

COLORADO Department of Revenue

Specialized Business Group— Liquor & Tobacco

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Liquor Advisory Group

Meeting Minutes

May 4, 2023

Seat	Representative	Attendance
State Licensing Authority	Executive Director Mark Ferrandino Department of Revenue	Present
Arts Licensee	Andryn Arithson Newman Center for the Performing Arts	Present
Colorado Association of Chiefs of Police	Chief Dave Hayes Town of Estes Park Police Department	Absent
Colorado Counties, Inc.	Vacant	
Colorado Municipal Clerks Association	Colleen Norton Littleton Municipal Clerk's Office	Present
Colorado Municipal League	Tara Olson Town of Breckenridge Clerk's Office	Present
Colorado State Patrol	Captain Joseph Dirnberger Colorado State Patrol	Present
County Sheriffs of Colorado	Division Chief Todd Reeves Jefferson County Sheriff's Department	Absent
Downtown Partnership/Chamber of Commerce	Loren Furman Colorado Chamber of Commerce	Absent
Hard Cider Industry	Eric Foster Colorado Cider Guild	Absent
Brewery (Large)	Bob Hunt Molson Coors	Present
Local Brewery (Small)	Karen Hertz Holidaily Brewing	Present
Law Enforcement Representative	Chief W.J. Haskins Glendale Police Department	Present
MADD	Executive Director Fran Lanzer Mothers Against Drunk Driving	Present

Seat	Representative	Attendance
Off-Premises Retailer (Large)	Kris Staaf Albertsons Safeway	Present
Off-Premises Retailer (Large)	Sara Siedsma Kum & Go	Present
Off-Premises Retailer (Medium)	Jim Shpall Applejack Wine & Spirits	Present
Off-Premises Retailer (Medium)	Edward Cooper Total Wine & More	Present
Off-Premises Retailer (Small)	F. Seyoum Tesfaye Franktown Liquors	Absent
Minority Owned Off-Premises Retailer	Gonzalo Mirich Jimbo's Liquor	Present
Minority Owned On-Premises retailer	Veronica Ramos The Electric Cure	Present
Local Spirituous Manufacturer	Stephen Gould Colorado Distillers Guild	Present by Proxy Lee Wood Lee's High Mountain Distillery
National Spirituous Manufacturer	Joseph Durso Pernod Ricard USA	Present
Restaurant Licensee	Dana Faulk Query Big Red F Restaurant Group	Present
Restaurant Licensee	Sarah Morgan Martinis Bistro	Present
Restaurant Licensee	Andrew Palmquist Number Thirty Eight	Absent
Tavern	Erika Zierke Englewood Grand	Present
Tavern/Large Dance Entertainment Venue	Andrew Feinstein Tracks Denver, ReelWorks Denver, & RiNo Art District	Present
Tavern/Large Dance Entertainment Venue	Don Strasburg AEG Presents	Present
Local Vinous Manufacturer	Juliann Adams Vines 79 Wine Barn	Present

Seat	Representative	Attendance
National Vinous Manufacturer	Anne Huffsmith Nakedwines.com, Inc.	Present
Wholesaler (Malt)	Yetta Vorobik Crooked Stave Artisan Distribution	Present
Wholesaler (Vinous/Spirituous)	Fuad Jezzini Maverick Wine Company of Colorado	Present
National Wholesaler	Andrew Quarm Republic National Distributing	Present

