



COLORADO
 Department of Revenue
 Specialized Business Group—
 Liquor & Tobacco

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Liquor Advisory Group Licensing Subgroup

Meeting Minutes

August 24, 2023

Seat	Representative	Attendance
Restaurant Licensee	Andrew Palmquist <i>Number Thirty Eight</i>	Absent
National Wholesaler	Andrew Quarm <i>Republic National Distributing</i>	Absent
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>	Present
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>	Present
Local Vinous Manufacturer	Juliann Adams <i>Wines 79 Wine Barn</i>	Present
Downtown Partnership/Chamber of Commerce	Loren Forman <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. Review Subgroup Process and Expectations
 - A. Select a volunteer to provide the subgroup update at the September LAG meeting.
 1. Andryn Arithson will provide an overview of the subgroup discussion at the August meeting.
- III. Proposal Discussion: Licensing for store licenses purchased for liquor-licensed drug stores
 - A. [Proposal](#) submitted by Jim Shpall on July 26, 2023.

B. LAG Discussion

1. Jim Shpall requested that this proposal be moved to the end of the agenda, as his second proposal addressing liquor-licensed drugstores would encompass many of the same issues.

IV. Proposal Discussion: Repeal of Liquor-licensed Drugstore (LLDs) license type

A. Overview of Proposal

1. [Proposal](#) submitted by Jim Shpall on July 26, 2023.
2. Mr. Shpall expressed that a grocery store licensed as a liquor-licensed drugstore cannot age restrict a store to prevent minors from entering without a parent or guardian in the same way a retail liquor store may be able to, which could be a concern for higher proof products like spirituous liquor.

B. LAG Discussion

1. Members questioned whether anyone who was currently licensed as a liquor-licensed drugstore would be grandfathered into another license type, like a retail liquor store, so they don't lose the privileges they already have.
 - a) Mr. Shpall expressed a willingness to grandfather existing liquor-licensed drugstores to a retail liquor store up to the current limit for retail liquor stores.
 - (1) Currently, a retail liquor store licensed prior to or on January 1, 2016, may have an additional interest in two retail liquor stores, allowing for interest in a total of three retail liquor stores. This number increases to a maximum of four retail liquor stores in January 2027).
 - (2) Currently, a liquor-licensed drugstore licensed prior to or on January 1, 2016, may have an additional interest in seven liquor-licensed drugstores, allowing for interest in a total of eight liquor-licensed drugstores. This number increases to a maximum of thirteen liquor-licensed drugstores in January 2027, twenty liquor-licensed drugstores in January 2032, and an unlimited number of liquor-licensed drugstores in January 2037. In order to obtain these additional licenses, two retail liquor store licenses licensed prior to May 1, 2016, must be obtained and converted to a single liquor-licensed drugstore license.
2. The Division raised concerns that this proposal comes very close to the issue addressed in Proposition 124, which the people of Colorado rejected in November 2022.
 - a) Mr. Shpall expressed that Proposition 124 polling showed that people did not want a proliferation of spirits in all the stores. By restricting liquor-licensed drugstores that will convert into retail liquor stores under this proposal to the same number allowed for retail liquor stores, there will not be a proliferation of liquor in every grocery store in the state.
 - b) It was also expressed that Proposition 124, which would have allowed retail liquor stores to have interests in more than four licenses, would not

be changed by this proposal, the intent was to level the playing field for independent retail chains to compete with larger box stores.

3. The Division noted that retail liquor stores have a statutory limit of 20% gross revenues from nonalcohol products, which would not work for a large grocery store, for example.

- a) It was noted that this could also be changed statutorily.

C. Public Comment

1. Rich Anders, *Wholesaler and Manufacturer in Colorado*

- a) Mr. Anders expressed concerns that if this proposal does not pass, the larger chains from out of state being able to have as many stores as they want will hurt small local stores. There are a lot of individuals who make their living and employ others, depending on the size of the store. Some are family-run with a few employees, and some are bigger stores that employ a lot of different folks at different levels, from management to working on the floors. They have been hurt pretty badly already by the passage of Proposition 125.

