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October 23, 2023

Governor Jared Polis  
136 State Capitol  
Denver, CO 80203

Dear Governor Polis:

I am pleased to submit the final report of the Liquor Advisory Group (LAG), which you asked the Department of Revenue to convene in July 2022.

The LAG consisted of representatives from all aspects of Colorado's liquor industry, including brewers, distillers, vintners, distributors, restaurants, taverns, event and cultural venues, and retail stores. The LAG considered many issues that the members experienced in operating, expanding, or surviving in their businesses amidst changes in the marketplace and consumer demand. Representatives of local licensing authorities, law enforcement, and Mothers Against Drunk Driving added their important perspectives on local community control and public safety.

While the LAG agreed that Colorado's three-tier regulatory system (manufacturers, distributors, and retailers) serves an important purpose in the control of liquor sales, the LAG recommended thirty-three (33) changes and/or updates to the Colorado Liquor and Beer and Wine Codes. This report details those recommendations.

The LAG considered other recommendations that did not receive consensus support from the group but did receive majority support. Those proposals are stated separately.

I would like to thank every member of the LAG for their service and commitment. The LAG met monthly for ten months, and every member also served on a subgroup that also met monthly. This time commitment was significant for members who had their own business and personal commitments. Each LAG member approached the issues thoughtfully, listened to other's perspectives, and worked together to craft the recommendations.

I also commend the Liquor Enforcement Division and Director Michelle Stone-Principato for adding their significant expertise and administrative experience when called upon to provide the background, basis, and results of regulation. Director Stone-Principato also ensured that the LAG process was transparent and open to public comment.

Sincerely,

Heidi Humphreys  
Executive Director  
Colorado Department of Revenue



**COLORADO**  
**Department of Revenue**  
Executive Director's Office

**DRAFT**

**Special Report by the Liquor Advisory Group  
To Governor Jared Polis**

**Recommendations regarding Statutory Alignment Opportunities in the  
Liquor and Beer and Wine Codes<sup>1</sup>**

**November 2023**

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<sup>1</sup>The Liquor Advisory Group did not make any revision 44-5-101 et seq. (The Special Event Code).

<b>Executive Summary</b>	<b>4</b>
Statutory Recommendations with Consensus	4
Statutory Recommendations Without Full Consensus	6
<b>Background on the Liquor Advisory Group Process</b>	<b>8</b>
<b>Liquor Advisory Group Recommendations</b>	<b>10</b>
<b>Regulation of Retail Operations Recommendations</b>	<b>10</b>
Proposal 3: Soft close for last call.	10
Proposal 1: Remove mandatory Christmas Day closure from statute.	11
Proposal 2: New statute to allow off-premises retailers to offer educational classes (Amended Version).	11
Proposal 5: Increase purchase limits for an on-premises retailer from an off-premises retailer.	12
Proposal 22: Allow the Liquor Enforcement Division to charge for investigations.	13
Proposal 23: Controlled substance sales on licensed premises.	13
Proposal 24: Support and incentives for Responsible Vendor Training	14
Proposal 32: Purchase of inventory.	14
<b>Marketplace Structure Recommendations</b>	<b>16</b>
Proposal 4: Wholesaler trade shows event.	16
Proposal 7: Noncontiguous locations for malt and spirituous manufacturers.	17
Proposal 8: Off-premises tastings.	17
Proposal 10: Colorado manufacturer’s sales room sales of alcohol.	19
Proposal 16: HB23-1061 fee adjustment.	20
Proposal 17: SB23-264 business to calendar days.	20
Proposal 18: Remove prohibition on wine and spirit wholesalers obtaining an importers license.	20
Proposal 19: Credit terms for liquor-licensed drugstores.	21
Proposal 34: Common carrier permit for wine direct shipping.	21
Proposal 35: Give authority to the LED to address illegal out-of-state shipments of alcohol products.	22
<b>Streamline, Modernize and Clarify Licensing Recommendations</b>	<b>22</b>
Proposal 9: Consolidation of Lodging into the Hotel & Restaurant (H&R) License Type	22
Proposal 12: Amendment to 44-3-301(2)(b), C.R.S., removing the reference to “new tavern and retail liquor stores” on state-owned property and expanding language to include all retail liquor licenses on the property.	23
Proposal 13: Amendment to 44-3-303(1)(b), C.R.S., Removing the specific reference to “husband and wife” and updating the language to coincide with EDI standards and the current law.	23
Proposal 14: Update the online renewal process to incorporate a list of documents that do not need to be resubmitted (as part of the renewal) unless the information has changed.	24
Proposal 15: Two-year Renewal Plan for Licensees in Good Standing with Local and	

State Licensing Authorities	24
Proposal 26: 44-3-419. Arts license - definition.	25
Proposal 27: Catering license.	26
Proposal 28: Amendment to requirement for public hearing for new license applications.	27
Proposal 29: Removal of all state and local fee amounts and fee caps from statutory language.	27
Proposal 30: Increased processing timeline for Retail Establishment Permit applications.	28
<b>Nonconsensus Proposals Approved by the Liquor Advisory Group</b>	<b>28</b>
Proposal 6: Tasting/Sales room Increase:	28
Proposal 20(b): State Licensing Authority rulemaking authority for application review timelines and process	29
Proposal 25: Allow restaurants to have the option for customers to bring in a bottle of wine and charge a corkage fee:	29
Proposal 33: Direct-to-consumer shipping for beer and distilled spirits with courier permit for delivery of products.	30
<b>Proposals Not Approved by Liquor Advisory Group Subgroups</b>	<b>31</b>
<b>Conclusion</b>	<b>32</b>
<b>Appendices</b>	<b>33</b>

## Executive Summary

In an effort to better modernize, clarify, and harmonize Colorado's Liquor Code while providing consumer protections and public safety initiatives, the Liquor Advisory Group (LAG) recommends the following amendments or additions to Colorado's Liquor, Beer and Wine, and Special Event Codes (collectively "the Liquor Code") or administrative processes. The statutory recommendations are listed below in the same order as the more detailed descriptions of each appears in the body of this report.

The voters went to the ballot in November of 2022 on three alcohol related initiatives shortly before Governor Polis established the LAG. To respect the will of the voters, Executive Director Mark Ferrandino made clear at the start of the LAG that proposals considered by the LAG should not disrupt the voters clear intent on the 2022 ballot propositions. Thus, Director Ferrandino made clear that the LAG would not consider proposals that were identical, or similar to issues that were the subject of the 2022 ballot propositions. Any proposals discussed during the LAG that were antithetical to this directive are not included in this report as they could not properly be considered under this directive.

The LAG was not represented by legal counsel, and while attorneys for the Liquor Enforcement Division ("LED" or "the Division") attended LAG meetings, they did not represent the LAG during this process. Thus, no opinion is given regarding the legality or constitutionality of the recommendations listed in this report. The LED reserves the right to address any concerns regarding the proposals during the regular legislative process after a bill is introduced that includes the recommendation(s) discussed below.

### Statutory Recommendations with Consensus

**Soft close for last call.** Amend the existing statutory language under 44-3-901(6)(b)(I), C.R.S., to give businesses the ability to be open until 4 a.m. with the last call completed by 2 a.m.

**Remove mandatory Christmas Day closure from statute.** Remove the prohibition under 44-3-901(6)(b)(II), and (6)(c)(III), C.R.S., requiring off-premises retailers closure on Christmas Day.

**New statute to allow off-premises retailers to offer educational classes.** Create a new statute to allow off-premises retailers to offer educational classes.

**Increase purchase limits for an on-premises retailer to purchase alcohol from an off-premises retailer.** Amend statutory language to allow an on-premises retailer to purchase not more than seven thousand dollars' (\$7,000.00) worth of malt, vinous, and spirituous liquor (as allowed by their license type) from retail liquor licensees pursuant to sections 44-3-409, 44-3-410, or 44-4-104(1)(c), C.R.S., in a calendar year.

**Allow the Liquor Enforcement Division to charge for investigations.** Add statutory authority allowing the Division to charge a licensee for the reasonable cost of an investigation at an hourly rate, if violations are established through hearing or settlement, and provide the State Licensing Authority rulemaking authority over the same.

**Controlled substance sales on licensed premises.** Add statutory language making it unlawful for any person licensed to sell at retail, pursuant to article 3 or article 4 of title 44, to knowingly permit the illegal sale, or negotiations for the sale, of controlled substances upon their licensed premises, not including prescription drugs lawfully sold by a liquor-licensed drugstore.

**Support and incentives for Responsible Vendor Training.** Add statutory language to increase incentives for licensees to attain responsible alcohol beverage vendor certification.

**Purchase of inventory.** Amend 44-3-309, C.R.S., to allow licensed Retail Liquor Stores to purchase the inventory of a Retail Liquor Store licensee that is going out of business.

**Wholesaler trade show events.** Create a new subsection in statute under 44-3-407, C.R.S. (Wholesaler statute), that will give wholesalers the ability to hold trade show events to allow liquor-licensed retailers to sample products on their licensed premises in an area designated for trade shows. These events will not be open to the public.

**Noncontiguous locations for beer and spirits manufacturers.** Add additional statutory language allowing malt liquor and spirituous alcohol manufacturers to include up to two (2) noncontiguous locations in their licensed premises, both of which are used for manufacturing purposes, within a radius of ten miles.

**Off-premises tastings.** Amend provisions for off-premises tastings to provide more choice for consumers while maintaining regulatory control over the product and the offering of more product tastings.

