

CHAPTER 250

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 94-1232

BY REPRESENTATIVES Hernandez, Schauer, June, Anderson, Jerke, and Salaz;
also SENATORS Wattenberg and Gallagher.

AN ACT

CONCERNING ALCOHOLIC BEVERAGES.

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

SECTION 1. 12-46-117 (1) (a) (III), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-46-117. Local licensing authority - application - hearings - fees.
(1) (a) The local licensing authority shall issue only the following classes of licenses:

(III) Sales for consumption both on and off the premises of the licensee. A PERSON LICENSED PURSUANT TO THIS SUBPARAGRAPH (III) MAY DELIVER AT RETAIL FERMENTED MALT BEVERAGES IN FACTORY-SEALED CONTAINERS IN CONJUNCTION WITH THE DELIVERY OF FOOD PRODUCTS IF SUCH PERSON HAS OBTAINED A PERMIT FOR THE DELIVERY OF FERMENTED MALT BEVERAGES FROM THE STATE LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY SHALL PROMULGATE RULES AS ARE NECESSARY FOR THE PROPER DELIVERY OF FERMENTED MALT BEVERAGES PURSUANT TO THIS SUBPARAGRAPH (III) AND SHALL HAVE THE AUTHORITY TO ISSUE A PERMIT TO ANY PERSON WHO IS LICENSED PURSUANT TO AND DELIVERS FERMENTED MALT BEVERAGES UNDER THIS SUBPARAGRAPH (III).

SECTION 2. 12-47-103 (22), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-47-103. Definitions. As used in this article, unless the context otherwise requires:

(22) "Retail liquor store" means an establishment engaged only in the sale of malt, vinous, and spirituous liquors and soft drinks and mixers, all in sealed containers for

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

consumption off the premises; ~~and in the sale of~~ tobaccos, tobacco products, smokers' supplies, and nonfood items related to the consumption of such beverages; AND LIQUOR-FILLED CANDY AND FOOD ITEMS APPROVED BY THE STATE LICENSING AUTHORITY WHICH ARE PREPACKAGED, LABELED, DIRECTLY RELATED TO THE CONSUMPTION OF SUCH BEVERAGES, AND ARE SOLD SOLELY FOR THE PURPOSE OF COCKTAIL GARNISH IN CONTAINERS UP TO SIXTEEN OUNCES. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE THE SALE OF FOOD ITEMS WHICH COULD CONSTITUTE A SNACK, A MEAL, OR PORTION OF A MEAL.

SECTION 3. 12-47-116 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended, and the said 12-47-116 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-47-116. Retail liquor store license. (1) A retail liquor store license shall be issued to persons selling only malt, vinous, and spirituous liquors in sealed containers not to be consumed at the place where sold. Malt, vinous, and spirituous liquors in sealed containers shall not be sold at retail other than in retail liquor stores except as provided in section 12-47-117. In addition, retail liquor stores may sell nonfood items related to the consumption of such liquors, LIQUOR-FILLED CANDY, AND FOOD ITEMS APPROVED BY THE STATE LICENSING AUTHORITY WHICH ARE PREPACKAGED, LABELED, DIRECTLY RELATED TO THE CONSUMPTION OF SUCH LIQUORS, AND ARE SOLD SOLELY FOR THE PURPOSE OF COCKTAIL GARNISH IN CONTAINERS UP TO SIXTEEN OUNCES. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE THE SALE OF FOOD ITEMS WHICH COULD CONSTITUTE A SNACK, A MEAL, OR PORTION OF A MEAL. NOTHING IN THIS SECTION OR IN SECTION 12-47-103 (22) SHALL BE CONSTRUED TO PROHIBIT THE SALE OF ITEMS BY A RETAIL LIQUOR STORE ON BEHALF OF OR TO BENEFIT A CHARITABLE ORGANIZATION, AS DEFINED IN SECTION 39-26-102, C.R.S., OR A NONPROFIT CORPORATION INCORPORATED PURSUANT TO THE "COLORADO NONPROFIT CORPORATION ACT", ARTICLES 20 TO 29 OF TITLE 7, C.R.S., AND DETERMINED TO BE EXEMPT FROM FEDERAL INCOME TAX BY THE UNITED STATES INTERNAL REVENUE SERVICE, IF THE RETAIL LIQUOR STORE DOES NOT RECEIVE COMPENSATION FOR ANY SUCH SALE. Nothing in this section shall prohibit a retail liquor store licensee, at the option of the licensee, from displaying promotional material furnished by a manufacturer or wholesaler, which material permits a customer to purchase other items from a third person if the retail liquor store licensee does not receive payment from the third person and if the ordering of the additional merchandise is done by the customer directly from the third person.

