

CHAPTER 80

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 97-1076

BY REPRESENTATIVES Schauer, G. Berry, and Schwarz;
also SENATORS Bishop, Matsunaka, and Wattenberg.

AN ACT

CONCERNING A RECODIFICATION OF THE LAWS REGULATING THE SALE OF BEVERAGES CONTAINING ALCOHOL, AND, IN CONNECTION THEREWITH, ELIMINATING OBSOLETE PROVISIONS.

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

SECTION 1. Article 46 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended, WITH THE RELOCATION OF PROVISIONS, to read:

ARTICLE 46
Fermented Malt Beverages

12-46-101. Short title. This article shall be known and may be cited as the "Colorado Beer Code".

12-46-102. Legislative declaration. (1) The general assembly hereby declares that it is in the public interest that fermented malt beverages shall be manufactured, imported, and sold only by persons licensed as provided in this article. The general assembly further declares that it is lawful to manufacture and sell fermented malt beverages containing not more than three and two-tenths percent alcohol by weight subject to the provisions of this article AND APPLICABLE PROVISIONS OF ARTICLES 47 AND 48 OF THIS TITLE.

(2) THE GENERAL ASSEMBLY RECOGNIZES THAT FERMENTED MALT BEVERAGES ARE SEPARATE AND DISTINCT FROM MALT, VINOUS, AND SPIRITUOUS LIQUORS, AND AS SUCH REQUIRE A SEPARATE AND DISTINCT REGULATORY FRAMEWORK UNDER THIS ARTICLE. TO AID ADMINISTRATIVE EFFICIENCY, HOWEVER, THE PROVISIONS IN ARTICLE 47 OF THIS TITLE SHALL APPLY TO THE REGULATION OF FERMENTED MALT

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

BEVERAGES, EXCEPT WHEN OTHERWISE EXPRESSLY PROVIDED FOR IN THIS ARTICLE.

12-46-103. Definitions. DEFINITIONS APPLICABLE TO THIS ARTICLE ALSO APPEAR IN ARTICLE 47 OF THIS TITLE. As used in this article, unless the context otherwise requires:

~~(1) "Adult" means a person lawfully permitted to purchase a fermented malt beverage.~~

~~(1.5)~~ (1) "Fermented malt beverage" means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water containing not less than one-half of one percent ALCOHOL BY VOLUME and not more than three and two-tenths percent alcohol by weight OR FOUR PERCENT ALCOHOL BY VOLUME; except that "fermented malt beverage" shall not include confectionery containing alcohol within the limits prescribed by section 25-5-410 (1) (i) (II), C.R.S.

~~(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 licensed premises have been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the establishment is located, which evidence must include a continuing pattern of fights, violent activity, or disorderly conduct. For purposes of this paragraph (d), "disorderly conduct" has the meaning as defined in section 18-9-106, C.R.S.~~

(2) "License" means a grant to a licensee to manufacture or sell fermented malt beverages as provided by this article.

(3) "Licensed premises" means the premises specified in an application for a license under this article which are owned or in possession of the licensee and within which such licensee is authorized to sell, dispense, or serve fermented malt beverages in accordance with the provisions of this article.

(4) "Local licensing authority" means the governing body of a municipality or city and county, the board of county commissioners of a county, or any authority designated by municipal or county charter, municipal ordinance, or county resolution.

(5) "Location" means a particular parcel of land that may be identified by an address or by other descriptive means.

(6) "Person" means a natural person, partnership, association, company, corporation, or organization or a manager, agent, servant, officer, or employee of any of them.

(7) "Premises" means a distinct and definite location which may include a building, a part of a building, a room, or any other definite contiguous area.

(8) "Sell" or "sale" means any of the following: To exchange, barter, or traffic in; to solicit or receive an order for except through a licensee licensed under this article; to keep or expose for sale; to deliver for value or in any way other than gratuitously; to peddle or to possess with intent to sell; to possess or transport in contravention of this article; to traffic in for any consideration promised or obtained, directly or indirectly.

(9) (5) "Sell at wholesale" means selling to any other than the intended consumer of fermented malt beverages. "Sell at wholesale" shall not be construed to prevent a brewer or wholesale beer dealer from selling fermented malt beverages to the intended consumer thereof or to prevent a licensed manufacturer or importer from selling such beverages to a licensed wholesaler.

(10) (6) "State licensing authority" means the executive director of the department of revenue or the deputy director of the department of revenue if the executive director so designates.

12-46-104. [Formerly 12-46-109] Licenses - state license fees - requirements.

(1) The licenses to be granted and issued by the state licensing authority pursuant to this article for the manufacture, importation, and sale of fermented malt beverages shall be as follows:

(a) A manufacturer's license shall be granted and issued to any person, partnership, association, organization, or corporation qualifying under ~~section 12-46-108~~ SECTION 12-47-301 AND NOT PROHIBITED FROM LICENSURE UNDER SECTION 12-47-307 to manufacture and sell fermented malt beverages upon the payment of an annual license fee of one hundred twenty-five dollars to the state licensing authority. ~~Said~~ A manufacturer so licensed may have additional warehouses in the state upon payment of the wholesaler's license fee as provided in this section.

(b) A wholesaler's license shall be granted and issued to any person, partnership, association, organization, or corporation qualifying under ~~section 12-46-108~~ 12-47-301 AND NOT PROHIBITED FROM LICENSURE UNDER SECTION 12-47-307 to sell fermented malt beverages upon the payment of an annual license fee of one hundred twenty-five dollars to the state licensing authority. Each wholesaler's license application shall designate the territory within which the licensee may sell the designated products of any manufacturer, as agreed upon by the licensee and the manufacturer of such products.

(c) A retailer's license shall be granted and issued to any person, partnership, association, organization, or corporation qualifying under ~~section 12-46-108~~ SECTION

12-47-301 AND NOT PROHIBITED FROM LICENSURE UNDER SECTION 12-47-307 to sell at retail the said fermented malt beverages upon paying an annual license fee of fifty dollars to the state licensing authority.

(d) (I) A nonresident manufacturer's license shall be granted and issued to any person manufacturing fermented malt beverages outside of the state of Colorado for the sole purposes listed in subparagraph (III) of this paragraph (d), upon the payment of an annual license fee of one hundred twenty-five dollars to the state licensing authority.

(II) An importer's license shall be granted and issued to any person importing fermented malt beverages into this state for the sole purposes listed in subparagraph (III) of this paragraph (d), upon the payment of an annual license fee of one hundred twenty-five dollars to the state licensing authority.

(III) The licenses referred to in subparagraphs (I) and (II) of this paragraph (d) shall be issued for the following purposes only:

(A) To import and sell fermented malt beverages within this state to a person licensed as a wholesaler pursuant to this section;

(B) To maintain stocks of fermented malt beverages and to operate fermented malt beverages warehouses by procuring a wholesaler's license as provided in this section;

(C) To solicit orders from retail licensees and fill such orders through licensed wholesalers.

(IV) Each applicant for a license as a manufacturer, nonresident manufacturer, or importer of fermented malt beverages shall enter into a written contract with each wholesaler with which ~~he~~ THE APPLICANT intends to do business, which CONTRACT shall designate the territory within which the product of such applicant shall be sold by the respective wholesaler. The contract shall be submitted to the state licensing authority with an application, and such applicant, if licensed, shall have a continuing duty to submit any subsequent revisions, amendments, or superseding contracts to the state licensing authority.

(V) A manufacturer, nonresident manufacturer, or importer licensed to sell fermented malt beverages under this article shall not contract with more than one wholesaler to sell the products of such manufacturer, nonresident manufacturer, or importer in the same territory.

(2) The manufacturer's or wholesaler's licenses provided by this article shall permit the ~~said~~ licensee to sell fermented malt beverages in sealed containers to retailers and consumers thereof, as long as ~~said~~ THE beverages have been unloaded and placed in the physical possession of a licensed wholesaler at its licensed premises in this state and inventoried for purposes of tax collection before being delivered to any such retailer or consumer. Wholesalers of fermented malt beverages receiving products to be held as required by this subsection (2) shall be liable for the payment of any tax due on such products under section ~~12-46-111(2)~~ 12-47-503.

(3) IT IS UNLAWFUL FOR ANY MANUFACTURER OR WHOLESALER OR ANY PERSON,

PARTNERSHIP, ASSOCIATION, ORGANIZATION, OR CORPORATION INTERESTED FINANCIALLY IN OR WITH ANY OF THE LICENSEES DESCRIBED IN THIS ARTICLE TO BE INTERESTED FINANCIALLY, DIRECTLY OR INDIRECTLY, IN THE BUSINESS OF ANY RETAIL LICENSEE LICENSED PURSUANT TO THIS ARTICLE, OR FOR ANY RETAIL LICENSEE UNDER THIS ARTICLE TO BE INTERESTED FINANCIALLY, DIRECTLY OR INDIRECTLY, IN THE BUSINESS OF ANY MANUFACTURER OR WHOLESALER OR ANY PERSON, PARTNERSHIP, ASSOCIATION, ORGANIZATION, OR CORPORATION INTERESTED IN OR WITH ANY OF THE MANUFACTURERS OR WHOLESALERS LICENSED PURSUANT TO THIS ARTICLE.

12-46-105. [Formerly 12-46-110] Fees and taxes - allocation. (1) (a) 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 fermented malt beverage licenses pursuant to section ~~12-46-106~~ 12-47-301 and regulations thereunder; applications for change of location pursuant to section ~~12-46-106~~ 12-47-301 and regulations thereunder; ~~applications for transfer of ownership pursuant to section 12-46-117;~~ applications for changing, altering, or modifying licensed premises pursuant to section ~~12-46-106~~ 12-47-301 and regulations thereunder; applications for warehouse or branch house permits pursuant to section ~~12-46-109~~ 12-46-104 and regulations thereunder; applications for duplicate licenses; and notices of change of name or trade name pursuant to section ~~12-46-106~~ 12-47-301 and regulations thereunder. The amounts of such fees, when added to the other fees and taxes transferred to the liquor enforcement division cash fund pursuant to subsection (2) of this section and section ~~12-47-124 (1)~~ 12-47-502 (1), shall reflect the direct and indirect costs of the division in the administration and enforcement of this article and articles 47 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.

(b) Except as provided in paragraph (c) of this subsection (1), the state licensing authority shall establish a basic fee ~~which~~ THAT shall be paid at the time of service of any subpoena upon the state licensing authority or upon any employee of the division, plus a fee for meals and a fee for mileage at the rate prescribed for state officers and employees in section 24-9-104, C.R.S., for each mile actually and necessarily traveled in going to and returning from the place named in the subpoena. If the person named in the subpoena is required to attend the place named in the subpoena for more than one day, there shall be paid, in advance, a sum to be established by the state licensing authority for each day of attendance to cover the expenses of the person named in the subpoena.

(c) The subpoena fee established pursuant to paragraph (b) of this subsection (1) shall not be applicable to any state or local governmental agency.

(2) (a) All state license fees provided for by this article and all fees provided for by paragraphs (a) and (b) of subsection (1) of this section for processing applications, reports, and notices shall be paid to the department of revenue, which shall transmit ~~said~~ THE fees and taxes to the state treasurer. The state treasurer shall credit eighty-five percent of ~~said~~ THE fees and taxes to the old age pension fund and the balance to the general fund.

(b) An amount equal to the revenues attributable to twenty-five dollars of each state license fee provided for by this article and the processing fees provided for by

paragraphs (a) and (b) of subsection (1) of this section shall be transferred out of the general fund to the liquor enforcement division cash fund. Such transfer shall be made by the state treasurer as soon as possible after the twentieth day of the month following the payment of such fees.

(c) The expenditures of the state licensing authority shall be paid out of appropriations made to the department of revenue by the general assembly. The expenditures of the division shall be paid out of appropriations from the liquor enforcement division cash fund as provided in section 24-35-401, C.R.S.

(3) Eighty-five percent of the local license fees set forth in section ~~12-46-117 (5)~~ 12-46-107 (2) shall be paid to the department of revenue, which shall transmit ~~said~~ THE fees to the state treasurer to be credited to the old age pension fund.

12-46-106. [Formerly 12-46-115] Lawful acts. It is lawful for a person under eighteen years of age who is under the supervision of a person on the premises over eighteen years of age to be employed in a place of business where fermented malt beverages are sold at retail in containers for off-premises consumption. During the normal course of such employment, any person under eighteen YEARS OF AGE may handle and otherwise act with respect to fermented malt beverages in the same manner as ~~he~~ THAT PERSON does with other items sold at retail; except that no person under eighteen YEARS OF AGE shall sell or dispense fermented malt beverages, check age identification, or make deliveries beyond the customary parking area for the customers of the retail outlet. This section shall not be construed to permit the violation of any other provisions of this section under circumstances not specified in this section.

12-46-107. [Formerly 12-46-117] Local licensing authority - application - fees. (1) ~~(a)~~ The local licensing authority shall issue only the following classes of FERMENTED MALT BEVERAGE licenses:

~~(F)~~ (a) Sales for consumption off the premises of the licensee;

~~(H)~~ (b) Sales for consumption on the premises of the licensee;

~~(HH)~~ (c) Sales for consumption both on and off the premises of the licensee. A person licensed pursuant to this ~~subparagraph (H)~~ PARAGRAPH (c) 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 (H)~~ PARAGRAPH (c) 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 (H)~~ PARAGRAPH (c).

~~(b) The provisions of paragraph (a) of this subsection (1) shall not apply to any license issued or applied for under this article prior to July 1, 1967, nor to any renewal or reissuance thereof.~~

~~(2) (a) Application to sell fermented malt beverages at retail may be made to a local licensing authority prior to the construction of the building in which such~~

~~beverages are to be sold. If, at the time an application to sell fermented malt beverages at retail is made to a local licensing authority, the building in which the beverages are to be sold has not been constructed, the following procedure shall be followed:~~

~~(F) The applicant shall file at the time of an application a plot plan and a detailed sketch for the interior of the building to be occupied and a drawing of the building to be constructed. In its discretion, the local licensing authority may impose additional requirements necessary for approval of the application.~~

~~(H) The premises upon which the building is to be constructed shall be posted by the applicant in such a manner that the notice is conspicuous and plainly visible to the public.~~

~~(b) No license shall be issued by the local licensing authority after approval of the application until the building in which the business is to be conducted is ready for occupancy, with such furniture, fixtures, and equipment in place as are necessary to comply with the provisions of this article, and then only after inspection of the premises has been made by the local licensing authority to determine that the applicant has complied with drawings and the plot plan and detailed sketch for the interior of the building submitted with the application.~~

~~(3) Upon receipt of an application, except an application for renewal or for transfer of ownership, the local licensing authority shall schedule a public hearing upon the application not less than thirty days from the date of the application and shall post and publish the public notice thereof not less than ten days prior to such hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation in the county in which the premises are located.~~

~~(4) (a) At the public hearing conducted by a local licensing authority on an application to sell fermented malt beverages, any party in interest shall be allowed to present evidence and to cross-examine witnesses.~~

~~(b) "Party in interest", as used in this subsection (4), means any of the following: The applicant; an adult resident of the neighborhood under consideration; the owner or manager of a business located in the neighborhood under consideration; or the principal or representative of any school located within five hundred feet of the premises for which the license is under consideration.~~

~~(c) The local licensing authority may, in its discretion, limit the presentation of evidence and cross-examination so as to prevent repetitive and cumulative evidence or examination.~~

~~(d) Nothing in this subsection (4) shall be construed to prevent a representative authorized by an organized neighborhood group which encompasses part or all of the neighborhood under consideration from presenting evidence pursuant to this section. Such representative shall reside within the geographic boundaries of the neighborhood for which the association was formed and shall be a member of the neighborhood group. Such representative shall not be entitled to cross-examine witnesses or seek judicial review of the licensing authority's decision.~~

~~(5) (2) The local licensing authority shall collect an annual license fee of twenty-five dollars if the licensed premises is located in a municipality or city and county and fifty dollars if the licensed premises is located outside the corporate limits of a municipality or city and county.~~

~~(6) (a) Each application for a license filed with a local licensing authority shall be accompanied by an application fee in an amount determined by the local licensing authority to cover actual and necessary expenses subject to the following limitations:~~

~~(I) For a new license, not to exceed four hundred fifty dollars;~~

~~(II) For a transfer of location or ownership, not to exceed two hundred fifty dollars each;~~

~~(III) For a renewal of license, not to exceed fifty dollars.~~

~~(b) No fees or charges of any kind, except as provided in this article, may be charged by the local licensing authority to the license holder or applicant for the purposes of granting or renewing a license or transferring ownership or location of a license.~~

SECTION 2. Repeal of sections not being relocated in section 1 of this act.

Sections 12-46-104, 12-46-105, 12-46-106, 12-46-106.5, 12-46-107, 12-46-108, 12-46-111, 12-46-111.5, 12-46-112, 12-46-112.2, 12-46-112.5, 12-46-112.7, 12-46-113, 12-46-114, 12-46-116, 12-46-118, and 12-46-119, Colorado Revised Statutes, 1991 Repl. Vol., as amended, are repealed.

SECTION 3. Article 47 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended, WITH THE RELOCATION OF PROVISIONS, to read:

ARTICLE 47
Alcohol Beverages

PART 1
GENERAL PROVISIONS

12-47-101. Short title. This article shall be known and may be cited as the "Colorado Liquor Code".

12-47-102. Legislative declaration. (1) The general assembly hereby declares that this article shall be deemed an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state and that no provisions of this article shall ever be construed so as to authorize the establishment or maintenance of any saloon.

(2) The general assembly further declares that it is lawful to manufacture and sell for beverages or medicinal purposes malt, vinous, or spirituous liquors, subject to the terms, conditions, limitations, and restrictions in this article.

12-47-103. Definitions. As used in this article AND ARTICLE 46 OF THIS TITLE, unless the context otherwise requires:

(1) "Adult" means a person lawfully permitted to purchase ~~alcoholic beverages or alcoholic liquors~~ ALCOHOL BEVERAGES.

