

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0667.02 Alison Killen x4350

SENATE BILL 23-171

SENATE SPONSORSHIP

Priola,

HOUSE SPONSORSHIP

deGruy Kennedy,

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

101 CONCERNING A REQUIREMENT FOR SUBSTANCE-FREE SEATING AT
102 LARGE ENTERTAINMENT FACILITIES, AND, IN CONNECTION
103 THEREWITH, REQUIRING SUCH FACILITIES TO DESIGNATE AND
104 ENFORCE AT LEAST FOUR PERCENT OF THEIR SEATING CAPACITY
105 AS SUBSTANCE-FREE SEATING AND MAKING FAILURE TO COMPLY
106 WITH SUCH REQUIREMENT A BASIS FOR REFUSAL OR DENIAL OF
107 AN ALCOHOL BEVERAGE LICENSE RENEWAL OR INITIAL LICENSE
108 ISSUANCE AND OTHER FORMS OF LICENSE-RELATED DISCIPLINE.

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

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

<http://leg.colorado.gov>.)

Section 1 of the bill requires an entertainment facility with a seating capacity of 7,000 seats or more to designate and enforce at least 4% of its seating capacity as substance-free seating. Substance-free seating is defined as seating where the use of alcohol, electronic smoking devices, marijuana, and tobacco (prohibited substances) is banned. Substance-free seating must include seats that are accessible to persons with disabilities and cannot be limited exclusively to seats that are higher than or farther away from the sport or entertainment activity relative to the majority of seats at the facility. Written policies and procedures, including those that enforce the ban on prohibited substances, are required. Signs regarding the ban must be prominently displayed in and around the substance-free seating sections.

Failure by an entertainment facility to comply with the requirement for designating and enforcing 4% or more substance-free seating is deemed "good cause" for refusal or denial of an alcohol beverage license renewal or initial license issuance by the state licensing authority as part of the existing regulatory scheme for such licenses. Failure to comply is also a basis for other license-related discipline, including suspension, revocation, or fine.

Sections 2 and 3 make conforming amendments to the statutory scheme for regulation of smoking. **Section 4** makes conforming amendments to the statutory scheme for regulation of alcohol.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 8 to title
3 44 as follows:

4 **ARTICLE 8**

5 **Substance-free Seating**

6 **44-8-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY
7 FINDS AND DECLARES THAT:

8 (a) THE MISUSE AND ABUSE OF CERTAIN SUBSTANCES,
9 PARTICULARLY ALCOHOL, POSES A SIGNIFICANT THREAT TO THE PUBLIC
10 PEACE, HEALTH, AND SAFETY OF ALL COLORADANS;

11 (b) THE DISEASE OF ALCOHOLISM CAN, AND OFTEN DOES,

1 DEVASTATE THE LIVES OF THE PEOPLE WHO SUFFER FROM IT AS WELL AS
2 THOSE AROUND THEM. IT TAKES A PHYSICAL, MENTAL, FINANCIAL, AND
3 SPIRITUAL TOLL ON AN INDIVIDUAL AND COMMUNITY LEVEL.

4 (c) ACCORDING TO THE COLORADO DEPARTMENT OF PUBLIC
5 HEALTH AND ENVIRONMENT, ONE IN FIVE ADULTS IN COLORADO DRINK
6 ALCOHOL EXCESSIVELY. IN 2021, BOTH THE PER CAPITA ALCOHOL
7 CONSUMPTION AND THE PERCENTAGE OF ADULTS WHO REPORTED BINGE
8 DRINKING IN THE PAST THIRTY DAYS IN COLORADO WERE HIGHER THAN
9 THE NATIONAL AVERAGE.

