

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0824.01 Jery Payne x2157

SENATE BILL 18-138

SENATE SPONSORSHIP

Gardner and Kerr,

HOUSE SPONSORSHIP

Gray and Liston,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING AUTHORIZATION FOR RETAIL SELLERS OF ALCOHOL
102 BEVERAGES FOR ON-PREMISES CONSUMPTION TO SELL
103 REMAINING INVENTORY TO ANOTHER ON-PREMISES RETAIL
104 SELLER OF ALCOHOL BEVERAGES WITH WHOM THERE IS
105 COMMON OWNERSHIP WHEN NO LONGER LICENSED TO SELL
106 ALCOHOL BEVERAGES FOR ON-PREMISES CONSUMPTION.

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>.)

The bill allows persons with the following retail licenses to

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

purchase alcohol beverages from another retail licensee when there is common ownership between the licensees and the seller has surrendered its license within the last 60 days:

- ! Beer and wine;
- ! Hotel and restaurant;
- ! Tavern;
- ! Retail gaming tavern;
- ! Brew pub;
- ! Club;
- ! Arts nonprofit;
- ! Racetrack;
- ! Vintner's restaurant;
- ! Distillery pub; or
- ! Lodging and entertainment facility.

The seller must return all alcohol beverages bought on credit, allow wholesalers 30 days to purchase back inventory, have paid all wholesale bills, and sell to only one licensed premises. A wholesaler is prohibited from transporting the inventory from the seller's premises to the buyer's premises. The seller may transport the inventory.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 12-47-427 as
3 follows:

4 **12-47-427. Purchasing alcohol from a surrendered license of**
5 **common ownership - definition.** (1) THIS SECTION APPLIES TO A PERSON
6 THAT HAS BEEN ISSUED THE FOLLOWING LICENSE TYPES:

- 7 (a) BEER AND WINE LICENSE UNDER SECTION 12-47-409;
- 8 (b) HOTEL AND RESTAURANT LICENSE UNDER SECTION 12-47-411;
- 9 (c) TAVERN LICENSE UNDER SECTION 12-47-412;
- 10 (d) RETAIL GAMING TAVERN LICENSE UNDER SECTION 12-47-414;
- 11 (e) BREW PUB LICENSE UNDER SECTION 12-47-415;
- 12 (f) CLUB LICENSE UNDER SECTION 12-47-416;
- 13 (g) ARTS LICENSE UNDER SECTION 12-47-417;
- 14 (h) RACETRACK LICENSE UNDER SECTION 12-47-418;

1 (i) VINTNER'S RESTAURANT LICENSE UNDER SECTION 12-47-420;
2 (j) DISTILLERY PUB LICENSE UNDER SECTION 12-47-424; OR
3 (k) LODGING AND ENTERTAINMENT FACILITY LICENSE UNDER
4 SECTION 12-47-426.

5 (2) NOTWITHSTANDING SECTIONS 12-47-402, 12-47-409,
6 12-47-411, 12-47-412, 12-47-414, 12-47-415, 12-47-416, 12-47-417,
7 12-47-418, 12-47-420, 12-47-424, AND 12-47-901, A CURRENT LICENSEE
8 LISTED IN SUBSECTION (1) OF THIS SECTION MAY PURCHASE THE
9 REMAINING ALCOHOL BEVERAGE INVENTORY FROM A FORMER LICENSEE
10 LISTED IN SUBSECTION (1) OF THIS SECTION IF:

11 (a) WITHIN THE LAST SIXTY DAYS, THE SELLER'S LICENSE FOR A
12 LICENSED PREMISES HAS BEEN SURRENDERED OR REVOKED; AND

13 (b) THERE IS COMMON OWNERSHIP BETWEEN THE SELLER AND THE
14 PURCHASER.

