



2020 Colorado Law Changes

Alcohol

Alcohol for Takeout and Delivery from On-Premises Licenses

Senate Bill 213 by Senators **Bridges** (D-Littleton) and **Priola** (R-Brighton), and Representatives **Larson** (R-Ken Caryl) and **Roberts** (D-Steamboat Springs) continues the allowance for on-premises licensees to sell alcohol beverages for takeout and delivery until July 1, 2021. During a declared state of emergency because of a public health crisis, not much changes operationally from the executive order, except that food doesn't need to be sold with alcohol in order for the alcohol to be taken off the premises. Outside of a declared state of emergency, some limits do go into effect:

- No more than 50% of an on-premises licensee's total annual revenue can come from the sale of alcohol for takeout or delivery.
- On a specific transaction for takeout or delivery, no more than 750 ml of wine, 750 ml of spirits, or 72 ounces of beer can be sold.
- In order to offer takeout or delivery of alcohol from an on-premises license, the licensee must get a permit from the state (who shall issue the permit to a business that qualifies) and from the local licensing authority, if the local licensing authority creates a permit (if a local jurisdiction doesn't have a permit, only a state permit is required).

The CRA actively supported this legislation.

Vintner's Restaurant Alternating Proprietor

House Bill 1055 by Representatives **Garnett** (D- Denver) and **Liston** (R- Colorado Springs) and Senators **Bridges** (D- Centennial) and **Priola** (R- Henderson) allows vintner's restaurant licensees to apply for permission to manufacture their products on alternating proprietor licensed premises. This would allow the licensee to manufacture their products on one licensed premise and then transport the products to one of their other licensed premises.

The CRA supported this bill and testified in committee in a support position.

State Budget

Hospitality Education Grant Program

The CRA and the Colorado Restaurant Foundation (CRF) worked with the Colorado Department of Labor and Employment (CDLE) to ensure that the Hospitality Education Grant Program funding remained in the budget. The Joint Budget Committee had to remove nearly \$3 billion in state spending due to the



economic impact of COVID-19. This meant many programs were being slashed from the state budget. However, because of the work by the CRA and the CRF, this program was defended by CDLE and remained in the final state budget.

The CRF has utilized this grant funding over recent years to expand to 44 schools and is expected culinary and hospitality education to serve more than 1,200 students in the upcoming academic year. Additionally:

- 31 high schools have confirmed their partnership with Metropolitan State University of Denver's School of Hospitality on a CO ProStart Concurrent/Dual Credit Program. Expected enrollment 600 students.
- 50 Youth Apprentices are confirmed for Culinary Arts YA programs at Cherry Creek Innovation Campus and Warren Tech.
- 36 students are confirmed for the CCIC Lodging and Resort Management pilot-program.

Taxes

Adjust Tax Expenditures for State Education Fund

House Bill 1420 by Representatives **Sirota** (D-Glendale) and **Gray** (D-Broomfield) and Senators **Moreno** (D-Commerce City) and **Hansen** (D-Denver) would have decoupled the state from several valuable federal business tax deductions, capped the net operating loss tax exemption at \$400,000, and eliminated the manufactured energy tax exemption and regional home office tax credit. This would have cost businesses hundreds of millions of dollars per year.

The bill was almost completely gutted after a tremendous outcry from the business community, including the Colorado Restaurant Association.

Introduced

- Would have capped the utility sales tax credit to a max of \$1,000 per entity
- Would have capped the current net operating loss tax exemption that businesses take to carry forward business losses to \$400,000 a year
- Would have removed a long-standing regional home office tax credit

Amended/Final

- Removed the proposed cap on the utility sales tax credit; businesses can take the credit, like always
- Removed the \$400,000 cap on the current net operating loss tax exemption that businesses take for the carry-forward of business losses
- Allowed continuation of the long-standing regional home office tax credit
- Removed detrimental annuity plan language
- Increased the thresholds of the tax deduction allowed under the federal



Tax Cuts & Jobs Act 199A deduction
thereby protecting small and mid-sized
businesses that take the deduction.

The CRA worked with the business community to amend this legislation, as it was clear this was going to pass.

State Addresses Data for Sales and Use Tax Collection

House Bill 1023 by Representatives **Kraft-Tharp** (D- Arvada) and **Van Winkle** (R- Highlands Ranch) and Senators **Williams** (D- Denver) and **Tate** (R- Centennial) establishes a hold harmless provision for businesses that use the State's geographic information system database to determine the sales and use tax rates for different jurisdictions, with the requirement that the database be at least 95% accurate. This prevents businesses from being held liable for any miscalculations or incorrect sales tax payment if they are using this database.