~~(1.5)~~ (2) ~~"Alcoholic beverages" or "alcoholic liquors"~~ "ALCOHOL BEVERAGE" means FERMENTED MALT BEVERAGE OR malt, vinous, or spirituous liquors; except that ~~"alcoholic beverages" and "alcoholic liquors"~~ "ALCOHOL BEVERAGE" shall not include confectionery containing alcohol within the limits prescribed by section 25-5-410 (1) (i) (II), C.R.S.

~~(1.7)~~ (3) "Bed and breakfast" means an overnight lodging establishment that provides at least one meal per day at no charge other than a charge for overnight lodging and does not sell ~~alcoholic beverages~~ MALT, VINOUS, OR SPIRITUOUS LIQUORS by the drink.

~~(2)~~ (4) "Brew pub" means a retail establishment that manufactures not more than one million eight hundred sixty thousand gallons of malt liquor on its premises each year.

~~(2.5)~~ (5) "Brewery" means any establishment where malt liquors are manufactured, except brew pubs licensed under this article.

~~(3)~~ (6) "Club" means:

(a) A corporation ~~which~~ THAT:

(I) Has been incorporated for not less than three years; and ~~which~~

(II) Has a membership that has paid dues for a period of at least three years; and ~~which~~

(III) HAS A MEMBERSHIP THAT for three years has been the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, fraternal, patriotic, political, or athletic nature, but not for pecuniary gain, and the property as well as the advantages of which belong to the members;

(b) A corporation ~~which~~ THAT is a regularly chartered branch, or lodge, or chapter of a national organization ~~which~~ THAT is operated solely for the objects of a patriotic or fraternal organization or society, but not for pecuniary gain.

~~(4)~~ (7) "Distillery" means any establishment where spirituous liquors are manufactured.

(8) "FERMENTED MALT BEVERAGE" HAS THE SAME MEANING AS PROVIDED IN SECTION 12-46-103 (1).

~~(4.5)~~ (9) "Good cause", for the ~~purposes~~ PURPOSE 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 that were placed on its license in prior disciplinary proceedings or arose in the context of potential disciplinary proceedings;

(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)~~ SECTION 12-47-301 (2); or

(d) Evidence that the licensed premises have been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the establishment is located, which evidence must include a continuing pattern of fights, violent activity, or disorderly conduct. For purposes of this paragraph (d), "disorderly conduct" has the meaning as ~~defined~~ PROVIDED FOR in section 18-9-106, C.R.S.

(10) "HARD CIDER" MEANS AN ALCOHOL BEVERAGE CONTAINING AT LEAST ONE-HALF OF ONE PERCENT AND LESS THAN SEVEN PERCENT ALCOHOL BY VOLUME THAT IS MADE BY FERMENTATION OF THE NATURAL JUICE OF APPLES OR PEARS, INCLUDING BUT NOT LIMITED TO FLAVORED HARD CIDER AND HARD CIDER CONTAINING NOT MORE THAN 0.392 GRAM OF CARBON DIOXIDE PER HUNDRED MILLILITERS. FOR THE PURPOSE OF SIMPLICITY OF ADMINISTRATION OF THIS ARTICLE, HARD CIDER SHALL IN ALL RESPECTS BE TREATED AS A VINOUS LIQUOR EXCEPT WHERE EXPRESSLY PROVIDED OTHERWISE.

~~(5)~~ (11) "Hotel" means any establishment with sleeping rooms for the accommodation of guests and having restaurant facilities.

~~(5.5)~~ (12) "Inhabitant", ~~means, in~~ WITH RESPECT TO cities or towns having less than forty thousand population, MEANS an individual who resides in a given neighborhood or community for more than six months each year.

~~(6)~~ (13) "License" means a grant to a licensee to manufacture or sell malt, vinous, or spirituous liquors as provided by this article.

~~(7)~~ (14) "Licensed premises" means the premises specified in an application for a license under this article which are owned or in possession of the licensee within which such licensee is authorized to sell, dispense, or serve ~~alcoholic beverages~~ MALT, VINOUS, OR SPIRITUOUS LIQUORS in accordance with the provisions of this article.

~~(7.5)~~ (15) "Limited winery" means any establishment manufacturing not more than one hundred thousand gallons, or the metric equivalent thereof, of vinous liquors annually which uses not less than seventy-five percent Colorado-grown products in the manufacture of such vinous liquors.

~~(8)~~ (16) "Liquor-licensed drugstore" means any drugstore licensed by the state board of pharmacy ~~which~~ THAT has also applied for and has been granted a license by the state licensing authority to sell malt, vinous, and spirituous liquors in original sealed containers for consumption off the premises.

~~(9)~~ (17) "Local licensing authority" means the governing body of a municipality

or city and county, the board of county commissioners of a county, or any authority designated by municipal or county charter, municipal ordinance, or county resolution.

~~(10)~~ (18) "Location" means a particular parcel of land that may be identified by an address or by other descriptive means.

~~(11)~~ (19) "Malt liquors" includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof, in water containing more than three and two-tenths percent of alcohol by weight OR FOUR PERCENT ALCOHOL BY VOLUME.

~~(12)~~ (a) (20) "Meal" means a quantity of food of such nature as is ordinarily consumed by an individual at regular intervals for the purpose of sustenance. ~~in the following places:~~

~~(I) In any restaurant facility of a hotel operated for the accommodation and reception of guests and travelers and where meals are regularly served at tables and in any guest room thereof where the guest or traveler has meals served;~~

~~(II) In a restaurant facility where meals are regularly served at tables or lunch counters.~~

~~(b) Any hotel and restaurant licensee who is open for business and selling malt, vinous, or spirituous liquors by the drink shall serve meals between the hours of 8 a.m. and 8 p.m. and meals or light snacks and sandwiches after 8 p.m.; except that nothing in this paragraph (b) shall be construed to require a licensee to be open for business between the hours of 8 a.m. and 8 p.m.~~

~~(13)~~ (21) "Medicinal spirituous liquors" means any ~~alcoholic~~ ALCOHOL beverage, excepting beer and wine, ~~which~~ THAT has been aged in wood for four years and bonded by the United States government and ~~which~~ is at least one hundred proof.

~~(13.5)~~ (a) (22) (a) "Optional premises" means:

(I) The premises specified in an application for a hotel and restaurant license under this article with related outdoor sports and recreational facilities for the convenience of its guests or the general public located on or adjacent to the hotel or restaurant within which such licensee is authorized to sell or serve ~~alcoholic beverages~~ MALT, VINOUS, OR SPIRITUOUS LIQUORS in accordance with the provisions of this article and at the discretion of the state and local licensing authorities; or

(II) The premises specified in an application for an optional premises license located on an applicant's outdoor sports and recreational facility.

(b) For purposes of this subsection ~~(13.5)~~ (21), "outdoor sports and recreational facility" means a facility ~~which~~ THAT charges a fee for the use of such facility.

~~(14)~~ (23) "Person" means a natural person, partnership, association, company, corporation, or organization or a manager, agent, servant, officer, or employee ~~of any of them~~ THEREOF.

~~(15)~~ (24) "Premises" means a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

~~(16)~~ (25) "Racetrack" means any premises where race meets or simulcast races with pari-mutuel wagering are held in accordance with the provisions of article 60 of this title.

~~(17)~~ (26) "Rectify" means to blend spirituous liquor with neutral spirits or other spirituous liquors of different age.

~~(18)~~ (27) "Rectifying plant" means any establishment where spirituous liquors are blended with neutral spirits or other spirituous liquors of different age.

~~(19)~~ (28) "Resort complex" means a hotel with related sports and recreational facilities for the convenience of its guests or the general public located contiguous or adjacent to the hotel.

~~(20)~~ (29) "Resort hotel" means a hotel, as defined by this article IN SUBSECTION (10) OF THIS SECTION, with well-defined occupancy seasons.

~~(21)~~ (30) "Restaurant" means an establishment, which is not a hotel as defined in subsection ~~(5)~~ (10) of this section, provided with special space, sanitary kitchen and dining room equipment, and persons to prepare, cook, and serve meals, where, in consideration of payment, meals, drinks, tobaccos, and candies are furnished to guests and in which nothing is sold excepting food, drinks, tobaccos, candies, and items of souvenir merchandise depicting the theme of the restaurant or the geographical or historic subjects of the nearby area. Any establishment connected with any business wherein any business is conducted, excepting hotel business, limited gaming conducted pursuant to article 47.1 of this title, or the sale of food, drinks, tobaccos, candies, or such items of souvenir merchandise, is declared not to be a restaurant. Nothing in this subsection ~~(21)~~ (29) shall be construed to prohibit the use in a restaurant of orchestras, singers, floor shows, coin-operated music machines, and amusement devices ~~which~~ THAT pay nothing of value and cannot by adjustment be made to pay anything of value, or other forms of entertainment commonly provided in restaurants.

~~(22)~~ (31) "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 consumption off the premises; 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, AND 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~~ THAT could constitute a snack, a meal, or portion of a meal.

(32) "SCHOOL" MEANS A PUBLIC, PAROCHIAL, OR NONPUBLIC SCHOOL THAT PROVIDES A BASIC ACADEMIC EDUCATION IN COMPLIANCE WITH SCHOOL ATTENDANCE LAWS FOR STUDENTS IN GRADES ONE THROUGH TWELVE. "BASIC ACADEMIC EDUCATION" HAS THE SAME MEANING AS SET FORTH IN SECTION 22-33-104 (2) (b), C.R.S.

~~(23)~~ (33) "Sealed containers" means any container or receptacle used for holding ~~liquor~~ AN ALCOHOL BEVERAGE, which container or receptacle is corked or sealed with any stub, stopper, or cap.

~~(24)~~ (34) "Sell" or "sale" means any of the following: To exchange, barter, or traffic in; to solicit or receive an order for except through a licensee licensed under this article OR ARTICLE 46 OR 48 OF THIS TITLE; to keep or expose for sale; to serve with meals; to deliver for value or in any way other than gratuitously; to peddle or to possess with intent to sell; to possess or transport in contravention of this article; to traffic in for any consideration promised or obtained, directly or indirectly.

~~(25)~~ (35) "Sell at wholesale" means selling to any other than the intended consumer of malt, vinous, or spirituous liquors. "Sell at wholesale" shall not be construed to prevent a brewer or wholesale beer dealer from selling malt liquors to the intended consumer thereof, or to prevent a licensed manufacturer or importer from selling malt, vinous, or spirituous liquors to a licensed wholesaler.

~~(25.5)~~ "Special malt liquors" means ~~those malt liquors, including beer, which contain not less than one-half of one percent and not more than two percent alcohol by weight.~~

~~(26)~~ (36) "Spirituous liquors" means any ~~alcoholic~~ ALCOHOL beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin, and every liquid or solid, patented or not, containing at least one-half of one percent alcohol BY VOLUME and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor, except as provided in subsections ~~(14) and (28)~~ (18) AND (37) of this section, shall not be construed to be FERMENTED MALT OR malt or vinous liquor but shall be construed to be spirituous liquor.

~~(27)~~ (37) "State licensing authority" means the executive director of the department of revenue or the deputy director of the department of revenue if the executive director so designates.

~~(27.5)~~ (38) "Tavern" means an establishment serving malt, vinous, and spirituous liquors in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and light snacks are available for consumption on the premises.

~~(28)~~ (39) "Vinous liquors" means wine and fortified wines ~~which~~ THAT contain not less than one-half of one percent and not more than twenty-one percent alcohol by volume and shall be construed to mean ~~alcoholic~~ AN ALCOHOL beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

~~(29)~~ (40) "Winery" means any establishment where vinous liquors are manufactured.

12-47-104. [Formerly 12-47-126.5] Interstate wine shipments - permits.

(1) Notwithstanding the provisions of this article or any other law to the contrary, the holder of an ~~alcoholic~~ ALCOHOL beverage license that authorizes the manufacture of

vinous liquors in a state that affords Colorado adults or licensees an equal reciprocal shipping privilege may ship, for personal use and not for resale, not more than two cases of vinous liquors (no more than nine liters in each case) per month to any adult resident in this state. Delivery of a shipment pursuant to this section shall not be deemed to constitute a sale in this state. The shipping container of any vinous liquors sent into or out of this state under this section shall be clearly labeled to indicate that the package cannot be delivered to a minor, as defined in section 2-4-401 (6), C.R.S., or to an intoxicated person. The holder of an ~~alcoholic~~ ALCOHOL beverage license that authorizes the manufacture of vinous liquors in a state other than Colorado may advertise in Colorado the availability of products by shipment to Colorado residents pursuant to ~~the provisions of~~ this section. Any order for a product to be delivered pursuant to this section shall be made by the purchaser in person at the licensed premises of the ~~alcoholic beverage~~ licensee from whom the product is purchased.

(2) (a) Any person authorized under subsection (1) of this section to ship vinous liquors to an adult resident in this state shall obtain a wine shipment permit from the state licensing authority. Applications for wine shipment permits shall be made on forms prepared and furnished by the state licensing authority and shall be filed with the state licensing authority. Applicants shall include such information as the state licensing authority may require to determine whether TO ISSUE a permit. ~~should issue.~~

(b) All wine shipment permits issued pursuant to this subsection (2) shall be valid for one year from the date of issuance, unless revoked or suspended pursuant to ~~section 12-47-110~~ SECTIONS 12-47-306 AND 12-47-601. A wine shipment permit issued pursuant to this subsection (2) shall be considered a license for purposes of ~~section 12-47-110~~ SECTIONS 12-47-306 AND 12-47-601; except that only the authority delegated to the state licensing authority under ~~section 12-47-110~~ SECTIONS 12-47-306 AND 12-47-601 with respect to licenses shall apply to a wine shipment permit issued under this subsection (2).

12-47-105. [Formerly 12-47-140] Local option. The operation of this article shall be statewide unless any municipality or city and county, by a majority of the registered electors of any municipality or city and county, voting at any regular election or special election called for that purpose in accordance with the election laws of this state, decides against the right to sell malt, vinous, or spirituous liquors or to limit such sale to any one or more of the classes of licenses as provided by this article within their respective limits. Said local option question shall be submitted only upon a petition signed by not less than fifteen percent of the registered electors in such municipality or city and county; otherwise, the procedure with reference to the calling and holding of said elections shall be substantially in accordance with the election laws of the state. The expenses of such election shall be borne by the municipality or city and county in which said elections are held. The question of prohibition of sale of malt, vinous, or spirituous liquors or the limitation of sales to any one or more of the classes of licenses provided in this article shall not be submitted to the registered electors more than once in any four-year period.

12-47-106. [Formerly 12-47-142 and 12-47-126] Exemptions. (1) The provisions of this article shall not apply to the sale or distribution of sacramental wines sold and used for religious purposes.

(2) (a) Any provision of this article OR ARTICLE 46 OF THIS TITLE to the contrary

notwithstanding, when permitted by federal law and rules and regulations promulgated pursuant thereto, a head of a family may produce for family use and not for sale such amount of FERMENTED MALT BEVERAGE OR malt or vinous liquor as is exempt from the federal excise tax on such ~~liquors~~ ALCOHOL BEVERAGE when produced by a head of a family for family use and not for sale.

(b) The production of FERMENTED MALT BEVERAGES OR malt or vinous liquors under the circumstances set forth in this subsection (2) shall be in strict conformity with federal law and rules and regulations issued pursuant thereto.

(c) FERMENTED MALT BEVERAGES OR malt or vinous liquors produced pursuant to the provisions of this subsection (2) shall be exempt from any tax imposed by this article, and the producer shall not be required to obtain any license provided by this article OR ARTICLE 46 OF THIS TITLE.

(d) Malt liquors produced pursuant to this subsection (2) may be transported and delivered by the producer to any licensed premise where consumption OF MALT LIQUORS by persons over the age of twenty-one is authorized for use at organized affairs, exhibitions, or competitions, such as home brew contests, tastings, or judgments. Consumption shall be limited solely to the participants in and judges of such events. Malt liquors used for the purposes described in this paragraph (d) shall be served in portions not exceeding six ounces and shall not be sold, offered for sale, or made available for consumption by the general public.

[Formerly 12-47-126] ~~(1)~~ (3) (a) The provisions of this article OR ARTICLE 46 OF THIS TITLE, with the exception of the requirements of section ~~12-47-127~~ 12-47-503, shall not apply to the occasional sale of ~~alcoholic liquor~~ AN ALCOHOL BEVERAGE to ~~individuals~~ ANY INDIVIDUAL 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~~ ALCOHOL BEVERAGE as may lawfully have come into the possession of such person in the due course of such person's regular business in the following manner:

~~(a)~~ (I) By reason of the failure of the owner of such ~~alcoholic liquor~~ ALCOHOL BEVERAGE to claim the same or to furnish instructions as to the disposition thereof;

~~(b)~~ (II) By reason of the foreclosure of any lawful lien upon such ~~alcoholic liquor~~ ALCOHOL BEVERAGE by said person in accordance with lawful procedure;

~~(c)~~ (III) By reason of salvage of such ~~alcoholic liquor~~ ALCOHOL BEVERAGE, in the case of carriers, from shipments damaged in transit;

~~(d)~~ (IV) By reason of a lawful donation of ~~alcoholic liquor~~ SUCH ALCOHOL BEVERAGE 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)~~ SUBPARAGRAPH (IV).

~~(2)~~ (b) The state licensing authority shall be presented records of all transactions referred to in PARAGRAPH (a) OF THIS subsection ~~(1) of this section~~ (3).

~~(3)~~ (4) Any passenger twenty-one years of age or ~~more~~ OLDER arriving at any airport in this state on an air flight originating in a foreign country who is thereby

subject to customs clearance at such airport may lawfully ~~have in his possession~~ POSSESS up to one gallon or four liters (one imperial gallon), whichever measure is applicable, of ~~alcoholic liquor~~ AN ALCOHOL BEVERAGE without liability for the Colorado excise tax thereon.