**Colorado manufacturer's sales room sales of alcohol.** Amend provisions pertaining to Colorado Manufacturer's Sales Room sales of alcohol to allow licensed Colorado distilled spirits manufacturers to purchase and use common alcohol modifiers to produce cocktails for on-site and legal to-go consumption and allow a licensed Colorado alcohol manufacturer to sell any Colorado-produced same-category product in a sales room to mirror the existing privileges for Colorado wineries under 44-3-301(1)), C.R.S.

**HB23-1061 Fee adjustment.** Amend the statutory language of House Bill 23-1061 to move the fee language from 44-3-501(1)(t) to 44-3-501(3)(XX), C.R.S.

**SB23-264 Business to calendar days.** Clean up the statutory language of Senate Bill 23-264, pertaining to festival permits, to change the notice requirement from "Business" to "Calendar" Days.

**Remove prohibition on wine and spirit wholesalers obtaining an importer's license.** Remove the prohibition on wine and spirit wholesalers obtaining an importer's license by deleting subsection (2) from 44-3-405, C.R.S.

**Credit terms for liquor-licensed drugstores.** Add clarifying language to 44-3-410(2)(b), C.R.S., allowing for electronic funds transfers pertaining to credit terms for liquor-licensed drugstores.

**Common carrier permit for wine direct shipping.** Establish a permit for common carriers that ship and deliver wine from holders of winery direct shipper's permits as defined under 44-3-104, C.R.S.

**Give authority to the LED to address illegal out-of-state shipments of alcohol products.** Create statutory authority and resources for the LED to address illegal out-of-state shipments of alcohol products.

**Consolidate Lodging into the Hotel & Restaurant (H&R) License Type.** Make "lodging facility" a subset under the Hotel & Restaurant (H&R) license type instead of being included in the Lodging & Entertainment (L&E) license type, while keeping intact the entertainment liquor license. [The Entertainment liquor license would become its own license type.]

**Remove reference to “new tavern and retail liquor stores” on state-owned property.** Amend 44-3-301(2)(b), C.R.S., by removing the reference to “new tavern and retail liquor stores” on state-owned property and expanding the language to include all retail liquor licenses on state-owned property.

**Remove specific references to “husband and wife.”** Amend 44-3-303(1)(b), C.R.S., by removing the specific reference to “husband and wife” and updating the language to coincide with EDI standards and the current law.

**Two-year renewal plan for licenses in good standing with local and state licensing authorities.** Enact a two-year renewal plan for licensees in good standing with local and state licensing authorities, by amending 44-3-302(2)(b), 44-3-302(2)(d) and 44-3-601, C.R.S. The state licensing authority and local licensing authorities would respectfully request that this two year renewal would not impact yearly licensee payments as this could cause budgetary concerns and statutory requirements to not be met.

**Arts license - definition.** Amend 44-3-419(1)(1), C.R.S., to allow arts licensees to notify patrons of performances that alcoholic beverages would be available for purchase at an artistic or cultural event.

**Catering license.** Create a new retail tier license that would allow a catering company to license a physical location while also having the ability to pull temporary permits to sell and serve alcohol in unlicensed locations.

**Amendment to requirement for public hearing for new license applications.** Amend 44-3-311(1), C.R.S., to allow the local licensing authority the flexibility to hold or not to hold a hearing if there were no objections received from the community.

**Removal of all state and local fee amounts and fee caps from statutory language.** Amend 44-3-501 and 44-3-505, C.R.S., to remove fee amounts and fee caps in statute, which would be set by the state licensing authority in rule and local licensing authorities by ordinance or resolution.

**Increased processing timeline for Retail Establishment Permit applications.** Increase the fifteen (15) day processing timeline for Retail Establishment Permit applications to a minimum of thirty (30) days to mirror the Special Event Permit.

**Funding for the Liquor Enforcement Division.** Urge the General Assembly to determine a mechanism to provide adequate funding for the LED to meet the regulatory enforcement needs of a growing liquor industry.

**Update the online renewal process.** Update the online renewal process to incorporate a list of documents that do not need to be resubmitted (as part of the renewal) unless the information has changed since the prior renewal documents were submitted.

## **Statutory Recommendations Without Full Consensus**

**Tasting and Sales Room Increase.** Allow malt liquor and spirituous liquor manufacturers to apply for up to five (5) sales rooms (temporary or permanent) in addition to their primary location.

**State Licensing Authority rulemaking authority for application review timelines and process.** Give the State Licensing Authority rulemaking authority over the timeline and process for review and transmittal between the state and local licensing authorities of all liquor new, renewal, and transfer applications.

**Corkage fees.** Allow a retailer licensee permitted to sell vinous liquor for on-premises consumption to permit a customer to bring one (1) factory-sealed, unopened container of vinous liquor onto the licensed premises for consumption on the premises. The licensee may charge a corkage fee for serving the vinous liquor supplied by the customer.

**Direct-to-consumer shipping for beer and distilled spirits and creation of a courier permit.** Create new shipping permits for breweries and distilleries to ship directly to Colorado consumers, mirroring the current Winery Direct Shipper's Permit (44-3-104, C.R.S.). Create a courier permit for entities delivering alcohol beverages.

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## Background on the Liquor Advisory Group Process

In a letter dated July 8, 2022, Governor Jared Polis requested the Colorado Department of Revenue (DOR) convene an advisory group representative of all aspects of liquor industry regulation to comprehensively review Colorado's liquor laws and make recommendations (Appendix 1). The Governor summarized the group's purpose as follows:

*In order to encourage and facilitate statutory compliance by licensees, and to create a landscape in which our Colorado businesses may thrive, it is essential that we work towards a clear, logical, and transparent regulatory framework that allows for understandable regulations and enforcement, fosters a strong industry, and supports public safety.*

The Governor requested that the group consider recommendations in four areas:

- The effects and harmonization of any ballot initiatives that pass during the November 2022 election;
- The safeguarding of interests and rights of consumers through consumer empowerment and protection measures;
- Safeguarding the public through public safety measures; and
- The promotion of a competitive, fair, diverse, independent, and open alcohol beverage marketplace.

DOR Executive Director Mark Ferrandino appointed 33 people to the Liquor Advisory Group (LAG), the names of which are listed in Appendix 2. The LAG began its work in December 2022. While the State Licensing Authority was an ex-officio member of the LAG, it was not a voting member. The State Licensing Authority and the Liquor Enforcement Division may or may not support any particular LAG recommendation.

**Overall Procedures.** The LAG followed the open meetings and records requirements of Colorado law. Members were prohibited from discussing LAG business outside of the meetings, all meetings were open to the public, and all actions were taken at public meetings. Public comment was received at each meeting. The LED established a LAG [webpage](#), which posted all agendas, meeting minutes, recordings and materials. Members of the public were encouraged to submit suggestions and comments, which are included in Appendix 7.

The LAG adopted a charter (Appendix 3) to govern and structure its proceedings, which included a consensus decision-making model to determine which proposals reached consensus among the group and which did not.

**Determination of the Issues.** To organize and structure their work, the LAG members participated in a brainstorming session on issues at their first meeting, followed by an online survey. At the January 5, 2023, meeting, the LAG members considered and discussed this input in small group sessions with the goal of grouping and prioritizing issues. That process led to the formation of three subgroups with specific issues to consider:

**Regulation of Retail Operations subgroup.** This subgroup considered changes to the regulation of Tier 3 (retailer) licenses that impact the time, place, and manner of the operations of a Tier 3

entity and that benefit the consumer while enhancing public safety, including:

- Extend hours of operation and review mandatory closure days;
- Make to-go drinks/bottles permanent;
- Standardize container definitions;
- Measures to promote public safety by preventing underage drinking, reducing alcohol abuse and unlawful activity which results in law enforcement engagement with the public;
- Limits on the amount of alcohol an on-premises retailer can purchase from an off-premises retailer; and
- Standardize responsible vendor training.

**Marketplace Structure subgroup.** This subgroup considered changes to the marketplace structure and regulation of manufacturers, wholesalers, and retailers that would allow for greater trade and competition within and between the tiers for a more fair and equitable marketplace. The issues included:

- Open up the “free market” – eliminate the monopoly wholesalers have on specific brands/manufacturers; allow retailers to purchase brands from multiple wholesalers; allow manufacturers to sell directly to retailers; level the playing field across all categories of manufacturers; allow direct to consumer sales;
- Excise Tax parity across all alcohol beverage types;
- Ready-To-Drink (RTD) cocktail regulation, access, and tax issues/parity;
- Equality in pricing from distributor to retailer;
- Fair payment/credit terms;
- Review returned/damaged product rules; and
- Allow wholesalers to provide more merchandising and marketing support to retailers.

**Streamline, Modernize, and Clarify Licensing subgroup.** This subgroup considered changes to revise ambiguous or conflicting provisions in the Liquor Code, remove outdated or unworkable provisions, and create greater efficiency in compliance by licensees and oversight by state and local regulators, including:

- Eliminate the contradictions between state and local statutes and regulations;
- Consider fewer license types - more alignment among business types that sell/serve liquor;
- Review special events and festivals categories and clarify provisions;
- Streamline application & review process for new or renewal licenses; and
- Allow operations with multiple licenses to sync renewal dates.

**Subgroup Process.** LAG members indicated their preferred subgroup placement, although any LAG member could attend and participate in any subgroup. The subgroups met monthly from February to August 2023 to discuss the identified issues. If the group wanted to move forward with a proposal on an issue, members were invited to submit a written proposal for a vote. The subgroups also considered proposals submitted by LAG members and members of the public on topics not initially identified by the LAG.

A majority vote of the subgroup members was necessary to advance a proposal to the LAG for final consideration. Members of the public had the opportunity to comment on proposals before a subgroup vote, either at the meeting or by submitting written comments prior to the meeting.

