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0066 Review of Colorado Liquor Code

Report to the Colorado General Assembly:

REVIEW OF COLORADO LIQUOR CODE



COLORADO LEGISLATIVE COUNCIL

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REVIEW OF COLORADO LIQUOR CODE

Legislative Council
Report To The
Colorado General Assembly

Research Publication No. 66
December, 1962

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December 12, 1962

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To Members of the Forty-fourth Colorado General Assembly:

In accordance with the directives of House Joint Resolution No. 11, 1962 session, the Legislative Council has completed its study of Colorado's Liquor Code of 1935 and submits the accompanying report of recommendations thereon.

This study was undertaken by the Council itself, with no separate committee being appointed. Final action was taken by the Council at its meeting on November 30.

Respectfully submitted,


James E. Donnelly
Chairman

FOREWORD

With the adoption of House Joint Resolution No. 11 in the 1962 session, the Legislative Council was directed to make a thorough study of the state's Liquor Code of 1935. No separate committee was appointed to make this study as the Council decided to carry out this assignment itself. Members of the Council are: Senator James E. Donnelly, chairman; Representative Guy Poe, vice chairman; Lieutenant Governor Robert L. Knous; Speaker of the House Albert J. Tomsic; Senators Charles E. Bennett, Floyd Oliver, Ranger Rogers, and L. T. Skiffington; and Representatives Ruth B. Clark, M. R. Douglass, Elmer A. Johanson, John L. Kane, and C. P. Lamb.

The Council opened its study on April 27, 1962, when it received a report from the Secretary of State, who serves as the state licensing authority, as well as hearing from several representatives of the Colorado Package Liquor Association. Prior to the next meeting, the staff was instructed to meet with representatives of the liquor industry in an effort to ascertain their opinions on problems and changes needed in the Liquor Code and to determine what differences of opinion existed within the industry in regard to these problems and changes.

The Council devoted its entire meeting on June 29, 1962 to reviewing the provisions of a revised draft prepared by Mr. John Schooley, Denver Manager of Safety, who was present to explain his proposal. On August 18, 1962, Council members reviewed the progress of its study and directed the staff to arrange a conference with wholesale liquor dealers in September.

The morning of September 27, 1962 was spent in discussing present and proposed provisions in the Liquor Code with representatives of the wholesale liquor industry and in considering an eight-point proposal submitted by the Colorado Package Liquor Association. The final report of the Council was reviewed and adopted at its meeting on November 29-30, 1962.

James Wilson, of the Legislative Reference Office, assisted the Council in its study of the Liquor Code as did Phillip E. Jones and David Morrissey of the Council's staff.

December 12, 1962

Lyle C. Kyle
Director

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REVIEW OF COLORADO LIQUOR CODE

House Joint Resolution No. 11, which was adopted in the Second Regular Session of the Forty-third General Assembly, directed the Legislative Council "to make a thorough study of 'The Liquor Code of 1935,' in any of its phases, with a view to improving and revising said law." This study was requested because the law governing the manufacture and sale of malt, vinous, and spirituous liquors in this state had been in effect for some 27 years with only a few isolated changes having been made thereto, and many members of the General Assembly, as well as persons connected with the liquor industry and other interested citizens, were of the opinion that certain necessary and advisable amendments should be made, particularly in the area of liquor prices and retail deliveries of liquor.

After reviewing the directives in H.J.R. No. 11, the Council concluded that it should give consideration to all of the provisions contained in the liquor code, as well as any related provisions in the law pertaining to the manufacture and sale of "fermented malt beverages," or 3.2 beer as it is more commonly termed. In carrying out its assignment, the Council held a series of hearings at which opportunity was given to the various segments of the liquor industry and other interested persons to present their views. The Council also met with the Secretary of State, who administers this law at the state level, and with the Denver Manager of Safety, who had prepared a complete revision of the liquor code. These hearings were supplemented by staff conferences with the various segments of the liquor industry in an effort to pinpoint areas of disagreement and to consolidate their opinions in regard to problem areas and recommended changes.

In addition, inquiry was made of the sheriffs, chiefs of police, town marshalls, and district attorneys in this state in regard to enforcement matters and any suggested changes which they might have. Council members also reviewed various provisions in the laws of other states on specific items or changes which were under consideration.

COUNCIL FINDINGS AND RECOMMENDATIONS

As a result of its study, the Council has reached a number of conclusions in regard to the state's liquor code. In some cases the members believe that legislative action would be helpful, while in other cases only administrative action need be taken or no change at all is necessary. The Council does not believe that any wholesale revision of the liquor code is needed.

For the sake of clarity, the problems considered by the Council concerning various provisions of the liquor code may be classified into three general areas: administration, enforcement, and "business practices." It should be noted, however, that any given problem arbitrarily classified in one area may overlap into one or both of the other areas, but for the purposes of this report the problems are reported in one of these three categories.

Administration

The administration of the state's liquor code is carried out by the Secretary of State as the state licensing authority and at the local level by boards of county commissioners and city councils. Many of the problems in this category revolve around the issuance of retail liquor licenses either for on-premise or off-premise consumption -- i.e., the cost of investigating license applications, which authority should make this investigation, and the number to be issued. Other administrative problems of a more minor nature were also reported to the Council by the Secretary of State.

Problems Reported by Secretary of State

At the request of the Council, the Secretary of State submitted a report on some of the discrepancies that exist in the present liquor code, as well as on some sections that have created problems from an administrative standpoint. In this connection, however, the state official pointed out that he was making no recommendations for any changes in the law as such.

The Secretary of State called the Council's attention to the discrepancy resulting from the General Assembly's action in 1961 when it repealed the requirement for the use of excise tax stamps on malt, vinous, and spirituous liquors but did not repeal all references to these tax stamps in the liquor code. The Council believes that, as a housekeeping measure, these references in C.R.S. 75-2-3 (11), 75-2-3 (18), and 75-2-6 (4) should be deleted.

C.R.S. 75-2-3 (2) provides that it is unlawful to permit any malt or vinous liquors to be sold or dispensed by a person under 18 years of age but that a person must be at least 21 years of age in order to sell or dispense spirituous liquors. This provision has resulted in some confusion since a person must be at least 21 years of age in order to purchase or to consume malt or vinous liquors legally in this state, and it seems only logical to require that the person selling or dispensing these beverages at least meet the minimum legal age for purchase and consumption. In order to avoid the present confusion resulting from the difference in minimum ages for selling malt and vinous liquors (18 years) and for spirituous liquors (21 years), these provisions should be made uniform. It is therefore recommended that C.R.S. 75-2-3 (2) be amended to provide a minimum age of 21 years for persons selling or dispensing any malt, vinous, or spirituous liquors in this state.

C.R.S. 75-2-3 (20) provides that it is unlawful for any person "to willfully and knowingly advertise or offer for sale or sell any malt liquors, vinous liquors, spirituous liquors and alcoholic beverages whether the person so advertising, offering for sale or selling is or is not a party to such contract, at less than the price stipulated in any contract entered into pursuant to the provisions of the fair trade act." In Olin Mathieson Chemical Corp. v. Francis (1956), 134 C. 160, the supreme court held that the Colorado Fair Trade Act was unconstitutional insofar as it applied to nonsigners of a fair trade contract. For this reason the Council recommends the repeal of this subsection in the liquor code.

At the present time, conflicting provisions exist in the liquor code in regard to sales being made directly to consumers by wholesalers and brewers. Under C.R.S. 75-2-4 (17), "sell at wholesale" means "selling to any other than the intended consumer of malt, vinous, or spirituous liquors. The words 'sell at wholesale' shall not be construed to prevent a brewer or wholesale beer dealer from selling malt liquors to the intended consumer thereof." C.R.S. 75-2-17 (2) provides that distillers, rectifiers, winers and brewers distilling, rectifying or brewing within this state shall be deemed manufacturers and shall be licensed only "to sell malt liquors of his own manufacture within this state; provided, that brewers licensed under this section may solicit business direct from licensed retail persons or consumers by procuring the wholesale license mentioned in the section 75-2-18." However, subsection (3) (c) in C.R.S. 75-2-18 states that a wholesale beer license shall entitle the licensee "to take orders for malt liquors at any place and deliver malt liquors on orders previously taken to any place; provided the licensee has procured a wholesale beer license, and the place where orders are taken and delivered is a place regularly licensed pursuant to the provisions of this article." This latter proviso would preclude sales to consumers as they are not licensed under the provisions of the liquor code. After reviewing this situation, the Council notes that no abuses have been reported regarding sales to consumers by wholesalers and brewers and therefore recommends that these conflicting provisions should be clarified to allow wholesalers and brewers to continue making such sales.

