

Liquor Enforcement Division Colorado Liquor Compliance Working Group

**Meeting of March 28, 2014
1:00 – 5:00 pm**

**1881 Pierce Street, Room 110
Lakewood, CO 80214**

Working Group Members Present: Ron Kammerzell, Chair; Patrick Maroney, Vice Chair; Barbara Brohl, Executive Director, Colorado Department of Revenue; Heather Copp, Deputy Executive Director, Colorado Department of Revenue; Eric Bergman, Colorado Counties, Inc; Kevin Bommer, Colorado Municipal League; Kevin Patterson, Governor’s Office; Officer Brady Allen, Breckenridge Police Department; Andrew Lemley, New Belgium Brewing Company; Bob Hunt, Miller Coors; Shayne Madsen, Jackson Kelly PLLC; Laura Long, Weist Capitol Group; Stephen Gould, Golden Moon Distillery-Maison DeLaVie; Joan Green Turner, J. Andrew Green & Associates; Jeanne McEvoy, Colorado Licensed Beverage Association, Jim Shpall, Applejack Wine & Spirits; Pete Meersman, Colorado Restaurant Association; Dave Reitz, Tavern League; Micki Hackenberger, Wine & Spirit Wholesales of Colorado; Kyle Schlachter (for Doug Caskey), Colorado Wine Industry Development Board; Chuck McGrigg, Wine Institute; John Tipton, The Tipton Law Firm, P.C.; Manuel Martinez, Bryan Cave, P.C.; Illana Kurtzig, Mothers Against Drunk Drivers; Stan Paproki (for Sharon Liu), Department of Human Services; John Carlson, Jr., Member at Large.

Welcome and Introductions

Senior Director Kammerzell opened the meeting and began by thanking the working group members for their time and the public for coming and encouraged participation. Each member introduced themselves as well as members of the public. He stated that only working group members are allowed to participate in this discussion and that public testimony will be allowed at the end of the meeting. Each person will be given two minutes to provide testimony. Director Kammerzell then yielded the floor to Executive Director Barbara Brohl, who is also the State Licensing authority, for opening comment.

- Working Group Objectives, Expectations, Guidelines and Outcomes
 - Executive Director Brohl explained that the goal of this working group is to enhance the working relationship between the Liquor Enforcement Division (LED) and key stakeholders. Key objectives are to identify methods to improve voluntary compliance within the liquor industry, enhance education and outreach to support and improve voluntary compliance, develop tools for voluntary compliance and to identify appropriate remedies when non-compliance occurs within the liquor industry.
 - Mr. Kammerzell stated that discussion amongst members is encouraged as each member has unique perspectives and insights. A couple of rules for members are to be respectful of others and to minimize electronic device usage; if a member is unable to attend in person a proxy may be designated; the meeting will begin as promptly as possible and reference material relevant for the next meeting will be sent out in advance. Mr. Kammerzell requested that each member review the information prior to the meeting and be prepared to discuss the

topics. Only discussion of agenda item will be allowed. Each member is encouraged to email suggestions of agenda items they would like to discuss at future meetings.

- Mr. Kammerzell also explained that at the end of this working group the goal would be to present a series of recommendations to the State Licensing Authority. Executive Director Brohl added that although we would like consensus, with so many different viewpoints, it may not be possible to come up with 100% consensus, but we will all have to come to terms as to whether or not we can accept or live with the recommendations made by the working group.
 - Mr. Meersman asked that if there is a dissenting viewpoint, if somebody did object, can it be listed in the formal record. Director Brohl stated that it is very important to build a record and recordings of the meetings will be entered into record along with written documentation. Mr. Kammerzell stated this is a good recommendation and further, what area does a recommendation impact, Statute, Rules and Regulations, Policy? This question will help to navigate the recommendations as a roadmap of needs to be addressed. Mr. Gould asked if draft recommendations can be submitted between the meetings and Mr. Maroney responded that draft recommendations may be submitted and to send them to LED at the following email address: sandra.lowman@state.co.us.
- Discussion and Identification of Stakeholder Issues to be Addressed
 - Mr. Kammerzell stated that a collection of issues were submitted by industry members and will be listed on flip chart pages on the back wall and after the break. Each member will be given circular stickers and will place one on each issue they feel most strongly about to identify their top six issues.
 - A discussion ensued regarding the role of the LED and the promotion of the liquor industry in Colorado. It was stated that the word “promotion” may not be the correct term and helping to provide a positive image in Colorado would be a more accurate way to describe the concept. It was stated by many members that education would be the key component to adding value to the industry in the State of Colorado.
 - Mr. Gould stated that he feels educating new businesses coming into industry would help them understand what to do without making mistakes. He does not feel that many new businesses were ever tutored on being compliant. Executive Director Brohl reminded the group that this is a collaborative effort in how to bring about an education program; what does this group think, where is education vs. penalization. How do we make sure we are keeping the perspectives and interests of all stakeholders in mind? Mr. Tipton added that education for the LED is not just regarding the regulatory side, but should include the business aspect. It is one thing to create laws and regulations and another to understand their impacts on business.
 - Additional discussion was had stating that consistency would help remove the fear factor of discussing issues with LED. Discussion was also had regarding what consistency means between the State and Local level. Executive Director Brohl stated that from a State