**LAG Process.** The LAG reviewed, discussed, and amended subgroup proposals at its monthly meetings. Some proposals were sent back to a subgroup for further consideration and revision. Members of the public had the opportunity to comment on each proposal at LAG meetings and to submit written comments. Votes on whether to recommend a proposal were conducted, and LED staff recorded the final tallies of all votes, including the number of abstentions.

**Public Comment.** Members of the public had the opportunity to give public comment throughout the LAG process during monthly LAG meetings, at the monthly subgroup meetings, and via email. All public comments received were shared with all members of the LAG and archived on the LAG [website](#). These comments are linked in Appendix 7.

## Liquor Advisory Group Recommendations

The following recommendations were approved by the Liquor Advisory Group (LAG) by a quorum of voting members. Recommendations that received consensus or near consensus are listed first, with non-consensus recommendations following below. The recommendations below are categorized by the subgroup making the proposal and are identified by the proposal number that corresponds to their consideration and related public comments.

### Regulation of Retail Operations Recommendations

#### Proposal 3: Soft close for last call.

- Amend the existing statutory language under 44-3-901(6)(b)(I), C.R.S., to give on-premises liquor licensees the ability to be open until 4 a.m. with the last call completed by 2 a.m. At the time of last call, consumers would be allowed to place one final drink order and then finish their drink inside the establishment until closing no later than 4 a.m.
- Add subsection (II): On-premises licensees may remain open between the hours of 2 a.m. and 4 a.m. on any day of the week.
- Subsection (III): Between the hours of 2 a.m. and 4 a.m., customers may continue to consume an alcohol beverage purchased prior to 2 a.m. on the licensed premises.
- Statutory language would prohibit on-premises retailer licensees from selling or providing alcohol after 2 a.m.
- Additional statutory language will provide the State Licensing Authority rulemaking authority.
- Statutory language would allow discretion to municipalities to require on-premises licensees to close prior to 4 a.m.

This proposal received near consensus from the Liquor Advisory Group at the April 2023 meeting, with a final vote of 23 in favor and 2 opposed.

The Regulation of Retail Operations subgroup considered ways to address public safety concerns related to the closing time required for on-premises retailer sales. Discussion among LAG members on the proposal included concerns around staffing, as overnight shifts for many law enforcement departments are scheduled around bar closing times and moving the closing time could affect call load throughout the day. It was noted this proposal may also have a fiscal impact, for example, if staffing needs to be

increased to have DUI enforcement out for longer. Other members of the LAG noted that a “soft close” could prevent a flood of people leaving right at 2:00 AM and instead allow for a slower dispersal of patrons. The ability for patrons to purchase more food and other non-alcohol related items could also lead to less impaired driving and fighting that typically occurs when patrons are required to exit right at 2:00 AM.

Additionally, LAG members discussed limiting the serving sizes or quantity of drinks a patron may purchase at last call. The LED commented that issues surrounding serving sizes or drink limits might be better addressed in rulemaking to give the industry and the Division greater flexibility to respond to emerging trends through the rulemaking process as the need arises.

Public comment included input from Colorado Municipal League, which appreciated language in the proposal allowing municipalities some say over extended hours and encouraged the LAG to consider an opt-in approach for municipalities rather than an opt-out approach.

**Proposal 1: Remove mandatory Christmas Day closure from statute.**

- Strike the existing prohibition under 44-3-901(6)(b)(II), and (6)(c)(III), C.R.S., that prevents licensed retailers from selling alcohol beverages in sealed containers on Christmas day.

This proposal was recommended with full consensus from the Liquor Advisory Group at the April 2023 meeting, with all members present voting in favor.

Discussion on the proposal included whether or not businesses would have a choice to remain closed on Christmas Day or to be open; it was clarified this would be business choice. Subgroup members noted this was a point of easy agreement, and other retail licensees, such as restaurants, were not prohibited from being open on Christmas Day. It was also noted that retailers may celebrate other religious holidays and having a state-mandated closure for one specific holiday is odd.

**Proposal 2: New statute to allow off-premises retailers to offer educational classes (Amended Version).**

- Create a new statute under title 44, article 3, that will give off-premises retailers the ability to hold classes in an educational setting with the following guardrails:
  - A fee can be charged for the classes. No charge for a drink/by the drink but instead for the educational experience.
  - Prohibit educational class members from participating in any other tasting events on the licensed premises as a public safety priority. A licensee shall implement a means of tracking how many samples each patron is provided, which may include the use of a wristband, or other means of accurately tracking individual patron consumption.
  - Class instructors must have successfully completed responsible alcohol beverage vendor training.
  - Additional statutory language will provide the State Licensing Authority with rulemaking authority to establish sample size limits and total volume limits instead of putting limits in statute.
  - Alcohol beverages brought in for the educational class may only be used for that class, and all unopened product leftover must be removed by the wholesaler or manufacturer upon the end of the class. Opened, unfinished products can be used by the retailer only at a future class and must be locked up off the sales floor.

This proposal was recommended with full consensus from the Liquor Advisory Group at the June 2023 meeting, with 20 members voting in favor, 0 in opposition, and 1 member taking no position.

This proposal arose from concerns that per 44-3-301(10)(c)(X), C.R.S., tastings are provided free of charge to patrons and licensees could not offer educational classes and charge for the experience under this prohibition. Adding this new language will give licensees the flexibility to provide educational classes on food and wine pairings or knowledge surrounding various types of unique alcohols. During the initial discussion of this proposal during the May 2023 LAG meeting, concerns were expressed around a provision requiring a supplier to attend the class in order for that supplier to provide the product offered in classes because it would be difficult for a small manufacturer with limited staffing to meet this requirement. The proposal did pass in May; however, it was brought back to the LAG for a re-vote in June because it was determined the provision mentioned above was in violation of federal regulations under 27 CFR 6.95 regarding consumer tastings. After this language was removed, the LAG re-voted on the proposal, which received full consensus.

Public comment included opposition from the Colorado Brewers Guild because of the provision allowing suppliers to offer products for free if a retailer is charging a price for that class, because this allows the retailers to ask for a donation of both product and time, which could be construed as a violation of federal trade practice laws.

**Proposal 5: Increase purchase limits for an on-premises retailer from an off-premises retailer.**

- Amend statutory language to allow an on-premises retailer to purchase not more than seven thousand dollars' (\$7,000.00) worth of malt, vinous, and spirituous liquor (as allowed by their license type) from off-premises retailers licensed pursuant to sections 44-3-409, 44-3-410, or 44-4-104(1)(c), C.R.S., in a calendar year.
- The limit shall be adjusted on an annual basis according to inflation.

This proposal received near consensus from the Liquor Advisory Group at the May 2023 meeting, with a final vote of 20 in favor, 1 opposed, and 2 members taking no position.

The Regulation of Retail Operations Subgroup considered whether the current \$2,000.00 statutory limit for on-premises retailers purchasing from off-premises retailers should be changed without disrupting the three-tier system. Discussion on this proposal included some concern with undermining the three-tier system. It was noted that this proposal is to allow for times when, for example, an on-premises retailer runs out of a product on a holiday weekend and cannot get it delivered in time from a wholesaler; they can go out and purchase it from an off-premises retailer to tide them over until their next delivery. There were also some concerns raised about exclusive territories and the perishable nature of beer. It was stated that a manufacturer wants to make sure they know exactly who is purchasing the beer, where it is purchased, and when it is purchased so they can ensure quality is maintained. Purchases of a product outside of an exclusive territory make it difficult to address quality concerns. These concerns from a large brewery representative on the LAG were echoed by the Colorado Beer Distributors Association in public comment. A suggestion was made to remove beer from the proposal, however, the majority of members were opposed to this option. It was also noted that issues of quality control were likely lessened in these situations because the product being purchased is typically for immediate use.

**Proposal 22: Allow the Liquor Enforcement Division to charge for investigations.**

- Add statutory authority allowing the Division to charge a licensee for the cost of an investigation and providing the State Licensing Authority rulemaking authority over the same.
- Charges for investigations would be in addition to any penalties for a violation, including but not limited to payment of a fine or a fine in lieu of suspension.
- Charges for investigations would be subject to limitations, including, but not limited to:
  - Investigations where the licensee has admitted guilt in a stipulation, agreement and Order, or has been found to be in violation through an administrative hearing.
  - Charges would be applied to long-term investigations, not routine compliance checks.
  - The exact hourly charge and the limit that investigation fees could not exceed would be established by liquor stakeholder engagement via the rulemaking process.
  - Costs of investigation would be limited to the criminal investigator’s time investigating the violation and, if applicable, testifying at an administrative hearing associated with the violation. The Division would provide time tracking.
  - Cars, gas, and minor operative time, and time for investigators to prepare for hearing testimony would not be included in the costs of investigation.
  - The licensee would have the ability to challenge the reasonableness of the fee at the administrative hearing.
  - Applicable to Level 3 and Level 4 investigations.
  - The investigative fee does not apply to a licensee that gives voluntary disclosure to the Division.

This proposal was recommended with full consensus from the Liquor Advisory Group at the August 2023 meeting with no dissenting votes. No group members abstained from the vote.

The Regulation of Retail Operations subgroup included this proposal as a way for the Division to recoup costs for investigations where a licensee is found in violation. The LAG showed overall support for this proposal and included additional language so the fees would not apply to a licensee who provides voluntary disclosure in order to support licensees who are trying to do the right thing. It was also clarified that the fines would relate to Level 3 and 4 violations, with the potential to apply to Level 2 violations. The fee may also apply to a compliance check violation if there were multiple charges that resulted in an encompassing investigation. The LAG provided amendments to the recommendation, noted in red, before their final vote.

