



COMPLIANCE ALERT

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Wine Flows into Grocery and Convenience Stores: The Passage of Proposition 125.

In Colorado's election on November 7, 2022, Colorado voters took to the polls to decide the fate of several major revisions to the Colorado Liquor Code. Though Proposition 124 (expanding ownership of retail liquor store licenses) and Proposition 126 (allowing the delivery of alcoholic beverages through third-party service providers) ultimately failed, Proposition 125 appears it will inch its way to victory.

For context, the Colorado legislature made its first major change to the Colorado Liquor Code for off-premises alcohol sales in 2016, when, in addition to other revisions, it removed an ancient law from the Prohibition era that limited grocery and convenience stores to the sale of 3.2% beer. Since then, the Colorado legislature has been continuing to eradicate other Prohibition-related restrictions in the Colorado Liquor Code, as demonstrated in Proposition 125.

Proposition 125 allows off-premises fermented malt beverage retailers ("FMB Retailers"), i.e., grocery and convenience stores selling beer for off-premises consumption, to begin selling wine as of March 1, 2023. Current FMB retailers (which are now over 1,800 licensees) will not have to apply for a new license type to be afforded this opportunity. Rather, per Proposition 125's revisions to the Colorado Liquor Code, their current Fermented Malt Beverage licenses will be automatically converted to a "Fermented Malt Beverage and Wine Retailer" license on March 1, 2023. For those retailers who do not currently have a Fermented Malt Beverage license, they can still apply for the new Fermented Malt Beverage and Wine Retailer license starting March 1, 2023, which is now the only type of Fermented Malt Beverage license available for off-premises alcohol sales. In other words, interested retailers can only apply for a Fermented Malt Beverage and Wine Retailer license for off-premises alcohol sales, even if they are only intending to sell beer in their stores. Moreover, this new license will also allow for retailers, upon an approved application, to conduct on-premises tastings of beer or wine, which was traditionally reserved for retail liquor stores and liquor-licensed drugstores.



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However, please note that the Liquor Enforcement Division of Colorado's Department of Revenue will still need to undertake rulemaking for the new law, which could affect the liquor license renewal process and similar documentation. Nonetheless, many of the traditional criteria will continue to apply to a Fermented Malt Beverage and Wine Retailer license. For instance, with limited exceptions, the applicant's location cannot be within 500 feet of a retail liquor store or a school, and, if the license is already granted, the licensed location cannot be moved within 1,500 feet of a retail liquor store. Harsher restrictions apply to municipalities with populations of 10,000 or fewer.

If you have any questions about navigating Proposition 125, or the potential rulemaking to follow, please give us a call to see how we can help.