15 (3) IN ORDER TO SELL THE REMAINING ALCOHOL BEVERAGE
16 INVENTORY FROM A LICENSED PREMISES FOR WHICH A LICENSE IS BEING
17 SURRENDERED OR REVOKED TO ANOTHER LICENSEE LISTED IN SUBSECTION
18 (1) OF THIS SECTION, THE SELLER MUST:

19 (a) HAVE SURRENDERED THE LICENSE FOR THE PREMISES WITHIN
20 THE LAST SIXTY DAYS OR HAVE HAD THE LICENSE FOR THE PREMISES
21 REVOKED WITHIN THE LAST SIXTY DAYS;

22 (b) RETURN, WITHIN THIRTY DAYS AFTER THE LICENSE WAS
23 SURRENDERED OR REVOKED, ALL ALCOHOL BEVERAGES THAT THE SELLER
24 HAS NOT PAID FOR TO THE WHOLESALER FROM WHOM THE SELLER
25 OBTAINED THE ALCOHOL BEVERAGES ON CREDIT, AND THE WHOLESALER
26 SHALL CANCEL THE DEBT FOR THE RETURNED INVENTORY;

27 (c) OFFER AND GIVE WHOLESALERS FROM WHOM THE SELLER

1 PURCHASED REMAINING ALCOHOL BEVERAGES A THIRTY-DAY OPTION TO
2 REPURCHASE ANY REMAINING ALCOHOL BEVERAGES THAT THE
3 WHOLESALER SOLD TO THE SELLER BEFORE SELLING ANY INVENTORY TO
4 A PURCHASER LISTED IN SUBSECTION (1) OF THIS SECTION;

5 (d) POSSESS PROOF THAT ALL WHOLESALERS THE SELLER HAS
6 PURCHASED ALCOHOL BEVERAGES FROM FOR THE LICENSED PREMISES
7 HAVE BEEN PAID IN FULL FOR THOSE PURCHASES; AND

8 (e) SELL THE ALCOHOL BEVERAGE INVENTORY FOR ONLY ONE
9 LICENSED PREMISES.

10 (4) THE LICENSEE PURCHASING ALCOHOL BEVERAGES UNDER THIS
11 SECTION SHALL RETAIN EVIDENCE OF THE PURCHASE IN THE FORM OF A
12 PURCHASE RECEIPT SHOWING THE NAME OF THE SELLER, THE DATE OF
13 PURCHASE, A DESCRIPTION OF THE ALCOHOL BEVERAGES PURCHASED, AND
14 THE PRICE PAID FOR THE ALCOHOL BEVERAGES. THE LICENSEE SHALL
15 RETAIN THE RECEIPT FOR THREE YEARS AND MAKE IT AVAILABLE TO THE
16 STATE AND LOCAL LICENSING AUTHORITIES AT ALL TIMES DURING
17 BUSINESS HOURS.

18 (5) A SELLER OF ALCOHOL BEVERAGES UNDER THIS SECTION MAY
19 DETERMINE THE PRICE AT WHICH THE ALCOHOL BEVERAGE INVENTORY
20 WILL BE SOLD. THE STATE LICENSING AUTHORITY SHALL NOT PROMULGATE
21 RULES THAT REGULATE OR ESTABLISH THE PRICE AT WHICH THE
22 INVENTORY MAY BE SOLD UNDER THIS SECTION.

23 (6) A WHOLESALER SHALL NOT TRANSPORT THE ALCOHOL
24 BEVERAGE INVENTORY FROM THE SELLER'S PREMISES TO THE PURCHASER'S
25 PREMISES. THE SELLER MAY TRANSPORT THE ALCOHOL BEVERAGE
26 INVENTORY TO THE PURCHASER'S LICENSED PREMISES.

27 (7) NOTHING IN THIS SECTION ALLOWS A LICENSEE TO TRANSFER

1 ALCOHOL BEVERAGES IF THE SELLER'S LICENSE IS NOT BEING
2 SURRENDERED OR REVOKED OR IF A COMMON OWNERSHIP DOES NOT EXIST
3 BETWEEN THE SELLER AND THE PURCHASER.

4 (8) FOR THE PURPOSES OF THIS SECTION, "COMMON OWNERSHIP"
5 MEANS THAT A PERSON OWNS AN OWNERSHIP INTEREST IN BOTH THE
6 SELLER AND THE PURCHASER.

7 **SECTION 2. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly (August
10 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
11 referendum petition is filed pursuant to section 1 (3) of article V of the
12 state constitution against this act or an item, section, or part of this act
13 within such period, then the act, item, section, or part will not take effect
14 unless approved by the people at the general election to be held in
15 November 2018 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.