12-47-107. Permitted acts. ANY PERSON WHO HAS AN INTEREST IN A LIQUOR LICENSE MAY ALSO BE LISTED AS AN OFFICER OR DIRECTOR ON A LICENSE OWNED BY A MUNICIPALITY OR GOVERNMENTAL ENTITY IF SUCH PERSON DOES NOT INDIVIDUALLY MANAGE OR RECEIVE ANY DIRECT FINANCIAL BENEFIT FROM THE OPERATION OF SUCH LICENSE.

PART 2
STATE LICENSING AUTHORITY - DUTIES

12-47-201. [Formerly 12-47-104] State licensing authority - creation. (1) For the purpose of regulating and controlling the licensing of the manufacture, distribution, and sale of ~~malt, vinous, and spirituous liquors~~ ALCOHOL BEVERAGES in this state, there is hereby created the state licensing authority, which shall be the executive director of the department of revenue or the deputy director of the department of revenue if the executive director so designates.

(2) The executive director of the department of revenue shall be the chief administrative officer of the state licensing authority and may employ, pursuant to section 13 of article XII of the state constitution, such clerks and inspectors as may be determined to be necessary.

12-47-202. [Formerly 12-47-105] Duties of state licensing authority. (1) The state licensing authority shall:

(a) Grant or refuse licenses for the manufacture, distribution, and sale of ~~malt, vinous, and spirituous liquors~~ ALCOHOL BEVERAGES as provided by law and suspend or revoke such licenses upon a violation of this article, ARTICLE 46 OR 48 OF THIS TITLE, or any rule or regulation adopted pursuant to ~~this article~~ SUCH ARTICLES;

(b) Make such general rules and regulations and such special rulings and findings as necessary for the proper regulation and control of the manufacture, distribution, and sale of ~~malt, vinous, and spirituous liquors~~ ALCOHOL BEVERAGES and for the enforcement of this article AND ARTICLES 46 AND 48 OF THIS TITLE and alter, amend, repeal, and publish the same from time to time;

(c) Hear and determine at public hearing all complaints against any licensee and administer oaths and issue subpoenas to require the presence of persons and production of papers, books, and records necessary to the determination of any hearing so held;

(d) Keep complete records of all acts and transactions of the state licensing authority, which records, except confidential reports obtained from the licensee showing the sales volume or quantity of ~~liquor~~ ALCOHOL BEVERAGES sold or stamps purchased or customers served, shall be open for inspection by the public;

(e) ~~Report to the governor and the general assembly, as provided in section~~

~~12-46-105 (1) (e)~~ PREPARE AND TRANSMIT ANNUALLY, IN THE FORM AND MANNER PRESCRIBED BY THE HEADS OF THE PRINCIPAL DEPARTMENTS PURSUANT TO SECTION 24-1-136, C.R.S., A REPORT ACCOUNTING TO THE GOVERNOR AND THE GENERAL ASSEMBLY FOR THE EFFICIENT DISCHARGE OF ALL RESPONSIBILITIES ASSIGNED BY LAW OR DIRECTIVE TO THE STATE LICENSING AUTHORITY;

(f) Notify all persons to whom wholesale licenses have been issued ~~pursuant to this article~~ as to applications for licenses and renewals of the licenses provided in sections ~~12-47-116 to 12-47-121~~ 12-46-104 (1) AND 12-47-407 TO 12-47-418.

(2) (a) Rules and regulations made pursuant to paragraph (b) of subsection (1) of this section may cover, but shall not be limited to, the following subjects: Compliance with or enforcement or violation of any provision of this article, ARTICLE 46 OR 48 OF THIS TITLE, or any rule or regulation issued pursuant to ~~this article~~ SUCH ARTICLES; specifications of duties of officers and employees; instructions for local licensing authorities and law enforcement officers; all forms necessary or convenient in the administration of this article AND ARTICLES 46 AND 48 OF THIS TITLE; inspections, investigations, searches, seizures, and such activities as may become necessary from time to time; limitation of number of licensees as to any area or vicinity; misrepresentation; unfair practices; unfair competition; control of signs and other displays on licensed premises; use of screens; identification of licensees and their employees; storage; warehouses; transportation; health and sanitary requirements; standards of cleanliness, orderliness, and decency; sampling and analysis of products; standards of purity and labeling; records to be kept by licensees and availability thereof; practices unduly designed to increase the consumption of ~~alecoholic~~ ALCOHOL beverages; and such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this article AND ARTICLES 46 AND 48 OF THIS TITLE; but nothing in this article AND ARTICLES 46 AND 48 OF THIS TITLE shall be construed as delegating to the state licensing authority the power to fix prices. The licensing authority shall make no rule ~~which~~ THAT would abridge the right of any licensee to fairly, honestly, and lawfully advertise the place of business of or the commodities sold by such licensee. All such rules shall be reasonable and just.

(b) The state licensing authority shall make no rule regulating the sale on credit of any ~~alecoholic~~ ALCOHOL beverage.

(3) In any hearing held by the state licensing authority pursuant to this article OR ARTICLE 46 OR 48 OF THIS TITLE, no person may refuse, upon request of the state licensing authority, to testify or provide other information on the ground of self-incrimination; but no testimony or other information ~~relating to this article~~ produced in ~~said~~ THE hearing or any information directly or indirectly derived from such testimony or other information may be used against such person in any criminal prosecution based on a violation of this article OR ARTICLE 46 OR 48 OF THIS TITLE except a prosecution for perjury in the first degree committed in so testifying. Continued refusal to testify or provide other information shall constitute grounds for suspension or revocation of ~~the~~ ANY license granted pursuant to this article OR ARTICLE 46 OR 48 OF THIS TITLE.

12-47-203. [Formerly 12-47-144] Performance of duties. (1) The performance of the functions or activities set forth in this article AND ARTICLES 46 AND 48 OF THIS TITLE shall be subject to available appropriations; but nothing in this section shall be

construed to remove from the state licensing authority the responsibility for performing such functions or activities in accordance with law at the level of funding provided.

(2) Notwithstanding the provisions of subsection (1) of this section, the state shall be the final interpretive authority as it relates to this article AND ARTICLES 46 AND 48 OF THIS TITLE and the rules and regulations promulgated thereunder, concerning persons licensed pursuant to this article AND ARTICLES 46 AND 48 OF THIS TITLE as wholesalers, manufacturers, importers, and public transportation system licensees.

PART 3 STATE AND LOCAL LICENSING

12-47-301. [Formerly 12-47-106] Licensing in general. (1) ~~(a)~~ No local licensing authority shall issue a license provided for in this article OR ARTICLE 46 OR 48 OF THIS TITLE until that share of the license fee due the state has been received by the department of revenue. All licenses granted pursuant to the provisions of this article AND ARTICLES 46 AND 48 OF THIS TITLE ~~except temporary licenses issued pursuant to the provisions of paragraph (b.5) of this subsection (1)~~ shall be valid for a period of one year from the date of their issuance unless revoked or suspended pursuant to section ~~12-47-110~~ 12-47-601 OR 12-47-306.

~~(b) Ninety days prior to the expiration date of an existing license, the state licensing authority shall notify the licensee of such expiration date by first class mail at the business' last-known address. Application for the renewal of an existing license shall be made to the local licensing authority not less than forty-five days and to the state licensing authority not less than thirty days prior to the date of expiration. No application for renewal of a license shall be accepted by the local licensing authority after the date of expiration, but filing with the local licensing authority shall be deemed filing with the state, and all renewals filed with the local licensing authorities prior to expiration, and subsequently approved, shall be processed by the state licensing authority, and the expiration date is extended until the state license is processed. The state or the local licensing authority, for good cause, may waive the time requirements set forth in this paragraph (b). The local licensing authority may cause a hearing on the application for renewal to be held. No renewal hearing provided for by this paragraph (b) shall be held by the local licensing authority until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing. The licensing authority may refuse to renew any license for good cause, subject to judicial review. Any renewal hearing held by the state licensing authority shall be pursuant to section 12-47-108 (2).~~

~~(b.5) Notwithstanding the provisions of paragraph (b) of this subsection (1), any licensee whose license expires and is not renewed may, upon the filing of an application for a permanent annual alcoholic beverage license, also apply to the state licensing authority or the local licensing authority for a temporary license to allow continued operation of a licensed premises, including the manufacture, distribution, sale, dispensing, or serving of alcoholic beverages under the same terms and conditions as provided in the expired license. The application for the permanent annual alcoholic beverage license shall require a public hearing pursuant to the provisions of section 12-47-136, and all other requirements of current law pertaining~~

~~to permanent licenses shall be met in order for such license to be granted. Such application shall be made to the local licensing authority if the regular annual license was for a retail liquor store license, liquor-licensed drugstore, hotel and restaurant license, beer and wine license, tavern license, club license, arts license, racetrack license, retail gaming tavern license, or optional premises license. The application to the local licensing authority shall be on forms provided by the local licensing authority and shall contain such information as is deemed necessary by such local licensing authority. For any other license issued under this article, the application shall be made to the state licensing authority. Such application shall be made no later than ninety days after the expiration of the permanent annual license. An application fee of no more than two hundred fifty dollars, payable to the local licensing authority, shall be paid with each application for a temporary license submitted to a local licensing authority. In no event shall a temporary license be issued where renewal of the original license has been denied. The state licensing authority or the local licensing authority that receives an application for such temporary license shall approve such application and issue a temporary license when the annual license expired solely as the result of the licensee's inadvertent failure to make application for renewal or any administrative error or mistake. The licensing authority may hold a hearing to determine whether the failure to renew was inadvertent or due to administrative error or mistake. Pending the holding and outcome of such hearing, the licensee shall be allowed to continue operation of the licensed premises under the same terms and conditions as provided in the expired license. Such temporary license shall be valid until the licensee's application for a regular annual license has been processed and finally acted upon by the state and local licensing authorities; except that in no event shall such license be valid for more than one hundred twenty days. Such temporary license shall be subject to the same provisions for revocation or suspension under section 12-47-110 as are other licenses granted pursuant to the provisions of this article.~~

(2) Before granting any license, all licensing authorities shall consider, except where ~~this article specifically provides~~ THIS ARTICLE AND ARTICLE 46 OF THIS TITLE SPECIFICALLY PROVIDE otherwise, the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions ~~which~~ THAT are or may be placed upon the neighborhood by the local licensing authority. With respect to a second or additional hotel and restaurant license for the same licensee, all licensing authorities shall consider the effect on competition of the granting or disapproving of additional licenses to such licensee, and no application for a second or additional hotel and restaurant license ~~shall be approved which~~ THAT would have the effect of restraining competition SHALL BE APPROVED.

(3) (a) Each license issued under this article AND ARTICLE 46 OF THIS TITLE is separate and distinct, and it is unlawful for any person to exercise any of the privileges granted under any license other than that which ~~he~~ THE PERSON holds or for any licensee to allow any other person to exercise such privileges granted under ~~his~~ THE LICENSEE'S license. A separate license shall be issued for each specific business or business entity and each geographical location, and in said license the particular ~~liquors which~~ ALCOHOL BEVERAGES the applicant is authorized to manufacture or sell shall be named and described. For purposes of this section, a resort complex with common ownership, a hotel and restaurant licensee with optional premises, and an optional premises licensee for optional premises located on an outdoor sports and

recreational facility shall be considered a single business and location.

(b) At all times a licensee shall possess and maintain possession of the premises or optional premises for which the license is issued by ownership, lease, rental, or other arrangement for possession of such premises.

~~(4) (a) No license granted under the provisions of this article shall be transferable except as provided in this subsection (4), but this shall not prevent a change of location as provided in section 12-47-128 (5) (g) (II).~~

~~(b) When a license has been issued to a husband and wife, or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to such survivors for the balance of the license period.~~

~~(c) For any other transfer of ownership, application shall be made to the state and local licensing authorities on forms prepared and furnished by the state licensing authority. In determining whether to permit a transfer of ownership, the licensing authorities shall consider only the requirements of section 12-47-111. The local licensing authority may cause a hearing on the application for transfer of ownership to be held. No hearing provided for by this paragraph (c) shall be held by the local licensing authority until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing. Any transfer of ownership hearing by the state licensing authority shall be pursuant to section 12-47-108 (2).~~

~~(5) (a) (4) (a) The licenses provided pursuant to this article AND ARTICLE 46 OF THIS TITLE shall specify the date of issuance, the period which is covered, the name of the licensee, the premises or optional premises licensed, the optional premises in the case of a hotel and restaurant license, and the liquors which ALCOHOL BEVERAGES THAT may be sold therein. Said ON SUCH PREMISES OR OPTIONAL PREMISES. THE license shall be conspicuously placed at all times in the place thereby licensed ON THE LICENSED PREMISES OR OPTIONAL PREMISES, and all sheriffs and police officers shall see to it that every person selling malt, vinous, or spirituous liquors ALCOHOL BEVERAGES within their jurisdiction has procured a license to do so.~~

~~(b) No local licensing authority shall issue, transfer location of, or renew any license to sell any malt, vinous, or spirituous liquors ALCOHOL BEVERAGES until the person applying therefor FOR SUCH LICENSE produces a license issued and granted by the state licensing authority covering the whole period for which a license or LICENSE renewal thereof is asked IS SOUGHT.~~

~~(6) (5) In computing any period of time prescribed by this article, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and legal holidays shall be counted as any other day.~~

~~(7) (6) Licensees at facilities owned by a municipality, COUNTY, OR SPECIAL DISTRICT may possess and serve FOR ON-PREMISES CONSUMPTION any type of alcoholic beverage MALT, VINOUS, AND SPIRITUOUS LIQUOR or fermented malt~~

beverage as may be permitted pursuant to guidelines established by the local and state licensing authorities and need not have meals available for consumption. However, fermented malt beverages and ~~alcoholic beverages~~ MALT, VINOUS, AND SPIRITUOUS LIQUORS may not be served on the same premises at the same time.

~~(8)~~ (7) A licensee shall report each transfer or change of financial interest in the license to the state licensing authority and, for retail licenses, to the local licensing authority, within thirty days after the transfer or change. A report shall be required for transfers of capital stock of a public corporation; except that a report shall not be required for transfers of such stock totaling less than ten percent in any one year, but any transfer of a controlling interest shall be reported regardless of size. It is unlawful for the licensee to fail to report a transfer required by this subsection (8). Such failure to report shall be grounds for suspension or revocation of the license.

~~(9)~~ (8) Each licensee holding a FERMENTED MALT BEVERAGE ON-PREMISES LICENSE OR ON- AND OFF-PREMISES LICENSE, beer and wine license, tavern license, club license, arts license, or racetrack license shall manage such premises himself OR HERSELF or employ a separate and distinct manager on the premises and shall report the name of such manager to the state and local licensing authorities. Such 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 ~~(9)~~ (8). Such failure to report shall be grounds for suspension of the license.

~~(10)~~~~(a)~~ (9) (a) A LICENSEE MAY MOVE HIS OR HER PERMANENT LOCATION TO ANY OTHER PLACE IN THE SAME CITY, TOWN, OR CITY AND COUNTY FOR WHICH THE LICENSE WAS ORIGINALLY GRANTED, OR IN THE SAME COUNTY IF SUCH LICENSE WAS GRANTED FOR A PLACE OUTSIDE THE CORPORATE LIMITS OF ANY CITY, TOWN, OR CITY AND COUNTY, BUT IT SHALL BE UNLAWFUL TO SELL ANY ALCOHOL BEVERAGE AT ANY SUCH PLACE UNTIL PERMISSION TO DO SO IS GRANTED BY ALL THE LICENSING AUTHORITIES PROVIDED FOR IN THIS ARTICLE.

(b) IN PERMITTING SUCH CHANGE OF LOCATION, SUCH LICENSING AUTHORITIES SHALL CONSIDER THE REASONABLE REQUIREMENTS OF THE NEIGHBORHOOD TO WHICH THE APPLICANT SEEKS TO CHANGE HIS OR HER LOCATION, THE DESIRES OF THE ADULT INHABITANTS AS EVIDENCED BY PETITIONS, REMONSTRANCES, OR OTHERWISE, AND ALL REASONABLE RESTRICTIONS THAT ARE OR MAY BE PLACED UPON THE NEW DISTRICT BY THE COUNCIL, BOARD OF TRUSTEES, OR LICENSING AUTHORITY OF THE CITY, TOWN, OR CITY AND COUNTY OR BY THE BOARD OF COUNTY COMMISSIONERS OF ANY COUNTY.

12-47-302. License renewal. [Formerly 12-47-106 (1)(b) and (1)(b.5)] (1) NINETY DAYS PRIOR TO THE EXPIRATION DATE OF AN EXISTING LICENSE, THE STATE LICENSING AUTHORITY SHALL NOTIFY THE LICENSEE OF SUCH EXPIRATION DATE BY FIRST CLASS MAIL AT THE BUSINESS' LAST-KNOWN ADDRESS. APPLICATION FOR THE RENEWAL OF AN EXISTING LICENSE SHALL BE MADE TO THE LOCAL LICENSING AUTHORITY NOT LESS THAN FORTY-FIVE DAYS AND TO THE STATE LICENSING AUTHORITY NOT LESS THAN THIRTY DAYS PRIOR TO THE DATE OF EXPIRATION. NO APPLICATION FOR RENEWAL OF A LICENSE SHALL BE ACCEPTED BY THE LOCAL LICENSING AUTHORITY AFTER THE DATE OF EXPIRATION, EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, BUT FILING WITH THE LOCAL LICENSING AUTHORITY

SHALL BE DEEMED FILING WITH THE STATE, AND ALL RENEWALS FILED WITH THE LOCAL LICENSING AUTHORITIES PRIOR TO EXPIRATION, AND SUBSEQUENTLY APPROVED, SHALL BE PROCESSED BY THE STATE LICENSING AUTHORITY, AND THE EXPIRATION DATE IS EXTENDED UNTIL THE STATE LICENSE IS PROCESSED. THE STATE OR THE LOCAL LICENSING AUTHORITY, FOR GOOD CAUSE, MAY WAIVE THE FORTY-FIVE OR THIRTY DAY TIME REQUIREMENTS SET FORTH IN THIS SUBSECTION (1). THE LOCAL LICENSING AUTHORITY MAY CAUSE A HEARING ON THE APPLICATION FOR RENEWAL TO BE HELD. NO RENEWAL HEARING PROVIDED FOR BY THIS SUBSECTION (1) SHALL BE HELD BY THE LOCAL LICENSING AUTHORITY UNTIL A NOTICE OF HEARING HAS BEEN CONSPICUOUSLY POSTED ON THE LICENSED PREMISES FOR A PERIOD OF TEN DAYS AND NOTICE OF THE HEARING HAS BEEN PROVIDED THE APPLICANT AT LEAST TEN DAYS PRIOR TO THE HEARING. THE LICENSING AUTHORITY MAY REFUSE TO RENEW ANY LICENSE FOR GOOD CAUSE, SUBJECT TO JUDICIAL REVIEW. ANY RENEWAL HEARING HELD BY THE STATE LICENSING AUTHORITY SHALL BE PURSUANT TO SECTION 12-47-305 (2).

