



COLORADO
 Department of Revenue
 Specialized Business Group—
 Liquor & Tobacco

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Liquor Advisory Group Regulation of Retail Operations Subgroup

Meeting Minutes

July 20, 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>	Absent
<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
<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>	Absent
<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 2 of the [agenda](#)).
 1. The subgroup meetings will conclude in August. The September subgroup dates will be held on an as-needed basis.

- B. Volunteer to provide the subgroup update at the August LAG meeting.
 - 1. Sara Siedsm will present the subgroup discussion at the August LAG meeting.
- III. Topic Discussion: Measures to promote public safety by preventing underage drinking, and reducing alcohol abuse and engagement of law enforcement (continued discussion).
- A. Discussion 1: Allow the Liquor Enforcement Division to charge for investigations.
 - 1. This proposal was addressed during the June 1st Liquor Advisory Group meeting and was added to the subgroup agenda for further discussion.
 - a) Currently, the division is only permitted to charge for investigations when the licensee signs an Assurance of Voluntary Compliance (AVC), with the understanding that the licensee is not admitting to having committed the violation.
 - b) Currently, all fines go to the General Fund, not to the division. This fee would benefit the division by reimbursing the amount of time that investigators are putting into investigating noncompliance. If the division receives “excessive funds” as a result of the fee, the division would be able to lower license fees for the industry.
 - 2. Following the previous discussion around this item, the division added or emphasized certain aspects of the proposal for the subgroup’s consideration:
 - a) The division emphasized that it would only charge for investigations where the licensee has admitted guilt or has been found to be in violation by an administrative judge.
 - b) The division would not charge investigative fees for compliance check violations. Rather, the division anticipates that the fee would be charged in the case of long-term investigations.
 - c) The division expressed its willingness to build in a dollar restriction on the fee amount.
 - 3. The proposal received overall support from the subgroup members. The subgroup felt this proposal fell in line with earlier subgroup discussions around the philosophy of “making it easy for people to do the right thing and focusing on those who aren’t.”
 - 4. There was ample discussion about how the fee would work under this proposal:
 - a) One subgroup member suggested that the fee amount to ten percent of what the overall investigation cost. Another subgroup member asked if the division could provide a “ballpark” average amount for an investigation.
 - (1) The division explained that investigations vary in duration of time; for example, some investigations can amount to 150 hours. The division stated that it imagines calculating the fee at a rate of fifty dollars per hour and expressed a willingness to work with the industry to determine a specific amount that an investigation fee could not exceed.
 - (2) Additionally, the division commented that this proposal is not a way to promote funding, and the violation would have to be provable either because the licensee admitted guilt or was found

guilty via an administrative hearing. Investigators couldn't just "make up" a charge, as was previously suggested; the proposal would have guardrails in place.

- (3) Overall, the division stated the fee would be implemented for long-term investigation follow-up, not for compliance check violations.

5. Public Comment

a) Joan Green Turner, *J. Andrew Green & Associates, Inc.*

- (1) Ms. Green Turner asked several clarifying questions about this proposal. First, she asked what other administrative costs could be rolled into the fee; for example, would the fee extend to the cars that investigators used? Second, noting that any fines collected by the division must go into the General Fund, Ms. Green Turner asked how much money the division has collected in the last couple of years through investigations.

- (a) The division explained that no funds have been collected through investigations, as this is not currently permitted under the statute. All fees, such as any type of stipulation order, go to the General Fund. Some of these fees are from compliance check investigations, and the division doesn't intend for this proposal to apply to these types of investigations. The division envisioned this fee being charged for more lengthy investigations.

- (b) Additionally, the fee would be only the cost of an investigation; cars and gas would not be included as they are already rolled into the fee structure. This would only be for the criminal investigator's time investigating the violation. The investigator's time spent testifying would also not be included in the fee; however, if something is divulged during an administrative hearing that requires additional investigation, this time would also be charged.

- (2) Ms. Green Turner asked if this would just be investigations above and beyond the existing fines. The division explained that this fee would be separate from fines. Fines are calculated from a penalty structure, and the division has a formula in place for these calculations. The division would not touch this formula, as it was diligently worked on by both the division and industry, and the division does not intend to make adjustments unless it hears the system is no longer working. This proposal would be a new piece to the statute to give the division the ability to charge for investigative time with a built-in beginning and end cap on the amount that can be charged (for example, fifty dollars per hour).

(3) Ms. Green Turner's next clarifying question was in the instance of the division conducting a sting: would the fee include the salaries of the underage operatives that are brought in for the sting?

(a) The division stated that the fee would not cover minor operatives and would only cover the cost of investigations by criminal investigators and compliance investigators. Many of the cases are "hidden ownership" cases or traffic fatalities where an establishment is then determined to be involved. The division remarked that these investigations can accumulate up to 70 to 100 hours of investigative time. Also, in related-death cases, investigators immediately begin their investigation because these are considered emergency situations. The division again emphasized that the fee would not be applied to a simple compliance check.

