

## **Jim Shpall**

*Applejack Wine & Spirits*

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### **Topic:** Repeal of License Type

In 2016, the Colorado legislature passed, and the Governor signed into law, the provisions of SB 197. The law, as enacted, allowed qualified stores – primarily chain grocery stores or other chain stores with pharmacies – to sell beer, wine, and spirits in direct competition with retail liquor stores. A key issue behind the negotiations surrounding SB 197 was that a threatened proposition to allow the sale of wine in grocery and convenience stores, that was being advanced by the grocery and convenience store chains (including Walmart, Kroger and Amazon) would not be put on the ballot if the SB 197 “Compromise” was reached.

The provisions of SB 197 became law on January 1, 2017. Overnight, anyone with a license to sell 3.2 beer could immediately sell full-strength beer. This meant that on January 1, 2017, virtually every grocery store and every convenience store began selling full-strength beer.

Allowing full-strength beer in all these stores was a fundamental change to the liquor codes with an immediate detrimental impact on all the independent retail stores who alone had been selling full-strength beer.

Prior to the enactment of SB 197, there was a provision in the liquor statutes called a liquor licensed drug store license that allowed a store with a full-time licensed pharmacy to sell beer, wine and spirits in one location – the same as for independent retail liquor stores. The provisions of SB 197 changed things dramatically. The statutory provisions of the liquor licensed drug store were altered to allow a few large chains that had pharmacies (generally, Walmart, Kroger, Safeway, Target, and Costco) to ultimately sell beer, wine, and spirits in all of their stores. The new law provided that over time these grocery chains that had pharmacies could sell beer, wine, and spirits in all their hundreds of locations.

At the same time, however, a retail liquor store, the robust independent retail market, could never have more than four stores selling beer wine and spirits in competition with the grocery chains and their hundreds of stores selling everything from food, to tires to dog food – something independent retail liquor stores cannot do.

Yet even with the inequities of SB 197 and the overwhelming advantages it gave to the grocery and convenience store chains it was not enough for these chains. In 2022 a slew of grocery and convenience store chains placed a proposition on the ballot allowing them to sell beer and wine in all their stores as of March 1, 2023. At the time the proposition was advanced and ultimately passed the grocery and convenience store chains stated that all they ever wanted was to be able to sell beer and wine. These chains stated that selling wine and beer – not spirits --was their ultimate goal. Yet the way they crafted the language for the proposition, these same chains were able to also maintain the provisions of the law that would allow them to sell spirits in all their stores over time through the provisions of the antiquated liquor licensed drug store statute.

Grocery and convenience store chains repeatedly have said they were interested in selling beer and wine, only. The ballot proposition they drafted and placed on the ballot specifically does not include any provision to sell spirits in their stores.

Retail liquor stores, relegated to only 4 licenses, are unable to compete with the grocery store and convenience store chains have hundreds of locations and licenses. To further exacerbate matters, Safeway (Albertsons) and Kroger are seeking to merge. This merger will directly impact consumers and mean a further diminution of choice for consumers that exist in a robust retail market that allows independent retailers to compete, in some fashion, with the grocery and convenience chains.

Therefore, keeping the grocery and convenience store chains true to their word, and to ensure a robust and competitive retail environment where there will be a vibrant independent channel available to consumers, and given the fact that the concept of a liquor licensed drug store is antiquated at best, the statutory provisions of the liquor licensed drug store, Section 44-3-410 C.R.S., should be repealed. Repeal of this antiquated provision of the Liquor Code will ensure that consumer choice is preserved.