(3) A PERSON LICENSED TO SELL AT RETAIL WHO COMPLIES WITH THIS SUBSECTION (3) AND RULES PROMULGATED PURSUANT THERETO MAY DELIVER MALT, VINOUS, AND SPIRITUOUS LIQUORS TO A PERSON OF LEGAL AGE IF SUCH PERSON IS AT A PLACE THAT IS NOT LICENSED PURSUANT TO THIS SECTION. THE STATE LICENSING AUTHORITY SHALL PROMULGATE RULES AS ARE NECESSARY FOR THE PROPER DELIVERY OF MALT, VINOUS, AND SPIRITUOUS LIQUORS AND SHALL HAVE THE AUTHORITY TO ISSUE A PERMIT TO ANY PERSON WHO IS LICENSED TO SELL AT RETAIL AND DELIVERS SUCH LIQUORS PURSUANT TO THIS SUBSECTION (3). SUCH PERMITS SHALL BE SUBJECT TO THE SAME SUSPENSION AND REVOCATION PROVISIONS AS ARE SET FORTH IN SECTION 12-47-110 FOR OTHER LICENSES GRANTED PURSUANT TO THIS ARTICLE.

SECTION 4. 12-47-117, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-47-117. Liquor-licensed drugstore license. (4) A LIQUOR-LICENSED DRUGSTORE LICENSEE WHO COMPLIES WITH THIS SUBSECTION (4) AND RULES PROMULGATED PURSUANT THERETO MAY DELIVER MALT, VINOUS, AND SPIRITUOUS LIQUORS TO A PERSON OF LEGAL AGE IF SUCH PERSON IS AT A PLACE THAT IS NOT LICENSED PURSUANT TO THIS SECTION. THE STATE LICENSING AUTHORITY SHALL PROMULGATE RULES AS ARE NECESSARY FOR THE PROPER DELIVERY OF MALT, VINOUS, AND SPIRITUOUS LIQUORS AND SHALL HAVE THE AUTHORITY TO ISSUE A PERMIT TO ANY LIQUOR-LICENSED DRUGSTORE LICENSEE WHICH WILL ALLOW SUCH LICENSEE TO DELIVER SUCH LIQUORS PURSUANT TO SUCH RULES AND THIS SUBSECTION (4). SUCH PERMITS SHALL BE SUBJECT TO THE SAME SUSPENSION AND REVOCATION PROVISIONS AS ARE SET FORTH IN SECTION 12-47-110 FOR OTHER LICENSES GRANTED PURSUANT TO THIS ARTICLE.

SECTION 5. 12-47-122, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-47-122. Public transportation system license. A public transportation system license shall be issued by the state licensing authority to every person operating a public transportation system selling any malt, vinous, or spirituous liquors by the drink to be served and consumed in or upon any dining, club, or parlor car, plane, bus, or other conveyance of such public transportation system. A PUBLIC TRANSPORTATION SYSTEM LICENSE ISSUED TO A COMMERCIAL AIRLINE SHALL BE DEEMED TO AUTHORIZE SUCH LICENSEE TO SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS BY THE DRINK IN AN AIRPORT OR AIRPORT CONCOURSE PRIVATE CLUB ROOM WHICH IS IN EXISTENCE AND OPERATED BY SUCH LICENSEE ON OR BEFORE APRIL 1, 1995.