(2) (a) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, A LICENSEE WHOSE LICENSE HAS BEEN EXPIRED FOR NOT MORE THAN NINETY DAYS MAY FILE A LATE RENEWAL APPLICATION UPON THE PAYMENT OF A NONREFUNDABLE LATE APPLICATION FEE OF FIVE HUNDRED DOLLARS EACH TO THE STATE AND LOCAL LICENSING AUTHORITIES. A LICENSEE WHO FILES A LATE RENEWAL APPLICATION AND PAYS THE REQUISITE FEES MAY CONTINUE TO OPERATE UNTIL BOTH STATE AND LOCAL LICENSING AUTHORITIES HAVE TAKEN FINAL ACTION TO APPROVE OR DENY SUCH LICENSEE'S LATE RENEWAL APPLICATION.

(b) NO STATE OR LOCAL LICENSING AUTHORITY SHALL ACCEPT A LATE RENEWAL APPLICATION MORE THAN NINETY DAYS AFTER THE EXPIRATION OF A LICENSEE'S PERMANENT ANNUAL LICENSE. ANY LICENSEE WHOSE PERMANENT ANNUAL LICENSE HAS BEEN EXPIRED FOR MORE THAN NINETY DAYS MUST APPLY FOR A NEW LICENSE PURSUANT TO SECTION 12-47-311 AND SHALL NOT SELL OR POSSESS FOR SALE ANY ALCOHOL BEVERAGE UNTIL ALL REQUIRED LICENSES HAVE BEEN OBTAINED.

12-47-303. [Formerly 12-47-106.5] Transfer of ownership and temporary permits. (1) (a) **[Formerly 12-47-106 (4)]** NO LICENSE GRANTED UNDER THE PROVISIONS OF THIS ARTICLE OR ARTICLE 46 OF THIS TITLE SHALL BE TRANSFERABLE EXCEPT AS PROVIDED IN THIS SUBSECTION (1), BUT THIS SHALL NOT PREVENT A CHANGE OF LOCATION AS PROVIDED IN SECTION 12-47-301 (9).

(b) WHEN A LICENSE HAS BEEN ISSUED TO A HUSBAND AND WIFE, OR TO GENERAL OR LIMITED PARTNERS, THE DEATH OF A SPOUSE OR PARTNER SHALL NOT REQUIRE THE SURVIVING SPOUSE OR PARTNER TO OBTAIN A NEW LICENSE. ALL RIGHTS AND PRIVILEGES GRANTED UNDER THE ORIGINAL LICENSE SHALL CONTINUE IN FULL FORCE AND EFFECT AS TO SUCH SURVIVORS FOR THE BALANCE OF THE LICENSE PERIOD.

(c) FOR ANY OTHER TRANSFER OF OWNERSHIP, APPLICATION SHALL BE MADE TO THE STATE AND LOCAL LICENSING AUTHORITIES ON FORMS PREPARED AND FURNISHED BY THE STATE LICENSING AUTHORITY. IN DETERMINING WHETHER TO PERMIT A TRANSFER OF OWNERSHIP, THE LICENSING AUTHORITIES SHALL CONSIDER ONLY THE REQUIREMENTS OF SECTION 12-47-307. THE LOCAL LICENSING AUTHORITY MAY CAUSE A HEARING ON THE APPLICATION FOR TRANSFER OF OWNERSHIP TO BE HELD. NO HEARING PROVIDED FOR BY THIS PARAGRAPH (c) SHALL BE HELD BY THE LOCAL

LICENSING AUTHORITY UNTIL A NOTICE OF HEARING HAS BEEN CONSPICUOUSLY POSTED ON THE LICENSED PREMISES FOR A PERIOD OF TEN DAYS AND NOTICE OF THE HEARING HAS BEEN PROVIDED THE APPLICANT AT LEAST TEN DAYS PRIOR TO THE HEARING. ANY TRANSFER OF OWNERSHIP HEARING BY THE STATE LICENSING AUTHORITY SHALL BE PURSUANT TO SECTION 12-47-305 (2).

(1) (2) Notwithstanding ~~anything in~~ THE PROVISIONS OF this article to the contrary, a local licensing authority shall have discretionary authority to issue a temporary permit to a transferee of any RETAIL class of ~~liquor~~ ALCOHOL BEVERAGE license issued by the ~~state~~ LOCAL licensing authority pursuant to this article OR ARTICLE 46 OF THIS TITLE. Such temporary permit shall authorize a transferee to continue selling such ~~alcoholic~~ ALCOHOL beverages as permitted under the permanent license during the period in which an application to transfer the ownership of the license is pending.

(2) (3) A temporary permit shall authorize a transferee to conduct business and sell ~~alcoholic~~ ALCOHOL beverages at retail in accordance with the license of the transferor subject to compliance with all of the following conditions:

(a) The premises where such ~~alcoholic~~ ALCOHOL beverages are sold shall have been previously licensed by the state and local licensing authorities, and such license shall have been valid at the time the application for transfer of ownership was filed with the local licensing authority ~~which~~ THAT has jurisdiction to approve an application for a temporary permit.

(b) The applicant has filed with the local licensing authority on forms provided by the department of revenue an application for the transfer of the liquor license. Such application shall include, but not be limited to, the following information:

(I) The name and address of the applicant; if the applicant is a partnership, the names and addresses of all the partners; and, if the applicant is a corporation, association, or other organization, the names and addresses of the president, vice-president, secretary, and managing officer;

(II) The applicant's financial interest in the proposed transfer;

(III) The premises for which the temporary permit is sought; and

(IV) Such other information as the local licensing authority may require.

(c) The application for a temporary permit shall be filed no later than thirty days after the filing of the application for transfer of ownership and shall be accompanied by a temporary permit fee not to exceed one hundred dollars.

(3) (4) A temporary permit, if granted, by a local licensing authority shall be issued within ~~three~~ FIVE working days after the receipt of such application. A temporary permit issued pursuant to this section shall be valid until such time as the application to transfer ownership of the license to the applicant is granted OR DENIED or for one hundred twenty days, whichever ~~shall first occur~~ OCCURS FIRST; except that, if the application to transfer the license has not been granted OR DENIED within the one-hundred-twenty-day period and the transferee demonstrates good cause, the local licensing authority may extend, in its discretion, the validity of said permit for

an additional period not to exceed sixty days.

~~(4)~~ (5) A temporary permit shall also be authorized in the event of a transfer of possession of the licensed premises by operation of law, a petition in bankruptcy pursuant to federal bankruptcy law, the appointment of a receiver, a foreclosure action by a secured party, or a court order dispossessing the prior licensee of all rights of possession pursuant to article 40 of title 13, C.R.S.

~~(5)~~ (6) A temporary permit may be canceled, revoked, or summarily suspended if the local or state licensing authority determines that there is probable cause to believe that the transferee has violated any provision of this article OR ARTICLE 46 OF THIS TITLE or has violated any rule or regulation adopted by the local or state licensing authority or has failed to truthfully disclose those matters required pursuant to the application forms required by the department of revenue.

12-47-304. [Formerly 12-47-107] State licensing authority - application and issuance procedures. (1) Applications for licenses under the provisions of this article AND ARTICLES 46 AND 48 OF THIS TITLE shall be made to the state licensing authority on forms prepared and furnished by the state licensing authority and shall set forth such information as the state licensing authority may require to enable the authority to determine whether a license should be granted. Such information shall include the name and address of the applicant, and if a partnership, also the names and addresses of all the partners, and if a corporation, association, or other organization, also the names and addresses of the president, vice-president, secretary, and managing officer, together with all other information deemed necessary by the licensing authority. Each application shall be verified by the oath or affirmation of such person or persons as the state licensing authority may prescribe.

(2) (a) Before granting any license for which application has been made, the state licensing authority or one or more of its inspectors may visit and inspect the plant or property in which the applicant proposes to conduct his business and investigate the fitness to conduct such business of any person or the officers and directors of any corporation applying for a license. In investigating the fitness of the applicant or a licensee, the state licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the state licensing authority takes into consideration information concerning the applicant's criminal history record, the state licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of his THE application for a license.

(b) As used in paragraph (a) of this subsection (2), "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency which THAT performs the administration of criminal justice pursuant to a statute or executive order and which THAT allocates a substantial part of its annual budget to the administration of criminal justice.

~~(3) (a) No application to have a retail liquor store license, liquor-licensed drugstore license, beer and wine license, tavern license, club license, arts license,~~

~~racetrack license, or hotel and restaurant license at a particular location shall be received or acted upon if such location is the same as or within five hundred feet of a location for which, within two years preceding, the appropriate licensing authority refused to approve the same class of license on the ground, in whole or in part, that the licenses already granted for the particular locality were adequate for the reasonable requirements of the neighborhood and the desires of the adult inhabitants at the time of such refusal.~~

~~(b) Paragraph (a) of this subsection (3) shall not apply to cities in which limited gaming is permitted pursuant to section 9 of article XVIII of the state constitution.~~

~~(4) (3) The state licensing authority shall not issue a license pursuant to this section until the local licensing authority has approved the application provided for in section ~~12-47-135~~ 12-47-309.~~

12-47-305. [Formerly 12-47-108] Denial of application. (1) The state licensing authority shall refuse a state license if the premises on which the applicant proposes to conduct its business do not meet the requirements of this article, or if the character of the applicant or its officers or directors is such that violations of this article OR ARTICLE 46 OR 48 OF THIS TITLE would be likely to result if a license were granted, or if in its opinion licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(2) The state licensing authority shall not refuse a state license after a local license has been granted, except upon hearing after fifteen days' notice to the applicant and to the local licensing authority. ~~Said~~ THE notice shall be in writing and shall state grounds upon which the application may be refused. If the applicant does not respond to the notice within fifteen days after the date of the notice, the application for a license shall be denied. Such hearing shall be conducted in accordance with the provisions of section 24-4-105, C.R.S., and judicial review of the state licensing authority's decision shall be pursuant to section 24-4-106, C.R.S.

12-47-306. Inactive licenses. THE STATE OR LOCAL LICENSING AUTHORITY, IN ITS DISCRETION, MAY REVOKE OR ELECT NOT TO RENEW A RETAIL LICENSE IF IT DETERMINES THAT THE LICENSED PREMISES HAS BEEN INACTIVE, WITHOUT GOOD CAUSE, FOR AT LEAST ONE YEAR OR, IN THE CASE OF A RETAIL LICENSE APPROVED FOR A FACILITY THAT HAS NOT BEEN CONSTRUCTED, SUCH FACILITY HAS NOT BEEN CONSTRUCTED AND PLACED IN OPERATION WITHIN TWO YEARS AFTER APPROVAL OF THE LICENSE APPLICATION OR CONSTRUCTION OF THE FACILITY HAS NOT COMMENCED WITHIN ONE YEAR AFTER SUCH APPROVAL.

12-47-307. [Formerly 12-47-111] Persons prohibited as licensees. (1) (a) No license provided by this article OR ARTICLE 46 OR 48 OF THIS TITLE shall be issued to or held by:

(I) Any person until the annual fee therefor has been paid;

~~(H) Repealed.~~

~~(HH) (II) Any person who is not of good moral character;~~

~~(IV)~~ (III) Any corporation, any of whose officers, directors, or stockholders holding ~~over~~ ten percent OR MORE of the outstanding and issued capital stock thereof are not of good moral character;

~~(V)~~ (IV) Any partnership, association, or company, any of whose officers, or any of whose members holding ~~more than~~ ten percent OR MORE interest therein, are not of good moral character;

~~(VI)~~ (V) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the respective licensing authorities;

~~(VII)~~ Any sheriff, deputy sheriff, police officer, prosecuting officer, the state licensing authority, or any of its inspectors or employees;

~~(VIII)~~ (VI) Any person unless he is with respect to his SUCH PERSON'S character, record, and reputation ARE satisfactory to the respective licensing authority;

(VII) ANY NATURAL PERSON UNDER TWENTY-ONE YEARS OF AGE.

(b) In making a determination as to character or when considering the conviction of a crime, a licensing authority shall be governed by the provisions of section 24-5-101, C.R.S.

~~(2) Except as may be provided pursuant to section 12-47-138 (1) (d) (IV), no license provided for by this article shall be issued to or held by any person who will operate any place where liquor is sold or is to be sold by the drink within five hundred feet from any public or parochial school or the principal campus of any college, university, or seminary; except that this provision shall not apply to any hotel, club, or restaurant located within such limit on April 12, 1935, or affect the renewal or reissuance of any license once granted, or apply to any licensed premises located or to be located on land owned by a municipality, or apply to a liquor license in effect and actively doing business before said principal campus was constructed, or apply to any club located within the principal campus of any college, university, or seminary, as defined in section 23-2-102 (3), (4), and (5), C.R.S., which limits its membership to the faculty or staff of such institution.~~

(2) NO LICENSE PROVIDED BY THIS ARTICLE SHALL BE ISSUED TO OR HELD BY ANY SHERIFF, DEPUTY SHERIFF, POLICE OFFICER, OR PROSECUTING OFFICER, OR THE STATE LICENSING AUTHORITY, OR ANY OF ITS INSPECTORS OR EMPLOYEES.

(3) (a) IN INVESTIGATING THE QUALIFICATIONS OF THE APPLICANT OR A LICENSEE, THE LOCAL LICENSING AUTHORITY MAY HAVE ACCESS TO CRIMINAL HISTORY RECORD INFORMATION FURNISHED BY A CRIMINAL JUSTICE AGENCY SUBJECT TO ANY RESTRICTIONS IMPOSED BY SUCH AGENCY. IN THE EVENT THE LOCAL LICENSING AUTHORITY TAKES INTO CONSIDERATION INFORMATION CONCERNING THE APPLICANT'S CRIMINAL HISTORY RECORD, THE LOCAL LICENSING AUTHORITY SHALL ALSO CONSIDER ANY INFORMATION PROVIDED BY THE APPLICANT REGARDING SUCH CRIMINAL HISTORY RECORD, INCLUDING BUT NOT LIMITED TO EVIDENCE OF REHABILITATION, CHARACTER REFERENCES, AND EDUCATIONAL ACHIEVEMENTS, ESPECIALLY THOSE ITEMS PERTAINING TO THE PERIOD OF TIME BETWEEN THE APPLICANT'S LAST CRIMINAL

CONVICTION AND THE CONSIDERATION OF THE APPLICATION FOR A LICENSE.

(b) AS USED IN PARAGRAPH (a) OF THIS SUBSECTION (3), "CRIMINAL JUSTICE AGENCY" MEANS ANY FEDERAL, STATE, OR MUNICIPAL COURT OR ANY GOVERNMENTAL AGENCY OR SUBUNIT OF SUCH AGENCY THAT PERFORMS THE ADMINISTRATION OF CRIMINAL JUSTICE PURSUANT TO A STATUTE OR EXECUTIVE ORDER AND THAT ALLOCATES A SUBSTANTIAL PART OF ITS ANNUAL BUDGET TO THE ADMINISTRATION OF CRIMINAL JUSTICE.

12-47-308. [Formerly 12-47-129] Unlawful financial assistance. ~~(1) It is unlawful for any manufacturer, limited winery licensee, or wholesaler or any person, partnership, association, organization, or corporation interested financially in or with any of said licensees to be interested financially, directly or indirectly, in the business of any person licensed to sell at retail pursuant to this article or for any person licensed to sell at retail pursuant to this article to be interested financially, directly or indirectly, in the business of any manufacturer, limited winery licensee, or wholesaler or any person, partnership, association, organization, or corporation interested in or with any of the said manufacturers, limited winery licensees, or wholesalers licensed pursuant to this article.~~

~~(2) (a) It is unlawful for any manufacturer or importer of vinous or spirituous liquors or any limited winery licensee, or any person, partnership, association, organization, or corporation interested financially in or with any such manufacturer, importer, or licensee, to be interested financially, directly or indirectly, in the business of any vinous or spirituous wholesale licensee or for any vinous or spirituous wholesale licensee to be so interested financially in any such manufacturer, importer, or licensee or any other vinous or spirituous wholesale licensee; but any such licensees or persons interested financially in or with any other such licensees or persons on or before July 1, 1969, are exempt from the provisions of this paragraph (a).~~

~~(b) The provisions of paragraph (a) of this subsection (2) shall not apply to manufacturers, nonresident manufacturers, and importers of malt liquor in the importation and sale of malt liquor.~~

~~(3)(a) (1) (a) It is unlawful for any of the persons or parties described and referred to in subsections (1) and (2) of this section~~ PERSON LICENSED PURSUANT TO ARTICLE 46 OR 47 OF THIS TITLE AS A MANUFACTURER, LIMITED WINERY LICENSEE, WHOLESALER, OR IMPORTER, OR ANY PERSON, PARTNERSHIP, ASSOCIATION, ORGANIZATION, OR CORPORATION INTERESTED FINANCIALLY IN OR WITH ANY OF SAID LICENSEES, 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 OR ARTICLE 46 OR 48 OF THIS TITLE any financial assistance or any equipment, fixtures, chattels, or furnishings used in the storing, handling, serving, or dispensing of food or ~~alcoholic~~ ALCOHOL 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.

(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~~ IN SAID PARAGRAPH (a) may provide financial or in-kind assistance, directly or

indirectly, to a nonprofit arts organization ~~which~~ THAT has been issued an arts license pursuant to section ~~12-47-120.5~~ 12-47-417.

~~(4) (a) (2) 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 or brew pub 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 an owner, part owner, shareholder, or person interested directly or indirectly in a brew pub license to conduct, own in whole or in part, or be directly or indirectly interested in any other brew pub or hotel and restaurant license or establishment, but it is unlawful for such a person to conduct, own in whole or in part, or be directly or indirectly interested in a wholesaler's license issued under this article. 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) SUBSECTION (2) 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)~~

~~(b) The provisions of paragraph (a) of this subsection (4) shall not apply to any interest in a racetrack license with respect to any interest in any other racetrack license nor to any interest in an arts license granted pursuant to section 12-47-120.5 nor to any financial institution referred to in subsection (6) of this section nor to any interest in any airline public transportation system license granted pursuant to section 12-47-122 with respect to any interest in any other airline public transportation system license.~~

~~(c) No owner, part owner, shareholder, or person interested directly or indirectly in a licensed brew pub may be interested directly or indirectly in any retail gaming tavern license.~~

~~(d) The provisions of paragraph (a) of this subsection (4) shall not apply to any interest in a bed and breakfast permit with respect to any interest in any other bed and~~

~~breakfast permit.~~

~~(5)(a)~~ (3) (a) It is unlawful for any person licensed to sell at retail pursuant to this article OR ARTICLE 46 OF THIS TITLE to receive and obtain from the persons or parties described and referred to in ~~subsections (1) and (2)~~ SUBSECTION (1) (a) 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~~ ALCOHOL 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)~~ (3) shall not apply to signs or displays within such premises or to advertising materials ~~which~~ THAT are intended primarily to advertise the product of the wholesaler or manufacturer and ~~which~~ THAT 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.

(b) Notwithstanding the provisions of paragraph (a) of this subsection ~~(5)~~ (3), a nonprofit arts organization ~~which~~ THAT has been issued an arts license pursuant to section ~~12-47-120.5~~ 12-47-417 may receive financial or in-kind assistance, directly or indirectly, from the persons or parties described and referred to in ~~subsections (1) and (2)~~ SUBSECTION (1) (a) of this section.

~~(6)(a)~~ (4) (a) EXCEPT AS OTHERWISE AUTHORIZED, it is unlawful for any person or corporation holding any license pursuant to this article OR ARTICLE 46 OF THIS TITLE or any person who is a stockholder, director, or officer of any corporation holding a license pursuant to this article OR ARTICLE 46 OF THIS TITLE to be a stockholder, director, or officer or to be interested, directly or indirectly, in any person or corporation that lends money to any person or corporation licensed pursuant to this article OR ARTICLE 46 OF THIS TITLE, but this subsection ~~(6)~~ (4) shall not apply to banks, savings and loan associations, or industrial banks supervised and regulated by an agency of the state or federal government, or to FHA-approved mortgagees, or to stockholders, directors, or officers thereof; and it is unlawful for any person or corporation licensed pursuant to this article OR ARTICLE 46 OF THIS TITLE, or any stockholder, director, or officer of such corporation, to make any loan or be interested, directly or indirectly, in any loan to any other person licensed pursuant to the provisions of this article OR ARTICLE 46 OF THIS TITLE; except that this paragraph (a) shall not apply to any financial institution ~~which~~ THAT comes into possession of a licensed premises by virtue of a foreclosure or deed in lieu of foreclosure if such financial institution does not retain such premises for longer than one year or for such time exceeding one year as provided in paragraph (b) of this subsection ~~(6)~~ (4).

(b) In the case of a financial institution ~~which~~ THAT comes into possession of a licensed premises by virtue of a foreclosure or deed in lieu of foreclosure, the state and the local licensing authority may grant a transfer of ownership for such license for a period of one year and, upon notice and hearing, renewal of such license may be granted. This paragraph (b) shall apply in the case of every foreclosure or deed in lieu of foreclosure in which disposition of the license has not otherwise been made by the state or local licensing authority.

~~(7)~~ (5) It is unlawful for any owner, part owner, shareholder, stockholder, or person interested, directly or indirectly, in any retail business or establishment of a

person licensed to sell at retail pursuant to the provisions of this article OR ARTICLE 46 OR 48 OF THIS TITLE to enter into any agreement with any person or party or to receive, possess, or accept any money, fixtures, supplies, or things of value from any person or party, whereby a person licensed to sell at retail pursuant to this article OR ARTICLE 46 OR 48 OF THIS TITLE may be influenced or caused, directly or indirectly, to buy, sell, dispense, or handle the product of any manufacturer of ~~alcoholic~~ ALCOHOL beverages. This subsection ~~(7)~~ (5) shall not apply to displays within such premises.

~~(8)~~ (6) Any transaction, agreement, or arrangement prohibited by the provisions of this section, if made and entered into by and between the persons and parties described and referred to in this section, is unlawful, illegal, invalid, and void, and any obligation or liability arising out of such transaction, agreement, or arrangement shall be unenforceable in any court of this state by or against any such persons and parties entering into such transaction, agreement, or arrangement.

~~(9)~~ (7) This section is intended to prohibit and prevent the control of the outlets for the sale of ~~alcoholic~~ ALCOHOL beverages by any persons or parties other than the persons licensed pursuant to the provisions of this article OR ARTICLE 46 OR 48 OF THIS TITLE.

~~(10)(a)~~ (8) Except as provided in paragraph (b) of this subsection (10), it is lawful for any corporation, all of whose members or shareholders are persons licensed to sell at retail pursuant to this article, to obtain a wholesaler's license, pursuant to this article, whereunder it shall purchase vinous and spirituous liquors solely from other wholesalers licensed pursuant to this article; except that no such member or shareholder of such corporation shall own directly or indirectly more than a two-percent interest in such corporation.

~~(b)~~ It is unlawful for an owner, part owner, shareholder, or person interested directly or indirectly in any brew pub license to conduct, own in whole or in part, or be directly or indirectly interested in a wholesaler's license issued under this article.

12-47-309. [Formerly 12-47-135] Local licensing authority - applications - optional premises licenses. (1) A local licensing authority may issue only the following MALT, VINOUS, AND SPIRITUOUS LIQUOR licenses upon payment of the fee specified in section ~~12-47-139~~ 12-47-505:

- (a) Retail liquor store license;
- (b) Liquor-licensed drugstore license;
- (c) Beer and wine license;
- (d) Hotel and restaurant license;
- ~~(d.1)~~ (e) Tavern license;
- ~~(d.2)~~ (f) Brew pub license;
- ~~(e)~~ (g) Club license;

- ~~(e-1)~~ (h) Arts license;
- ~~(f)~~ (i) Racetrack license;
- ~~(g)~~ (j) Optional premises license;
- ~~(h)~~ (k) Retail gaming tavern license.

(2) An application for any license specified in subsection (1) of this section OR SECTION 12-46-107 shall be filed with the appropriate local licensing authority on forms provided by the state licensing authority and containing such information as the state licensing authority may require. Each application shall be verified by the oath or affirmation of such persons as prescribed by the state licensing authority.

~~(3)(a) Each application for a license filed with a local licensing authority shall be accompanied by an application fee in an amount determined by the local licensing authority to cover actual and necessary expenses subject to the following limitations:~~

~~(I) For a new license, not to exceed four hundred fifty dollars;~~

~~(II) For a transfer of location or ownership, not to exceed two hundred fifty dollars each;~~

~~(III) For a renewal of license, not to exceed fifty dollars.~~

~~(b) No fees or charges of any kind, except as provided in this article, may be charged by the local licensing authority to the license holder or applicant for the purposes of granting or renewing a license or transferring ownership or location of a license.~~

~~(4)~~ (3) The applicant shall file at the time of application plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of the building to be constructed. In its discretion, the local licensing authority may impose additional requirements necessary for the approval of the application.

~~(5) Repealed.~~

~~(6) If the license is available under section 12-47-135.5, the applicant for a hotel and restaurant license desiring to sell or serve alcoholic beverages in optional premises shall file the locations desired to be optional premises with the state and local licensing authorities on or after July 1, 1983, and each year thereafter when the license is renewed, or when a license is first applied for. Approval of the areas must be obtained from the state licensing authority and the local licensing authority. The decision of each authority shall be discretionary. In the event that the state and local licensing authorities allow the area or areas to be designated optional premises, no alcoholic beverages may be served on the optional premises without the licensee having provided written notice to the state and local licensing authorities forty-eight hours prior to serving alcoholic beverages on the optional premises. Such notice shall contain the specific days and hours on which the optional premises are to be used.~~

~~This subsection (6) shall not be construed to permit the violation of any other provision of this article under circumstances not specified in this subsection (6).~~

~~(7) If the license is available under section 12-47-135.5, the applicant for an optional premises license desiring to sell, dispense, or serve alcoholic beverages on an optional premises shall file the locations desired to be optional premises and the area in which the applicant desires to store malt, vinous, and spirituous liquors for future use on the optional premises with the state and local licensing authorities on or after July 1, 1983, and each year thereafter when the license is renewed, or when a license is first applied for. Approval of the license and areas must be obtained from the state licensing authority and the local licensing authority. The decision of each authority shall be discretionary. In the event that the state and local licensing authorities allow the area or areas to be designated optional premises, no alcoholic beverages may be served on the optional premises without the licensee having provided written notice to the state and local licensing authorities forty-eight hours prior to serving alcoholic beverages on the optional premises. Such notice shall contain the specific days and hours on which the optional premises are to be used. This subsection (7) shall not be construed to permit the violation of any other provision of this article under circumstances not specified in this subsection (7).~~

12-47-310. [Formerly 12-47-135.5] Optional premises license - local option.

(1) No optional premises license, or optional premises PERMITS for a hotel and restaurant license, as defined in section ~~12-47-103 (13.5)~~ 12-47-103 (21), shall be issued within any municipality or the unincorporated portion of any county unless the governing body of the municipality has adopted by ordinance, or the governing body of the county has adopted by resolution, specific standards for the issuance of optional premises licenses or for optional premises for a hotel and restaurant license. No municipality or county shall be required to adopt such standards or make such licenses available within its jurisdiction.

(2) In addition to all other standards applicable to the issuance of licenses under this article, the governing body may adopt additional standards for the issuance of optional premises licenses or for optional premises for a hotel and restaurant license ~~which~~ THAT may include:

(a) The specific types of outdoor sports and recreational facilities ~~which~~ THAT are eligible to apply for an optional premises license or an optional premises for a hotel and restaurant license;

(b) Restrictions on the number of optional premises ~~which~~ THAT any one licensee may have on ~~his~~ AN outdoor sports or recreational facility;

(c) A restriction on the minimum size of any applicant's outdoor sports or recreational facility ~~which~~ THAT would be eligible for the issuance of an optional premises license or optional premises for a hotel and restaurant license;

(d) Any other requirements necessary to ~~insure~~ ensure the control of the premises and the ease of enforcement.

(3) AN APPLICANT FOR A HOTEL AND RESTAURANT LICENSE WHO DESIRES TO SELL OR SERVE ALCOHOL BEVERAGES ON OPTIONAL PREMISES SHALL FILE WITH THE

OPTIONAL PREMISES PERMIT APPLICATION A LIST OF THE OPTIONAL PREMISES LOCATIONS. SUCH APPLICATION AND LIST SHALL BE FILED WITH THE STATE AND LOCAL LICENSING AUTHORITIES UPON INITIAL APPLICATION, AND EACH LICENSE YEAR THEREAFTER. APPROVAL OF THE AREAS MUST BE OBTAINED FROM THE STATE LICENSING AUTHORITY AND THE LOCAL LICENSING AUTHORITY. THE DECISION OF EACH AUTHORITY SHALL BE DISCRETIONARY. IN THE EVENT THAT THE STATE AND LOCAL LICENSING AUTHORITIES ALLOW THE AREA OR AREAS TO BE DESIGNATED OPTIONAL PREMISES, NO ALCOHOL BEVERAGES MAY BE SERVED ON THE OPTIONAL PREMISES WITHOUT THE LICENSEE HAVING PROVIDED WRITTEN NOTICE TO THE STATE AND LOCAL LICENSING AUTHORITIES FORTY-EIGHT HOURS PRIOR TO SERVING ALCOHOL BEVERAGES ON THE OPTIONAL PREMISES. SUCH NOTICE SHALL CONTAIN THE SPECIFIC DAYS AND HOURS ON WHICH THE OPTIONAL PREMISES ARE TO BE USED. THIS SUBSECTION (3) SHALL NOT BE CONSTRUED TO PERMIT THE VIOLATION OF ANY OTHER PROVISION OF THIS ARTICLE UNDER CIRCUMSTANCES NOT SPECIFIED IN THIS SUBSECTION (3).

(4) AN APPLICANT FOR AN OPTIONAL PREMISES LICENSE WHO DESIRES TO SELL, DISPENSE, OR SERVE ALCOHOL BEVERAGES ON OPTIONAL PREMISES SHALL FILE WITH THE OPTIONAL PREMISES LICENSE APPLICATION A LIST OF THE OPTIONAL PREMISES LOCATIONS AND THE AREA IN WHICH THE APPLICANT DESIRES TO STORE MALT, VINOUS, AND SPIRITUOUS LIQUORS FOR FUTURE USE ON THE OPTIONAL PREMISES. THE APPLICATION AND ADDITIONAL INFORMATION SHALL BE FILED WITH THE STATE AND LOCAL LICENSING AUTHORITIES UPON INITIAL APPLICATION, AND EACH LICENSE YEAR THEREAFTER. APPROVAL OF THE LICENSE AND AREAS MUST BE OBTAINED FROM THE STATE LICENSING AUTHORITY AND THE LOCAL LICENSING AUTHORITY. THE DECISION OF EACH AUTHORITY SHALL BE DISCRETIONARY. IN THE EVENT THAT THE STATE AND LOCAL LICENSING AUTHORITIES ALLOW THE AREA OR AREAS TO BE DESIGNATED OPTIONAL PREMISES, NO ALCOHOL BEVERAGES MAY BE SERVED ON THE OPTIONAL PREMISES WITHOUT THE LICENSEE HAVING PROVIDED WRITTEN NOTICE TO THE STATE AND LOCAL LICENSING AUTHORITIES FORTY-EIGHT HOURS PRIOR TO SERVING ALCOHOL BEVERAGES ON THE OPTIONAL PREMISES. SUCH NOTICE SHALL CONTAIN THE SPECIFIC DAYS AND HOURS ON WHICH THE OPTIONAL PREMISES ARE TO BE USED. THIS SUBSECTION (4) SHALL NOT BE CONSTRUED TO PERMIT THE VIOLATION OF ANY OTHER PROVISION OF THIS ARTICLE UNDER CIRCUMSTANCES NOT SPECIFIED IN THIS SUBSECTION (4).

12-47-311. [Formerly 12-47-136] Public notice - posting and publication.

(1) Upon receipt of an application, except an application for renewal or for transfer of ownership, the local licensing authority shall schedule a public hearing upon the application not less than thirty days from the date of the application and shall post and publish the public notice thereof not less than ten days prior to such hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation in the county in which the premises are located.

(2) Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and

addresses of all partners, and if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.

(3) Notice given by publication shall contain the same information as that required for signs.

(4) If the building in which the ~~liquor~~ ALCOHOL BEVERAGE is to be sold is in existence at the time of the application, any sign posted as required in subsections (1) and (2) of this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

(5) (a) At the public hearing held pursuant to this section, any party in interest shall be allowed to present evidence and to cross-examine witnesses.

(b) As used in this subsection (5), "party in interest" means any of the following:

(I) The applicant;

(II) An adult resident of the neighborhood under consideration;

(III) The owner or manager of a business located in the neighborhood under consideration;

(IV) The principal or representative of any school located within five hundred feet of the premises for which ~~the~~ A MALT, VINOUS, OR SPIRITUOUS LIQUOR license is under consideration.

(c) The local licensing authority, in its discretion, may limit the presentation of evidence and cross-examination so as to prevent repetitive and cumulative evidence or examination.

(d) Nothing in this subsection (5) shall be construed to prevent a representative of an organized neighborhood group ~~which~~ THAT encompasses part or all of the neighborhood under consideration from presenting evidence subject to this section. Such representative shall reside within the neighborhood group's geographic boundaries and shall be a member of the neighborhood group. Such representative shall not be entitled to cross-examine witnesses or seek judicial review of the licensing authority's decision.

12-47-312. [Formerly 12-47-137] Results of investigation - decision of authorities. (1) Not less than five days prior to the date of hearing, the local licensing authority shall make known its findings based on its investigation in writing to the applicant and other interested parties. The local licensing authority has authority to refuse to issue any licenses provided in ~~section 12-47-135 (1)~~ SECTIONS 12-47-309 (1) AND 12-46-107 for good cause, subject to judicial review.

(2) (a) Before entering any decision approving or denying the application, the local licensing authority shall consider, except where this article specifically provides

otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the desires of the adult inhabitants, the number, type, and availability of ~~liquor~~ ALCOHOL BEVERAGE outlets located in or near the neighborhood under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed; except that the reasonable requirements of the neighborhood shall not be considered in the issuance of a club liquor license. ~~In investigating the qualifications of the applicant or a licensee, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority takes into consideration information concerning the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of his application for a license.~~

~~(b) As used in paragraph (a) of this subsection (2), "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.~~

~~(c)~~ (b) Any petitioning otherwise required to establish the reasonable requirements of the neighborhood shall be waived for a bed and breakfast permit applicant unless the local licensing authority has previously taken affirmative, official action to rescind the availability of such waiver in all subsequent cases.

