

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

REVISED

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

LLS NO. 23-0463.01 Jery Payne x2157

HOUSE BILL 23-1061

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A BILL FOR AN ACT

101 **CONCERNING PERMITTING A RETAIL ESTABLISHMENT TO SERVE**
102 **COMPLEMENTARY ALCOHOL BEVERAGES AT A PLACE OF**
103 **BUSINESS, AND, IN CONNECTION THEREWITH, MAKING AN**
104 **APPROPRIATION.**

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>.)

Current law authorizes an art gallery to be issued a permit that allows the art gallery to serve complementary alcohol beverages. Under current law, a permit holder is prohibited from:

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

SENATE
2nd Reading Unamended
April 28, 2023

HOUSE
3rd Reading Unamended
March 13, 2023

HOUSE
Amended 2nd Reading
March 11, 2023

- Selling alcohol beverages by the drink;
- Serving alcohol beverages for more than 4 hours in a 24-hour period;
- Serving alcohol beverages more than 15 days per year;
- Charging an entrance fee or a cover charge in connection with offering complimentary alcohol beverages;
- Violating the "Colorado Liquor Code"; or
- Allowing more than 250 people to be on the premises at one time when alcohol beverages are being served.

The bill broadens this permit to allow all retail establishments to obtain the permit if the establishment conducts business at a physical building in Colorado, sells goods or services to the public at the location, and derives less than 50% of the establishment's gross sales of goods and services from the sale of food. The prohibitions applicable to art gallery permit holders under current law are not changed and apply to a retail establishment that obtains a permit; except that:

- The prohibition on selling alcohol is broadened to cover the sale of alcohol beverages in any form; and
- The number of days that an establishment may serve alcohol beverages in a year is increased from 15 to 24 days.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 44-3-424 as
 3 follows:

4 **44-3-424. Retail establishment permit - definition.**

5 (1) (a) ~~EXCEPT AS PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION, A~~
 6 ~~person operating an art gallery that offers~~ A RETAIL ESTABLISHMENT MAY
 7 OFFER AND SERVE complimentary alcohol beverages for consumption only
 8 on the premises ~~may be~~ IF THE RETAIL ESTABLISHMENT HAS BEEN issued
 9 ~~an art gallery~~ A RETAIL ESTABLISHMENT permit, which ~~shall~~ MUST be
 10 renewed annually. ~~An art gallery permittee~~

11 (b) A RETAIL ESTABLISHMENT PERMIT HOLDER shall not:

12 ~~(a)~~ (I) Directly or indirectly, sell alcohol beverages; ~~by the drink,~~
 13 ~~shall not~~

14 ~~(b)~~ (II) Serve alcohol beverages for more than four hours in ~~any~~

1 ~~one day~~, A TWENTY-FOUR-HOUR PERIOD; ~~and shall not~~
2 (c) (III) Serve alcohol beverages more than ~~fifteen~~ TWENTY-FOUR
3 days per year; ~~of licensure~~.
4 (IV) SERVE MALT LIQUOR WITH A SERVING SIZE OF MORE THAN
5 TWELVE OUNCES;
6 (V) SERVE VINOUS LIQUOR WITH A SERVING SIZE OF MORE THAN
7 FIVE OUNCES, BUT THE FIVE OUNCES OF VINOUS LIQUOR MAY BE MIXED
8 WITH NONALCOHOLIC BEVERAGES TO MAKE A LARGER SERVING SIZE;
9 (VI) SERVE SPIRITUOUS LIQUOR WITH A SERVING SIZE OF MORE
10 THAN ONE AND ONE-HALF OUNCES, BUT THE ONE AND ONE-HALF OUNCES
11 OF MALT LIQUOR MAY BE MIXED WITH NONALCOHOLIC BEVERAGES TO
12 MAKE A LARGER SERVING SIZE;
13 (VII) SERVE PRE-MIXED ALCOHOL BEVERAGE DRINK OF A SERVING
14 SIZE OF MORE THAN 12 OUNCES;
15 (VIII) HOLD ANY OTHER LICENSE ISSUED UNDER THIS ARTICLE 3
16 OR 4 OF THIS TITLE 44;
17 (IX) SERVE OR DISTRIBUTE ALCOHOL BEVERAGES BETWEEN 2 A.M.
18 AND 7 A.M.;
19 (X) PERMIT A PERSON UNDER EIGHTEEN YEARS OF AGE TO SELL,
20 DISPENSE, OR PARTICIPATE IN THE SALE OR DISPENSING OF AN ALCOHOL
21 BEVERAGE; OR
22 (XI) PERMIT A PERSON EIGHTEEN YEARS OF AGE OR OLDER AND
23 UNDER TWENTY-ONE YEARS OF AGE TO SELL, DISPENSE, OR PARTICIPATE
24 IN THE SALE OR DISPENSING OF AN ALCOHOL BEVERAGE, UNLESS THE
25 PERSON IS SUPERVISED BY ANOTHER PERSON WHO IS ON THE PERMITTED
26 PREMISES AND IS AT LEAST TWENTY-ONE YEARS OF AGE.
27 (c) (I) THIS SECTION APPLIES TO A RETAIL ESTABLISHMENT THAT