I. Opening Remarks, Attendance, and Agenda Review

II. Adoption of Meeting Minutes

- A. Adoption of Minutes from April 6, 2023 Meeting
 - 1. There was a question about the meaning of NP on the voting record. It was clarified this meant No Position. No additional amendments or questions.
 - 2. Motion to adopt by Colleen Norton, seconded by Juliann Adams.
 - 3. Minutes are adopted.
- III. Overview of LAG large group meeting and subgroup reports
 - A. During our last meeting, we had a lot of discussion about making sure that proposals coming before the LAG as a whole have been worked out by the subgroups and accurately represents the intent of the subgroups. Several topics on the agenda for today are not for a vote but for discussion and reaction by the whole group, as we understand that not every interest represented on the LAG is represented on a particular subgroup. We want to make sure that people are given the opportunity to weigh in on those proposals, specifically for Marketplace Structure and Licensing, and get your feedback. Those proposals will then go back to the subgroups for further discussion.
- IV. Marketplace Structure Subgroup Report
 - A. Review subgroup discussion from March meeting
 - 1. Marketplace Structure Subgroup Minutes April 20, 2023
 - a) Minutes unanimously approved.
 - B. Proposal 4: Wholesaler Trade Show
 - 1. <u>Subgroup Proposed Topics for Voting by LAG</u> As presented on May 4, 2023
 - 2. Additional input from LAG members
 - a) It was questioned why LED suggested specifically excluding docking, delivery, or warehouse storage areas of a licensed premise. LED clarified that it would be fine to have an event in a warehouse, just not in an area where machinery and large equipment is moving around to ensure safety for participants.
 - (1) Suggestion was made to add language limiting the use of these areas unless the warehouse is isolated or excluded from ongoing business activities or otherwise designed specifically for the

trade show event. There was no objection to adding this language from LAG members. Language added.

- 3. Proposal #4, as amended
 - a) Create a new statute under 44-3-407, C.R.S. (Wholesaler statute) that will give wholesalers the ability to hold trade shows to allow liquor licensed retailers to sample products on their licensed premises in an area designated for trade shows. These events shall not be open to the general public.
 - b) Limit the area for trade shows for liquor licensed retailers to an area on the licensed premises, such as a conference room or kitchen area, but specifically excluding the docking, or delivery, or warehouse storage areas of the licensed premises, unless the warehouse is isolated/excluded from ongoing business activity/designated area for trade show event, and specifically excluding any sales room during any time when the sales room is open to the public.
 - c) Additional statutory language will provide the Liquor and Tobacco Enforcement Division with rulemaking authority.
- 4. Vote Proposal #4, as amended VOTE PASSED
- C. Topic Discussions
 - 1. Sales room eligibility and increase
 - a) Proposal submitted by Karen Hertz on April 27, 2023
 - b) Additional input from LAG members
 - There was a question regarding why the proposal limits the number of sales rooms to five per licensee. It was stated that this was the current number of sales rooms available to limited wineries.
 - (a) LED clarified that the historical reason for limiting the number of sales rooms was both a desire not to saturate the state with multiple sales rooms and to ensure adequate enforcement.
 - (b) There was disagreement on whether market forces would prevent over saturation of the market and whether a limit would impede future industry growth.
 - (c) It was stated that the five sales room limit has been an appropriate limit and worked well for wineries.
 - (2) It was clarified that this proposal would not have any restrictions based on the size of the manufacturer, though the manufacturer would still be limited to the same category of products they manufacture.
 - (a) It was noted that there was an additional proposal to be discussed later in the meeting that could allow sales of additional product types or collaborative products in a sales room (<u>Proposal</u> submitted by Stephen Gould on April 27, 2023).

- (b) There were concerns raised by both members and LED that selling other alcohol types in a sales room becomes similar to an on-premises establishment like a bar without the same licensing or food service requirements.
 - (i) It was noted the intention of the proposal was not to compete with on-premises retailers but to create awareness of different market options and collaborations. New Mexico has allowed a similar proposal.
- (3) There were concerns raised about LED's bandwidth to properly enforce an increased number of sales rooms. LED noted that sales room applications are currently processed by the Division for free and a nominal processing fee might help cover the increased workload.
- c) Proposal was sent back to Marketplace Structure subgroup for further discussion.
- 2. Non-contiguous
 - a) <u>Proposal</u> submitted by Karen Hertz on April 27, 2023
 - b) Additional input from LAG members
 - (1) It was stated that this could be incredibly helpful for small producers to have (for example) a tasting room in town where there is a lot of tourism and a facility more adequate for production requirements outside of town.
 - (2) There was a question about current TTB requirements regarding non-contiguous locations. It was clarified that TTB currently restricts non-contiguous locations to 10 miles, so this proposal would mirror current TTB regulations.
 - c) Proposal was sent back to Marketplace Structure subgroup for further discussion.
- 3. Eliminate franchise laws/territory rights for brewers
 - a) Proposal submitted by Karen Hertz on April 27, 2023
 - b) Additional input from LAG members
 - It was stated that franchise law in Colorado is actually really light compared to other states. It was noted that anyone under a certain production limit is not subject to franchise laws which helps out small breweries.
 - (a) There was disagreement on franchise laws not applying to small breweries, as it was noted that most contracts contain the same franchise law provisions even for small breweries under the production cap.
 - (2) It was noted that franchise laws do protect distributors, as distributors put a great deal of effort into advertising, building relationships, etc.