The final two sentences in the last paragraph of C.R.S. 75-2-9, relating to the issuance of licenses, state: "No rebate shall be paid by any city, town, city and county, or county of any alcoholic liquor license fee theretofore paid for any such license issued by it, except upon affirmative action by the respective licensing authority thereof, rebating a proportionate amount of such license fee. Credit shall be given for the unexpired portion of any existing state license." This provision was included in the liquor code when it was enacted in 1935 in order to grant rebates in cases of licenses issued under the law of 1933. The Secretary of State pointed out that at the present time, some licensees, when selling out before the expiration of their licenses, request a rebate which cannot be granted. Also, since the adoption of the liquor code in 1935, the state's constitution has been amended to provide for the disposition of 85 per cent of the liquor revenues into the Old Age Pension Fund and such monies cannot be recalled after being placed into this fund for the purpose of providing rebates for cancelled licenses. The Council therefore recommends that these two sentences be deleted from the liquor code.

The Secretary of State further called the Council members attention to C.R.S. 75-2-33 which provides, in part, that all "unlawful" liquor seized shall be destroyed. The history of this provision dates to the old 1915 liquor law during prohibition when all liquor was unlawful and it was therefore ordered destroyed. However, this is no longer the case and it seems reasonable to the Council members to provide instead that legitimately manufactured liquor seized as a result of a violation of the liquor code should be sold at public auction with the proceeds therefrom being deposited in the general fund of the county where seized.

Two other problems reported by the Secretary of State were considered but the members did not feel that any change need be made at this time. C.R.S. 75-2-3 (14) provides that it shall be unlawful for any person "to consume malt, vinous or spirituous liquor in any public place except on premises permitted hereunder to sell such liquor by the drink for consumption thereon; to consume malt, vinous or spirituous liquor at any time on such premises other than such as is purchased from such establishment; or to consume malt, vinous or spirituous liquor in any public room on such premises during such hours as the sale of such liquor is prohibited hereunder" (emphasis added). The Secretary of State reported that problems were encountered under this subsection since the code does not define "public room" and enforcement was difficult regarding drinking after closing hours in so-called private rooms within an establishment such as the manager's or owner's business office.

The second matter upon which the Council is not recommending any change concerns the provisions in C.R.S. 75-2-32 and 75-2-33 which provide that a search warrant for a home shall not be issued. This situation was reported as causing enforcement difficulties because some violations of the liquor laws occur in the home such as sales by the package on Sunday, stolen liquor, and small stills being operated.

License Application Fee

Under the provisions of C.R.S. 75-2-7, applications for liquor licenses shall be made to the Secretary of State. Also, "before granting any license for which application has been made, the secretary of state, or one or more of his inspectors, shall visit and inspect the plant or property in which the applicant proposes to conduct his business, and investigate the fitness to conduct such business of any person or the officers and directors of any corporation applying for a license. In granting licenses the secretary of state shall consider the reasonable requirements of the neighborhood and the desires of the inhabitants as evidenced by petitions, remonstrances or otherwise." On the basis of these provisions it would seem that the Secretary of State has the duty to issue the licenses as well as to carry out any investigations deemed necessary. In actual practice, however, applications for retail liquor licenses are made to local licensing authorities who carry out the investigations and hold hearings, with the state licensing authority usually agreeing with any decision reached by a local licensing authority in such cases. In addition, in cases of new applicants for retail liquor licenses, investigation costs are borne by the licensing authorities, the applicants, or any others who may be interested in supporting or opposing the applications.

It was suggested from several sources that the liquor code be amended to conform with actual practice by requiring that the initial decision and investigation on the issuance of any new retail liquor license be made the responsibility of local licensing authorities. Furthermore, as suggested by the Denver Manager of Safety, the law should place the financial costs for investigating new retail license applications on the applicants. This procedure should tend to eliminate the use (and abuse) of petitions and to reduce the number of applicants for licenses, and would at the same time provide badly-needed financial relief to the local licensing authorities. The Council is therefore

recommending (1) the adoption of an application fee of not to exceed \$500 in cases of new retail liquor licenses, with the exact cost figure to be set by the local licensing authorities; (2) the elimination of the use of petitions; and (3) clarification of the problem of procedure followed in the issuance of retail liquor licenses by providing for informal approval or disapproval at the local level with final action to be taken by the state licensing authority if approval is given at the local level initially.

Regulate Number of Licenses

The opinion was expressed to the Council that the present code does not contain provisions specific enough to control the number of licenses issued. C.R.S. 75-2-7 states: "...In granting licenses the state licensing authority shall consider the reasonable requirements of the neighborhood and the desires of the inhabitants as evidenced by petitions, remonstrances or otherwise..." Similarly, the second paragraph of C.R.S. 75-2-9 provides: "Before granting any license all licensing authorities shall consider the reasonable requirements of the neighborhood, the desires of the inhabitants as evidenced by petitions, remonstrances or otherwise and all other reasonable restrictions which are or may be placed upon the new district by the licensing authority of the city and county or the council of the city or town or by the board of county commissioners of any county."

It was suggested that this language is too broad and general in nature to permit the restriction of the number of licenses issued. Moreover, as a result of this language many licensees maintain that Colorado has an excessive number of retail liquor licensees in proportion to its population. Many states use population as a guide in determining the number of liquor licenses to be issued, and some licensees recommended that such a proposal be added to the Colorado liquor code. However, there is a question as to what population base would be best in establishing minimum and maximum levels in calculating the number of licenses which could be issued, and additional questions exist concerning the problems which might arise under a strict formula as not being flexible enough to meet the changing conditions in Colorado.

In any event, this is a situation which could not be changed overnight as licensees could not have their licenses revoked or cancelled without cause. It was pointed out that a population base could be provided for determining the number of licenses which could be issued and at the same time give the state licensing authority the discretionary power to authorize the issuance of additional licenses due to population changes, new business or residential developments, etc. A "grandfather" clause would be necessary for all present licensees which would mean that it would be 20 or 30 years before the effect of this provision would be noticeable in the proportion of the number of licenses to population.

After weighing the benefits which might be gained under such a change with the present provisions in the liquor code, the Council concluded that no change need be made as the same results could be achieved under the code as it is now written.

Enforcement

Four basic problems were reported to the Council by various groups concerning enforcement of the state's liquor code. These included sales to minors, the need for stricter enforcement at the state level, the Sunday hours of sale for alcoholic beverages compared to those for 3.2 beer, and the need for a "tavern" license.

Sales to Minors

Sales to minors were reported as presenting a difficult problem under the present law and that consideration should be given to placing equal responsibility on the buyer as well as the seller by increasing the minimum penalties on minors who buy or attempt to buy liquor and on adults who purchase liquor for minors, and that an official identification card should be established for use in purchasing liquor. At present the penalty in such cases is borne almost entirely by the seller, according to industry spokesmen.

In regard to these proposals, as reported in Table I, 15 states have adopted some means of identification for use in the purchasing of alcoholic liquors; ten of these states are retail monopoly states or states operating state-owned package stores (Idaho, Iowa, Michigan, Montana, New Hampshire, Oregon, Pennsylvania, Utah, Virginia, and Washington), and five are so-called "license" states where the wholesale and retail sale of liquor is a private enterprise activity (Arizona, Connecticut, Illinois, New Mexico, and South Dakota).

Generally, the practice in the monopoly states is for the state-operated stores to issue liquor permit cards or file the applications for permits with their respective state liquor control boards (Idaho, Iowa, Oregon, Utah, and Washington). Three of these states (Iowa, Oregon, and Utah) and Montana (a license state) issue liquor permit cards annually. These permits may be revoked for cause, such as drunkenness, and the permits are used as a means of liquor control, at least to some degree, or for purposes other than age identification. For the most part application for identification cards in the license states may be made through the local clerks of counties, towns, or courts, whereupon the clerks send the applications to the liquor authorities who prepare and mail the cards or permits to the applicants.

Seven states require a photograph on each identification card or permit -- Arizona, Connecticut, Illinois, New Mexico, Michigan, Virginia, and Washington. This requirement seems to offer an additional safeguard against fraudulent use by minors through lending or borrowing these cards.

Producing a state liquor permit or identification card is not necessarily sufficient proof of age in six states (Arizona, New Hampshire, New Mexico, Oregon, Pennsylvania, and Utah), including two states, Arizona and New Mexico, which require photographs. These six states also require "questionable" purchasers to sign verification forms that they are of legal age.

