

LASZLOLAW®
COUNSELORS AT LAW
2595 CANYON BOULEVARD SUITE 210
BOULDER, COLORADO 80302
TELEPHONE (303) 926-0410
WWW.LASZLOLAW.COM

LICENSED IN:
COLORADO
OHIO
CALIFORNIA
ARIZONA
WASHINGTON

VIA E-MAIL [dor_led_rulemaking@state.co.us]

August 2, 2023

Liquor Advisory Group
c/o Colorado Department of Revenue
1707 Cole Blvd; Suite 350
Lakewood, CO 80401

Re: Proposal – Changes to Colorado Liquor Code and Colorado Liquor Rules

Further to my proposal of June 14, 2023 and the LAG discussion on the matter on July 20, 2023, I write at the request of the LAG to offer additional framework for the proposal regarding permitting retailers to buy and sell wine and spirits obtained from private collections.

The original proposal:

Allow on/off premise Colorado licensed retailers (ex: Retail Liquor Licensees, Hotel Restaurant Licensees) to buy and sell “vintage wine and spirits (5-7+ years old)” from private collections / auctions. Allowing this activity is ever more important given the fact that many Colorado alcohol retailers’ inventories were greatly depleted or wiped out entirely due to the Covid-19 Pandemic, and the need to sell wine and spirits inventory to stay in business. Allowing this activity would increase tax revenue for the state of Colorado as there would be multiple sales of each bottle throughout the years. Additionally, allowing this activity would provide much needed choices for Colorado consumers, who are now limited almost exclusively to current release wines and spirits as very few establishments can carry an inventory of back vintage wines and spirits. Further, allowing this activity would help new Colorado businesses and modern business models focused on vintage wine and spirits that are built on a wide array of fine wine and spirits offerings. Many states (notably NY and CA) allow this activity and it works wonderfully; Colorado, its businesses and its consumers are losing out as a result of current Colorado law prohibiting this activity.

Based on discussion with LAG, I now propose Colorado law be modified to permit the following activity:

Any nonlicensed person over the age of twenty-one (21) years owning bottled Vintage Wine or Vintage Spirits, is authorized to sell such Vintage Wine or Vintage Spirits to a licensee authorized to sell wine or spirits if each bottle has a permanently affixed label stating that the wine or spirit was acquired from a private collection.

The acquiring licensee may sell the acquired Vintage Wine or Vintage Spirits by the bottle or by the drink as permitted by its license.

“Vintage wine,” means bottled white, rose, or sparkling wine which is not less than five (5) years old or bottled red wine which is not less than ten (10) years old.

“Vintage Spirits” means bottled distilled spirit which is not less than ten (10) years old.

The acquiring licensee shall keep a record of each purchase of Vintage wine and/or Vintage Spirits. The record shall contain the following information:

- (a) The name, address, state license number, and phone number of the licensee purchasing Vintage wine and/or Vintage Spirits;
- (b) The name, address, age and phone number of the seller of Vintage wine and/or Vintage Spirits;
- (c) The brand name and quantity of each bottle of Vintage wine and/or Vintage Spirits purchased;
- (d) The date of the purchase.

Notes for consideration:

- *Whether beer/ fermented malt beverages should be included.* I take no position on whether Colorado law should be amended to include the sale/resale of vintage beer as I am unaware of any interest in, or the practicalities of a vintage beer market. Thus, vintage beer is not a part of my proposal, and I respectfully suggest that any such a vintage beer proposal be submitted separately.
- *Auction* – I do not propose, nor do I take any position on whether Colorado law should be amended to permit the auction of Vintage Wine or Vintage Spirits within Colorado. My proposal is limited to the sale as set forth above.
- *Limitations on quantities* – My proposal does not include, nor do I suggest that there be a statutory limit on the quantity of Vintage Wine and Vintage Spirits a seller may sell. This is because some private cellars / collections could reasonably be many thousands of bottles, or only a few bottles. For example, an RLS or H/R licensee should be permitted to purchase a 1,500-bottle collection of Vintage Wine and/or Vintage Spirits if and on terms that the parties desire – in the same way that either licensee would be able to purchase a single bottle of Vintage Wine and Vintage Spirits – all in line with the proposal set forth above. With the recordkeeping requirements proposed above, the LED can adopt rules that will permit it to determine if a seller is acting outside of the law.

Sample reference to other state laws permitting this activity:

- Cal. Bus. & Prof. Code § 23104.6. Sale of vintage wine by nonlicensed persons
- N.Y. Alco. Bev. Cont. Law § 99-G. Sale of privately held wines and liquors.
- Ky. Rev. Stat. § 243.232 - Sale and resale of vintage distilled spirits - Notice of purchase

I am unavailable to attend the August 3, 2023 LAG meeting, but I welcome the opportunity to discuss this proposals with the LAG at future meetings and/or upon request.

Very Truly Yours,

LASZLOLAW

A handwritten signature in black ink, appearing to read "Michael J. Laszlo", with a stylized flourish at the end.

Michael J. Laszlo