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Liquor Advisory Group Licensing Work Group
 Meeting Minutes
 May 25, 2023

Seat	Representative	Attendance
Restaurant Licensee	Andrew Palmquist <i>Number Thirty Eight</i>	Absent
National Wholesaler	Andrew Quarm <i>Republic National Distributing</i>	Present
Arts Licensee	Andryn Arithson <i>Newman Center for the Performing Arts</i>	Present
Colorado Municipal Clerks Association	Colleen Norton <i>Littleton Municipal Clerk's Office</i>	Absent
Colorado Association of Chiefs of Police	Chief Dave Hayes <i>Estes Park Police Department</i>	Absent
Tavern/Large Dance Entertainment Venue	Don Strasburg <i>AEG Presents</i>	Absent
Local Vinous Manufacturer	Juliann Adams <i>Vines 79 Wine Barn</i>	Present
Downtown Partnership/Chamber of Commerce	Loren Furman <i>Colorado Chamber of Commerce</i>	Present
Restaurant Licensee	Sarah Morgan <i>Martinis Bistro</i>	Present
Colorado Municipal League	Tara Olson <i>Town of Breckenridge Clerk's Office</i>	Present

- I. Welcome and Introductions
- II. Subgroup Process and Expectations Overview
 - A. The division issued a reminder that the LAG is a state public body that is subject to the Open Meetings Law (24-6-401, C.R.S.) This means:
 - 1. Any meeting of this group must occur in public.
 - 2. A “meeting” is any time two or more group members gather to discuss public business or consider action, and includes side conversations conducted during larger format meetings.

3. Because meetings must occur in public pursuant to this law, it is important for Liquor Advisory Group members to refrain from talking or communicating with each other about Group business outside of public meeting settings.
- B. Review timeline of topics (from page 2 of the [May meeting agenda](#)).
 1. *No amendments or suggestions requested from the subgroup members.*
Additional comments or input can be emailed to the division at dor_led_rulemaking@state.co.us.
 - C. Volunteer to report subgroup proposals at the June LAG meeting.
 1. Renny Fagan will present the subgroup discussion at the June LAG meeting.
- III. Topic Discussion: Consolidation of On-Premises License Types
 - A. Discussion 1: Potential consolidation of Lodging into the Hotel & Restaurant (H&R) license type.
 1. Background
 - a) The general idea behind this consolidation is to separate Lodging (as a license type) from Entertainment and merge Lodging (as a concept) with Hotels.
 - b) The subgroup previously discussed the inherent differences between Lodging and Hotels and the origins of the Lodging & Entertainment (L&E) license type.
 - (1) Under 44-3-413, C.R.S., a hotel has a full-service kitchen requirement (meaning food is being actively prepared) from 8 a.m. to 8 p.m. and provides room service for both food and alcoholic beverages. Hotels are also licensed to sell alcoholic beverages in sealed containers via a minibar located in the guest rooms.
 - (2) Under 44-3-428, C.R.S., a “lodging facility” primarily functions to provide the public with sleeping rooms and meeting facilities. It does not have a kitchen requirement and is only required to have sandwiches and light snacks (this includes vending machines) available for the public to consume during business hours. As a business choice, lodging facilities may have a restaurant or kitchen on site without offering room service.
 - (a) Guests at a lodging facility are permitted to purchase alcohol from another location (e.g., retail liquor store) and bring it back to consume in their rooms. The licensee is *not* permitted to sell alcohol to them in the way a hotel could via a minibar or restaurant.
 - (3) Under 44-3-428, C.R.S., an “entertainment facility” has the primary business purpose of providing the public with sports or entertainment activities within its licensed premises.
 2. Overview of Discussion
 - a) There was support from one subgroup member to put the concept of Lodging under Hotels as a license type, with the option to add specific permits on an as-needed basis. Additionally, the subgroup member

argued that businesses shouldn't be defined by the specific activities or events that are being held on the licensed premises. In the spirit of considerably reducing the number of license types for liquor establishments, an idea to merge the H&R and L&E licenses was put forward.