(3) Any decision of a local licensing authority approving or denying an application shall be in writing stating the reasons therefor, within thirty days after the date of the public hearing, and a copy of such decision shall be sent by certified mail to the applicant at the address shown in the application.

(4) No license shall be issued by any local licensing authority after approval of an application until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as is necessary to comply with the APPLICABLE provisions of this article AND ARTICLE 46 OF THIS TITLE, and then only after inspection of the premises has been made by the licensing authority to determine that the applicant has complied with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.

(5) After approval of any application, the local licensing authority shall notify the state licensing authority of such approval, who shall investigate and either approve or disapprove such application.

12-47-313. [Formerly 12-47-138] Restrictions for applications for new license. (1) No application for the issuance of any license specified in section ~~12-47-135 (1)~~ 12-47-309 (1) OR 12-46-107 (1) shall be received or acted upon:

(a) (I) If such application FOR A MALT, VINOUS, OR SPIRITUOUS LIQUOR LICENSE concerns a particular location that is the same as or within five hundred feet of a location for which, within the two years next preceding the date of the application, the state or a local licensing authority denied an application for the same class of license for the reason that the reasonable requirements of the neighborhood and the desires of the adult inhabitants were satisfied by the existing outlets.

(II) Subparagraph (I) of this paragraph (a) shall not apply to cities in which limited gaming is permitted pursuant to section 9 of article XVIII of the state constitution.

(III) **[Formerly 12-46-106 (11)]** NO LICENSING AUTHORITY SHALL CONSIDER AN APPLICATION FOR ANY LICENSE TO SELL FERMENTED MALT BEVERAGES AT RETAIL IF, WITHIN ONE YEAR NEXT PRECEDING THE DATE OF THE APPLICATION, THE STATE OR A LOCAL LICENSING AUTHORITY HAS DENIED AN APPLICATION AT THE SAME LOCATION FOR THE REASON THAT THE REASONABLE REQUIREMENTS OF THE NEIGHBORHOOD OR THE DESIRES OF THE INHABITANTS WERE SATISFIED BY THE EXISTING OUTLETS.

(b) Until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement, or other arrangement for possession of the premises, or by virtue of ownership thereof;

(c) For a location in an area where the sale of liquor ALCOHOL BEVERAGES as contemplated is not permitted under the applicable zoning laws of the municipality, city and county, or county;

(d) (I) ~~Except as provided in subparagraph (II) of this paragraph (d),~~ If the building in which the MALT, VINOUS, OR SPIRITUOUS liquor is to be sold is located within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary; except this provision shall not affect the renewal or reissuance of a license once granted or apply to licensed premises located or to be located on land owned by a municipality, or apply to an existing licensed premises on land owned by the state, or apply to a liquor license in effect and actively doing business before said principal campus was constructed, or apply to any club located within the principal campus of any college, university, or seminary ~~which~~ THAT limits its membership to the faculty or staff of such institution;

~~(II) In any town having a population of less than two thousand inhabitants according to the most recent federal census, the application may be received and acted upon by the local licensing authority where the building in which the liquor is to be sold is located within five hundred feet but not less than two hundred fifty feet of any public or parochial school or the principal campus of any college, university, or seminary, but in such case the notice required by section 12-47-136 shall specifically include a statement, in addition to the other requirements of section 12-47-136 (2), specifying the distance in feet that such building is located from such school or campus, and the local licensing authority shall consider and make a specific finding of fact based upon the evidence adduced at the hearing, in addition to the requirements of section 12-47-137 (2), whether the sale of liquor at such location is contrary to the desires of the adult inhabitants of the town, and, if found to be so contrary to such desires, the application shall be denied on such grounds. The provisions of this subparagraph (II) shall not apply to licensed premises located or to be located on land owned by a municipality, or apply to a liquor license in effect and~~

~~actively doing business before said principal campus was constructed, or apply to any club located within the principal campus of any college, university, or seminary, as defined in section 23-2-102 (3), (4), and (5), C.R.S., which limits its membership to the faculty or staff of such institution.~~

~~(H)~~ (II) The distances referred to in ~~subparagraphs (I) and (H)~~ SUBPARAGRAPH (I) of this paragraph (d) are to be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which liquor is to be sold, using a route of direct pedestrian access.

~~(IV)~~ (III) The local licensing authority of any city and county, by rule or regulation, the governing body of any other municipality, by ordinance, and the governing body of any other county, by resolution, may eliminate or reduce the distance restrictions imposed by this paragraph (d) for ~~hotel and restaurant licenses only~~ ANY CLASS OF LICENSE, or may eliminate one or more types of schools or campuses from the application of any distance restriction established by or pursuant to this paragraph (d). ~~for hotel and restaurant licenses only.~~

~~(V)~~ (IV) In addition to the requirements of section ~~12-47-137(2)~~ 12-47-312 (2), the local licensing authority shall consider the evidence and make a specific finding of fact as to whether the building in which the liquor is to be sold is located within any distance restrictions established by or pursuant to this section. This finding shall be subject to judicial review pursuant to section ~~12-47-141~~ 12-47-802.

PART 4 CLASSES OF LICENSES AND PERMITS

12-47-401. [Formerly 12-47-112] Classes of licenses. (1) For the purpose of regulating the manufacture, sale, and distribution of malt, vinous, and spirituous liquors, the state licensing authority in its discretion, upon application in the prescribed form made to it, may issue and grant to the applicant a license from any of the following classes, subject to the provisions and restrictions provided by this article:

- (a) Manufacturer's license;
- ~~(a.1)~~ (b) Limited winery license;
- ~~(a.2)~~ (c) Nonresident manufacturer's license;
- ~~(b)~~ (d) Importer's license;
- ~~(b.2)~~ (e) Malt liquor importer's license;
- ~~(c)~~ (f) Wholesaler's liquor license;
- ~~(d)~~ (g) Wholesaler's beer license;
- ~~(e)~~ (h) Retail liquor store license;
- ~~(f)~~ (i) Liquor-licensed drugstore license;

- ~~(g)~~ (j) Beer and wine license;
 - ~~(h)~~ (k) Hotel and restaurant license;
 - ~~(h.1)~~ (l) Tavern license;
 - ~~(h.2)~~ (m) Brew pub license;
 - ~~(i)~~ (n) Club license;
 - ~~(i.1)~~ (o) Arts license;
 - ~~(j)~~ (p) Racetrack license;
 - ~~(k)~~ (q) Public transportation system license;
 - ~~(l)~~ (r) Optional premises license;
 - ~~(m)~~ (s) Retail gaming tavern license.
- ~~(2) Repealed.~~

12-47-402. [Formerly 12-47-113] Manufacturer's license. (1) A manufacturer's license shall be issued by the state licensing authority to persons distilling, rectifying, or brewing within this state for the following purposes only:

- (a) To produce, manufacture, or rectify malt, vinous, or spirituous liquors;
- (b) To sell malt or vinous liquors of their own manufacture within this state. Brewers or winers licensed under this section may solicit business directly from licensed retail persons or consumers by procuring a wholesaler's license as provided in this article; except that any malt liquor sold at wholesale by a brewer that has procured a wholesaler's license shall be unloaded and placed in the physical possession of a licensed wholesaler at the wholesaler's licensed premises in this state and inventoried for purposes of tax collection prior to delivery to a retailer or consumer. ~~With the exception of persons licensed under section 12-47-119 (1.5);~~ Wholesalers of malt liquors receiving products to be held as required by this paragraph (b) shall be liable for the payment of any tax due on such products under ~~section 12-47-127 (1) (a)~~ 12-47-503 (1) (a).
- (c) To sell vinous or spirituous liquors of their own manufacture within the state to persons licensed by this article without procuring a wholesaler's license;
- (d) To sell malt, vinous, or spirituous liquors in other states, the laws of which permit the sale of ~~alcoholic liquors~~ ALCOHOL BEVERAGES;
- (e) To sell for export to foreign countries if such export for beverage or medicinal purposes is permitted by the laws of the United States; but Colorado distillers, rectifiers, winers, and brewers licensed under this section may sell their products distilled, rectified, or brewed in this state directly to licensed retail licensees by procuring a wholesaler'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~~ 12-47-403, 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~~ NONALCOHOL beverages for consumption on the premises of any licensed ~~location~~ PREMISES or to be taken by the consumer.

(4) (a) IT IS UNLAWFUL FOR A MANUFACTURER LICENSED UNDER THIS ARTICLE OR ANY PERSON, PARTNERSHIP, ASSOCIATION, ORGANIZATION, OR CORPORATION INTERESTED FINANCIALLY IN OR WITH A LICENSED MANUFACTURER TO BE INTERESTED FINANCIALLY, DIRECTLY OR INDIRECTLY, IN THE BUSINESS OF ANY PERSON LICENSED TO SELL AT RETAIL PURSUANT TO THIS ARTICLE.

(b) IT IS UNLAWFUL FOR ANY LICENSED MANUFACTURER OF VINOUS OR SPIRITUOUS LIQUORS OR ANY PERSON, PARTNERSHIP, ASSOCIATION, ORGANIZATION, OR CORPORATION INTERESTED FINANCIALLY IN OR WITH SUCH A LICENSED MANUFACTURER TO BE INTERESTED FINANCIALLY, DIRECTLY OR INDIRECTLY, IN THE BUSINESS OF ANY VINOUS OR SPIRITUOUS WHOLESALE LICENSEE; EXCEPT THAT ANY SUCH FINANCIAL INTEREST THAT OCCURRED ON OR BEFORE JULY 1, 1969, SHALL BE LAWFUL.

(5) EACH APPLICANT FOR A LICENSE AS A BREWER SHALL ENTER INTO A WRITTEN CONTRACT WITH EACH WHOLESALER WITH WHICH THE APPLICANT INTENDS TO DO BUSINESS THAT DESIGNATES THE TERRITORY WITHIN WHICH THE PRODUCT OF SUCH APPLICANT IS SOLD BY THE RESPECTIVE WHOLESALER. THE CONTRACT SHALL BE SUBMITTED TO THE STATE LICENSING AUTHORITY WITH AN APPLICATION, AND SUCH APPLICANT, IF LICENSED, SHALL HAVE A CONTINUING DUTY TO SUBMIT ANY SUBSEQUENT REVISIONS, AMENDMENTS, OR SUPERSEDING CONTRACTS TO THE STATE LICENSING AUTHORITY.

12-47-403. [Formerly 12-47-113.1] Limited winery license. (1) A limited winery license shall be granted by the state licensing authority to an applicant ~~which~~ THAT certifies that it will manufacture vinous liquors 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~~ THAT certifies that it is planting, or has contracted for the production from, Colorado vineyard or fruit acreage ~~which~~ THAT 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~~ THAT 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.

(2) A limited winery licensee is authorized:

(a) To manufacture grape or fruit vinous liquors;

(b) To sell vinous liquors of its own manufacture within this state at wholesale, retail, or to consumers, including sales to be delivered by common carrier to purchasers who have visited the licensed premises in person. Any shipping container sent under this paragraph (b) shall be clearly ~~labeled~~ LABELED to indicate that such container shall not be delivered to a minor, as defined in section 2-4-401 (6), C.R.S., or to an intoxicated person. The wine shipment permit provisions of section ~~12-47-126.5 (2)~~ 12-47-104 (2) are not applicable to any interstate wine shipment made by a limited winery licensee pursuant to this paragraph (b).

(c) To sell vinous liquors of its own manufacture in other states, the laws of which permit the sale of such wines and liquors;

(d) To sell vinous liquors of its own manufacture for export to foreign countries if such export is permitted by the laws of the United States;

(e) To conduct tasting and sell vinous liquors of its own manufacture, as well as vinous liquors manufactured by other Colorado limited wineries, on the licensed premises of the limited winery and up to five other licensed ~~locations~~ PREMISES, whether included in the license at the time of the original license or by supplemental application;

(f) To serve and sell food, general merchandise, and ~~nonalcoholic~~ NONALCOHOL beverages for consumption on the premises of any licensed ~~location~~ PREMISES or to be taken by the consumer.

(3) A person who has a financial interest in a limited winery license and relinquishes such license to apply for another license under this article shall be prohibited from obtaining a limited winery license for three years from the date of issuance of such other license.

(4) (a) IT IS UNLAWFUL FOR ANY LIMITED WINERY LICENSEE OR ANY PERSON, PARTNERSHIP, ASSOCIATION, ORGANIZATION, OR CORPORATION INTERESTED FINANCIALLY IN OR WITH A LIMITED WINERY LICENSEE TO BE INTERESTED FINANCIALLY, DIRECTLY OR INDIRECTLY, IN THE BUSINESS OF ANY PERSON LICENSED TO SELL AT RETAIL PURSUANT TO THIS ARTICLE.

(b) IT IS UNLAWFUL FOR ANY LIMITED WINERY LICENSEE OR ANY PERSON,

PARTNERSHIP, ASSOCIATION, ORGANIZATION, OR CORPORATION INTERESTED FINANCIALLY IN OR WITH A LIMITED WINERY LICENSEE TO BE INTERESTED FINANCIALLY, DIRECTLY OR INDIRECTLY, IN THE BUSINESS OF ANY VINOUS OR SPIRITUOUS WHOLESALE LICENSEE.

12-47-404. [Formerly 12-47-114] Importer's license. (1) (a) An importer's license shall be issued to persons importing vinous or spirituous liquors into this state for the following purposes only:

(I) To import and sell such liquors to wholesale liquor licensees;

(II) To solicit orders from retail licensees and fill such orders through wholesale liquor licensees.

(b) Such license shall not permit the licensee to maintain stocks of ~~aleoholic~~ ALCOHOL beverages in this state.

(2) IT IS UNLAWFUL FOR ANY LICENSED IMPORTER OF VINOUS OR SPIRITUOUS LIQUORS OR ANY PERSON, PARTNERSHIP, ASSOCIATION, ORGANIZATION, OR CORPORATION INTERESTED FINANCIALLY IN OR WITH SUCH A LICENSED IMPORTER TO BE INTERESTED FINANCIALLY, DIRECTLY OR INDIRECTLY, IN THE BUSINESS OF ANY VINOUS OR SPIRITUOUS WHOLESALE LICENSEE; EXCEPT THAT ANY SUCH FINANCIAL INTEREST THAT OCCURRED ON OR BEFORE JULY 1, 1969, SHALL BE LAWFUL.

12-47-405. [Formerly 12-47-114.1] Nonresident manufacturers and importers of malt liquor. (1) A nonresident manufacturer's license shall be issued to persons brewing malt liquor outside of the state of Colorado for the purposes listed in subsection (3) of this section.

(2) A malt liquor importer's license shall be issued to persons importing malt liquor into this state for the purposes listed in subsection (3) of this section.

(3) The licenses referred to in subsections (1) and (2) of this section shall be issued for the following purposes only:

(a) To import and sell malt liquors within the state of Colorado to persons licensed as wholesalers pursuant to this article;

(b) To maintain stocks of malt liquors and to operate malt liquor warehouses by procuring a malt liquor wholesaler's license for each such operation as provided in this article;

(c) To solicit orders from retail licensees and fill such orders through malt liquor wholesalers.

(4) Any person holding a nonresident manufacturer's license or a malt liquor importer's license shall also be eligible to obtain a vinous and spirituous liquor importer's license pursuant to section ~~12-47-114~~ 12-47-404; except that each such license obtained shall be separate and distinct.

(5) Each applicant for a license as a manufacturer, nonresident manufacturer, and

malt liquor importer shall enter into a written contract with each wholesaler with which ~~he~~ SUCH MANUFACTURER, NONRESIDENT MANUFACTURER, AND MALT LIQUOR IMPORTER intends to do business ~~which shall designate~~ THAT DESIGNATES the territory within which the product of such ~~applicant shall be~~ MANUFACTURER, NONRESIDENT MANUFACTURER, AND MALT LIQUOR IMPORTER IS sold by the respective wholesaler. A MANUFACTURER, NONRESIDENT MANUFACTURER, AND MALT LIQUOR IMPORTER SHALL NOT CONTRACT WITH MORE THAN ONE WHOLESALER TO SELL THEIR PRODUCTS WITHIN THE SAME TERRITORY. The contract shall be submitted to the state licensing authority with ~~an~~ ANY application, and such applicant, if licensed, shall have a continuing duty to submit any subsequent revisions, amendments, or superseding contracts to the state licensing authority.

(6) IT IS UNLAWFUL FOR A NONRESIDENT MANUFACTURER LICENSED UNDER THIS ARTICLE, OR ANY PERSON, PARTNERSHIP, ASSOCIATION, ORGANIZATION, OR CORPORATION INTERESTED FINANCIALLY IN OR WITH SUCH A LICENSEE, TO BE INTERESTED FINANCIALLY, DIRECTLY OR INDIRECTLY, IN THE BUSINESS OF ANY PERSON LICENSED TO SELL AT RETAIL PURSUANT TO THIS ARTICLE.

12-47-406. [Formerly 12-47-115] Wholesaler's license. (1) (a) A wholesaler's liquor license shall be issued to persons selling vinous or spirituous liquors at wholesale for the following purposes only:

(I) To maintain and operate one or more warehouses in this state to handle vinous or spirituous liquors;

(II) To take orders for vinous and spirituous liquors at any place and deliver vinous and spirituous liquors on orders previously taken to any place if the licensee has procured a wholesaler's liquor license and the place where orders are taken and delivered is a place regularly licensed pursuant to the provisions of this article;

(III) To package vinous and spirituous liquors that a licensed importer has legally transported into Colorado or that a licensed manufacturer has legally produced in Colorado.