- b) Mr. Anders also expressed concerns that in other states with proliferation from chains, there are out-of-section displays with cross-merchandising of alcohol products, and these get put in front of children and people who might be struggling with substance issues. In a liquor store, you have to be accompanied by a guardian or a parent if you're under 21, which makes it much harder for someone underage to come in and walk out with something that they shouldn't have or to steal something that they shouldn't have.

- c) Mr. Anders reiterated his concern that independent retail liquor stores will be hurt if big box stores are also able to sell spirits. His fear is that the spirits will be the final nail in the coffin for these guys. The fallacy is that the liquor sections in these chains will then hire these people, but that just won't be the case. Many of these people are making a living wage in their current stores, and those positions just won't be picked up by grocery stores. In many instances, grocery stores don't add anyone, or if they do, it's one more stock. These are people that live in Colorado, the money stays in Colorado. Any dollars that are spent on promoting a brand within the state really primarily stay within the state, which is a very important thing to consider.

- d) Mr. Anders also expressed concerns that a proliferation of big box stores will lead to a lot less availability of products, which limits the abilities of small brands.

2. Ainsley Giglierano, *Distilled Spirits Council*

- a) Ms. Giglierano expressed that the spirits manufacturers are already at a severe disadvantage in Colorado because beer and wine are sold in these [grocery] stores, and eliminating the ability for spirits to be there [in a liquor-licensed drugstore licensee] puts spirits consumers as well as spirits manufacturers at a severe disadvantage.

- b) Ms. Giglierano also stated previous comments may be conflating a couple of issues when it comes to safety. Beer and wine are already sold in these stores. Alcohol is alcohol, and with the proliferation of low alcohol-by-volume products, there are oftentimes spirits products that are far less in alcohol content than beer and wine. We also can't discount the fact that alcoholism is a horrific issue that needs to be addressed, but not all of those who abuse alcohol use simply spirits, as beer and wine can also be abused. So, that is not a reason to keep spirits out of stores that already sell alcohol products.
 - c) Finally, Ms. Giglierano pointed out that the consumer purchasing all alcohol products being sold must present an ID, which eliminates the confusion issue. If someone mistakenly picked up a wrong product and didn't realize it had alcohol, they should be carded and asked for their identification. If they are not 21 years of age, they are not able to walk out of the store with that product.
3. Tony Ryerson, *Public*
- a) Mr. Ryerson stated he did a price analysis on the top 10 wine SKUs and the top 10 spirits SKUs and compared a Safeway in Lakewood to a Safeway in Scottsdale, Arizona. The median price was 8.8% higher in Arizona, where spirits have a proliferation and all the other stores have gone out of business. How the law is currently structured to allow only five large chain grocery stores to control the entire market would be a huge detriment to the consumer.
 - b) Mr. Ryerson also expressed his disagreement with the Distilled Spirits Council on the safety issue. He expressed that the other day, he was in a Safeway where he couldn't see over the aisle, not a person in sight. This store was right next to a high school, and it would be very easy for a high schooler to slip a 375mL bottle in their jacket, unlike a bottle of wine or a case of beer. Mr. Ryerson also stated the store had several displays cross merchandising candy next to wine, beer, and spirits.
 - c) Mr. Ryerson stated that large box stores already control 88% of the grocery market, and with unlimited liquor-licensed drugstore licenses, they would then control roughly the same numbers of the beer, wine, and spirits market. That's heavily into what the FTC would define as oligopolistic territory. Everyone should be on the same playing field, period. It's the best for the consumer.
4. Larry Hudson, *Albertsons/Safeway*
- a) Mr. Hudson expressed that Senate Bill 16- 197 was a concept that Apple Jack and a number of liquor stores supported. In 2018, Senate Bill 18-243, which put limits on the number of liquor-licensed drugstore licenses that a grocery store could have, was also supported by that industry along with a number of restrictions that were put into place, one of them being the delivery of alcohol. Mr. Hudson also pointed out that entities wishing to establish a liquor-licensed drugstore must buy two

retail liquor stores and convert them into a license. No grocery store just decides one day that they're going to have a liquor store. In order for that to happen, a grocery store has to go to the next-door neighbor and another liquor store within 1500 feet and ask them if they would like to sell their licenses and buy them, which is a long, arduous, and expensive process. If they do, those two liquor stores receive compensation for their license. They're only going out of business because there has been compensation for that license that has been converted. Since 2016, that has been a slow process, and it has worked, and it does work well. Mr. Hudson suggested this committee reject this proposal. If there's more time in the future with a larger group, he expressed confidence that Kris Staff, with Safeway, will be able to share more.

