



Colorado Association of Viticulture and Enology 2019 Legislative Report

The 2019 legislative session came to a close on May 3rd. The 120 days saw 335 House bills and 263 Senate bills for a total of 598 bills. Contrary to expectation, this was a surprisingly low number of bills as previous sessions have yielded over 700. The 2018 election yielded a Democrat trifecta with a 41-24 majority in the House, a 19-16 majority in the Senate and control of the Governor's Office. This allowed for the passage of progressive bills such as greenhouse gas emission reduction, fossil fuel electric generation phase outs and changing how oil and gas will operate in the future. There were also a number of bills aimed at affecting how business operates and is regulated in Colorado. Some of these bills include family medical leave, equal pay for equal work and local authority on minimum wage.

CAVE participated in various bills affecting the liquor/business industry. Please see below for a list of bills CAVE engaged in and their outcomes.

[HB19-1014](#), *Retail Food Establishments Inspections and Suspensions*

Rep. Jonathan Singer (D, Boulder) Rep. Shannon Bird (D, Westminster) Sen. Joann Ginal (D, Ft. Collins)

Position: SUPPORT

This bill came as a result of work and cooperation by industry stakeholders and local public health officials. HB-1014 changes how civil penalties are assessed for health code violations. It also changes the criteria regarding what constitutes a critical violation to create an imminent health hazard and the visits associated.

Outcome: The bill passed through both the House and Senate and was signed by Governor early on in February.

HB19-1058, *Income Tax Benefits for Family Leave*

Rep. Lois Landgraf (R, Colorado Springs) Rep. Susan Beckman (R, Littleton) Sen. Kevin Priola (R, Brighton)

Position: SUPPORT

The bill was the Republicans' solution to the ongoing paid family leave discussion. It establishes a leave savings account to be used in the event of the birth of a child, caring for an ill family member or a serious health condition. An individual may contribute up to \$5,000 annually with their employer matching the contribution. The bill also would have enabled employees and employers an income tax deduction for the amounts contributed.

Outcome: The bill was postponed indefinitely in the House Finance Committee within the first month of session.

HB19-1076, *Clean Indoor Air Act Add E-Cigarettes*

Rep. Dafna Michaelson Jenet (D, Commerce City) Rep. Colin Larson (R, Littleton) Sen. Kevin Priola (R, Brighton) Sen. Kerry Donovan (D, Vail)

Position: Monitor

HB-1076 is fairly straight forward in that it adds e-cigarettes to the Clean Indoor Air Act.

Outcome: The bill was signed by the Governor in late May.

HB19-1143, *Distribute Plastic Straws Only Upon Request*

Rep. Susan Lontine (D, Denver) Sen. Rhonda Fields (D, Aurora) Sen. Kevin Priola (R, Brighton)

Position: Monitor

This bill sought to achieve what the on-premise industry has already organically moved towards. The bill required bars and restaurants to only provide straws to customers upon request. However, a server offering a straw to consumers qualifies as "upon request". The bill did not contain any enforcement mechanism.

Outcome: The bill was postponed indefinitely at Rep. Lontine's request on a unanimous vote in the House Energy and Environment Committee.

HB19-1210, Local Government Minimum Wage

Rep. Jovan Melton (D, Aurora) Rep. Rochelle Galindo (D, Greeley) Sen. Dominick Moreno (R, Commerce City) Sen. Jessie Danielson (D, Lakewood)

Position: OPPOSE

HB-1210 is one of the many bills this session that negatively impacts the business community. This bill allows a local government to set their own minimum wage beyond that state's constitutionally set minimum wage. Currently, the minimum wage is set at \$11.10 and the tipped wage is set at \$8.08. The passage of Amendment 70 in 2016 mandates the minimum wage be increased by \$.90 each year until it reaches \$12.00 and \$8.98 for tipped wage in 2020. This bill as written would have given local governments the ability to set their own minimum wage with no caps or restrictions. This also applies to the tipped wage.

The bill was heavily amended in the Senate. A few of these guardrails include capping the amount local governments could increase the minimum wage by, restricting the ability to vary wages based on industry and an implementation date of January 1 to remain consistent with budgeting processes. The most impactful amendment to CAVE members was the preservation of the tipped wage. All local governments that vote to increase their minimum wage must abide by the \$3.02 tipped wage offset.

Outcome: The bill as amended passed in the final days of session. It was signed by the Governor in late May.

HB19-1240, Sales and Use Tax Administration

Rep. Tracy Kraft-Tharp (D, Arvada) Rep. Kevin Van Winkle (R, Highlands Ranch) Sen. Lois Court (D, Denver) Sen. Jack Tate (R, Centennial)

Position: SUPPORT

In 2018, the United States Supreme Court ruled that states can require retailers without a physical presence in the state to collect sales tax on purchases made by in-state customers. However, the ruling does specify that the system by which the sales tax is collected cannot be overly burdensome.

