COLORADO
Department of Revenue
Specialized Business Group—
Liquor & Tobacco

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**Liquor Advisory Group**
**Public Comment Submissions**
**May 4, 2023**

**Steve Findley**
*Colorado Beer Distributors Association*
5/4//23 Comment

**Topic:** Franchise Law - CRS 44-3-408 Termination of Wholesalers

As Executive Director of the Colorado Beer Distributors Association (CBDA), please include my comments for the public record of the Liquor Advisory Group, specifically addressing the proposal of removing CRS 44-3-408.

For context, I was also Director of the CBDA at the time this statute was adopted into law. The bill was negotiated for over two years with brewers, both large and small, in-state and out of state. Recognizing the disparity in the size and influence larger brewers have over beer distributors, we chose then, and support today, to exempt the majority of Colorado brewers (those producing under 300,000 gallons per calendar year) from this statute.

In Colorado, brewers have a choice. They can make the substantial investment in the necessary infrastructure (warehouses, sales force, delivery force, advertising, etc.) and self-distribute or they can induce a distributor to make those substantial investments on their behalf. If they do so, however, they are subject to the franchise laws, and the "for cause" termination provisions that prevent a brewer from usurping that investment for arbitrary or capricious reasons.

Because of the protection afforded by the "good cause" provision, distributors are free to distribute the products of many brewers, in particular craft brewers, without fear of retribution and termination by large brewers. This largely explains the wide choice and variety that exists in the beer market in contrast to the soda market that is dominated by two suppliers. Because of franchise laws and the existence of a strong, independent middle tier, Colorado's regulatory system nurtures small, entrepreneurial businesses. This regulatory structure similarly affords consumers great choice and variety. Put another way, all market participants (producers, distributors, and retailers) operate on a level playing field on which they can fairly compete. As a result, Colorado has more breweries per capita than the vast majority of other states. If it ain't broke, don't fix it.

Therefore, we would oppose the Liquor Advisory Group recommending the Ms. Hertz's proposal to remove CRS 44-3-408.

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**Steve Findley**
*Colorado Beer Distributors Association*
5/4/23 Comment

**Topic:** Exclusive Territories

As Executive Director of the Colorado Beer Distributors Association (CBDA), please include my comments for the public record of the May4, 2023 Liquor Advisory Group, specifically on the issue of exclusive territories for beer.

In the beer industry, exclusive territories serve many important public policy goals. They help maintain an orderly market by creating a transparent and accountable distribution system. Additionally, they also greatly facilitate the collection of excise and other taxes.

The transparent nature of the three-tier system of alcohol distribution ensures all of our products are accounted for at all times. In case of recalls, product can be swiftly removed from retailers' shelves within hours. Exclusive territories eliminate bootlegging and counterfeiting in Colorado and the United States.

Exclusive territories also help maintain orderly markets so the Liquor Enforcement Division, state and local authorities may properly regulate the production, distribution and sale of alcohol. Enforcing state rules and regulations would be made much more difficult if a transparent system was not in place where regulators could trace which wholesaler placed which product in the market.

Some have noted potentially cheaper beer prices in other territories as a reason to throw out the exclusive territory system, but the difference in pricing reflects the price the manufacturer charges the distributor. Shipping and freight costs are not the same throughout the state/country.

Lastly, and most importantly for beer distributors, beer is a perishable product with set shelf life. Per our contracts with most of our suppliers, and in accordance with state law, beer distributors may swap out dated or close dated product at no cost to the retailer. The cost is incurred solely by the distributor. Removing territories would create chaos in the marketplace. Not knowing which beer was placed in accounts by which distributor would create problems for replacement of product at no cost to retailers. Distributors would no longer be able to replace coded beer at their own cost because it would be unclear where the products came from.

Steve Findley, Executive Director