

Initiative #104
Food Store Beer and Wine License

1 **Proposition ? proposes amending the Colorado statutes to:**

- 2 ◆ create a new liquor license that allows food stores to sell full-strength
3 beer and wine for off-premise consumption beginning July 1, 2017, at all
4 locations; and
- 5 ◆ define "food store" as a retail establishment that receives a minimum of
6 20 percent of its gross annual income from food items and nonalcoholic
7 beverages, and that has at least 3,000 square feet of indoor sales area.

8 **Summary and Analysis**

9 **Overview of Colorado's liquor laws.** Colorado's liquor laws were enacted in
10 1935 and changed significantly this year. The Colorado Beer Code regulates the sale
11 of 3.2 percent alcohol by volume beer (3.2 beer) and the Colorado Liquor Code
12 regulates the sale of full-strength beer, wine, and spirits. Both codes are administered
13 by the Department of Revenue's Division of Liquor Enforcement.

14 **Current law related to retail alcohol sales.** Under Colorado law, all retail stores
15 that sell alcohol for off-premise consumption must be licensed by state and local
16 licensing authorities. An individual or business may obtain one of the following license
17 types.

- 18 • *3.2 beer retailer license* — Food and convenience stores may obtain an
19 unlimited number of these licenses, allowing 3.2 beer to be sold at each
20 licensed location. As of January 1, 2019, these licensees may sell
21 full-strength beer.
- 22 • *Liquor-licensed drugstore license* — Currently, a drugstore or a food
23 store with a pharmacy may have a single licensed location where it sells
24 full-strength beer, wine, and spirits in the store. No 3.2 beer may be
25 sold at these stores, and a licensed pharmacist must staff the store's
26 pharmacy at least 50 percent of the time during which alcohol is sold.
27 State law recently changed to prohibit liquor-licensed drugstores from
28 selling alcohol below cost or allowing self-checkout for alcohol sales.
29 Beginning January 1, 2017, liquor-licensed drugstores may apply for
30 additional licenses, as shown in Table 1.
- 31 • *Retail liquor store license* — Currently, a retail liquor store may have a
32 single licensed location where it sells full-strength beer, wine, and
33 spirits. A food store chain may have a single licensed location, or host
34 a third-party retail liquor store licensee, where it sells full-strength beer,
35 wine, and spirits using a separate entrance and checkout. State law
36 recently changed to allow retail liquor stores to sell food and other retail

1 items, with gross revenues from these items capped at 20 percent of
 2 the store's total revenue. Beginning January 1, 2017, retail liquor stores
 3 may apply for additional licenses, as shown in Table 1.

4 **Table 1. Phase-in Schedule for Additional Retail Alcohol Licenses**

5	6	7
Dates	Maximum Liquor-Licensed Drugstores Licenses	Maximum Retail Liquor Store Licenses
8 January 1, 2017 – December 31, 2021	5	2
9 January 1, 2022 – December 31, 2026	8	3
10 January 1, 2027 – December 31, 2031	13	4
11 January 1, 2032 – December 31, 2036	20	
12 Beginning January 1, 2037	unlimited	

13 **Application and licensing.** As part of the application for a retail alcohol license,
 14 applicants must pay an application and annual licensing fee, submit to a criminal
 15 background check, disclose all connections to the liquor industry, undergo an
 16 assessment of the needs and desires of the neighborhood where the store will be
 17 located, and meet other requirements. The total number of retail alcohol licensees
 18 currently operating in the state and the fee schedule are shown in Table 2.