perspective we want to look at building a more collaborative effort for the industry and not placing local burdens on the state because we cannot address those issues and stated that we believe those local jurisdictions know what that jurisdiction needs. Mr. Bommer stated that we think there is a connection with what happens at local and what happens at state, the statutes change, the local governments change and those same statutes say that there are local issues and elected officials are allowed to deal with within the statutes. One license may be approved in one town but may not be in another. It is time to get the group back together to talk about those issues and we need a common understanding of what the goals are for the State and Local Governments and the public. Additional conversation was had regarding consistency and training including:

- Clear language of when a violation actually occurs.
- How can the State change statutes and regulations to ensure better sanctions and penalties.
- Joint training with the Division and Industry Businesses/Licensees
- Educating the LED on different business types and tiers to give better perspective as to the regulatory side versus compliance checks.
- Aggravation and mitigation for first time offenses.
- Offering separate owner and employee training; how to set up and work in a business knowing that you are safe and in compliance.
- Education and penalizing, struggling with uniformity, training seems to be a common theme which everybody agreed upon.

Break

The meeting was brought back to order by Director Kammerzell at 3:31 pm.

- Prioritization of Stakeholder Issues to be Addressed
 - Mr. Kammerzell explained that the issues were posted on the back wall but asked the working group how they would like to approach the rest of the meeting; would they like to take the proposed approach for prioritizing issues or pick three or four more broad areas to consider. It was agreed that the group would like to establish broad areas to concentrate on. The group mutually agreed to the five broad categories:
 1. Education for the industry and Division on liquor issues, the future of liquor industry and information about the three tiers.
 2. Building collaborative working relationships.
 3. Predictability of activities by the licensee/business and resulting actions by the Division.
 4. Alternative Sanctions including reasonable compliance and regulations.
 5. Public Safety.
 - Role of the Division:
 - Licensing
 - Regulation
 - Compliance

- Enforcement
 - The Division will get a list of the broad categories to you early next week and will provide you with all issues that are up on the wall and determine what category they fall under.
 - Sandra sent out the recommendation template in Word format in an earlier email but will send it out again.
- Mr. Maroney explained that an internal matrix is used to determine the appropriate sanction for various types of violations. He handed out the matrix to each member and members of the public and explained the matrix and how it works. This matrix will be thoroughly explored in future working group meetings and is expected to be modified based upon feedback from the working group. Mr. Maroney also distributed a revised matrix that included a temporary reduction in some penalties and alternative sanctions to include warning letters and the use of an assurance of voluntary compliance (AVC). A discussion was had regarding what determines a public safety violation and how many violations are subject to mitigating factors. Executive Director Brohl solicited specific feedback regarding implementation of the temporary matrix until the working group could make a more permanent recommendation. Some working group members requested additional time to review the temporary matrix, but the general attitude of the working group was to accept the proposal made by Mr. Maroney. Mr. Maroney asked that each member review the matrix and be prepared to discuss it further at the next meeting.

Public Comment

- Laura Harris, Dill, Dill, Carr, Stonbraker and Hutchings, wanted to point out that when exploring sanctions, an item of concern for the firm is the use of days in abeyance as part of the penalty. The industry prefers monetary penalties and days of suspension, but does not advocate for the use of days in abeyance because of the unpredictability of this type of sanction. The only time a day of abeyance should be used is when aggravating factors exist for similar violations. Ms. Harris felt that the use of days in abeyance can create a profound economic hardship on some licensees.

Consideration of Organizational Matters

- Mr. Kammerzell explained that there are currently four meetings scheduled every other Friday. It has been brought to his attention that May 16, will not work and we are looking at moving that meeting. Additional information will be forthcoming on that meeting.
- The next meeting is set for Friday, April 11 at 1:00 pm, location to be determined. Mr. Martinez offered the use of his conference room located at 17th and Lincoln.
- The meeting was concluded with Mr. Kammerzell stating that the minutes and recordings will be posted on the web as soon as possible and the summary of five topics will be sent out early next week. He also reminded the working group members to submit their agenda items to Sandra Lowman.

The meeting was adjourned at 4:30 pm.

NOTE: Recordings of the meeting are available on the LED website at ww.colorado.gov/revenue/liquor