- c) Proposal was sent back to Marketplace Structure subgroup for further discussion.
- 4. Allow manufacturers to sell other Colorado manufactured beverages, including collaborations among manufacturers, in tasting rooms (only for on-premise consumption at a brick and mortar location).
 - a) <u>Proposal</u> submitted by Stephen Gould on April 27, 2023
 - b) Additional input from LAG members
 - (1) Concerns were raised that this would result in a tasting room becoming a retail shop or a bar and muddy the waters between the manufacturing and retail tiers.
 - (a) There were additional comments made that this was a matter for the Licensing subgroup to consider.
 - (2) Additional concerns were raised over the definition of a collaborative product. It was suggested that language be added to require a product involved in the manufacture of another product to qualify as a collaboration.
 - (a) Concerns were raised that this could still be too vague.
 - c) Proposal was sent back to Marketplace Structure subgroup for further discussion.
- V. Regulation of Retail Operations Subgroup Report and Topic Discussion
 - A. Review subgroup discussion from April meeting
 - 1. Regulation of Retail Operations Subgroup Minutes April 20, 2023
 - a) Minutes unanimously approved.
 - B. Proposal #2: New Statute to Allow Off-Premises Retailers to Offer Educational Classes
 - 1. <u>Subgroup Proposed Topics for Voting by LAG</u> As presented on May 4, 2023
 - 2. Additional input from LAG members
 - a) Concerns were raised that the requirement for a supplier to attend in order for a supplier to pay for the product offered in classes would be difficult for a smaller brewery or distillery to accomplish due to staffing levels and discourage them from participating as much as bigger suppliers.
 - (1) There was disagreement over whether who pays for the product was a matter of contract negotiation. Concerns were raised that a retailer could refuse to do educational classes with a manufacturer unless they (the manufacturer) paid for all of the product and/or purchase less of their product as a result.
 - b) There was a suggestion made that there does not need to be any regulation on whether the product was purchased or provided for free, as market forces would end up regulating that.
 - (1) LED clarified the background of this particular proposal and expressed concerns of potential inducements which are contrary to federal alcohol laws.

- c) It was suggested that the proposal be amended to allow the Division rulemaking authority to determine who can or cannot pay for a product provided for an educational class.
 - (1) Concerns were expressed that putting this in rule could result in changes down the line if leadership in LED were to change. No changes were ultimately made to the proposal.
- 3. Vote Proposal #2 VOTE PASSED
- C. Proposal # 5: Increase purchase limits for an on-premises retailer from an off-premises retailer
 - 1. <u>Subgroup Proposed Topics for Voting by LAG</u> As presented on May 4, 2023
 - 2. Additional input from LAG members
 - a) There were questions on why this restriction exists in the first place and suggestion that the restriction be eliminated to allow limitless purchases.
 LED clarified that this is meant for times when, for example, an on-premises retailer runs out of a product on a holiday weekend and can't get it delivered in time from a wholesaler, they can go out and purchase it from an off-premises retailer to tide them over until their next delivery.
 - (1) LED clarified that this restriction is important to remain compliant with the three-tier system.
 - (2) Members expressed a reluctance to undermine the three-tier system.
 - b) Members asked how frequently this has been enforced by LED. LED clarified they do frequently find retailers who have violated this provision and do audit records.
 - (1) LED expressed that this limitation is also important for when beer becomes expired, for example, so a wholesaler does not have to purchase back large amounts of expired product that were purchased through a retailer.
 - c) Concerns were raised about exclusive territories and the perishable nature of beer. It was stated that a manufacturer wants to make sure that they know exactly who is purchasing the beer, where it's purchased, when it's purchased and that they can ensure that the quality is maintained. Purchases of a product outside of an exclusive territory make it difficult to address quality concerns.
 - (1) Suggestion was made to limit purchases to the county the on-premises retailer was based in. LED expressed concerns that county limits would be too restrictive and could result in a situation where a retailer unknowingly went across the street to a different county to make a purchase. County restriction was not added to the proposal.
 - (2) LED asked if this was something that could be further clarified in rule by, for example, requiring delineation of products a retailer has purchased from a retailer from those purchased from wholesalers. Members expressed openness to this.