Table I

STATES REQUIRING IDENTIFICATION CARDS FOR PERSONS
OF QUESTIONABLE AGE TO PURCHASE LIQUOR

<u>State</u>	<u>Minimum Age</u>	<u>Application Filed With:</u>	<u>Fee</u>	<u>Photo</u>	<u>Dispenser May Require Additional Proof</u>
<u>License States:</u>					
Arizona	21	Clerk of Superior CT.	\$ ---	Yes	Signature
Connecticut	21	Town Clerk	1.00	Yes	---
Illinois	21	County Clerk	2.00	Yes	---
New Mexico	21	County Clerk	3.00	Yes	Signature ^g
South Dakota ^a	21 to 25	Clerk of Court	.25	---	---
<u>Monopoly States:</u>					
Idaho	20 Beer	State Store	.50	---	---
	21 Other				
Iowa ^b	21	State Store	1.00	---	---
Michigan	21 to 25	County Clerk	Same As Birth Cert.	Yes	---
Montana ^b	21	---	.50	---	---
New Hampshire ^c	21	---	---	---	Signature
Oregon	21	State Store	1.00	---	Signature ^f
Pennsylvania ^d	21	---	---	---	Signature
Utah ^b	21	Commission	1.00	---	Signature
Virginia ^e	18-3.2 Beer	Clerk of Circuit			
	21 Other	Court	1.50	Yes	---
Washington ^h	21	State Store	By Regulation	Yes	---

- a. It is illegal for persons age 21 to 25 years to purchase liquor without possessing an ID card.
- b. Purchaser must obtain annual permit; may be revoked for drunkenness, etc.
- c. Must procure birth certificate and sign name in presence of seller.
- d. Elector's registration card used for ID card.
- e. For non-residents, signature required.
- f. At dispenser, purchaser's age verified by signature, driver license number, permit number, or military record number.
- g. Dispenser shall keep a written record of date of presentation of card, name and address of purchaser, and serial number of identity card.
- h. Identity cards sealed in plastic.

The development of an effective identification card program would not, in itself, provide the complete answer to the problem of liquor sales to minors. However, the Council believes that liquor sellers supported by a standard means of identification could be held justifiably accountable for their role in the enforcement of a minimum-age program.

With the inclusion of a photograph on the Colorado driver's license, this license would seem to offer an effective means of identification. However, evidence shows that this license is not now completely foolproof since in some cases minors have altered the birth dates on their licenses by carefully punching out and transferring numbers thereon with the result that a majority birth date is shown on the revised card. In order to overcome this difficulty, the Council recommends that the Colorado driver's license be suitably revised for each person from 18 to 21 years of age so as to prevent alteration and that similar changes be made on the face of the driver's license for each person less than 18 years of age. When a minor reaches age 18 or age 21, he could then receive a duplicate license in keeping with his change in age for a nominal charge.

Further, the recommendation is made that a requirement be added for verifying signatures in questionable cases. That is, the seller should have available an official form to be filled out in such cases with the buyer signing that he is at least 21 years of age, which signature would be compared by the seller with that on the driver's license. In those instances where the would-be purchaser had no driver's license, or when no verification check was made, the seller would be held responsible the same as at present.

State Liquor Control Commission

Lax enforcement of the liquor code was reported to the Council as representing a major problem by representatives of the Colorado Package Liquor Association. Various instances were cited in support of this allegation at the Council's hearing on April 27, 1962. At the same time, however, it was brought out that no formal complaints or charges had been filed with the state licensing authority in regard to the reported offenses.

Without agreeing or disagreeing with the various positions taken concerning enforcement of the liquor code, the Council examined the administrative structures found in other license states for regulation and enforcement of liquor. As far as the 33 license states are concerned, i.e., states where the retail distribution of alcoholic beverages is a private enterprise function, eight states have full-time boards or commissions (Connecticut, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Nebraska, and New York); 11 states have part-time boards or commissions plus an executive administrator (Alaska, Arkansas, California, Delaware, Kansas, Nevada, Oklahoma, Rhode Island, South Carolina, Texas, and Wyoming); one state, Hawaii, places administrative control in local liquor commissions; and 13 states, including Colorado, have single state administrators.

These 13 states and the officers vested with the administration of state liquor control are: Arizona, Superintendent of Liquor Licenses and Control; Colorado, Secretary of State¹; Florida, Director of State Beverage Department; Georgia, State Revenue Commissioner; Maryland, Controller of Treasury¹; Minnesota, Liquor Control Commissioner; Missouri, Supervisor of Liquor Control; New Jersey, Director, Alcoholic Beverage Control; New Mexico, Commissioner of Revenue; North Dakota, Attorney General¹; South Dakota, Commissioner of Revenue; Tennessee, Commissioner of Revenue; and Wisconsin, Commissioner of Taxation.

Since liquor control in the license states is basically a regulatory problem, the various state liquor control authorities are concerned both with administration and so-called "quasi-judicial" functions. For instance, most of the liquor control authorities are empowered to issue, revoke, and suspend licenses, which invariably involves the investigation and determination of facts and the adjudication of controversies. In addition, some state authorities also review appeals stemming from decisions of local licensing authorities.

Generally, the full-time boards and commissions, as well as the state agencies under the direction of a single administrator, perform both administrative and quasi-judicial functions. The part-time boards, although vested to a large extent with general administrative authority, are primarily concerned with policy, hearings, appeals, etc. However, there are some states in which the part-time boards are limited to specific duties only:

Arkansas -- Administrative and rule making powers vested in a director while the board is primarily concerned with quasi-judicial matters;

California -- Alcoholic Beverage Control Appeals Board is actually State Board of Equalization and is an appeals board only;

Kansas -- Board performs quasi-judicial duties and approves administrative regulations;

Rhode Island -- Liquor control hearing board is independent of administration and functions in quasi-judicial matters only.

It was suggested to the Council that a part-time five-member commission be established in Colorado which would have quasi-judicial powers to review the actions of state and local licensing authorities and to hear appeals from their decisions. Two alternatives were proposed in regard to membership. One alternative would include the Secretary of State plus one member appointed by the Governor on a bipartisan basis from each congressional district, and the second would include one member appointed by the Governor from each congressional district plus one member appointed from the state at large with neither of the two major political parties ever to have more than three or less than two members.

1. Elected officials.

The members of the Council doubt the wisdom and advisability of creating such a commission in this state and recommend that no change be made in the present system where the Secretary of State serves as the state licensing authority.

Sunday Hours of Sale

Some concern has been expressed over the Sunday hours of sale for on-premise consumption of liquor compared to those allowed for 3.2 beer establishments. At present, liquor may be sold for on-premise consumption on Sundays from 8:00 a.m. to 8:00 p.m., while 3.2 beer is sold from 12:00 noon to 12:00 midnight. Reportedly, one result of this difference causes enforcement problems when patrons of a liquor establishment arrive in a 3.2 beer tavern after 8:00 p.m. on Sundays. Another reason given for changing the Sunday hours of sale for on-premise consumption of liquor is that Colorado, as a tourist and convention state, should provide later Sunday hours for the convenience of its visitors.

In this connection, as shown in Table II, of the 26 license states which allow on-sale (by the drink) liquor licenses, only six states provide more liberal hours of operation on Sundays than Colorado, at least from the operator's point of view. These six states and their prohibited hours of operation are as follows: Alaska, 5:00 a.m. to 8:00 a.m.; Arizona, 1:00 a.m. to noon; California, 2:00 a.m. to 6:00 a.m.; Massachusetts, prior to 1:00 p.m.; New York, 3:00 a.m. to 1:00 p.m.; Wisconsin, counties under 500,000 population, 1:00 a.m. to 8:00 a.m., and over 500,000 population, 3:30 a.m. to 10:00 a.m. In contrast, 11 states (Delaware, Florida, Hawaii, Illinois, Kentucky, Louisiana, Maryland, Missouri, North Dakota, South Dakota, and Wyoming) generally provide for all-day closing on Sunday.

In view of the problems involved under the present situation, the Council is recommending that the Sunday hours of sale for on-premise consumption of alcoholic beverages be from 12:00 noon to 12:00 midnight.

"Tavern" License

The present requirement that "meals" be served in establishments licensed for the on-premise consumption of liquor has been reported to represent a rather serious problem to many licensees and to local licensing authorities. One suggestion, which is contained in the revised draft of the liquor code prepared by the Denver Manager of Safety, would create a new type of "tavern" license where a basic requirement would be that "food" must be available at all times during their hours of operation rather than "meals." The Council agrees in part with this suggestion and therefore recommends that the term "food" be used in place of the term "meals" in the liquor code but that no new type of license be established.