10 (d) ANNUALLY, AN AVERAGE OF TWO THOUSAND SIX HUNDRED
11 TWENTY-THREE DEATHS IN COLORADO ARE ATTRIBUTABLE TO EXCESSIVE
12 ALCOHOL USE;

13 (e) IN 2019, PROSECUTORS FILED OVER TWENTY-SIX THOUSAND
14 CASES WITH AT LEAST ONE CHARGE OF DRIVING UNDER THE INFLUENCE
15 PER CASE. IN 2020, THERE WERE ONE HUNDRED EIGHTY-SIX
16 ALCOHOL-IMPAIRED DRIVING FATALITIES IN COLORADO, AN INCREASE OF
17 THIRTEEN PERCENT FROM 2019.

18 (f) IN 2019, FORTY-THREE THOUSAND SEVEN HUNDRED THIRTEEN
19 PEOPLE IN COLORADO WERE ADMITTED TO TREATMENT RELATED TO
20 SUBSTANCE USE. ALCOHOL HAS BEEN THE LEADING CAUSE OF SUCH
21 TREATMENT ADMISSIONS SINCE 2009.

22 (g) COLORADO'S STATEWIDE STRATEGIC PLAN FOR SUBSTANCE USE
23 DISORDER RECOVERY FOR YEARS 2020 THROUGH 2025 MAKES CLEAR THAT
24 RECOVERY HAPPENS IN COMMUNITIES AND EMPHASIZES THE NEED FOR
25 RECOVERY SUPPORT THAT INCLUDES RECOVERING AMONG PEOPLE WITH
26 SHARED EXPERIENCES OF SUBSTANCE-USE RECOVERY AND ENGAGING IN
27 SUBSTANCE-FREE SOCIAL ACTIVITIES;

1 (h) SUBSTANCE-FREE SEATING AT LARGE SPORTS AND
2 ENTERTAINMENT FACILITIES WILL PROVIDE PRECISELY THE KIND OF
3 RECOVERY SUPPORT RECOMMENDED IN THE STRATEGIC PLAN. IT WILL GIVE
4 PEOPLE IN RECOVERY, PEOPLE WHO DON'T DRINK, AND PEOPLE WHO DON'T
5 WANT TO BE AROUND OTHERS WHO ARE DRINKING A SPACE TO FEEL SAFE
6 AND COMFORTABLE AND NOT ALONE IN THEIR SOBRIETY.

7 (i) SUBSTANCE-FREE SEATING IS ESPECIALLY WARRANTED IN
8 LARGE SPORTS AND ENTERTAINMENT FACILITIES FUNDED WITH TAX
9 REVENUES AS SUCH PUBLICLY-FUNDED FACILITIES SHOULD BE OPEN TO
10 AND SUPPORTIVE OF ALL TAXPAYERS, INCLUDING THOSE RECOVERING
11 FROM ADDICTION.

12 (j) AT LEAST FOURTEEN TEAMS IN THE NATIONAL FOOTBALL
13 LEAGUE OFFER A DESIGNATED SOBRIETY-SUPPORT SECTION;

14 (k) PROHIBITING THE USE OF ELECTRONIC SMOKING DEVICES,
15 MARIJUANA, AND TOBACCO, ALONG WITH ALCOHOL, IN SUBSTANCE-FREE
16 SEATING SECTIONS WILL HELP CREATE A MORE FAMILY-FRIENDLY
17 ENVIRONMENT AT LARGE, PUBLIC EVENTS. IT WILL REDUCE EXPOSURE TO
18 SECONDHAND SMOKE GENERATED BY SUCH ACTIVITY AND THE NEGATIVE
19 EXAMPLE OF EXCESSIVE DRINKING AND SMOKING SET AND FREQUENTLY
20 IMITATED BY CHILDREN IN THIS STATE.

