

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 19-0398.01 Duane Gall x4335

SENATE BILL 19-028

SENATE SPONSORSHIP

Holbert,

HOUSE SPONSORSHIP

McKean,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF LICENSING AUTHORITIES TO**
102 **CONTINUE TO ISSUE CERTAIN FERMENTED MALT BEVERAGE**
103 **RETAIL LICENSES IN RURAL AREAS.**

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

Recent legislation (Senate Bill 18-243) terminated the licensing of retailers to sell fermented malt beverages (formerly known as "3.2 beer" but now including all beer) for consumption on and off a licensed premises, requiring the holder of such a license to combine its renewal application with an application to convert the license into either a license

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

SENATE
2nd Reading Unamended
January 22, 2019

to sell for consumption on the licensed premises or a license to sell for consumption off the licensed premises.

The bill lifts the requirement to convert an existing license, and reinstates the availability of new licenses, in specified areas with low populations.

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

2 **SECTION 1.** In Colorado Revised Statutes, 44-4-104, **amend**
3 (1)(c) as follows:

4 **44-4-104. Licenses - state license fees - requirements -**
5 **definition - repeal.** (1) The licenses to be granted and issued by the state
6 licensing authority pursuant to this article 4 for the manufacture,
7 importation, and sale of fermented malt beverages are as follows:

8 (c) (I) ~~On and after June 4, 2018,~~ A retailer's license shall be
9 granted and issued to any person, partnership, association, organization,
10 or corporation qualifying under section 44-3-301 and not prohibited from
11 licensure under section 44-3-307 to sell at retail fermented malt beverages
12 either for consumption off the licensed premises or FOR CONSUMPTION on
13 the licensed premises ~~but not~~ OR, SUBJECT TO SUBSECTION (1)(c)(III) OF
14 THIS SECTION, for consumption on and off the licensed premises, upon
15 paying an annual license fee of seventy-five dollars to the state licensing
16 authority.

17 (II) ~~(A) On and after June 4, 2018,~~ EXCEPT AS OTHERWISE
18 PROVIDED IN SUBSECTION (1)(c)(III) OF THIS SECTION:

19 (A) The state licensing authority shall not issue a new or renew a
20 fermented malt beverage retailer's license for the sale of fermented malt
21 beverages for consumption on and off the licensed premises; AND

22 (B) Any licensee holding a fermented malt beverage license
23 authorizing the sale of fermented malt beverages for consumption on and

1 off the licensed premises that was issued by the state licensing authority
2 under this subsection (1)(c) before June 4, 2018, that applies to renew the
3 license on or after June 4, 2018, AND WHOSE LICENSED PREMISES IS
4 LOCATED IN A COUNTY WITH A POPULATION OF THIRTY-FIVE THOUSAND OR
5 MORE AND NOT IN AN UNDERSERVED AREA must simultaneously apply to
6 convert the license either to a license for the sale of fermented malt
7 beverages at retail for consumption off the licensed premises or to a
8 license for the sale of fermented malt beverages at retail for consumption
9 on the licensed premises.

10 ~~(B) This subsection (1)(c)(II) is repealed, effective July 1, 2019.~~

11 (III) (A) THE STATE LICENSING AUTHORITY MAY ISSUE A NEW OR
12 RENEW A FERMENTED MALT BEVERAGE RETAILER'S LICENSE FOR THE SALE
13 OF FERMENTED MALT BEVERAGES FOR CONSUMPTION ON AND OFF THE
14 LICENSED PREMISES IF THE LICENSED PREMISES IS LOCATED IN A COUNTY
15 WITH A POPULATION OF LESS THAN THIRTY-FIVE THOUSAND OR IN AN
16 UNDERSERVED AREA.

17 (B) IF A LICENSEE WHOSE LICENSED PREMISES IS LOCATED IN A
18 COUNTY WITH A POPULATION OF LESS THAN THIRTY-FIVE THOUSAND OR IN
19 AN UNDERSERVED AREA APPLIED FOR CONVERSION OF THE LICENSE UNDER
20 THIS SUBSECTION (1)(c) ON OR AFTER JUNE 4, 2018, AND BEFORE JULY 1,
21 2019, THE STATE LICENSING AUTHORITY SHALL, AT NO ADDITIONAL
22 CHARGE TO THE LICENSEE, ALLOW THE APPLICATION TO BE WITHDRAWN
23 AND RESUBMITTED AS AN APPLICATION TO RENEW THE LICENSE OR
24 RECONVERT THE LICENSE TO A LICENSE FOR THE SALE OF FERMENTED
25 MALT BEVERAGES FOR CONSUMPTION ON AND OFF THE LICENSED
26 PREMISES. THIS SUBSECTION (1)(c)(III)(B) IS REPEALED, EFFECTIVE
27 SEPTEMBER 1, 2021.

1 (IV) AS USED IN THIS SUBSECTION (1)(c), "UNDERSERVED AREA"
2 MEANS AN AREA THAT IS WITHIN A COUNTY WITH A POPULATION OF
3 THIRTY-FIVE THOUSAND OR MORE BUT LIES OUTSIDE OF MUNICIPAL
4 BOUNDARIES OR IS A CITY OR TOWN WITH A POPULATION OF LESS THAN
5 SEVEN THOUSAND FIVE HUNDRED.