(b) A wholesaler's beer license shall be issued to persons selling malt liquors at wholesale who designate to the state licensing authority on their application the territory within which the licensee may sell the designated products of any brewer as agreed upon by the licensee and the brewer of such products for the following purposes only:

(I) To maintain and operate warehouses and one salesroom in this state to handle malt liquors to be denominated a wholesale beer store;

(II) To take orders for malt liquors at any place within the territory designated on the license application and deliver malt liquors on orders previously taken to any place within the designated geographical territory, if the licensee has procured a wholesaler's beer license and the place where orders are taken and delivered is a place regularly licensed pursuant to the provisions of this article.

(c) Each license shall be separate and distinct, ~~each from the other~~, but any person may secure both licenses upon the payment in advance of both fees provided in this

article.

~~(c.5)~~ (d) All malt, vinous, and spirituous liquors purchased by any licensee under this section, and all malt, vinous, and spirituous liquors shipped into this state by or to any such licensee, shall be placed in the physical possession of such licensee at ~~his~~ THE LICENSEE'S warehouse facilities prior to delivery to persons holding licenses under this article.

~~(d)~~ (e) (I) A brewer or importer licensed pursuant to this article shall not sell malt liquors to a wholesaler without having a written contract with such wholesaler that designates the specific products of such brewer or importer to be sold by the wholesaler and that establishes the territory within which the wholesaler may sell the designated products.

(II) A brewer or importer shall not contract with more than one wholesaler to sell the products of such brewer or importer within the same territory.

(2) IT IS UNLAWFUL FOR ANY LICENSED WHOLESALER OR ANY PERSON, PARTNERSHIP, ASSOCIATION, ORGANIZATION, OR CORPORATION INTERESTED FINANCIALLY IN OR WITH A LICENSED WHOLESALER TO BE INTERESTED FINANCIALLY, DIRECTLY OR INDIRECTLY, IN THE BUSINESS OF ANY PERSON LICENSED TO SELL AT RETAIL PURSUANT TO THIS ARTICLE.

(3) IT IS UNLAWFUL FOR A LICENSED WHOLESALER OF VINOUS OR SPIRITUOUS LIQUORS OR ANY PERSON, PARTNERSHIP, ASSOCIATION, ORGANIZATION, OR CORPORATION INTERESTED FINANCIALLY IN OR WITH SUCH A WHOLESALER TO BE INTERESTED FINANCIALLY IN THE BUSINESS OF ANY LICENSED MANUFACTURER OR IMPORTER OF VINOUS OR SPIRITUOUS LIQUORS; EXCEPT THAT ANY SUCH FINANCIAL INTEREST THAT OCCURRED ON OR BEFORE JULY 1, 1969, SHALL BE LAWFUL.

12-47-407. [Formerly 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~~ 12-47-408. 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~~ THAT 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~~ THAT could constitute a snack, a meal, or portion of a meal. Nothing in this section or in section 12-47-103 ~~(22)~~ (30) 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~~ FEDERAL 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.

(2) Every person selling malt, vinous, and spirituous liquors in a retail liquor store shall purchase such malt, vinous, and spirituous liquors only from a wholesaler licensed pursuant to this article.

(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~~ 12-47-601 for other licenses granted pursuant to this article.

(4) IT IS UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A RETAIL LIQUOR STORE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE; EXCEPT THAT SUCH A PERSON MAY HAVE AN INTEREST IN AN ARTS LICENSE OR AN AIRLINE PUBLIC TRANSPORTATION SYSTEM LICENSE GRANTED UNDER THIS ARTICLE, OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

12-47-408. [Formerly 12-47-117] Liquor-licensed drugstore license. (1) A liquor-licensed drugstore license shall be issued to persons selling malt, vinous, and spirituous liquors in sealed containers not to be consumed at the place where sold.

(2) Every person selling malt, vinous, and spirituous liquors as provided in this section shall purchase such malt, vinous, and spirituous liquors only from a wholesaler licensed pursuant to this article.

~~(3) A licensee under the provisions of this section with a valid license in effect on July 1, 1992, may convert or transfer such license to a retail liquor store license issued under the provisions of section 12-47-116 and may continue to operate as a retail liquor store licensee notwithstanding the limitations with respect to location within five hundred feet from any public or parochial school or the principal campus of any college, university, or seminary pursuant to the provisions of section 12-47-111 (2). The provisions of this section shall not be construed to prevent but do not require a local licensing authority determination as it relates to neighborhood desires pursuant to section 12-47-137.~~

~~(4)~~ (3) 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~~ THAT 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~~ SECTIONS 12-47-306 AND 12-47-601 for other licenses granted pursuant to this article.

~~(5)~~ (4) IT IS UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A LIQUOR-LICENSED DRUGSTORE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE; EXCEPT THAT SUCH A PERSON MAY HAVE AN INTEREST IN AN ARTS LICENSE OR AN AIRLINE PUBLIC TRANSPORTATION SYSTEM LICENSE GRANTED UNDER THIS ARTICLE, OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

12-47-409. [Formerly 12-47-118] Beer and wine license. (1) A beer and wine license shall be issued to persons selling malt and vinous liquors for consumption on the premises, and such licensees shall have available for consumption on the premises during business hours sandwiches and light snacks, but ~~he~~ need not have meals available for consumption.

(2) (a) Every person selling malt and vinous liquors as provided in this section shall purchase such malt and vinous liquors only from a wholesaler licensed pursuant to this article; except that any person selling malt and vinous liquors as provided in this section may purchase not more than five hundred dollars' worth of such malt and vinous liquors during a calendar year from a retail liquor store.

(b) Each purchase of malt and vinous liquors as provided in this section shall be evidenced by a purchase receipt showing the name of the retail liquor store, the date of purchase, a description of the malt or vinous liquor purchased, and the price paid for such purchase. Such receipt shall be retained and shall be available to the state and local licensing authorities at all times during business hours.

(3) IT IS UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A BEER AND WINE LICENSE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE; EXCEPT THAT SUCH A PERSON MAY HAVE AN INTEREST IN AN ARTS LICENSE OR AN AIRLINE PUBLIC TRANSPORTATION SYSTEM LICENSE GRANTED UNDER THIS ARTICLE OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

12-47-410. [Formerly 12-47-118.5] Bed and breakfast permit. (1) In lieu of a hotel and restaurant license, a person operating a bed and breakfast with not more than twenty sleeping rooms that offers complimentary ~~alcoholic beverages~~ MALT, VINOUS, OR SPIRITUOUS LIQUORS for consumption only on the premises and only by overnight guests may be issued a bed and breakfast permit. A bed and breakfast permittee shall not sell ~~alcoholic~~ ALCOHOL beverages by the drink and shall not serve ~~alcoholic~~ ALCOHOL beverages for more than four hours in any one day.

(2) An applicant for a bed and breakfast permit is exempt from any fee otherwise assessable under section ~~12-47-123 (2) or 12-47-135 (3) (a)~~ 12-47-501 (2) OR 12-47-505 (4) (a), but is subject to all other fees and all other requirements of this article.

(3) A local licensing authority may, at its option, determine that bed and breakfast

permits are not available within its jurisdiction.

(4) A bed and breakfast permit may be suspended or revoked in accordance with section ~~12-47-110~~ 12-47-601 if the permittee violates any provision of this article or any rule adopted pursuant to this article or fails truthfully to furnish any required information in connection with a permit application.

(5) IT IS UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A BED AND BREAKFAST PERMIT TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE; EXCEPT THAT A PERSON REGULATED UNDER THIS SECTION MAY HAVE AN INTEREST IN OTHER BED AND BREAKFAST PERMITS, IN AN ARTS LICENSE, OR AN AIRLINE PUBLIC TRANSPORTATION SYSTEM LICENSE GRANTED UNDER THIS ARTICLE, OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

12-47-411. [Formerly 12-47-119] Hotel and restaurant license. (1) Except as otherwise provided in subsection ~~(1.5)~~ (2) of this section, a hotel and restaurant license shall be issued to persons selling malt, vinous, and spirituous liquors in the place where such liquors are to be consumed, subject to the following restrictions:

(a) Restaurants shall sell malt, vinous, and spirituous liquors as provided in this section only to customers of such restaurant and only if meals are actually and regularly served and provide not less than twenty-five percent of the gross income from sales of food and drink of the business of the licensed premises.

(b) Hotels shall sell malt, vinous, and spirituous liquors as provided in this section only to customers of said hotel and, except in hotel rooms, only on the licensed premises where meals are actually and regularly served and provide not less than twenty-five percent of the gross income from sales of food and drink of the business of the licensed premises.

(c) **[Formerly 12-47-103 (12)(b)]** ANY HOTEL AND RESTAURANT LICENSEE WHO IS OPEN FOR BUSINESS AND SELLING MALT, VINOUS, OR SPIRITUOUS LIQUORS BY THE DRINK SHALL SERVE MEALS BETWEEN THE HOURS OF 8 A.M. AND 8 P.M. AND MEALS OR LIGHT SNACKS AND SANDWICHES AFTER 8 P.M.; EXCEPT THAT NOTHING IN THIS PARAGRAPH (c) SHALL BE CONSTRUED TO REQUIRE A LICENSEE TO BE OPEN FOR BUSINESS BETWEEN THE HOURS OF 8 A.M. AND 8 P.M.

~~(1.5)(a) Repealed.~~

~~(b)~~ (2) Effective January 1, 1997, a hotel and restaurant licensee operating a licensed brewery shall automatically be issued a brew pub license pursuant to section ~~12-47-119.8~~ 12-47-415.

~~(2)~~ (3) Notwithstanding any provision of this article to the contrary, a hotel, licensed pursuant to this article, may:

(a) Furnish and deliver complimentary ~~alcoholic beverages~~ MALT, VINOUS, AND SPIRITUOUS LIQUORS in sealed containers for the convenience of its guests;

~~(b)~~ Sell ~~alcoholic beverages~~ MALT, VINOUS, AND SPIRITUOUS LIQUORS provided by the hotel in sealed containers, 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~~ MALT, VINOUS, AND SPIRITUOUS LIQUORS 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~~ THAT is restricted by means of a locking device ~~which~~ THAT 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~~ MALT, VINOUS, AND SPIRITUOUS LIQUORS pursuant to paragraph ~~(b)~~ (2) (3) if such lodging facility and hotel share common ownership and are located within one thousand feet of one another. The ~~alcoholic beverages~~ ~~which~~ MALT, VINOUS, OR SPIRITUOUS LIQUORS THAT 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.

~~(2-4)~~ (4) 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.

~~(3)~~ (5) It is the intent of this section to require hotel and restaurant licensees to maintain a bona fide restaurant business and not a mere pretext of such for obtaining a hotel and restaurant license.

~~(4)~~~~(a)~~ (6) (a) ~~Except as otherwise provided in paragraph (b) of this subsection (4)~~ Every person selling malt, vinous, and spirituous liquors as provided in this section shall purchase such malt, vinous, and spirituous liquors only from a wholesaler licensed pursuant to this article.

~~(b)~~~~(f)~~ Repealed.

~~(H)~~~~(A)~~ (b) (I) Any person selling malt, vinous, and spirituous liquors as provided in this section may purchase not more than five hundred dollars' worth of such malt, vinous, and spirituous liquors during a calendar year from a retail liquor store.

~~(B)~~ (II) Each purchase of malt, vinous, or spirituous liquors as provided in this section shall be evidenced by a purchase receipt showing the name of the retail liquor store, the date of purchase, a description of the malt, vinous, or spirituous liquor purchased, and the price paid for such purchase. Such receipt shall be retained and shall be available to the state and local licensing authorities at all times during business hours.

~~(5)~~ (7) Each hotel and restaurant license shall be granted for specific premises, and

optional premises approved by the state and local licensing authorities, and issued in the name of the owner or lessee of the business.

~~(6)~~ (8) Each hotel and restaurant licensee shall ~~himself~~ manage or have a separate and distinct manager and shall register the manager of each liquor-licensed premises with the state and the local licensing authority. No person shall be a registered manager for more than one hotel and restaurant license.

~~(7)~~ (9) The registered manager for each hotel and restaurant license or the hotel and restaurant licensee shall purchase ~~alcoholic beverages~~ MALT, VINOUS, OR SPIRITUOUS LIQUORS for one licensed premises only, and such purchases shall be separate and distinct from purchases for any other hotel and restaurant license.

~~(8)~~ (10) When a person ceases to be a registered manager of a hotel and restaurant license, for whatever reason, the hotel and restaurant licensee shall notify the licensing authorities within five days and shall designate a new registered manager within thirty days.

~~(9)~~ (11) Either the state or the local licensing authority may refuse to accept any person as a registered manager unless ~~he~~ THE PERSON is satisfactory to the respective licensing authorities as to ~~his~~ character, record, and reputation. In determining a registered manager's character, record, and reputation, the state or local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency.

~~(10)~~ (12) The hotel and restaurant licensee shall pay a registration fee not to exceed seventy-five dollars to the state and to the local licensing authority for actual and necessary expenses incurred in establishing the character, record, and reputation of each registered manager.

(13) (a) IT IS UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A HOTEL AND RESTAURANT LICENSE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE.

(b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (13), AN OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A HOTEL AND RESTAURANT LICENSE MAY CONDUCT, OWN IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN PART IN ANOTHER HOTEL AND RESTAURANT, BREW PUB LICENSE OR ESTABLISHMENT, AN ARTS LICENSE OR AN AIRLINE PUBLIC TRANSPORTATION SYSTEM LICENSE GRANTED UNDER THIS ARTICLE, OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

12-47-412. [Formerly 12-47-119.5] Tavern license. (1) A tavern license shall be issued to persons selling malt, vinous, or spirituous liquors by the drink only to customers for consumption on the premises, and such licensee shall have available for consumption on the premises during business hours sandwiches and light snacks, but ~~he~~ need not have meals available for consumption.

(2) (a) Every person selling malt, vinous, and spirituous liquors as provided in this section shall purchase such malt, vinous, and spirituous liquors only from a

wholesaler licensed pursuant to this article; except that any person selling malt, vinous, and spirituous liquors as provided in this section may purchase not more than five hundred dollars' worth of such malt, vinous, and spirituous liquors during a calendar year from a retail liquor store.

(b) Each purchase of malt, vinous, or spirituous liquors as provided in this section shall be evidenced by a purchase receipt showing the name of the retail liquor store, the date of purchase, a description of the malt, vinous, or spirituous liquor purchased, and the price paid for such purchase. Such receipt shall be retained and shall be available to the state and local licensing authorities at all times during business hours.

(3) IT IS UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A TAVERN LICENSE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE; EXCEPT THAT SUCH A PERSON MAY HAVE AN INTEREST IN AN ARTS LICENSE OR AN AIRLINE PUBLIC TRANSPORTATION SYSTEM LICENSE GRANTED UNDER THIS ARTICLE, OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

12-47-413. [Formerly 12-47-119.6] Optional premises license. (1) An optional premises license shall be granted for optional premises approved by the state and local licensing authorities to persons selling malt, vinous, and spirituous liquors by the drink only to customers for consumption on the optional premises and for storing malt, vinous, and spirituous liquors in a secure area on or off the optional premises for future use on the optional premises.

(2) IT IS UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN AN OPTIONAL PREMISES LICENSE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE; EXCEPT THAT SUCH A PERSON MAY HAVE AN INTEREST IN AN ARTS LICENSE OR AN AIRLINE PUBLIC TRANSPORTATION SYSTEM LICENSE GRANTED UNDER THIS ARTICLE, OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

12-47-414. [Formerly 12-47-119.7] Retail gaming tavern license. (1) A retail gaming tavern license shall be issued to persons who are licensed pursuant to section 12-47.1-501 (1) (c), who sell malt, vinous, or spirituous liquors by individual drink for consumption on the premises, and who sell sandwiches or light snacks or who contract with an establishment that provides such food services within the same building as the licensed premises. In no event shall any person hold more than three retail gaming tavern licenses.

(2) (a) Every person selling malt, vinous, or spirituous liquors as described in this section shall purchase such liquors only from a wholesaler licensed pursuant to this article; except that any person selling malt, vinous, or spirituous liquors as provided in this section may purchase not more than five hundred dollars' worth of such liquors during a calendar year from a retail liquor store.

(b) Each purchase of malt, vinous, or spirituous liquors from a retail liquor store as provided in this section shall be evidenced by a purchase receipt showing the name of the retail liquor store, the date of purchase, a description of the malt, vinous, or

spirituous liquor purchased, and the price paid for such purchase. Such receipt shall be retained and shall be available to the state and local licensing authorities at all times during business hours.

(3) Nothing in this article shall permit more than one retail gaming tavern license per building where the licensed premises are located.

(4) IT IS UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A RETAIL GAMING TAVERN LICENSE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE; EXCEPT THAT SUCH A PERSON MAY HAVE AN INTEREST IN ANOTHER RETAIL GAMING TAVERN LICENSE OR ESTABLISHMENT, AN ARTS LICENSE OR AN AIRLINE PUBLIC TRANSPORTATION SYSTEM LICENSE GRANTED UNDER THIS ARTICLE, OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

12-47-415. [Formerly 12-47-119.8] Brew pub license. (1) A brew pub license may be issued to any person operating a brew pub and also selling malt, vinous, and spirituous liquors in the place where such liquors are to be consumed. Effective January 1, 1997, a brew pub license shall be issued to any hotel and restaurant licensee operating a licensed brewery with no action required on the part of the hotel and restaurant licensee.

(2) During the hours established in section ~~12-47-128 (5) (c) (i)~~ 12-47-901 (5) (b), malt liquors manufactured by a brew pub licensee on the licensed premises may be:

(a) Furnished for consumption on the premises;

(b) Sold to independent wholesalers for distribution to licensed retailers;

(c) Sold to the public in sealed containers for off-premises consumption. Only malt liquors manufactured and packaged on the premises by the licensee shall be sold in sealed containers.

(d) Sold at wholesale to licensed retailers in an amount up to three hundred thousand gallons per calendar year.

