



COLORADO
 Department of Revenue
 Specialized Business Group—
 Liquor & Tobacco

Physical Address:
 1707 Cole Blvd., Ste. 300
 Lakewood, CO 80401

Mailing Address:
 Colorado Liquor Enforcement Division
 P.O. Box 17087
 Denver, CO 80217-0087

Liquor Advisory Group Regulation of Retail Operations Subgroup

Meeting Minutes

June 15, 2023

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

- I. Welcome and Introductions
- II. Review Subgroup Process and Expectations
 - A. Review the timeline of topics (see page 3 of the [agenda](#)).
 - B. Volunteer to provide the subgroup update at the July LAG meeting.

1. Dana Faulk Query will provide an overview of the subgroup discussion at the July LAG meeting.

III. Proposal Discussion: [Make To-Go Drinks Permanent](#) (proposal submitted by Dana Faulk Query)

A. Overview of Discussion

1. There was robust discussion on this proposal, primarily between the on-premises licensees and off-premises retailers. Highlights of the discussion are as follows:
 - a) A representative from the off-premises retailers expressed that making to-go alcohol beverages permanent for on-premises businesses was premature and more time was needed to get a clearer idea of how this practice is going to impact off-premises retailers. The concern was expressed that this will negatively impact retail liquor stores, and the presence of “bad actors” during the pandemic was also addressed.
 - (1) The opinion was expressed that “everyone” is taking from the retailer liquor stores and these licensees aren’t “getting anything back.” This point was somewhat countered by the restaurant representatives, that restaurants are also suffering and haven’t yet recovered from the pandemic. Additionally, they are contending with increased costs of goods and an inability to charge what, based on these increased costs, they should charge because customers will not pay those prices. To-go alcohol sales are potentially a way to make up for these increased costs.
 - (2) Regarding “bad actors,” there was an additional comment about making the penalties more significant to deter such behavior (e.g., the loss of a liquor license).
 - b) Representatives from the restaurant industry mentioned that prior to May 11, 2023, on-premises locations operated without limitations on to-go alcohol sales, and they did not feel there was a negative impact on retail liquor store sales. However, these representatives did acknowledge that there were multiple variables at play during this time, including but not limited to more people purchasing greater quantities of liquor to take home. It was also acknowledged that there were “bad actors” under this privilege during the pandemic; the restaurant representatives were optimistic that these new limitations would significantly decrease the number of bad actors in the industry.
 - (1) The division requested that if any members of the Liquor Advisory Group and/or the public are noticing bad actors in the industry, please report them to the division. These incidents will be looked into by the enforcement team.
 - (2) In regards to comments made about more significant penalties for licensee violations, the division noted that it does have administrative powers to remove the permit or license if deemed appropriate.
 - (3) At this time, the division emphasized that they are trying to educate these parties because there was a period of time when

to-go alcohol sales were unlimited, and the change is fairly recent. The division is working on educating all liquor licensees about the changes and how they will impact their business privileges.

- c) For the sake of obtaining more data, as the new limitations for on-premises to-go alcohol sales have only been in place since May 11th, it was suggested that this discussion be tabled until August, during which time more data could be collected on potential impacts. The subgroup members agreed to table the conversation and collect data in the interim. The subgroup will readdress this proposal during the August subgroup meeting.

(1) The time period for data collection would be two parts:

(a) March 2020 to May 11, 2023; and

(b) May 11, 2023, to August 17, 2023 (date of the August subgroup meeting)

IV. Topic Discussion: Measures to Promote Public Safety

- A. This discussion aimed to promote public safety by preventing underage drinking and reducing alcohol abuse and law enforcement engagement. Topics previously proposed by the subgroup included the following:

1. Put the Alcohol by Volume (ABV) on all alcohol products (beer, spirits, and wine).
2. Put restrictions in statute regarding where alcohol products can be placed in grocery and convenience stores (e.g., candy and soda pop aisles, near entrances and exits).
3. Allow the division to charge licensees for all investigations, provided it can be proven that said licensee committed the violation.
4. Penalties for manufacturers of fake identification cards.
5. Required testing before the issuance of a liquor license.
6. Increased penalties for shoplifting alcohol products.

