

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0630.01 Christy Chase x2008

SENATE BILL 17-143

SENATE SPONSORSHIP

Williams A., Court, Fenberg, Hill, Kagan, Kerr, Tate, Todd

HOUSE SPONSORSHIP

Nordberg and Garnett,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE RETAIL SALE OF ALCOHOL BEVERAGES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

In the 2016 legislative session, the general assembly enacted Senate Bill 16-197, which changed the system for licensing establishments that are authorized to sell alcohol beverages in sealed containers to customers for consumption off the licensed premises, referred to as the "retail sale" or "sale at retail" of alcohol beverages. Some of the changes made by the 2016 legislation include:

- ! Authorizing persons licensed to sell at retail on or before January 1, 2016, to obtain multiple retail licenses, subject

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

to a tiered schedule, to restrictions based on proximity to another retail licensed premises, and to other requirements and limitations;

- ! Allowing retail liquor stores to sell a broad array of nonalcohol products, subject to a 20% limit on gross sales revenue from the sale of nonalcohol products;
- ! Requiring retail licensees to check the identification of consumers purchasing alcohol beverages to verify that they are at least 21 years of age;
- ! Prohibiting employees of certain alcohol beverage licensees who are under 21 years of age from selling malt, vinous, or spirituous liquors; and
- ! Changing the hours during which fermented malt beverages may be sold from between 5 a.m. and 12 midnight to between 8 a.m. and 12 midnight.

The bill modifies portions of the 2016 legislation as follows:

- ! Modifies the definition of a liquor-licensed drugstore to specify that the licensee need not be a drugstore but must have a licensed drugstore within its premises (**section 1**);
- ! Excludes revenues from the sale of cigarettes, tobacco products, nicotine products, and lottery products from the calculation of the cap on a retail liquor store's gross revenues from the sale of nonalcohol products (**sections 1 and 3**);
- ! Imposes the proximity restrictions on a retail liquor store that is seeking permission to relocate its premises to ensure the new location is not within 1,500 feet of another business licensed to sell at retail, or, if in a small town, within 3,000 feet of another business with a retail sales license (**section 2**);
- ! Allows a liquor-licensed drugstore that applied for a new liquor-licensed drugstore license before October 1, 2016, to obtain multiple retail licenses, subject to the schedule established in the 2016 legislation (**section 4**);
- ! Allows a corporation member of a controlled group of corporations that owns or has an interest in a liquor-licensed drugstore to obtain interests in additional liquor-licensed drugstores in the same manner as any other member of the controlled group, but the entire group is subject to the limits on the total number of multiple licenses allowed under current law; (**section 4**)
- ! Restores the hours for permitted sales of fermented malt beverages to between 5 a.m. and 12 midnight (**section 5**);
- ! Clarifies that employees of a licensed tavern or lodging and entertainment facility that regularly serves meals, which

employees are under 21 years of age, are not prohibited from selling alcohol beverages (**section 5**);

! Repeals the requirement that retail sales licensees check customers' identification to verify their age (**sections 4 and 5**); and

! Exempts liquor-licensed drugstores from the prohibition against having an automated teller machine on the premises from which individuals enrolled in public assistance programs administered by the department of human services may obtain cash benefits through the electronic benefits transfer service (**section 6**).

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 12-47-103, **amend**
3 the introductory portion, (16), and (31) as follows:

4 **12-47-103. Definitions.** As used in this ~~article~~ ARTICLE 47 and
5 article 46 of this ~~title~~ TITLE 12, unless the context otherwise requires:

6 (16) "Liquor-licensed drugstore" means ~~any drugstore licensed by~~
7 ~~the state board of pharmacy~~ A BUSINESS that has also applied for and has
8 been granted a license by the state AND LOCAL licensing ~~authority~~
9 AUTHORITIES to sell malt, vinous, and spirituous liquors in original sealed
10 containers for consumption off the premises AND HAS A DRUGSTORE
11 LICENSED BY THE STATE BOARD OF PHARMACY WITHIN ITS PREMISES.