Public comment was received from the Colorado Brewers Guild, which highlighted concerns about the potential for abuse and a desire for more clarity regarding how a “long-term investigation” would be defined versus a “routine compliance check”, as well as guardrails around the amount of fee that can be charged.

**Proposal 23: Controlled substance sales on licensed premises.**

- Add statutory language making it unlawful for any person licensed to sell at retail pursuant to article 3 or article 4 of title 44 to knowingly permit the illegal sale, or negotiations for the sale, of controlled substances upon their licensed premises.
- Notwithstanding the section above, it shall not be unlawful for a pharmacy licensed by the state board of pharmacy on the premises of a liquor-licensed drugstore licensed pursuant to 44-3-410, C.R.S., to sell lawfully prescribed controlled substances.

This proposal was recommended with full consensus from the Liquor Advisory Group at the August 2023 meeting with no dissenting votes. No group members abstained from the vote.

The Regulation of Retail Operations subgroup brought forward this proposal to provide the LED with additional resources when a licensee is knowingly allowing the sale of controlled substances on their premises. LAG discussion of this proposal included what would happen if an owner were unaware of the sale of illegal drugs on their licensed premises; the Division clarified they would not seek to immediately revoke their license. Instead, the Division would seek criminal action against the employee responsible for the sale. However, if the owner had been notified or otherwise became aware of the sale of illegal substances and the owner allowed the employee to continue the sale on the premises, then the owner would be considered involved and liable. It was also clarified that this recommendation would not impact the pharmacy privileges of liquor-licensed drugstores.

No public comment was provided on this proposal.

**Proposal 24: Support and incentives for Responsible Vendor Training**

- The LAG recognizes the value of responsible vendor training and its role in ensuring public safety regarding alcohol sales and service. The LAG recommends the General Assembly add language in statute to increase incentives for licensees to attain responsible alcohol beverage vendor certification and/or require licensees to ensure all employees selling or serving alcohol beverages have taken responsible vendor training approved by the Liquor Enforcement Division.

This proposal was recommended with full consensus from the Liquor Advisory Group at the August 2023 meeting with no dissenting votes. No group members abstained from the vote.

The Regulation of Retail operations subgroup brought this proposal forward to increase public safety with the reasoning that responsible vendor training is one of the most effective countermeasures to prevent drunk driving and underage drinking. The proposal encourages the General Assembly to increase incentives to complete responsible vendor training and for the Division to provide better advertising of the current incentive that the completion of vendor training may be considered as a mitigating factor for a violation. The LAG did not provide specific examples of incentives despite being asked by the Division. The proposal from the Regulation of Retail Operations subgroup was intentionally non-specific and meant to indicate a statement of support for additional incentives the General Assembly may come up with to increase responsible vendor training.

No public comment was provided on this proposal.

**Proposal 32: Purchase of inventory.**

- 44-3-309, C.R.S. Local licensing authority - applications - optional premises licenses.
  1. A Retail Liquor Store Licensee who is going out of business or otherwise giving up its license (the "Selling Licensee"), may sell or otherwise transfer all its inventory to another Retail Liquor Store Licensee (the "Acquiring Licensee") upon the following terms and conditions:
    - a. The Selling Licensee must sell all its inventory remaining at the time the decision is made to effectuate such a sale or transfer only to one Acquiring Licensee.

- b. Both the Selling Licensee and the Acquiring Licensee shall give notice to the State and local licensing authorities of the sale or transfer of the inventory not less than fifteen (15) days prior to the sale or transfer of the inventory.
- c. Prior to the payment of funds to the Selling Licensee, the Selling Licensee shall each give notice to all wholesalers who have sold product to the Selling Licensee within four (4) months of the sale or transfer, informing the wholesalers of the impending sale or transfer. The wholesaler(s) shall, within not more than fifteen (15) business days of receiving said notice, notify the Acquiring Licensee and the Selling Licensee of any outstanding debt owed by the Selling Licensee to the wholesaler for the products being sold or transferred. Upon timely receipt of such notice from wholesaler(s), the Acquiring Licensee shall first use the proceeds to be paid for the inventory of the Selling Licensee to first satisfy the indebtedness claimed to be owed by the Selling Licensee to the wholesalers. Any remaining funds owed for the purchased inventory remaining after payments made to wholesalers, if any, shall be paid to the Selling Licensee in a manner consistent with the agreement between the Selling Licensee and the Acquiring Licensee. Failure of a wholesaler to provide notice of any indebtedness owed to the wholesaler by the Selling Licensee within the required time will excuse any obligation of the Acquiring Licensee to a wholesaler who fails to comply.
- d. At the time the Selling Licensee offers its inventory for sale to an Acquiring Licensee, the Selling Licensee shall also give notice to all licensed wholesalers of the offer, and the Selling Licensee shall immediately, upon giving notice, cease to purchase any further product from a licensed wholesaler.
- e. Upon purchase of the Selling Licensee's inventory, the Selling Licensee's Retail Liquor license shall become canceled, invalid, and considered to have been surrendered. A new retail liquor store license, as set forth in Section 44-3-409, C.R.S., shall not be issued to the Selling Licensee or for said licensed premises or within 1500 feet of said licensed premises for a period of five years following the sale or transfer of the inventory. Notwithstanding the foregoing provisions of this subsection, under the following terms and conditions, the Acquiring Licensee may, at its sole discretion and subject to required State and local approvals, apply to obtain the retail liquor license of the Selling Licensee so long as:
- I. The licensed premises of the Selling Licensee does not exceed 10,000 square feet.
  - ii. The acquisition of the license shall be subject to local and state approval for a change of ownership as required by law.
  - iii. The acquired licensed premises shall at no time exceed the square footage that existed at the time of acquisition for a period of ten (10) years.
- f. For purposes of the law pertaining to selling below cost, the cost of the acquired product shall be considered to be the highest cost for the same



product existing in the Acquiring Licensee's inventory at the time of the acquisition.

- g. If the Acquiring Licensee owner owns more than one retail liquor store license, the purchased inventory can be paid for by the Acquiring Licensee but allocated between or among all of the stores owned by the Acquiring Licensee owner, so long as the allocation occurs at the prior to or at the time the product is removed from the premises of the Selling Licensee.
2. Upon entering into an agreement for the sale of the inventory, the Selling Licensee and the Acquiring Licensee shall provide notice of the pending sale to the Liquor Enforcement Division, who shall then post said notice on the LED website.
3. The product purchased by the Acquiring Licensee can only be transported by the Acquiring Licensee to the Acquiring Licensee's licensed premises or to one of the other licensed locations owned by the Acquiring Licensee as designated in accordance with 1(g) above.
4. Notification to local liquor licensing authority at least sixty (60) days before the sale occurs.
5. Must notify the wholesaler via certified mail.
  - a. Wholesaler has fifteen (15) days from notification to determine if they will buy back any product.

This proposal was recommended with full consensus from the Liquor Advisory Group at the September 2023 meeting with 2 abstentions and no dissenting votes.

The acquisition of additional licenses would be subject to the limitations on the number of licenses set forth in 44-3-409(4)(b)(III), C.R.S.

The Retail Operations subgroup brought this proposal forward to allow a liquor store going out of business the option to sell its inventory to another off-premises retailer.

## Marketplace Structure Recommendations

**General Recommendation: Support for increased funding and resources for the Liquor Enforcement Division** . Several times during the subgroup and LAG process, members of the LAG expressed the need for the LED to have adequate resources and funding to effectively meet the regulatory enforcement needs of a growing industry. The LAG recognized that the state budget and various state constitutional provisions are complex and, therefore, did not recommend a specific approach to funding the LED. However, the LAG voted unanimously for the General Assembly to determine the best way to provide the LED with adequate resources.

### Proposal 4: Wholesaler trade shows event.

- Create a new statute under 44-3-407, C.R.S. (Wholesaler statute), that will give wholesalers the ability to hold trade show events to allow liquor-licensed retailers to sample products on the wholesaler's licensed premises in an area designated for trade show events. These events shall not be open to the general public.

- Limit the area for trade show events for liquor-licensed retailers to an area on the wholesaler's licensed premises, such as a conference room or kitchen area, but specifically excluding the docking, delivery, and/or warehouse storage areas of the licensed premises, unless the warehouse is isolated/excluded from ongoing business activity/designated area for trade show event and specifically excluding any sales room during any time when the sales room is open to the public.
- Additional statutory language will provide the State Licensing Authority for the Liquor and Tobacco Enforcement Division with rulemaking authority.

This proposal received consensus from the Liquor Advisory Group at the May 2023 meeting with a final vote of 20 in favor, 0 opposed, and 3 with no position.

This proposal arose from a suggestion to provide on and off-premises liquor-licensed retailers with more opportunities to taste and learn about products from wholesalers prior to purchase of inventory. Discussion of this proposal was generally receptive, with a suggestion to add language that would allow the event to take place in a docking, delivery, or warehouse storage area on the wholesaler's license premises if the area of the warehouse is isolated or excluded from ongoing business activity to ensure the safety of participants. Parties that do not hold a retail liquor license or the general public cannot attend or participate in these events.

**Proposal 7: Noncontiguous locations for malt and spirituous manufacturers.**

- Add additional language allowing malt liquor and spirituous alcohol manufacturers to include up to two (2) noncontiguous locations in their licensed premises, both of which are used for manufacturing purposes, within a radius of ten miles.

This proposal received consensus from the Liquor Advisory Group at the May 2023 meeting with a final vote of 19 in favor, 0 opposed, and 1 with no position.