- (3) Suggestion was made to remove beer from the proposal to address this concern. Members were largely opposed to this option.
- (4) It was noted that issues of quality control were likely also lessened in these situations, as the product was being purchased for immediate use.
- d) Concerns were raised about tying the purchase limit to inflation.
 - (1) Suggestion was made to potentially tie the purchase limit to the Consumer Price Index.
- 3. Vote Proposal #5 VOTE PASSED
- VI. Licensing Subgroup Report and Topic Discussion
 - A. Review subgroup discussion from March meeting
 - 1. Licensing Subgroup Meeting Minutes April 27, 2023
 - 2. Additional input from LAG members
 - a) LED noted that the difference between the Hotel & Restaurant and Lodging & Entertainment licenses came about because there were motels that didn't have a kitchen, and they wanted to provide alcohol in their meeting spaces.
- VII. Public Comment
 - A. Steve Findley, Colorado Beer Distributors Association: I want to go back and address at least a couple of issues, mainly the proposal to remove the franchise statute, the termination wholesale statute 44-3-408. For context, I was director of the CBDA back in 2007 when this bill passed. When we negotiated these bills, we recognized the disparity in the size of influence that large brewers had, we chose to exempt the majority of Colorado breweries producing under 300,000 gallons per calendar year from the statute. Other states now are following our lead 16 years later, because most recent franchise legislation you're seeing around the country is exemptions for small brewers. Colorado brewers have a choice, they can make substantial investments in the necessary infrastructure of warehousing, salesforce, delivery force, advertising, etc. and self distribute. Distributors are free to distribute products, in particular craft brewers without fear of retribution or termination from large brewers. This largely explains why choice and variety exists in the beer market in contrast to the soda market that is dominated by two suppliers. Colorado's regulatory system nurtures small entrepreneurial businesses and it provides markets for all participants, producers, distributors, and retailers. We would like to therefore oppose removing 44-3-408. One other comment I would like to make, I would echo Bob's concerns on expanding the \$7,000 retail sales limit. We share the same quality concerns as with him as well.
 - B. Shawnee Adelson, Colorado Brewers Guild: I just have a couple of comments on a couple items. On franchise law, nothing really to add there except there was some confusion about does the law supersede contracts or do the contract supersede law. To be clear, the law that is on the books supersedes contracts. Brewers that are subject to franchise law are required to follow that law regardless of what their contract says. I do want to go on record saying that the Colorado Brewers Guild is opposed to the language in the educational classes for off premise retailers in regards to the fact that suppliers

would be, quote, unquote, be able to offer product for free if a retailer is charging a price for that class. And then they are asking for a donation of a product plus a donation of time, I see this as a violation of the federal trade practice laws and we adamantly oppose that. But I think that this is something that the state legislature will have to consider. And then finally, I just wanted to bring up the licensing conversation about consolidating pub licenses. There are no brew pubs that are on this group in any capacity and I think that somebody needs to be brought in if you're going to be talking about a brew pub license and changing what they can and can't do if they're going to be impacted by consolidations. They should have a voice on that licensing group.