1 IS:

2 (A) AN ART GALLERY; OR

3 (B) ANY OTHER RETAIL ESTABLISHMENT, EXCEPT RETAIL
4 ESTABLISHMENTS DESCRIBED IN SUBSECTION (1)(c)(II) OF THIS SECTION,
5 THAT HAS NO MORE THAN TWENTY-FIVE EMPLOYEES AND HAS RETAIL
6 SALES OF NO MORE THAN FIVE MILLION DOLLARS PER YEAR.

7 (II) THIS SECTION DOES NOT APPLY TO A RETAIL ESTABLISHMENT
8 THAT:

9 (A) SELLS FIREARMS, MOTOR VEHICLES, MARIJUANA, GASOLINE,
10 OR DIESEL FUEL;

11 (B) EDUCATES STUDENTS FROM KINDERGARTEN TO TWELFTH
12 GRADE OR PROVIDES CHILD CARE; OR

13 (C) IS A CONVENIENCE STORE.

14 (2) (a) The state or local licensing authority may reject the
15 application for ~~an art gallery~~ A RETAIL ESTABLISHMENT permit if the
16 applicant fails to establish that the applicant is able to offer
17 complimentary alcohol beverages without violating this section or
18 creating a public safety risk to the neighborhood.

19 (b) Upon initial application, and for each renewal, the applicant
20 ~~shall~~ MUST list each day that alcohol beverages will be served, which days
21 ~~shall~~ MUST not be changed without a minimum of fifteen days' written
22 notice to the state and local licensing authority.

23 (3) ~~An art gallery shall not be denied an art gallery~~ NEITHER THE
24 STATE NOR A LOCAL LICENSING AUTHORITY SHALL DENY A RETAIL
25 ESTABLISHMENT permit based solely on the ~~art gallery's~~ RETAIL
26 ESTABLISHMENT'S proximity to any public or private school or the
27 principal campus of a college, university, or seminary.

1 (4) ~~An art gallery~~ A RETAIL ESTABLISHMENT shall not charge an
2 entrance fee or a cover charge ~~in connection with~~ IN EXCHANGE FOR
3 offering complimentary alcohol beverages for consumption only on the
4 premises.

5 (5) ~~An art gallery~~ A RETAIL ESTABLISHMENT permit may be
6 suspended or revoked in accordance with section 44-3-601 if the
7 ~~permittee~~ PERMIT HOLDER violates ~~any provision of~~ this article 3 or any
8 rule adopted pursuant to this article 3 or fails to truthfully furnish any
9 required information in connection with a permit application.

10 (6) (a) EXCEPT AS PROVIDED IN SUBSECTION (6)(b) OF THIS
11 SECTION, it is unlawful for any owner, part owner, shareholder, or person
12 interested directly or indirectly in ~~an art gallery~~ A RETAIL ESTABLISHMENT
13 THAT HOLDS A permit ISSUED PURSUANT TO THIS SECTION to conduct, own
14 either in whole or in part, or be directly or indirectly interested in any
15 other business licensed pursuant to this article 3 or article 4 of this title
16 44. ~~except that~~

17 (b) A ~~person regulated under~~ RETAIL ESTABLISHMENT THAT HOLDS
18 A PERMIT ISSUED PURSUANT TO this section may have an interest in:

19 (I) ~~Other art gallery permits; in~~ RETAIL ESTABLISHMENTS THAT
20 HOLD A PERMIT ISSUED PURSUANT TO THIS SECTION;

21 (II) A license described in section 44-3-401 (1)(j) to (1)(t), (1)(v),
22 or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c); or ~~in~~

23 (III) A financial institution referred to in section 44-3-308 (4).

