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Liquor Advisory Group Regulation of Retail Operations Subgroup
 Meeting Minutes
 April 20, 2023

Seat	Representative	Attendance
Tavern	Erika Zierke <i>Englewood Grand</i>	Present
County Sheriffs of Colorado	Division Chief Todd Reeves <i>Jefferson County Sheriff's Department</i>	Absent
Restaurant Licensee	Dana Faulk Query <i>Big Red F Restaurant Group</i>	Present
MADD	Executive Director Fran Lanzer <i>Mothers Against Drunk Driving</i>	Present
Law Enforcement Representative	Chief W.J. Haskins <i>Glendale Police Department</i>	Absent
Off-Premises Retailer (Medium)	Edward Cooper <i>Total Wine & More</i>	Absent
Tavern/Large Dance Entertainment Venue	Andrew Feinstein <i>Tracks Denver, ReelWorks Denver, & RiNo Art District</i>	Present by Proxy Kevin Preblud
Minority Owned Off-Premises Retailer	Gonzalo Mirich <i>Jimbo's Liquor</i>	Absent
Off-Premises Retailer (Large)	Sara Siedsma <i>Kum & Go</i>	Present
Wholesaler (Malt)	Yetta Vorobik <i>Crooked Stave Artisan Distribution</i>	Present
Minority Owned On-Premises Retailer	Veronica Ramos <i>The Electric Cure</i>	Present

- I. Welcome and Introductions
- II. Subgroup Process and Expectations Overview
 - A. Proposal structure
 - 1. A proposal format similar to the one utilized by the [Colorado Commission on Juvenile Justice](#) was suggested as a model for future Liquor Advisory Group proposals. Concerns were raised by the division about the feasibility of this

format based on available bandwidth and staffing. The division asked that LAG members assist in drafting proposals for the group as a whole to vote on.

2. Conversation was had around whether or not the LAG should be proposing statutory language with the proposals. Because of the nature of the group, the members will write the report with as much detail as possible, in order to give the General Assembly as much information as possible so they can make an informed decision and make the appropriate writings on the statutory language. The group's focus will be on drafting and clarifying concepts rather than statutory language.

B. Review of timeline of topics (from page 2 of the [April meeting agenda](#))

1. Standardization of responsible vendor training:

- a) The parameters around responsible vendor training were brought up by a member of the subgroup. It was initially requested that the training parameters for the larger municipalities be brought to the subgroup for review (Denver, Boulder, Fort Collins, and Colorado Springs) to see if this training could be state-controlled and state regulated rather than locally controlled. Essentially, the primary interest of the subgroup was to establish consistency around responsible vendor training throughout the state and eliminate differences in the program from municipality to municipality.
- b) There was discussion around what, exactly, the subgroup is looking to change around the responsible vendor training statute. The cost to businesses to put employees through the training was described by one subgroup member as "astronomical" and a financial burden to these businesses.
- c) The division expressed a willingness to have the conversation around this issue; however, it was noted that the division does not oversee the regulations, ordinances, and resolutions of local authorities. There has been support for local control when it comes to regulating responsible vendor training. Additionally, the division expressed concern over the LAG focusing discussions around telling local licensing authorities what to do.
- d) Instead of getting a list of the different training programs across the state, the facilitator suggested that it might be more helpful for the purpose of the conversation to get information around how LED establishes baseline requirements and how it flows down to the municipalities and counties.

2. Corkage fees were also added into the list of future discussion topics.

C. Volunteer to provide subgroup updates at the May LAG meeting.

1. Erika Zierke will present the subgroup discussion at the May LAG meeting.

III. Review and Refine Proposal #2: Allow off-premises retailers to offer educational classes

A. Background: During the April LAG meeting, it was requested that this topic be taken back to the subgroup for further discussion and refinement on the proposal.

B. Discussion points:

1. The word “nominal” was removed from the language around the fee that can be charged for the classes.
2. In regards to incorporating a volume limit, there was robust discussion around how this should or shouldn’t be included in the proposal language. Some of the discussion points on this matter included:
 - a) Having a limit could restrict a customer’s ability to have a well-rounded experience with, for example, wine tasting. It was suggested that this should be left to the reasonable discretion of the licensee.
 - (1) From a public safety perspective, the division does not want retailers turning into a bar. Customers aren’t staying for long periods of time and will likely be driving themselves home after the class. The focus on these events should be educational, not recreational drinking.
 - (2) It was suggested that any provisions around the kind of education and information that should be provided around these educational classes should be put in rule, not in statute.
 - (3) A recommendation from the restaurant perspective was to limit customers to one ounce (1 oz) of spirits per hour in this setting.
 - (4) It was also suggested that each educational class can only offer one type of product per class (e.g., wine, spirits, or beer).
 - (5) Another suggestion was to look at other states who allow these educational classes and see what serving sizes/volume limits are utilized in those states.
 - b) The subgroup members and division agreed that if this was an area where future changes are likely, that the volume limit should be set in rule, not in statute, to allow for easier adjustment based on feedback from the industry and other stakeholders, or in the event of a need for emergency rulemaking (for example, to respond to an increase in drunk driving incidents after these educational classes).
3. There was additional discussion around whether it should be an instructor or a licensed retail establishment putting on these classes. These discussion points included:
 - a) It was agreed that the person teaching the classes should be certified under responsible vendor training.
 - b) The privilege to hold these classes should be under the retail licensee provisions.
4. The subgroup members also engaged in considerable discussion regarding who would provide the alcohol for these educational classes:
 - a) It was suggested that the alcohol can be provided by a wholesaler at no cost to the retailer, so long as any open bottles are removed from the licensed premises upon completion of the class.
 - (1) The division expressed concern that this isn’t the wholesaler’s class; rather, the responsibility should be on the off-premises retailer who is deciding to put on these classes. Additionally,

there could be resulting conflict between the retailer and wholesaler.