Table II

PROHIBITED HOURS OF SUNDAY
OPERATIONS OF LICENSED BEVERAGE ESTABLISHMENTS*

State	Prohibited Hours on Sundays	
	On-sale	Off-sale
Alaska	5:00 a.m. - 8:00 a.m.	
Arizona	1:00 a.m. - 12:00 noon	
Arkansas	No on-sale	All day
California ¹	2:00 a.m. - 6:00 a.m.	
Colorado ¹	2:00 a.m. - 8:00 a.m. After 8:00 p.m.	All day
Connecticut ²	After 1:00 a.m.	All day
Delaware	All day	
Florida	All day	
Georgia ³	No on-sale	All day
Hawaii ³	All day	
Illinois ⁴	All day	
Indiana	After 1:00 a.m.	
Kansas	No on-sale	All day
Kentucky ⁵	All day	
Louisiana	All day	
Maryland ⁴	All day	
Massachusetts	Prior to 1:00 p.m.	All day
Minnesota	After 1:00 a.m.	All day
Missouri	All day	
Nebraska	After 1:00 a.m.	
Nevada	Local Option	Local Option
New Jersey	Local Option	Referendum
New Mexico	After 2:00 a.m.	
New York	3:00 a.m. - 1:00 p.m.	All day
North Dakota	All day	
Oklahoma	No on-sale	All day
Rhode Island ⁶	All day	
South Carolina	No on-sale	All day
South Dakota	All day	
Tennessee	No on-sale	All day
Texas	No on-sale	All day
Wisconsin	(7)	Before 8:00 a.m. After 9:00 p.m.
Wyoming	All day except clubs	

* Contains states classified as retail license states only.

1. Colorado 3.2 beer establishments open until midnight on Sundays.

2. Town may permit on-sale from 12:00 noon to 9:00 p.m. on Sundays.

3. Sunday on-sales prohibited, except county commissioners may prescribe permissible hours, but may not prohibit cabaret from selling until 3:00 a.m.

4. Unless otherwise provided by local ordinance.

5. Cities of first three classes may remain open until 6:00 a.m.

6. Hotels, clubs, and restaurants -- closed 1:00 a.m. to 12:00 noon; others all day.

7. Counties over 500,000 population, on sale establishments closed from 1:00 a.m. to 8:00 a.m., and over 500,000 closed from 3:30 a.m. to 10:00 a.m.

"Business Practices"

The area classified as "business practices" represents the single largest group of the problems reported concerning the present liquor code. Most of the testimony presented to the Council centered on issues relating to business practices such as home deliveries by retail package stores and price differentials between wholesale liquor dealers and retail liquor dealers.

Deliveries by Retail Package Stores

Home deliveries by high-volume retail package stores were reported as being a major problem under the present liquor code. Among the reasons cited was the fact that this method of sales is prone to abuse by minors and by alcoholics. In addition, deliveries across city and county boundaries result in unfair competition to resident stores that may be closed because of local elections and that also may pay an occupational tax and other local taxes which are not paid by the non-resident operator.

Various proposed changes in this situation were considered by the Council such as complete prohibition of any deliveries by a retail package dealer or restricting deliveries to the boundaries of the county where licensed or within a 25-mile radius of the outlet, with strict enforcement of the provision that all deliveries must be made to persons 21 years of age or older. The Council believes that the best solution to this situation lies in a blanket prohibition of any deliveries by retail package stores in this state.

Retail Advertising

Objections also have been made to the advertising practices used in some localities by retail package liquor dealers as being false, misleading, and unfair. One suggestion has been made that all price advertising, or any words or phrases referring to prices, be prohibited except on a national or "institutional" basis. Another approach mentioned would require that advertisements for retail package stores be kept separate and distinct from all other advertisements and that the formal brand name, proof, and size must be included in all such advertisements, except for malt liquors where proof would be omitted.

Twelve of the 33 license states require some type of price regulation in advertisements. These states include: Connecticut, Delaware, Georgia, Indiana, Kansas, Kentucky, Massachusetts, New Jersey, Oklahoma, Rhode Island, South Dakota, and Tennessee. Some of the states, such as Delaware and Rhode Island, prohibit any mention of price, while in other states requirements are not so strict; for instance, Massachusetts only requires that a price be listed for a specified quantity.

The Council is not recommending any statutory change regarding the advertising of liquor. It is suggested, however, that any advertising felt to be a violation of the liquor code should be brought to the attention of the state licensing authority for proper disposition under the present law.

Wholesale Price Stabilization

During the course of its study of the liquor code, the Council encountered repeated references to the problems the small retail package stores faced when competing with the high-volume package dealers who were able to purchase their stock from the wholesalers at much lower prices. While recognizing that the wholesale price would naturally be lower for the retail dealer purchasing in larger quantities than an average or small-size retailer, it was suggested that some large-scale retailers were able to make purchases at a price lower than that being offered to anyone else who desired to submit a similar-sized order.

- Consequently, representatives of the Colorado Package Liquor Association suggested that the liquor code be amended to provide all retail package dealers with a uniform or equal opportunity to purchase from the wholesalers, i.e., the opportunity to purchase would be equal or uniform for all retailers but not necessarily the price per case as this could vary in instances of volume buying, for example. To carry out this recommendation for uniform or equal opportunity, the C.P.L.A. recommended that the law be amended to provide that:

- 1) "distress" merchandise may be purchased by wholesalers only and must be offered for purchase to all retailers;
- 2) no "house" accounts be allowed;
- 3) no brands be sold exclusively by any retailers;
- 4) no tie-in sales, wholesale or retail, or offering of free merchandise; and
- 5) no allowance in cash or merchandise from a distillery, brewery, or winery be given any retailer.

So far as the 33 license states are concerned, all but 12 provide for some regulation of prices. Price control is achieved through one of three methods or a combination of: 1) compulsory markups at wholesale and retail levels; 2) mandatory minimum retail prices through so-called retail price posting or fair-trade contracts; and 3) wholesale price posting. Also, Wyoming achieves its price control at the wholesale level through a state monopoly.

Compulsory minimum markup is achieved by establishing a percentage increase over and above the purchase cost and taxes. Such minimum markups at the wholesale level range from 11.5 per cent (20.0 per cent for wine) in Tennessee to 17.5 per cent in New Mexico; however, the most frequent markup at the wholesale level is 13 per cent. At the retail level, mandatory markups range from 25.0 per cent in Rhode Island to 38.5 per cent in New Mexico. Tennessee also has a minimum markup on wine at 40 per cent at the retail level.

Price posting at the retail level in effect is also price regulation, since the general practice is to require manufacturers or wholesalers to file minimum consumer prices prior to the distribution of a product to retailers. The retailers are then prohibited from selling below the list price. Wholesale price posting stabilizes competition at this level, but may or may not extensively effect retail price competition.

Although some states may be classified into more than one of the following categories, or they may require some other fair trade practice, the following tabulation may be of help in categorizing the 33 license states according to their strictest price regulation:

Mandatory Markup (seven states)

<u>State</u>	<u>Wholesale Markup</u>	<u>Retail Markup</u>
Arkansas	13.0%	30.0%
Georgia	12.0	27.0
Kansas	13.0	28.0
Kentucky	15.0	33.0
New Mexico	17.5	38.8
Rhode Island	13.0	25.0
Tennessee	(11.5 Liquor) (20.0 Wine)	(27.5 Liquor) (40.0 Wine)

Mandatory fair trade agreements -- Delaware.

Minimum consumer price lists (seven states) -- California, Connecticut, Hawaii, Massachusetts, Minnesota, New Jersey, and New York.

Wholesale price monopoly -- Wyoming.

Wholesale price posting (five states) -- Indiana, Maryland, Missouri, Oklahoma, and South Dakota.

No price regulation (12 states) -- Alaska, Arizona, COLORADO, Florida, Illinois, Louisiana, Nebraska, Nevada, North Dakota, South Carolina, Texas, and Wisconsin.

The Council is not recommending any statutory changes to regulate pricing practices in the liquor industry.

Items for Sale by Package Stores

Under the definitions in the Colorado liquor code, a retail liquor store "means an establishment engaged only in the sale of malt, vinous and spirituous liquors, and soft drinks and mixes, all in sealed containers for consumption off the premises and in the sale of tobaccos, tobacco products and smokers' supplies" (emphasis added). It was proposed that this definition unduly limits the business activities of retail liquor dealers and that they should be allowed to expand their items for sale to include other products closely connected with the consumption of alcoholic beverages. Such a change would also place a retail liquor dealer in a more equitable competitive position with the liquor-licensed drug stores in this state.

