

CHAPTER 262

REVENUE - ACTIVITIES REGULATION

SENATE BILL 20-213

BY SENATOR(S) Bridges and Priola, Zenzinger, Cooke, Crowder, Danielson, Donovan, Gardner, Ginal, Hill, Hisey, Lee, Lundeen, Moreno, Pettersen, Rankin, Smallwood, Story, Tate, Todd, Williams A., Winter, Woodward, Garcia; also REPRESENTATIVE(S) Larson and Roberts, Arndt, Baisley, Bird, Bockenfeld, Buckner, Buentello, Caraveo, Carver, Champion, Cutter, Duran, Esgar, Froelich, Garnett, Geitner, Gray, Herod, Holtorf, Hooton, Jackson, Jaquez Lewis, Kipp, Kraft-Tharp, Landgraf, Liston, Lontine, McLachlan, Melton, Michaelson Jenet, Mullica, Rich, Saine, Sandridge, Singer, Sirota, Snyder, Soper, Sullivan, Tipper, Titone, Valdez A., Valdez D., Van Winkle, Will, Woodrow, Young.

AN ACT

CONCERNING THE AUTHORITY OF BUSINESSES LICENSED TO SELL ALCOHOL BEVERAGES FOR CONSUMPTION ON THE LICENSED PREMISES TO SELL ALCOHOL BEVERAGES FOR CONSUMPTION OFF THE LICENSED PREMISES.

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

SECTION 1. In Colorado Revised Statutes, **add** 44-3-911 as follows:

44-3-911. Takeout and delivery of alcohol beverages - permit - on-premises consumption licenses - requirements and limitations - rules - definition - repeal.

(1) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 3 OR ARTICLE 4 OF THIS TITLE 44 AND SUBJECT TO SUBSECTIONS (2) AND (3) OF THIS SECTION:

(I) A LICENSEE MAY SELL AND DELIVER AN ALCOHOL BEVERAGE TO A CUSTOMER FOR CONSUMPTION OFF THE LICENSED PREMISES; AND

(II) IF AN ALCOHOL BEVERAGE IS PART OF A TAKEOUT ORDER FOR CONSUMPTION OFF THE LICENSED PREMISES:

(A) A CUSTOMER MAY REMOVE THE ALCOHOL BEVERAGE FROM THE LICENSED PREMISES IF THE ALCOHOL BEVERAGE IS IN A SEALED CONTAINER THAT COMPLIES WITH THE RULES OF THE STATE LICENSING AUTHORITY; AND

(B) THE LICENSEE MAY ALLOW A CUSTOMER TO REMOVE THE ALCOHOL BEVERAGE FROM THE LICENSED PREMISES.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) SUBJECT TO SUBSECTIONS (2) AND (3) OF THIS SECTION, A LICENSEE MAY SELL OR DELIVER ALCOHOL BEVERAGES UNDER THIS SECTION BY THE DRINK.

(2) TO SELL AND DELIVER AN ALCOHOL BEVERAGE OR TO ALLOW A CUSTOMER TO REMOVE AN ALCOHOL BEVERAGE FROM THE LICENSED PREMISES AS EITHER IS AUTHORIZED UNDER SUBSECTION (1) OF THIS SECTION, THE LICENSEE MUST:

(a) HAVE ANY APPLICABLE PERMITS ISSUED UNDER THIS SECTION TO SELL ALCOHOL BEVERAGES FOR TAKEOUT OR DELIVERY; EXCEPT THAT THIS SUBSECTION (2)(a) DOES NOT APPLY IF THE GOVERNOR HAS DECLARED A DISASTER EMERGENCY UNDER PART 7 OF ARTICLE 33.5 OF TITLE 24;

(b) SELL OR DELIVER:

(I) THE ALCOHOL BEVERAGE ONLY TO A CUSTOMER WHO IS TWENTY-ONE YEARS OF AGE OR OLDER;

(II) THE ALCOHOL BEVERAGE IN A SEALED CONTAINER THAT COMPLIES WITH THE RULES OF THE STATE LICENSING AUTHORITY; AND

(III) NO MORE THAN THE FOLLOWING AMOUNTS OF ALCOHOL BEVERAGES PER DELIVERY OR TAKEOUT ORDER UNLESS THE GOVERNOR HAS DECLARED A DISASTER EMERGENCY UNDER PART 7 OF ARTICLE 33.5 OF TITLE 24:

