



Colorado
Legislative
Council
Staff

ISSUE BRIEF

Number 12-13

A Legislative Council Publication

October 2012

COLORADO LAWS REGULATING ALCOHOLIC BEVERAGES

by Erin Vanderberg

Colorado has a complex framework of laws regulating the manufacture, distribution, sale, and consumption of alcohol in the state. This issue brief outlines Colorado liquor laws; the three-tier system; government revenue streams; and the role of state and local governments in licensing and enforcement.

Colorado Liquor Laws

Colorado's liquor laws were first codified in 1935. The Colorado Beer Code (Section 12-46-101, et seq., C.R.S.) regulates 3.2 beer, which was created and categorized as a "non-intoxicating liquor" during the wait for states to ratify the 21st amendment. The Colorado Liquor Code (Section 12-47-101, et seq., C.R.S.) regulates full-strength beer (also called repeal beer or malt liquor), wine, and liquor. Special events permits for alcohol are also regulated in statute (Section 12-48-101, et seq., C.R.S.). From the statutory framework, the Department of Revenue's Liquor Enforcement Division (division) codifies additional regulations in its Liquor Code (1 CCR 203-2).

The Three-Tier System

A three-tier system divides the production, distribution, and sale of alcohol into separate regulatory structures. Within this system, there are nearly 50 varieties of licenses issued by state and local governments. In general, a business owning or having financial interest in a license may not own or have an interest in a license from another tier.

Production. A manufacturer's license is required for all businesses producing, manufacturing, or

distilling liquor, wine, or beer. Additionally, all manufacturers or importers of alcohol sold in Colorado must obtain a Certificate of Label Approval or a Certificate of Exemption from the federal Alcohol and Tobacco Tax and Trade Bureau (TTB), and register the product with the division. An individual who produces beer or wine for personal consumption is exempt from these requirements. There are currently 394 manufacturer's licenses issued in the state: 202 for 3.2 and full-strength beer; 158 for wine; and 34 for liquor. In addition, there are currently 538 importer's licenses and 1,230 wine delivery permits.

Distribution. A wholesaler's license is required for all beer and liquor distributors in Colorado. Distributors must follow strict regulations governing the sale and marketing of their product; monitor the quality and safety of their product; and collect, remit, and report state excise tax revenue on a monthly basis. There are currently 121 liquor and wine distributors, 112 full-strength beer distributors, and 38 3.2 beer distributors licensed in the state.

Sales. A wide array of licenses and permits allow the retail sale of alcohol in the state. In addition to licenses for liquor stores, liquor licensed drugstores, taverns, hotels and restaurants, beer and wine, and 3.2 beer, there are also permits that allow the sale of alcohol at arts events, bed and breakfasts, brewpubs, mini-bars, racetracks, special events, sports facilities, vintner's restaurants, wineries, and on public transportation. There are currently 3,161 licensed off-premise retailers (e.g. stores) and 7,571 licensed on-premise retailers (e.g. taverns) in the state.

Government Revenue from Alcohol

A state and federal excise tax, state sales tax, and local sales taxes apply to the sale of alcohol in the state. The bulk of revenue comes from the state excise tax; in 2011, Colorado collected nearly \$38 million in state excise tax alone. Once the tax revenue satisfies the constitutional requirements to the Old Age Pension Fund, the remainder is credited to the General Fund. A portion of the tax on wine is credited to the Wine Industry Development Fund. State law requires manufacturers and wholesalers to keep records of purchases, sales, and transfer activities of alcohol for three years. Exemptions to the excise tax include homebrew or homewine, sacramental wines, up to one gallon of alcoholic beverage brought from a foreign country, and wines sold at public auctions.

Licensing

Licenses for production and distribution are issued by the state alone, while sales licenses and permits are issued by both state and local licensing authorities. In 2011, licensing and application fees for all licensing tiers generated over \$3 million for the state and \$3 million for local governments.

The tavern example. Tavern liquor licenses are issued by both the city or county clerk and the division, and the process takes several months. The applicant must submit to a criminal background check and disclose all connections to the liquor industry, including licenses held or relinquished. In certain cases, there is a moratorium period that must elapse between issuances of licenses. The applicant must also submit a detailed floor plan of the business. In most cities and counties, the establishment must meet electrical, fire code, and other local building code requirements before the liquor license is issued.

Once the application and fees are submitted, the local authorities must post notice at the physical location and in the newspaper of record, perform an investigation that includes a review the "needs and desires" of the applicant and neighborhood, hold a

public hearing, and make their decision. If approved, the application moves on to the division for review. State-approved applications are returned to the local licensing authority for final approval and licensing. An applicant may seek judicial review to appeal a licensing authority's decision.

The process of transferring a liquor license is similar to applying for a new license; however, while the application is pending, the transferee may apply for a temporary, 120-day permit to sell alcohol in the tavern.

Enforcement

Both the division and local law enforcement agencies are authorized to perform regular compliance checks and investigate liquor law violations at licensed facilities. The wide range of potential violations may pertain to: compliance, food service, purchasing source, underage sales, sales to intoxicated individuals, wholesale trade practices, hidden ownership, or the conduct of establishment. An annual report of enforcement actions taken by state and local licensing authorities is available at:

www.colorado.gov/revenue/enforcement

There are two classes of citations issued to violators: businesses are cited administratively while individuals are cited criminally. Administrative citations are more common and generally involve a temporary suspension of the liquor license. The license suspension can be served in full or divided into days held in abeyance and/or waived completely through payment of fine. In some instances, the establishment is required to undergo additional industry training. Repeat offenders see their licenses revoked. Criminal penalties range from class 2 misdemeanors to a class 5 felony. An example of a class 2 misdemeanor is selling to a visibly intoxicated person. Providing access to alcohol—through sale, gift, or disposal—to anyone under the age of 21 is a class 1 misdemeanor. The only felony provision occurs when an establishment allows illegal gambling activity to take place on premises, except that which is conducted by a nonprofit organization.