only during a subsequent tasting or to destroy the samples or remove them from the licensed premises.</p> <p>12.3 Amend §12-47-301(10)(c)(I), C.R.S., to allow for supplier representatives, employees, or agents to pour alcohol products to patrons with the permission of, and under the supervision of, RLS or LLDS employees. If required by the RLS or LLDS management, the supplier representative, employee, or agent must have completed a responsible server training program.</p> <p>12.4 Clarify by statute or rule that the RLS or LLDS licensee shall be solely liable for the conduct and supervision of the tasting, including but not limited to verifying the age of all patrons participating in the tasting as well as whether the patron is showing any visible signs of intoxication. The RLS or LLDS licensee is therefore solely responsible for any administrative violations incurred during a tasting, whether committed by the RLS or LLDS licensee's employees or by the supplier's representative, employee, or agent.</p> <p>12.5 Make clear through statute or rule that a supplier representative, employee, or agent pouring alcohol beverage products, whether for a consumer sampling at the premises of On-Premises licensee for the purpose of sales promotion (1 C.C.R. 203-2, Regulation 47-322(B)(2)), or in a consumer tasting on the premises of a licensed RLS or LLDS licensee (§12-47-301(10), C.R.S.), would not be considered as a cost of labor provided by a supplier to a retail licensee as described in Regulation 47-322(L)(3), because by pouring products during these two types of events, the supplier's representative, employee, or agent is promoting the supplier's product and not providing a service to the retail licensee.</p> <p>12.6 Retain and further clarify the requirement in §12-47-301(10)(c)(XII), C.R.S., that the RLS or LLDS licensee bears the financial and all other responsibility for a tasting.</p>		