

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

REVISED

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

LLS NO. 20-1289.01 Jery Payne x2157

SENATE BILL 20-213

SENATE SPONSORSHIP

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HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF BUSINESSES LICENSED TO SELL**
102 **ALCOHOL BEVERAGES FOR CONSUMPTION ON THE LICENSED**
103 **PREMISES TO SELL ALCOHOL BEVERAGES FOR CONSUMPTION**
104 **OFF THE LICENSED PREMISES.**

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>.)

The bill authorizes a business with a manufacturer or wholesaler license and a sales room, beer and wine license, hotel and restaurant license, tavern license, brew pub license, club license, vintner's restaurant

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.

HOUSE
Amended 2nd Reading
June 12, 2020

SENATE
3rd Reading Unamended
June 10, 2020

SENATE
Amended 2nd Reading
June 9, 2020

license, distillery pub license, lodging and entertainment license, or fermented malt beverage on- and off-premises retailer license (retailer) to deliver alcohol beverages to customers and to allow customers to take the beverages off the licensed premises. The beverages may be sold or delivered in a sealed container that complies with state licensing authority rules and may be sold by the drink or by multiple drinks.

The following requirements are also placed on the sale or delivery of alcohol beverages by retailers:

- ! The customer must be 21 years of age or older;
- ! If the governor has not declared an emergency, the order may contain no more than 750 milliliters of vinous liquors and spirituous liquors and no more than 72 fluid ounces of malt liquors, fermented malt beverages, and hard cider;
- ! If the governor has not declared an emergency or the retailer is not a wholesaler or manufacturer that operates a sales room, the retailer must derive no more than 50% of its gross annual revenues for sales of food and alcohol beverages from the sale of alcohol beverages through takeout orders and that the retailer delivers;
- ! If the governor has not declared an emergency, the retailer must have a permit to sell takeout or deliver alcohol beverages; and
- ! Delivery must be made by an employee of the licensee who is 21 years of age or older and who has satisfactorily completed seller and server training under the responsible vendor program.

The bill directs the state licensing authority to adopt rules:

- ! Specifying the types of containers to be used for delivery of alcohol beverages;
- ! Creating a permit for retailers to engage in takeout and delivery of alcohol beverages;
- ! Setting fees for takeout and delivery permits; and
- ! Concerning any other matters necessary to implement the bill.

The bill does not apply to caterers and repeals on July 1, 2022.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 44-3-911 as
3 follows:

4 **44-3-911. Takeout and delivery of alcohol beverages - permit**
5 **- on-premises consumption licenses - requirements and limitations -**

1 **rules - definition - repeal.** (1) (a) NOTWITHSTANDING ANY OTHER
2 PROVISION OF THIS ARTICLE 3 OR ARTICLE 4 OF THIS TITLE 44 AND SUBJECT
3 TO SUBSECTIONS (2) AND (3) OF THIS SECTION:

4 (I) A LICENSEE MAY SELL AND DELIVER AN ALCOHOL BEVERAGE TO
5 A CUSTOMER FOR CONSUMPTION OFF THE LICENSED PREMISES; AND

6 (II) IF AN ALCOHOL BEVERAGE IS PART OF A TAKEOUT ORDER FOR
7 CONSUMPTION OFF THE LICENSED PREMISES:

8 (A) A CUSTOMER MAY REMOVE THE ALCOHOL BEVERAGE FROM
9 THE LICENSED PREMISES IF THE ALCOHOL BEVERAGE IS IN A SEALED
10 CONTAINER THAT COMPLIES WITH THE RULES OF THE STATE LICENSING
11 AUTHORITY; AND

12 (B) THE LICENSEE MAY ALLOW A CUSTOMER TO REMOVE THE
13 ALCOHOL BEVERAGE FROM THE LICENSED PREMISES.

14 (b) SUBJECT TO SUBSECTIONS (2) AND (3) OF THIS SECTION, A
15 LICENSEE MAY SELL OR DELIVER ALCOHOL BEVERAGES UNDER THIS
16 SECTION BY THE DRINK.

17 (2) TO SELL AND DELIVER AN ALCOHOL BEVERAGE OR TO ALLOW
18 A CUSTOMER TO REMOVE AN ALCOHOL BEVERAGE FROM THE LICENSED
19 PREMISES AS EITHER IS AUTHORIZED UNDER SUBSECTION (1) OF THIS
20 SECTION, THE LICENSEE MUST:

21 (a) HAVE ANY APPLICABLE PERMITS ISSUED UNDER THIS SECTION
22 TO SELL ALCOHOL BEVERAGES FOR TAKEOUT OR DELIVERY; EXCEPT THAT
23 THIS SUBSECTION (2)(a) DOES NOT APPLY IF THE GOVERNOR HAS
24 DECLARED A DISASTER EMERGENCY UNDER PART 7 OF ARTICLE 33.5 OF
25 TITLE 24;

26 (b) SELL OR DELIVER:

27 (I) THE ALCOHOL BEVERAGE ONLY TO A CUSTOMER WHO IS

1 TWENTY-ONE YEARS OF AGE OR OLDER;

2 (II) THE ALCOHOL BEVERAGE IN A SEALED CONTAINER THAT
3 COMPLIES WITH THE RULES OF THE STATE LICENSING AUTHORITY; AND

4 (III) NO MORE THAN THE FOLLOWING AMOUNTS OF ALCOHOL
5 BEVERAGES PER DELIVERY OR TAKEOUT ORDER UNLESS THE GOVERNOR
6 HAS DECLARED A DISASTER EMERGENCY UNDER PART 7 OF ARTICLE 33.5
7 OF TITLE 24:

8 (A) SEVEN HUNDRED FIFTY MILLILITERS, APPROXIMATELY 26.4
9 FLUID OUNCES, OF SPIRITUOUS LIQUORS AND VINOUS LIQUORS; AND

10 (B) SEVENTY-TWO FLUID OUNCES, APPROXIMATELY TWO
11 THOUSAND FORTY-SIX MILLILITERS, OF MALT LIQUORS, FERMENTED MALT
12 BEVERAGES, AND HARD CIDER;

13 (c) DERIVE NO MORE THAN FIFTY PERCENT OF ITS GROSS ANNUAL
14 REVENUES FROM TOTAL SALES OF FOOD AND ALCOHOL BEVERAGES FROM
15 THE SALE OF ALCOHOL BEVERAGES THROUGH TAKEOUT ORDERS AND THAT
16 THE LICENSEE DELIVERS; EXCEPT THAT:

17 (I) THIS SUBSECTION (2)(c) DOES NOT APPLY IF THE GOVERNOR
18 HAS DECLARED A DISASTER EMERGENCY UNDER PART 7 OF ARTICLE 33.5
19 OF TITLE 24; OR

20 (II) THIS SUBSECTION (2)(c) DOES NOT APPLY TO A SALES ROOM AT
21 A PREMISES LICENSED UNDER SECTION 44-3-402 OR 44-3-407; AND

22 (d) IF AN ALCOHOL BEVERAGE IS BEING DELIVERED, USE A
23 DELIVERY PERSON WHO COMPLIES WITH SUBSECTION (3) OF THIS SECTION.

24 (3) TO DELIVER AN ALCOHOL BEVERAGE UNDER THIS SECTION, THE
25 DELIVERY PERSON MUST:

26 (a) DELIVER THE ALCOHOL BEVERAGE TO A PLACE THAT IS NOT
27 LICENSED UNDER THIS ARTICLE 3 OR ARTICLE 4 OF THIS TITLE 44;

1 (b) BE AN EMPLOYEE OF THE LICENSEE WHO IS TWENTY-ONE YEARS
2 OF AGE OR OLDER;

3 (c) DELIVER AN ALCOHOL BEVERAGE ONLY TO A PERSON WHO IS
4 TWENTY-ONE YEARS OF AGE OR OLDER; AND

5 (d) HAVE SATISFACTORILY COMPLETED THE SERVER AND SELLER
6 TRAINING PROGRAM ESTABLISHED UNDER SECTION 44-3-1002.

7 (4) (a) THE STATE LICENSING AUTHORITY SHALL PROMULGATE
8 RULES:

9 (I) SPECIFYING THE TYPES OF CONTAINERS THAT MAY BE USED FOR
10 TAKEOUT OR DELIVERY OF AN ALCOHOL BEVERAGE UNDER THIS SECTION;

11 (II) CREATING A PERMIT FOR TAKEOUT AND DELIVERY OF ALCOHOL
12 BEVERAGES;

13 (III) SETTING FEES FOR THE PROCESSING AND APPROVAL OF A
14 TAKEOUT OR DELIVERY PERMIT APPLICATION; AND

15 (IV) CONCERNING ANY OTHER MATTER NECESSARY FOR THE SAFE
16 AND EFFECTIVE IMPLEMENTATION OF THIS SECTION.

17 (b) THE STATE LICENSING AUTHORITY SHALL ISSUE A PERMIT TO A
18 LICENSEE TO SELL ALCOHOL BEVERAGES FOR TAKEOUT AND DELIVERY IF
19 THE LICENSEE DEMONSTRATES THE ABILITY TO COMPLY WITH THIS
20 SECTION. A PERMIT ISSUED UNDER THIS SUBSECTION (4) IS SUBJECT TO THE
21 SUSPENSION AND REVOCATION PROVISIONS SET FORTH IN SECTION
22 44-3-601.