(A) SEVEN HUNDRED FIFTY MILLILITERS, APPROXIMATELY 26.4 FLUID OUNCES, OF SPIRITUOUS LIQUORS AND VINOUS LIQUORS; AND

(B) SEVENTY-TWO FLUID OUNCES, APPROXIMATELY TWO THOUSAND FORTY-SIX MILLILITERS, OF MALT LIQUORS, FERMENTED MALT BEVERAGES, AND HARD CIDER;

(c) DERIVE NO MORE THAN FIFTY PERCENT OF ITS GROSS ANNUAL REVENUES FROM TOTAL SALES OF FOOD AND ALCOHOL BEVERAGES FROM THE SALE OF ALCOHOL BEVERAGES THROUGH TAKEOUT ORDERS AND THAT THE LICENSEE DELIVERS; EXCEPT THAT:

(I) THIS SUBSECTION (2)(c) DOES NOT APPLY IF THE GOVERNOR HAS DECLARED A DISASTER EMERGENCY UNDER PART 7 OF ARTICLE 33.5 OF TITLE 24; OR

(II) THIS SUBSECTION (2)(c) DOES NOT APPLY TO A SALES ROOM AT A PREMISES LICENSED UNDER SECTION 44-3-402 OR 44-3-407; AND

(d) IF AN ALCOHOL BEVERAGE IS BEING DELIVERED, USE A DELIVERY PERSON WHO COMPLIES WITH SUBSECTION (3) OF THIS SECTION.

(3) TO DELIVER AN ALCOHOL BEVERAGE UNDER THIS SECTION, THE DELIVERY PERSON MUST:

(a) DELIVER THE ALCOHOL BEVERAGE TO A PLACE THAT IS NOT LICENSED UNDER THIS ARTICLE 3 OR ARTICLE 4 OF THIS TITLE 44;

(b) BE AN EMPLOYEE OF THE LICENSEE WHO IS TWENTY-ONE YEARS OF AGE OR OLDER;

(c) DELIVER AN ALCOHOL BEVERAGE ONLY TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER; AND

(d) HAVE SATISFACTORILY COMPLETED THE SERVER AND SELLER TRAINING PROGRAM ESTABLISHED UNDER SECTION 44-3-1002.

(4) (a) THE STATE LICENSING AUTHORITY SHALL PROMULGATE RULES:

(I) SPECIFYING THE TYPES OF CONTAINERS THAT MAY BE USED FOR TAKEOUT OR DELIVERY OF AN ALCOHOL BEVERAGE UNDER THIS SECTION;

(II) CREATING A PERMIT FOR TAKEOUT AND DELIVERY OF ALCOHOL BEVERAGES;

(III) SETTING FEES FOR THE PROCESSING AND APPROVAL OF A TAKEOUT OR DELIVERY PERMIT APPLICATION; AND

(IV) CONCERNING ANY OTHER MATTER NECESSARY FOR THE SAFE AND EFFECTIVE IMPLEMENTATION OF THIS SECTION.

(b) THE STATE LICENSING AUTHORITY SHALL ISSUE A PERMIT TO A LICENSEE TO SELL ALCOHOL BEVERAGES FOR TAKEOUT AND DELIVERY IF THE LICENSEE DEMONSTRATES THE ABILITY TO COMPLY WITH THIS SECTION. A PERMIT ISSUED UNDER THIS SUBSECTION (4) IS SUBJECT TO THE SUSPENSION AND REVOCATION PROVISIONS SET FORTH IN SECTION 44-3-601.

(c) (I) THE LOCAL LICENSING AUTHORITY MAY CREATE A PERMIT FOR TAKEOUT AND DELIVERY OF ALCOHOL BEVERAGES TO IMPLEMENT THIS SECTION. IF A LOCAL LICENSING AUTHORITY DOES NOT CREATE A PERMIT UNDER THIS SUBSECTION (4)(c), A LICENSEE NEED NOT OBTAIN A LOCAL PERMIT TO SELL AND DELIVER AN ALCOHOL BEVERAGE OR TO ALLOW A CUSTOMER TO REMOVE AN ALCOHOL BEVERAGE FROM THE LICENSED PREMISES.

