

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

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

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

Business Affairs and Labor

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.

SENATE
3rd Reading Unamended
February 16, 2018

SENATE
Amended 2nd Reading
February 15, 2018

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 12-47-409, 12-47-411,
6 12-47-412, 12-47-414, 12-47-415, 12-47-416, 12-47-417, 12-47-418,
7 12-47-420, 12-47-424, AND 12-47-901, A CURRENT LICENSEE LISTED IN
8 SUBSECTION (1) OF THIS SECTION MAY PURCHASE THE REMAINING
9 ALCOHOL BEVERAGE INVENTORY FROM A FORMER LICENSEE LISTED IN
10 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 OR THE SELLER
13 HAS LOST LEGAL POSSESSION OF THE LICENSED PREMISES; AND

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

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

21 (a) HAVE SURRENDERED THE LICENSE FOR THE PREMISES WITHIN
22 THE LAST SIXTY DAYS, HAVE HAD THE LICENSE FOR THE PREMISES
23 REVOKED WITHIN THE LAST SIXTY DAYS, OR HAVE LOST LEGAL POSSESSION
24 OF THE LICENSED PREMISES WITHIN THE LAST SIXTY DAYS;

25 (b) RETURN, WITHIN THIRTY DAYS AFTER THE LICENSE WAS
26 SURRENDERED OR REVOKED OR THE SELLER LOST LEGAL POSSESSION OF
27 THE LICENSED PREMISES, ALL ALCOHOL BEVERAGES THAT THE SELLER HAS

1 NOT PAID FOR TO THE WHOLESALER FROM WHOM THE SELLER OBTAINED
2 THE ALCOHOL BEVERAGES ON CREDIT, AND THE WHOLESALER SHALL
3 CANCEL THE DEBT FOR THE RETURNED INVENTORY;

4 (c) OFFER AND GIVE WHOLESALERS FROM WHOM THE SELLER
5 PURCHASED REMAINING ALCOHOL BEVERAGES A THIRTY-DAY OPTION TO
6 REPURCHASE ANY REMAINING ALCOHOL BEVERAGES THAT THE
7 WHOLESALER SOLD TO THE SELLER BEFORE SELLING ANY INVENTORY TO
8 A PURCHASER LISTED IN SUBSECTION (1) OF THIS SECTION;

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

12 (e) SELL THE ALCOHOL BEVERAGE INVENTORY FOR ONLY ONE
13 LICENSED PREMISES.

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

22 (5) THE STATE LICENSING AUTHORITY SHALL NOT PROMULGATE
23 RULES THAT REGULATE OR ESTABLISH THE PRICE AT WHICH THE
24 INVENTORY MAY BE SOLD UNDER THIS SECTION.

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

1 INVENTORY TO THE PURCHASER'S LICENSED PREMISES.

2 (7) NOTHING IN THIS SECTION ALLOWS A LICENSEE TO SELL
3 ALCOHOL BEVERAGES IF:

4 (a) THE SELLER'S LICENSE IS NOT BEING SURRENDERED OR
5 REVOKED OR THE SELLER DID NOT LOSE LEGAL POSSESSION OF THE
6 LICENSED PREMISES WITHIN THE LAST SIXTY DAYS;

7 (b) COMMON OWNERSHIP DOES NOT EXIST;

8 (c) THE SELLER IS SELLING THE BUSINESS AND TRANSFERRING THE
9 LICENSE TO A NEW OWNER; OR

10 (d) THE SELLER IS CHANGING THE LOCATION OF THE LICENSED
11 PREMISES. BETWEEN THE SELLER AND THE PURCHASER.

12 (8) FOR THE PURPOSES OF THIS SECTION, "COMMON OWNERSHIP"
13 MEANS THAT A PERSON OWNS AT LEAST A TEN PERCENT OWNERSHIP
14 INTEREST IN BOTH THE SELLER AND THE PURCHASER AT THE TIME THE
15 LICENSE IS SURRENDERED OR REVOKED OR THE SELLER LOST LEGAL
16 POSSESSION OF THE LICENSED PREMISES.

17 **SECTION 2. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2018 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.