



# GENERAL Q&A

## SB16-197 and HB16-1439



**COLORADO**

**Department of Revenue**

Enforcement Division - Liquor & Tobacco



# GENERAL Q&A

**Q:** When can a RLS or LLDS apply for the additional licenses?

**A:** The LED will have the forms available in November 2016 and applications can be submitted once the forms are available.

**Q:** Can an owner of an RLS or LLDS sign a contract to start working on an additional license?

**A:** Yes. As long as there is not a financial interest in more than 1 license before Jan 1, 2017.

**Q:** Can a retail liquor store transition to a Licensed Drug Store?

**A:** No

**Q:** Are there any restrictions on what a retail liquor store can now sell under the new regulations?

**A:** No (except for marijuana or other items prohibited by law or rule)

**Q:** Is there any notification to wholesalers that needs to be provided?

**A:** Yes – by rule – Affidavit – New rules will address the issue



# GENERAL Q&A

**Q:** Many liquor stores are in a shopping centered anchored by a chain grocery store. With the distance requirements, would that mean none of those grocery stores can obtain the new license as the liquor store had one first?

**A:** In order for the grocery store to sell all three types of alcohol, there cannot be a RLS within 1,500/3,000 feet.

**Q:** Are the license fees for the Lodging and Entertainment license wrong on the memo? It says state only charges \$75, but local will charge \$500--could that possibly be correct??

**A:** The state fee on the application form also includes 85% of the local fee that is paid to the old age pension fund. So, the fees as listed on our forms are correct since they reflect this collection.



# GENERAL Q&A

**Q:** I am a RLS owner who would like to purchase my competitor's liquor store, which is 1900 feet away from my liquor store in a town of 2000 people. We both have liquor licenses from 2004 or earlier. There are no other liquor stores within 9 miles. Would it be possible, since the license is not new but to be transferred, to waive, grandfather or otherwise interpret the new law to allow ownership of both liquor licenses?

**A:** Yes. A transfer of a retail liquor store is not considered a new license.

**Q:** Why are managers not allowed to have managed another location in the past 3 years? Also, what is a manager permit process/documentation?

**A:** The three-year time limit applies to revocations of licenses. The process for the manager's permit will be a separate form provided by the State Licensing Authority.



# GENERAL Q&A

**Q:** Does the distance requirement pertain to 3.2% beer licenses?

**A:** No

**Q:** What Cities and Counties do you anticipate will get the first LDS licenses?

**A:** Do not have any specific information

**Q:** What is the Division's interpretation of "wholesalers?"

**A:** Includes limited wineries, brewpub, distillery pubs and vintner's restaurants

**Q:** Did the age of employees change for 3.2% beer licenses?

**A:** No



# GENERAL Q&A

**Q:** Is a license purchased under SB16-197 be allowed to be transferred outside the area it is being used?

**A:** Under the new law, only a RLS is allowed to change their location outside the jurisdiction

**Q:** For Retail Liquor Store licensees who have located their RLS inside of a grocery store but have a separate POS and licensed premise to comply with the past laws, what is the process to change their licensing so that they can move their alcohol into the grocery store and have co-mingled POS systems selling both alcohol and groceries?

**A:** Depends on several factors and business models. A RLS can sell anything as long as the gross sales for non-alcohol products are <20%.

**Q:** Is a certificate provided for this class?

**A:** No



# GENERAL Q&A

**Q:** If a movie theater or other business wants a Lodging and Entertainment License, is the process as strenuous as a New Liquor License or Liquor License Transfer? Will there be any fees associated with changing to the appropriate license now that the category has been created?

**A:** Very similar process as a tavern license. There is no added fee to convert.

**Q:** Do all eligible stores have to get the new license or can they continue to keep their old license type?

**A:** There is no mandate to get a new license and they can keep their license. If a LLDS or RLS wants additional licenses, they must then apply for a new license.

**Q:** On January 1, 2019, will the fermented malt beverage licenses need to be converted to a different license in order to sell any type of beer?

**A:** No, the only thing that will change is the definition. They will still have a fermented malt beverage license and will be able to sell products under the new definition of fermented malt beverages. Same applies to the malt liquor licenses.



# GENERAL Q&A

**Q:** Does the purchase of a store with a protected radius by either an existing licensee or a currently unlicensed party retain that protection with the new owner?

**A:** A RLS that is transferred is still protected

**Q:** Can the owners of an existing liquor licensed store buy another existing store within its own radius which is also within the radius of a third existing liquor store?