5. Sarah Morgan, *Liquor Advisory Group*

- a) Ms. Morgan stated that the biggest issue she wanted to bring attention to, so it doesn't go missed, is a comparison to Florida. Ms. Morgan expressed that she is coming from Florida, where a majority of liquor licenses have been privatized. The purchase and the sale of them [the licenses] are moving with the real estate. That has now driven up the cost of a liquor license to where it can cost you 250,000 to \$400,000 to get a liquor license. This really squashes the mom-and-pop businesses out and contributes to losing the culture of an area due to the increased costs of needing to obtain a liquor license. In talking about these larger chains being able to go in and grab liquor licenses, when we only have a set amount for certain municipalities, we start moving to a more privatized market.

6. Dennis Blum, *Public*

- a) Mr. Blum expressed his opposition to this for all the reasons that were mentioned previously, especially the safety and competition issues.

D. Vote

1. The motion passed on a vote of 4 in support, 1 against, and 2 members abstaining from a vote.

V. Proposal Discussion: 44-3-419 Arts License

A. [Proposal](#) submitted by Andryn Arithson on August 15, 2023.

B. LAG Discussion

1. Members questioned how the existing statute currently reads. It was clarified that the arts license statute currently prohibits any exterior or interior advertising concerning the sale of alcohol beverages on the licensed premises.

- a) The Division expressed that the history of this license type was for cultural events, and the intent was to prevent an arts licensee from turning into an on-premise account. The intention is for participants to go for a cultural event and not for alcohol, which is why the advertising limitation was originally put into statute.
- b) Members also expressed that while they understand the intent was to promote a cultural event and not a drinking event, the current statute may

be unnecessarily micromanaging in regard to the experience people want patrons to have.

2. A suggestion was made to limit alcohol beverage sales to a certain percentage of the revenue of the event or ticket sales instead of limiting advertising. It was expressed that the percentage of revenue that comes from alcohol at these events is rather small, so that may be unnecessarily complicated for the amount of alcohol that is actually being sold.
 - a) Concerns were raised that without a limitation like this, an arts licensee could turn into a restaurant or a bar. It was noted that there has to be a cultural event occurring in order for alcohol to be sold (as defined by regulation), service must end at the conclusion of the cultural event, and a licensee could not open up on a night with no event occurring to sell wine.

C. Public Comment

1. No comments were made by members of the public regarding this proposal. If a member of the public wishes to provide input on this discussion, please email the division at dor_led_rulemaking@state.co.us.

D. Vote

1. The motion passed on a vote of 7 in support, 0 against, and 0 members abstaining from a vote.

VI. Proposal Discussion: Catering License

A. [Proposal](#) submitted by Don Strasburg and Andrew Klosterman on August 15, 2023.

B. LAG Discussion

1. Members asked if Mr. Strasburg would be open to defining a caterer as someone who holds a valid food license permit issued by a local authority, as concerns were raised that someone could be a self-proclaimed caterer with no oversight.
 - a) Mr. Strasburg expressed willingness to amend the proposal if necessary.
2. Additional clarification was requested regarding whether someone not holding a catering license would still be able to purchase alcoholic beverages from a retail liquor store for a private event. It was clarified that, yes, this would still be possible.
 - a) Additional questions were raised regarding whether a caterer can purchase alcohol beverages from a retail liquor store, liquor-licensed drugstore, or a fermented malt beverage retailer, or if they have to purchase through a wholesaler.
 - (1) It was clarified that the proposal, as presented, would not require a catering licensee to purchase alcohol beverages through a wholesaler.
 - (2) It was noted that, under current law, a caterer purchasing alcohol for a client cannot sell it to the client for more than what the retail liquor store sold it for to cover costs.
3. Members asked for additional clarification regarding the address used for the license. It was clarified that a caterer could use a main warehouse as an address but not necessarily a banquet hall.