(4) Ms. Green Turner asked about situations when the division and licensee reach an agreement, wherein the licensee is fixing an issue after a violation occurred. Essentially, Ms. Green Turner asked if it would be a disincentive for licensees to try and work with the division to solve a problem because they're afraid admitting any guilt will result in them being charged administrative costs.

(a) The division stated that this would be something to consider putting into the statute and that the division intended to give the power for the division and licensee to negotiate. The division would have to prove the number of hours put into an investigation and then provide this information to the attorneys, to be then used as part of the negotiations. The division would not be prohibited from having these negotiations.

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

6. Motion

a) The subgroup members requested that this proposal be put into written form for further discussion and consideration. With the limited number of meetings left for the LAG to review and discuss proposals, the facilitator suggested that the concept be put to a vote to move the discussion to the Liquor Advisory Group. The division will write up an official proposal for this concept.

b) Motion to bring this concept to the LAG for further discussion made by Ed Cooper. Motion seconded by Erika Zierke.

7. Vote

- a) The motion passed with no dissenting votes recorded.
- B. Discussion 2: Create a new statute regarding the sale of illegal drugs at a retail liquor store.
1. Introduction to Proposal
 - a) Currently, there isn't a provision in the Liquor Code that allows the division to take action, under the Liquor Code, against a license if someone is selling illegal drugs or controlled substances on the licensed premises. There is a rule under "Conduct of Establishment" (Regulation 47-900) that serves as a "catch-all," but nothing that addresses this specific issue.
 - b) The division has encountered instances where a retail liquor licensee has engaged in these kinds of activities and would like to be able to address the issue via administrative action under the Liquor Code, in addition to the criminal provisions that are in statute. To accomplish this, the division would like to propose a new statute modeled after a California law, which would allow the department to take administrative action against a retail licensee (e.g., revocation of license, if appropriate) if the licensee knowingly permits the illegal sale or negotiations for the sale of a controlled substance and other dangerous drugs on their licensed premises.
 - c) The division recognizes that liquor-licensed drugstores (LLDS) sell controlled substances as part of the pharmacy function of this particular license type; the division would propose specific language that excludes these permitted activities under the LLDS license type.
 - d) If the subgroup were to move forward with this proposal, the division stated it would be happy to put forward specific language addressing the LLDS exception and any other issues the subgroup members feel should be addressed.
 2. Overview of Discussion
 - a) The proposal overall received support from the subgroup members. The subgroup did ask for some clarification from the division, specifically around the matter of a retail licensee "knowingly" allowing the sale of controlled substances. In response, the division stated the following:
 - (1) The division would conduct an investigation into any claims of a retail licensee (or manager of the facility) knowingly allowing and/or participating in the sale of controlled substances on the licensed premises.
 - (2) There would be a high burden of proof for it to be proven that the licensee was aware of the activities. If the licensee was unaware of the situation and the sale was being conducted by someone else (e.g., an employee), the division would educate the licensee and allow them to take action.
 - (3) If the licensee was previously given notice of these activities occurring on the licensed premises by the division and the

activities have since been found to be continuing, the division would consider the licensee to be knowingly allowing this behavior and consequently would be held accountable.

- b) There was a question raised about whether the language of “knowingly allow” was a loophole in the proposal, and if there were any other loopholes that should be addressed. The division stated that it doesn’t consider this language to be a loophole; rather, the language would be a specific charge rather than a “conduct of establishment” administrative charge. Additionally, while there is an option to charge the licensee under Title 18, doing so would require participation from a municipal/county court judge, as well as local law enforcement and the district attorney’s office. Without that support, the division has no “teeth” to address the issue. The division would like more ability under administrative procedures to take action, and this new proposed statute could be more specific as to the charge at hand.

3. Public Comment

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

4. Motion

- a) The subgroup members overall expressed support for furthering this proposal. The division will write up an official proposal for this concept and provide it to the LAG members to review prior to the August 3rd meeting.
- b) Motion to move this concept forward to the LAG for further discussion made by Yetta Vorobik. Motion seconded by Fran Lanzer.

5. Vote

- a) The motion passed with no dissenting votes recorded.

C. Discussion 3: Standardizing responsible vendor training (revisited discussion)

1. Background

- a) This topic was previously discussed by the subgroup, specifically the idea of either incentivizing or requiring this training across the state. Mr. Fran Lanzer stated that MADD is very interested in this concept, as the person making the alcohol sale often has a “considerable amount of influence.” He asked if there were any ideas about putting this in rule or statute.