The Marketplace Structure subgroup considered ways to create more marketplace parity in regulation among distillers, brewers, and wineries with the goal of encouraging the growth of Colorado-based businesses. Discussion of this proposal amongst the LAG included strong support from the distillery manufacturers because it is critical to ongoing operations for growth and liquor production for distilleries.

Public comment also included support from the Brewers Guild, who noted wineries already have this ability through the TTB, and it would not create additional sales rooms; instead, it supports a manufacturer's ability to scale and increase operations.

The non-contiguous current statutory language for wineries can be found in 44-3-402(2)(a).

**Proposal 8: Off-premises tastings.**

- Product(s) being tasted must come from the off-premise retail licensee's existing inventory. A manufacturer or supplier may pay for the product to be tasted so long as the manufacturer or supplier purchases said products from the retailer for not more than the retailer's ordinary retail price.
- All containers opened for a tasting must be removed from the licensed premises after the tasting(s) are completed, or access to the open product shall be restricted from public access or

separated from items available for sale on the sales floor. If a container is opened for a tasting, employees may taste the product(s) for educational purposes, or the product may be used for future tastings by consumers. If a product purchased by the manufacturer or supplier for a tasting remains after all tastings have been completed, the opened and unused product shall be returned to the manufacturer or supplier who purchased the product used for the tasting.

- Off-premise retailers will be allowed to taste product(s) of the retailer's choosing, subject to restrictions as to the serving size of any one sample and overall total amounts of all products that are tasted. The total amount of alcohol products to be sampled as a tasting shall be limited to, regardless of the number of items being tasted, not more than four ounces of malt liquor, four ounces of vinous liquor, and not more than two ounces of spirituous liquor per customer per day. (NOTE: these are the same total amounts allowed under the current law.) However, the per sample size of a specified tasted product cannot exceed one ounce for malt liquors, one ounce for vinous liquors, and one-half of one ounce for spirituous liquors per sample. For example, if a consumer is tasting a specific malt liquor, each sample tasted cannot exceed one ounce; if the consumer is tasting 6 different samples of malt liquor, the total of those six samples cannot exceed four ounces.
- Proper identification must be provided by the customer to ensure that all individuals participating in the tasting are 21 years of age or older. No individual who is visibly intoxicated may participate in the tasting.
- Expand the daily time frame in which tastings can be conducted in the State from the current 11:00 AM to 9:00 PM to 10:00 AM to 9 PM (this is only one hour earlier than the current statute). Allow tastings to occur on all days when the off-premise retailer in the State is open. Customers come into stores 365 days a year [assuming Proposal 1 discussed above passes]. The consumer should be allowed to taste products, subject to the restrictions, when they are shopping, regardless of the day.
- Local licensing authorities may, at the local licensing authorities' reasonable discretion, require a retail licensee to apply for or otherwise renew a tasting permit not more than once every year along with the license renewal.

This proposal received consensus from the Liquor Advisory Group at the June 2023 meeting with a final vote of 20 in favor, 0 opposed, and 1 with no position.

This proposal came from the off-premises retailers that sought greater flexibility to meet customer demand by creating more flexibility for customers to sample products. Discussion of this proposal amongst the LAG included clarification of "retailer's price" and that federal regulation (27 C.F.R 6.95) states a product cannot be purchased for more than the ordinary retail price. It was also clarified that products offered at the tasting must already be present on the retailer's shelves, and manufacturers or suppliers are not permitted to bring in products that the off-premises retailer does not regularly stock for the purposes of the tasting.

Public comment from the Brewers Guild included a caution on manufacturers paying for product at the tasting and that this could be misconstrued as financial inducement and advocated for amending the language to read "laid-in cost" or "at cost of product." It was also suggested that a limit be set on the volume that may be supplied so the proposal doesn't benefit those that have money and resources as the only suppliers able to do tasting and allow for a more level playing field for small manufacturers and suppliers.

Current statutory language can be found at 44-3-301(10).

**Proposal 10: Colorado manufacturer's sales room sales of alcohol.**

- Part 1:
  - Any sales room operated by a licensed Colorado distilled spirits manufacturer will be given the privilege to purchase and use common alcohol modifiers (e.g., vermouth, amaros, liqueurs, etc.) to produce cocktails for on-site and legal to-go consumption. The State Licensing Authority shall have rulemaking authority to define alcohol modifiers.
- Part 2:
  - Any sales room operated by a licensed Colorado alcohol manufacturer will be given the privilege to sell any Colorado-produced same-category product (e.g., spirits for distilleries, beer for breweries, wine/cider for wineries/cider manufacturers) to mirror the existing privileges for Colorado wineries.

Part 1 of the proposal was recommended with full consensus from the Liquor Advisory Group at the July 2023 meeting with all present members voting in favor.

Part 2 of the proposal received near consensus from the Liquor Advisory Group at the July 2023 meeting with a final vote of 19 in favor, 1 opposed and 1 taking no position.

This proposal came from Colorado distillers to provide opportunities for growth for Colorado-based manufacturers and to give distillers and breweries the same Colorado-produced same-category product privilege as vintners. Discussion amongst the LAG on part 1 included consideration of safeguards and built-in limitations to the proposal including how the proposal prevents sales rooms from functioning like bars and how "alcohol modifiers" are defined under the proposal. The LED suggested allowing the State Licensing Authority to have rulemaking authority under the proposal to provide definition for alcohol modifiers in rule. No public comment was provided on part 1 of the proposal.

Discussion amongst the LAG on part 2 included concerns with what the privilege for wineries currently looks like to sell other Colorado wine products that they have not produced and if those products have to be consumed on site or can be bought for to-go consumption. There were also requests for clarification of what is deemed a Colorado-produced product which was clarified that it is a Colorado-produced product if the production site is physically located in Colorado and the manufacturer is paying a Colorado excise tax on the product.

A concern was raised that this proposal may violate the Dormant Commerce Clause by favoring in-state products over out-of-state products. Similar concerns were raised with regard to wineries being permitted to sell wines produced by other Colorado manufacturers, but not out-of-state manufacturers, in sales rooms.

Public comment on part 2 included concern on how this would interact with franchise laws for beer which is required to have a territory agreement to sell the product. It was also noted that the State Licensing Authority does not have rulemaking authority over franchise laws and the General Assembly would have to determine how to address this aspect of the proposal.

The current statutory language which needs to be considered during these proposed changes are as follows:

**44-3-103(49). Definitions.**

**44-3-402(2)(a). Manufacturer's license - Wineries.**

**44-3-402(7)(a). Manufacturer's license - Distilleries.**

**44-3-403. Limited winery license - rules.**

**44-3-407. Wholesaler's license - discrimination in wholesale sales prohibited/ Beer Wholesaler sales room.**

**Proposal 16: HB23-1061 fee adjustment.**

- Amend the statutory language to move the fee language from 44-3-501(1)(t) to 44-3-501(3)(XX), C.R.S.

The proposal was recommended with full consensus from the Liquor Advisory Group at the July 2023 meeting with no dissenting votes.

Discussion amongst the LAG included an update from the LED that the division had requested the fee associated with this permit be moved in statute from 44-3-501(1) to 44-3-501(3). In HB23-1061, the fee was put in subsection (1). While the fee could be set "up to 200 dollars", only fifty dollars of that would go to the Division and the rest would be sent to the Old Age Pension Fund/General Fund. The Division asked LAG members if they would feel comfortable moving the fee to subsection (3) to allow the Division to set the fee in rule where all of the fee would come to the Division for the new permit. The LAG members agreed to the proposal without further discussion. No public comment was offered on this proposal.

**Proposal 17: SB23-264 business to calendar days.**

- Amend the statutory language 44-3-404(1)(c), C.R.S. to read "If a festival permittee notifies the state licensing authority and the appropriate local licensing authority of the location of and dates of each festival at least thirty business CALENDAR days before holding the festival, the permittee may hold up to, but no more than, nine festivals during the twelve months after the festival permit is issued. Beginning January 1, 2024, a permittee may hold up to nine festivals during each calendar year."

The proposal was recommended with full consensus from the Liquor Advisory Group at the July 2023 meeting with no dissenting votes.

Discussion amongst the LAG included an overview from the LED that this proposal is to clean up statutory language that was missed during previous legislation conversations. The proposed revision would not add days to the review process for festival permits, rather is making a change to reflect what is already in statute. The LAG members agreed to this proposal and had no further questions. No public comment was offered on this proposal.

**Proposal 18: Remove prohibition on wine and spirit wholesalers obtaining an importers license.**

- Current Statutory Language: 44-3-405(2): It is unlawful for any licensed importer of vinous or spirituous liquors or any person, partnership, association, organization, or corporation interested financially in or with such a licensed importer to be interested financially, directly or indirectly, in the business of any vinous or spirituous wholesale licensee; except that any such financial interest that occurred on or before July 1, 1969, shall be lawful.

- Strike subsection (2) from 44-3-405, C.R.S., to allow wine and spirits wholesalers to receive an importer license.

This proposal was recommended with full consensus from the Liquor Advisory Group at the August 2023 meeting with no dissenting votes. No group members abstained from the vote.

The Marketplace Structure subgroup considered this proposal based on an observation that the current importers license does not add meaningful regulation to the three-tier system. In practice, the importer license is only a pass through requirement because the importer cannot possess vinous or spirituous liquor. The proposal eliminates the importer's license, which would allow a wine and spirits wholesaler to obtain an importer license. The LAG agreed with little discussion.

No public comment was provided on this proposal during the August LAG meeting.

