



# COMPLIANCE ALERT

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## Proposition 125: Update on Rulemaking

As of March 1, 2023, Proposition 125 has allowed off-premises fermented malt beverage retailers (“FMB Retailers”), i.e., grocery and convenience stores selling beer for off-premises consumption, to begin selling wine under the new Fermented Malt Beverage and Wine Retailer License, which several FMB Retailers have already begun rolling out into their stores.

Many of the liquor rules and regulations will continue to apply to the Fermented Malt Beverage and Wine Retailer License as before. 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. More strict restrictions apply to municipalities with populations of 10,000 or fewer.

As recently issued by Colorado’s Liquor Enforcement Division, modifications of the FMB Retailers’ liquor-licensed premises will not be required unless the premises will be materially or substantially changed through the sale of wine. For example, if an FMB Retailer is simply adding wine products to existing shelves in the premises, then the chances a modification would be required are slim. Conversely, if the same FMB Retailer is adding square footage to the premises for wine sales or removing entire aisles and shelves to add wine racks or similar shelves for wines sales, then the chances a modification would be required would be much higher.

Furthermore, FMB Retailers must be careful to ensure they understand the age requirements for their employees who handle, sell, or deliver alcohol products. Employees under 18 years of age may still handle alcohol products like any other retail inventory, i.e., unloading and stocking, but employees who dispense, serve, or sell alcohol must be at least 18 years of age. Moreover, deliveries of alcohol products must be made by employees of the FMB Retailer who are at least 21 years of age, in addition to complying with the other rules and regulations on deliveries of alcohol products and acquiring the requisite permit.

Give us a call to see how we can help if you have any questions navigating the changes associated with Proposition 125 or the new rules around the age of employees, tasting requirements, modifications of premises, and distance restrictions.