SECTION 6. 12-47-128 (5) (i), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-47-128. Unlawful acts - gambling - exceptions. (5) It is unlawful for any person licensed to sell at retail pursuant to this article:

(i) To sell malt, vinous, or spirituous liquors in a place where the same are to be consumed, unless such place is a hotel, restaurant, tavern, racetrack, club, retail gaming tavern, or arts licensed premises or unless such place is a dining, club, or parlor car, plane, bus, or other conveyance OR FACILITY of a public transportation system;

SECTION 7. 12-47-129 (3) and (5), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-47-129. Unlawful financial assistance. (3) (a) It is unlawful for any of the persons or parties described and referred to in subsections (1) and (2) of this section to furnish, supply, or loan, in any manner, directly or indirectly, to any person licensed to sell at retail pursuant to the provisions of this article any financial assistance or any equipment, fixtures, chattels, or furnishings used in the storing, handling, serving, or dispensing of food or alcoholic beverages within the premises or for making any structural alterations or improvements in or on the building on which such premises are located. This section shall not apply to signs or displays within such premises. The provisions of this subsection (3) shall not apply to any

brewery licensed pursuant to the provisions of this article, which has also been issued a hotel and restaurant license, with respect to transactions between said brewery and its licensed hotel and restaurant business.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (3), ANY PERSON OR PARTY DESCRIBED AND REFERRED TO IN SUBSECTIONS (1) AND (2) OF THIS SECTION MAY PROVIDE FINANCIAL OR IN-KIND ASSISTANCE, DIRECTLY OR INDIRECTLY, TO A NONPROFIT ARTS ORGANIZATION WHICH HAS BEEN ISSUED AN ARTS LICENSE PURSUANT TO SECTION 12-47-120.5.

(5) (a) It is unlawful for any person licensed to sell at retail pursuant to this article to receive and obtain from the persons or parties described and referred to in subsections (1) and (2) of this section, directly or indirectly, any financial assistance or any equipment, fixtures, chattels, or furnishings used in the storing, handling, serving, or dispensing of food or alcoholic beverages within the premises or from making any structural alterations or improvements in or on the building on which such premises are located. This subsection (5) shall not apply to signs or displays within such premises or to advertising materials which are intended primarily to advertise the product of the wholesaler or manufacturer and which have only negligible value in themselves or to the inspection and servicing of malt or vinous liquor-dispensing equipment to the extent necessary for the maintenance of reasonable standards of purity, cleanliness, and health. The provisions of this subsection (5) shall not apply to any brewery licensed pursuant to the provisions of this article, which has also been issued a hotel and restaurant license, with respect to transactions between said brewery and its licensed hotel and restaurant business.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (5), A NONPROFIT ARTS ORGANIZATION WHICH HAS BEEN ISSUED AN ARTS LICENSE PURSUANT TO SECTION 12-47-120.5 MAY RECEIVE FINANCIAL OR IN-KIND ASSISTANCE, DIRECTLY OR INDIRECTLY, FROM THE PERSONS OR PARTIES DESCRIBED AND REFERRED TO IN SUBSECTIONS (1) AND (2) OF THIS SECTION.

SECTION 8. 12-47-119 (2), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-47-119. Hotel and restaurant license. (2) Notwithstanding any provision of this article to the contrary, a hotel, licensed pursuant to this article, may:

(a) Furnish and deliver complimentary alcoholic beverages in sealed containers for the convenience of its guests; ~~and~~

(b) Sell alcoholic beverages provided by the hotel in sealed containers, ~~of any size~~ at any time, by means of a minibar located in hotel guest rooms, to adult registered guests of the hotel for consumption in such guest rooms if the price of the alcoholic beverages is clearly posted. For purposes of this section, "minibar" means a closed container, either nonrefrigerated or refrigerated in whole or in part, access to the interior of which is restricted by means of a locking device which requires the use of a key, magnetic card, or similar device or which is controlled at all times by the hotel.

(c) ENTER INTO A CONTRACT WITH A LODGING FACILITY FOR THE PURPOSE OF AUTHORIZING SUCH LODGING FACILITY TO SELL ALCOHOLIC BEVERAGES PURSUANT TO

PARAGRAPH (b) OF THIS SUBSECTION (2) IF SUCH LODGING FACILITY AND HOTEL SHARE COMMON OWNERSHIP AND ARE LOCATED WITHIN ONE THOUSAND FEET OF ONE ANOTHER. THE ALCOHOLIC BEVERAGES WHICH MAY BE SOLD PURSUANT TO THIS PARAGRAPH (c) SHALL BE PROVIDED BY AND SUBJECT TO THE CONTROL OF THE LICENSED HOTEL. FOR PURPOSES OF THIS PARAGRAPH (c), "COMMON OWNERSHIP" MEANS A CONTROLLING OWNERSHIP INTEREST THAT IS HELD BY THE SAME PERSON OR PERSONS, WHETHER THROUGH SEPARATE CORPORATIONS, PARTNERSHIPS, OR OTHER LEGAL ENTITIES. TO DETERMINE WHETHER THE DISTANCE LIMITATION REFERRED TO IN THIS PARAGRAPH (c) IS MET, THE DISTANCE FROM THE PROPERTY LINE OF THE LAND USED FOR THE LODGING FACILITY TO THE PORTION OF THE HOTEL LICENSED UNDER THIS ARTICLE SHALL BE MEASURED USING THE NEAREST AND MOST DIRECT ROUTES OF PEDESTRIAN ACCESS.

