



COLORADO WINE INDUSTRY DEVELOPMENT BOARD
2645 5TH STREET, BOULDER, COLORADO 80304- 3203
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Colorado Wine Industry Legislative Discussion

Sunday, 9 Nov. 2008

Wine Country Inn, Palisade

8:30-9:00 AM: continental breakfast and registration

9:00 AM: Welcome and overview

Doug Caskey, exec. director CWIDB

9:15 AM: review and discussion of Alternating Proprietor Licensed Premise Regulations
(47-432)

Laura Harris, Director Liquor Enforcement Division

9:45 AM: review and discussion of revised Trade Practices Regulations

Laura Harris, Director Liquor Enforcement Division

10:00 AM: position statement and presentation on full-strength beer in grocery stores

Monte Haltiner, Crossroads Wine and Spirits, CO Licensed Beverage Assoc.

10:45 AM: Overview of Granholm related court decisions recently

Doug Caskey, exec. director CWIDB

11:00-11:45 AM: Identification of topics for discussion:

- Definition of grape grower in Wine Development Statute (35-29.5)
- State taxes due at “first sale” of bulk wine vs. federal sale in bond
- Use of bulk wine purchased from other Colorado wineries
- Definition of manufacturing
- Incentive for using Colorado fruit
- “Granholming” the CO Wine Statutes:
preserving direct to consumer, self-distribution, tasting rooms, etc.)
- Others?

Noon: lunch discussion of these topics

1 PM: break into small groups to discuss each topic,
develop an overview, proposal or action plan

2 PM: break with snack

2:15 PM: Reconvene to review small groups’ proposals or action plans

3:30 PM: establish industry action plan and workgroups

4:30 PM: Go home



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Summary of the Issues

1. Definition of grape grower in Wine Development Statute (35-29.5)

- CRS 35-29.5-102 Definitions includes: '(3) "Grape product" means any juice, must concentrate, or extract made from vinifera grapes, true or hybrid, whether or not partially fermented.' And '(5) "Wine-growing" means the cultivation in commercial quantities of vinifera grapes in this state.' These definitions could eventually preclude a grower of hybrid or native grapes from serving as the grower representative on the CWIDB. Should these definitions or any other part of the CO Wine Industry Development Act be changed?

2. State taxes due at "first sale" of bulk wine vs. federal sale in bond

- CO regulators have pointed to 47-502 which requires that state taxes be paid when "first sold". In practice the wine industry has treated in-state bulk wine the same way it has treated the purchase/sale of bulk wine from out of state: as long as the wine has been transferred and remains "in bond no taxes are paid. Colorado LED does not recognize the bond as the Bond is a Federal instrument and is not defined under state statutes. Can CO statutes/regs/practices be brought into line with federal "bond" procedures? Do the CO regs need to be amended? Can "first sold" be more clearly defined?

3. Use of bulk wine purchased from other Colorado wineries

- In January 2008, CO LED issued a position statement that a CO winery may purchase "shiners" from another Colorado winery but is prohibited from reselling bulk wine purchased from another Colorado winery anywhere other than "on the licensed premises of the limited winery and up to five other licensed premises" per CRS 12-47-403 (2)(e). This is a departure from a long standing practice wherein a winery could blend bulk wine into its own wine and the blend would become the end product, which was sold anywhere and everywhere allowed. The industry has operated under the notion that "blending wines" is an aspect of manufacturing. Can this conflict be resolved by defining manufacturing in the statutes without damaging the integrity of the Colorado wine industry? Does this issue also stem from the application of "first sold," which could be clarified in the regulations?

4. Definition of manufacturing

- Proposal to add to CRS 12-47-103 (19.5): "'**Manufacture**' means to brew, ferment, distill, rectify, blend, mix and/or package an alcoholic beverage, using any process or activity allowed by the manufacturing licenses, up to the point at which that beverage reaches a finished state ready for final sale to the consumer AND providing 15% or more of the production in any given calendar year is fermented, distilled or brewed on that manufacturer's licensed premise."

5. Incentive for using Colorado fruit

- Revive the economic advantages and/or incentives for using Colorado fruit or produce to manufacture Colorado wines. Those incentives were eliminated from the limited winery statute (CRS 12-47-403) a few years ago to avoid a threatened lawsuit under the Interstate Commerce Clause. A proposal to create a government funded and operated wholesale company on the Virginia model has been put forward but would require extensive modification of statutory authority for either the CDA or the CWIDB to operate it and might create issues of government competing with private business. Would restoring incentives to use CO produce be best accomplished with regulatory or tax advantages? Can this be done effectively though CWIDB promotions of CO fruit and produce under existing statutes?

6. "Granholming" the CO Wine Statutes:

preserving direct to consumer, self-distribution, tasting rooms, etc.)

- Identify avenues or mechanisms to preserve the privileges of CO wineries without violating the Interstate Commerce Clause or alienating wholesaler or retailer partners.

7. Others?