12 (31) "Retail liquor store" means an establishment engaged only in
13 the sale of malt, vinous, and spirituous liquors; CIGARETTES, TOBACCO
14 PRODUCTS, AND NICOTINE PRODUCTS, AS DEFINED IN SECTION 18-13-121
15 (5); LOTTERY PRODUCTS; and nonalcohol products, but only if the annual
16 gross revenues from the sale of nonalcohol products, EXCLUDING SALES
17 REVENUES FROM LOTTERY PRODUCTS AND CIGARETTES, TOBACCO
18 PRODUCTS, AND NICOTINE PRODUCTS, does not exceed twenty percent of
19 the retail liquor store's total annual gross SALES revenues.

1 **SECTION 2.** In Colorado Revised Statutes, 12-47-301, **amend**
2 (9)(a)(II) as follows:

3 **12-47-301. Licensing in general.** (9) (a) (II) (A) Notwithstanding
4 ~~subparagraph (I) of this paragraph (a)~~ SUBSECTION (9)(a)(I) OF THIS
5 SECTION, for a retail liquor store licensed on or before January 1, 2016,
6 the licensee may apply to move the permanent location to another place
7 within or outside the municipality or county in which the license was
8 originally granted.

9 (B) THE STATE AND LOCAL LICENSING AUTHORITIES SHALL NOT
10 GRANT PERMISSION UNDER THIS SUBSECTION (9)(a)(II) FOR A NEW
11 LOCATION WITHIN OR OUTSIDE THE MUNICIPALITY OR COUNTY IN WHICH
12 THE LICENSE WAS ORIGINALLY GRANTED IF THE NEW LOCATION IS WITHIN
13 ONE THOUSAND FIVE HUNDRED FEET OF ANOTHER LICENSED PREMISES
14 LICENSED TO SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS AT RETAIL FOR
15 CONSUMPTION OFF THE LICENSED PREMISES OR, FOR A PREMISES LOCATED
16 IN A MUNICIPALITY WITH A POPULATION OF TEN THOUSAND OR FEWER,
17 WITHIN THREE THOUSAND FEET OF ANOTHER LICENSED PREMISES LICENSED
18 TO SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS AT RETAIL FOR
19 CONSUMPTION OFF THE LICENSED PREMISES.

20 (C) It is unlawful for the licensee to sell any alcohol beverages at
21 the new location until permission is granted by the state and local
22 licensing authorities.

23 **SECTION 3.** In Colorado Revised Statutes, 12-47-407, **amend**
24 (1)(b) as follows:

25 **12-47-407. Retail liquor store license.** (1) (b) In addition, retail
26 liquor stores may sell ~~any~~ LOTTERY PRODUCTS; CIGARETTES, TOBACCO
27 PRODUCTS, AND NICOTINE PRODUCTS, AS DEFINED IN SECTION 18-13-121

1 (5); AND nonalcohol products, but only if the annual gross revenues from
2 the sale of nonalcohol products, EXCLUDING SALES REVENUES FROM
3 LOTTERY PRODUCTS AND CIGARETTES, TOBACCO PRODUCTS, AND NICOTINE
4 PRODUCTS, do not exceed twenty percent of the retail liquor store's total
5 annual gross SALES revenues.

6 **SECTION 4.** In Colorado Revised Statutes, 12-47-408, **amend**
7 (1)(b)(I) introductory portion, (2)(a)(III), (4)(a), and (4)(b)(IV)
8 introductory portion; **repeal** (2)(a)(IV); and **add** (4)(c) as follows:

9 **12-47-408. Liquor-licensed drugstore license - multiple**
10 **licenses permitted - requirements - repeal.** (1) (b) (I) On or after
11 January 1, 2017, to qualify for an additional liquor-licensed drugstore
12 license under this section, a liquor-licensed drugstore licensee, A
13 CORPORATION WITHIN A CONTROLLED GROUP OF CORPORATIONS AS
14 DESCRIBED IN SUBSECTION (4)(c) OF THIS SECTION, or a retail liquor store
15 licensee that was licensed as a liquor-licensed drugstore on February 21,
16 2016, must apply to the state and local licensing authorities, as part of a
17 single application, for a transfer of ownership of at least two licensed
18 retail liquor stores that were licensed or had applied for a license on or
19 before May 1, 2016, a change of location of one of the retail liquor stores,
20 and a merger and conversion of the retail liquor store licenses into a
21 single liquor-licensed drugstore license. The applicant may apply for a
22 transfer, change of location, and merger and conversion only if all of the
23 following requirements are met:

24 (2) (a) A person licensed under this section to sell malt, vinous,
25 and spirituous liquors as provided in this section shall:

26 (III) Not allow consumers to purchase malt, vinous, or spirituous
27 liquors at a self-checkout or other mechanism that allows the consumer

1 to complete the alcohol beverage purchase without assistance from and
2 completion of the transaction by an employee of the liquor-licensed
3 drugstore; AND

4 ~~(IV) Require, in accordance with section 12-47-901 (10),~~
5 ~~consumers attempting to purchase malt, vinous, or spirituous liquors to~~
6 ~~present a valid identification, as determined by the state licensing~~
7 ~~authority by rule; and~~

8 (4) (a) Except as provided in ~~paragraph (b) of this subsection (4)~~
9 SUBSECTION (4)(b) AND (4)(c) OF THIS SECTION, it is unlawful for any
10 owner, part owner, shareholder, or person interested directly or indirectly
11 in a liquor-licensed drugstore to conduct, own either in whole or in part,
12 or be directly or indirectly interested in any other business licensed
13 pursuant to this article.

14 (b) An owner, part owner, shareholder, or person interested
15 directly or indirectly in a liquor-licensed drugstore may have an interest
16 in:

17 (IV) For a liquor-licensed drugstore licensed on or before January
18 1, 2016, OR A LIQUOR-LICENSED DRUGSTORE THAT SUBMITTED AN
19 APPLICATION FOR A NEW LIQUOR-LICENSED DRUGSTORE LICENSE BEFORE
20 OCTOBER 1, 2016, additional liquor-licensed drugstore licenses as
21 follows, but only if obtained in accordance with ~~paragraph (b) of~~
22 ~~subsection (1)~~ SUBSECTION (1)(b) of this section:

23 (c) A CORPORATION WITHIN A CONTROLLED GROUP OF
24 CORPORATIONS, AS DETERMINED UNDER 26 U.S.C. SEC. 1563 (a) AND
25 IMPLEMENTING REGULATIONS, THAT FULLY OR PARTIALLY OWNS OR HAS
26 A DIRECT OR INDIRECT INTEREST IN A LIQUOR-LICENSED DRUGSTORE HAS
27 THE SAME ELIGIBILITY TO HAVE AN INTEREST IN ADDITIONAL

1 LIQUOR-LICENSED DRUGSTORES PURSUANT TO SUBSECTION (4)(b)(IV) OF
2 THIS SECTION AS ANY OTHER MEMBER OF THE SAME CONTROLLED GROUP
3 OF CORPORATIONS, BUT THE ENTIRE CONTROLLED GROUP OF
4 CORPORATIONS IS SUBJECT TO THE LIMITATION ON THE NUMBER OF
5 ADDITIONAL COMMONLY OWNED LIQUOR-LICENSED DRUGSTORES
6 SPECIFIED IN SAID SUBSECTION (4)(b)(IV).

