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SENATE BILL 19-028

BY SENATOR(S) Holbert and Bridges, Cooke, Crowder, Donovan, Gardner, Ginal, Hill, Hisey, Lundeen, Marble, Priola, Rankin, Scott, Sonnenberg, Story, Tate, Todd, Winter, Woodward, Zenzinger;
also REPRESENTATIVE(S) McKean and McCluskie, Buentello, Catlin, Froelich, Galindo, Gray, Herod, Lewis, Liston, McLachlan, Melton, Pelton, Singer, Snyder, Sullivan, Titone, Valdez D., Becker.

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

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

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

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

(c) (I) ~~On and after June 4, 2018,~~ A retailer's license shall be granted

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.

and issued to any person, partnership, association, organization, or corporation qualifying under section 44-3-301 and not prohibited from licensure under section 44-3-307 to sell at retail fermented malt beverages either for consumption off the licensed premises or FOR CONSUMPTION on the licensed premises ~~but not~~ OR, SUBJECT TO SUBSECTION (1)(c)(III) OF THIS SECTION, for consumption on and off the licensed premises, upon paying an annual license fee of seventy-five dollars to the state licensing authority.

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

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

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

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

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

(B) IF A LICENSEE WHOSE LICENSED PREMISES IS LOCATED IN A COUNTY WITH A POPULATION OF LESS THAN THIRTY-FIVE THOUSAND OR IN AN UNDERSERVED AREA APPLIED FOR CONVERSION OF THE LICENSE UNDER THIS SUBSECTION (1)(c) ON OR AFTER JUNE 4, 2018, AND BEFORE JULY 1,

2019, THE STATE LICENSING AUTHORITY SHALL, AT NO ADDITIONAL CHARGE TO THE LICENSEE, ALLOW THE APPLICATION TO BE WITHDRAWN AND RESUBMITTED AS AN APPLICATION TO RENEW THE LICENSE OR RECONVERT THE LICENSE TO A LICENSE FOR THE SALE OF FERMENTED MALT BEVERAGES FOR CONSUMPTION ON AND OFF THE LICENSED PREMISES. THIS SUBSECTION (1)(c)(III)(B) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

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

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

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

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

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

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

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

(B) Any licensee holding a fermented malt beverage license issued under this subsection (1)(c) prior to June 4, 2018, that applies to renew the license on or after June 4, 2018, AND WHOSE LICENSED PREMISES IS LOCATED IN A COUNTY WITH A POPULATION OF THIRTY-FIVE THOUSAND OR

MORE AND NOT IN AN UNDERSERVED AREA must simultaneously apply to convert the license either to a license for the sale of fermented malt beverages for consumption off the licensed premises as specified in subsection (1)(a) of this section or to a license for the sale of fermented malt beverages for consumption on the licensed premises as specified in subsection (1)(b) of this section.

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

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

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

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

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

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

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

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

SECTION 5. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO