

CHAPTER 109

GOVERNMENT - STATE

HOUSE BILL 95-1145

BY REPRESENTATIVES Foster and George;
also SENATORS Bishop, Pascoe, and Wells.

AN ACT

CONCERNING PROVISIONS ADMINISTERED BY THE DEPARTMENT OF REVENUE.

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

SECTION 1. 39-26-114, Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-26-114. Exemptions - disputes - credits or refunds - repeal.
(18) (a) EFFECTIVE JULY 1, 1995, ALL OCCASIONAL SALES BY A CHARITABLE ORGANIZATION SHALL BE EXEMPT FROM TAXATION UNDER THIS PART 1.

(b) FOR PURPOSES OF THIS SUBSECTION (18), "OCCASIONAL SALES" MEANS RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, INCLUDING CONCESSIONS, FOR FUND-RAISING PURPOSES IF:

(I) THE SALE OF TANGIBLE PERSONAL PROPERTY OR CONCESSIONS BY THE CHARITABLE ORGANIZATION TAKES PLACE NO MORE THAN TWELVE DAYS, WHETHER CONSECUTIVE OR NOT, DURING ANY ONE CALENDAR YEAR;

(II) THE FUNDS RAISED BY THE CHARITABLE ORGANIZATION THROUGH THESE SALES ARE RETAINED BY THE ORGANIZATION TO BE USED IN THE COURSE OF THE ORGANIZATION'S CHARITABLE SERVICE; AND

(III) THE FUNDS RAISED BY THE CHARITABLE ORGANIZATION THROUGH THESE SALES DO NOT EXCEED TWENTY-FIVE THOUSAND DOLLARS DURING ANY ONE CALENDAR YEAR.

SECTION 2. 29-2-105 (1) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

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

29-2-105. Contents of sales tax ordinances and proposals. (1) The sales tax ordinance or proposal of any incorporated town, city, or county adopted pursuant to this article shall be imposed on the sale of tangible personal property at retail or the furnishing of services, as provided in paragraph (d) of this subsection (1). Any countywide or incorporated town or city sales tax ordinance or proposal shall include the following provisions:

(d) A provision that the tangible personal property and services taxable pursuant to this article shall be the same as the tangible personal property and services taxable pursuant to section 39-26-104, C.R.S., and subject to the same exemptions as those specified in section 39-26-114, C.R.S., except the exemption allowed by section 39-26-114 (11), C.R.S., for purchases of machinery or machine tools, the exemption of sales and purchases of those items in section 39-26-114 (1) (a) (XXI), C.R.S., ~~and~~ the exemption for sales of food specified in section 39-26-114 (1) (a) (XX), C.R.S., AND THE EXEMPTION FOR OCCASIONAL SALES BY A CHARITABLE ORGANIZATION SET FORTH IN SECTION 39-26-114 (18), C.R.S. Sales of food, as defined in section 39-26-102 (4.5), C.R.S., exempted from the state sales tax pursuant to section 39-26-114 (1) (a) (XX), C.R.S., sales and purchases of those items exempted from the state sales tax pursuant to section 39-26-114 (1) (a) (XXI), C.R.S., ~~or~~ purchases of machinery or machine tools as provided in section 39-26-114 (11), C.R.S., OR OCCASIONAL SALES BY A CHARITABLE ORGANIZATION AS PROVIDED IN SECTION 39-26-114 (18), C.R.S., may be exempted from said town, city, or county sales tax only by the express inclusion of such exemption either at the time of adoption of the initial sales tax ordinance or resolution or by amendment thereto. Any such amendment shall be adopted in the same manner as the initial ordinance or resolution. In the absence of express provision for the exemption for sales of food, as defined in section 39-26-102 (4.5), C.R.S., or purchases of machinery or machine tools as provided in section 39-26-114 (11), C.R.S., or exemption of sales and purchases of those items in section 39-26-114 (1) (a) (XXI), C.R.S., OR EXEMPTION OF OCCASIONAL SALES BY A CHARITABLE ORGANIZATION AS PROVIDED IN SECTION 39-26-114 (18), C.R.S., all sales tax ordinances or resolutions, whether adopted prior to, on, or subsequent to July 1, 1979, which provide in substance that the tangible personal property and services taxed shall be the same as the tangible personal property and services taxable pursuant to section 39-26-104, C.R.S., or any predecessor statute, and subject to the same exemptions as those specified in section 39-26-114, C.R.S., or any predecessor statute, shall be construed as imposing or continuing to impose the town, city, or county sales tax on food, as defined in section 39-26-102 (4.5), C.R.S., purchases of machinery and machine tools as described in section 39-26-114 (11), C.R.S., ~~and~~ sales or purchases of those items described in section 39-26-114 (1) (a) (XXI), C.R.S., AND OCCASIONAL SALES BY A CHARITABLE ORGANIZATION AS DESCRIBED IN SECTION 39-26-114 (18), C.R.S. The regional transportation district may, in its discretion, continue to levy a sales tax on purchases of machinery or machine tools, as provided in section 39-26-114 (11), C.R.S.

SECTION 3. 12-46-103, Colorado Revised Statutes, 1991 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-46-103. Definitions. As used in this article, unless the context otherwise requires:

(1.7) "GOOD CAUSE", FOR THE PURPOSES OF REFUSING OR DENYING A LICENSE RENEWAL OR INITIAL LICENSE ISSUANCE, MEANS:

(a) THE LICENSEE OR APPLICANT HAS VIOLATED, DOES NOT MEET, OR HAS FAILED TO COMPLY WITH ANY OF THE TERMS, CONDITIONS, OR PROVISIONS OF THIS ARTICLE OR ANY RULES AND REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE;

(b) THE LICENSEE OR APPLICANT HAS FAILED TO COMPLY WITH ANY SPECIAL TERMS OR CONDITIONS PLACED ON ITS LICENSE IN PRIOR DISCIPLINARY PROCEEDINGS OR BY AGREEMENT BETWEEN THE LICENSEE AND THE LICENSING AUTHORITY;

(c) IN THE CASE OF A NEW LICENSE, THE APPLICANT HAS NOT ESTABLISHED THE REASONABLE REQUIREMENTS OF THE NEIGHBORHOOD OR THE DESIRES OF ITS ADULT INHABITANTS AS PROVIDED IN SECTIONS 12-46-106 (11) AND 12-46-108 (2); OR

(d) EVIDENCE THAT THE LICENSEE HAS CONDUCTED ITS LICENSED PREMISES IN A MANNER THAT ADVERSELY AFFECTS THE HEALTH, WELFARE, OR SAFETY OF THE NEIGHBORHOOD IN WHICH THE LICENSED ESTABLISHMENT IS LOCATED.

SECTION 4. 12-47-103, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

(4.5) "GOOD CAUSE", FOR THE PURPOSES OF REFUSING OR DENYING A LICENSE RENEWAL OR INITIAL LICENSE ISSUANCE, MEANS:

(a) THE LICENSEE OR APPLICANT HAS VIOLATED, DOES NOT MEET, OR HAS FAILED TO COMPLY WITH ANY OF THE TERMS, CONDITIONS, OR PROVISIONS OF THIS ARTICLE OR ANY RULES AND REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE;

(b) THE LICENSEE OR APPLICANT HAS FAILED TO COMPLY WITH ANY SPECIAL TERMS OR CONDITIONS PLACED ON ITS LICENSE IN PRIOR DISCIPLINARY PROCEEDINGS OR BY AGREEMENT BETWEEN THE LICENSEE AND THE LICENSING AUTHORITY;

(c) IN THE CASE OF A NEW LICENSE, THE APPLICANT HAS NOT ESTABLISHED THE REASONABLE REQUIREMENTS OF THE NEIGHBORHOOD OR THE DESIRES OF ITS ADULT INHABITANTS AS PROVIDED IN SECTIONS 12-47-106 (2) AND 12-47-107 (3); OR

(d) EVIDENCE THAT THE LICENSEE HAS CONDUCTED ITS LICENSED PREMISES IN A MANNER THAT ADVERSELY AFFECTS THE HEALTH, WELFARE, OR SAFETY OF THE NEIGHBORHOOD IN WHICH THE LICENSED ESTABLISHMENT IS LOCATED.

SECTION 5. 12-47-113, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

12-47-113. Manufacturer's license. (2) ANY WINERY THAT HAS RECEIVED A LICENSE PURSUANT TO THIS SECTION IS AUTHORIZED TO CONDUCT TASTING AND SELL VINOUS LIQUORS OF ITS OWN MANUFACTURE, AS WELL AS OTHER VINOUS LIQUORS

MANUFACTURED BY OTHER COLORADO WINERIES LICENSED PURSUANT TO THIS SECTION OR SECTION 12-47-113.1, ON THE LICENSED PREMISES OF THE WINERY AND AT ONE OTHER LICENSED SALES ROOM LOCATION AT NO ADDITIONAL COST, WHETHER INCLUDED IN THE LICENSE AT THE TIME OF THE ORIGINAL LICENSE ISSUANCE OR BY SUPPLEMENTAL APPLICATION.

(3) ANY WINERY THAT HAS RECEIVED A LICENSE PURSUANT TO THIS SECTION IS AUTHORIZED TO SERVE AND SELL FOOD, GENERAL MERCHANDISE, AND NONALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES OF ANY LICENSED LOCATION OR TO BE TAKEN BY THE CONSUMER.