- (2) Because retailers are charging for the class, there was a concern that it would be unfair to the wholesaler to provide the product at their expense.
- (3) An alternative suggestion was for two options: if the wholesaler or a representative from the winery/distillery is present at the educational classes, they can negotiate on how the alcohol is paid for; if the wholesaler/representative is not present, the retailer should be expected to pay the full cost.
- (4) Input from the malt distributors was that they would not be willing to participate in providing free product for these events.

IV. Topic Discussion: Purchase limits for an on-premises retailer from an off-premises retailer

A. Background:

1. The purchase limit was first put into statute in 1976, with an amount of one-hundred dollars (\$100.00);
2. HB91-1250 increased it to five-hundred dollars (\$500.00); and
3. HB12-1270 increased it to the current two-thousand dollar limit (\$2,000.00).
4. The purchase limit is per each calendar year and each licensed location has its own purchase limit.

B. Discussion points:

1. There was a question as to why the purchase limit needs to exist at all and why it can't be a business decision on where liquor is purchased. The reason relates back to the three-tier system; the retailer should be going through a wholesaler for most of the year, and the purchase limit was put in place to offer a solution when on-premises retailers need to obtain product on an emergency basis.
 - a) From a consumer perspective, increasing the purchase limit (or removing it completely) is to their benefit, as it ensures that they have access to the product they want.
 - b) It was also noted that even if the purchase limit was completely removed, retailers would likely still purchase product from wholesalers because of the cost difference.
 - c) As long as the purchase limit isn't too high, the general feeling is that the wholesalers should be on board with increasing it.
2. One recommendation was to increase the purchase limit to \$20,000.00. The reasoning behind this was largely based on current difficulties that on-premises retailers have getting product they need from their wholesaler on immediate or emergency basis, with considerations for how inflation can impact the cost.
 - a) There was some concern that twenty-thousand dollars might be a little high and that \$5,000.00 or \$7,000.00 would be a better compromise.
 - b) An additional recommendation was that the purchase limit should be reviewed every five years to reevaluate for adjustment.
3. Another recommendation was to change the overall idea from a specific dollar amount to a percentage (for example, twenty percent) of on-premises retailer

sales. The biggest concerns around this idea were how this would work in general, how to track it, and how feasible it would be to enforce.

- a) One suggestion was to take the average restaurant alcohol sales in Colorado and determine what percentage equals out to the existing two-thousand dollar limit; however, this option poses challenges due to different profits from different establishments.
- b) From the division's perspective, it would be easier for enforcement to have a set amount rather than a percentage. To maintain the three-tier system, the division feels this is something that needs to be regulated as the division has seen licensees violate the purchase limit. It could put an undue burden on the division to conduct regular audits on businesses.

C. Potential Proposal

1. The subgroup members proposed raising the purchase limit to \$7,000.00 and have the limit tied to inflation for an annual increase.

V. Public Comment

A. Steve Findley, Colorado Beer Distributors Association

1. Purchase limit for on-premises retailers from off-premises retailers: Specifically for beer distributors, per contracts with suppliers in the state, distributors have to have designated territories where the beer is distributed. Opening up the amount of product that can be purchased from an off-premises retailer opens up the possibility of beer crossing territories; if that product then appears on the on-premises accounts, there is question of who is responsible for replacing that product - the distributor from which it was originally bought or the distributor designated to the territory.
 - a) The distributors would be amenable if the purchase limit was increased and an insurance was put in place that when proven that the product was bought from a retailer, the wholesaler does not have to replace the product. It could also be required of on-premises retailers that any product purchased from an off-premises retailer was stored separately from product provided by the distributors.
2. Also, if on-premises retailers are purchasing product from off-premises retailers, it should be required that the purchase be made in person rather than having it shipped to their location.

B. Jared and Scott Blauweiss (Mr. B's Wine and Spirits)

1. Educational classes: On-premises retailers can conduct these classes as well, with the same abilities as an off-premises retailer, with little to no restrictions on what they can/cannot pour, who can pour it, etc. At the same time, a consumer can leave with a bottle of liquor.
 - a) While they agree with putting guardrails and other safety measures in place, it would be wise to look at the big picture and not ignore the fact that an on-premises establishment has free reign to sell product to-go. Just because an off-premises retailer is selling alcohol to go, it doesn't mean someone is more likely to get in their car to go to an on-premises

location. In their experience, customers walk to their location rather than driving across town to a restaurant.

- b) From a safety perspective, HB10-1027 was signed into law off of the emergency lifting of restrictions for on-premises licenses; a lot of on-premises licenses have used this to their advantage and advertised themselves as a wine shop, installing retail shelving in their restaurants. Want to make sure the subgroup is looking at both sides of this issue because, in reality, someone could go into a restaurant with the aforementioned setup (selling for off-premises consumption) and order six ounces of liquor at the bar, then buy a bottle of that same product to go. This can occur at any time of day.
2. Regarding wholesalers supplying the product and paying for said products, if this is something that will be required of the wholesalers, and that their presence at the classes will be mandated, it should be noted that the liability still rests on the retailer for the classes. Additionally, the retailer will assume all liability.
3. Documents were previously submitted to the division. They will be resubmitted to the dor_led_rulemaking@state.co.us email and these items will be shared out to the LAG group members.

VI. Action Items

- A. The draft proposal will be shared with the subgroup members for comment and input, and then presented to the main LAG group during the May meeting.

The next Regulation of Retail Operations Subgroup meeting will be on May 18, 2023 from 11:00 a.m. to 1:00 p.m.