

Liquor Advisory Group Survey Results

What are the top three provisions of the current Title 44, Articles 3 (liquor code), 4 (beer code), or 5 (special event code) that should be clarified and simplified?

- The retailer tier is saddled with a lot of unnecessary regulation. Having to ask for shelf space for an area that is already licensed creates a lot of unnecessary paperwork and potential hearings for the retailer, local municipality etc. The modification of premise has been a challenge as municipalities interpret the law differently.
- Allowing tiers 1 and 3 to conduct more direct businesses if they wished to do so. Tier 2 is working towards getting rid of sales representatives, turning their operation into merely delivering products that retailers and on premise accounts have bought through their online platforms.
- Liquor code: 44-3-102, 44-3-103, and 44-3-104
Beer code: 44-4-102, 44-4-103, and 44-4-104
Special Event Code: 44-5-102, 44-5-103, and 44-5-107
- Top three is a very difficult exercise because I think everything listed below is important, and we should attempt to address everything brought up by group members.
- Areas that have show repealed items. Just remove so its not confusing when trying to read. Throughout all the dates of before and after for all areas they pertain to are also confusing. Just have most updated laws so people can understand the laws better. Much of the wording seems outdated and difficult to understand and one can tell if it is from quite a long time ago. The more recent laws read cleaner and are much easier to understand. The older are very difficult for the average person to read and understand. Also, I may have read this wrong, but it seems to read differently in two different places. Does a manufacture distillery have to have a wholesale license to self-distribute? I thought I read in one place it does not but in another it mentions wholesale.
- Article 5 and the issuance of Special Event Permits.
- I don't think I can specify just three specific provisions of these Articles that should be clarified and simplified. I think the overall code needs to be revised. Also the interplay between various sections make such a limited selection difficult.

There is also an open question of what is the purpose of the task force? Is it to simplify the Codes? Is it to create a more open market for the sale of alcohol beverages that the current Codes impede? Is it to address inequities in the Codes? Is the purpose of the task force to address safety issues? Should the code look at how the law impacts consumers to make it more consumer friendly, but at the expense of the current system in which the existing players have followed the rules?

Too many provisions serve as swords and shields to protect fiefdoms. While I would like to see a level playing field this is difficult to achieve since many businesses who are trying to enter the alcohol beverage field (new licensees) have advantages that do not exist for existing licensees who have faced restrictions set forth in the various Codes. For example, for nearly 80 years Retail Liquor Stores ("RLS") were only allowed to have one license at one location. In the intervening years grocery stores developed and added locations throughout Colorado. As the grocers added locations they were able to develop economies of scale that were denied RLS. Then overnight a new law was passed, SB 197, that allowed Liquor Licensed Drug Stores ("LLDS") to ultimately have liquor departments selling beer, wine and spirits in all of their locations. Then to add insult to injury, not being satisfied with SB 197, grocery stores and convenience stores promoted Proposition 125 to allow them to sell wine along with beer in all of their hundreds of stores starting this March 2023.

A critical question is -- "how can the code sections be changed or modified to create a more level playing field while not losing sight of the impact of Proposition 125 and the 80 years of handcuffs placed on existing RLS while these new businesses want to change the laws or rules in their favor virtually overnight?" I believe this and other fundamental questions must be answered at the start.

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Also, if the goal is an open market, what does that mean? Does it mean that a wholesaler cannot have a monopoly on brands? Does it mean an unlimited number of licensees selling beer, wine and spirits, albeit with safety concerns addressed? What are the safety goals?

Perhaps the real goal for now should be to simply to remove laws that help specific licensees run their businesses under cover of law. Too many provisions serve as swords or shields to allow a business to rely on protective laws to help them run their businesses. For example, there are credit laws that mandate that retailers must pay their bills from wholesalers within 30 days or they will be cut-off. Should this really be a government imposed law or should it be up to the individual wholesalers to establish their own credit terms? There are limits on how much a wholesaler can bear any of the responsibility or cost for tastings of their own products.