- (1) In response to this idea, there was a question of how or if the Entertainment aspect fit with Hotels and Restaurants. A suggestion to merge Lodging and Restaurant together was made, due to similarities in the food requirements, and to either move Entertainment as a separate consideration or merge it with Taverns.
- b) The division felt that "lodging facility" could be made a subsection under the Hotel & Restaurant license. The biggest differences between Lodging and Hotel is that the sleeping rooms are not included in the licensed premises.
 - (1) A subgroup member supported this idea, stating that the original purpose of consolidating the license types was to do so by grouping them according to their primary use.
 - (2) There was brief discussion around whether or not putting "lodging" as a subsection under H&R would then include sleeping rooms in the licensed premises (allowing customers to consume alcohol in their rooms, not just the main area of the premises). The division stated that this depends on how the proposal is written; in other words, lodging establishments could be allowed a minibar in the guest rooms or not.
- c) With the above discussion in mind, a general proposal came forward:
 - (1) Group all "sleeping rooms" together as a subsection under the Hotel & Restaurant license.
 - (a) If all sleeping rooms were to be grouped together in this subsection, should their privileges mirror those of Hotels (i.e., minibars, room service)?
- d) The subgroup had a healthy discussion over the pros and cons of this proposal. Highlights of the discussion are as follows:
 - (1) Allowing the different subsections (specifically lodging) to have different privileges, though they are all under the H&R license, may create confusion for licensees regarding alcohol service.
 - (2) The balancing act of how much liquor service is allowed with each business and who may be served. There was concern over lodging businesses functioning like taverns without set guidelines.
 - (3) The potential increase in public safety with allowing lodging facilities to have a functioning bar. A general idea of this scenario was to require the guest to show their room key and personal identification before purchasing a drink from the bar.

The intent is to have more control over the amount of alcohol being consumed by a guest and instill some responsibility for overservice of alcohol. Allowing guests to purchase full bottles of alcohol to privately consume in their rooms is a safety concern.

3. Proposal

- a) Sarah Morgan put forward a motion to move “Lodging” under the Hotel & Restaurant license type, with the statement that lodging facilities are not required to have a full kitchen but must have a commissary store available for guests to purchase food as desired (light snacks).

- (1) The division mentioned that there are several hotels in Colorado that are operating with the H&R license and the division is concerned about changing the restaurant aspect so extensively that there isn’t a food component in place anymore. The division has concerns about the term “commissary store” for broadness of the term; for example, does this mean the commissary is on the licensed premises, does it involve partnering with a food truck or restaurant down the street, et cetera?

- (2) The proposal was clarified that the food source must be on-premises and the commissary must be regulated by the licensee. It was also clarified that this proposal is only focused on the lodging subsection and is not intended to remove the restaurants from hotels overall.

- b) There was additional discussion from the subgroup members following this proposal. Highlights of the discussion include:

- (1) If the license type is changed for current, active lodging facilities, are these licensees going to be disadvantaged by the requirement to have on-premises food available to guests? This is not something that the licensees currently have in place.

- (a) The division commented that if lodging is written in the statute as its own subsection, it can be clearly written that these businesses do not have the full kitchen requirement and are only required to maintain the snacks and sandwiches aspect, which is currently in place.

- (2) There was additional concern expressed regarding a lack of input from licensees whose businesses could be impacted by this decision (i.e., H&R licensees and Lodging licensees). There was a worry that these licensees may not have an opportunity to voice their opinions and/or concerns before action is taken on these proposals.

- (a) The division responded that these proposals and the meeting minutes are sent out to not only members of the LAG but also the public and stakeholders for their review and consideration. The public comment section is

also open and the division accepts written comments from licensees on a given proposal. Also, all public comment will be considered before a proposal goes to a vote by the LAG as a whole.

- c) A final clarification on the proposal was that if a business wishes to offer alcohol service via minibars or room service, they must have a full kitchen and therefore would not be considered a lodging facility.
 - d) Motion seconded by Andryn Arithson.
4. Public Comment
- a) Andrew Klosterman, Colorado Event Alliance
 - (1) Mr. Klosterman agreed that as long as the food sales aspect of this motion is cleared up, the proposal makes sense.
 - b) *No additional public comment was provided on this topic.* The public and industry members can provide comments and feedback for consideration via the [public comment form](#) or by emailing the division at dor_led_rulemaking@state.co.us.
5. Group Vote
- a) Motion to put this proposal forward for consideration by the Liquor Advisory Group passes on a vote of 4 members in support, 1 member taking no position, and 4 members being absent.
- B. Discussion 2: Consolidation of brew pub, distillery pub, and vintner's restaurant licenses.
- 1. [Proposal](#) submitted by Juliann Adams on May 11, 2023.
 - 2. Overview of Discussion
 - a) A representative from the distillery manufacturers expressed significant concerns with this proposal, which include the following:
 - (1) The manufacturers overall oppose any proposal that involves a production cap.
 - (2) There is confusion in the way this proposal is worded, specifically items that contradict each other (for example, implementing production caps while also allowing for noncontiguous locations).
 - (3) The proposal addresses aspects of the manufacturing tier without robust representation from the manufacturing industry on the subgroup to address any concerns or items that could directly impact the manufacturers.
 - b) The division acknowledged the above concerns regarding the proposal and stated this proposal was originally intended to be focused on the retail tier regarding distillery pubs, brew pubs, and vintner's restaurants. Specifically, the previous discussion centered on how to merge these three license types into one. The confusion may have come because all three have manufacturing privileges but also have production caps.
 - (1) The division also stated there is a need for the subgroup to recognize the three tier system (wholesalers, manufacturers, and retailers); the division acknowledged where this proposal was

intended to go and believes the wording unintentionally ventured into the manufacturing tier.

c) Elements of this proposal came from conversations had with vintner's restaurant owners who stated that once they were licensed under the retail tier, they lost their privileges as limited wineries/wine manufacturers, specifically their ability to ship wine to consumers. The intent with this proposal is to allow vintner's restaurants to keep the manufacturing privileges they previously possessed as a licensed limited winery.

