



## **Colorado Association of Viticulture and Enology** **2020 Legislative Report**

The 2020 legislative session was, needless to say, unusual. We began on January 8<sup>th</sup> and officially adjourned sine die on June 15<sup>th</sup>. Due to the unprecedented COVID-19 pandemic, the General Assembly recessed on March 14<sup>th</sup> and reconvened on May 26<sup>th</sup>. Prior to the March 14<sup>th</sup> recess, the Colorado Supreme Court ruled that the constitutionally mandated 120 legislative session days do not have to be consecutive. This is what gave the General Assembly the authority to recess for those 73 days and reconvene with no days lost. All in all, the legislature met for 88 days and saw 651 bills. The 2019 session saw a total of 598 bills but keep in mind, last year's session went the full 120 days, so 2020 was a busier year for legislation. 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. 2020 is an election year so we will see quite a few state seats up for grabs as well as the President and US Congressional and Senate seats on the ticket.

CAVE participated in various bills ranging from sales and use tax to various alcohol issues. Please see below for a list of bills CAVE engaged in and their outcomes.

### **[HB20-1022](#), *Sales and Use Tax Simplification Task Force***

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

**Position: SUPPORT**

The Sales and Use Tax Simplification Task Force was created in 2017 to study the necessary components of a simplified sales and use tax system for state and local governments. Colorado has one of the most complex sales and use tax systems in the country. The task force was set to repeal July of 2020.

HB-1022 extends the task force until July 2025 and eliminates the requirement that the Department of Regulatory Agencies perform a sunset review prior to its repeal. The bill also modifies the scope of the task force's duties to include, a review of SB19-006 which instructs the Office of Information Technology and the Department of Revenue to

develop an electronic sales and use tax simplification system, new sales tax collection rules and destination sourcing and HB19-1245 which implemented changes to the vendor fee.

**Outcome:** The bill passed through both the House and Senate and was signed by Governor early in late May.

**HB20-1023**, *State Address Data for Sales and Use Tax Collection*

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

**Position: SUPPORT**

SB19-006 created a sales and use tax simplification system, including the Geographic Information System (GIS) with an estimated completion date of June 30, 2020.

Once the new GIS database is implemented and certified to be 95% accurate, the Department of Revenue is required to notify vendors that it is available for use. The bill then establishes a 90 day hold harmless provision for vendors that use the state's GIS database to determine sales and use tax rates for addresses and taxing jurisdictions. The hold harmless provision also applies to vendors that use third-party databases, which are verified as containing the most current information from the GIS database. Vendors are not liable for any taxes, fees or other charges that result from errors from using the GIS database.

**Outcome:** The bill passed through both the House and Senate and was signed by Governor in early March prior to the COVID-19 recess.

**HB20-1055**, *Vintner's Restaurant Alternating Proprietor*

Rep. Alec Garnett (D, Denver) Rep. Larry Liston (R, Colorado Springs) Sen. Jeff Bridges (D, Littleton) Sen. Kevin Priola (R, Brighton)

**Position: SUPPORT**

Under current law, licensed breweries, wineries, distilleries, limited wineries and brewpubs may be authorized as an alternating proprietor licensed premises. HB-1055 includes vintner's restaurants to also apply for an alternating proprietor license. Vintner's restaurants manufacturing wine on an alternating proprietor premises may not conduct retail sales at that premises. The bill also makes it unlawful for a vintner's restaurant to manufacture alcohol anywhere other than their licensed premises and the authorized alternating proprietor licensed premises.

**Outcome:** The bill passed through both the House and Senate and was signed by Governor in early March prior to the COVID-19 recess.

**SB20-099**, *Thresholds for Sales Tax Collection Requirements*

Sen. Bob Rankin (R, Carbondale) Rep. Perry Will (R, Glenwood Springs)

**Position: SUPPORT**

Current law temporarily allows small retailers with a physical presence in Colorado that have retail sales of \$100,000 or less to source sales to the business' location regardless of where the purchaser receives the tangible personal property or service, thus providing an exception to the sales tax sourcing rule. SB-099 would have increased this threshold to \$200,000 or less in retail sales and made the exception permanent.