2. Overview of Discussion

- a) There was robust discussion around this topic, the highlights of which are as follows:
 - (1) There are some existing incentives for businesses to require responsible vendor training of their employees; for example, insurance companies provide a discount if all employees are certified, and being certified is considered a mitigating factor for liquor violations.

(2) When asked if the Liquor Enforcement Division (LED) would ever consider requiring the certification across the state, the division stated that while this is a public-safety-forward measure that the division would support, the industry has expressed that the training is very costly and difficult to maintain due to the high turnover of staff. Additionally, the division doesn't have the authority to mandate the training and currently can only address the "minimum" requirements for the training. The statute would need to be amended to state which specific license types are required to go through training, which the division feels includes anyone handling alcohol, with the exception of special event permittees, as they are often volunteer-heavy and may not have time to complete the training.

(a) The division was asked if this would include beauty salons that offer alcohol to their customers. The division agreed and stated that there have been reported incidents where a customer arrived at the salon and was served a glass of wine because the staff didn't realize how intoxicated the individual already was. As a result, the customer "fell down drunk," and the staff was ill-equipped to know how to handle the situation. Requiring the training would help staff understand how to recognize and act with a visibly intoxicated person and how to ensure the safety of self, personnel, and the intoxicated individual.

(3) The subgroup briefly discussed whether the training should be required for on-premises licensees only or for off-premises retailers as well, especially when the latter conduct tastings. The division stated it would be up to the group to determine this and added that the subgroup would want to consider additional factors, such as:

(a) Is the training required for when the licensee is giving out samples or any time that the licensee serves alcohol?

(b) What would be the "carve-outs" or the exceptions to the training requirement?

b) The subgroup members had additional discussion around possible solutions related to this topic, the highlights of which are as follows:

(1) One subgroup member noted that the state of Washington has adopted legislation that allows for insurance discounts for both on- and off-premises licensees who have taken it upon themselves to go through responsible vendor training. It was suggested that the subgroup could use this legislation as a model for Colorado.

- (2) Another subgroup member remarked that a common complaint from establishment owners is that a violation comes down on them and their license. While they can fire the employee who committed the violation, this employee can get a job at another establishment and hasn't lost their certification. This doesn't lend to any accountability for the individuals who commit the violation. There was a suggestion to pull the employee's certification to create "meaningful accountability" for the violation. For licensees who are trying to do everything right, it doesn't seem fair that the accountability falls on them and not the employee who committed the violation.
- (3) The subgroup members also discussed the option of standardizing this training across the state. The division currently has a rule that standardizes the minimum requirements of the training (Regulation 47-605); however, local jurisdictions can create standards within their jurisdictions, which may include more extensive training with additional costs. It was noted that this could be a burden for some businesses.
 - (a) One subgroup member noted that this issue falls under the broader topic of local control; the state sets the minimum, and the locals can set more. The division agreed with the subgroup member that any perceived attempt to remove local control would not be supported.
 - (b) A question was raised about whether Colorado's local jurisdictions could collaborate and standardize their requirements across the state. The division stated it was willing to reach out to the respective jurisdictions but noted that there are 350 jurisdictions across the state, and the division didn't feel they could reach a consensus.

3. Public Comment

a) Nick Hoover, *Colorado Restaurant Association*

- (1) Mr. Hoover acknowledged that he hasn't been able to bring this topic to the board of directors; however, he stated it has been his experience, in other parts of the law, that when training wasn't required and then was changed to be required, there was significant pushback from the industry over the cost and burden of hiring staff. Mr. Hoover remarked that it's already hard for the restaurant industry to hire staff, and while the training isn't "terribly expensive," factoring in the turnover rate of staff means the cost can add up.
- (2) Mr. Hoover stated that the CRA's members care deeply about public safety and ensuring that they are serving alcohol appropriately to the public. In the past, the aforementioned concerns have come up when it comes to required training.

Incentivized training was considered to be a different issue, and Mr. Hoover stated that he felt the CRA members would actively support any measure to further incentivize training. Additionally, Mr. Hoover stated that the CRA has consistently pushed its members to get as much training as possible, especially in the alcohol service realm, so further incentivizing this would only benefit the industry.

(3) Mr. Hoover concluded his comments by stating that he would bring this topic to the Board of Directors meeting in August and see what their position is.

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

4. Motion

a) Following the subgroup discussion, Mr. Lanzer suggested putting a broad recommendation in the final report that states the LAG recognizes the value of responsible vendor training and recommends to the General Assembly to increase incentives and/or require this training in statute. The division supported this recommendation and stated it would draft the recommendation language for the LAG to review before the August 3rd meeting.

b) Motion to move this recommendation to the LAG for further discussion made by Fran Lanzer. Motion seconded by Ed Cooper.

5. Vote

a) The motion passed with no dissenting votes recorded.