**A:** Yes, transfers of RLS are not considered the issuance of a new license.

**Q:** Will there be any allowance for transfer of product between two liquor stores owned by the same individual or entity?

**A:** No. All liquor licenses are independent and can only order for themselves and cannot transfer stock to another licensee, even if they own it.



# GENERAL Q&A

**Q:** Can one corporate entity own both a liquor licensed pharmacy and a retail liquor license in different locations? Or does owning one or more liquor licensed pharmacies preclude that corporate entity from holding any other type of liquor license?

**A:** Financial interest/control between a liquor-licensed drugstore and a RLS are is prohibited. A person cannot own both.

**Q:** Does the alcohol stock transfer from the RLS being converted to a LLDS?

**A:** Yes



# GENERAL Q&A

**Q:** If King Soopers opens a new store in a jurisdiction of more than 10,000 and there are no existing liquor stores within 1500', do they still have to purchase 2 RLS licenses?

**A:** Yes, in order to have additional liquor-licensed drugstores, they must purchase 2 RLS.

**Q:** can under 21 but 18 years old work at a liquor store under the supervision of 21 years old ?

**A:** An employee of the RLS must be 21 years old if they handle alcohol in any manner.

**Q:** How do I determine if I should switch to an L & E License?

**A:** It is up to the licensee whether or not to convert to an L&E license. There is no mandate to do so.

**Q:** What is the step-by-step process to switch to the E & L License?

**A:** You must fill out the Report of Changes forms (DR8442), which provides instruction on what information is needed. The new DR8442 form will be available soon with the new section for Tavern conversions.



# GENERAL Q&A

**Q:** How do we report sales not of alcohol - the 20% now allowable ?

**A:** There is no specific method of reporting sales of non-alcohol related items. However, RLS licensees must keep records of all items purchased that are sold in the licensed facility.

**Q:** It is my understanding that in 2019 the restriction of 3.2% alcohol content of beer is going away. Does that mean that all grocery stores like King Soopers and Safeway that carry 3.2% beer will be able to sell regular strength beer in 2019 or are there some restrictions on that.

**A:** If no laws are added or changed, all businesses with a fermented malt beverage license (3.2% beer license) will be able to sell any malt liquor over .5% alcohol.

**Q:** What happens if a liquor store adds groceries that would push its sale of such items over 20%? Would they have to change the class of license? What is the procedure under this scenario?

**A:** The RLS would be in violation of the law if their gross sales of non-alcohol products is over 20%. There would be several options including staying compliant with <20% of sale from non-alcohol products and applying for license that enables the desired business model. The licensee should seek legal counsel to better understand their options.



# EXAMPLES

## **Example #1:**

**ABC LLC owns a LLDS (License A) and wants to add another LLDS (License B). At the new location (B) they must prove in the last 12 months, 20% of their gross sales (at B) was from the sale of food. They cannot purchase alcohol on credit and cannot store alcohol outside their premises. They must have a permitted manager at store (B) at all hours the store is open. None of this is required for store A.**

## **Example #2:**

**A company owns a chain of stores that do not have a LLDS license (ex: Walgreens). Walgreens can apply and receive one LLDS license and is not able to expand their businesses because of SB16-197. Only LLDS licensed on or before January 1, 2016 can have additional LLDS licenses.**



# EXAMPLES

## **Example #3:**

**Ken's Pub has a tavern license that does not fit the definition of a tavern or a lodging and entertainment license, but is grandfathered in due to HB16-1439. Five years later, Ken wants to sell the business and move to Arizona. Given there is no provision for the conversion after 1 year (maximum), the new owner must apply for a new license.**

## **Example #4:**

**XYZ Corporation owns a RLS. They want to expand and purchase another RLS. They can build another location as long as it is not within the distance requirements set by law; or they can purchase an existing license via the transfer process/change of corporate structure process.**



# EXAMPLES

## **Example #5:**

**Amanda's Nail Salon applied for a tavern license but it was not issued before July 1, 2016, since Amanda's Nail Salon does not fit the definition of either tavern or lodging and entertainment license, she must apply for a different license that legally applies to her business.**

## **Example #6:**

**Luis Lounge wants to sell his business and decides to transfer his company to Bob's Bar. Luis gives the local licensing authority evidence his wholesalers are paid. The LLA does not have the obligation to investigate to ensure the accuracy of the evidence, but can request additional documentation if needed.**