



Colorado Association of Viticulture and Enology

2022 Legislative Report

The 2022 Legislative Session concluded on May 11th after a full 120 days of work. This was the first consecutive 120 day session since 2019 prior to the Covid-19 pandemic. At the session's conclusion, a total of 657 bills were introduced, 418 House bills and 239 Senate bills. CAVE followed 19 bills with the majority not being liquor-centric but a variety of labor and tax issues. Please see below for a breakdown of the main bills CAVE tracked and took positions on.

[HB22-1039](#), *Sales and Use Tax Exemption Form Simplification*

Rep. Van Winkle (R, Highlands Ranch) Rep. Kipp (D, Poudre Valley)

Sen. Jeff Bridges (D, Littleton) Sen. Rob Woodward (R, Greeley)

Position: Monitor

A person who wishes to establish the right to obtain an exemption from state and state-collected sales and use taxes, is either explicitly required by state law or required by the Department of Revenue (DOR) to complete a form, application or affidavit. The bill requires the department to examine its forms and requirements relating to their use and, to the extent feasible without impairing the proper administration of the exemptions, simplify the forms and related requirements for persons making tax-exempt purchases. Exceptions to existing statutory requirements relating to the forms are made for any simplifications made by the department.

Outcome

The bill was signed by the Governor on March 30, 2022.

[**HB22-1062**](#), *Expand Sales and Use Tax Exemption for Food*

Rep. McKean (R, Loveland)

Sen. Dennis Hisey (R, El Paso)

Position: Monitor

The state's existing exemption for food for domestic consumption was enacted in 1979 and applies to most food purchased and consumed off-premise of a retailer. Prepared food from restaurants and other food services is taxable regardless of where it is consumed. This bill expands the existing sales and use tax exemption for food for domestic home consumption, to all sales of food beginning January 1, 2023. This includes food that has not been prepared for home consumption/food served at on premise retail food establishments and other food service locations.

The bill received considerable pushback from committee members and the Department of Revenue based on the fiscal analysis of a \$220 million decrease in General Fund revenue the first year and \$436 million by 2023-2024. However, when most people make their restaurant and retail purchases, it is from disposable income so this bill would have actually driven consumer spending on food and drinks and thus generated revenue.

Outcome

Unfortunately, the long-term incentives did not outweigh the immediate downside so the bill was postponed indefinitely.

[**HB22-1118**](#), *Sales and Use Tax Refunds*

Rep. Daugherty (D, Arvada)

Position: Monitor

Vendors may file a claim for a sales and use tax refund to the Department of Revenue up to three years after taxes were overpaid. In addition, DOR pays interest on some refund claims but over the last four years, that amount has been negligible. The bill makes changes regarding the refunds. First, the bill reduces the time period during which interest is accrued on a sales tax refund claim from when the refund claim was filed rather than the purchase date. The bill also creates civil penalties for frivolous claims of \$5,000 or more, equal to 5% of the refund claimed for incomplete claims and equal to 10% of the refund claimed for those that are duplicative or unreasonable. Lastly, the bill establishes criteria for determining frivolous claims, procedures for

penalty notices and corrections to a claim and the circumstances under which DOR may waive the penalty.

Outcome

The passed Third Reading in the Senate on April 4th and is awaiting the Governor's signature.

[HB22-1130](#), *Exception to Employer Sick Leave Requirement*

Rep. Bockenfeld (D, Brighton)

Position: Monitor

Under current law, all Colorado employers are required to provide sick leave to their employees. This bill exempts employers with 15 or fewer employees from this requirement.

Outcome

The bill postponed indefinitely on February 8th.

[HB22-1133](#), *Family and Medical Leave Insurance Fund*

Rep. Matt Gray (D, Broomfield) Rep. Yadira Caraveo (D, Aurora)

Sen. Faith Winter (D, Thornton)

Position: Monitor

The bill transfers \$57 million from the General Fund to the Family and Medical Leave Insurance Fund for advanced payments into state employer accounts under the Paid Family and Medical Leave Insurance Act.

Outcome

The bill was signed by the Governor on May 17th.