(1) The division's concern with this is that if business owners want to ship their products, they can operate as a limited winery. If they want the privilege to sell three types of alcohol on the licensed premises, along with manufacturing and wholesale privileges (within the production caps), they need to operate under the retail tier (vintner's restaurant). Essentially, the division feels that business owners need to determine which license best fits their business model. However, the division acknowledges this can lead to a slippery slope with breaking down the three-tier system, which the division does not believe was the original intent. The division feels that the Licensing subgroup should focus their discussion on condensing/consolidating the license types at the retail tier, and then if there is a perceived need to examine licenses within the wholesaler and/or manufacturer tier, then members of the Marketplace Structure subgroup should be invited to participate in the discussion.

d) Following the above discussion, the facilitator provided an overview of a visual breakdown of the Brew Pub, Distillery Pub, and Vintner's Restaurant licenses, highlighting their differences and similarities.

e) There was brief discussion around why these three license types are restricted from shipping privileges. This question relates back to direct-to-consumer shipping, which has been tabled for further discussion in the Marketplace Structure subgroup. The Marketplace subgroup will be revisiting direct-to-consumer shipping in the summer.

f) Following the discussion around this proposal, it was suggested that merging brew pubs, distillery pubs, and vintner's restaurants wasn't an ideal approach. *No further discussion was made on this proposal by the subgroup members.*

3. Public Comment

a) *No public comment was provided on this topic.* The public and industry members can provide comments and feedback for consideration via the [public comment form](#) or by emailing the division at dor_led_rulemaking@state.co.us.

C. Discussion 3: Creation of retailer event licenses

1. [Proposal](#) submitted by Andrew Klosterman via public comment on May 20, 2023.
 - a) There are four main elements to this proposal:
 - (1) A retail licensee is allowed to apply for a catering license/permit with an annual renewal. The permit allows the licensee to sell and serve alcohol at an offsite location after submitting a temporary catering permit for each event.
 - (2) For each temporary catering permit, the licensee submits an online form to the division with basic event information, including a permission letter from the venue allowing access and regulatory control to the LED.
 - (3) In likeness to the existing nonprofit special event liquor license, the catering permit would start and end at a specific date and time and requires the licensee to maintain control and accountability of the area, with the same privileges and restrictions.
 - (4) The retailer is responsible and accountable for providing safe service during the duration of the event and may be held liable if infractions occur - both to the temporary permit and/or the main retail license.
2. Overview of Discussion
 - a) There was a question from the retailer representative if this proposal permits the retail establishment to attend the event and also act as the bartender/server/et cetera.
 - (1) The general intent of this proposal is to achieve an aspect of the nonprofit special event license, which allows a retailer to temporarily authorize an offsite location to sell and serve alcohol. While off-premises retailers can currently utilize this privilege, there is a lack of clarity for how, exactly, they are able to do so; this is an attempt to clarify how the system can work in Colorado. There is also a public safety concern with the lack of information that LED receives on how and when these events occur.
 - (2) The other intent behind this proposal is to remove the nonprofit requirement for entertainment establishments to participate in special events, as this is not always feasible for business owners.
 - b) The proposal was deliberately left vague in terms of whether this license would be available for on- or off-premises licensees. Mr. Klosterman stated this was up for the subgroup members to discuss.
 - (1) A restaurant representative expressed support for on-premises businesses being allowed to participate, as the current restrictions do not permit on-premises licensees to make a profit when they function in a catering role.