The CRA supported this bill.

Labor Issues

Unemployment Insurance

Senate Bill 207 by Senators **Hansen** (D- Denver) and **Winter** (D- Westminster), and Representatives **Gray** (D- Broomfield) and **Sullivan** (D- Centennial) changes the way unemployment insurance claims are handled for workers who have been laid off or furloughed due to COVID-19 for the next two calendar years.

This bill will increase the partial unemployment benefit an individual is eligible to receive and the qualifying reasons they can receive them. Under the current system, an employee can earn up to 25% of their weekly benefit amount and still be paid their full benefit payment. After that, the Division of Unemployment Insurance will reduce their benefit payment by one dollar for each dollar earned. For example, if the weekly benefit amount is \$100, they can earn up to \$25 per week and still receive the full \$100 per week. This bill changes the formula to allow employees to earn up to 50% of their weekly benefit amount and still be paid their full benefit payment.

The bill also makes changes to the Work Share Program. Under existing law, businesses can apply for the Work Share program to allow their employees to collect unemployment benefits while working so long as the employees' normal weekly work hours have been decreased by at least 10% and no more than 40%. This new bill removes the 40% limit and allows the division to set the new threshold in rule making.



The bill changes qualifying reasons an individual can receive unemployment benefits, and requires the division to consider the following reasons for job separation when granting their full or partial benefit:

- Separating from employment because the employer requires the employee to work in an environment that is not in compliance with federal centers of disease control, state and federal laws concerning disease mitigation, an Executive Order requiring the employer to close/change the operation of their business, or a public health order to close/change the operation of the business.
- Separating from employment because the employee is the primary caretakers of a child enrolled in a school that is closed due to a public health emergency or a family member/household member who is quarantined due to an illness during a public health emergency.
- Separating from employment because the employee is immunocompromised and more susceptible to illness or disease during a public health emergency as evidenced by the employee's health care provider.

Finally, the bill makes changes to increase the employee wage base. The wage base is multiplied by an employer's combined rating to calculate their unemployment premiums. The wage base will be increased incrementally until it reaches \$30,600 in 2026. The wage base increase was put into the bill instead of implementing the unemployment fund solvency surcharge. As it currently stands, the state unemployment fund is projected to be completely insolvent by the end of June, 2020. We anticipate that the conversation around this bill will continue going forward, and we may see changes to the incremental wage base increase in future legislative sessions.

The CRA was opposed to this bill and worked with a broader business coalition to advocate for business friendly amendments. The bill was signed into law by the Governor.

Paid Sick Leave

Senate Bill 205 by Senators Fenberg (D-Boulder) Bridges (D-Littleton) and Representatives Becker (D-Boulder) Caraveo (D-Thornton) requires that businesses allow workers one hour of paid sick leave for every 30 hours worked with a max of 48 hours a year. These hours can be used by an employee who is sick, has medical appointments, or needs to help a family member who is sick or has medical appointments. During a declared health emergency, employers must provide 80 hours of paid sick leave.

Introduced

- Contained a rebuttable presumption of guilt that if an employer took any adverse action against an employee within 90 days of the employee using their paid sick leave, it was assumed that the action was taken because the employee took paid sick leave.
- The definition of "family member" was very broad and would have included people who are normally not considered family members like roommates.
- No ability for the employer to remedy a problem before litigation.



- Would have allowed an employee to carry over 48 hours of paid leave at the end of the year, use that 48 hours, and accrue an additional 48 during the year.
- Required an employer to reinstate an employee’s earned leave if they leave employment and return within a year.
- Would not have allowed employers to determine policies on how paid sick leave is requested.
- No documentation needed to be provided by the employee in order to take any amount of leave.
- During a declared health emergency, employees get an additional 80 hours of paid sick leave.
- No recourse for employers if an employee used the sick leave in a way that wasn’t allowed.

Amended/Final

- Removed the rebuttable presumption of guilt.
- Definition of “Family member” was narrowed to a person whom the employee is responsible for providing health or safety related care.
- Employers have 14 days to remedy a problem before litigation.
- Capped the amount of time an employee can take paid sick leave to 48 hours a year, including any hours that were rolled over from the previous year.
- Required an employer to reinstate an employee’s earned leave if they leave employment and return within 6 months.
- Allows employers to determine policies on how paid sick leave can be requested to include oral, written, or electronic requests.
- Required that for leave of four or more days, the employer can require documentation – like a doctor’s note – that the leave is for an authorized purpose in the bill.
- Allows an employer to count an employee’s unused paid sick leave toward the 80 hours of paid sick leave required during a declared health emergency.
- Allows an employer to discipline an employee for violating any provisions of the law

The CRA worked with the business community to amend this legislation as it was clear this was going to pass.