**Proposal 19: Credit terms for liquor-licensed drugstores.**

- Add clarifying language in 44-3-410(2)(b) allowing for electronic funds transfers.
- Possible language: 44-3-410(2)(b): A person licensed under this section on or after January 1, 2017, shall not purchase malt, vinous, or spirituous liquors from a wholesaler on credit and shall effect payment upon delivery of the alcohol beverages. The acceptance and use of an electronic funds transfer shall not be deemed an extension or acceptance of credit pursuant to this section, provided such transfer is initiated on or before the next business day after the delivery of the product.

This proposal was recommended with full consensus from the Liquor Advisory Group at the August 2023 meeting with no dissenting votes. No group members abstained from the vote.

During the LAG meeting it was confirmed that this proposal was not intended to change the credit terms from Cash On Delivery for liquor-licensed drugstores (LLDs) but rather to propose a one-day administrative grace period to accommodate the use of electronic funds transfers as the method of payment. It was also noted that this proposal is intended to allow for electronic payments to be processed at a different time; the proposal does not provide extra time for payment.

No public comment was provided on this proposal during the August LAG meeting.

**Proposal 34: Common carrier permit for wine direct shipping.**

- Current statutory language:
  - 44-1-104, C.R.S Wine shipments - permits.
- Common carrier must accept only shipments from a licensed winery with a winery direct shipper's permit as defined under 44-1-104, C.R.S.
- Carrier cannot leave packages unattended on the doorstep and must check the recipient's identification to ensure they are the individual intended to receive the product and not an underage and/or visibly intoxicated person.

This proposal was recommended with full consensus from the Liquor Advisory Group at the September 2023 meeting with no dissenting votes and 1 abstention.

This proposal arose from a Marketplace Structure subgroup discussion that common carriers are making shipments from out-of-state wineries that do not hold winery direct shipper's permits, do not meet Colorado's definition of wineries, and that some carriers are not observing requirements that are designed to ensure that shipments are received by consumers of legal age. Currently, the State has no regulatory authority over the carriers to enforce shipments rules. Members of the LAG agreed that a common carrier permit could improve compliance with shipping requirements.

**Proposal 35: Give authority to the LED to address illegal out-of-state shipments of alcohol products.**

- No current statutory language
- This came from an aspect of Jim Shpall's proposal on [Illegal Shipments of Alcohol Beverages](#): "Create a system of funding that allows the LED to actively investigate violations and impose penalties."

This proposal was recommended with full consensus from the Liquor Advisory Group at the September 2023 meeting with no dissenting votes. No group members abstained from the vote.

This proposal came from a Marketplace Structure subgroup discussion that shipments of alcohol beverages, such as beer, spirits or wine, that do not come directly from a manufacturer, and are not authorized by law, and for which excise taxes are not paid, are occurring. The LED encouraged anyone to report such illegal activity, but at the same time the LED does not have any statutory authority to take legal action against the illegal shippers who are not licensed in Colorado. Members of the LAG agreed that only legal shipments should come into the state and favored additional enforcement authority.

## **Streamline, Modernize and Clarify Licensing Recommendations**

**Proposal 9: Consolidation of Lodging into the Hotel & Restaurant (H&R) License Type**

- Make "lodging facility" a subsection under the Hotel & Restaurant license.
  - The sleeping rooms would continue to not be included in the licensed premises for a lodging facility.
  - The lodging facilities would not be required to have a full kitchen but must have a commissary store available for guests to purchase food (light snacks) as desired. The food source must be on-premises and the commissary must be regulated by the licensee.
  - The restaurant requirement will not be removed from hotels.
  - If a business wishes to offer alcohol service via minibars or room service, they must have a full kitchen and therefore would not be considered a "lodging facility."

This proposal received consensus from the Liquor Advisory Group at the June 2023 meeting with a final vote of 16 in favor, 0 opposed, and 5 with no position.

The Licensing subgroup generally considered whether on-premises license types could be consolidated to streamline regulation or provide clarity to a potential licensee. The subgroup suggested that the concept of "lodging facilities" is more similar to "hotels" than to its current alignment in statute with "entertainment facilities." This proposal does not take any privileges away from either lodging facilities or hotels. No public comment was provided on this proposal.

The current statutory language which needs to be considered during these proposed changes are as follows:

Lodging & Entertainment license type: 44-3-428  
Hotel & Restaurant license type: 44-3-413  
Definitions: 44-3-103(11.5)(j); 44-3-103(15)(c)(XI); 44-3-103(29)(a - b)  
Licensing in General: 44-3-301(8); 44-3-301(11)(c)(II); 44-3-301(11)(e)(I)  
Local licensing authority - applications - optional premises licenses: 44-3-309(1)(n)  
Classes of licenses and permits - rules: 44-3-401(1)(w)  
Tavern license: 44-3-414(9)(a)  
Removal of vinous liquor from licensed premises: 44-3-423(2)(X)  
Purchasing alcohol from a surrendered license of common ownership: 44-3-429(1)(k)  
State fees - rules - one-time fee waiver - repeal: 44-3-501(1)(v); 44-3-501(6)(b)(XIII)  
Local license fees: 44-3-505(1)(p)  
Unlawful acts - exceptions - definitions: 44-3-901(6)(h); 44-3-901(6)(p)(II)

**Proposal 12: Amendment to 44-3-301(2)(b), C.R.S., removing the reference to “new tavern and retail liquor stores” on state-owned property and expanding language to include all retail liquor licenses on the property.**

- The Division is proposing additional statutory language which would give a local licensing authority the ability to delegate its authority to make decisions on initial and renewal applications to the state licensing authority for all retail license types within their jurisdiction with a licensed premises located on state-owned property.

The proposal was recommended with full consensus from the Liquor Advisory Group at the July 2023 meeting with no dissenting votes. No group members abstained from the vote.

This proposal arises from a local licensing authority’s request for the LED to license a business on state-owned property on its behalf. Under current statute, it is unclear whether the State can issue a retail license for a premise on state-owned property on behalf of local licensing authority. This proposal clarifies that the local licensing authority may delegate its authority to the State.

**Proposal 13: Amendment to 44-3-303(1)(b), C.R.S., Removing the specific reference to “husband and wife” and updating the language to coincide with EDI standards and the current law.**

- Amend the statutory language to address EDI concerns and availability of civil unions under current law.

The proposal was recommended with full consensus from the Liquor Advisory Group at the July 2023 meeting with no dissenting votes. No group members abstained from the vote.

The basis of this proposal is to replace the term “husband and wife” in a statute on ownership transfers, which is outdated in terms of current law and accepted equity, diversity and inclusion standards. The proposal does not include specific substitute wording to allow the General Assembly to determine the most appropriate replacement language.



**Proposal 14: Update the online renewal process to incorporate a list of documents that do not need to be resubmitted (as part of the renewal) unless the information has changed.**

- The LAG proposes that the Liquor Enforcement Division (LED) evaluates the feasibility of completing liquor license applications and renewals via an online portal system. The system would allow for the licensee to have an account where relevant license information would be stored. At the time of renewal, the licensee would be required to confirm items with “no change” and update items that are required to be provided each year, or that have changed.
- The LAG acknowledges the potential complexity of developing this system across all local licensing authorities and the state licensing authority. An alternative in the shorter term would be to develop a renewal form that allows the licensee to confirm documents and information with no change and supply information that has changed.

The proposal was recommended with full consensus from the Liquor Advisory Group at the July 2023 meeting with no dissenting votes. No group members abstained from the vote.

The LAG discussed the complexity of developing this system would extend to all local licensing authorities and state licensing authority.

The Licensing subgroup discussed ways to streamline the administrative application and renewal process. Discussion of this proposal included a description by Executive Director Ferrandino of the Department’s efforts to obtain appropriations from the General Assembly to update the Department’s computer licensing and case management system for its several enforcement divisions. This LAG proposal is aligned with the Department's direction. There was also some discussion of how a new system would align with the local licensing authorities own systems.

No members of the public commented.

**Proposal 15: Two-year Renewal Plan for Licensees in Good Standing with Local and State Licensing Authorities**

- Change renewal for licenses from every year to every two years
  - Local municipality could use an annual renewal option as a consequence to a violation similar to a fine-in-lieu or active suspension
  - Licensee would file a two-year renewal application with both the state and local authorities
    - Application fee and renewal fees would be split with the first application and renewal fees being paid to both state and local authorities upon filing and the second renewal fee paid 12 months later (half-way point in renewal timeline)
      - Reminder notifications to be sent by both state and local agencies
      - Renewal fees will still need to be paid annually due to statutory restrictions on cash fund reserves under 24-75-402, C.R.S. (16.5%) limiting what the Division can carry over from year to year. A two-year renewal fee would likely put the Division over this maximum reserve limit and cause a funding shortfall in the off-year.
- References in statute to annual license would be replaced with biennial license
  - 44-3-302(2)(b), 44-3-302(2)(d) and Regulation 47-010(A)
- References in statute to disciplinary actions would be amended to include option to require an annual renewal as a penalty/consequence to violations

○ 44-3-601

The proposal was recommended with full consensus from the Liquor Advisory Group at the July 2023 meeting with no dissenting votes. No group members abstained from the vote.

This proposal arose from the Licensing subgroup's discussion about streamlining regulation and administrative processes for licensees and licensing authorities. Discussion of this proposal centered on the implementation of this proposal, specifically that licensees would still receive an annual bill for registration fees since the LED cannot apportion fees among two fiscal years; that a licensee would have to submit any changes in its business (as defined through rulemaking) in the "off year"; that the two-year renewal depends on the licensee remaining in good standing and the local authority could require annual registration and impose penalties if a licensee had violations.