SPECIFIC PROVISIONS THAT SHOULD BE CLARIFIED AND SIMPLIFIED INCLUDE:

- 1. 44-3-103. The definitions in 44-3-103 can be simplified. Why are they all there? If we simplify the Code do we need the plethora of definitions? Speaking with LED is an important part of the process to determine its pain points.
- 2. 44-3-202. Look at laws and regulations that are not enforced and even if enforced serve no valid State purpose. Of course, this means reviewing the Codes to determine the purpose of each provision. For example, why are RLS closed on Christmas?
- 3. 44-3-301. "Needs and Desires" now creates an interesting issue since after the passage of Prop. 125 wine and beer can be in every store that has a beer and wine license without a consideration of Needs and Desires. Is this provision antiquated? Should market forces determine Needs and Desires?
- 4. 44-3-301(10). There should be a liberalization of the laws surrounding tastings for RLS. For example, wholesalers are not permitted to provide samples for tastings even though they clearly benefit from tastings. This is an example of a provision where the government is stepping in to assist wholesalers in how they can run their business. Wholesalers rely on this provision to avoid having to share in any costs to promote its own products. If a wholesaler does not want to supply the sample for a tasting that should be its decision and not mandated by the state.
- 5. 44-3-302. License Renewal. Would it be better for licenses to be automatically renewed subject to objections from the State or locals? For example, why require all the paperwork for renewals if nothing has changed from the prior year and there are no bad acts? All the current renewal requirements create is the possibility of someone missing a deadline and jeopardizing a license for no reason except missing the deadline.
- 6. 44-3-308. Unlawful Financial Assistance. This provision is far too broad. This article deprives businesses from making their own business decisions and not hide behind the State laws that were enacted because they do not want to make decisions they believe will put them at a competitive disadvantage. These are protections for manufacturers only that do not help anyone else.
- 7. There is currently a restriction on the amount of alcohol beverages that a restaurant can purchase from a RLS. Since service by wholesalers to many restaurant accounts is sporadic and spotty, this restriction should be lifted.
- 8. RLS should be allowed to purchase wine cellars from collectors.
- 9. 44-3-410. There should be a discussion of whether to eliminate the Liquor Licensed drugstore license. At a minimum, there should be a discussion of whether you limit a licensee to only one type of license.
- 1. FMB license to FMB & Wine off premise license - will all existing laws now applicable to FMB, i.e. distance requirements, be the same;
- 2. Festival permits - clarification on grounds which can/can't be used to hold these events and proof of use of premises for such;

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- 1. Article 3: 44-3-404 Festival permit rules (III) (II) 2 c - Limit of Nine Festivals a year, some rural wineries use festivals as part of their sales outlet
- 2. Article 3: 44-3-302 Renewal Is it possible for a licensee with several permits - Liquor permit, sales room, additional sales room, shipping - to renew all on one form at same time to reduce filing and admin time
- 3. Article 3: 44-3-911 - Take out and delivery - Discussion of removal of alcoholic beverages from premise - What are parameters of container? Is this responsible conduct for public safety - The concept of 'To Go Cocktails' is vague and not necessary in sales room business plan. A problem for the next tasting room on the tour.
- 44-3-911, simplifying process for updating license footprint when expansions/renovations happen at a license holder facility, and eliminating the rule that brands can only be distributed via one wholesaler.
- The entire document needs to be in layman terms and greatly reduced. Remove all boilerplate verbiage for starters. If businesses are required to obtain licenses they should be tested on the statutes of the license they are applying for to verify they understand the parameters of said license. This falls into a consumer safety issue when license holders don't understand their license parameters.

Why so many different licenses? Do we really need a brewery and brew pub speciation? Does b&b really need to be by the bottle and not offer single beverages? Why are we limiting free market in a safe zone of the guests staying on premise? Shouldn't the b&b just be offered an "on premise" license? I think licenses and their parameters could be simply reduced to 'on premise' 'off premise' and have simple subcategories under each.

Why is it necessary to limit the alcohol % per license, ex beer and wine. You can either sell and or produce alcoholic beverages or you can't. This reduces the free market and doesn't do anything regarding consumer safety. Let's instead enforce regular training with verifiable and time-limited certifications for all employees and establishments and make the market easier to safeguard and enforce and venues, distributors, and producers, more profitable.

