



Topic: Increasing manufacturer and wholesaler tasting/sales rooms to 5

The Colorado Restaurant Association (CRA) is the largest on-premises trade association in Colorado with more than 5,000 members from all regions of the state. The CRA utilizes our volunteer Board of Directors, Executive Committee, and member input to determine positions on legislation and regulations impacting the hospitality industry. The CRA is very concerned with the current proposal before the Liquor Advisory Group to increase the number of tasting rooms for manufacturers and wholesalers For the Following Reasons.

Undermines 3 Tier System

Colorado's liquor law is founded on the principal of the 3-tier system where the first tier manufactures the product, the second-tier wholesales the product, and the third tier sells the product to the end consumer. In a 3-tier system, sales to the end customer is the responsibility of the third tier and outside of 3 specific licenses (Brewpub, Distillery Pub, and Vintner's Restaurant) selling to the end consumer is all they are allowed to do. Third tier licenses are even prohibited from having ANY financial interest in one of the other tiers.

As tasting rooms evolve, they operate and look more and more like restaurants and bars. Putting in kitchens to sell food on menus designed like a restaurant or expanding their seating and adding entertainment for customers like bars. While these businesses are licensed as a manufacturer or wholesaler, most have become indistinguishable from bars or restaurants in the eyes of their customers and the general public despite vast differences in their licensing. Expanding the number of tasting rooms to 5 for each manufacturer or wholesale license would be a significant shift from the core guiding principles of Colorado's 3-tier system and would dramatically change the on-premises license landscape in the state.

Dramatic Increase In On Premises Establishments

To put this proposal into perspective, there are currently 426 licenses (Manufacturer Distillery & Rectifier, Manufacturer Winery, and Wholesale Beer) that are allowed tasting rooms. To bring each of these licenses up to 5 tasting rooms (as contemplated in this proposal), would mean the potential for an additional 1,595 on-premises establishments just from current licenses. For comparison there are currently only 1,272 tavern liquor licenses in the entire state.

Undermines Local Control

The only tier with dual licensing between the local government and the state, is the third tier meaning restaurants and bars must be licensed at both the state and local level. This provides for local input on setbacks from schools and sensitive areas, zoning, and density considerations, etc. The same levels of scrutiny and local control do not apply to tasting rooms since their underlying licenses only require state approval and are regulated very differently than restaurants or bars.

These regulatory differences have already caused significant problems. Recently, in the City of Denver, a Hotel & Restaurant license application was denied because it was within the 500ft distance restriction

from a school's property. However, to walk from the front door of the proposed H&R license to the closest point of the school's property, a potential patron would have had to pass a brewery tasting room with a large outdoor patio. There is no evidence that tasting rooms are any more or less likely to accidentally serve alcohol to a minor than other third tier establishments however, under this proposal, they would not be subject to local regulations and considerations designed to mitigate those risks.

Unfair Cost Shifting

This proposal would put the cost burden of regulating and enforcing the law at these 1,704 locations on the backs of every other member of the liquor industry, by providing manufacturers and wholesalers with what are essentially free on premises sales locations. If a restaurant group wants to expand and open another location, they must apply for and get another state and local liquor license and pay the required fees for the new location. Under this proposal, manufacturers and wholesalers would receive 3 to 4 additional on premises sales locations without paying for additional licenses or associated fees. This shifts the administrative and enforcement costs associated with these new locations onto the back of all other liquor licensees who are paying application and license fees.

Concept Has Already Been Rejected by The Legislature

In the 2017 Legislative Session, Senate Bill 17-253 attempted to make similar changes to Colorado's liquor law by attempting to increase the number of tasting rooms to 3 total for the winery, manufacturer of spiritous liquor, and wholesale beer licenses. SB17-253 was defeated in the legislature, largely due to the concerns outlined earlier in this letter and this proposal seeks to go even further than SB17-253.

In order to move forward with this proposal, the CRA would request the following changes be adopted:

- All tasting rooms should be subject to the same dual licensing requirements as other third tier, on-premises liquor licenses.
- All tasting rooms should have the same distance restrictions as other third tier, on-premises liquor licenses.
- All tasting rooms should be required to pay the same state and local application fees for each location where alcohol will be served to the public as other third-tier, on-premises liquor licenses.
- All tasting rooms should be subject to the same food sales requirements as other third tier, on-premises liquor licenses.

Without the above recommended changes, the CRA would be strongly opposed to this proposal and would request that the Liquor Advisory Group not include this proposal in their recommendations.

Sincerely,

Sonia Riggs

President & CEO
Colorado Restaurant Association