D. Discussion 4: Potential collection of data on where a driver obtained their alcohol in driving under the influence crashes (revisited discussion).

1. Background

a) The subgroup previously discussed this topic as a potential public safety measure. Mr. Fran Lanzer commented that he is unaware of any city or state level where this research is being conducted, and he feels the research could be useful in determining the establishments that are doing the right thing and making renewals easier, as well as identifying bad actors in the industry and getting them into compliance.

b) The division commented that both local law enforcement and local authorities do as much as possible to obtain similar types of data during their investigation of DUI crashes; however, many times, the responsible driver will not disclose this type of information, and this creates difficulties for authorities to obtain the information. The division likes the idea but isn't sure how to put it into practice. Both the division's enforcement team and local law enforcement have limited resources, and this could create an undue burden. The division invited any local law enforcement representatives to provide their input.

2. Overview of Discussion

- a) The subgroup had a robust discussion about identifying bad actors under this proposal. While the subgroup members were generally supportive of tracking down bad actors, there was expressed concern about the overall concept because there are multiple factors that can impact an establishment's perceived involvement in a drunk driving crash.

Highlights of the discussion included:

- (1) Even when an establishment is being responsible, a customer could come in and be taking medication that reacts negatively to alcohol consumption. For example, after one glass of wine, the customer "could be on the floor."
- (2) When questioned by law enforcement, a drunk driver is likely only to recall the last establishment they visited. Additional information about the other establishments they may have visited that same day, or that they were drinking at a private residence, is not always divulged. In short, it could be challenging to hold an establishment responsible for providing the individual with alcohol when a full record of their alcohol consumption isn't available and/or how any medication the individual is taking may have affected their state. Just because a customer is over the legal limit by the time they leave the establishment and go home, it doesn't directly indicate irresponsible service on the part of that establishment.

- b) The subgroup also discussed potential proposals around this topic. It was stated that obtaining information about the last alcohol vendor visited by the individual wouldn't immediately result in taking action against the establishment; rather, it should be part of a "bigger picture" for public safety, especially if a pattern emerges from the data collected. The overall idea behind this is to bring in more education and training while preventing drunk driving crashes.

- (1) It was also noted that per SB20-217, law enforcement is required to report all drunk driving contacts, but the information isn't as specific as what is being proposed here; instead, the information is more demographic. The landscape could shift to the point where this type of specific data is being collected, but it may be too premature for a full recommendation at this time.

- c) The division suggested putting forth a recommendation for the concept of a pilot program centered around this topic. The program could be a collaborative project between the LED and local law enforcement to find a system that would be able to track leads as to all the locations an individual has been, as well as additional investigation to see if the individual chose to drink in their vehicle after leaving an establishment.

3. Public Comment

- a) No public comment was offered on this discussion. If the public wishes to put forward additional comments or input, they may email the division at dor_led_rulemaking@state.co.us.
 - 4. Motion
 - a) No motion was put forward on this issue. Mr. Lanzer stated he would like more time to consider this concept and that he may submit a written proposal for the subgroup to consider before the August subgroup meeting.
- IV. Topic Discussion: Allow the same person to register as a manager for more than one on-premises location.
- A. Background
 - 1. The division provided some initial context for this discussion. Currently, in statute, the registered manager is only allowed to purchase alcohol for the location they are registered at.
 - 2. There are several license types that currently fall under the statute, including:
 - a) On/Off Premises;
 - b) Beer and Wine;
 - c) Hotel & Restaurant;
 - d) Tavern;
 - e) Lodging & Entertainment;
 - f) Club;
 - g) Arts License; and
 - h) Racetrack.
 - 3. It was also noted that there was a recent update to the statute under HB22-1415; the Colorado Restaurant Association (CRA) was involved in those conversations.
 - 4. If a manager is allowed to buy for multiple locations, the division feels it could “muddy the waters” for the division when trying to determine if the manager is making some type of bulk deal with the wholesaler and then distributing the product to various locations. Because the licenses are considered separate and distinct, the division feels the law, as it stands, is good; removing this restriction from statute could cause disruption in the industry and hurt smaller retailers. The division expressed that it would be very concerned if the LAG voted to remove this element from the statute.
 - B. Overview of Discussion
 - 1. The subgroup focused their discussion on the potential impacts of having a manager register for more than one on-premises location, with input from the division. Highlights of the discussion included the following:
 - a) Could the division audit each business to track what’s being purchased for that location?
 - (1) The division stated that bulk deals, for example, wouldn’t be reflected in the audit of a business’s invoices. The division felt that these arrangements between a manager and a wholesaler are limited to verbal conversations. Unless the division was physically present in the room to overhear these conversations or