SECTION 6. 12-47-113.1 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-47-113.1. Limited winery license. (1) A limited winery license shall be granted by the state licensing authority to an applicant which certifies that it will manufacture ~~not more than one hundred thousand gallons, or the metric equivalent thereof,~~ of vinous liquors annually and that it will utilize not less than fifty percent Colorado grown produce for the first five years of its winery operation and not less than seventy-five percent thereafter. A limited winery license shall also be granted to an applicant which certifies that it is planting, or has contracted for the production from, Colorado vineyard or fruit acreage which will produce in sufficient quantity to enable the applicant to meet the percentage utilization requirement within five years. Limited wineries shall be granted an exemption from these percentage utilization requirements whenever the state licensing authority determines, upon its own motion or at the request of a limited winery, that weather conditions, pest infestations, plant disease epidemics, or other natural causes have reduced the quantity or quality of Colorado grown produce to an extent which renders compliance with these percentage utilization requirements infeasible, or that the price per ton of a specific Colorado grown grape offered to limited wineries for contract exceeds one hundred twenty percent of the average of that grape's price per ton, as derived from the average shown in the annual grape crop report published by the California department of agriculture for Napa, Sonoma, and Mendocino counties. In addition, whenever ninety percent of the Colorado grown produce harvest is less than seventy-five percent of the combined manufacturing capacity of Colorado limited wineries, the state licensing authority shall allow a proportionate reduction in the percentage utilization requirements. Each limited winery licensee shall annually certify to the state licensing authority its compliance with this subsection (1) and shall be subject to revocation of its license for false certification.

SECTION 7. Legislative declaration. The general assembly recognizes that a major purpose of the "Colorado Liquor Code", article 47 of title 12, Colorado Revised Statutes, is to provide thorough regulation and supervision of the liquor industry in this state to avoid potential negative impacts that could flow to the public from this industry absent such regulation. The general assembly hereby finds and determines that the federal government heavily regulates and supervises all aspects of the airline industry in this country. The general assembly further finds and determines that the travel industry is vitally important for this state as well as the entire nation through interstate commerce. The general assembly, therefore, declares that adequate regulatory controls exist through federal requirements for airlines to justify exempting, under section 8 of this act, such airlines from the provisions in the

"Colorado Liquor Code" prohibiting owners of various liquor licenses from having interests in airline public transportation system licensees.

SECTION 8. 12-47-129 (4) (a), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-47-129. Unlawful financial assistance. (4) (a) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in any retail liquor store, retail license, liquor-licensed drugstore, or retail dispensary of any kind licensed pursuant to this article to conduct, own either in whole or in part, or be directly or indirectly interested in any other retail gaming tavern license, retail liquor store, retail license, or retail dispensary of any kind licensed pursuant to this article in this state; except that it is not unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in any hotel and restaurant license to conduct, own either in whole or in part, or be directly or indirectly interested in any other hotel and restaurant license or establishment. It is not unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in any retail gaming tavern license to conduct, own either in whole or in part, or be directly or indirectly interested in any other retail gaming tavern license or establishment. IT IS NOT UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY AIRLINE PUBLIC TRANSPORTATION SYSTEM LICENSE. The state licensing authority, by rule and regulation, shall require a complete disclosure of all persons having a direct or indirect financial interest, and the extent of such interest, in each hotel and restaurant license and each retail gaming tavern license issued under this article. A willful failure to report and disclose the financial interests of all persons having a direct or indirect financial interest in a hotel and restaurant license or in a retail gaming tavern license shall be grounds for suspension or revocation of such license by the state licensing authority. The invalidity of any provision of this paragraph (a) concerning interest in more than one hotel and restaurant license or retail gaming tavern license shall invalidate all interests in more than one hotel and restaurant license or retail gaming tavern license, and such invalidity shall make any such interest unlawful financial assistance as described by this paragraph (a).

SECTION 9. 42-3-103 (4) (c) (I), Colorado Revised Statutes, as enacted by House Bill 95-1236, enacted at the First Regular Session of the Sixtieth General Assembly, is amended to read:

42-3-103. Registration required - exemptions. (4) (c) (I) Notwithstanding the provisions of paragraph (a) of this subsection (4) and section 42-1-102 (62) and (81), the following nonresidents shall be exempt from the provisions of this title relative to the registration of a motor vehicle owned by such person if THE MOTOR VEHICLE IS A PRIVATE PASSENGER VEHICLE WEIGHING LESS THAN SIXTY-FIVE HUNDRED POUNDS AND the person is:

(A) A nonresident gainfully employed within the boundaries of this state who is using his or her motor vehicle in commuting daily from such person's home in another state to and from such person's place of employment within this state; or

(B) A nonresident student enrolled in a full-time course of study at an institution

of higher education located within this state, when the motor vehicle owned by such person displays a valid nonresident student identification tag issued by the institution where he or she is enrolled.

SECTION 10. 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: April 27, 1995