24 (7) As used in this section, UNLESS THE CONTEXT OTHERWISE
25 REQUIRES:

26 (a) "Art gallery" means ~~an~~ A RETAIL establishment ~~whose~~ THAT
27 HAS THE primary purpose ~~is to exhibit and offer~~ OF EXHIBITING AND

1 OFFERING for sale works of fine art as defined in section 6-15-101 or
2 precious or semiprecious metals or stones as defined in section
3 18-16-102.

4 (b) "RETAIL ESTABLISHMENT" MEANS AN ESTABLISHMENT THAT
5 HAS THE PRIMARY PURPOSE OF SELLING GOODS OR SERVICES TO THE
6 PUBLIC AND THAT:

7 (I) CONDUCTS THE BUSINESS DESCRIBED IN SUBSECTION (7)(a) OF
8 THIS SECTION AT A PHYSICAL BUILDING IN COLORADO; AND

9 (II) DERIVES LESS THAN FIFTY PERCENT OF THE ESTABLISHMENT'S
10 GROSS SALES OF GOODS AND SERVICES FROM THE SALE OF FOOD.

11 (8) ~~An art gallery~~ A RETAIL ESTABLISHMENT issued a permit shall
12 not intentionally allow more than two hundred fifty people to be on the
13 premises at one time when alcohol beverages are being served.

14 (9) ~~Nothing in this section~~ THIS SECTION DOES NOT:

15 (a) ~~shall be construed to~~ Abrogate any insurance coverage
16 required by law; OR

17 (b) ~~to authorize a licensed art gallery~~ AUTHORIZE A RETAIL
18 ESTABLISHMENT PERMIT HOLDER to violate:

19 (I) Section 44-3-901, including ~~without limitation~~, serving a
20 visibly intoxicated person and taking an alcohol beverage off the licensed
21 premises; or ~~to violate~~

22 (II) Any zoning or occupancy ordinances or laws.

23 **SECTION 2.** In Colorado Revised Statutes, 44-3-501, **amend**
24 (1)(t) as follows:

25 **44-3-501. State fees - rules - one-time fee waiver.** (1) The
26 applicant shall pay the following license and permit fees to the
27 department annually in advance:

1 (t) For each ~~art gallery~~ RETAIL ESTABLISHMENT permit, ~~fifty~~ UP TO
2 TWO HUNDRED dollars;

3 SECTION 3. In Colorado Revised Statutes, 44-3-505, **amend**
4 (1)(o) and (4)(a)(IV) as follows:

5 44-3-505. **Local license fees.** (1) The applicant shall pay the
6 following license fees to the treasurer of the municipality, city and
7 county, or county where the licensed premises is located annually in
8 advance:

9 (o) For each ~~art gallery~~ RETAIL ESTABLISHMENT permit,
10 twenty-five dollars;

11 (4) (a) Each application for a license provided for in this article 3
12 and article 4 of this title 44 filed with a local licensing authority must be
13 accompanied by an application fee in an amount determined by the local
14 licensing authority to cover actual and necessary expenses, subject to the
15 following limitations:

16 (IV) For a new license or renewal application for ~~an art gallery~~ A
17 RETAIL ESTABLISHMENT permit, not to exceed ~~one~~ TWO hundred dollars;

18 SECTION 4. In Colorado Revised Statutes, 44-3-901, **amend**
19 (1)(i)(IV) as follows:

20 44-3-901. **Unlawful acts - exceptions - definitions.** (1) Except
21 as provided in section 18-13-122, it is unlawful for any person:

22 (i) (IV) Notwithstanding subsection (1)(i)(I) of this section, it is
23 not unlawful for adult patrons of ~~an art gallery~~ ~~permittee~~ A RETAIL
24 ESTABLISHMENT PERMIT HOLDER to consume alcohol beverages on the
25 premises when the consumption is conducted within the limitations of a
26 valid permit granted pursuant to section 44-3-424.

27 SECTION 5. **Appropriation.** (1) For the 2023-24 state fiscal

1 year, \$98,744 is appropriated to the department of revenue for use by the
2 liquor and tobacco enforcement division. This appropriation is from the
3 liquor enforcement division and state licensing authority cash fund
4 created in section 44-6-101, C.R.S. To implement this act, the division
5 may use this appropriation as follows:

6 (a) \$77,154 for personal services, which amount is based on an
7 assumption that the division will require an additional 1.4 FTE; and

8 (b) \$21,590 for operating expenses.

9 **SECTION 6. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly; except
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V
13 of the state constitution against this act or an item, section, or part of this
14 act within such period, then the act, item, section, or part will not take
15 effect unless approved by the people at the general election to be held in
16 November 2024 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.