- the agreements were put into writing, the division doesn't have any teeth to address any deals that are creating unfair influence.
- b) Because restaurants and bars have to show where all of their product comes from at any given time, the same manager couldn't bulk purchase products and then move the products from one location to another. Each purchase would have to be tied to each license.
 - (1) The division expressed several concerns about this. First, how would this be tracked if the manager can make purchases for all the licenses that they are registered on? Second, how could it be confirmed that the transactions were only for one location or another?
 - (2) A subgroup member commented that they didn't see how this differed from someone who owns twenty different restaurants and a different registered manager buys product for twenty different locations. The division agreed that, in essence, they could do this. However, the registered manager should know that they are required by law to purchase only for the licensed premises for which they are a registered manager. Further, the division expressed concern that when one manager starts purchasing product, for example, for five locations, they could be influenced by the wholesaler to bulk purchase for all locations in order to get a better price.
 - c) There was mild disagreement on this issue, in that one subgroup member expressed that if the division was to investigate, every establishment would have to clearly show where the alcohol came from and that it seemed reasonable to allow one manager to be listed for up to five businesses.

C. Public Comment

1. Nick Hoover, *Colorado Restaurant Association*

- a) Mr. Hoover confirmed that the CRA did push the bill that made changes to the registered manager issue; the changes mainly pertained to some requirements that formerly existed for registered managers (e.g., background checks, fingerprinting, delays that were happening as a result, associated costs, etc.). During that time, there was a brief conversation about allowing managers to register for multiple locations, but the legislation itself didn't touch the issue. Mr. Hoover stated that the CRA would strongly support some allowance for having a manager that manages multiple licenses.
- b) The way he understands the current law, there is no requirement under the law that the registered manager be the one purchasing the alcohol for the business; the individual is the registered manager, but other than having their name listed as the manager and being the manager of a business, this is the only requirement. Mr. Hoover elaborated with an example: The General Manager of the Broadmoor has one license and

one person named as the registered manager; however, someone below the manager, like a beverage manager, could be the one placing orders for the restaurants within the Broadmoor. In other words, the registered manager isn't necessarily the one personally placing the orders.

- c) Mr. Hoover acknowledged the division's concerns about a manager striking deals with a wholesaler and expressed a willingness to put guardrails in place to ensure this wouldn't happen. Mr. Hoover stated that the requirements of a registered manager have been "eliminated" over the years. He expressed that the CRA's position was that it wouldn't be impossible to allow registered managers to have their name on multiple licenses.

- (1) Mr. Hoover's comments prompted further discussion among the subgroup members and the division. The division continued to express concern about statements that the LED will investigate this issue, as it will be difficult to investigate overall. Also, with the limited staff available to do so, this wouldn't rise to the level where the division could make the investigation a priority. Public safety issues would take top priority.

- (2) Mr. Hoover stated that he understood the division's concerns but felt that this could still work. The division expressed a willingness to move forward with the concept if the group could come up with some statutory language and guardrails to put in place. One subgroup member suggested that one guardrail could be to prohibit bulk discounts across locations; this would also alleviate some issues that have come forward with retailer chains offering coupons and bulk discounts. This idea received general support from the subgroup members and the division.

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

D. Motion

- 1. No motion was put forward on this issue. If any member of the subgroup or the public is interested in drafting a proposal on this topic, they may email the division at dor_led_rulemaking@state.co.us.

V. Topic Discussion: Corkage fees ([proposal](#) received from Dale Elliott).

A. Background

- 1. While Mr. Elliott was not present at the meeting and therefore couldn't provide additional detail around his proposal, another member of the public, Dennis Blum, was present to provide his initial thoughts on the topic. Mr. Blum stated that he was very interested in hearing how the subgroup members felt about moving this to the full LAG and hoped the subgroup would be in favor thereof.

B. Overview of Discussion

1. This topic generated a robust debate over the pros and cons of permitting restaurant patrons to bring in their own wine for a corkage fee, the highlights of which are as follows:
 - a) Pros:
 - (1) Leaving the option up to restaurant owners would allow them to charge whatever amount they feel is appropriate for a corkage fee.
 - (2) Allowing this practice lends to a larger practice of providing consumer choice and options. Additionally, if a customer is celebrating a special occasion and would like to bring in a special bottle of wine for the occasion, this could be a positive experience for both the customer and the restaurant to share.
 - b) Cons:
 - (1) It was noted that the Tavern League, in particular, has opposed this proposal every time it's been discussed in the legislature. These establishments are in the business of selling alcohol, and many restaurants spend considerable time selecting their alcohol products to complement the food and dining experience. There was an argument that the experience wouldn't be as good if people are allowed to bring in their own alcohol.
 - (2) From a public safety perspective, it is hard to manage responsible service when the establishment isn't the one serving the alcohol.
 - (3) This could result in a conflict and possible violations if the alcohol is brought in during hours that an establishment isn't supposed to serve alcohol.
 - (4) There was an opinion that a customer bringing in their own wine to a restaurant was "bad manners."
2. The subgroup members did list some restrictions around allowing this practice in restaurants, including:
 - a) The bottle must be closed when the customer brings it into the restaurant.
 - b) Customers should be limited to one bottle.
 - c) Only restaurants with an existing liquor license should be allowed to participate.
3. Mr. Lanzer, representing MADD, stated that he was trying to think through any enforcement implications that could make this more challenging for the division or local law enforcement. At this time, he didn't have any specific comments on the topic.

