

CHAPTER 420

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 08-1359

BY REPRESENTATIVE(S) Buescher, King, Curry, Fischer, Jahn, Kerr A., Labuda, Marostica, Massey, McFadyen, Rose, Stafford, and White;
also SENATOR(S) Penry, Tupa, Cadman, Gibbs, Spence, Taylor, Ward, and Wiens.

AN ACT

CONCERNING THE AUTHORITY OF CERTAIN LICENSED WINERIES TO USE COMMON LICENSED PREMISES FOR THE PRODUCTION OF WINE IN THIS STATE.

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

SECTION 1. 12-47-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-47-103. Definitions. As used in this article and article 46 of this title, unless the context otherwise requires:

(2.5) "ALTERNATING PROPRIETOR LICENSED PREMISES" MEANS A DISTINCT AND DEFINITE AREA, AS SPECIFIED IN AN ALTERNATING USE OF WINE PREMISES APPLICATION, THAT IS OWNED BY OR IN POSSESSION OF A WINERY LICENSED PURSUANT TO SECTION 12-47-402 OR 12-47-403 AND WITHIN WHICH SUCH LICENSEE AND OTHER WINERIES LICENSED PURSUANT TO SECTION 12-47-402 OR 12-47-403 ARE AUTHORIZED TO MANUFACTURE AND STORE VINOUS LIQUOR IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

SECTION 2. 12-47-106, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-47-106. Exemptions. (5) THIS ARTICLE SHALL NOT APPLY TO STATE INSTITUTIONS OF HIGHER EDUCATION WHEN SUCH INSTITUTIONS ARE ENGAGED IN THE MANUFACTURE OF VINOUS LIQUOR ON ALTERNATING PROPRIETOR LICENSED PREMISES OR PREMISES LICENSED PURSUANT TO SECTION 12-47-402 OR 12-47-403, FOR THE PURPOSE OF ENOLOGY RESEARCH AND EDUCATION.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 3. 12-47-301 (3) (a), Colorado Revised Statutes, is amended to read:

12-47-301. Licensing in general. (3) (a) Each license issued under this article and article 46 of this title is separate and distinct. It is unlawful for any person to exercise any of the privileges granted under any license other than that which the person holds or for any licensee to allow any other person to exercise such privileges granted under the licensee's license, except as provided in section 12-47-402 (2.5), 12-47-403 (2) (a), OR 12-47-403.5. A separate license shall be issued for each specific business or business entity and each geographical location, and in said license the particular alcohol beverages the applicant is authorized to manufacture or sell shall be named and described. For purposes of this section, a resort complex with common ownership, a hotel and restaurant licensee with optional premises, an optional premises licensee for optional premises located on an outdoor sports and recreational facility, and a wine festival at which more than one licensee participates pursuant to a wine festival permit shall be considered a single business and location.

SECTION 4. 12-47-402, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-47-402. Manufacturer's license. (2.5) ANY WINERY THAT HAS RECEIVED A LICENSE PURSUANT TO THIS SECTION SHALL BE AUTHORIZED TO MANUFACTURE VINOUS LIQUORS UPON AN ALTERNATING PROPRIETOR LICENSED PREMISES, AS APPROVED BY THE STATE LICENSING AUTHORITY, BUT RETAIL SALES OF VINOUS LIQUORS SHALL NOT BE CONDUCTED FROM AN AREA LICENSED OR DEFINED AS AN ALTERNATING PROPRIETOR LICENSED PREMISES.

SECTION 5. 12-47-403 (2) (a) and (2) (e), Colorado Revised Statutes, are amended to read:

12-47-403. Limited winery license. (2) A limited winery licensee is authorized:

(a) (I) To manufacture vinous liquors UPON ITS LICENSED PREMISES AND, IN ORDER TO ENHANCE THE GROWTH AND VIABILITY OF THE COLORADO WINE INDUSTRY, UPON ALTERNATING PROPRIETOR LICENSED PREMISES, AS APPROVED BY THE STATE LICENSING AUTHORITY.

(II) TO ENSURE ADEQUATE OVERSIGHT AND REGULATION OF ALTERNATING PROPRIETOR LICENSED PREMISES, WITHIN ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, THE LIQUOR ENFORCEMENT DIVISION IN THE DEPARTMENT OF REVENUE, AFTER CONSULTATION WITH THE COLORADO WINE INDUSTRY AND OTHER INTERESTED PARTIES FROM THE ALCOHOL BEVERAGE INDUSTRY, SHALL ADOPT RULES FOR THE IMPLEMENTATION, STANDARDIZATION, AND ENFORCEMENT OF ALTERNATING PROPRIETOR LICENSED PREMISES.