Whistleblower Protection in Public Health Emergencies

House Bill 1415 by Representatives **Herod** (D-Denver) and **Sullivan** (D-Centennial) and Senators **Pettersen** (D-Lakewood) and **Rodriguez** (D-Denver) prohibits discrimination and retaliation against employees who raise workplace safety concerns during a public health emergency. This bill was amended multiple times as it moved through the process.

Introduced



- Contained a rebuttable presumption of guilt that if an employer took any adverse action against an employee within 90 days of the employee who raised workplace safety concerns, it was assumed that the action was taken because the employee raised the concerns.
- Allowed an employee to file a civil suit without any other action needed to be taken first, increasing litigation costs for employers.
- Allowed for investigating of claims made prior to the implementation of this legislation.
- Would have included a broad range of employers.

Amended/Final

- Removed the rebuttable presumption of guilt.
- Requires that all administrative processes be exhausted first before an employee can file a civil suit.
- Ensures that the bill is not retroactive and only applies to investigative complaints made after the bill is signed into law.
- Limits the definition of employer to an employer defined under the FLSA or one who contracts with 5 or more independent contractors.
- Clarifies that workers can still be terminated if they break other company policies



The CRA worked with the business community to amend this legislation as it was clear this was going to pass.

General Business

Dogs on Restaurant Patios

Senate Bill 78 by Senator **Donovan** (D- Edwards), and Representatives **Garnett** (D- Denver) and **Neville** (R- Parker) authorizes retail food establishments to allow a person to bring their pet dog onto an outdoor dining area if certain conditions are met. The conditions outlined in the bill are very similar to the requirements in the existing statute that businesses would have to meet to seek their local governing body's approval.

The CRA supported this bill and testified in committee in a support position.

COVID-19 Response Bills

Use CARES Act Money Small Business Grant Program

Senate Bill 222 by Senators **Winter** (D- Westminster) and **Bridges** (D- Centennial), and Representatives **Young** (D- Greeley) and **Will** (R- New Castle) establishes a \$20 million small business grant program using federal CARES Act dollars. Businesses with fewer than 25 employees, measured as full-time equivalent, who have been affected by economic hardship caused by COVID-19 are eligible. \$5 million of the money is reserved for small businesses within the tourism sector, including restaurants. Preference is given to small businesses that did not qualify for or receive a paycheck protection program (PPP) loan; is majority-owned by veterans, women, or minorities; or is located in a rural area.

The CRA actively supported this bill. Prior to the restart of the legislative session, the CRA wrote letters requesting a business grant program to the members of the General Assembly and Governor Polis. We were pleased to see that this request come to fruition.

Small Business Recovery Loan Program Premium Tax Credits

HB 1413 by Representatives **Bird** (D- Westminster) and **Cutter** (D- Jefferson County), and Senators **Zenzinger** (D- Arvada) and **Donovan** (D- Edwards) establishes a small business recovery loan program through the state. The program will be managed by an oversight board consisting of 5 appointed officials consisting of the State Treasurer, the Director of the Office of Economic Development, an appointee of the Speaker of the House, an appointee of the Senate President, and an appointee of the Governor. The program is funded by the proceeds from insurance premium tax credit purchases. The program will be funded in tranches; the state treasurer may invest up to \$30 million in FY 2020-21 and



up to \$30 million in FY 2021-22. The total invested across both fiscal years may not exceed \$50 million. To be eligible, a business must:

- have its principal place of business in the state, and
- have at least 5 but fewer than 100 employees, and
- demonstrate that it had at least 2 consecutive years of positive cash flow prior to February 29, 2020, and
- demonstrate that it had a debt-service coverage ratio as of February 29, 2020 of a least one-to-one.

The loan must be at least \$30,000 but no more than \$500,000. The loans will have a 5-year term with no penalty for prepayment. Principal and interest payments may be deferred for up to one year. The interest rates will be set by the oversight board but must be lower than would otherwise be available on a risk-adjusted basis from a commercial lender.

The CRA actively supported this bill. The CRA had also asked the General Assembly and the Governor to implement a small business COVID-19 loan program in our letters, and we are pleased to see the legislature pass this bill.