(II) A LOCAL LICENSING AUTHORITY MAY ESTABLISH FEES FOR THE PROCESSING AND APPROVAL OF A TAKEOUT OR DELIVERY PERMIT APPLICATION, BUT THE AMOUNT OF THE FEE MUST NOT EXCEED THE AMOUNT OF THE FEE SET BY THE STATE LICENSING AUTHORITY UNDER SUBSECTION (4)(a)(III) OF THIS SECTION.

(III) IF A LOCAL LICENSING AUTHORITY CREATES A TAKEOUT OR DELIVERY PERMIT:

(A) THE LICENSEE MUST OBTAIN THE PERMIT TO SELL AND DELIVER AN ALCOHOL BEVERAGE OR TO ALLOW A CUSTOMER TO REMOVE AN ALCOHOL BEVERAGE FROM THE LICENSED PREMISES AS EITHER IS AUTHORIZED UNDER SUBSECTION (1) OF THIS SECTION; AND

(B) THE LOCAL LICENSING AUTHORITY SHALL ISSUE A PERMIT TO A LICENSEE TO SELL ALCOHOL BEVERAGES FOR TAKEOUT AND DELIVERY IF THE LICENSEE DEMONSTRATES THE ABILITY TO COMPLY WITH THIS SECTION.

(IV) A PERMIT ISSUED UNDER THIS SUBSECTION (4)(c) IS SUBJECT TO THE SUSPENSION AND REVOCATION PROVISIONS SET FORTH IN SECTION 44-3-601.

(V) A MANUFACTURER LICENSED UNDER SECTION 44-3-402 THAT OPERATES A SALES ROOM OR A WHOLESALER LICENSED UNDER SECTION 44-3-407 THAT OPERATES A SALES ROOM NEED NOT OBTAIN A PERMIT FROM THE LOCAL LICENSING AUTHORITY TO SELL AND DELIVER AN ALCOHOL BEVERAGE OR TO ALLOW A CUSTOMER TO REMOVE AN ALCOHOL BEVERAGE FROM THE LICENSED PREMISES.

(d) THE LICENSEE SHALL SUBMIT AN APPLICATION FOR A PERMIT ISSUED UNDER THIS SECTION TO THE STATE LICENSING AUTHORITY AND THE LOCAL LICENSING AUTHORITY, IF APPLICABLE, SIMULTANEOUSLY. APPROVAL BY EITHER THE STATE LICENSING AUTHORITY OR A LOCAL LICENSING AUTHORITY DOES NOT GUARANTEE APPROVAL BY THE OTHER LICENSING AUTHORITY.

(5) FOR THE PURPOSES OF THIS ARTICLE 3 AND ARTICLE 4 OF THIS TITLE 44, AN ALCOHOL BEVERAGE THAT IS SOLD AND DELIVERED TO A CUSTOMER'S HOME FOR CONSUMPTION OFF THE LICENSED PREMISES UNDER THIS SECTION IS SOLD AT THE LICENSED PREMISES.

(6)(a) AS USED IN THIS SECTION, "LICENSEE" MEANS A PERSON ISSUED A LICENSE UNDER SECTION 44-3-402 THAT OPERATES A SALES ROOM OR SECTION 44-3-407 THAT OPERATES A SALES ROOM OR SECTION 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-418, 44-3-422, 44-3-426, 44-3-428, 44-4-104 (1)(c)(I)(A), OR 44-4-104 (1)(c)(III).

(b)(I) THIS SECTION DOES NOT APPLY TO A PERSON ISSUED A LICENSE OR PERMIT THAT IS NOT LISTED IN SUBSECTION (6)(a) OF THIS SECTION OR TO A CATERER WHO IS LICENSED TO SELL ALCOHOL BEVERAGES.

(II) SUBSECTION (2)(b)(III) OF THIS SECTION DOES NOT APPLY TO:

(A) A MANUFACTURER LICENSED UNDER SECTION 44-3-402 THAT OPERATES A SALES ROOM OR A WHOLESALER LICENSED UNDER SECTION 44-3-407 THAT OPERATES A SALES ROOM; AND

(B) THE SALE OF AN ALCOHOL BEVERAGE MANUFACTURED BY THE LICENSEE AND SOLD BY A BREW PUB LICENSED UNDER SECTION 44-3-417, A VINTNER'S RESTAURANT LICENSED UNDER SECTION 44-3-422, OR A DISTILLERY PUB LICENSED UNDER SECTION 44-3-426.

(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2021.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: July 10, 2020