- c) There was some concern around the requirement of notifying the LED. It was suggested that the proposal, as currently written, is too vague and should be fleshed out to include deadlines and/or turnaround timelines for when the permit-holder notifies the division and when they should expect to receive a response.
 - (1) It was clarified that two tiers were initially envisioned under this proposal: one would be for small events (e.g., a wedding) and one would be for large public events (e.g., a concert). For smaller events, permit holders would only need to provide the division with general information about the event, while large public events would require an approval system. This is how the system works in Texas.
 - (2) Another goal of this proposal was to infringe upon instances in other states, where the division could be notified about an event the day before it's scheduled. There was a suggestion for the division to implement "hefty" fines for any last-minute notifications to cover some of the administrative costs. For example, in Texas the permit fee is \$750.00 if the notification is received the day before the event is scheduled to occur. (The fees start at \$25.00.)
- d) A representative of the distillery manufacturers brought up two points:
 - (1) Will manufacturers, with their retail privileges, be included under this proposal?
 - (a) The proposal is open to including any retail tier.
 - (2) There are notable similarities to the festival permit. Could this proposal be worked into the existing festival permit with the intention of expanding/clarifying the permit?
 - (a) It was mentioned that the festival permit is a one-time permit while this proposal relates to a license with an annual renewal built in.
 - (b) It seems that, under this proposal, caterers are seeking approval to be at various locations and sell alcohol, and this proposal requires them to provide details about the events each time. This process feels more streamlined than with the festival permit, which requires a new application each time.
 - (c) Also, the intention of the festival permit is designed to satisfy the specific needs of a festival, while this proposal addresses different kinds of events (weddings, concerts, etc.).

3. Group Decision

- a) Don Strasburg was asked to revise this proposal based on the discussion points brought up during today's meeting and provide it to the division

by email at dor_led_rulemaking@state.co.us. **Deadline for submission is June 8, 2023.**

4. Public Comment

a) Dustin Chiappetta, Pearl Wine Company

(1) One thing that should be mentioned is one of the issues around moving to any other kind of license [catering license or another license] is that retailers are limited to just one license that can be held. Any interaction being under an on-premises license would get “buried in.”

(2) When rewriting the proposal, Mr. Chiappetta asked that Mr. Strasburg think about how retailers would have to have access to possess that new license as well. Maybe this is a problem overall, that there isn’t availability for a retail license to have any business interest in any other license besides an art-type license.

(a) Mr. Klosterman stated that the idea was for this to function similarly to a delivery permit.

(3) In response to Mr. Klosterman’s comment, Mr. Chiappetta stated this privilege could function as a permit, specifically a delivery permit, but the component of serving alcohol could result in retailers transferring into other things. Perhaps holding a catering license at the same time would address this issue.

b) *No additional public comment was provided on this topic.* The public and industry members can provide comments and feedback for consideration via the [public comment form](#) or by emailing the division at dor_led_rulemaking@state.co.us.

D. Discussion 4: Potential consolidation of Lodging & Entertainment (L&E) license type.

1. [Proposal](#) submitted by Andrew Palmquist on May 25, 2023.

a) There are two main elements of this proposal:

(1) Create a new entertainment venue liquor license to be issued apart from a regular restaurant license. This license would be specific to live entertainment venues, remove administrative time and costs that currently exist when a venue tries to function as a restaurant license to sell alcohol. There would be no food requirement other than serving snacks.

(2) Create a single “Entertainment Venue Liquor Licensing Authority” under the state of Colorado which would streamline the licensing process for non-restaurant entertainment venues.

2. Background

a) This proposal was modeled after a recent [California bill](#).

3. Overview of Discussion

a) There was a question about whether this license could be merged into the existing entertainment license.

b) After brief consideration of this proposal, it was decided that further discussion would be tabled for the next subgroup meeting. Mr. Palmquist

will be able to further elaborate on his intention and thought behind the proposal.

4. Public Comment

- a) *No public comment was provided on this topic.* The public and industry members can provide comments and feedback for consideration via the [public comment form](#) or by emailing the division at dor_led_rulemaking@state.co.us.

IV. Topic Discussion: Consolidation of Off-Premises License Types

A. Discussion 1: Should the Licensing subgroup consider any consolidation of off-premises licenses?

1. Overview of Discussion

- a) There was a question raised regarding what exactly is meant by “consolidation” of the license types. Generally speaking, this term relates back to the original intention of the Liquor Advisory Group as a whole: consistency, collapsing, reducing ambiguity, et cetera. The retailer representative felt this was a much larger discussion and that this was not a topic that the subgroup may want to consider.
- b) There was concern regarding small representation on the Liquor Advisory Group as a whole from off-premises retailers and none are members of the Licensing subgroup.

2. Group Decision

- a) The decision was to table this discussion for the next subgroup meeting and put some content to it. If the feeling, during that time, is that this is not a topic for the subgroup to address, it will not be discussed further.

V. The public and industry members may provide comments and feedback on any of the topics addressed during this meeting via the [public comment form](#) or by emailing the division at dor_led_rulemaking@state.co.us.

VI. Action Items

- A. Don Strasburg was asked to revise the [retailer event license proposal](#) based on the discussion points brought up during today’s meeting and provide it to the division by email at dor_led_rulemaking@state.co.us. **Deadline for submission is June 8, 2023.**

The next Licensing Subgroup Meeting will be on June 22, 2023 from 1:00 p.m. to 3:00 p.m.