

## CHAPTER 340

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**REVENUE - ACTIVITIES REGULATION**


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**HOUSE BILL 23-1061**

BY REPRESENTATIVE(S) Daugherty and Taggart, Bird, Boesenecker, Frizell, Lindsay, Lindstedt, Lynch, Mauro, Snyder, Titone, Vigil, Weinberg, McCluskie;  
also SENATOR(S) Zenzinger, Cutter, Gardner, Moreno, Van Winkle, Winter F., Fenberg.

**AN ACT**

**CONCERNING PERMITTING A RETAIL ESTABLISHMENT TO SERVE COMPLIMENTARY ALCOHOL BEVERAGES AT A PLACE OF BUSINESS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1.** In Colorado Revised Statutes, **amend** 44-3-424 as follows:

**44-3-424. Retail establishment permit - definition.** (1) (a) EXCEPT AS PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION, A ~~person operating an art gallery that offers~~ A RETAIL ESTABLISHMENT MAY OFFER AND SERVE complimentary alcohol beverages for consumption only on the premises ~~may be~~ IF THE RETAIL ESTABLISHMENT HAS BEEN ISSUED ~~an art gallery~~ A RETAIL ESTABLISHMENT permit, which ~~shall~~ MUST be renewed annually. ~~An art gallery permittee~~

(b) A RETAIL ESTABLISHMENT PERMIT HOLDER shall not:

~~(a)~~ (I) Directly or indirectly, sell alcohol beverages; ~~by the drink, shall not~~

~~(b)~~ (II) Serve alcohol beverages for more than four hours in ~~any one day~~, A TWENTY-FOUR-HOUR PERIOD; ~~and shall not~~

~~(c)~~ (III) Serve alcohol beverages more than ~~fifteen~~ TWENTY-FOUR days per year; ~~of licensure.~~

(IV) SERVE MALT LIQUOR WITH A SERVING SIZE OF MORE THAN TWELVE OUNCES;

(V) SERVE VINOUS LIQUOR WITH A SERVING SIZE OF MORE THAN FIVE OUNCES,

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*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.*

BUT THE FIVE OUNCES OF VINOUS LIQUOR MAY BE MIXED WITH NONALCOHOLIC BEVERAGES TO MAKE A LARGER SERVING SIZE;

(VI) SERVE SPIRITUOUS LIQUOR WITH A SERVING SIZE OF MORE THAN ONE AND ONE-HALF OUNCES, BUT THE ONE AND ONE-HALF OUNCES OF MALT LIQUOR MAY BE MIXED WITH NONALCOHOLIC BEVERAGES TO MAKE A LARGER SERVING SIZE;

(VII) SERVE PRE-MIXED ALCOHOL BEVERAGE DRINK OF A SERVING SIZE OF MORE THAN TWELVE OUNCES;

(VIII) HOLD ANY OTHER LICENSE ISSUED UNDER THIS ARTICLE 3 OR 4 OF THIS TITLE 44;

(IX) SERVE OR DISTRIBUTE ALCOHOL BEVERAGES BETWEEN 2 A.M. AND 7 A.M.;

(X) PERMIT A PERSON UNDER EIGHTEEN YEARS OF AGE TO SELL, DISPENSE, OR PARTICIPATE IN THE SALE OR DISPENSING OF AN ALCOHOL BEVERAGE; OR

(XI) PERMIT A PERSON EIGHTEEN YEARS OF AGE OR OLDER AND UNDER TWENTY-ONE YEARS OF AGE TO SELL, DISPENSE, OR PARTICIPATE IN THE SALE OR DISPENSING OF AN ALCOHOL BEVERAGE, UNLESS THE PERSON IS SUPERVISED BY ANOTHER PERSON WHO IS ON THE PERMITTED PREMISES AND IS AT LEAST TWENTY-ONE YEARS OF AGE.

(c) (I) THIS SECTION APPLIES TO A RETAIL ESTABLISHMENT THAT IS:

(A) AN ART GALLERY; OR

(B) ANY OTHER RETAIL ESTABLISHMENT, EXCEPT RETAIL ESTABLISHMENTS DESCRIBED IN SUBSECTION (1)(c)(II) OF THIS SECTION, THAT HAS NO MORE THAN TWENTY-FIVE EMPLOYEES AND HAS RETAIL SALES OF NO MORE THAN FIVE MILLION DOLLARS PER YEAR.

(II) THIS SECTION DOES NOT APPLY TO A RETAIL ESTABLISHMENT THAT:

(A) SELLS FIREARMS, MOTOR VEHICLES, MARIJUANA, GASOLINE, OR DIESEL FUEL;

(B) EDUCATES STUDENTS FROM KINDERGARTEN TO TWELFTH GRADE OR PROVIDES CHILD CARE; OR

(C) IS A CONVENIENCE STORE.

(2) (a) The state or local licensing authority may reject the application for ~~an art gallery~~ A RETAIL ESTABLISHMENT permit if the applicant fails to establish that the applicant is able to offer complimentary alcohol beverages without violating this section or creating a public safety risk to the neighborhood.

(b) Upon initial application, and for each renewal, the applicant ~~shall~~ MUST list each day that alcohol beverages will be served, which days ~~shall~~ MUST not be changed without a minimum of fifteen days' written notice to the state and local licensing authority.