- a) The Division noted that licenses are issued for a year period, and the licensee must have possession of the premises for that time period (which would preclude someone from using a banquet hall they have temporary possession of).
- 4. Concerns were raised over preventing access to alcohol beverages when a catering licensee was out working an event.
 - a) It was suggested that a caterer be required to show how they would store and protect alcohol beverages from unauthorized access as part of the licensing process.
 - (1) The Division suggested language be added in the proposal, giving the Division rulemaking authority over this topic, which would give greater flexibility to adjust to what is being seen in the marketplace at that time.
- 5. There was additional disagreement over whether a catering licensee should be required to purchase alcohol beverages through a wholesaler.
 - a) It was noted that all other retail license types must go through the three-tier system and are limited to \$2,000 in purchases annually from a retail liquor store.
 - b) Mr. Strasburg expressed a willingness to set some sort of threshold by size or by the dollar amount of alcohol purchased where a caterer would be required to purchase through a wholesaler.
 - c) Other members expressed resistance to this idea, stating that retail liquor stores have built up relationships that allow them to currently supply weddings, bar mitzvahs, corporate events, etc. Requiring the purchase of alcohol through wholesalers would take those purchases away from retail liquor stores.
 - d) Additional concerns were raised about potential difficulties with taxation and how to ensure that no double taxation is collected on alcohol beverages served by a catering licensee.

C. Public Comment

- 1. Chloe White, *Weld County Clerk's Office*
 - a) Ms. White noted that caterers do have to be licensed by their county health department, and local licensing authorities would likely not approve a catering liquor license or liquor permit for somebody who's not licensed with the Health Department first.
 - b) Ms. White also expressed a desire for the permitting process to mirror the current special event permit process, with a 30-day minimum review period to review for zoning requirements, notifying neighbors, etc.
 - c) Finally, Ms. White expressed confusion regarding private events, as her understanding was the caterer can't be supplying alcohol for free drinks, because that's an indirect sale.
- 2. Jeremy Bronson, *Occasions Catering*
 - a) Mr. Bronson explained that what caterers currently do is charge for bartending services and the non-alcoholic beverages provided. The client

buys the alcohol directly from the liquor store. He noted there are also other models that exist, such as a model where a caterer has a liquor license and provides bars on a package basis based on using a liquor store liquor license with the catering service as a separate business. Mr. Bronson notes that this is a very effective model, but it is a very complicated way of doing business, and a big challenge of the LAG is to try to simplify the way business is done relative to alcohol in Colorado.

- b) Mr. Bronson further emphasized there's nothing new here [in this proposal]. Every day, caterers work at venues and people's homes; they are having these parties right now. From a permitting standpoint, there's going to be nothing different for the party that he has at his house to support a nonprofit on Thursday, under the current model, and one he would have a year from now, except the catering company coming to the house would be able to provide a turnkey service where a client could buy both the food and the alcohol from them. There would be awareness among the local officials that that event was taking place in case there was any kind of safety incident related to it.
 - c) Finally, Mr. Bronson noted that for some venues that have low budgets, the opportunity for them to be able to have a cash bar to be able to afford to have their event is critical.
3. Trevor Vaughn, *City of Aurora*
- a) Mr. Vaughn expressed agreement with Mr. Bronson that if the intent of this [catering license] is just to replace the fact that the hosts have to buy the alcohol directly, there's a need for that. He suggested a caveat that that alcohol then should not be sold by the drink directly or indirectly and should still function like a wedding or similar event.
 - b) Mr. Vaughn further stated that he was not sure [the proposed license] would require additional hearings or posting because it wouldn't be open to the public unless you're talking about actually allowing a caterer to hold events, in which case there may be some problems with that.
 - c) Mr. Vaughn also noted that in regard to taxes, if you are purchasing from a retail liquor store within your \$2,000 limit, you should present your sales tax license and purchase that alcohol tax-free. That would resolve the double taxation issue with a retail store.
 - d) Finally, Mr. Vaughn also suggested that the catering permit could be made available to people who already hold a liquor license, and they also could then have the ability to purchase alcohol from retail without including it in their \$2,000 annual limit.
4. Micki Hackenberger, *Wine and Spirits Wholesalers of Colorado*
- a) Ms. Hackenberger expressed grave concerns with creating a new license that essentially is exempt from the entire three-tier system. What prompted these concerns was some of the discussion around the amount of alcohol that potentially could be purchased essentially exempt from