Public comment from municipal clerks helped to clarify how local authorities would be impacted by and collect the fee in the second year, which the LAG agreed to change to a processing fee.

The current statutory language which needs to be considered during these proposed changes are as follows:

**44-3-301 Licensing in general.**

**44-3-302 License renewal - rules.**

**44-3-501 State fees**

**44-3-502 Fees and taxes - Allocation**

**44-3-505 Local License fees**

**Proposal 26: 44-3-419. Arts license - definition.**

- 44-3-419(1)(a), C.R.S. An arts license may be issued to any nonprofit arts organization that sponsors and presents productions or performances of an artistic or cultural nature, and the arts license permits the licensee to sell alcohol beverages only to patrons of the productions or performances for consumption on the licensed premises in connection with the products or performances. ~~No person licensed pursuant to this section shall permit any exterior or interior advertising concerning the sale of alcohol beverages on the licensed premises.~~ Limited advertising of availability of alcoholic beverages for sale may be placed on the licensed premise while an artistic or cultural event is taking place. Additionally, advertising of the availability of alcohol beverages may be included in email, print, radio, television and social media marketing. The availability of alcohol must not be the primary focus of the advertisement.
- Allow the State Licensing Authority to have rulemaking authority.

The proposal was recommended with full consensus from the Liquor Advisory Group at the September 2023 meeting with no dissenting votes. No group members abstained from the vote.

The purpose of this proposal is to allow an arts licensee to notify patrons of performances that alcohol beverages would be available for purchase. Arts organizations believe that limited advertising would benefit the organization by attracting patrons. The proposal is not intended to otherwise change any of the other regulatory requirements that pertain to selling alcohol at licensed art venues. The LAG agreed to this proposal with limited discussion.

### **Proposal 27: Catering license.**

- Would create a new retail tier license that would allow a licensed catering company to pull temporary permits to sell and serve alcohol in unlicensed locations.
- The main catering license would be \$2,500 yearly.
- Temporary permits are in two classifications:
  - Larger Public Events - Higher Public Risk, Approval System.
    - Defined as events over 600 guests OR open to the public.
    - For Public Events, the holder of a caterer liquor license can obtain a permit, on forms prescribed by the State Licensing Authority or electronically, that notifies the Department of the date, location, hours of operation at least 30 days in advance of such event. Due to exigent circumstances, the state and local licensing authorities could in writing remove this thirty day notice as necessary.
    - Local Licensing Authorities can determine additional rules and regulations.
    - Limited to 15 days per location unless local or state licensing authorities
    - Fees are set by local licensing authority and state licensing authority via rulemaking.
  - Smaller Private Events - Lower Public Risk, Notification System.
    - Defined as events under 600 guests AND not open to the public (invite only).
    - For Private Events, the holder of a caterer liquor license can obtain a permit, on forms prescribed by the State Licensing Authority or electronically, that notifies the Division of the date, location, hours of operation at least 3 days in advance of such event. Due to exigent circumstances the state and local licensing authorities could in writing remove this three day notice as necessary.
    - Submit online notification to state LED.
    - Private Event Permits are limited to a single day for each permit, 12 hour period maximum.
    - Fees are set by local licensing and state rulemaking.
- For each permit, the licensee would send in an online form to State and Local Licensing Authorities with basic event information such as guest count, date, time, types of alcohol being served, event address, etc. Information would also include a permission letter from the venue, allowing access and regulatory control to Liquor Enforcement.
- The Catering License would apply to the caterer's main warehouse or banquet hall location. All alcohol would be stored at this location and could be taken to and from events for which the caterer pulls temporary permits.
- The Catering Liquor License would function much like any other retail tier license, and the licensee would be able to purchase alcohol from qualified Suppliers and Wholesalers. This license tier would be allowed to purchase up to \$2,500 or the current legal limit of alcohol from a retail liquor store.
- Customers for events would still be able to choose whether or not they would want their caterer to provide the alcohol or to get the alcohol from a retail liquor store.
- The Caterer's banquet hall could host events that it caters or conduct private tastings for its clientele for charge or no charge.
- Requires state approved safe-service [responsible vendor] certifications for all servers of alcohol.
- Funds collected from the catering license and temporary permits would go to state and local enforcement agencies, as appropriate.
- Sandwiches and/or light snacks are required at a minimum at each temporary event.
- Permit liquor signage must be posted within visibility of the main service area(s) of an event.

- The State Licensing Authority may adopt rules and forms necessary for the implementation of catering license and attached permits.

This proposal received near consensus from the Liquor Advisory Group at the September 2023 meeting with 2 in opposition and 1 abstention.

The Licensing subgroup considered several proposals related to events that would provide both regulation and clarity for parties responsible for serving and selling liquor at events with the goal of increasing public safety at the events. Proponents of the proposal asserted that several states have a catering license. This proposal was crafted based on experience in other states and after considering comments and input from off-premises retailers and wholesalers. Members of the LAG asked questions about how the license would operate. Other members who act as caterers voiced support.

**Proposal 28: Amendment to requirement for public hearing for new license applications.**

- 44-3-311(1), C.R.S. “Upon receipt of an application, except an application for renewal or for transfer of ownership, the local licensing authority shall MAY schedule a public hearing upon the application not less than thirty days from the date of the application and shall post and publish the public notice thereof not less than ten days prior to the hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation in the county in which the premises are located.”

The proposal was recommended with full consensus from the Liquor Advisory Group at the September 2023 meeting with no dissenting votes. No group members abstained from the vote.

This proposal was brought to the Licensing subgroup to allow the Local Licensing Authority the flexibility to hold a hearing or to not hold a hearing if there were no objections received from the community.

**Proposal 29: Removal of all state and local fee amounts and fee caps from statutory language.**

- Current statutory language:
  - 44-3-501. State fees - rules - one-time fee waiver - repeal.
  - 44-3-505. Local license fees.
- Putting these fee amounts and fee caps in statute sets the amounts in stone and makes any fee increase a political element that requires passage of a bill by the General Assembly.
  - This has resulted in fee caps not changing for extended periods of time, perhaps in decades.
  - This can result in fees or revenue sources elsewhere being used to subsidize areas where fees are inadequate to cover costs.
  - It can also prevent appropriate staffing, hiring and systems that allow licensing agencies to be responsive to customers.
- Suggested language: “fees no more than are adequate to cover costs”
- Alternatively, remove all language addressing fee amounts and fee caps. This would allow fees to be adjusted with time and inflation, utilizing cost recovery models.

This proposal received full consensus from the Liquor Advisory Group at the September 2023 meeting with 14 voting in favor, 8 abstentions, and 0 objections.

This proposal was brought forward to the Licensing subgroup for consideration by a Local Licensing Authority. The Division raised concerns about the potential for widely different fees for the same license type being charged by different jurisdictions which could lead to confusion for licensees or situations where a licensee “forum shops” and selects a jurisdiction based on the fee charged.

**Proposal 30: Increased processing timeline for Retail Establishment Permit applications.**

- Current statutory language:
  - 44-3-424 , C.R.S. Retail establishment permit - definition. (f/k/a Art gallery permit - definition)
- Increase the fifteen (15) day processing timeline to a minimum of thirty (30) days to mirror the Special Event Permit (44-5-107, C.R.S.) and Festival Permit (44-3-404 C.R.S.) processes.
- (2)(b) “Upon initial application, and for each renewal, the applicant must list each day that alcohol beverages will be served, which days must not be changed without a minimum of ~~fifteen~~ THIRTY days’ written notice to the state and local licensing authority.”

The proposal was recommended with full consensus from the Liquor Advisory Group at the September 2023 meeting with no dissenting votes. No group members abstained from the vote.

This proposal came from local licensing authorities who believe that the current statutory timeline is not sufficient for the local authority to adequately consider all the factors that may be involved in the permit and to act on the request. The LAG agreed with this proposal without discussion.

### **Nonconsensus Proposals Approved by the Liquor Advisory Group**

The following proposals were brought forward to the LAG by the subgroups, however, were not able to gain near or full consensus to be included in the report as a recommendation of the LAG.

**Proposal 6: Tasting/Sales room Increase:**

- Add additional language allowing malt liquor and spirituous liquor manufacturers to apply for up to five sales rooms in addition to their primary location.
- The five locations can be a mix of permanent or temporary sales room locations.

This proposal did not receive consensus from the LAG during the June 2023 meeting with a vote of 9 in favor, 6 opposed, and 4 taking no position.

This proposal came from the Marketplace Structure subgroup’s consideration of ways to attain greater market parity and similarity in regulation among breweries, distilleries, limited wineries, and wineries (currently set at two sales rooms). Discussion among the LAG was generally supportive of this proposal, however there were key concerns around the language of the proposal and the intent behind it. There was concern with a lack of associated licensing fees or process to apply for the additional locations, including local licensing approval. The restaurant industry was concerned this proposal was creating another class that was very similar to on-premises locations. The manufacturing industry clarified the intent of the proposal was to expand opportunities to expose the public to their products, specifically the option to apply for temporary sales rooms would allow manufacturers to attend events like farmers markets which they currently cannot do. There was also concern among the LAG that sales rooms would be turned into taverns and raised questions around the volume of products that would be available for tastings and what the food requirement might be.

Public comment on this proposal included concerns from the Restaurant Association that sales rooms are looking and operating more like bars in many instances and should be licensed in the same way. It was also noted that if the proposal was to just allow for temporary tasting rooms, the Restaurant Association would not have the same concerns, but was in opposition to the expansion of more permanent tasting rooms. The Colorado Municipal League also expressed concerns around local licensing of permanent tasting rooms and wanted to see more local input into the proposal. The Brewers Guild offered comments in support of the proposal, asking for parity with limited wineries and equal market access.