(e) To conduct tastings and sell vinous liquors of its own manufacture, as well as vinous liquors manufactured by other Colorado wineries, on the licensed premises of the limited winery and up to five other licensed premises, whether included in the license at the time of the original license or by supplemental application; EXCEPT THAT NO RETAIL SALES SHALL BE CONDUCTED FROM AN AREA LICENSED OR DEFINED

AS AN ALTERNATING PROPRIETOR LICENSED PREMISES.

SECTION 6. 12-47-501 (2), Colorado Revised Statutes, is amended to read:

12-47-501. State fees. (2) (a) The state licensing authority shall establish fees for processing the following types of applications, notices, or reports required to be submitted to the state licensing authority:

(I) Applications for new liquor licenses pursuant to section 12-47-304 and ~~regulations thereunder~~ RULES ADOPTED PURSUANT TO THAT SECTION;

(II) Applications to change location pursuant to section 12-47-301 (9) and ~~regulations thereunder~~ RULES ADOPTED PURSUANT TO THAT SECTION;

(III) Applications for transfer of ownership pursuant to section 12-47-303 (1) (c) and ~~regulations thereunder~~ RULES ADOPTED PURSUANT TO THAT SECTION;

(IV) Applications for modification of licensed premises pursuant to section 12-47-301 and ~~regulations thereunder~~ RULES ADOPTED PURSUANT TO THAT SECTION;

(V) APPLICATIONS FOR ALTERNATING USE OF WINE PREMISES PURSUANT TO SECTION 12-47-402 OR 12-47-403 AND RULES ADOPTED PURSUANT TO THOSE SECTIONS;

(VI) Applications for branch warehouse permits pursuant to section 12-47-406 and ~~regulations thereunder~~ RULES ADOPTED PURSUANT TO THAT SECTION;

(VII) Applications for approval of a contract to sell alcohol beverages pursuant to section 12-47-411 (3) (c);

(VIII) Applications for warehouse storage permits pursuant to section 12-47-202 and ~~regulations thereunder~~ RULES ADOPTED PURSUANT TO THAT SECTION;

(IX) Applications for duplicate licenses;

(X) Applications for wine shipment permits pursuant to section 12-47-104;

(XI) Sole source registrations or new product registrations pursuant to section 12-47-901 (3) (b);

(XII) Hotel and restaurant optional premises registrations;

(XIII) Expired license renewal applications pursuant to section 12-47-302; and

(XIV) Notice of change of name or trade name pursuant to section 12-47-301 and ~~regulations thereunder~~ RULES ADOPTED PURSUANT TO THAT SECTION.

(b) The amounts of such fees, when added to the other fees transferred to the liquor enforcement division and state licensing authority cash fund pursuant to sections 12-46-105, 12-47-502 (1), and 12-48-104, shall reflect the direct and indirect costs of the liquor enforcement division and the state licensing authority in

the administration and enforcement of this article and articles 46 and 48 of this title.

(c) The state licensing authority may charge corporate applicants and limited liability companies licensed under articles 46 and 47 of this title a fee for the cost of each fingerprint analysis and background investigation undertaken to qualify new officers, directors, stockholders, members, or managers pursuant to the requirements of section 12-47-307 (1); however, the state licensing authority shall not collect such a fee if the applicant has already undergone a background investigation by and paid a fee to a local licensing authority.

(d) At least annually, the amounts of the fees shall be reviewed and, if necessary, adjusted to reflect ~~such~~ THE direct and indirect costs OF THE LIQUOR ENFORCEMENT DIVISION AND THE STATE LICENSING AUTHORITY.

SECTION 7. 12-47-503 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-47-503. Excise tax - records. (4) Each licensed manufacturer and wholesaler of alcohol beverages within this state shall file, on or before the twentieth day of each month, an exact, verified return with the state licensing authority showing for the preceding calendar month the quantities of alcohol beverages:

(g) FOR WINERIES LICENSED PURSUANT TO SECTION 12-47-402 OR 12-47-403, A SEPARATE REPORT OF VINOUS LIQUORS MANUFACTURED, INVENTORIED, OR TRANSFERRED FROM ALTERNATING PROPRIETOR LICENSED PREMISES.

SECTION 8. 12-47-901 (2), Colorado Revised Statutes, is amended to read:

12-47-901. Unlawful acts - exceptions. (2) It is unlawful for any person licensed as a manufacturer or as a limited winery licensee pursuant to this article or article 46 of this title to manufacture alcohol beverages except in the permanent location specifically designated in the license for such manufacture, EXCEPT AS ALLOWED PURSUANT TO SECTION 12-47-402 (2.5) OR 12-47-403 (2) (a).

SECTION 9. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to licenses issued or renewed on or after the applicable effective date of this act.

Approved: June 4, 2008