- B. Overview of Discussion

1. It was clarified that, due to the varied nature of these proposed measures, separate proposals would be submitted to the LAG for a vote.
2. A new topic was proposed for the subgroup to discuss: adding identification scanners for alcohol purchases, similar to those presently existing for cannabis dispensaries. This suggestion received robust discussion, the highlights of which are as follows:
 - a) The division has considered this practice but did not feel it was an efficient business practice to require. There are multiple types of businesses with a liquor license, and requiring them to utilize the same vendor for these scanners would be difficult. The division did add that the subgroup could look at how the Marijuana Enforcement Division (MED) drafted the rule around installing these scanners; however, they would have to be cautious about the possible ramifications of utilizing a specific vendor.

- (1) An off-premises representative agreed that they would not be in favor of having a specific vendor required. Some of these off-premises locations already have scanners in place and would only be amenable to changing vendors if it could be proven that the state-required vendor functioned better than what they are already using.
 - (2) Another subgroup member expressed interest in examining the reliability of these scanners, as there is some concern that the technology could just be an “illusion” to discourage illegal sales.
- b) The on-premises representatives felt this could be a good practice in off-premises establishments but that it would be a logistical and operational challenge for on-premises businesses to accomplish. They felt it was an unfair practice to compare restaurants to cannabis dispensaries.
- (1) The division clarified that having scanners in the dispensaries is not required under the marijuana rule; MED requires that the clerks verify that the ID has been checked and is valid. The Liquor and Tobacco Enforcement Division has a similar rule but chose not to include any requirement to use scanners because the division didn’t want to make licensees invest in the technology. The division isn’t sure that this should be set in statute and is happy to continue this conversation in rulemaking.
- c) The discussion also referenced a [public comment](#) previously submitted by the Pueblo Liquor Group, highlighting concerns with alcohol sales in self-checkout lines. During the meeting, the division responded to this comment, stating that the enforcement teams do test self-checkout lines and haven’t yet found a store that allows a minor to complete the sale and take the alcohol with them. If an adult is at the self-checkout counter with an alcohol product and presents their ID to the clerk, the adult is the one who should be completing the sale. If an adult completed an alcohol sale for a minor, both the licensee and clerk would be held responsible, the adult would be charged with contributing to the delinquency of a minor, and the minor would be charged with possession of alcohol.
- (1) The division added that if any member of the subgroup or public would like to provide the division with specific store information where these violations occur, the division will contact the licensee and its clerks.
- d) There was an equally robust conversation among the subgroup members specifically regarding the use of fake identification and/or legal identification used by someone underage.
- (1) The division was asked about the existing consequences for the underage purchase of alcohol products. The division stated that there was previously a statute that required the minor who made the purchase to complete training. They were also issued a

summons for the illegal purchase. However, this statute was removed a couple of years ago because the General Assembly didn't want to penalize youth by having something on their criminal history for the rest of their lives. There is currently a penalty under 18-13-122, C.R.S. (Illegal possession of consumption of ethyl alcohol or marijuana by an underage person); however, the penalty is for possession of the alcohol product, not for use of the fake identification.

- (a) The division echoed a previous comment that many of the companies who design the fake IDs are out-of-state and/or operate overseas, which makes holding the companies responsible difficult.
- (2) Several members of the subgroup also addressed underage persons who use legal identification that belongs to, for example, a family member who is of age. The division stated that licensees have options when these incidents occur; they can confiscate the ID and contact law enforcement to cite the responsible party (the person to whom the ID belongs) for providing a fraudulent form of identification. Law enforcement can also contact the DMV and have the ID canceled.
 - (a) When a licensee is in doubt that the person in front of them is the person named on the ID card, they can always ask questions that the underage person may not know.
- (3) The division was also asked about who would be liable when a legal ID (not belonging to the consumer) was successfully used to sell alcohol and consumed by the customer, resulting in a drunk driving crash. In this situation, the division stated that the enforcement team would conduct its own investigation while local law enforcement performed theirs, and these situations would be handled on a case-by-case basis to determine if the licensee would be held responsible.
- e) The subgroup members briefly discussed the potential of implementing an incentive program for businesses to train owners and staff on how to recognize fake IDs and/or falsified accounts. This discussion was intended to minimize the reliance on law enforcement, as many restaurant industry members didn't feel that responding to a fake ID for alcohol purchase was a high priority and that law enforcement doesn't have the bandwidth to respond to these calls.
- f) The facilitator determined that if any member of the subgroup wished to draft a proposal for either more extreme penalties for underage drinking/using fake IDs and/or incentives for retailers to check IDs to prevent underage alcohol purchases, these proposals should be submitted prior to the July 13th LAG meeting.