[HB22-1305](#), *Paid Family Medical Leave Premium Reduction*

Rep. Matt Gray (D, Broomfield) Rep. Yadira Caraveo (D, Aurora)

Sen. Faith Winter (D, Thornton) Sen. James Coleman (D, Aurora)

Position: Monitor

The bill reduces the employer premium for the Family and Medical Leave Insurance (FAMLI) Program from January 1, 2023, through June 30, 2023, from 0.90 percent of employee wages to 0.81 percent of employee wages. On July 1, 2023, the state treasurer is required to transfer the lesser of \$57.5 million or an amount equal to 9.90 percent of the total premium revenue

received by the Division of Family and Medical Leave Insurance from January 1, 2023, to June 30, 2023, from the General Fund to the Family and Medical Leave Insurance Fund.

Outcome

Despite the fact that this bill would have saved small businesses a significant amount of money, the Senate Finance Committee voted to postpone it indefinitely shortly before the end of session.

[HB22-1308](#) *Agricultural Workforce Services Program*

Rep. Karen McCormick (D, Boulder)

Sen. Kerry Donovan (D, Vail)

Position: Monitor

The passage of SB21-087, the Agriculture Workers' Rights Bill, made it very complicated for employers to comply with the new regulations and requirements. HB-1308 creates a grant program for training within the Department of Agriculture and requires the department create and maintain an online resource portal for ag employers and employees to comply with labor and workplace standards. The Dept. of Ag will partner with Colorado State University on the online portal. There were concerns that the language was too broad and would allow employee organizations to access the grant funds. Amendments were passed to narrow the language to allowing only entities that provide services to ag employers and not employees.

Outcome

The bill passed as amended and was signed by the Governor on June 3rd.

[HB22-1313](#) *Agricultural Housing Public Health Covid-19 Emergency*

Rep. Karen McCormick (D, Boulder) Rep. Yadira Caraveo (D, Aurora)

Sen. Dominic Moreno (D, Commerce City)

Position: Monitor

The passage of SB21-087, the Agriculture Workers' Rights Bill, put in place very strict requirements that are to be instituted during any public health emergency. The bill clarifies these requirements apply only to public health emergencies concerning Covid-19. An amendment was passed to expand qualifying emergencies to include other communicable diseases that are transmissible from person to person.

Outcome

The amended bill was signed by the Governor on June 3rd.

[HB22-1355](#) *Producer Responsibility Program for Recycling*

Rep. Lisa Cutter (D, Littleton)

Sen. Kevin Priola (R, Brighton) Sen. Julie Gonzales (D, Denver)

Position: Opposed

The bill establishes a Producer Responsibility Organization, housed within the Colorado Department of Public Health and Environment in order to develop and manage access to recycling services across the state. The program would be paid for by dues assessed to the producers of the recyclable packaging materials like plastic and glass. The producer is considered the companies that first sell the products in Colorado. Two amendments were added to the bill which impacts wineries. The first is a small producer exemption for businesses with \$5 million or less in revenue, not including on-premise sales. The other is an agriculture exemption regarding products that are directly manufactured by the entity. As a result, wineries that qualify for either or both exemptions are not required to pay dues into the PRO. However, these exemptions from mandatory dues does not protect wineries from the increased fees producers will inevitably pass down once they are required to pay unknown dues to this Producer Responsibility Organization. As a result of these increased costs in addition to all of the other operational costs that have steadily increased over the years, the CAVE voted to oppose this bill.

Outcome

In the final days of session, opponents of the bill were able to amend the bill to require the PRO to produce a plan that needs to be vetted and approved by the Joint Budget Committee in 2023 before the program can actually be implemented, so it remains to be seen if the program will get off the ground.

[HB22-1406](#) *Qualified Retailer Retain Sales Tax*

Rep. Leslie Herod (D, Denver) Rep. Dylan Roberts (D, Steamboat)
Sen. James Coleman (D, Aurora) Sen. Nick Hinrichsen (D, Pueblo)

Position: Support

This bill is a continuation of two other bills from 2020 and 2021 that allows qualified retailers to retain a certain amount of sales tax for a specified three month period. HB-1406 allows qualifying retailers to take a temporary deduction from state net taxable sales for sales made from July to September 2022 and retain the sales tax collected. The bill renews the existing deduction for qualifying businesses such as wineries, restaurants and bars. HB-1406 allows retailers to deduct up to \$70,000 from net taxable sales, equating to approximately \$2,000 in sales tax collection per retailer site.

Outcome

The bill was introduced late in session and was signed by Governor Polis on June 3rd.