C. Public Comment

1. Nick Hoover, *Colorado Restaurant Association*
 - a) Mr. Hoover stated that the CRA has had this conversation many times over the years with its board of directors, and its members are on different sides of the issue. Mr. Hoover expressed that none of the CRA members have presented this as a "huge win" for the industry: those who

invest in their wine list view this as an “immediate devaluation” of their wine list.

- b) Additionally, some members have expressed concern over the customer interaction that could come out of this. For example, customers don’t always pay attention to what is required, what is absolutely allowed, and what is the business choice; some CRA members have expressed concerns about getting into an argument with customers. Wine and spirit collections and/or selections are chosen to emphasize either the region of the food being served or to enhance the experience. Mr. Hoover stated some restaurant owners feel that allowing a customer to bring in their own wine may result in a restaurateur trying to explain how the customer’s wine will impact the food and consequently getting into an argument with the customer. There could also be arguments when it’s a business choice, and Mr. Hoover felt that there would be businesses that would not want to allow this.
- c) Overall, Mr. Hoover commented that there has been significant concern around this issue brought up by the restaurants that are on the board of directors, and he foresees more concerns will arise if the topic is moved forward.

2. Tyler Rudd, *Colorado Wine Institute*

- a) Mr. Rudd commented that the Institute has had policies around corkage fees. For any restaurants that want to allow this, the institute would like to give restaurants the ability to charge what they see fit as the corkage fee. Mr. Rudd agreed with previous comments made, that a lot of restaurants put considerable time and energy into crafting their wine lists, and while many times the wine list is very good, “every now and then” a customer might want to bring in a vintage bottle of wine that they’ve been saving and are willing to pay the corkage fee at the restaurant.
- b) Mr. Rudd also stated that forbidding a customer from doing the aforementioned could impact the restaurant from participating in this special experience, as well as impacting the experience for the customer. The institute supports this and would like the freedom for it to be available. Customers should be limited to one bottle, and restaurants should be allowed to either charge whatever they want or not allow it at all.

3. Dennis Blum

- a) Mr. Blum agreed with an earlier point, that the corkage opportunity should only be allowed in restaurants with an existing liquor license. He also commented that he didn’t feel it was “bad manners” for customers to bring in their own wine, especially if they are celebrating something special. If the customer has a special wine that they’ve been saving and would like to celebrate at their favorite restaurant with this wine, that should be allowed. Mr. Blum also said this practice seems to work in other states, especially those with high tourism rates, and this would

make restaurants more appealing. To address any additional public safety concerns, Mr. Blum recommended that the subgroup look at other states that allow corkage fees and see what guardrails have been put in place.

- b) Mr. Blum agreed that the business should have completed responsible vendor training before they could participate. Conversely, if a restaurant doesn't want to allow corkage fees, that should be their decision.
 - c) Mr. Blum expressed his appreciation for the subgroup discussing this matter. He shared his hope that this would be recommended to the LAG.
4. No additional public comment was offered on this discussion. If the public wishes to put forward additional comments or input, they may email the division at dor_led_rulemaking@state.co.us.

D. Motion

- 1. The subgroup briefly discussed if there was a way that consensus could be reached by all present members of the subgroup. At this time, the Tavern representative stated that they still had concerns about how the alcohol would be served and possible related public safety concerns. Additionally, they stated that bars and restaurants make their money from alcohol sales; while they appreciate the idea of letting restaurants choose whether they offer the option, it was their opinion that in order to be competitive, businesses would have to offer it.
- 2. Motion to move this proposal to the LAG for further discussion made by Ed Cooper. Motion seconded by Yetta Vorobik.

E. Vote

- 1. The motion passed with 1 member dissenting and 1 member abstaining from a vote.