3. Put the Alcohol by Volume (ABV) on all alcohol products (beer, spirits, and wine).
 - a) Current regulations around ABV labeling requirements are as follows:
 - (1) Wine (less than 14 oz) = ABV labeling is not federally mandated
 - (2) Malt Beverage (less than 5% ABV) = labeling is not federally mandated
 - (3) Wine (more than 14 oz) = ABV labeling is federally mandated
 - b) When this topic was discussed during the June 6th LAG meeting, the manufacturers expressed that they opposed any changes in labeling their alcohol products. They already have strict federal regulations around labeling requirements.
 - (1) It was briefly suggested that any proposal around this should be discussed in the Marketplace Structure subgroup, as that subgroup has a stronger manufacturer representation.
 - (2) The division acknowledged the industry's concerns regarding costs associated with label approval to add the ABV line. Additionally, the division recognized that requiring this on products that only enter the state of Colorado could be an issue given that many products are sold worldwide, and changing the label from one state or district to another would be complicated.
 - c) Representatives from the restaurant industry stated that listing the ABV for all their products, specifically for cocktails/mixed drinks, would be "logistically impossible."
 - (1) The division understands the cost concerns for both the manufacturers and restaurant licensees. The division is considering this practice for off-premises licensees, not on-premises establishments.
 - d) The subgroup members briefly discussed the lack of education about what ABV is and how it affects consumers. The division agreed that most consumers don't understand what ABV is; it has been noticed that some consumers visiting from another state will consume a craft beer, thinking it's 5% ABV and, instead, 15% ABV. The division agreed that there needs to be more education for the public about what ABV is and is trying to think of ways to achieve this.
 - (1) To this point, it was commented that consumers likely do not understand the impact of high altitude on alcohol intake. This could be another point to educate the consumer on.
4. Put restrictions in statute regarding where alcohol products can be placed in grocery and convenience stores (e.g., candy and soda pop aisles, near entrances and exits).
 - a) There was robust discussion among the subgroup members about how this could impact convenience stores versus grocery stores, the highlights of which are as follows:

- (1) A convenience store representative stated opposition to any restrictions on where they can place alcohol products, as the current practice is to place these products in the line of sight for both employees and cameras. However, this representative did acknowledge the layout differences between convenience and grocery stores and that what works in a convenience store wouldn't necessarily work in a grocery store.
 - (2) There was a question about any existing data supporting this restriction being in statute rather than leaving it up to the business owner's discretion. The division has received multiple complaints and photographs related to this concern, with the placement of alcohol products in grocery stores seeming to be marketed towards kids and not adults (e.g., chips/snack aisles, candy aisles, etc.), especially with the intermingling of soda and hard products. Parents have reported purchasing a hard product by accident and serving it to their children. The division is interested in educating the public, ensuring that alcohol products can't be easily stolen (e.g., placing alcohol at entrances and exits), and expressed that it is more interested in telling licensees where the products shouldn't be, not where they should be.
 - (3) To the point of parents mistakenly purchasing hard products, the convenience store representative pointed out that parents should be asked for their ID before the sale can be completed, making their error apparent before the product leaves the store. However, another subgroup member provided recent personal experiences where she almost purchased a seltzer instead of an energy drink because the cans looked similar. She also purchased alcohol at a grocery store and was not ID'd to complete the sale. It was also noted that some grocery stores are not doing much to keep alcohol out of children's reach (e.g., alcohol placed on low shelves and/or located at end caps of aisles).
- b) Several subgroup members supported the idea of alcohol products being located in a designated area in both convenience and grocery stores, where the area is clearly marked as containing all alcohol products. This would not have to be a separately constructed area in the store.
 - c) It was also mentioned that conversations are being had in the industry, on a national level, around the comingling of hard products and soda products. There is existing legislature in a number of states, so if the LAG wishes to move forward with this proposal, these pieces of legislation could be a helpful reference.
 - d) The final discussion on this topic was around labeling hard products; there was a suggestion to make the labeling explicit with larger font stating the alcohol content. The division stated it would want to consult with its federal partners before proposing changes to the labeling

requirements, as there are already requirements around “hard” products, and the division is unsure if the federal regulators would be willing to change this. Signs have been printed in a specific font type and size, which must be posted to say, “This is an alcohol product” so that customers understand what they’re buying.