Nineteen of the 33 license states may be considered to have much broader provisions in this respect than Colorado, based on information reported in the "Summary of State Laws and Regulations Relating To Distilled Spirits" published by the Distilled Spirits Institute,

December, 1961. Thirteen states -- Alaska, Arizona, California, Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Nebraska, New Mexico, South Dakota, Texas, and Wisconsin -- are reported to have no restrictions on commodities other than distilled spirits which may be sold in retail liquor package stores. In addition, the following six states also appear to have fairly broad provisions:

- Arkansas -- No restrictions on licenses issued prior to 1-14-60 and only exclusive package liquor store licenses issued since that time.
- Kentucky -- No substantial part of business may consist of selling staple groceries or gasoline or lubricating oil. In rural areas, may sell only wine in addition to distilled spirits.
- Missouri -- Liquor may be sold only in a drug store, cigar or tobacco store, general merchandise store, grocery store or confectionery or delicatessen store.
- Nevada -- No restriction by state. Local governing bodies may restrict.
- New Jersey -- No restriction by state. Local governing bodies may restrict.
- Rhode Island -- No restrictions in cities under 10,000 population. Over 10,000, soft drinks, and except in certain cities drug stores and grocery stores may sell.

In connection with drug stores in Colorado, it was also suggested that all new or transferred drug store licenses should be required to separate their warehousing and liquor sales area from the drug store proper and be subject to the same regulations applicable to other off-premise outlets in order to equalize the competitive situation in these cases if the retail package stores are not allowed to expand the items which they might stock under the liquor code.

Council members believe that the number of problems which would be created if the items for sale by retail package stores were expanded would exceed any benefits to be expected and, consequently, no change is being recommended.

Liquor Purchasing by Retail Dealers

The possibility of retailers purchasing liquor cooperatively from state wholesalers or allowing one retailer to purchase from another retailer was also explored by the Council. In this connection, the state constitution does not contain any provision in Article XXII, relating to the sale of intoxicating liquor, which would prevent the adoption of either of these two proposals. However, the state liquor

code would have to be amended if either suggestion were to be implemented and careful consideration would have to be given to the provisions of the federal law.

The federal liquor law prohibits retailers purchasing from anyone other than a licensed wholesaler except under certain special conditions.² At the same time, however, there appears to be nothing in this law to prohibit a retailer from obtaining a federal wholesale license.

That is, Title 26 §5117 (a), 1961 Cumulative Annual to the United States Code Annotated, provides: "It shall be unlawful for any dealer to purchase distilled spirits for resale from any person other than --

- 1) a wholesale dealer in liquors who has paid the special tax as such dealer to cover the place where such purchase is made.
- 2) a wholesale dealer who is exempt... from payment of such tax...
- 3) a person who is not required to pay the special tax as a wholesale dealer in liquors."

According to Mr. David E. Rees, supervisor-in-charge of the Denver office of the Alcohol and Tobacco Tax Unit, U. S. Department of Revenue, a retailer may obtain a federal wholesale license following lengthy investigation of the applicant and upon payment of the annual license fee of \$255. It may be felt that this fee does not appear to be significant for a dealer anticipating a rather substantial wholesale business. However, the amount of the fee might be sufficient to discourage a retail dealer anticipating casual sales only from obtaining a federal wholesale license.

Mr. Rees also reported that the federal law does not specifically prohibit the possibility of cooperative buying by retailers. However, in order to do so, a federal wholesale license would have to be obtained by the cooperative and all members of the cooperative would have to be investigated since this license cannot be granted to any person convicted of a felony.

In regard to cooperative or "pool" purchasing by retail dealers, the Colorado Wholesale Wine and Liquor Dealers Association pointed out that "inasmuch as the Alcohol and Tobacco Tax Division required that there be no price (or discount) discrimination by a wholesaler, it would therefore be necessary for the retail-wholesale licensee handling these pool purchases to offer merchandise to each and every licensee at the same price and discount as if offered to the member retailers. This would obviously nullify any price advantage gained by the establishment of the "pool" buying organization, and would relegate the "pool" buying organization to the status of a sub-wholesaler extending top quantity discounts to small buyers."

2. A retailer may purchase from another retail dealer who is liquidating his entire stock -- U. S. Code Annotated, 1961 Cumulative Pocket Part, 26 §5113 (3).

"Also, unilateral financial interest in wholesale operation by a retailer is forbidden by federal law, and it would seem that it would be necessary for this arrangement to exist before a license could be established to handle pool purchases. Certainly the matter of credit responsibility would have to be established through identification of corporate officers or individuals. Also, such an operation would hazard violation of the exclusive outlet provision of section 5 (A) of the FAA, if not other provisions, and if discriminatory prices are induced, a violation of section 2 (F) of the Robinson-Patman Act would result."

Further, concerning the proposal to allow one retail dealer to purchase from another retailer, the wholesalers' association reported that "at present, this is not allowed in any state according to the Distilled Spirits Institute Summary of State Laws published in December, 1961. One of the most obvious reasons for not allowing this practice is the inherent loose control of the movement of taxable merchandise. To be more specific, this would open the door for promiscuous importation of tax-free merchandise, which is now controlled through licensed wholesale operations. The Alcohol and Tobacco Tax Division does not object to this practice so long as the retailer has a wholesale license and maintains record #52."

The Council does not believe that any changes need be made in the liquor code in regard to purchasing by retail dealers.

Concluding Comments and Recommendations

As may be noted, the Council has made a rather limited number of recommendations which would involve legislative changes in the present liquor code. There are two major reasons for this position: First, many of the changes suggested to the Council for its consideration relate directly to business practices and economic conditions, and the members of the Council do not believe that state governmental authority should be used to control business competition or in any way tend to guarantee a profit to any businessman. Second, Council members agree that the provisions of the present liquor code, with a few exceptions, provide sufficient discretion for the proper enforcement and administration of the law.

A BILL FOR AN ACT

AMENDING 75-2-3 (11) AND 75-2-6 (4) AND REPEALING 75-2-3 (18),
COLORADO REVISED STATUTES 1953, RELATING TO "THE LIQUOR
CODE OF 1935", AND ELIMINATING REFERENCES TO EXCISE TAX
STAMPS IN SAID CODE.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 75-2-3 (11), Colorado Revised Statutes 1953,
is hereby amended to read:

75-2-3. Unlawful acts. (11) To have in his possession
any package, parcel, or container WHICH CONTAINS MALT, VINOUS,
OR SPIRITUOUS LIQUORS ~~not-bearing-the-excise-tax-stamps-as~~
~~required-by-this-article,-or-any-of-the-described-containers~~ on
which the excise tax has not been paid AS PROVIDED BY SECTION
75-2-25, AS AMENDED; to buy or re-use or to sell, transfer,
or give to any other person any ~~alcoholic~~ VINOUS OR SPIRITUOUS
liquor container which has once been used. ~~on-which-is-attached~~
~~state-excise-stamps-whether-canceled-or-not:~~

SECTION 2. 75-2-6 (4), Colorado Revised Statutes 1953, is
hereby amended to read:

75-2-6. Duties of licensing authority. (4) To keep com-
plete records of all acts and transactions of his office, which
records, except confidential reports obtained from licensee
showing the sales volume or quantity of liquor sold ~~or-stamps~~
~~purchased~~ or customers served, shall be open for inspection by
the public.

SECTION 3. Repeal. 75-2-3 (18), Colorado Revised Statutes 1953, is hereby repealed.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

A BILL FOR AN ACT

AMENDING 75-2-3 (2), COLORADO REVISED STATUTES 1953, CONCERNING
THE AGE OF PERSONS PERMITTED TO SELL OR DISPENSE MALT,
VINOUS, OR SPIRITUOUS LIQUORS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 75-2-3 (2), Colorado Revised Statutes 1953, is hereby amended to read:

75-2-3. Unlawful acts. (2) To sell malt, vinous, or spirituous liquors to any person under the age of twenty-one years, or to an habitual drunkard, or to an intoxicated person, or to permit any malt, ~~or~~ vinous, ~~liquors-to-be-sold-or-dis-~~
~~persed-by-a-person-under-eighteen-years-of-age,~~ or spirituous liquors to be sold or dispensed by a person under twenty-one years of age, or to permit any such person to participate in the sale or dispensing thereof.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

A BILL FOR AN ACT

REPEALING 75-2-3 (20), COLORADO REVISED STATUTES 1953, CONCERN-
ING SALE PRICE CONTRACTS UNDER "THE FAIR TRADE ACT" WITH
RESPECT TO THE ADVERTISING OR SALE OF MALT, VINOUS, OR
SPIRITUOUS LIQUORS, AND ALCOHOLIC BEVERAGES.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 75-2-3 (20), Colorado Revised Statutes 1953, is
hereby repealed.