wholesalers. When we're talking about large-scale events, where you might be talking about 20 to 25,000 attendees, that creates some concern.

- b) Ms. Hackenberger expressed that additional comments would likely be forthcoming once the proposal is revised in writing and can be further reviewed.

5. Logan Kinzer, *La Plata County*

- a) Mr. Kinzer suggested considering making the catering license a countywide license. Caterers will likely want to go from town to town or maybe outside of the municipalities, and if they have to get licensed in every municipality and county, that might be a little arduous and expensive. We could establish this license that would allow them to get a license for the county that would allow them to also do events in the municipalities in that county

D. Vote

- 1. The motion passed on a vote of 5 in support, 0 against, and 1 member abstaining from a vote.

VII. Proposal Discussion: Hearings and Fees

A. [Proposals](#) submitted by Trevor Vaughn on August 16, 2023.

B. LAG Discussion

- 1. Members expressed agreement with Ms. White's public comment regarding ensuring fees charged between municipalities are somewhat similar through a cap or floor of some kind.
 - a) Mr. Vaughn noted that local municipalities have been at their statutory cap for fees for a while now and the intent of the proposal was to allow local municipalities to cover costs. He also noted that requirements under TABOR would likely require that a fee cover costs and not be for general revenue.
 - b) The Division noted that language could be added implementing a cap so all locals are aligned and a caveat that the General Assembly look at the cap in some period of time to review and ensure the cap still allows for costs to be covered and adjust accordingly for inflation or other factors.
 - c) Mr. Vaughn ultimately did not add any language to the proposal requiring a cap.

C. Public Comment

1. Chloe White, *Weld County Clerk's Office*

- a) Ms. White expressed agreement with Mr. Vaughn that the local fees have not really been reevaluated in a long time. When considering staff costs, it's not covered in fees like those for a special event permit because usually it's a nonprofit applying and the county considers that a county donation towards that event.
- b) Ms. White stated concern that if there isn't some overall cap [on local fees], we might see a big discrepancy from one jurisdiction to another, which could be problematic. It could indirectly influence someone to apply to one jurisdiction versus the other because in County A, you can

apply for this permit for \$500, but in County B, you can get it for \$50. Ms. White expressed an unwillingness to create that kind of competition between local jurisdictions and encouraged allowing municipalities the flexibility to assess their own costs and fees while still ensuring fairness for all applicants across Colorado.

- D. Vote
 - 1. The proposals were voted on separately after a request from members of the LAG.
 - a) Hearings
 - (1) The motion passed with no dissenting votes recorded.
 - b) Fees
 - (1) The motion passed on a vote of 3 in support, 0 against, and 2 members abstaining from a vote.
- VIII. Proposal Discussion: Increasing retail establishment permit timeline from 15 days to 30 days
 - A. [Proposal](#) submitted by Chloe White
 - B. LAG Discussion
 - 1. No members of the LAG commented on this proposal.
 - C. Public Comment
 - 1. No members of the public commented on this proposal.
 - D. Vote
 - 1. The motion passed on a vote of 5 in support, 0 against, and 0 members abstaining from a vote.

There will be no future Licensing subgroup meetings. **The next Liquor Advisory Group meeting will be held on Thursday, September 14, 2023, from 9:00 a.m. to 12:00 p.m.**