The current statutory language which needs to be considered during these proposed changes are as follows:

**Wineries and Limited Wineries: 44-3-402(2); 44-3-401(2)(e)(I)(A)**

**Distilleries: 44-3-402(7)**

**Malt Liquor Wholesaler: 44-3-407(1)(b)(I)(A)**

**Definition of Sales Room: 44-3-103(49)**

**Proposal 20(b): State Licensing Authority rulemaking authority for application review timelines and process**

- Add statutory authority to the above listed statutes giving the State Licensing Authority rulemaking authority over the timeline and process for review and transmittal between the state and local licensing authorities of all liquor new, transfer, and renewal applications, with attached state license fees. This rulemaking process would be collaborative with a majority vote of the group. The group would consider timelines for both state and local authorities.

This proposal did not receive consensus from the Liquor Advisory Group during the August 2023 meeting with a vote of 14 in favor, 6 opposed, and 0 abstentions

This proposal seeks to put into the relevant statutes the ability for the State Licensing Authority to have rulemaking authority in order to allow the Division to work more collaboratively with local partners to establish guidelines on application review timelines and processes. The proposal received considerable pushback from Local Licensing Authorities who ultimately felt the issues may be better addressed via a Division memo or bulletin with a trial period to see if the issues improve, and this proposal should be readdressed during a following year.

Many members of the public representing Local Licensing Authorities provided comments in opposition to this proposal. The opposition ranged from complaints that the issues this proposal are seeking to address are only from a limited number of Clerks, the length of time it takes the Division to process applications on the state side, and issues with the state receiving applications through the designated email address and receiving no response from the state after submittal.

**Proposal 25: Allow restaurants to have the option for customers to bring in a bottle of wine and charge a corkage fee:**

- Add statutory language allowing a licensee permitted to sell vinous liquor for on-premises consumption to permit a customer to bring one factory-sealed, unopened container of vinous liquor onto the licensed premises for consumption by the customer.
- The container may not contain more than seven hundred fifty milliliters of venous liquor.

- The licensee may charge a corkage fee for serving the vinous liquor supplied by a customer.
- The customer may carry out the unconsumed portion of the bottle of wine in accordance with 44-3-423, C.R.S.

This proposal did not receive consensus from the Liquor Advisory Group during the August 2023 meeting with a vote of 10 in favor, 8 opposed, and 1 abstention.

This proposal was brought to the Regulation of Retail Operations subgroup by a member of the public looking to expand options for restaurants to allow the public to bring their own bottle of wine and charge a corkage fee, and is stating it is currently allowed in 30 states. The LAG had a robust discussion on the perceived pros and cons of allowing corkage fees, including that if this was allowed for wine could there be parity for beer and spirits. It was also asserted that so many licensees do not realize that corkage fees are illegal and that the practice is already occurring in the state.

Members of the public provided comments that were both in favor and opposed. Those in favor noted that corkage fees are typically used on a limited basis by customers who want to bring in a special bottle to celebrate a special occasion; that corkage fees are at the discretion of the restaurant which has the option to not allow it; and the amount of wine allowed may be limited. The Colorado Restaurant Association shared that the industry was split on this issue. The Colorado Wine Institute provided comments in support of corkage fees and that people who bring in their own wine are usually celebrating, allowing a good option for both customers and restaurants who want to allow it. The Colorado Brewers Association provided comments questioning why this privilege would be limited to wine and not expanded to beer.

**Proposal 33: Direct-to-consumer shipping for beer and distilled spirits with courier permit for delivery of products.**

- Create separate shipping permits for breweries and distilleries that mirror the existing requirements for wineries that hold a valid winery direct shipper's permit.
- Creation of a courier permit for beer and distilled spirits to give LED the ability to hold individuals making the deliveries legally responsible for preventing delivery/distribution to underage persons.

This proposal did not receive consensus from the LAG during the September 2023 meeting with a vote of 6 in favor, 5 opposed, and 9 abstentions.

The Marketplace Structure subgroup and the LAG twice considered proposals to allow both in-state and out-state manufacturers of spirits and brewers to ship directly to consumers. Arguments for this proposal included many comments from Colorado distillers and brewers that the prohibition on shipping prevented them from making sales to consumers who could not buy their product where they resided, that allowing direct to consumer sales would put distillers and brewers in the same legal position as wineries, that meeting consumer demand added to the growth of all segments of the three-tier systems, that several states have adopted some form of direct to consumer laws for spirits or beer, and that illegal shipments occur.

Arguments against the proposal included opposition from wholesalers who argued that direct to consumer sales altered the three-tier regulatory system and created additional opportunity for underage

sales and counterfeit products sales and opposition from off-premises retailers who argued they would lose sales and would not similarly have the ability to ship product out-of-state.

The proposal did not gain consensus when brought to a vote at the September LAG meeting.

## **Proposals Not Approved by Liquor Advisory Group Subgroups**

The following proposals were brought forward in the subgroups, however, they were not recommended for consideration by the full LAG.

### **Regulation of Retail Operations**

**Making to-go drinks/bottles permanent.** The current takeout and delivery permit is set to expire in 2025. The subgroup discussed removing the expiration language and adjusting the volume limits of alcohol beverages offered for takeout and delivery. The proposal was withdrawn at the August subgroup meeting.

**Standardizing responsible vendor training.** Subgroup members agreed that this was a topic better addressed during the rulemaking process and was an issue of local control inappropriate for the LAG to address. The proposal was withdrawn at the May subgroup meeting.

**Allow registration of a manager for more than one on-premises location.** Currently, a registered manager is only allowed to purchase alcohol for the location at which they are registered. Concerns were raised that this would cause difficulties ensuring bulk purchases were not being made and distributed to each location. No motion was made at the July subgroup meeting to advance the topic to the full LAG.

**Remove common ownership/financial interest prohibition between retail liquor store and on-premises consumption licensees.** Subgroup members expressed concern that this could be subject to misuse and as contrary to the three-tier system. No motion was made at the July subgroup meeting to advance the topic to the full LAG.

### **Marketplace Structure**

**Elimination of franchise laws and territory rights for brewers.** A proposal was submitted suggesting the removal of 44-3-408, C.R.S. addressing the termination of wholesalers. The proposal was withdrawn at the July subgroup meeting.

**Allowing manufacturers to sell other Colorado manufactured beverages of any type (including collaboration products) in sales rooms.** Concerns were raised by subgroup members that this could have sales rooms operating more like a bar or other on-premises drinking establishments. The motion to move this proposal forward to the full LAG failed during the May subgroup meeting.

**Permit distilleries and distillery pubs to operate as alternating proprietorships.** Concerns were raised by subgroup members that distillery pubs are a retail license type and support was expressed for the existing production limits for that license type. No motion was made at the July subgroup meeting to advance the topic to the full LAG.

**Winery Direct Shipper's Permit restrictions.** A proposal was submitted that would require manufacturers to be a licensed winery, as defined by Colorado law, in order to ship wine products they produce and bottle into the state. No company would be permitted to take wine from different manufacturers and ship the products out as a third party. The motion to move this proposal forward to the full LAG failed during the August subgroup meeting.



## **Licensing**

**Consolidation of brew pub, distillery pub, and vintner's restaurant licenses.** The proposal submitted raised concerns about maintaining the three-tier system and the difference between the manufacturing and retailer tier. No motion was made at the May subgroup meeting to advance the topic to the full LAG.

**Remove festival limits.** A proposal was submitted suggesting the removal of limits on how many festival permit(s) a licensee can pull in a twelve-month period. The motion to move this proposal forward to the full LAG failed during the July subgroup meeting.

**Creation of special event license.** A proposal was submitted to create a stand-alone license that would allow a licensee to go to unlicensed, off-site locations to sell and serve alcohol. The motion to move this proposal forward to the full LAG failed during the July subgroup meeting.

**Creation of a special event rider.** A proposal was submitted to allow existing licensees to obtain a "rider" that would allow a licensee to sell and serve alcohol at an off-site location. The motion to move this proposal forward to the full LAG failed during the July subgroup meeting.

**Licensing for retail liquor store licenses purchased for conversion to a liquor licensed drugstore.** A proposal was submitted to prohibit a new retail liquor license to be issued at the same licensed premises of a retail liquor store that was purchased for conversion to a liquor-licensed drugstore for a period of ten years. No motion was made at the August subgroup meeting to advance the topic to the full LAG.

## **Conclusion**

The members of the LAG have worked diligently to develop recommendations aimed at modernizing, clarifying, and harmonizing the statutes that regulate alcohol beverages and the alcohol beverage marketplace in Colorado, as directed by the Governor. LAG members thoughtfully debated the many proposals and issues considered during its meetings with the Governor's goals in mind, and reached consensus on a number of recommendations, as reflected in this report. In addition to LAG members, many business owners, industry stakeholders, and local licensing authorities engaged in the LAG's process by observing, commenting at meetings, submitting proposals, and submitting written comments. While debates will continue on topics where consensus was not reached, the LAG provided a valuable opportunity to gain perspective on the views of other stakeholders, and the LAG members wish to thank the Governor for the opportunity to work together on ways to improve Colorado's alcohol laws.

## Appendices

- [Appendix 1: July 2022 Letter from Governor Polis](#)
- [Appendix 2: Liquor Advisory Group Members](#)
- [Appendix 3: LAG Charter](#)
- [Appendix 4: LAG meeting minute links](#)
- [Appendix 5: Subgroup meeting minute links](#)
- [Appendix 6: Voting tabulations from each recommendation](#)
- [Appendix 7: Public Comment links](#)

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