Liquor Advisory Members	Yes	No	No Position/Abstain from Vote
Andrew Feinstein <i>Tavern/Large Dance Entertainment Venue</i>	ABSENT		
Dana Faulk Query <i>Restaurant Licensee</i>	ABSENT		
Edward Cooper <i>Off-Premises Retailer (Medium)</i>	X		
Erika Zierke <i>Tavern</i>		X	
Fran Lanzer <i>MADD</i>			X
Gonzalo Mirich <i>Minority Owned Off-Premises Retailer</i>	ABSENT		
Marc Snowden <i>County Sheriffs of Colorado</i>	ABSENT		
Sara Siedsma <i>Off-Premises Retailer (Large)</i>	X		
Veronica Ramos <i>Minority Owned On-Premises Retailer</i>	ABSENT		
W.J. Haskins	ABSENT		

<i>Law Enforcement Representative</i>			
Yetta Vorobik <i>Wholesaler (Malt)</i>	X		

- VI. Topic Discussion: Allow on/off premises Colorado licensed retailers to buy and sell “vintage wine and spirits” from private collections/auctions ([proposal](#) received from Mike Laszlo).
- A. Review of the proposal (presented by Mike Laszlo).
 - B. Overview of Discussion
 - 1. The proposal received overall support from the subgroup members. Most of the discussion was spent clarifying specific elements of the proposal. The division emphasized that this proposal was one way for individuals with a large private stock to get the product back into the system. The products have already been through the three-tier system and excise taxes have already been paid, so this wouldn’t be a concern for retailers who are interested in purchasing some of these products. The division did state that it would want guardrails in place, including denotation on the items so that a customer clearly understands that they are buying vintage wine from a retailer.
 - 2. There was additional discussion around guardrails for this proposal; specifically, one subgroup member requested that a volume limit be put into place so that individuals weren’t acting as distributors. Mr. Laszlo agreed to this.
 - 3. There was a question about how this could work for beer; Mr. Laszlo stated that he couldn’t speak to this and suggested that a proposal for vintage beer may need to be separate. As the proposal currently stands, it would extend to vintage wine and spirits.
 - C. Public Comment
 - 1. Tyler Rudd, *Colorado Wine Institute*
 - a) Mr. Rudd stated that the institution had no issue with this proposal, but did ask that the vintage be much higher than what Mr. Laszlo initially proposed. Mr. Rudd referenced recently passed Texas legislation that allows for the sale of vintage wine by a private seller. Under this legislation, the seller must obtain a liquor license and can only sell to permitted restaurants, and the wine being sold must be at least 20 years old. The second piece of legislation passed in Texas was specific to the sale of vintage distilled spirits. Mr. Rudd offered to provide this information to the subgroup members if it would help further the discussion.
 - (1) Mr. Laszlo respectfully stated that he felt 20 years was too high for the vintage. He commented that California is “setting the standard” when it comes to this practice. Functionally, Mr. Laszlo stated that 10 years is a long time; while it doesn’t sound like a long time, in reality, the wine would have been out of the wholesaler system for eight to seven years. He respectfully requested that this proposal would maintain the 5-10 year vintage rule to mirror California’s well-established and functional law.

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

D. Motion

1. The subgroup members expressed support for moving this proposal forward, provided that it was expanded with more specificity based on the discussion. Mr. Laszlo agreed to update this proposal based on the conversation and resubmit to the subgroup.
2. Motion to move the proposal (as to-be-amended) to the LAG for further discussion made by Erika Zierke. Motion seconded by Yetta Vorobik.

E. Vote

1. The motion passed with no dissenting votes recorded.

VII. Topic Discussion: Remove the prohibition on retail liquor store licenses and on-premises consumption retail licenses from having common ownership/financial interests in one another ([proposal](#) received from Mike Laszlo).

A. Review of the proposal (presented by Mike Laszlo).

B. Overview of Discussion

1. Representatives from the off-premises retailer industry were adamantly opposed to this proposal, stating that the laws around this prohibition have been in place for a long time, and to remove this would be “catastrophic” to the industry. The division agreed with this position and commented that there’s a reason why there’s a retail tier and why this is prohibited in statute. The division was concerned about the possibility of someone with an off-premises license obtaining an on-premises license, and then they don’t go through a wholesaler to obtain product; rather, this individual would go through their various licenses. The division felt this could lead to a lot of misuse in the industry.
2. Additionally, while the division expressed a willingness to have the conversation, the division felt that the General Assembly had already thought about this. Further, many retail liquor stores have abided by the laws for many years, and the division stated that this would be “another knife in their coffin.” The division stated that this could disrupt the market in a negative way for industry members who are already trying to survive in this marketplace.

C. Public Comment

1. Andy Klostermann, *Colorado Event Alliance*

- a) Mr. Klostermann asked for clarification on why the prohibition is in place.

- (1) The division explained that the fundamental reason is because certain businesses have certain privileges. On-premises establishments can sell drinks for on-premises consumption and serve food and snacks; for off-premises retailers, there is a clear delineation in that these businesses can only sell sealed containers to-go for off-premises consumption. Not allowing for financial interest between the two license types is in place because it could cause disruption in the industry.