(d) THE STATE LICENSING AUTHORITY SHALL PROMULGATE RULES THAT PROHIBIT THE PLACEMENT OF A CONTAINER OF MALT, VINOUS, OR SPIRITUOUS LIQUORS IN A MINIBAR IF SUCH CONTAINER HAS A CAPACITY OF MORE THAN FIVE HUNDRED MILLILITERS.

SECTION 9. 12-47-123 (2), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-47-123. State fees. (2) The state licensing authority shall establish fees for processing the following types of applications, notices, or reports required to be submitted to the state licensing authority: Applications for new liquor licenses pursuant to section 12-47-107 and regulations thereunder; applications to change location pursuant to section 12-47-128 (5) (g) (I) and regulations thereunder; applications for transfer of ownership pursuant to section 12-47-106 (4) (c) and regulations thereunder; applications for modification of licensed premises pursuant to section 12-47-106 and regulations thereunder; applications for branch warehouse permits pursuant to section 12-47-115 and regulations thereunder; APPLICATIONS FOR APPROVAL OF A CONTRACT TO SELL ALCOHOLIC BEVERAGES PURSUANT TO SECTION 12-47-119 (2) (c); applications for warehouse storage permits pursuant to section 12-47-105 and regulations thereunder; applications for duplicate licenses; sole source registrations or new product registrations pursuant to section 12-47-128 (3) (c) and (6); hotel and restaurant optional premises registrations; and notice of change of name or trade name pursuant to section 12-47-106 and regulations thereunder. The amounts of such fees, when added to the other fees transferred to the liquor enforcement division cash fund pursuant to sections 12-46-110 (2), 12-47-124 (1), and 12-48-104, shall reflect the direct and indirect costs of the division in the administration and enforcement of this article and articles 46 and 48 of this title. At least annually, the amounts of the fees shall be reviewed and, if necessary, adjusted to reflect such direct and indirect costs.

SECTION 10. 12-47-139 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-47-139. Local license fees. (1) The following license fees shall be paid to the treasurer of the municipality, city and county, or county where the licensed premises is located annually in advance:

(d.4) FOR EACH APPLICATION FOR APPROVAL OF A CONTRACT TO SELL ALCOHOLIC

BEVERAGES PURSUANT TO SECTION 12-47-119 (2) (c), THREE HUNDRED TWENTY-FIVE DOLLARS.

SECTION 11. The introductory portion to 12-47-126 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended, and the said 12-47-126 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-47-126. Exempt sales. (1) The provisions of this article, with the exception of the requirements of section 12-47-127, shall not apply to the occasional sale of alcoholic liquor to individuals twenty-one years of age or older at public auction by any person where such auction sale is for the purpose of disposing of such alcoholic liquor as may lawfully have come into the possession of such person in the due course of ~~his~~ SUCH PERSON'S regular business in the following manner:

(d) BY REASON OF A LAWFUL DONATION OF ALCOHOLIC LIQUOR TO AN ORGANIZATION QUALIFYING UNDER SECTION 12-48-102 FOR A SPECIAL EVENT PERMIT; EXCEPT THAT NO MORE THAN FOUR PUBLIC AUCTIONS PER YEAR SHALL BE CONDUCTED PURSUANT TO THIS PARAGRAPH (d).

SECTION 12. 12-47-128 (5) (c) (I) (C), Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

12-47-128. Unlawful acts - gambling. (5) It is unlawful for any person licensed to sell at retail pursuant to this article:

(c) (I) To sell, serve, or distribute any malt, vinous, or spirituous liquors at any time other than the following:

~~(C) Notwithstanding sub-subparagraphs (A) and (B) of this subparagraph (I), for consumption on the premises, on the day following Christmas, beginning at 7 a.m. until 12 midnight;~~

SECTION 13. 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.

Approved: May 25, 1994