SECTION 2. Safety clause. The general assembly hereby
finds, determines, and declares that this act is necessary for
the immediate preservation of the public peace, health, and
safety.

A BILL FOR AN ACT
AMENDING 75-2-18 (3) (c), COLORADO REVISED STATUTES 1953,
CONCERNING THE SALE OF MALT LIQUORS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 75-2-18 (3) (c), Colorado Revised Statutes 1953,
is hereby amended to read:

75-2-18. Wholesalers' liquor or beer license. (3) (c) Take
orders for malt liquors at any place and deliver malt liquors on
orders previously taken to any place; provided the licensee has
procured a wholesale beer license. ~~and-the-place-where-orders-are
taken-and-delivered-is-a-place-regularly-licensed-pursuant-to
the-provisions-of-this-article.~~

SECTION 2. Safety clause. The general assembly hereby
finds, determines, and declares that this act is necessary for
the immediate preservation of the public peace, health, and
safety.

A BILL FOR AN ACT

AMENDING 75-2-9, COLORADO REVISED STATUTES 1953, CONCERNING
LICENSES ISSUED UNDER "THE LIQUOR CODE OF 1935", AND
REBATES OF AND CREDITS ON FEES THEREFOR.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 75-2-9, Colorado Revised Statutes 1953, is
hereby amended to read:

75-2-9. License issued, when - term. (1) The licenses
provided by this article, except where the license fee is to be
paid into the treasury of any city, town, city and county, or
county, shall be issued and granted by the state licensing
authority, for which the fee is to be paid to the department of
revenue, within fifteen days after the filing of the applica-
tion therefor. Where the license fee is to be paid into the
treasury of any city, town, or city and county, the licenses in
this article provided for shall be issued by the licensing
authority in a city and county and by the council, board of
trustees, or licensing authority in any other city or town;
where the license fee is to be paid into the treasury of a
county, the licenses provided for in this article shall be
issued by the board of county commissioners of such county.
The licensing authority of a city and county and boards of
trustees, councils, or licensing authorities in any other city
or town and the board of county commissioners in any county
shall have authority to refuse to issue any licenses provided
for in this article for good cause, subject to review by the
courts.

(2) Before granting any license all licensing authorities shall consider the reasonable requirements of the neighborhood, the desires of the inhabitants as evidenced by petitions, remonstrances, or otherwise and all other reasonable restrictions which are or may be placed upon the new district by the licensing authority of the city and county or the council of the city or town or by the board of county commissioners of any county.

(3) Licenses herein provided shall be granted for a period of one calendar year, or portion thereof remaining at the time of making application for said license, but where application is made for a portion of such calendar year, there shall be no reduction of the license fees because of such fact. All licenses shall expire December thirty-first of the year for which issued and application for the renewal of licenses shall be made on or before the first day of December of each year. ~~No rebate shall be paid by any city, town, city and county, or county of any alcoholic liquor license fee theretofore paid for any such license issued by it, except upon affirmative action by the respective licensing authority thereof, rebating a proportionate amount of such license fee. Credit shall be given for the unexpired portion of any existing state license.~~

SECTION 2. Effective date. This act shall take effect on January 1, 1964.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

A BILL FOR AN ACT
AMENDING SECTION 75-2-33, COLORADO REVISED STATUTES 1953, AND
PROVIDING FOR THE SALE OF SEIZED ILLEGAL LIQUOR.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 75-2-33, Colorado Revised Statutes 1953, is hereby amended to read:

75-2-33. Return on warrant - sale of liquor seized. (1)
If any alcoholic liquors are there found, said officer shall seize the same and the vessels in which they are contained and all implements and furniture used or kept in connection with such liquors in the illegal selling, bartering, exchanging, giving away, or carrying of same, and any wagon, automobile, truck, vehicle, contrivance, thing, or device used in conveying same, and safely keep them and make immediate return on such warrant. Such property shall not be taken from the custody of any officer seizing or holding the same by writ of replevin or other process, while the proceedings relating thereto are pending.

(2) Final judgment of conviction in such proceedings shall be a bar to any and all suit for the recovery of any such property so seized or the value of same, or for damages alleged to arise by reason of such seizure and detention. The judgment entered shall find said liquor to be unlawful and shall direct its ~~destruction-forthwith~~ SALE FORTHWITH, IN THE MANNER PROVIDED BY SUBSECTION (7) OF THIS SECTION. The wagon, automobile, truck, vehicle, contrivance, thing or device, vessels, implements; and furniture, shall likewise be ordered disposed

of IN THE SAME MANNER as personal property is sold under execution, and the proceeds therefrom applied, first in the payment of the cost of the prosecution and of any fine imposed, and the balance, if any, paid into the general school fund of the county in which such conviction is had.

(3) The officer serving the warrant shall forthwith ~~file a-complaint~~ PROCEED IN THE MANNER REQUIRED FOR THE INSTITUTION OF A CRIMINAL ACTION in the court issuing ~~same~~ THE WARRANT, charging such violation of law as the evidence in the case justifies. If such officer refuses or neglects to ~~file-such-complaint~~, SO PROCEED, then the person filing the affidavit for the search warrant, or any other person, may ~~file-such-complaint~~ SO PROCEED.

(4) If, DURING THE TRIAL OF A PERSON CHARGED WITH A VIOLATION OF THIS ARTICLE, THE EVIDENCE PRESENTED DISCLOSES THAT fluids ~~are~~ WERE poured out, or otherwise destroyed, manifestly for the purpose of preventing seizure, said fluids shall be held to be prima facie alcoholic liquors and intended for unlawful use, sale, barter, exchange, or gift.

(5) If no person is in possession of the premises where ~~such~~ ILLEGAL ALCOHOLIC liquors are found, the officer seizing such liquors shall post in a conspicuous place on said premises a copy of his warrant, and if at the time fixed for ~~said~~ ANY hearing CONCERNING THE LIQUORS SEIZED, or within thirty days thereafter, no person appears, ~~said-justice-of-the-peace, or~~ THE court IN WHICH THE HEARING WAS TO BE HELD shall order such liquors ~~destroyed~~ SOLD IN THE MANNER PROVIDED IN SUBSECTION (7) OF THIS SECTION.

(6) No warrant issued pursuant to this article shall authorize the search of any place where a person may lawfully keep alcoholic liquors as provided in this article. No warrant shall be issued to search a home occupied as such, as in this section provided, unless it or some part of it, is used in connection with or as a store, shop, hotel, boarding house, rooming house, or place of public resort.

(7) ANY SALE OF ALCOHOLIC LIQUORS CONDUCTED UPON ORDER OF COURT PURSUANT TO THIS SECTION SHALL BE CONDUCTED IN THE FOLLOWING MANNER:

(a) THE OFFICER ORDERED BY THE COURT TO CONDUCT THE SALE SHALL GIVE NOTICE OF THE TIME AND PLACE OF THE SALE BY POSTING A NOTICE IN A PROMINENT PLACE IN THE COUNTY FOR NOT LESS THAN FIVE CONSECUTIVE DAYS PRIOR TO THE DAY OF THE SALE. THE NOTICE SHALL DESCRIBE AS FULLY AS POSSIBLE THE PROPERTY WHICH IS TO BE SOLD AND SHALL STATE THE PLACE OF THE SALE.

(b) THE SALE SHALL BE CONDUCTED AS A PUBLIC AUCTION IN SOME SUITABLE PUBLIC PLACE, ON THE SPECIFIED DAY, AT SOME TIME BETWEEN THE HOURS OF NINE A.M. AND FIVE P.M., AND THE TIME CHOSEN FOR THE SALE SHALL BE INDICATED IN THE NOTICE.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

A BILL FOR AN ACT
PROVIDING FOR THE INVESTIGATION AND LICENSING BY LOCAL LICENSING AUTHORITIES OF APPLICANTS FOR CERTAIN LICENSES UNDER "THE LIQUOR CODE OF 1935", AS AMENDED.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 2 of chapter 75, Colorado Revised Statutes 1953, as amended, is hereby amended by the addition of the following NEW SECTIONS to read:

75-2-38. "New licenses" - local licensing authorities - definitions. (1) After the effective date of this act, any provisions of this article to the contrary notwithstanding, the state licensing authority shall not grant or issue any "new license", as defined in subsection (2) of this section, for the classes of licenses as specified in said subsection until the local licensing authority has approved the application as hereinafter provided.