2. Steve Findley, *Colorado Beer Distributors Association*
 - a) Mr. Findley agreed with the opinions expressed by the retailer subgroup members. He also added that the basis of the three-tier system is to provide market access; if individuals are controlling all three tiers, then it starts to restrict market access for other individuals, and this could result in a different market in Colorado.
 - (1) Mr. Laszlo stated that he doesn't see this as a three-tier issue and that the proposal only related to the retail tier. These would be two separate licenses, but a retail liquor store owner could have a financial interest in a Hotel & Restaurant license. The businesses would be separate and distinct, and either would be not on the same property or on the same property and appropriately divided. Overall, Mr. Laszlo felt that this created a choice for Colorado consumers; however, from a protectionist perspective, he felt that the proposal was "clearly not wanted here," and he would not speak to it further.
3. No additional public comment was offered on this discussion. If the public wishes to put forward additional comments or input, they may email the division at dor_led_rulemaking@state.co.us.

D. Motion

1. The subgroup members did not express interest in moving this proposal to the LAG for further discussion.

VIII. Additional Discussion Items

A. Discussion 1: Grocery store coupons and bulk discounts

1. This discussion came about as a result of recent public comments submitted by Mr. Eric Tegl:
 - a) [Eric Tegl Letter re: Grocery Coupons](#)
 - b) [Eric Tegl Public Comment re: Grocery Coupons for Alcohol \(follow up\)](#)
 - (1) [Email Attachment: Josh Cellars Cabernet Display](#)
 - (2) [Email Attachment: Hook or Crook Field Blend Display](#)
 - (3) [Email Attachment: Windermere Pinot Noir Display](#)
 - (4) [Email Attachment: King's Ad \(7/12 - 7/18\)](#)
2. The division was asked for its position on the coupons as referenced in the public comment. The division commented that manufacturer rebate coupons are allowed; the manufacturer can decide what coupon and price they want to put on the product, and these coupons must be made reasonably available to consumers. The division stated it was hesitant to place more restrictions around this, as it feels like overregulation.
 - a) The division added that it regulates the product, not the coupon, and that it doesn't see this as a below-cost sale at the retail level. Regulating who the manufacturers can make the coupons available to is a concern; however, the division recognized the concerns about the coupons not being given to smaller retailers. The division highly recommends that

manufacturers make these coupons as available as possible but didn't feel that the division should dictate to whom.

- b) To this point, a representative of the off-premises retail industry brought up a couponing practice wherein a customer purchases a set amount of wine, for example, and receives an extra \$1.50 off of other kinds of groceries. The subgroup member asked for clarification, as it was their understanding that any loyalty for liquor within a grocery store had to be only for alcohol purchases.
 - (1) The division stated that this fell under the bonafide loyalty program, which is a different topic. The division agreed that, per this program, retailers can't go below the cost of the alcohol product that was paid for.
3. Mr. Tegl asked several clarifying questions about this process and expressed concern that because these coupons were offered through the retailer's website, this gives the retailer the opportunity to sell products below-cost at no financial loss. Mr. Tegl stated that this felt like a loophole and an incentive for suppliers to get coupons and for large retailers to get an ad, get floor space, et cetera, and he didn't understand how this wasn't selling the product below-cost to the consumer.
 - a) The division asked what solution Mr. Tegl would propose for this issue. Mr. Tegl first suggested looking at other states for a model to reference; second, coupons should be public and not given through a retailer's website; third, digital coupons should not be allowed.
 - (1) The division explained that this is a digital age and restricting this would be difficult. Also, the division asked how a manufacturer would provide a discount to everyone across the state.
 - (2) Mr. Tegl responded that this isn't a discount; it's selling the laid-in product to the consumer well below the cost. Coupons for alcohol products need to be looked at differently than general coupons for grocery stores. Mr. Tegl expressed the opinion that it's highly incentivizing for the retailer when a case of Budweiser, for example, can be sold to the public at five dollars below cost.
4. No motion was put forward on this issue. If any member of the subgroup or the public is interested in drafting a proposal on this topic, they may email the division at dor_led_rulemaking@state.co.us.

IX. Action Items

- A. The division will draft language on the following proposals and provide it to the LAG for review and consideration prior to the August 3rd LAG meeting:
 1. Allow the Liquor Enforcement Division to charge for investigations.
 2. Create a new statute regarding the sale of illegal drugs and controlled substances at a retail liquor store (liquor-licensed drug stores would be exempted from the sale of controlled substances).

3. A recommendation that the General Assembly increase incentivizes and/or require responsible vendor training in statute.
- B. Mr. Mike Laszlo will amend his [proposal](#) to allow on/off-premises Colorado licensed retailers to buy and sell “vintage wine and spirits” from private collections and auctions based on the subgroup discussion.

The next Regulation of Retail Operations subgroup meeting will be held virtually on August 17, 2023, from 11:00 a.m. to 1:00 p.m.