2020 General Assembly Extraordinary Session

State lawmakers adjourned from the first extraordinary session of the seventy-second General Assembly in early December 2020. After being called back by Governor Polis to consider urgent legislation related to COVID-19, state legislators passed 10 bills targeted toward four legislative goals:

1. A small business relief package with direct aid and tax relief
2. Housing and rental assistance
3. Support for child care providers
4. Expanding broadband access to students and educators

Of those 10 bills, three provided direct relief to restaurants through business assistance grants, sales tax relief, and the temporary ability for counties to regulate third party delivery companies. We were actively involved by advocating for restaurants through this legislative process, and we are grateful to the state legislature and Governor Polis for their efforts to provide much needed relief to the Colorado restaurant community.

Below are the bills that we actively lobbied, tracked, or amended:

[Special Session Senate Bill 001](#) COVID-19 Relief for Small and Minority Business and Arts Organizations by Senators Winter (D- Westminster) and Priola (R- Henderson) and Representative Herod (D- Denver) provided \$37 million for direct relief to small businesses located in a county or other local government that is subject to, and in compliance with, severe capacity restrictions – specifically restaurants, bars, movie theaters, and gyms. The bill also provided state funding to the state Liquor Enforcement Division



and the Department of Public Health and Environment in lieu of those agencies charging annual licensing fees to retail food establishments.

Eligible counties were those that demonstrated good-faith efforts to promote compliance with applicable executive and public health orders within the scope of its authority and in consideration of available resources, including engaging law enforcement to enforce executive and public health order violations, and did not adopt a local public health order that was less restrictive than the state public health orders unless the county has obtained a variance or other exemption. If a county was determined by the state to be ineligible based on the county's failure to meet the criteria of the public health guidelines or the county was unable to administer the relief program, eligible municipalities within the county were able participate in the relief program.

If an eligible municipality distributed relief payments to the eligible small businesses located within the geographical boundaries of the municipality, and has money remaining, the municipality could distribute relief payments to small businesses located in an unincorporated area of the county in which the municipality is located, and within a one-mile radius of the geographical boundaries of the municipality.

Restaurants who proved at least twenty percent revenue loss since March 26, 2020 due to public health restrictions were able to apply for financial relief through their local governments. Please note that this requirement did not apply to small businesses that began operating on or after January 1, 2020 and on or before March 26, 2020.

Depending on 2019 receipts, restaurants were eligible for funds ranging \$3,500 - \$7,000. The state also waived fees associated with retail food and liquor license renewals for one year.

Restaurateurs were able to apply for these grant funds starting early January 2021.

Special Session Senate Bill 003 Money for Energy Utility Bill Payment Assistance by Senators Fields (D – Aurora) and Crowder (R – Alamosa County) and Representatives Duran (D – Wheatridge) and Landgraf (R – Fountain) directed \$5 million to the energy outreach Colorado low-income energy assistance fund.

Low-income households were eligible for direct utility bill payment assistance under this law, which supported industry employees experiencing temporary unemployment due to COVID-19.

Special Session Senate Bill 002 Housing and Direct COVID Emergency Assistance by Senators Gonzales (D – Denver) and Holbert (R – Parker) and Representatives Exum (D – Colorado Springs) and Tipper (D – Lakewood) provided \$44.5 million to the housing development grant fund to provide emergency housing assistance to individuals and households who experienced financial need due to COVID-19. The bill also provided \$500,000 to the eviction legal defense fund to provide legal representation to tenants to resolve civil legal matters arising after March 1, 2020 concerning an eviction or impending evictions related to COVID-19.

Individuals experiencing housing insecurity due to COVID-19 became eligible for housing support and legal representation under this law, which supported industry employees experiencing temporary unemployment due to COVID-19.



[Special Session House Bill 1004](#) Qualified Retailer Retain Sales Tax For Assistance by Representatives A Valdez (D-Denver) and Van Winkle (R-Highlands Ranch) and Senators Bridges (D-Littleton) and Tate (R-Centennial) allowed specific businesses (including restaurants) to keep a portion of the state sales tax they collect.

Qualified businesses were allowed to keep up to \$2,000/month of the state sales tax they collect for the months of November and December 2020 and January and February 2021. This allowance is capped at five locations per business.

[Special Session House Bill 1005](#) Local Authority To Impose Food Delivery Fee Restrictions by Representative Bird (D-Westminster) allowed counties and statutory cities and towns to regulate third-party delivery companies. The regulatory authority was limited to the fees charged to restaurants, prohibited a third-party delivery company from reducing driver compensation, required a third-party delivery company to disclose all fees to the consumer, and restricted the third-party delivery company from performing services for restaurants without their consent.