(2) For the purposes of sections 75-2-38 to 75-2-43:

(a) "New license" shall be considered to be a license issued for a location not theretofore licensed for the sale of alcoholic liquors, and for a business not being operated at the time of application under a license of the same type authorizing the sale of alcoholic liquors.

(b) "Local licensing authority" shall be the licensing authority in a city and county designated by charter or ordinance for the licensing of a location within a city and county

to sell alcoholic liquors; the city council or board of trustees for the licensing of a location within a city or town to sell alcoholic liquors; and the board of county commissioners for the licensing of a location in unincorporated territory within a county to sell alcoholic liquors.

(c) "New license" shall apply only to the following classes of licenses: Retail liquor store; liquor licensed drug store; beer and wine license; hotel and restaurant license; and club license. It shall not include any license required of a railroad transportation system.

75-2-39. Restrictions for applications for new license.

No application for the issuance of any license as specified in section 75-2-38 (2) (a) shall be received or acted upon:

(1) Where, within the two years next preceding the date of the application, a licensing authority has denied an application at the same location for the reason that the reasonable requirements of the neighborhood were satisfied by the existing outlets.

(2) Until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, or by virtue of ownership thereof.

(3) For a location in an area where the sale of liquor as contemplated is not permitted under the applicable zoning laws of the city, town, city and county, or county.

(4) Where the building in which the liquor is to be sold is located within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary; provided, this provision shall not affect the renewal or reissuance of a license once granted. Said distance is to

be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which the liquor is to be sold.

75-2-40. Applications. (1) An application for any license specified in 75-2-38 (2) (c) shall be filed with the appropriate local licensing authority on forms provided by the state licensing authority and containing such information as the state licensing authority may require. Each application shall be verified by the oath or affirmation of such person or persons as prescribed by the state licensing authority.

(2) Each application for a new license required to be filed with a local licensing authority shall be accompanied by an application fee in an amount determined by the local authority, but in no event to exceed the sum of five hundred dollars. Said fee shall be used to defray the expense incurred by the authority in its investigation of and hearing upon the application, as well as the expense of publishing and posting the required notices. The fee shall be paid into the treasury of the city, town, city and county, or county, as the case may be.

(3) The applicant shall file at the time of application complete plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall, in addition to the plans and specifications for the interior, submit an architect's drawing of the building to be constructed.

75-2-41. Public notice - posting and publication. (1)

Upon receipt of an application, the local licensing authority shall schedule a public hearing upon the application not less than thirty days from the date of the application, and shall post and publish the public notice thereof. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation published in the county in which the premises are located.

(2) Where notice is given by posting, the sign shall be of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners, and if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice president, secretary, and manager or other managing officers.

(3) Where notice is given by publication, it shall contain the same information as that required for signs.

(4) Where the building in which the liquor is to be sold is in existence at the time of the application, any sign posted as hereinabove required shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant

shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

75-2-42. Results of investigation - decision of authorities.

(1) Not less than five days prior to the date of hearing, the local licensing authority shall make known its findings based on said investigation in writing to the applicant and other interested parties.

(2) Before entering any decision approving or denying the application, the local licensing authority shall consider the facts and evidence adduced as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the number, type, and availability of liquor outlets located in or near the neighborhood under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed; provided, that the reasonable requirements of the neighborhood shall not be considered in the issuance of a club liquor license.

(3) Any decision of a local licensing authority approving or denying an application shall be in writing stating the reasons therefor within thirty days after the date of the public hearing, and a copy of such decision shall be sent by certified mail to the applicant at the address as shown in the application.

(4) No license shall be issued by any local licensing authority after approval of an application until the building in which the business is to be conducted is ready for occupancy, with such furniture, fixtures, and equipment in place as is nec-

essary to comply with the provisions of this article, and then only after inspection of the premises has been made by the licensing authority to determine that the applicant has complied with the architect's drawing and plans and specifications submitted upon the application.

(5) After approval of any application, the local licensing authority shall notify the state licensing authority of such approval, who shall investigate and either approve or disapprove such application.

75-2-43. Application of sections. The provisions of sections 75-2-38 to 75-2-42 shall apply only to applications for "new licenses" as defined by section 75-2-38 (2) (a), and shall not apply to the renewal of any licenses approved prior to the effective date of said sections or to transfer of location by a licensee of premises licensed prior to said effective date.

SECTION 2. 75-2-10, Colorado Revised Statutes 1953, is hereby amended to read:

75-2-10. Notice of hearing on application. In addition to all other provisions for the regulation and control of licensing the manufacture and sale of alcoholic liquors as provided by articles 1 and 2 of this chapter, it is hereby further provided that it shall be unlawful for the county authorities of any county or the officers of any municipality to issue or transfer location of any license to sell any malt, vinous, or spirituous liquors or fermented malt beverages in less than twenty days after application for such license has been made and until not less than ten days notice of the time and place of the

hearing on such application has been made, either by posting a sign in a conspicuous place on the premises sought to be licensed or by publication of notice in a newspaper of general circulation published in the county in which said premises are located, as said licensing authority may require. The provisions of this section shall not apply to the renewal of licenses upon application for such renewal as provided by law, NOR TO "NEW LICENSES" DEFINED AND ISSUED UNDER THE PROVISIONS OF SECTIONS 75-2-38 TO 75-2-43.

SECTION 3. Effective date. This act shall take effect on July 1, 1963, and shall apply to all applications for "new licenses", as defined in section 75-2-38 (2) (a), made after said effective date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

A BILL FOR AN ACT

RELATING TO OFFICIAL IDENTIFICATION CARDS FOR USE AS EVIDENCE
OF AGE FOR THE PURPOSE OF OBTAINING ALCOHOLIC LIQUORS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 2 of chapter 75, Colorado Revised Statutes 1953, as amended, is hereby amended by the addition of a NEW SECTION to read:

75-2-38. Official identification card. (1) An official identification card may be a valid Colorado operator's or chauffeur's license, issued or reissued on or after July 1, 1963, containing the name, address, birthdate, photograph, and signature of the applicant therefor, and evidencing the holder thereof to be twenty-one years of age or over. No operator's or chauffeur's license containing the word "MINOR" or the numbers "18 - 20" in red letters or red numbers, as the case may be, stamped or printed on the face thereof shall be deemed an official identification card.

(2) A signature form means a form furnished by the state licensing authority which may contain the name, address, operator's or chauffeur's license number and reissue number, if any, and signature of the person offering to purchase alcoholic liquors. A licensee under this article who demands the signature of such purchaser shall retain such signed form for inspection by any licensing authority under this article.

(3) (a) No licensee under this article shall be prosecuted

or deemed to have violated the provisions of this article for selling or otherwise dispensing alcoholic liquors to any person under the age of twenty-one years if:

(b) Such person has in his possession and exhibits to such licensee or his employee a valid official identification card and, prior to such sale or dispensing, signs a signature form; and

(c) Such signature corresponds with the signature on that person's official identification card exhibited; and

(d) The signature form is completely filled out and is retained in the files of the licensee.

(4) The provisions of subsection (3) of this section shall not apply if the licensee or his employee has notice or personal knowledge that such person is in fact under the age of twenty-one years.

SECTION 2. Effective date. This act shall become effective on July 1, 1963.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

A BILL FOR AN ACT

CONCERNING AGE CLASSIFICATIONS OF OPERATORS' LICENSES, MINOR OPERATORS' LICENSES, AND CHAUFFEURS' LICENSES.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-3-6, Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby amended by the addition of a NEW SUBSECTION to read:

13-3-6. Application for license or instruction permit.

(4) Every application for an operator's license, minor operator's license, or chauffeur's license, and each copy thereof, shall contain the word "MINOR" when the applicant has attained the age of sixteen years but not the age of eighteen years, or shall contain the numbers "18 - 20" when the applicant has attained the age of eighteen years but not the age of twenty-one years. Such word or numbers shall be stamped or printed in red letters or numbers not less than one-half inch in height.

SECTION 2. 13-3-7 (1) and (2), Colorado Revised Statutes 1953, and 13-3-7 (4), Colorado Revised Statutes 1953 (1961 Supp.), are hereby amended to read:

13-3-7. Application of minors. (1) The application of any person under the age of ~~seventeen~~ EIGHTEEN years for an instruction permit or operator's license shall be signed and verified before a person authorized to administer oaths, by both the father and mother of the applicant, if both are living, and

have custody of him; or in the event neither parent is living then by the person or guardian having such custody, or by an employer of such minor, or in the event there is no guardian or employer then by any other responsible person who is willing to assume the obligation imposed under this article upon a person signing the application of a minor.