**Outcome:** The bill was postponed indefinitely on a party line vote of 4-3 in the Senate Finance Committee in early February. However, the Finance Committee recognized the need to examine the threshold amount. As a result, a letter was sent to the Sales and Use Task Force that it be tasked with examining the threshold amounts detailed in SB-099.

**SB20-110**, *Penalties for Liquor Law Violations*

Sen. Angela Williams (D, Denver) Sen. Chris Holbert (R, Highlands Ranch) Rep. Marc Snyder (D, Colorado Springs)

**Position: MONITOR**

Under current law, the state or local licensing authority may suspend or revoke any liquor license or permit for violation of the Liquor Code or other regulation. Currently, licensees may petition to pay a fine in lieu of suspension or revocation. Fines range from \$200 to \$5,000 and may not exceed 20% of a licensee's estimated gross revenues from alcohol sales.

SB-110 requires that the state licensing authority adopt rules establishing categories of violations based on severity and associated ranges of penalties, including mitigating and aggravating factors. The bill also increased the range of fines from \$500 to \$100,000 while maintaining the maximum 20% of alcohol sales, with the exception of first violation in the least severe category not exceeding \$5,000. The bill also allows state and local licensing authorities to assess a fine for a violation, regardless of whether the licensee has petitioned for a fine instead of suspension.

**Outcome:** After much stakeholder discussion, SB-110 passed with the understanding that more discussion is needed during rule making. It was sent to the Governor's desk on May 19<sup>th</sup>. The 2020 Liquor Rules Working Group has begun reviewing draft rules detailing the categories of severity and possible fine amounts for each. Discussion are ongoing and final rules will be posted later this year.

**SB20-154**, *Bring Own Wine Into Restaurants*

Sen. Kerry Donovan (D, Vail)

**Position: MONITOR**

The bill would have allowed a customer to bring one container of wine into a hotel-restaurant license, consume the wine during a meal and reseal and remove the container if partially consumed. The bill did not allow restaurants to opt out but it would have allowed the licensee to prevent a customer from doing so if, the consumer has brought wine into the license premises within the previous 24 hours, the licensee believe the customer to be under the influence, the licensee is no longer serving meals for the evening or the licensee believes the customer has committed certain violations such as providing alcohol to minors on the licensed premises.

**Outcome:** Due to unanimous lack of support in the Senate Business, Labor and Technology Committee, Senator Donovan requested the bill be postponed indefinitely. That motion passed on a vote of 5-0 on in early February.

**SB20-213**, *Alcohol Beverage Retail Takeout and Delivery*

Sen. Jeff Bridges (D, Littleton) Sen. Kevin Priola (R, Brighton) Rep. Colin Larson (R, Littleton) Rep. Dylan Roberts (D, Steamboat)

**Position: MONITOR**

The COVID-19 pandemic has devastated the hospitality industry in Colorado and across the country. Many states have turned to emergency exemptions to allow businesses to stay afloat. Governor Polis issued Executive Order 2020-052 that allowed on-premise retailers the ability to sell sealed alcohol beverages for takeout and delivery if the customer is at least 21 years old and purchases food. The emergency rule was originally set to expire on May 29, 2020 but has since been extended.

SB-213 codifies the Governor's Executive Order until July 2021 with additional changes and guardrails. The bill does not require the sale of alcohol for takeout and delivery be contingent on the sale of food. The bill also limits the sale of alcohol for takeout and delivery to no more than 750 milliliters of vinous and spiritous liquors and no more than 72 fluid ounces of malt liquors. There are no limits on the amount manufacturers can sell for on or off-premise consumption.

If the Governor has not declared a state of emergency, licensees must have a permit issued by the Department of Revenue allowing the takeout and delivery of alcohol and revenues of takeout and delivery alcohol cannot exceed 50% of its gross annual revenues for sales of food and alcohol.

**Outcome:** SB-213 was considered a COVID-19 relief bill and was introduced once the legislature reconvened in May. The bill passed both chambers on the last day of session and is set to be signed on July 10<sup>th</sup>. As with SB-110, the Liquor Rules Working Group has begun reviewing rules on the definition of a sealed container as well as details on delivery. Final rules will be released later this year.

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