(3) ~~An art gallery shall not be denied an art gallery~~ NEITHER THE STATE NOR A LOCAL LICENSING AUTHORITY SHALL DENY A RETAIL ESTABLISHMENT permit based solely on the ~~art gallery's~~ RETAIL ESTABLISHMENT'S proximity to any public or private school or the principal campus of a college, university, or seminary.

(4) ~~An art gallery~~ A RETAIL ESTABLISHMENT shall not charge an entrance fee or a cover charge ~~in connection with~~ IN EXCHANGE FOR offering complimentary alcohol beverages for consumption only on the premises.

(5) ~~An art gallery~~ A RETAIL ESTABLISHMENT permit may be suspended or revoked in accordance with section 44-3-601 if the ~~permittee~~ PERMIT HOLDER violates ~~any provision of~~ this article 3 or any rule adopted pursuant to this article 3 or fails to truthfully furnish any required information in connection with a permit application.

(6)(a) EXCEPT AS PROVIDED IN SUBSECTION (6)(b) OF THIS SECTION, it is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly ~~in an art gallery~~ A RETAIL ESTABLISHMENT THAT HOLDS A permit ISSUED PURSUANT TO THIS SECTION to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44. ~~except that~~

(b) A ~~person regulated under~~ RETAIL ESTABLISHMENT THAT HOLDS A PERMIT ISSUED PURSUANT TO this section may have an interest in:

(I) ~~Other art gallery permits; in~~ RETAIL ESTABLISHMENTS THAT HOLD A PERMIT ISSUED PURSUANT TO THIS SECTION;

(II) A license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c); or ~~in~~

(III) A financial institution referred to in section 44-3-308 (4).

(7) As used in this section, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "Art gallery" means ~~an~~ A RETAIL establishment ~~whose~~ THAT HAS THE primary purpose ~~is to exhibit and offer~~ OF EXHIBITING AND OFFERING for sale works of fine art as defined in section 6-15-101 or precious or semiprecious metals or stones as defined in section 18-16-102.

(b) "RETAIL ESTABLISHMENT" MEANS AN ESTABLISHMENT THAT HAS THE PRIMARY PURPOSE OF SELLING GOODS OR SERVICES TO THE PUBLIC AND THAT:

(I) CONDUCTS THE BUSINESS DESCRIBED IN SUBSECTION (7)(a) OF THIS SECTION AT A PHYSICAL BUILDING IN COLORADO; AND

(II) DERIVES LESS THAN FIFTY PERCENT OF THE ESTABLISHMENT'S GROSS SALES OF GOODS AND SERVICES FROM THE SALE OF FOOD.

(8) ~~An art gallery~~ A RETAIL ESTABLISHMENT issued a permit shall not intentionally allow more than two hundred fifty people to be on the premises at one time when alcohol beverages are being served.

(9) ~~Nothing in this section~~ THIS SECTION DOES NOT:

(a) ~~shall be construed to~~ Abrogate any insurance coverage required by law; OR

(b) ~~to authorize a licensed art gallery~~ AUTHORIZE A RETAIL ESTABLISHMENT PERMIT HOLDER to violate:

(I) Section 44-3-901, including ~~without limitation~~, serving a visibly intoxicated person and taking an alcohol beverage off the licensed premises; or ~~to violate~~

(II) Any zoning or occupancy ordinances or laws.

**SECTION 2.** In Colorado Revised Statutes, 44-3-501, **amend** (1)(t) as follows:

**44-3-501. State fees - rules - one-time fee waiver.** (1) The applicant shall pay the following license and permit fees to the department annually in advance:

(t) For each ~~art gallery~~ RETAIL ESTABLISHMENT permit, ~~fifty~~ UP TO TWO HUNDRED dollars;

**SECTION 3.** In Colorado Revised Statutes, 44-3-505, **amend** (1)(o) and (4)(a)(IV) as follows:

**44-3-505. Local license fees.** (1) The applicant shall pay the following license fees to the treasurer of the municipality, city and county, or county where the licensed premises is located annually in advance:

(o) For each ~~art gallery~~ RETAIL ESTABLISHMENT permit, twenty-five dollars;

(4)(a) Each application for a license provided for in this article 3 and article 4 of this title 44 filed with a local licensing authority must be accompanied by an application fee in an amount determined by the local licensing authority to cover actual and necessary expenses, subject to the following limitations:

(IV) For a new ~~license~~ or renewal application for ~~an art gallery~~ A RETAIL ESTABLISHMENT permit, not to exceed ~~one~~ TWO hundred dollars;

**SECTION 4.** In Colorado Revised Statutes, 44-3-901, **amend** (1)(i)(IV) as follows:

**44-3-901. Unlawful acts - exceptions - definitions.** (1) Except as provided in section 18-13-122, it is unlawful for any person:

(i)(IV) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for adult patrons of ~~an art gallery permittee~~ A RETAIL ESTABLISHMENT PERMIT HOLDER to consume alcohol beverages on the premises when the consumption is conducted within the limitations of a valid permit granted pursuant to section 44-3-424.

**SECTION 5. Appropriation.** (1) For the 2023-24 state fiscal year, \$98,744 is appropriated to the department of revenue for use by the liquor and tobacco enforcement division. This appropriation is from the liquor enforcement division

and state licensing authority cash fund created in section 44-6-101, C.R.S. To implement this act, the division may use this appropriation as follows:

(a) \$77,154 for personal services, which amount is based on an assumption that the division will require an additional 1.4 FTE; and

(b) \$21,590 for operating expenses.

**SECTION 6. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 2, 2023