

**COLORADO LIQUOR ENFORCEMENT DIVISION
2019 LIQUOR WORKING GROUP (LWG)**

**Meeting of May 13, 2019
12:00p.m.**

MED–“Red Rocks” Conference Room
1707 Cole Blvd, Suite 300 | Golden, CO

Meeting Minutes

2019 MEMBERS IN ATTENDANCE:

Executive Director – Lu Córdoba
Deputy Executive Director – Heidi Humphreys
Director of Enforcement – Cory Amend
Liquor Enforcement Division – Patrick Maroney | Michelle Stone-Principato | Andrea Jones
Attorney General’s Office – Alan Call
Brewery (Large) – Bob Hunt
Brewery (Large) – Garin Vorthmann
Brewery (Small) – Andres Gil Zaldana
Brewpub – *Proxy*-Chas Runco
Cidery – *Proxy*-Sol Malich
County Government – Kristen Huber
Distillery (National View) – Joan Green Turner
Distillery (State View) – Stephen Gould
Grocery Store (Large) – Ryan Irsik
Grocery Store (Large) – Larry Hudson
Grocery Store (Small) – Jeffrey Cameron
Liquor Attorney – John Tipton
Liquor Attorney – Tom Downey
Member At Large – Wendy Turk
Member At Large – Jackie Seybold
Off Premises (Ind) – Jim Shpall
Off Premises (Statewide) – *Proxy*-Kara Miller
On Premises (Restaurants) – Nick Hoover
On Premises (Taverns) – *Proxy*-Mark Berzins
Wholesaler (Beer or Wine Spirits) – *Proxy*-Tyler Henson
Wholesaler (Beer or Wine Spirits) – Steve Findley
Winery (National) – *Proxy*-Brock Herborg
Winery (State) – Doug Caskey

Welcome & Introductions

Patrick Maroney opened up with introductions. He then gave the floor to Lu to introduce herself to the stakeholders and public at the meeting.

Stakeholder Comments

1.) **Mark Berzins** – On-premises retailers are treated as less important by the industry and by the LED. There needs to be separate rules for on-premises and off-premises retailers as it relates to the Value of Labor and any other major issue of alcohol regulation. On-premises retailers care more about DWI abatement, marketing allowances, etc. than many of the stocking/rotating issues that are being discussed that affect off-premises retailers.

***Lu Córdova** and **Michelle Stone-Principato** agreed to create a subgroup to address on-premises concerns as they relate to the Value of Labor for on-premises retailers.

2.) **Steve Findley** – Labor *is*, inherently, of value and needs to be regulated.

3.) **Bob Hunt** – The previous Value of Labor rule (from a few years ago) is less and less relevant, as it was originally designed to address issues when only 3.2 beer was available at FMB off-premises retailers. He brought a tri-fold graphics board showcasing empty shelves and out-of-stocks at a number of retailers. The marketplace and industry norms dictate how the Value of Labor is actually regulated in practice.

4.) **Andres Gil Zaldana** – Colorado breweries are allowed to hold wholesaler licenses. There is an impact to the industry when 90+ craft breweries have to hire more employees to the tune of 75k/annually per employee (on average). Most small craft brewers cannot absorb that financial hit. CO is huge into craft brewing. Consumers expect and deserve choice in the marketplace. Breweries need to be able to access the marketplace. If they cannot afford to be in stores, they will leave them, ultimately hurting consumer choice. “Temporary” and “Promotional” should be more closely defined in the current draft iteration.

5.) **Jackie Seybold** – Supplier provided labor is currently grossly unlevel. She spends roughly 30k/weekly on payroll. The little retailers (read: everyone but the large chain big-box FMB providers) do not now, and have not ever, received the same level of supplier labor that the big retailers get. Retailers should be responsible for hiring employees to stock their shelves. That is their job.

6.) **John Tipton** – Labor is undoubtedly valuable. We should be focusing on reaching a balance between what is done, who does it, and who pays for it. Currently the only bounds reigning this in is the federal law, which is really permissive.

7.) **Dominic LaJoie** – Does not like what he is seeing, directionally. Frito lay e.g.; the large retailers are putting little independents out of business. He spends a huge amount of money for labor and it eats at his bottom line considerably. He suggests looking at locational guidelines for value of labor considerations.

8.) **Jim Sphall** – Concerned about false distinctions. We need to be careful with distinctions and definitions. Worries that a drop and go model will disproportionately affect smaller stores, who will be hit harder and be forced to decrease product choice, ultimately harming the consumer. Ironically, this all came about because wholesalers were complaining. Preemptively addressing a problem that may not exist in reality. We need to re-evaluate after we have a better grip on the actual abuses being leveraged in the market.

9.) **Larry Hudson** – Representing Safeway today. Agrees (on this point) with Jim Sphall. We need to figure out what the abuses and problems actually are, and how prevalent they are, before we preemptively create Regulations that address a problem that is not truly there in the market. Union agreements may be affected.

10.) **Steven Gould** – Small/medium brands struggle disproportionately. Too hard of a line will inhibit smaller brands from being able to compete on the open market.

11.) **Doug Casky** – Asking for a level playing field. We need to look at the premise that the supplier controls their brand. Izzy, etc. is not a regulated product, so those comparisons are not one-to-one parallels. Branding is built on relationships and not only product display. Need to focus on tools to enforce and track violations realistically. Drop and go is exceptionally hard, but it might be the only way to level the playing field.

12.) **Brock Herborg** – Echoes the idea that ownership of the brand doesn't shift upon transfer to the front of the house.

13.) **Jon Stonebreaker** – Representing Safeway today. There is not a statutory mandate to do this. We can go more slowly. The root cause of all of this was SB 197. DOR is manipulating competition. Need to truly question whether there needs to be any rules in this area at all.

14.) **Bob Shaffer** – Supplier labor is not a service to the retailers, it is for the suppliers. Four (4) days allowable to none is a seismic shift. Half of his stores are staffed by women who are not large guys and may not be able to complete these labor tasks because they cannot lift and rearrange heavy things. Does not believe a value of labor problem truly exists. Most states don't do this and there is no federal law governing it.

15.) **Ron Vaughn** - Why go from zero to 100? Wholesaler violations are being blown way out of proportion. The decision should remain with the wholesalers; we don't need a rule to protect them. He's paying for labor on the price of a case, it doesn't need to be regulated.

Closing comments and adjournment

Next meeting 6/3/19. Time and place to be announced.

Rulemaking Working Group Upcoming Schedule

Monday, June 3rd, 2019 @ 1p-4p. Location – 1881 Pierce St, Rm 110

Subgroups Schedule

On Premise Value of Labor

Wednesday, June 5th, 2019 @ 9am-Noon. Location – 1881 Pierce St, Rm 110

Dates/Times/Locations are all tentative until further notice.

Any comments please use the online form DR2477. The email you will send them to is dor_led@state.co.us.

Lu Córdova thanked everyone for coming and all of their feedback.

The meeting was adjourned at 2:30p.