What license process or type could be improved?

- The tasting license process needs an overhaul, especially since the law allows for suppliers and 3rd parties to sample product. If the fee collection is the reason for a separate license then suggest an increase in fee to renew and include tastings as part of any license issued.
- Modification of premises; Change of location
- 44-3-911
- Reduce number of license types and align fees. For purposes of discussion, would suggest the following:
 - off-premise
 - on-premise
 - manufacturer & importer
 - wholesaler & packager
 - festival/special event
- Manufacturer
- Special event
- The renewal of licenses can be streamlined. Absent a significant change in ownership or location the renewal should be automatic (after paying the fee which can be done by credit card or on-line). For multiple licenses, the date of renewal should be the same for all locations or, perhaps, have one license for all the locations.

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- Can some of the food/alcohol licenses be combined - Beer and Wine, Tavern, Hotel and Restaurant - they seem to overlap
- Updating license footprint when expansions/renovations happen at a license holder facility, recording the location that alcohol is stored on-premise with the ability to revoke the license if product is moved and not reported (very antiquated), and the general extremity of fingerprinting and background checks for liquor license holders to ensure they're not part of an organized crime gang is completely outdated.
- If businesses are required to obtain licenses they should be tested on the statutes of the license they are applying for to verify they understand the parameters of said license. Why so many different licenses? Do we really need a brewery and brew pub speciation? Does b&b really need to be a by the bottle and not offer single beverages? Why are we limiting free market in a safe zone of the guests staying on premise? Shouldn't the b&b just be offered an "on premise" license? I think our licenses and their parameters could be simply reduced to 'on premise' 'off premise', 'manufacturing' and 'distributing/wholesaler' have simple subcategories under each.

What specific changes would you recommend for Tier 1 (manufacturers)?

- Making the area allowed for self distribution larger
- To use quality packaging of the products being packaged. In recent years the quantity of packaging has been deteriorating leading to product breakages.
- Allow all manufacturers to contract with more than one wholesaler.
- Parity among the three different manufacturers. There are vast differences between breweries, wineries and distilleries. There are differences in franchise laws, number of sales rooms allowed, temporary sales rooms allowed, direct shipping, alternating proprietorships, production caps and allowing non-contiguous production.
 - 1. Remove written contracts and exclusive rights with wholesalers for breweries to be same as winery and distilleries.
 - 2. Give breweries and distilleries the same amount of sales room and temporary sales rooms as wineries.
 - 3. Allow direct shipping permits for breweries and distilleries as wineries already have.
 - 4. Allow distilleries to have alternating proprietorships as breweries and wineries.
 - 5. Allow non-contiguous production for breweries and distilleries as wineries have currently.
 - 6. Increase (or even out) production caps for brew pubs, distill pubs, limited winery.
 - 7. Perhaps also allow manufacturers to do other alcohol in same manufacturing area. Brewery can have a still to do spirits or cider or vice versa. Similar to New Mexico. A brewery with a canning line could can RTDs not just beer.
- Reconsider and remove provisions that give manufacturers a legal excuse to run their businesses in a protected manner where no other tier or even consumers have any benefit.
- Does a manufacturer need a separate wholesale license. Can it be included
- Soften the rules so that manufacturers are able to give more marketing support to restaurants.
- Eliminating the article forbidding a manufacturer of hiring sales professionals. This should be something under a self-regulation between distributor and manufacturer.

What specific changes would you recommend for Tier 2 (wholesalers)?

- Tier 2 should be optional, prompting distributors to up their game if they wish to stay relevant.
- To operate within the scope of practice. Wholesale meaning wholesale, not retailing. Practice faire equity, market price and distribution among Retailers big or small.

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- Allow wholesalers to provide goods of value to retailers up to a certain dollar amount per year.
- Remove written contracts and exclusive rights with wholesalers for breweries. Have the same set up as wineries and distilleries. All three have the same playing field.
- Reconsider and remove provisions that give Wholesalers a legal excuse to run their businesses in a protected manner where no other tier or even consumers have any benefit. There are provisions in place that serve no real governmental interest. There are also legal provisions that have been put in place with strong lobbying efforts by both wholesalers and manufacturers that shifted financial burdens that rightfully should have been on Tier 1 and Tier 2 businesses to retailers. The government should not make determinations about functions that are really business decisions as discussed above
- Why separate malt from vinous/spirit whole business and specify trade practices
- 44-3-408. Termination of wholesalers - remedies - definitions. This is not my lane but there seems to be government overreach here on private contracts between businesses.