21 (l) DATA FROM THE 2021 HEALTHY KIDS COLORADO SURVEY
22 FOUND THAT:

23 (I) OVER TWENTY-THREE PERCENT OF YOUTH REPORTED USING
24 ALCOHOL IN THE PREVIOUS MONTH;

25 (II) OVER SIXTEEN PERCENT OF YOUTH REPORTED USING AN
26 ELECTRONIC SMOKING DEVICE IN THE PREVIOUS MONTH;

27 (III) OVER THIRTEEN PERCENT OF YOUTH REPORTED USING

1 MARIJUANA IN THE PREVIOUS MONTH; AND

2 (IV) OVER THREE PERCENT OF YOUTH REPORTED SMOKING
3 CIGARETTES IN THE PREVIOUS MONTH; AND

4 (m) SUBSTANCE-FREE SEATING WILL NOT ONLY HELP INDIVIDUALS
5 MAINTAIN SUBSTANCE-FREE LIFESTYLES WHILE ENJOYING SPORTS AND
6 OTHER ENTERTAINMENT, BUT WILL HELP NORMALIZE SOBRIETY IN
7 GENERAL BY ALLOWING EVERY FAN THE OPPORTUNITY TO HAVE AN
8 ENJOYABLE EXPERIENCE AT AN EVENT WITHOUT PROHIBITED SUBSTANCES
9 BEING INVOLVED.

10 **44-8-102. Definitions.** AS USED IN THIS ARTICLE 8, UNLESS THE
11 CONTEXT OTHERWISE REQUIRES:

12 (1) "ALCOHOL BEVERAGE" HAS THE SAME MEANING AS SET FORTH
13 IN SECTION 44-3-103 (2).

14 (2) "ELECTRONIC SMOKING DEVICE" OR "ESD" HAS THE SAME
15 MEANING AS SET FORTH IN SECTION 25-14-203 (4.5).

16 (3) (a) "ENTERTAINMENT FACILITY" HAS THE SAME MEANING AS
17 SET FORTH IN SECTION 44-3-103 (29)(a)(II) AND (29)(b).

18 (b) FOR PURPOSES OF THIS ARTICLE 8, ENTERTAINMENT FACILITY
19 INCLUDES:

20 (I) AN INDOOR OR OUTDOOR FACILITY; AND

21 (II) A PUBLICLY OR PRIVATELY OWNED FACILITY.

22 (4) "LICENSE" MEANS A GRANT TO A LICENSEE TO SELL ALCOHOL
23 BEVERAGES AS PROVIDED BY ARTICLE 3 OF TITLE 44.

24 (5) "LICENSED PREMISES" HAS THE SAME MEANING AS SET FORTH
25 IN SECTION 44-3-103 (24).

26 (6) (a) "LICENSEE" MEANS THE GRANTEE OF A LICENSE WHO OWNS
27 OR IS IN POSSESSION OF THE LICENSED PREMISES.

1 (b) FOR PURPOSES OF THIS ARTICLE 8, "LICENSEE" INCLUDES A
2 NATURAL PERSON, PARTNERSHIP, ASSOCIATION, COMPANY, CORPORATION,
3 OR ORGANIZATION OR A MANAGER, AGENT, SERVANT, OFFICER, OR
4 EMPLOYEE THEREOF.

5 (7) "LOCAL AUTHORITY" MEANS A COUNTY, CITY AND COUNTY,
6 CITY, OR TOWN.

7 (8) (a) "MARIJUANA" HAS THE SAME MEANING AS SET FORTH IN
8 SECTION 25-14-203 (11.5).

9 (b) FOR PURPOSES OF THIS ARTICLE 8, "MARIJUANA" INCLUDES
10 HEMP, INCLUDING "INDUSTRIAL HEMP" AS DEFINED IN SECTION 35-61-101
11 (7).

12 (9) (a) "OPERATOR" HAS THE SAME MEANING AS SET FORTH IN
13 SECTION 6-1-718 (1)(a).

14 (b) FOR PURPOSES OF THIS ARTICLE 8, THE LICENSEE OF THE
15 ENTERTAINMENT FACILITY IS THE OPERATOR OF SUCH FACILITY UNDER
16 SECTION 6-1-718.

17 (10) "ORIGINAL SALE" HAS THE SAME MEANING AS SET FORTH IN
18 SECTION 6-1-718 (1)(b).

19 (11) "PROHIBITED SUBSTANCE" MEANS ALL ALCOHOL BEVERAGES,
20 ESDs, MARIJUANA, AND TOBACCO.