6 (V) FOR PURPOSES OF THIS SUBSECTION (1)(c), POPULATION IS
7 DETERMINED ACCORDING TO THE MOST RECENTLY AVAILABLE
8 POPULATION STATISTICS OF THE UNITED STATES CENSUS BUREAU.

9 **SECTION 2.** In Colorado Revised Statutes, 44-4-107, **amend**
10 (1)(c) as follows:

11 **44-4-107. Local licensing authority - application - fees -**
12 **definitions - rules - repeal.** (1) The local licensing authority shall issue
13 only the following classes of fermented malt beverage licenses:

14 (c) (I) SUBJECT TO SUBSECTIONS (1)(c)(II) AND (1)(c)(III) OF THIS
15 SECTION, sales for consumption both on and off the premises of the
16 licensee. ~~except that, on or after June 4, 2018,~~

17 (II) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(c)(III) OF
18 THIS SECTION:

19 (A) A local licensing authority shall not issue a new fermented
20 malt beverage license or renew an existing fermented malt beverage
21 license for the sale of fermented malt beverages for consumption on and
22 off the licensed premises; AND

23 (B) Any licensee holding a fermented malt beverage license
24 issued under this subsection (1)(c) prior to June 4, 2018, that applies to
25 renew the license on or after June 4, 2018, AND WHOSE LICENSED
26 PREMISES IS LOCATED IN A COUNTY WITH A POPULATION OF THIRTY-FIVE
27 THOUSAND OR MORE AND NOT IN AN UNDERSERVED AREA must

1 simultaneously apply to convert the license either to a license for the sale
2 of fermented malt beverages for consumption off the licensed premises
3 as specified in subsection (1)(a) of this section or to a license for the sale
4 of fermented malt beverages for consumption on the licensed premises as
5 specified in subsection (1)(b) of this section.

6 ~~(H) This subsection (1)(c) is repealed, effective July 1, 2019.~~

7 (III) (A) THE LOCAL LICENSING AUTHORITY MAY ISSUE A NEW OR
8 RENEW A FERMENTED MALT BEVERAGE RETAILER'S LICENSE FOR THE SALE
9 OF FERMENTED MALT BEVERAGES FOR CONSUMPTION ON AND OFF THE
10 LICENSED PREMISES IF THE LICENSED PREMISES IS LOCATED IN A COUNTY
11 WITH A POPULATION OF LESS THAN THIRTY-FIVE THOUSAND OR IN AN
12 UNDERSERVED AREA.

13 (B) IF A LICENSEE WHOSE LICENSED PREMISES IS LOCATED IN A
14 COUNTY WITH A POPULATION OF LESS THAN THIRTY THOUSAND OR IN AN
15 UNDERSERVED AREA APPLIED FOR CONVERSION OF THE LICENSE UNDER
16 THIS SUBSECTION (1)(c) ON OR AFTER JUNE 4, 2018, AND BEFORE JULY 1,
17 2019, THE LOCAL LICENSING AUTHORITY SHALL, AT NO ADDITIONAL
18 CHARGE TO THE LICENSEE, ALLOW THE APPLICATION TO BE WITHDRAWN
19 AND RESUBMITTED AS AN APPLICATION TO RENEW THE LICENSE OR
20 RECONVERT THE LICENSE TO A LICENSE FOR THE SALE OF FERMENTED
21 MALT BEVERAGES FOR CONSUMPTION ON AND OFF THE LICENSED
22 PREMISES. THIS SUBSECTION (1)(c)(III)(B) IS REPEALED, EFFECTIVE
23 SEPTEMBER 1, 2021.

24 (IV) AS USED IN THIS SUBSECTION (1)(c), "UNDERSERVED AREA"
25 MEANS AN AREA THAT IS WITHIN A COUNTY WITH A POPULATION OF
26 THIRTY-FIVE THOUSAND OR MORE BUT LIES OUTSIDE OF MUNICIPAL
27 BOUNDARIES OR IS A CITY OR TOWN WITH A POPULATION OF LESS THAN

1 SEVEN THOUSAND FIVE HUNDRED.

2 (V) FOR PURPOSES OF THIS SUBSECTION (1)(c), POPULATION IS
3 DETERMINED ACCORDING TO THE MOST RECENTLY AVAILABLE
4 POPULATION STATISTICS OF THE UNITED STATES CENSUS BUREAU.

5 **SECTION 3.** In Colorado Revised Statutes, 44-3-301, **amend as**
6 **it will become effective July 1, 2019,** (8) as follows:

7 **44-3-301. Licensing in general.** (8) Each licensee holding a
8 fermented malt beverage on-premises license OR ON- AND OFF-PREMISES
9 LICENSE, beer and wine license, tavern license, lodging and entertainment
10 license, club license, arts license, or racetrack license shall manage the
11 premises himself or herself or employ a separate and distinct manager on
12 the premises and shall report the name of the manager to the state and
13 local licensing authorities. The licensee shall report any change in
14 managers to the state and local licensing authorities within thirty days
15 after the change. It is unlawful for the licensee to fail to report the name
16 of or any change in managers as required by this subsection (8). The
17 failure to report is grounds for suspension of the license.

18 **SECTION 4. Effective date - applicability.** This act takes effect
19 upon passage and applies to license applications filed on or after June 4,
20 2018.

21 **SECTION 5. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.