HB-1240 is complex and achieves a number of goals associated with sale and use tax in the state. First, it codifies the destination sourcing rule for retail sales tax collection. It allows provides an exemption to this if a business's total sales are below \$100,00 per year. It also created the designation of a marketplace facilitator. A marketplace facilitator is an entity that houses independent retailers/marketplace sellers such as Amazon, Etsy and VinoShipper. As of October 1, 2019, HB-1240 requires all marketplace facilitators to collect and remit sales tax made by the marketplace sellers, thus relieving the marketplace sellers of liability and obligation regarding the collection and remittance of the tax.

Outcome: The bill was signed in late May. CAVE continues to participate in the Sales and Use Tax Simplification Task Force Interim Committee as well as maintain membership in the Simplify Sales and Use Tax Coalition.

HB19-1254, Notice Requirements Employees Sharing Gratuities

Rep. Barbara McLachlan (D, Gunnison) Rep. Kevin Van Winkle (R, Highlands Ranch)
Sen. Rhonda Fields (D, Aurora) Sen. Kevin Priola (D, Brighton)

Position: Monitor

Current law allows an employer to require employees share tips if the business posts visible signs inside the establishment. This bill expands the signage requirement to menus, tables signs or on receipts.

Outcome: The bill was signed in May.

SB19-006, *Electronic Sales and Use Tax Simplification System*

Position: SUPPORT

The bill requires the Office of Information Technology and the Department of Revenue to use existing resources in order to conduct a sourcing method for the development of a sales and use tax simplification system. The bill also strongly encourages local taxing jurisdictions/home rule cities voluntarily use the system within three years of the system coming online.

Outcome: The bill was signed in early April. Currently the Office of Information Technology and the Department of Revenue have yet to begin the procurement process.

SB19-028, *Allow On and Off Premise Beer Licenses in Rural Areas*

Position: Monitor

SB-028 came as a result of SB18-243 that eliminated the 3.2 on/off premise license. January 1, 2019 marked the first day that all establishments selling 3.2% beer, convert their inventory to full strength beer. With the “conversion” date looming, SB18-243 preemptively eliminated this license. SB-028 reestablishes this license for counties with a population fewer than 30,000.

Outcome: The bill was signed by the Governor on February 20th.

SB19-130, *Sales Tax Administration*

Position: SUPPORT

SB-130 is another bill to come out of the South Dakota vs. Wayfair, Inc. case. The bill was aimed at simplifying the way sale tax is collected for in-state retailers vs. those without a physical presence in the state. The bill would have established the destination sourcing rule for all out of state retailers but removed it for in state retailers. It also specified that only the state's sales tax base and not local sales tax bases will apply to all sales made by retailers without a physical presence. SB-006 also put a number of requirements on the Department of Revenue regarding how retailers calculate each local jurisdiction's differing sales tax. One example is DOR would have been required to make software available that calculates the sales tax due on each transaction based on the local taxing jurisdiction.

Outcome: The bill was postponed indefinitely in the Senate Finance Committee in early February.

SB19-131, *Exempt Certain Businesses From Destination Sourcing Rule*

Position: SUPPORT

SB-131 was fairly straightforward as opposed to the other more complex sale and use tax legislation. The bill would have specified that the new destination sourcing rule does not apply to any in-state retailer that has generated less than \$100,000 in gross revenue from the sale of property outside of the taxing jurisdiction where the retailer is located.

Outcome: The bill was postponed indefinitely in the Senate Finance Committee in early February.

SB19-142, *Hard Cider Exemption Wine Industry Development Act*

Position: Monitor

This bill removes the requirement for cider producers to pay the produce tax which serves to fund the Colorado Wine Industry Development Board. With the exemption of cider from the produce tax, the CWIDB is no longer required to promote the cider industry. Cider producers that would still like to be promoted and participate in CWIDB efforts may still pay into it, they are just no longer required to do so by law.

Outcome: The bill made it through both chambers and was signed by the Governor on June 3rd prior to the 30 day signing window closure.

SB19-188, FAMILI Family Medical Leave Insurance Program

Position: *Monitor*

This bill creates a family and medical leave insurance program that is paid into equally by both the employer and employee for the purposes of partial wage replacement for those who take leave off of work for qualified reasons such as the birth of a child and caring for a sick friend or relative. The amount paid into the fund is determined by the employee's yearly wages.

SB-188 was the subject of a great deal of controversy. The Senate Business, Labor and Technology Committee passed this bill during the March 13th blizzard when the Governor declared a State of Emergency with very few people there to testify. After its ultimate passage through committee, due to intense pressure from the business community and chambers of commerce, the bill was amended into a study to determine the funding mechanism needed to make the policy lastingly viable. This is another huge win for the business community. While the issue of family medical leave needs to be addressed, SB-188 was not the vehicle to achieve sustainable solutions for both employees and employers.

Outcome: The bill passed as amended through both chambers and was signed by the Governor.

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