- C. Nick Hoover, Colorado Restaurant Association: Around the tasting room allotments, I believe that this conversation is missing a vital piece of the conversation, which is how these businesses get their sales rooms for beer versus a sales room as a part of their wholesale license for wine and spirits. It's tied to their manufacturing. It is my understanding that there is nothing in current Colorado law that would prohibit someone from having multiple wholesale licenses for beer, meaning that other than getting multiple licenses there isn't a hurdle for one business having ownership of multiple sales rooms. For a distillery to have multiple sales rooms, they would need to invest in multiple manufacturing facilities. Expanding the allowed number of tasting rooms for all types of alcohol would create even more inequities. Additionally, there are already gross inequities created by the current policy where restaurants and on premise licenses are subject to local licensing, which include neighborhood input, local scrutiny, distance requirements from schools etc. and tasting rooms are not subject to those same requirements. Consider a recent real world example - in Denver an on premise licensee was applying to be licensed for a location and was denied because they are within 500 feet of a school. In order to get to that school's property from the proposed location, you would quite literally have to walk past an operating sales room. These licensing restrictions are not the same for both of these types of licenses, even though they operate relatively similarly. The stated purpose of convening the Liquor Advisory Group was to simplify and streamline the laws governing the sale and production of alcohol in the state of Colorado, and remove arbitrary language that creates disparity and inequities. By including a proposal such as this, we believe that the Liquor Advisory Group will be increasing inequity and adding complexity to the arbitrary nature of the existing code by enshrining significant legal and regulatory advantages to specific licenses at the detriment of others.
- D. Juan, Village Liquor: Regarding limiting the \$7,000 purchases to a specific territory, it would prevent a liquor store or a bar or restaurant from getting some new items that are offered in a different area that is not offered in our area. Also in the tasting rooms, some manufacturers or wholesalers will say you by so much we will give you so much of a kickback, so where does that stop?

VIII. Action Items

A. Next meeting: June 1, 2023: 9:00 a.m. - 12:00 p.m. *Meeting will be in person at 1707 Cole Boulevard, Suite 300, Lakewood, Colorado, with a virtual option available.*

Proposal 4: Wholesaler Trade Shows

VOTER NAME	Wholesaler Trade Shows		e Shows
	Yes	No	N-P
Andrew Feinstein			
Tavern/Large Dance Entertainment Venue	X		
Andrew Palmquist			
Restaurant Licensee	ABSENT		
Andrew Quarm			
National Wholesaler	ABSENT		
Andryn Arithson			
Arts Licensee	X		
Anne Huffsmith			
National Vinous Manufacturer	X		
Bob Hunt			
Brewery (Large)	X		
Colleen Norton			
Colorado Municipal Clerks Association	X		
Dana Faulk Query			
Restaurant Licensee	X		
Dave Hayes			
Colorado Association of Chiefs of Police	ABSENT		
Don Strasburg			
Tavern/Large Dance Entertainment Venue	X		
Edward Cooper			
Off-Premises Retailer (Medium)	X		
Eric Foster			
Hard Cider Industry	ABSENT		
Erika Zierke			
Hard Cider Industry	X X		
F. Seyoum Tesfaye			
Off-Premises Retailer (Small)	ABSENT		
Fran Lanzer			
MADD			x
Fuad Jezzini			
Wholesaler (Vinous/Spirituous)	X		
Gonazlo Mirich			
Minority Owned Off-Premises Retailer	ABSENT		
Jim Shpall	1 1		
Off-Premises Retailer (Medium)	X		
Joseph Dirnberger	1 1		
Colorado State Patrol			x
Joseph Durso	1 1		
National Spirituous Manufacturer	X		

Juliann Adams		
Local Vinous Manufacturer	Х	
Karen Hertz		
Local Brewery (Small)	х	
Kris Staaf		
Off-Premises Retailer (Large)	Х	
Loren Furman		
Downtown Partnership/Chamber of Commerce	ABSENT	
Sara Siedsma		
Off-Premises Retailer (Large)	Х	
Sarah Morgan		
Restaurant Licensee	X	
Stephen Gould		
Local Spirituous Manufacturer	PROXY	
Tara Olson		
Colorado Municipal League	Х	
Todd Reeves		
County Sheriffs of Colorado	ABSENT	
Veronica Ramos		
Minority Owned On-Premises Retailer	Х	
W.J. Haskins		
Law Enforcement Representative		Х
Yetta Vorobik		
Wholesaler (Malt)	X	
Vacant		
Colorado County Inc.		