What specific changes would you recommend for Tier 3 (retailers)?

- Overall discussion of the 3 Tier system. Specifically to discuss if the system should be modified to allow direct purchasing from the manufacturers, by retail tier. Also, eliminate the current QD cost structure and move to a structure where all retailers are paying the same cost for items.
- Allow curbside and drive through sales.
- Not making TIPS cert mandatory every 3 years and create other mandatory trainings to keep enhancing knowledge instead of repetition of the same course over and over
- Thoughtful and competitive pricing, think about the small guy next door, that doesn't have the buying power or space. Implement practices that safeguard the public.
- Align off-premise sales days and hours with on-premise.
- align to-go and delivery hours with off-premise liquor sales
- Eliminate full meal requirement for on-premise licenses in areas with a population of ten thousand or more. (Still require sandwiches and/or light snacks.)
- permanently allow to-go alcohol
- allow retailers to receive goods of value from wholesalers, up to a certain dollar amount per year
- Allow the same person to be a registered manager for more than one on-premise license type. Currently, no person shall be a registered manager for more than one hotel and restaurant license, and same thing with tavern, and lodging and entertainment.
- Allowing the continuation of take out alcohol for retail establishments such as restaurants.
- these licenses to be available to existing licensees/caterers/concessionaires, as opposed to NPO's. candidates for office, etc. This would allow those to operate in conjunction with vendors to guarantee responsible service and adherence to tied house laws per their expertise/normal course of business.
- Review laws to determine what provisions of Article 3 really serve a compelling interest. Jettison laws that effectively handcuff business operations or create unnecessary protections.
- Retailers can contract with more than one wholesaler in a specific territory
- Ability to sell a greater quantity of alcohol to on-premise retailers per year.
- In an effort to improve market access and to allow all brands to maximize their reach in the marketplace, we believe the limitations related to off-premise tastings in 44-3-301 (10) (IV) and 44-3-301 (10) (XI) should be removed or significantly altered to allow greater flexibility and more opportunity.

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What specific provisions of Title 44, Article 3 (liquor code), 4 (beer code), or 5 (special event code) would benefit the most from modernization?

- Suggest COD rules for LLDS be eliminated.
- Streamlining recurring special events licenses
- 44-3-104, 44-3-104, 44-3-106
- 44-4-104, 44-4-103
- Streamlining license types
- eliminating "full meal" requirement in areas with dense population
- authorize local control regarding alcohol consumption on municipal nonvehicular rights of way
- permanently allow to-go alcohol for on-premise retailers
- eliminate product monopolies in the middle tier
- 44-3-301 through 44-3-313 and 44-3-501 through 44-3-505
- all of them. Perhaps Article 4 can even be deleted and incorporated into Article 3
- online renewal and application process
- 44-3-911 - make alcohol to-go from on-premise license holders permanent, not requiring an additional permit, increasing the limits
- 44-3-405 Should be amended to allow for Direct-to-Consumer shipping for holders of an Importers License.
- Encouraging the free market by eliminating regulations restricting the type of alcohol and establishment can sell and encouraging consumer safety by license holders being able to read and comprehend the code encouraging compliancy

What improvements could be made to Title 44, Article 3 (liquor code), 4 (beer code), or 5 (special event code) to enhance fairness, parity and equity in the administration of alcohol regulation?