19 **Table 2. Total Retail Alcohol Licensees and Fees as of June 2016**

20	21	22	23
Type of License	Number of Licensees	One-time Application Fee	Annual State and Local Licensing Fees
22 3.2 Beer Retailer	1,470	\$1,600	\$100 – \$125
23 Liquor-Licensed Drugstore	15		250 – 350
24 Retail Liquor Store	1,650		250 – 350

25 *Source: Colorado Department of Revenue*

26
 27 **Radius requirements.** As of July 1, 2016, no new retail alcohol licenses may be
 28 issued for a location within 1,500 feet of another retail license type in cities with a
 29 population over 10,000, or 3,000 feet for cities with populations under 10,000. These
 30 retail alcohol licenses include liquor-licensed drugstores, retail liquor stores, or any
 31 future types of retail licenses, but not 3.2 beer licenses. As a result, a new retail
 32 alcohol license applicant is required to obtain ownership of all licenses within, or locate
 33 outside of, the applicable 1,500 or 3,000 foot radius. To obtain a new liquor-licensed
 34 drugstore license, an applicant must obtain at least two retail liquor store licenses, and
 35 any other retail alcohol licenses (excluding 3.2 beer) located within the applicable
 36 1,500 or 3,000 foot radius.

37 **Changes under Proposition ?** If the measure is adopted, the state's food stores
 38 will have an additional retail alcohol license, called a "food store license," available to
 39 them as of July 1, 2017, that allows them to sell full-strength beer and wine for
 40 off-premise consumption. An individual or business may obtain an unlimited number

1 of these licenses, within radius requirements. Employees must be at least 21 years of
2 age to sell alcohol to food store customers. The Department of Revenue's Division of
3 Liquor Enforcement will make rules and regulations pertaining to the new food store
4 license.

5 *Food store definition.* Based on the measure's definition of a food store, a retail
6 establishment that receives a minimum of 20 percent of its gross annual income from
7 food items and nonalcoholic beverages, and that has at least 3,000 square feet of
8 indoor sales area, is eligible for a food store license. Grocery stores, supermarkets,
9 warehouse club stores, dollar stores, and large convenience stores are likely to meet
10 these criteria.

11 *Expedited licensing.* A local licensing authority may expedite the conversion of a
12 3.2 beer retailer license to a food store license by considering the background check
13 from the original 3.2 beer retailer license application. These retailers must have a
14 valid 3.2 beer license as of July 1, 2017, and no administrative or criminal proceedings
15 pending against them.

16 *Fees.* State and local licensing authorities may set one-time application fees by
17 rule. The measure maintains the existing annual state and local licensing fee
18 structure for the new food store license.

For information on those issue committees that support or oppose the measures on the ballot at the November 8, 2016, election, go to the Colorado Secretary of State's elections center website hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

19 **Arguments For**

20 1) Colorado liquor laws limiting alcohol sales at food stores do not satisfy the need
21 of today's consumers for convenience. The measure will allow consumers to buy
22 full-strength beer, wine, and food in one trip. The buying power of food store chains
23 may result in lower prices for these products, and may also expand the market
24 potential for Colorado craft alcohol producers.

25 2) The measure offers food stores a faster and less expensive route to selling
26 full-strength beer and wine than the options available to them under current law. Food
27 stores that are not located near an existing liquor store will be able to sell full-strength
28 beer and wine beginning next July, and in other locations once the radius
29 requirements are met. Without this measure, full-strength beer and wine will not be
30 available in all food stores until 2037.

1 **Arguments Against**

2 1) Recently enacted legislation modernizes Colorado's liquor law, while minimizing
3 the negative effect on independent retail liquor stores, convenience stores, and craft
4 alcohol producers. This legislative compromise allows food stores to sell full-strength
5 beer, wine, and spirits in additional stores as early as next year, and both food and
6 convenience stores will be able to sell full-strength beer in all stores by 2019, making
7 Proposition ? redundant.

8 2) The measure creates a competitive disadvantage for existing retail liquor stores
9 to the advantage of large corporate food store chains. While food stores will have the
10 opportunity to increase their share of the beer and wine market, retail liquor stores will
11 rely more heavily on the sale of spirits, which generally make up less than one-third of
12 their sales. These local businesses have supported the state's robust craft alcohol
13 industry, which may be disrupted if some of these liquor stores are unable to compete.

14 **Estimate of Fiscal Impact**

15 *(Please note: A summary of the fiscal impact will be included in this space in the*
16 *second draft of the analysis, and an official fiscal note will be prepared and placed on*
17 *the web when the final Blue Book is sent to voters.)*