VOTER NAME	New Statute to Allow Off-PremisesRetailers to Offer Educational Classes		
	Yes	No	N-P
Andrew Feinstein			
Tavern/Large Dance Entertainment Venue	X		
Andrew Palmquist			
Restaurant Licensee	ABSENT		
Andrew Quarm			
National Wholesaler	X		
Andryn Arithson			
Arts Licensee	X		
Anne Huffsmith			
National Vinous Manufacturer	X		
Bob Hunt			
Brewery (Large)	X		
Colleen Norton			
Colorado Municipal Clerks Association	X		
Dana Faulk Query			
Restaurant Licensee	X		
Dave Hayes			
Colorado Association of Chiefs of Police	ABSENT		
Don Strasburg			
Tavern/Large Dance Entertainment Venue	X		
Edward Cooper			
Off-Premises Retailer (Medium)	X		
Eric Foster			
Hard Cider Industry	ABSENT		
Erika Zierke			
Hard Cider Industry	X		
F. Seyoum Tesfaye			
Off-Premises Retailer (Small)	ABSENT		
Fran Lanzer			
MADD			Х
Fuad Jezzini			
Wholesaler (Vinous/Spirituous)	X		
Gonazlo Mirich			
Minority Owned Off-Premises Retailer	Х		

Proposal 2: New Statute to Allow Off-Premises Retailers to Offer Educational Classes

Jim Shpall		
Off-Premises Retailer (Medium)	X	
Joseph Dirnberger		
Colorado State Patrol		X
Joseph Durso		
National Spirituous Manufacturer	X	
Juliann Adams		
Local Vinous Manufacturer	X	
Karen Hertz		
Local Brewery (Small)	X	
Kris Staaf		
Off-Premises Retailer (Large)	X	
Loren Furman		
Downtown Partnership/Chamber of Commerce	ABSENT	
Sara Siedsma		
Off-Premises Retailer (Large)	X	
Sarah Morgan		
Restaurant Licensee	X	
Stephen Gould		
Local Spirituous Manufacturer	PROXY	
Tara Olson		
Colorado Municipal League	X	
Todd Reeves		
County Sheriffs of Colorado	ABSENT	
Veronica Ramos		
Minority Owned On-Premises Retailer	X	
W.J. Haskins		
Law Enforcement Representative		X
Yetta Vorobik		
Wholesaler (Malt)	X	
Vacant		
Colorado County Inc.		

Proposal 5: Increase purchase limits for an on-premises retailer from an off-premises retailer

VOTER NAME	New Statute to Allow Off-Premises Retailers to Offer Educational Classes		
	Yes	No	N-P
Andrew Feinstein			
Tavern/Large Dance Entertainment Venue	X		
Andrew Palmquist			
Restaurant Licensee	ABSENT		
Andrew Quarm			
National Wholesaler	X		
Andryn Arithson			
Arts Licensee	X		
Anne Huffsmith			
National Vinous Manufacturer	X		
Bob Hunt			
Brewery (Large)		X	
Colleen Norton			
Colorado Municipal Clerks Association	X		
Dana Faulk Query			
Restaurant Licensee	X		
Dave Hayes			
Colorado Association of Chiefs of Police	ABSENT		
Don Strasburg			
Tavern/Large Dance Entertainment Venue	X		
Edward Cooper			
Off-Premises Retailer (Medium)	X		
Eric Foster			
Hard Cider Industry	ABSENT		
Erika Zierke			
Hard Cider Industry	X		
F. Seyoum Tesfaye			
Off-Premises Retailer (Small)	ABSENT		
Fran Lanzer			
MADD	ABSENT		
Fuad Jezzini			
Wholesaler (Vinous/Spirituous)	X		
Gonazlo Mirich			
Minority Owned Off-Premises Retailer	Х		
Jim Shpall	x		

Off-Premises Retailer (Medium)		
Joseph Dirnberger		
Colorado State Patrol		Х
Joseph Durso		
National Spirituous Manufacturer	X	
Juliann Adams		
Local Vinous Manufacturer	X	
Karen Hertz		
Local Brewery (Small)	X	
Kris Staaf		
Off-Premises Retailer (Large)	ABSENT	
Loren Furman		
Downtown Partnership/Chamber of Commerce	ABSENT	
Sara Siedsma		
Off-Premises Retailer (Large)	X	
Sarah Morgan		
Restaurant Licensee	X	
Stephen Gould		
Local Spirituous Manufacturer	PROXY	
Tara Olson		
Colorado Municipal League	X	
Todd Reeves		
County Sheriffs of Colorado	ABSENT	
Veronica Ramos	1	
Minority Owned On-Premises Retailer	X	
W.J. Haskins	1	
Law Enforcement Representative		Х
Yetta Vorobik		
Wholesaler (Malt)	X	
Vacant		
Colorado County Inc.		