7 **SECTION 5.** In Colorado Revised Statutes, 12-47-901, **amend**
8 (5) introductory portion, (5)(c), and (5)(p)(II); and **repeal** (10) as follows:

9 **12-47-901. Unlawful acts - exceptions - definitions.** (5) It is
10 unlawful for any person licensed to sell at retail pursuant to this ~~article~~
11 ARTICLE 47 or article 46 of this ~~title~~ TITLE 12:

12 (c) Except as provided in section 18-13-122, ~~C.R.S.~~, to sell
13 fermented malt beverages to any person under the age of twenty-one years
14 or to any person between the hours of:

15 (I) 12 midnight and 8 a.m., IF SELLING FERMENTED MALT
16 BEVERAGES IN SEALED CONTAINERS; AND

17 (II) 2 A.M. AND 5 A.M., IF SELLING FERMENTED MALT BEVERAGES
18 FOR CONSUMPTION ON THE LICENSED PREMISES;

19 (p) (II) If licensed as a tavern under section 12-47-412 THAT DOES
20 NOT REGULARLY SERVE MEALS, a lodging and entertainment facility under
21 section 12-47-426 THAT DOES NOT REGULARLY SERVE MEALS, a retail
22 liquor store under section 12-47-407, or a liquor-licensed drugstore under
23 section 12-47-408, to permit an employee who is under twenty-one years
24 of age to sell malt, vinous, or spirituous liquors; or

25 (10) ~~(a) Except as provided in paragraph (b) of this subsection~~
26 ~~(10), it is unlawful for a retail licensee or an employee of a retail licensee~~
27 ~~to sell malt, vinous, or spirituous liquors to a consumer for consumption~~

1 off the licensed premises unless the retail licensee or employee verifies
2 that the consumer is at least twenty-one years of age by requiring the
3 consumer to present a valid identification, as determined by the state
4 licensing authority by rule. The retail licensee or employee shall make a
5 determination from the information presented whether the purchaser is at
6 least twenty-one years of age.

7 (b) It is not unlawful for a retail licensee or employee of a retail
8 licensee to sell malt, vinous, or spirituous liquors to a consumer who is
9 or reasonably appears to be over fifty years of age and who failed to
10 present an acceptable form of identification.

11 (c) As used in this subsection (10), "retail licensee" means a
12 person licensed under section 12-46-104(1)(c), 12-47-407, or 12-47-408.

13 **SECTION 6.** In Colorado Revised Statutes, 26-2-104, **amend**
14 (2)(a)(II)(C), (2)(h)(I) introductory portion, and (2)(h)(I)(B) as follows:

15 **26-2-104. Public assistance programs - electronic benefits**
16 **transfer service - joint reports with department of revenue - signs -**
17 **rules.** (2) (a) (II) Only those businesses that offer products or services
18 related to the purpose of the public assistance benefits are allowed to
19 participate in the electronic benefits transfer service through the use of
20 point of sale terminals. Clients shall not be allowed to access cash
21 benefits through the electronic benefits transfer service from automated
22 teller machines in this state located in:

23 (C) Retail establishments licensed to sell malt, vinous, or
24 spirituous liquors pursuant to part 3 of article 47 of title 12; ~~C.R.S.~~
25 EXCEPT THAT THE PROHIBITION IN THIS SUBSECTION (2)(a)(II)(C) DOES
26 NOT APPLY TO ESTABLISHMENTS LICENSED AS LIQUOR-LICENSED
27 DRUGSTORES UNDER SECTION 12-47-408;

1 (h) (I) On or before January 1, 2016, the department of revenue
2 shall adopt rules pursuant to the "State Administrative Procedure Act",
3 article 4 of title 24, ~~C.R.S.~~, that relate to a client's use of automated teller
4 machines at locations where such use is prohibited. The rules must apply
5 to the following establishments:

6 (B) Retail establishments licensed to sell malt, vinous, or
7 spirituous liquors pursuant to part 3 of article 47 of title 12, ~~C.R.S.~~
8 EXCLUDING ESTABLISHMENTS LICENSED AS LIQUOR-LICENSED
9 DRUGSTORES UNDER SECTION 12-47-408;

10 **SECTION 7. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part will not take effect
17 unless approved by the people at the general election to be held in
18 November 2018 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.