21 (12) "RESALE" OR "RESOLD" HAS THE SAME MEANING AS SET
22 FORTH IN SECTION 6-1-718 (1)(e).

23 (13) "SUBSTANCE-FREE SEATING" MEANS ONE OR MORE SECTIONS
24 OF SEATS, OR INDIVIDUALLY TICKETED SPACES WHERE THERE ARE NO
25 SEATS, WITHIN AN ENTERTAINMENT FACILITY WHERE THE USE OF
26 PROHIBITED SUBSTANCES IS BANNED.

27 (14) "TICKET" HAS THE SAME MEANING AS SET FORTH IN SECTION

1 6-1-718 (1)(g).

2 (15) "TOBACCO" HAS THE SAME MEANING AS SET FORTH IN
3 SECTION 25-14-203 (17).

4 (16) "USE" MEANS THE APPLICATION, CONSUMPTION, CHEWING,
5 INGESTION, INHALING, LIGHTING, TAKING, OR SMOKING OF ANY
6 PROHIBITED SUBSTANCE.

7 **44-8-103. Substance-free seating required in large**
8 **entertainment facilities.** (1) ON OR AFTER JANUARY 1, 2026, A LICENSEE
9 OF AN ENTERTAINMENT FACILITY WITH A SEATING CAPACITY OF SEVEN
10 THOUSAND SEATS OR MORE MUST DESIGNATE AND ENFORCE AT LEAST
11 FOUR PERCENT OF THE FACILITY'S SEATING CAPACITY AS SUBSTANCE-FREE
12 SEATING.

13 (2) THE SUBSTANCE-FREE SEATING REQUIRED IN SUBSECTION (1)
14 OF THIS SECTION CANNOT BE LIMITED EXCLUSIVELY TO SEATS THAT ARE
15 HIGHER THAN OR FARTHER FROM THE SPORT OR ENTERTAINMENT ACTIVITY
16 THAN THE MAJORITY OF THE SEATS IN THE ENTERTAINMENT FACILITY.
17 SUCH SEATING MUST INCLUDE SEATS THAT ARE ACCESSIBLE FOR PERSONS
18 WITH DISABILITIES.

19 (3) THE LICENSEE OF AN ENTERTAINMENT FACILITY THAT IS
20 REQUIRED TO HAVE SUBSTANCE-FREE SEATING UNDER SUBSECTION (1) OF
21 THIS SECTION SHALL ADOPT WRITTEN POLICIES AND PROCEDURES THAT
22 BAN THE USE OF PROHIBITED SUBSTANCES IN ALL SUBSTANCE-FREE
23 SEATING SECTIONS AND PROVIDE FOR THE ENFORCEMENT OF THE BAN.

24 (4) THE LICENSEE OF AN ENTERTAINMENT FACILITY THAT IS
25 REQUIRED TO HAVE SUBSTANCE-FREE SEATING UNDER SUBSECTION (1) OF
26 THIS SECTION SHALL PROMINENTLY DISPLAY SIGNS REGARDING THE BAN
27 ON THE USE OF PROHIBITED SUBSTANCES IN AND AROUND ALL

1 SUBSTANCE-FREE SEATING SECTIONS.

2 (5) EACH TICKET FOR SUBSTANCE-FREE SEATING REQUIRED IN
3 SUBSECTION (1) OF THIS SECTION MUST BE CONSPICUOUSLY MARKED
4 SUBSTANCE-FREE AND MUST INCORPORATE BY REFERENCE THE LICENSEE'S
5 WRITTEN POLICIES AND PROCEDURES REQUIRED UNDER SUBSECTION (3) OF
6 THIS SECTION AS TERMS AND CONDITIONS OF THE ORIGINAL SALE OF THE
7 TICKET AND ANY RESALE OF THE TICKET, WHICH TERMS AND CONDITIONS
8 SHALL BE ENFORCED BY THE LICENSEE.

9 (6) NOTHING IN THIS SECTION PROHIBITS AN ENTERTAINMENT
10 FACILITY FROM DESIGNATING MORE THAN FOUR PERCENT OF ITS SEATING
11 CAPACITY AS SUBSTANCE-FREE SEATING.