5. Allow the division to charge licensees for all investigations, provided it can be proven that said licensee committed the violation.
 - a) Currently, the only ability that the division has to charge for investigations is in the case of an Assurance of Voluntary Compliance; while the licensee is not admitting guilt in this situation, the division can charge for the investigator’s time. The proposed idea is to charge a standard hourly rate; however, the final amount would depend on the length of the investigation, as some investigations, such as a source investigation with death, takes far more time than a compliance check violation.
 - b) Some members of the subgroup expressed concern about there being “no end” to the hourly rate (i.e., no “cut off”); the division expressed that it does not want to implement a “cut off” to the hourly rate because each investigation is different. If the accusation is unfounded or it is proven that the licensee wasn’t involved, they will not be charged for the investigation.
 - c) There was additional concern about licensees erroneously being found guilty. The division advised that nothing is taken to administrative action if the division doesn’t feel they have the facts to prove the case, and it would be rare to move a case forward without those facts. The licensee and their legal counsel are always welcome to make an argument against the facts.
 - d) The facilitator stated that if any subgroup member wishes to draft a proposal around this topic, these proposals should be submitted before the July 13th LAG meeting.

C. Public Comment

1. Larry Hudson, *Safeway*

- a) Mr. Hudson’s first comment addressed the discussion around the self-checkout process with alcohol products. From Safeway’s standpoint, someone is always there throughout the transaction when the consumer buys alcohol. It has not been an issue for Safeway over the last few years; for any employee that either fails to check an ID or does not go through the training that they have been given to check an ID, Mr. Hudson stated that the company doesn’t have an incentive process but instead “a pretty big hammer.” The employee can be suspended for a serious amount of time; for a second offense, they are dismissed from employment. Mr. Hudson expressed doubt that this is something the state wants to mandate for retailers, but it is a policy Safeway has had in place,

even during the 3.2% beer days. Mr. Hudson thanked the division for its comments on how it has viewed the self-checkout process.

- b) Mr. Hudson's second comment addressed the alcohol products being placed near or in certain aisles in grocery and convenience stores. In many states, including Colorado, beer may be sold across the aisle from, for example, chips. It is not intermingled, just sold across the aisle, because "beer and chips/snacks go together." In relation to candy, product placement is not intended to market alcohol products to underage shoppers. Also, Mr. Hudson expressed that most children buying candy are doing so at the checkout aisles; they are not purchasing the full bags of candy in the designated candy aisle. Again, Mr. Hudson stated that the alcohol products are located across from the candy aisle, not intermingled. Adults are buying larger bulks of candy (e.g., for holidays). This is the practice in many states that have been selling beer and wine in grocery stores longer than Colorado, and it hasn't been a problem. Also, for any parents who are purchasing alcohol products by accident, their IDs would be checked either during self-checkout or regular clerk-manned checkout.
- c) In some of the instances that have occurred since March, particularly when wine was put into grocery stores, Mr. Hudson stated that many stores had to put alcohol in different areas of the store via a temporary modification of premises process. Mr. Hudson stated that the locals were involved in and had to approve this process and that this was temporary until the stores received new permitting for the premises, at which point they could put all their alcohol in the locations where they wanted to house these products. If it was seen in other areas, such as the candy aisles, it was because the stores didn't have the space in the days after the ballot initiative became effective in March.
- d) Mr. Hudson also agreed with the issues around having beer and wine located near entrances and exits of grocery and convenience stores, not only from a public safety concern but also from a shoplifting concern. Maybe regulating or restricting this would be something for the subgroup to look at.

2. Shawnee Adelson, *Colorado Brewers Guild*

- a) Ms. Adelson's first comment addressed the discussion around the ABV labeling requirements. Ms. Adelson's understanding from the June LAG meeting was that this requirement would cover all alcohol, regardless of where it was sold; it sounds like the proposal may have changed to a pre-packaged product.
 - (1) The division stated that it originally took the position that all alcohol products should include the ABV on the labels; however, the division understands the difficulty surrounding this with mixed drinks and cocktails and amended its position.