[HB22-1417](#) *Alcohol Beverage Task Force And Retailer Licenses*

Rep. Dylan Roberts (D, Steamboat) Rep. Colin Larson (R, Littleton)
Sen. Robert Rodriguez (D, Denver)

Position: Monitor

The pre-amended version of HB-1417 accomplished two policy goals. The first established a taskforce within the Department of Revenue to conduct a holistic review of the Colorado Liquor Code and make recommendations on changes and simplifications. The second was an attempt to prevent the impending ballot initiatives from moving forward by addressing wine in grocery stores and limited third party delivery. The introduced version had twenty six members but after amendments, the taskforce consisted of thirty. Representatives for wineries and cideries made up two seats of the thirty. The bill was the second to last House bill introduced so there was very little time for discussions once the bill was formally introduced. The stakeholders involved were unable to reach an agreement and so the “compromise” language was struck in the first committee hearing, leaving only the taskforce language to move forward.

Outcome

The bill encountered pushback on the Senate floor from key Democrats and Republicans in the last two days of session. It was necessary for the bill to pass Second Reading on the second to

last day of session. However, bipartisan pushback combined with the last minute negotiations on bill priorities prevented HB-1417 from moving forward. The bill was laid over until the following day, effectively killing the bill. This came as quite a shock to the liquor community as this bill seemed likely to pass. However, it is still a strong possibility the taskforce will move forward through an Executive Order from Governor Polis. We will keep the Tavern League informed as we learn more about the potential creation of the liquor code taskforce.

[SB22-006](#), *Sales Tax Assistance for Small Business*

Sen. Robert Rodriguez (D, Denver) Sen. Chris Kolker (D, Centennial)
Rep. McLachlan (D, Durango) Rep. Snyder (Manitou Springs)

Position: Monitor

The bill permits a retailer with total taxable sales in the amount \$100,000 or less to retain 5.3% of the sales tax reported as compensation for the retailer's expenses incurred in collecting and remitting the tax (vendor fee) for sales made in 2023, rather than the current amount of 4%.

Outcome

The bill moved through the process without issue and was signed by the Governor on May 16th.

[SB22-032](#), *Simplify Local Sales and Use Tax Administration*

Sen. Bridges (D, Littleton) Sen. Woodward (R, Berthoud)
Rep. Van Winkle (R, Highlands Ranch) Rep. Cathy Kipp (D, Ft. Collins)

Position: Monitor

The bill requires that the Department of Revenue collect sufficient information from relevant retailers that use the sales and use tax simplification system (SUTS) and make that information available to local taxing jurisdictions to ensure the concerns of local jurisdictions related to efficiency, compliance, and revenue collection are addressed. The department must make the changes by July 1, 2023, and consult with local taxing jurisdictions and retailers in making system modifications. The bill clarifies that the department must report required information with each municipality or county, including home rule municipalities.

On or after July 1, 2022, a local taxing jurisdiction may not charge a fee for a general business license to relevant retailers within the jurisdiction. On or after July 1, 2023, a local taxing jurisdiction may not require a relevant retailer to apply separately for a general business license. If the local jurisdiction requires a general business license, it must automatically issue the

license at no charge using the information collected in SUTS, except that a local jurisdiction is not required to issue a license if it has previously revoked the retailers' general business license for a violation of local code.

Outcome

This bill also made it through the process without issue and was signed by the Governor on April 21st.

[SB22-132](#), *Allow Vintner's Restaurants to Deliver to Consumer*

Sen. Fields (D, Aurora) Sen. Gardner (R, Colorado Springs)

Rep. Soper (R, Grand Junction)

Position: Support

Currently, limited and manufacturing wineries are permitted to ship their products to consumers via a common carrier such as UPS or FedEx in addition to using the business's own delivery vehicles. Vintner's restaurant licenses can only deliver their products to Colorado resident using delivery vehicles owned by the business. This bill would have allowed vintner's restaurants to ship only the products they manufacture to Colorado consumers using a common carrier.

While this bill generated support from CAVE, the agriculture community and the agritourism industry, it encountered opposition from the liquor stores and wholesalers. Liquor stores were concerned this would cut into their profits and the wholesalers are opposed to any legislation that allows for the direct shipment of alcohol.

Outcome

The bill failed on a vote of 3-2 in the Senate Business, Labor and Technology on March 10th.

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