- Cost parity helps with regulating "below cost" laws and creates parity among all parties. If everyone is paying the same operators can determine what margins they will run to compete.
- Create a hybrid on-off premise license that allows for in store consumption in a separate area
- Each Liquor, Beer, and Special Event permit code will need to be revisited and harmonized. The Liquor industry is a dynamic process and continues improvements may be necessary to make it easier to enforce the law.
- Streamline license types, align on-premise and off-premise hours of operation, eliminate product monopolies in the middle tier
- More parity among the manufacturers. There are many differences for malt beverage manufacturers than vinous spirits or spiritous liquor. Differences in wholesale contracts being mandatory for malt beverage but not the other two manufacturers. Differences in amount of sales rooms and temporary licensing. I think with them similar and all on the same playing field it will help administration of the regulations easier while encouraging new business and enhancing existing businesses to thrive.
- All manufacturers, regardless of product (i.e. beer, spirits, or wine) having the same opportunities for additional sales rooms, temporary or permanent. Seems to be some disparity in that area.
- Rules and regulations are reviewed for impact on small license permits
- Using false identification is a felony, yet rarely are penalties given to people in our four walls who use false IDs to obtain alcohol. We are required to send our staff to lengthy training programs that are also costly and work hard to hold that line, protecting our businesses and the community from people using fake IDs to drink under age. This is not an easy task, and it is even more difficult for ESL business owners and operators who have to navigate this system with little help from government in the preparation and prevention. The focus seems to be on "catching" restaurants, which can have catastrophic effects to a business, not only through the loss of a liquor license

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(temporary or permanent) but also the potential negative publicity. Sting operations are conducted by the LED and partners typically visit restaurants when they are busiest, intentionally acting with the aim to get the restaurant to fail the sting (lowest light, busiest time, older looking people with hats pulled low and glasses, etc.). The restaurant industry employs an incredibly diverse workforce and owners of restaurants are statistically more diverse than almost any other industry. Very little is done to prevent the use of fake IDs and when a restaurant catches someone using one little can be done to detain them while police route to the business, which may not happen as it's understandably low on the priority list. So the consequence for the person breaking the law is very minimal, yet the consequence for the business is extreme. The potential opportunities for human error are enormous with high rates of turnover, fast-paced work environment, and more. The scales are not even.

- Consumers should have equitable access to wine and spirits in grocery and convenience stores. There should be parity in taxation of spirits as compared to wine and beer. Consumers should have equitable access to spirits-based "ready to drink" RTD products in grocery and convenience stores, particularly considering 44-3-423 allowances for beer and wine. There should be parity in taxation of spirits based RTD products compared with beer and wine.

What changes would you make to enhance public safety?

- The state does a good job with public safety related to alcohol sales, however the training requirements vary with each municipality. Many retailers have internal training requirements that compliment local training requirements. Is there a way to streamline TIPS training where required? In addition to the state's efforts, retailers take additional steps to ensure the responsible sale of alcohol. We have a robust internal program to conduct internal stings/compliance. We also have internal alcohol sales training.
- Ruling that every customer, independently of their apparent age, has to produce a form of ID upon approaching the register, same as marijuana dispensaries.
- Continue to check ID. Stop selling to someone who is or appears to be intoxicated. Responsibly facilitating the delivery of alcohol beverages in unopened containers to customers over 21 years old. Put regulations in place for to-go or pick up orders for alcoholic drinks in open containers like sodas. The pandemic has brought to us a lot, now it's time to put the integrity of the State back. Clear all the ambiguities so that our public safety officers can enforce the law and protect the public.
- Would defer to our public safety experts on this.
- The changes i suggest enhance safety as license who have expertise are the operators
- By not having Liquor Enforcement spend its time and resources on arcane trade practice disputes will allow Liquor Enforcement to concentrate on public safety issues such as sales to minors and intoxicated individuals.
- Better definition/direction on "good moral character". Potential requirement at the state level for some type of responsible vendor/service training. Localities could go above and beyond if they choose.
- Hours of operation should not be extended and "To Go Cocktails" not allowed unless in restaurant take out orders with food
- More emphasis on the penalty for the use of fake identification and a better system for reporting to deter offenders.
- Consider innovative market and/or community-based responses to curb irresponsible use- like the "Safe Night" pilot program which shows how innovation and community partnership can be brought together to address a public health and safety need. Additionally, Pernod Ricard USA

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supports broad industry cooperation and coordination with law enforcement and the Attorneys General to enforcement or prosecution of violations of all liquor laws and rules.

- License holder comprehension and compliance with the code through testing