

Colorado Liquor Enforcement Division Liquor Rules Working Group (LRWG)

Meeting of July 6, 2017
1:00p – 4:00p

Liquor Enforcement Division Office
1881 Pierce Street | Lakewood

Groups in Attendance:

Liquor Enforcement Division (Patrick Maroney, Jake Baus, Jack Chism, Alan Call)
Anheuser Busch (Garin Vorthmann)
Colorado Beer Distributors Association (Steve Findley)
Colorado Brewers Guild (Chas Runco, Andres Gil Zaldana)
Colorado Licensed Beverage Association (Jeanne McEvoy, Jonathan Noller)
Colorado Municipal Clerks Association (Robin Eaton)
Colorado Municipal League (Kevin Bommer)
Colorado Restaurant Association (Nick Hoover)
DISCUS (Joan Green Turner)
Liquor Attorneys (Cory Tipton)
Miller-Coors (Jenn Penn)
Support Your Local Liquor Store (Dylan Peper)
Target (Phil Hayes)
Tavern League of Colorado (David Reitz)
Wine & Spirits Wholesalers of Colorado (Micki Hackenberger, Michael Steppat)
Wine Institute (Brock Herzberg)

Welcome & Introductions

Patrick Maroney opened with introductions. Thank you for another year and another Working Group.

Formation

We changed how the group formed by naming the associations and companies associated with the liquor industry instead of actual people. We tried to anticipate those entities that wished to serve on the working group but if your group was not chosen you may request to be a member. Contact DOR_LED@state.co.us to request to be included and the LED will respond within one week with their decision.

Objectives, Expectations, Guidelines & Outcomes

- This year we will not have a Trade Practice Sub-Group. We have made 2 significant changes to trade practices in the past couple of years and with SB16-197 – it would be best to address further trade practice issues after January 1, 2019. With that said, if you have a Trade Practice issue that has to be addressed this year, please bring it to our attention.
- Rule Review – our goal is to have rule recommendations finalized in September to allow for Rule Making in October (and be effective in January 2018).

Fee Changes (Emergency & Permanent Rule Making)

As you know we have had several fee changes in the past couple of years. Our structure is that we cannot surpass an excess of funds over 16.5% of our budget. We reduced our fees when we were past that threshold. Then in July 2016, the number of new applications dropped dramatically, which created a shortfall in the LED budget. In January 2017 we increased the new application fee substantially to cover the cost. Director Maroney emphasized the rule change only modified the fee structure and does not allocate more funds to the LED. The rule lowered the new application fees by \$400 and increased most ancillary fees paid to the LED for processing.

We proposed to create a new application fee called the "renewal application fee" to assist in stabilizing our budget, but it did not pass. The new fee would not provide additional funds to the LED, but gives the LED the ability to leverage the application fees over a broader spectrum. Because this did not pass, LED had to increase the ancillary fees and decrease new application fees to stabilize funding for the LED. We know this Emergency Rule came late in June, but we needed to get data in or to determine a new funding (fee) schedule. Comments or questions?

Municipal Clerks Association? Can LED can change local fees as well as state fees? Answer: No, they are set in statute.

Municipal Clerks Association? Are permits also included as fees for the Old Age Pension funding. Answer: at this time yes, but we are evaluating this position and will respond with a letter.

Colorado Brewer's Guild? Why did you increase the temporary modifications to \$600.00? Answer: Four years ago the LED changed the position that a licensee had to submit a temporary modification for every event. So, a licensee can now request up to a year's worth of modifications for one fee as long as those dates did not change. That decision saved licensees a lot of money if they wanted to modify their premises several times throughout the year. For this year, most all ancillary fees were doubled so that no favoritism was given to a specific part of the industry. The need to flatten the fees was important so that what occurred last year does not happen again – when the LED funds went into the red due to a decrease in new applications.

The Wine Institute? Why were direct shipping permits increased? Answer: We decided to increase most all ancillary fees so the fees could be from all sources, just not primarily new license applications. This method will stabilize the fees for the LED.

Overall the input from stakeholders about the fee changes was neutral. There were no specific objections.

Regulatory Agenda

Every year we are tasked with reviewing 20% of our Rules for consistency and relevance. This year LED will be reviewing regulations 47-902 through 47-1008. We do not have a formal draft of our recommended changes yet. The LED went over each regulation under this review and the working group had a general discussion about each one.

Please review and identify any issues with the following rules.