23 (c) (I) THE LOCAL LICENSING AUTHORITY MAY CREATE A PERMIT
24 FOR TAKEOUT AND DELIVERY OF ALCOHOL BEVERAGES TO IMPLEMENT
25 THIS SECTION. IF A LOCAL LICENSING AUTHORITY DOES NOT CREATE A
26 PERMIT UNDER THIS SUBSECTION (4)(c), A LICENSEE NEED NOT OBTAIN A
27 LOCAL PERMIT TO SELL AND DELIVER AN ALCOHOL BEVERAGE OR TO

1 ALLOW A CUSTOMER TO REMOVE AN ALCOHOL BEVERAGE FROM THE
2 LICENSED PREMISES.

3 (II) A LOCAL LICENSING AUTHORITY MAY ESTABLISH FEES FOR THE
4 PROCESSING AND APPROVAL OF A TAKEOUT OR DELIVERY PERMIT
5 APPLICATION, BUT THE AMOUNT OF THE FEE MUST NOT EXCEED THE
6 AMOUNT OF THE FEE SET BY THE STATE LICENSING AUTHORITY UNDER
7 SUBSECTION (4)(a)(III) OF THIS SECTION.

8 (III) IF A LOCAL LICENSING AUTHORITY CREATES A TAKEOUT OR
9 DELIVERY PERMIT:

10 (A) THE LICENSEE MUST OBTAIN THE PERMIT TO SELL AND DELIVER
11 AN ALCOHOL BEVERAGE OR TO ALLOW A CUSTOMER TO REMOVE AN
12 ALCOHOL BEVERAGE FROM THE LICENSED PREMISES AS EITHER IS
13 AUTHORIZED UNDER SUBSECTION (1) OF THIS SECTION; AND

14 (B) THE LOCAL LICENSING AUTHORITY SHALL ISSUE A PERMIT TO
15 A LICENSEE TO SELL ALCOHOL BEVERAGES FOR TAKEOUT AND DELIVERY
16 IF THE LICENSEE DEMONSTRATES THE ABILITY TO COMPLY WITH THIS
17 SECTION.

18 (IV) A PERMIT ISSUED UNDER THIS SUBSECTION (4)(c) IS SUBJECT
19 TO THE SUSPENSION AND REVOCATION PROVISIONS SET FORTH IN SECTION
20 44-3-601.

21 (V) A MANUFACTURER LICENSED UNDER SECTION 44-3-402 THAT
22 OPERATES A SALES ROOM OR A WHOLESALER LICENSED UNDER SECTION
23 44-3-407 THAT OPERATES A SALES ROOM NEED NOT OBTAIN A PERMIT
24 FROM THE LOCAL LICENSING AUTHORITY TO SELL AND DELIVER AN
25 ALCOHOL BEVERAGE OR TO ALLOW A CUSTOMER TO REMOVE AN ALCOHOL
26 BEVERAGE FROM THE LICENSED PREMISES.

27 (d) THE LICENSEE SHALL SUBMIT AN APPLICATION FOR A PERMIT

1 ISSUED UNDER THIS SECTION TO THE STATE LICENSING AUTHORITY AND
2 THE LOCAL LICENSING AUTHORITY, IF APPLICABLE, SIMULTANEOUSLY.
3 APPROVAL BY EITHER THE STATE LICENSING AUTHORITY OR A LOCAL
4 LICENSING AUTHORITY DOES NOT GUARANTEE APPROVAL BY THE OTHER
5 LICENSING AUTHORITY.

6 (5) FOR THE PURPOSES OF THIS ARTICLE 3 AND ARTICLE 4 OF THIS
7 TITLE 44, AN ALCOHOL BEVERAGE THAT IS SOLD AND DELIVERED TO A
8 CUSTOMER'S HOME FOR CONSUMPTION OFF THE LICENSED PREMISES UNDER
9 THIS SECTION IS SOLD AT THE LICENSED PREMISES.

10 (6) (a) AS USED IN THIS SECTION, "LICENSEE" MEANS A PERSON
11 ISSUED A LICENSE UNDER SECTION 44-3-402 THAT OPERATES A SALES
12 ROOM OR SECTION 44-3-407 THAT OPERATES A SALES ROOM OR SECTION
13 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-418, 44-3-422, 44-3-426,
14 44-3-428, 44-4-104 (1)(c)(I)(A), OR 44-4-104 (1)(c)(III).

15 (b) (I) THIS SECTION DOES NOT APPLY TO A PERSON ISSUED A
16 LICENSE OR PERMIT THAT IS NOT LISTED IN SUBSECTION (6)(a) OF THIS
17 SECTION OR TO A CATERER WHO IS LICENSED TO SELL ALCOHOL
18 BEVERAGES.

19 (II) SUBSECTION (2)(b)(III) OF THIS SECTION DOES NOT APPLY TO:

20 (A) A MANUFACTURER LICENSED UNDER SECTION 44-3-402 THAT
21 OPERATES A SALES ROOM OR A WHOLESALER LICENSED UNDER SECTION
22 44-3-407 THAT OPERATES A SALES ROOM; AND

23 (B) THE SALE OF AN ALCOHOL BEVERAGE MANUFACTURED BY THE
24 LICENSEE AND SOLD BY A BREW PUB LICENSED UNDER SECTION 44-3-417,
25 A VINTNER'S RESTAURANT LICENSED UNDER SECTION 44-3-422, OR A
26 DISTILLERY PUB LICENSED UNDER SECTION 44-3-426.

27 (7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2021.

1 **SECTION 2. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, or safety.