



Colorado Association of Viticulture and Enology **2021 Legislative Report**

We faced another unusual legislative session in 2021. We began on January 13th and quickly recessed three days later. Session reconvened on February 16th and officially adjourned sine die on June 8th. Colorado is still under an emergency declaration due to Covid-19 so the 120 days of the legislative session do not need to be consecutive per the Colorado Supreme Court decision. The General Assembly met for a total of 116 days and saw 623 bills. The 2020 election yielded a continued Democrat trifecta with maintaining a 41-24 majority in the House and gaining a seat in the Senate, creating a 20-15 majority.

CAVE participated in various bills ranging from sales and use tax retention to events incentivization to various alcohol issues. CAVE also successfully passed pro-active legislation creating a non-contiguous permit for limited and manufacturing wineries. Please see below for a list of bills CAVE engaged in and their outcomes.

[HB21-1027](#), *Continued Alcohol Beverage Takeout and Delivery*

Rep. Dylan Roberts (D, Vail) Rep. Colin Larson (R, Littleton)

Sen. Jeff Bridges (D, Littleton) Sen. Kevin Priola (R, Brighton)

Position: MONITOR

Due to the Covid-19 pandemic and the complete devastation to the bar and restaurant industry, Governor Polis signed an emergency order early last year that created the ability for on-premise licensees to sell alcohol for takeout and delivery if certain criteria were met. SB20-213 extended that ability until July 2021. With the temporary privilege ending this year, HB-1027's introduced version would extend alcohol for takeout and delivery permanently while maintaining the same limits on what an on-premise licensee could sell.

An amendment was adopted in the House to bring the timeline down to five years as well as increase the amount of alcohol a customer can purchase for takeout or delivery. The bill allows for the sale of two bottles of wine, two six packs of beer and a liter of

spirits. In addition, language was inserted to codify the communal dining and modification of premises Executive Order.

HB-1027 encountered the perfect storm of unfortunate timing, political shenanigans and extremely untoward behavior from the off-premise interest group who repeatedly misrepresented their position to elected officials. As a result, the bill was amended further to reduce the privilege from five to four years. It also limited the hours of takeout and delivery sales from 7:00am to 12:00am.

Outcome: The bill passed through both the House and Senate and was signed by Governor Polis in late June.

HB21-1044, *Winery License Include Noncontiguous Areas*

Rep. Edie Hooton (D, Boulder) Rep. Colin Larson (R, Littleton)

Sen. Jeff Bridges (D, Littleton) Sen. Bob Gardner (R, Colorado Springs)

Position: SUPPORT

HB-1044 was CAVE's proactive priority bill of the 2021 Legislative Session. Prior to the bill's passage, the licensed premises of a limited or manufacturing winery must be contiguous, mean it must be a single space or an adjacent space sharing a wall. This presents a problem if the space directly adjacent is not available. This bill allows a winery to expand their premises to up to two noncontiguous spaces within a ten mile radius. This allows a winery to expand their business under a single license while retaining the investment of their existing location.

Outcome: The bill passed through both the House and Senate and was signed by the Governor on May 21st.

HB21-1045, *Invasive Pest Control Administration*

Rep. Mary Young (D, Greeley) Rep. Donald Valdez (D, Pueblo)

Sen. Rhonda Fields (D, Aurora)

Position: SUPPORT

This bill creates the Emergency Invasive-Pest Response Fund in the Department of Agriculture. The Commissioner of Agriculture may transfer money from the Plant Health, Pest Control and Environmental Protection Cash Fund to the pest response fund at the end of each fiscal year. The bill also authorizes the Ag Commissioner to enter into agreements to provide pest control services to local governments with fees deposited into the pest response fund, work cooperatively with the US Secretary of Agriculture to implement a joint phytosanitary program, quarantine a regulated article if it may harbor a pest that can be acceptably controlled and lastly, identify a public nuisance that creates an unacceptable risk of spreading a pest. It then gives the Commissioner the ability to coordinate with industry to support local governments to quarantine, control or eradicate an invasive pest.

Outcome: The bill passed through both the House and Senate and was signed by the Governor on May 20th.

[HB21-1265](#), *Qualified Retailer Retain Sales Tax For Assistance*

Rep. Kyle Mullica (D, Northglenn) Rep. Kevin Van Winkle (R, Highlands Ranch)
Sen. Brittany Pettersen (D, Lakewood) Sen. Rob Woodward (R, Loveland)

Position: SUPPORT

HB-1265 allows qualified retailers such as bars, restaurants and wineries to withhold the 2.9% sales tax they would otherwise have to remit to the state for the months of June, July and August. These months were chosen in the hopes to capitalize on lifted capacity restrictions and higher customer turnout. The bill allows up to five physical locations per holding company. However, as long as each location has its own LLC for tax purposes, they qualify for the retention.

Outcome: The bill passed both the House and Senate and was signed by the Governor on May 14th.

[SB21-082](#), *Alcohol Beverage Festival For Tastings and Sales*

Sen. Kevin Priola (R, Brighton) Sen. Brittany Pettersen (D, Lakewood)
Rep. Kyle Mullica (D, Northglenn) Rep. Dave Williams (R, Colorado Springs)

Position: MONITOR

Under current law, a limited or manufacturing winery may obtain a permit to hold up to 9 wine festivals in 12 months, with each festival lasting no longer than 72 hours. Other wineries may participate in festivals for the purposes of tastings and retail sales. SB-082 authorizes a various list of liquor licensees from holding festivals where they can conduct joint tastings and engage in any retail operation already authorized under their current license type. Licenses include vintner's restaurants, hotel/restaurant, tavern and brew pub.

The bill originally included retail liquor store licenses but CAVE worked with the main stakeholder to remove that particular license due to concerns of overwhelming competition from large out-of-state wineries.

Outcome: The bill passed completely through the process and was signed by the Governor on May 28th.

SB21-087, *Agricultural Workers' Rights*

Sen. Jessie Danielson (D, Lakewood) Sen. Dominick Moreno (D, Commerce City)
Rep. Karen McCormick (D, Boulder) Rep. Yadira Caraveo (D, Aurora)

Position: OPPOSED

Prior to the passage of SB-087, the Colorado Labor Peace Act exempted agricultural workers and their employers from certain rights and obligations such as minimum wage. This bill removes those exemptions and institutes new rights for workers and requirements for employers.

The bill requires workers be paid the state minimum wage, allows workers to unionize and strike, grants access to key service providers and requires rest breaks and transportation. CAVE worked closely with the Agricultural Coalition which is a group of industry stakeholders who vehemently opposed certain provisions of the bill and worked to either kill the bill or heavily amend it.

Given the overwhelming political will of the Democrat majorities in both the House and Senate, the coalition was not able to kill the bill. However, it was successfully amended in several ways. The minimum wage and overtime provisions were moved from statute to the Department of Labor rulemaking process as well as the specific requirements regarding sun protection and water/rest breaks. The bill originally required workers be paid overtime once 12 hour days or 40 hour weeks are exceeded. The coalition was able to transition that into rulemaking as opposed to being set in statute. The original bill also banned the use of the short handed hoe but was later amended to allow for its use in certain circumstances to be determined by rule. The parameters around key service providers' access to employers property will also be determined in rule.

This is a very complex bill with far reaching implication for the agricultural industry. In addition, a United States Supreme Court decision regarding a specific case in California dealing with access to key service providers may affect how Colorado moves forward with union organizers gaining access to employers' property.

Outcome: The bill was passed fully in the last days of session and was signed by Governor Polis on June 25th.

SB21-091, *Credit Transaction Charge Limitations*

Sen. Robert Rodriguez (D, Denver) Sen. Larry Liston (R, Colorado Springs)
Rep. Shannon Bird (R, Westminster) Rep. Colin Larson (R, Littleton)

Position: SUPPORT

Under current law, a seller, lessor or company issuing a credit charge card is prohibited from imposing a surcharge against a person who elects to pay for a sales or lease transaction by using a credit or charge card. SB-091 repeals this prohibition on a voluntary basis and limits the maximum surcharge amount per transaction to 2% of the total cost to the buyer for the sales or lease transactions or the merchant discount fee.

The merchant discount fee is defined as the actual fee that a seller or lessor pays its processor or service provider to process the transaction. A merchant is required to display a notice regarding the surcharge on the premises.

Outcome: SB-091 passed in the final hours of session and was signed on July 7th.

SB21-133, *Donated Alcohol Beverages for Special Events*

Sen Don Coram (R, Montrose)

Rep. Marc Catlin (R, Montrose) Rep. Perry Will (R, Craig)

Position: OPPOSE

The bill would have authorized club licenses to comingle donated alcohol with their purchased inventory then go on to sell the donated alcohol for a profit. Stakeholders, including CAVE, were concerned at the issues this would create surrounding donated alcohol and would therefore discourage product donation to special events and fundraisers. This would also give an advantage to only one liquor license that is often open to the public and not just members only establishments.

The bill was amended to allow club licenses that purchase alcohol for a special event to store the purchased product with existing inventory.

Outcome: The amended bill passed and was signed on May 7th.

SB21-270, *Increased Alcohol Beverages On-Premise Consumption*

Sen Jeff Bridges (D, Littleton) Sen. Dennis Hisey (R, Cripple Creek)

Rep. Alex Valdez (D, Denver) Sen. Colin Larson (R, Littleton)

Position: MONITOR

Prior to the passage of SB-270, vintner's restaurant had a production limit of 250,000 gallons. The limit became prohibitive for cideries, in particular, that would like to expand production while pivoting to a restaurant model. The bill increases the production limit to 925,000 gallons while keeping the self-distribution limit at 50,000.

Outcome: The bill passed in the final days of session and was signed by the Governor on July 7th.

**For more information, please contact Stephanie Hicks at
stephanie.fransen@gmail.com**