- Regulation 47-902. Sanitary Requirements
- Regulation 47-904. Product Labeling, Substitution, Sampling and Analysis
- Regulation 47-905. Colorado Wineries – Labeling and Records
- Regulation 47-906. Container Size
- Regulation 47-908. Automatic and Electronic Dispensing Systems
- Regulation 47-910. Consumption Prohibited
- Regulation 47-912. Identification (Will we be approving electronic ID's? The State of Colorado was picked to do a Pilot program. But this is not legal yet.)
- Regulation 47-913. Age of Employees (Possible conflicts with 47-913 (c) and 47-1012.)
- Regulation 47-914. Unlicensed Possession of Beverages
- Regulation 47-916. Advertising
- Regulation 47-918. Removal of Alcohol Beverages from Premises
- Regulation 47-920. Solicitation of Drinks
- Regulation 47-922. Gambling
- Regulation 47-924. Importation and Sole Source of Supply/Brand Registration
- Regulation 47-926. Interference with Officers
- Regulation 47-930. Testing of Alcohol Content – Malt Liquor and Fermented Malt Beverage
- Regulation 47-940. Powdered Alcohol – Packaging and Labeling
- Regulation 47-942. Powdered Alcohol Regulation
- Regulation 47-1000. Qualifications for Special Event Permit
- Regulation 47-1002. Application for Special Event Permit

- Regulation 47-1004. Special Event Permit – Non-transferable (Consider looking at allowing a time change of an hour either way after permit issued?)
- Regulation 47-1006. Special Event Permit - Application on School Property
- Regulation 47-1008. Special Event Permit – Private Residence: Multiple Use

LED would like to have all rules reviewed and recommendations submitted by September for final approval.

Concerning regulation 47-912, the CLBA had a question about digital driver's licenses. The State of Colorado was chosen to be a part of a pilot program to include liquor licensees who will participate in a 2-month program where the digital driver's license is evaluated. But a digital driver's license is not a valid form of ID since it would take a legislative change to make this happen. The LED will communicate with stakeholders if changes are made to include digital driver's licenses.

Legislative Changes

HB17-1120 | Alcohol Beverage License Higher Education Campus (May effect 47-323, 47-326 & 47-1006)

Concerning the designation of a campus liquor complex on the campus of an institution of higher education that is licensed to serve alcohol beverages for consumption on the licensed premises to allow the institution to obtain permits to serve alcohol beverages at other facilities within its campus liquor complex, and, in connection therewith, making an appropriation.

HB17-1137 | Reporting Requirements By Department Of Revenue To General Assembly

Concerning the scheduled repeal of reports by the department of revenue to the general assembly.

HB17-1145 | Amateur Winemaker Tastings Contests & Judgings

Concerning authorization for amateur winemakers to enter wines in organized events.

SB17-058 | Employee Agent Purchase of Alcohol Beverages (LED has no objections)

Concerning the authority of certain individuals to purchase alcohol beverages for a premises licensed to sell alcohol beverages for consumption on the licensed premises.

SB17-077 | Government Agency Special Event Permit Eligibility

Concerning the eligibility of certain government agencies to apply for a special event permit to sell alcohol beverages.

SB17-134 | Alcohol Beverage Licensee Penalty Application (May effect 47-600) (LED submit for Rule Making 12-47-601(3))

Concerning the exclusion of certain areas of an alcohol beverage licensee's operation in the application of penalties for certain violations.

SB17-237 | Age Of Employees Serving Alcohol On Premises (May effect 47-913)

Concerning the age of employees permitted to sell alcohol beverages at specified establishments licensed to sell alcohol beverages for consumption on the licensed premises.

SB17-269 | Retail Liquor Store Sales Revenue Non-alcohol Goods (May effect 47-4116)

Concerning the exclusion of specified nonalcohol products from the calculation of the maximum amount of a retail liquor store's annual gross sales revenue that may be derived from the sale of nonalcohol products.

General LED/Industry Suggested Changes

- LED feels the 30 day wait requirement for Importers is no longer necessary (if anyone would like to propose legislation).
- Dave Reitz (Tavern League) said some Lodging & Entertainment licensees would like to offer room service.

Take-a-ways for next meeting

Review the rules (47-902 through 47-1008) and submit your recommendations for rule changes (on form DR 2477) by August 3rd. The form is on LED's webpage in multiple locations.

The next meeting will be August 17th at 1:00PM at 1881 Pierce Street (Room 110).

The meeting was adjourned.

Non-Member Attendees:

Cheryl Scott – Commerce City

Henny Lasley – Smart Colorado

Mary Lou Chapman – Food Industry Association

Colleen & Sed – Lamar Street Center

Tom Marrondis – SGUS

Kristen Thomson – Natural Grocers

Mark Thomas – Sanborn & Co

Tyler Henson – PSI

Totsy Rees – 7-Eleven | CST Brands

Gagandeep Singh Banwait – 7-Eleven