- b) To this point, Ms. Adelson also expressed that she didn't know the last time she purchased a beer that wasn't labeled with the ABV. She buys beer based on the ABV for personal reasons, and most breweries already do this on their menus and labeling. Requiring it would add an administrative cost in addition to existing labeling costs. Ms. Adelson also stated that she felt beer was being singled out compared to on-premise retailers and their cocktails and/or other drinks. Why would breweries and beer have to be the ones to comply as opposed to others?
 - (1) The division clarified that malt beverages are not being singled out in this discussion. Rather, the division stated that this would cover all types of alcohol sold in an off-premises retailer. Purchases have been made at a liquor store that did not have the ABV on the label. Additionally, the division has heard from visitors to the state that they became intoxicated faster than usual after consuming an alcoholic beverage without the ABV on the label.
 - c) Ms. Adelson's second comment addressed the discussion around the division charging for investigations. Ms. Adelson acknowledged the division's position on this, especially in how it could help with funding; however, her position is to ensure there will be strong guardrails around it. There could be a conflict of interest with investigators trying to go after people "just to raise some money." Ms. Adelson expressed an interest in seeing some proposals from the subgroup on restrictions around this.
 - (1) The division stated that there is integrity here, and it would be a post-violation just to conduct an investigation to make money. Therefore, this would not be a possibility.
 - (2) However, the division is willing to sit down and discuss ways for the administrative law judge to determine the investigation's validity at the hearing to ensure that this concern is not happening.
 - d) Ms. Adelson's final comment was to request that public comment be taken after discussing each topic.
 - (1) The division stated this would be the process moving forward with topic discussions in the Liquor Advisory Group.
3. Jackie Seybold, *Big Bear Wine & Spirits/The Pueblo Liquor Group*
- a) Ms. Seybold stated that she was pleased to hear all the conversation around public safety; as the mom of a high school freshman, not letting minors get alcohol has been high on her priority list. Ms. Seybold expressed that self-checkout has "been a thorn in [the] side" of the Pueblo Liquor Group, of which there are twenty-eight members. In Pueblo, it is a "known fact" that for self-checkout, a consumer can take, for example, a Monster energy drink and a hard product, scan the energy drink twice, and walk out with both products. Ms. Seybold stated that the

Pueblo Liquor Group believes this would not happen if it was a face-to-face transaction; however, she understands that the store's needs to run a business must also be balanced. Ms. Seybold asked if there was a specific self-checkout that could be used only for alcohol purchases to ensure face-to-face interaction, or if there was a way that each city or jurisdiction could decide whether they wanted to participate in the self-checkout process. Ms. Seybold stated this was the Pueblo Liquor Group's "main concern" right now. She added that clerks will check identification, but it has been her experience that they will look at her and ask for her birthday, and after she provides them with a date, no further action is taken (i.e., they don't verify her date via identification). Ms. Seybold stated that this was an issue at "every single self-checkout in Pueblo" and that her underage son could purchase alcohol without issue.

4. No additional public comment was offered on this discussion. If the public wishes to submit additional comments or input, they may email the division at dor_led_rulemaking@state.co.us.

D. Future Discussion Items

1. The Regulation of Retail Operations will continue the public safety discussion during the July subgroup meeting, focusing on the following topics:
 - a) Penalties for manufacturers of fake identification cards.
 - b) Required testing before the issuance of a liquor license.
 - c) Increased penalties for shoplifting of alcohol products.

V. Action Items

- A. The subgroup members decided to table further conversation around [making to-go alcohol drinks permanent](#). In the interim, Ms. Faulk Query will begin collecting data on how many to-go sales for alcohol comprise revenue for on-premises establishments since the new limitations were put in place.
 1. Any off-premises retailers who wish to submit their revenue reports, during the pandemic and since the May 2023 limitations on to-go alcohol sales were put into place, may provide these to the division at dor_led_rulemaking@state.co.us. This data will be collected for further consideration during the August subgroup meeting.
 2. The time period for data collection would be two parts:
 - a) March 2020 to May 11, 2023;
 - b) May 11, 2023, to August 17, 2023 (date of the August subgroup meeting)
 3. Additional data sources could include the National Restaurant Association and the Wholesalers Association.
- B. If any member of the subgroup wishes to draft a proposal for either more extreme penalties for underage drinking/using fake IDs and/or incentives for retailers to check IDs to prevent underage alcohol purchases, these proposals should be submitted prior to the July 13th LAG meeting.

- C. If any member of the subgroup wishes to draft a proposal to allow the division to charge licensees for investigations where it can be proven that the licensee committed the violation, these proposals should be submitted prior to the July 13th LAG meeting.

The next Regulation of Retail Operations subgroup meeting will be held virtually on July 20, 2023, from 11:00 a.m. to 1:00 p.m.