12 (7) A LOCAL AUTHORITY MAY IMPOSE MORE STRINGENT
13 REQUIREMENTS ON AN ENTERTAINMENT FACILITY REGARDING
14 SUBSTANCE-FREE SEATING THAT ARE NOT INCONSISTENT WITH THIS
15 SECTION.

16 **44-8-104. Violations - licensing - fine.** (1) FAILURE TO COMPLY
17 WITH SECTION 44-8-103 (1) CONSTITUTES GOOD CAUSE, AS DEFINED IN
18 SECTION 44-3-103 (19), FOR REFUSAL OR DENIAL OF A LICENSE RENEWAL
19 OR INITIAL LICENSE ISSUANCE BY THE STATE LICENSING AUTHORITY
20 CREATED IN SECTION 44-3-201.

21 (2) IN ADDITION TO ANY OTHER PENALTIES PRESCRIBED BY LAW,
22 AND IN ACCORDANCE WITH SECTION 44-3-601, THE STATE OR ANY LOCAL
23 LICENSING AUTHORITY MAY FINE A LICENSEE OR SUSPEND OR REVOKE, IN
24 WHOLE OR IN PART, ANY LICENSE OR PERMIT ISSUED BY THE AUTHORITY
25 FOR VIOLATION OF SECTION 44-8-103 (1).

26 **SECTION 2.** In Colorado Revised Statutes, 25-14-204, **add** (1.5)
27 as follows:

1 **25-14-204. General smoking restrictions.** (1.5) SMOKING IS NOT
2 PERMITTED IN AND A PERSON SHALL NOT SMOKE IN ANY SUBSTANCE-FREE
3 SEATING SECTION DESIGNATED IN ACCORDANCE WITH SECTION 44-8-103.

4 **SECTION 3.** In Colorado Revised Statutes, 25-14-205, **amend**
5 (1)(g) as follows:

6 **25-14-205. Exceptions to smoking restrictions.** (1) This part 2
7 does not apply to:

8 (g) The outdoor area of any business EXCEPT AS PROVIDED IN
9 SECTION 44-8-103;

10 **SECTION 4.** In Colorado Revised Statutes, 44-3-301, **add** (13)
11 as follows:

12 **44-3-301. Licensing in general.** (13)(a) NOTWITHSTANDING ANY
13 OTHER PROVISION OF THIS ARTICLE 3, ON OR AFTER JANUARY 1, 2026, THE
14 STATE AND LOCAL LICENSING AUTHORITIES SHALL NOT ISSUE A NEW
15 LICENSE OR RENEW AN EXISTING LICENSE UNDER THIS ARTICLE 3
16 AUTHORIZING THE SALE AT RETAIL OF ALCOHOL BEVERAGES FOR
17 CONSUMPTION ON A LICENSED PREMISES LOCATED WITHIN AN
18 ENTERTAINMENT FACILITY THAT FAILS TO DESIGNATE OR ENFORCE
19 SUBSTANCE-FREE SEATING AS REQUIRED BY SECTION 44-8-103 (1).

20 (b) FAILURE TO COMPLY WITH SECTION 44-8-103 (1) IS A
21 VIOLATION OF THIS ARTICLE 3 AND ARTICLE 5 OF THIS TITLE 44 IF THE
22 VIOLATION OCCURS DURING A SPECIAL EVENT LICENSED UNDER SAID
23 ARTICLE 5 FOR PURPOSES OF SUSPENSION OR REVOCATION OF A LICENSE OR
24 IMPOSITION OF A FINE ON A LICENSEE PURSUANT TO SECTION 44-3-601.

25 **SECTION 5. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly; except

1 that, if a referendum petition is filed pursuant to section 1 (3) of article V
2 of the state constitution against this act or an item, section, or part of this
3 act within such period, then the act, item, section, or part will not take
4 effect unless approved by the people at the general election to be held in
5 November 2024 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.