(2) Any negligence or willful misconduct of a minor under the age of ~~seventeen~~ EIGHTEEN years when driving a motor vehicle upon a highway shall be imputed to the person who has signed the application of such minor for a permit or license, which person shall be jointly and severally liable with such minor for any damages caused by such negligence or willful misconduct except as otherwise provided in subsection (3) of this section.

(4) Within twenty days after a minor reaches the age of ~~seventeen~~ EIGHTEEN years he shall surrender to the department his operator's license held as a minor and apply for a new operator's license. For the purpose of this article a minor's license shall mean the license issued to a person not less than sixteen years of age and not more than ~~seventeen~~ EIGHTEEN years of age.

SECTION 3. 13-3-8 (2), Colorado Revised Statutes 1953, is hereby amended to read:

13-3-8. Release from liability. (2) When said minor reaches the age of ~~seventeen~~ EIGHTEEN years, the person who has signed said minor's application shall be relieved from the liability imposed under section 13-3-7.

SECTION 4. 13-3-12, Colorado Revised Statutes 1953, as amended, is hereby amended by the addition of a NEW SUBSECTION (6) to read:

13-3-12. Application for license or instruction permit.

(6) Every minor operator's license and every chauffeur's license issued to any person under the age of eighteen years shall contain the word "MINOR" on the face of such license in red letters not less than one-half inch in height. Every operator's license and every chauffeur's license issued to any person who has attained the age of eighteen years but not the age of twenty-one years shall contain the numbers "18 - 20" on the face of such license in red numbers not less than one-half inch in height.

SECTION 5. 13-3-15, Colorado Revised Statutes 1953 (1961 Supp.), is hereby amended to read:

13-3-15. Duplicate permits - licenses - certificates. (1)

In the event that an instruction permit or an operator's or chauffeur's license or certificate issued under the provisions of this article is lost, stolen, or destroyed, the person to whom the same was issued, upon request and the payment of the fee of one dollar and twenty-five cents to the department of revenue, may obtain a duplicate or substitute therefor upon furnishing satisfactory proof to the department that such permit, license, or certificate had been lost, stolen, or destroyed and that the applicant is qualified to have such a license.

(2) UPON WRITTEN REQUEST AND THE PAYMENT OF THE FEE OF ONE DOLLAR AND TWENTY-FIVE CENTS TO THE DEPARTMENT OF REVENUE, EVERY HOLDER OF A CHAUFFEUR'S LICENSE ISSUED TO ANY PERSON UNDER

THE AGE OF EIGHTEEN YEARS, AND UPON ATTAINING THE AGE OF EIGHTEEN YEARS, MAY OBTAIN A DUPLICATE OR SUBSTITUTE THEREFOR CONTAINING THE NUMBERS "18 - 20" AS PROVIDED FOR IN SECTION 13-3-12 (6). UPON WRITTEN REQUEST AND THE PAYMENT OF THE FEE OF ONE DOLLAR AND TWENTY-FIVE CENTS TO THE DEPARTMENT OF REVENUE, EVERY HOLDER OF AN OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE ISSUED TO ANY PERSON OVER THE AGE OF SEVENTEEN YEARS AND UNDER THE AGE OF TWENTY-ONE YEARS, UPON ATTAINING THE AGE OF TWENTY-ONE YEARS, MAY OBTAIN A DUPLICATE OR SUBSTITUTE THEREFOR WITHOUT THE NUMBERS "18 - 20" THEREON.

(3) ON OR AFTER JULY 1, 1963, ANY HOLDER OF AN OPERATOR'S LICENSE, MINOR OPERATOR'S LICENSE, OR CHAUFFEUR'S LICENSE, WHO SHALL BE UNDER THE AGE OF TWENTY-ONE YEARS, MAY REQUEST, AND, UPON THE PAYMENT OF THE FEE OF ONE DOLLAR AND TWENTY-FIVE CENTS, MAY OBTAIN A DUPLICATE OR SUBSTITUTE THEREFOR CONTAINING THE WORD "MINOR" OR THE NUMBERS "18 - 20", AS THE CASE MAY BE, AS PROVIDED FOR IN SECTION 13-3-12 (6).

SECTION 6. Effective date. This act shall take effect on July 1, 1963.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

A BILL FOR AN ACT

AMENDING 75-2-3 (4), COLORADO REVISED STATUTES 1953 (1960 PERM. SUPP.), PERMITTING THE SALE OF MALT, VINOUS, OR SPIRITUOUS LIQUORS BY THE DRINK ON SUNDAYS AND CHRISTMAS AFTER THE HOUR OF ONE MINUTE PAST TWELVE P.M.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 75-2-3 (4), Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby amended to read:

75-2-3. Unlawful acts. (4) To sell, serve, or distribute any malt, vinous, or spirituous liquors by the drink for consumption on the premises on weekdays, except Mondays, between the hours of two a.m. and seven a.m., or on Mondays between the hours of one minute past twelve a.m. and seven a.m., or on Sundays or Christmas between the hours of two a.m. and ~~eight a.m. and after eight p.m.~~ ONE MINUTE PAST TWELVE P.M.; or to sell, serve, or distribute any such liquors in sealed containers between the hours of one minute past twelve a.m., and eight a.m., or on the days prohibited by subsection (3) of this section; but nothing herein shall prohibit the selling and serving of malt, vinous, or spirituous liquors, during such hours or on such days, in the places, and in the manner permitted by this article.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

A BILL FOR AN ACT

AMENDING 75-2-22, COLORADO REVISED STATUTES 1953, CONCERNING
HOTEL AND RESTAURANT LICENSEES SELLING SPIRITUOUS LIQUORS
BY THE DRINK ONLY WHERE FOOD IS SERVED AND ONLY WITH FOOD.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 75-2-22, Colorado Revised Statutes 1953, is hereby amended to read:

75-2-22. Hotel - restaurant license. (1) Restaurants may sell spirituous liquors by the drink only to customers for consumption on the premises, but only in the room or rooms where meals-are FOOD IS served and only with meals FOOD, except that hotels may sell malt, vinous, and spirituous liquors by the drink only to customers of said hotel, and the same shall be served at tables with food.

(2) Every person selling spirituous liquors as provided in this section shall procure a hotel and restaurant license, which license shall authorize the licensee to sell malt, vinous, and spirituous liquors as provided in section 75-2-21 of this section. The licensee shall pay to the department of revenue a license fee of twenty-five dollars annually in advance for each place where such liquors shall be sold and shall pay to the town, city, city and county, or county, an annual license fee of three hundred and twenty-five dollars in advance for such place where such liquor shall be sold. Such license shall be in lieu of that provided by section 75-2-21.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

A BILL FOR AN ACT

AMENDING 75-2-3 (13) AND (15), COLORADO REVISED STATUTES 1953,
AND ADDING A NEW SUBSECTION (21) TO SAID SECTION 75-2-3,
CONCERNING THE DELIVERY OF MALT, VINOUS, AND SPIRITUOUS
LIQUORS SOLD BY RETAIL LIQUOR STORES OR LIQUOR LICENSED
DRUG STORES.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 75-2-3 (13) and (15), Colorado Revised Statutes
1953, are hereby amended to read:

75-2-3. Unlawful acts. (13) For any retailer ~~or consumer,~~
to buy any vinous or spirituous liquor from any person not li-
censed to sell and deliver at wholesale ~~or retail,~~ OR FOR ANY
CONSUMER TO BUY ANY VINOUS OR SPIRITUOUS LIQUOR FROM ANY PERSON
NOT LICENSED TO SELL AT RETAIL or serve the same as provided by
this article.

(15) ~~No person shall peddle wine, beer or spirituous~~
~~liquor~~ TO SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS at wholesale
~~or~~ by means of a truck or other vehicle, where the sale is con-
summated and delivery made concurrently, but nothing herein
shall prevent delivery from truck or other vehicle of orders
previously taken.

SECTION 2. 75-2-3, Colorado Revised Statutes 1953, as
amended, is hereby amended by the addition of a NEW SUBSECTION
to read:

75-2-3. Unlawful acts. (21) In the case of a retail
liquor store or liquor licensed drug store, to make delivery

of any malt, vinous, or spirituous liquors except on the premises where licensed and sold.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.