(3) Every person selling malt, vinous, and spirituous liquors pursuant to this section shall purchase such malt, vinous, and spirituous liquors, other than those that are manufactured at the licensed brew pub, from a wholesaler licensed pursuant to this article; except that not more than five hundred dollars' worth of malt, vinous, and spirituous liquors may be purchased during each calendar year from a retail liquor store. Each such purchase of malt, vinous, and spirituous liquors shall be evidenced by a purchase receipt showing the name of the retail liquor store, the date of purchase, a description of the liquor purchased, and the price paid for such purchase. Such receipt shall be retained and made available to state and local licensing authorities at all times during business hours.

(4) A brew pub licensee shall sell malt, vinous, and spirituous liquors for on-premises consumption only if at least fifteen percent of the gross on-premises food

and drink income of the business of the licensed premises is from the sale of food. For purposes of this subsection (4), "food" means a quantity of foodstuffs of such nature as is ordinarily consumed by an individual at regular intervals for the purpose of sustenance.

(5) (a) IT IS UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A BREW PUB LICENSE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE.

(b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (5), A PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A BREW PUB LICENSE MAY CONDUCT, OWN IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANOTHER BREW PUB OR HOTEL AND RESTAURANT LICENSE, AN ARTS LICENSE OR AN AIRLINE PUBLIC TRANSPORTATION SYSTEM LICENSE GRANTED UNDER THIS ARTICLE, OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

12-47-416. [Formerly 12-47-120] Club license - legislative declaration. (1) A club license shall be issued to persons selling malt, vinous, and spirituous liquors by the drink only to members of such club and guests and only for consumption on the premises of such club.

(2) (a) Every person selling malt, vinous, and spirituous liquors as provided in this section shall purchase such malt, vinous, and spirituous liquors only from a wholesaler licensed pursuant to this article; except that any person selling malt, vinous, and spirituous liquors as provided in this section may purchase not more than five hundred dollars' worth of such malt, vinous, and spirituous liquors during a calendar year from a retail liquor store.

(b) Each purchase of malt, vinous, or spirituous liquors as provided in this section shall be evidenced by a purchase receipt showing the name of the retail liquor store, the date of purchase, a description of the malt, vinous, or spirituous liquor purchased, and the price paid for such purchase. Such receipt shall be retained and shall be available to the state and local licensing authorities at all times during business hours.

(3) (a) The general assembly finds, determines, and declares that the people of the state of Colorado desire to promote and achieve tax equity and fairness among all the state's citizens and further desire to conform to the public policy of nondiscrimination. The general assembly further declares that the provisions of this subsection (3) are enacted for these reasons and for no other purpose.

(b) Any club licensee which has a policy to restrict membership on the basis of sex, race, religion, color, ancestry, or national origin shall, when issuing a receipt for expenses which may otherwise be used by taxpayers for deduction purposes pursuant to section 162 (a) of the federal "Internal Revenue Code of 1986", as amended, for purposes of determining taxes owed pursuant to article 22 of title 39, C.R.S., incorporate a printed statement on the receipt as follows:

The expenditures covered by this receipt are nondeductible for state income tax purposes.

(4) IT IS UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A CLUB LICENSE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE; EXCEPT THAT SUCH A PERSON MAY HAVE AN INTEREST IN AN ARTS LICENSE OR AN AIRLINE PUBLIC TRANSPORTATION SYSTEM LICENSE GRANTED UNDER THIS ARTICLE, OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

12-47-417. [Formerly 12-47-120.5] Arts license. (1) (a) An arts license may be issued to any nonprofit arts organization which sponsors and presents productions or performances of an artistic or cultural nature and shall permit the licensee to sell malt, vinous, and spirituous liquors only to patrons of such productions or performances for consumption on the licensed premises in connection with such productions and performances. No person licensed pursuant to this section shall permit any exterior or interior advertising concerning the sale of ~~aleoholic~~ ALCOHOL beverages on such premises.

(b) An arts license may be issued to any municipality owning arts facilities at which productions or performances of an artistic or cultural nature are presented, in the same manner as provided for in paragraph (a) of this subsection (1) and subject to the same restrictions.

(2) Any provision of this article to the contrary notwithstanding, the proximity of premises licensed pursuant to this section to any public or parochial school or the principal campus of any college, university, or seminary shall not, in and of itself, affect the granting or denial of such license by the state and the local licensing authority, but no such school or campus shall contain a licensed premises.

(3) As used in this section, "nonprofit arts organization" means only an organization incorporated pursuant to the provisions of articles 20 to 29 of title 7, C.R.S., and held to be tax-exempt by the ~~United States~~ FEDERAL internal revenue service.

(4) (a) Every person selling malt, vinous, and spirituous liquors as provided in this section shall purchase such malt, vinous, and spirituous liquors only from a wholesaler licensed pursuant to this article; except that any person selling malt, vinous, and spirituous liquors as provided in this section may purchase not more than five hundred dollars' worth of such malt, vinous, and spirituous liquors during a calendar year from a retail liquor store.

(b) Each purchase of malt, vinous, or spirituous liquors as provided in this section shall be evidenced by a purchase receipt showing the name of the retail liquor store, the date of purchase, a description of the malt, vinous, or spirituous liquor purchased, and the price paid for such purchase. Such receipt shall be retained and shall be available to the state and local licensing authorities at all times during business hours.

12-47-418. [Formerly 12-47-121] Racetrack license. (1) A racetrack licensee may sell malt, vinous, and spirituous liquors by the drink for consumption on the licensed premises only to customers of such racetrack and shall serve food as well as such liquors.

(2) (a) Every person selling malt, vinous, and spirituous liquors as provided in this section shall purchase such malt, vinous, and spirituous liquors only from a wholesaler licensed pursuant to this article; except that any person selling malt, vinous, and spirituous liquors as provided in this section may purchase not more than five hundred dollars' worth of such malt, vinous, and spirituous liquors during a calendar year from a retail liquor store.

(b) Each purchase of malt, vinous, or spirituous liquors as provided in this section shall be evidenced by a purchase receipt showing the name of the retail liquor store, the date of purchase, a description of the malt, vinous, or spirituous liquor purchased, and the price paid for such purchase. Such receipt shall be retained and shall be available to the state and local licensing authorities at all times during business hours.

(3) If any person holds a valid license pursuant to this article to sell malt, vinous, and spirituous liquors by the drink for consumption on the licensed premises, such person shall not be required to obtain a racetrack class license pursuant to this section if simulcast races with pari-mutuel wagering occur on such licensed premises.

(4) IT IS UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A RACETRACK LICENSE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE; EXCEPT THAT A PERSON LICENSED UNDER THIS SECTION MAY HAVE AN INTEREST IN ANOTHER RACETRACK LICENSE, AN ARTS LICENSE, OR AN AIRLINE PUBLIC TRANSPORTATION SYSTEM LICENSE GRANTED UNDER THIS ARTICLE, OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

12-47-419. [Formerly 12-47-122] Public transportation system license. (1) 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.

(2) IT IS UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A PUBLIC TRANSPORTATION SYSTEM LICENSE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE; EXCEPT THAT A PERSON LICENSED UNDER THIS SECTION MAY BE INTERESTED IN ANOTHER PUBLIC TRANSPORTATION SYSTEM LICENSE OR AN ARTS LICENSE GRANTED UNDER THIS ARTICLE, OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

PART 5 LICENSE FEES AND EXCISE TAXES

12-47-501. [Formerly 12-47-123] State fees. (1) The following license fees shall be paid to the department of revenue annually in advance:

(a) For each resident and nonresident manufacturer's license, the fee shall be:

- (I) For each brewery, two hundred seventy-five dollars;
- (II) For each winery, two hundred seventy-five dollars;
- (III) For each distillery or rectifier, one thousand twenty-five dollars;
- (IV) For each limited winery, forty-five dollars;

(b) For each importer's license, two hundred seventy-five dollars;

(c) For each wholesaler's liquor license, one thousand twenty-five dollars;

(d) For each wholesaler's beer license, five hundred twenty-five dollars;

(e) For each retail liquor store license, seventy-five dollars;

(f) For each liquor-licensed drugstore license, seventy-five dollars;

(g) For each beer and wine license, fifty dollars;

(h) For each hotel and restaurant license, fifty dollars;

~~(h.1)~~ (i) For each tavern license, fifty dollars;

~~(h.2)~~ (j) For each optional premises license, fifty dollars;

~~(h.3)~~ (k) For each retail gaming tavern license, fifty dollars;

~~(h.4)~~ (l) For each brew pub license, three hundred dollars;

~~(i)~~ (m) For each club license, fifty dollars;

~~(i.1)~~ (n) For each arts license, fifty dollars;

~~(j)~~ (o) For each racetrack license, fifty dollars;

~~(k)~~ (p) For each public transportation system license, fifty dollars for each dining, club, or parlor car; plane; bus; or other vehicle in which such liquor is sold. No additional license fee shall be required by any municipality, city and county, or county for the sale of such liquor in dining, club, or parlor cars; planes; buses; or other conveyances.

~~(k)~~ (q) For each bed and breakfast permit, twenty-five dollars.

(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~~ 12-47-304 and regulations thereunder; applications to change location pursuant to section ~~12-47-128(5)(g)(f)~~ 12-47-301 (9) and regulations thereunder; applications

for transfer of ownership pursuant to section ~~12-47-106(4)(e)~~ 12-47-303 (1) (c) and regulations thereunder; applications for modification of licensed premises pursuant to section ~~12-47-106~~ 12-47-301 and regulations thereunder; applications for branch warehouse permits pursuant to section ~~12-47-115~~ 12-47-406 and regulations thereunder; applications for approval of a contract to sell ~~alcoholic~~ ALCOHOL beverages pursuant to section ~~12-47-119(2)(e)~~ 12-47-411 (3) (c); applications for warehouse storage permits pursuant to section ~~12-47-105~~ 12-47-202 and regulations thereunder; applications for duplicate licenses; applications for wine shipment permits pursuant to section ~~12-47-126.5~~ 12-47-104; sole source registrations or new product registrations pursuant to section ~~12-47-128(3)(e) and (6)~~ 12-47-901 (3) (b); hotel and restaurant optional premises registrations; EXPIRED LICENSE RENEWAL APPLICATIONS PURSUANT TO SECTION 12-47-302; and notice of change of name or trade name pursuant to section ~~12-47-106~~ 12-47-301 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)~~ 12-46-105, 12-47-502 (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. THE STATE LICENSING AUTHORITY MAY CHARGE CORPORATE APPLICANTS AND LIMITED LIABILITY COMPANIES UP TO ONE HUNDRED DOLLARS FOR THE COST OF EACH FINGERPRINT ANALYSIS AND BACKGROUND INVESTIGATION UNDERTAKEN TO QUALIFY NEW OFFICERS, DIRECTORS, STOCKHOLDERS, OR MEMBERS PURSUANT TO THE REQUIREMENTS OF SECTION 12-47-307 (1) (a); HOWEVER, THE STATE LICENSING AUTHORITY SHALL NOT COLLECT SUCH A FEE IF THE APPLICANT HAS ALREADY UNDERGONE A BACKGROUND INVESTIGATION BY AND PAID A FEE TO A LOCAL LICENSING AUTHORITY. At least annually, the amounts of the fees shall be reviewed and, if necessary, adjusted to reflect such direct and indirect costs.

(3) Except as provided in subsection (4) of this section, the state licensing authority shall establish a basic fee which shall be paid at the time of service of any subpoena upon the state licensing authority or upon any employee of the division, plus a fee for meals and a fee for mileage at the rate prescribed for state officers and employees in section 24-9-104, C.R.S., for each mile actually and necessarily traveled in going to and returning from the place named in the subpoena. If the person named in the subpoena is required to attend the place named in the subpoena for more than one day, there shall be paid, in advance, a sum to be established by the state licensing authority for each day of attendance to cover the expenses of the person named in the subpoena.

(4) The subpoena fee established pursuant to subsection (3) of this section shall not be applicable to any state or local governmental agency.

12-47-502. [Formerly 12-47-124] Fees and taxes - allocation. (1) (a) All state license fees and taxes provided for by this article and all fees provided for by section ~~12-47-123(2) and (3)~~ 12-47-501 (2) AND (3) for processing applications, reports, and notices shall be paid to the department of revenue, which shall transmit ~~said~~ THE fees and taxes to the state treasurer. The state treasurer shall credit eighty-five percent of ~~said~~ THE fees and taxes to the old age pension fund and the balance to the general fund.

(b) An amount equal to the revenues attributable to twenty-five dollars of each state license fee provided for by this article and the processing fees provided for by

section ~~12-47-123 (2) and (3)~~ 12-47-501 (2) AND (3) for processing applications, reports, and notices shall be transferred out of the general fund to the liquor enforcement division cash fund. Such transfer shall be made by the state treasurer as soon as possible after the twentieth day of the month following the payment of such fees.

(c) The expenditures of the state licensing authority shall be paid out of appropriations made to the department of revenue by the general assembly. The expenditures of the division shall be paid out of appropriations from the liquor enforcement division cash fund as provided in section 24-35-401, C.R.S.

(2) Eighty-five percent of the local license fees shall be paid to the department of revenue, which shall transmit ~~said~~ THE fees to the state treasurer to be credited to the old age pension fund.

12-47-503. [Formerly 12-47-127] Excise tax - records. (1) (a) An excise tax at the rate of 8.0 cents per gallon, or the same per unit volume tax applied to metric measure, on all malt liquors, FERMENTED MALT BEVERAGES, AND HARD CIDER, 7.33 cents per liter on all vinous liquors EXCEPT HARD CIDER, and 60.26 cents per liter on all spirituous liquors is imposed, and such taxes shall be collected on all such respective ~~liquors~~ BEVERAGES, not otherwise exempt from the tax, sold, offered for sale, or used in this state; except that, upon the same ~~liquors~~ BEVERAGES, only one such tax shall be paid in this state. The manufacturer thereof, or the first licensee receiving ~~alcoholic liquors~~ ALCOHOL BEVERAGES in this state if shipped from without the state, shall be primarily liable for the payment of any tax or tax surcharge imposed pursuant to this section; but, if such ~~liquor~~ BEVERAGE is transported by a manufacturer or wholesaler to a point outside of the state and there disposed of, then such manufacturer or wholesaler, upon the filing with the state licensing authority of a duplicate bill of lading, invoice, or affidavit showing such transaction, shall not be subject to the tax provided in this section on such ~~liquors~~ BEVERAGES, and, if such tax has already been paid, it shall be refunded to said manufacturer or wholesaler. For purposes of this section, "manufacturer" includes brew pub licensees.

~~(b) Repealed.~~

~~(b.1) (I) (A)~~ (b) (I) (A) In addition to the excise tax imposed pursuant to paragraph (a) of this subsection (1), an excise tax surcharge at the rate of 1.0 cent per liter is imposed on all vinous liquors EXCEPT HARD CIDER sold, offered for sale, or used in this state. An amount equal to one hundred percent of the excise tax surcharge collected pursuant to this subparagraph (I) shall be transferred from the general fund to the Colorado wine industry development fund created in section 35-29.5-105, C.R.S. Such transfers shall be made by the state treasurer as soon as possible after the twentieth day of the month following the collection of such excise tax surcharge.

(B) This subparagraph (I) is repealed, effective July 1, 2000.

~~(1.5) (II)~~ (II) Effective July 1, 2000, a wine development fee at the rate of 1.0 cent per liter is imposed on all vinous liquors EXCEPT HARD CIDER sold, offered for sale, or used in this state. An amount equal to one hundred percent of the wine development fee collected pursuant to this subparagraph ~~(1.5) (II)~~ (II) shall be transferred from the general fund to the Colorado wine industry development fund created in section

35-29.5-105, C.R.S. Such transfers shall be made by the state treasurer as soon as possible after the twentieth day of the month following the collection of such wine development fee.

~~(H)~~ (III) In addition to the excise tax imposed pursuant to paragraph (a) of this subsection (1) and the excise tax surcharge imposed pursuant to ~~subparagraph (I) of this paragraph (b.1), from July 1, 1990 through June 30, 1992;~~ SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), an additional excise tax surcharge at the rate of ~~3.0~~ 5.0 cents per liter FOR THE FIRST NINE THOUSAND LITERS, 3.0 CENTS PER LITER FOR THE NEXT THIRTY-SIX THOUSAND LITERS, AND 1.0 CENT PER LITER FOR ALL ADDITIONAL AMOUNTS, is imposed on all vinous liquors EXCEPT HARD CIDER produced by Colorado licensed wineries and sold, offered for sale, or used in this state. ~~From July 1, 1992, through June 30, 1995, the amount of the additional excise tax surcharge imposed pursuant to this subparagraph (H) shall be 4.0 cents per liter. Beginning July 1, 1995, the excise tax surcharge imposed pursuant to this subparagraph (H) shall be 5.0 cents per liter.~~ An amount equal to one hundred percent of the excise tax surcharge collected pursuant to this subparagraph ~~(H)~~ (III) shall be transferred from the general fund to the Colorado wine industry development fund created in section 35-29.5-105, C.R.S. Such transfers shall be made by the state treasurer as soon as possible after the twentieth day of the month following the collection of such excise tax surcharge.

~~(b.2)~~ ~~(H)~~ (c) ON AND AFTER JULY 1, 1996, an excise tax OF TEN DOLLARS PER TON OF GRAPES is imposed upon all grapes of the vinifera varieties or other produce used in the production of wine in this state by a licensed Colorado winery, whether true or hybrid. ~~as follows:~~

~~(A) From July 1, 1990, through June 30, 1993, five dollars per ton of grapes;~~

~~(B) From July 1, 1993, through June 30, 1996, eight dollars per ton of grapes;~~

~~(C) On and after July 1, 1996, ten dollars per ton of grapes.~~

~~(H)~~ The excise tax imposed pursuant to this paragraph ~~(b.2)~~ (c) shall be paid to the department of revenue by the licensed winery at the time of purchase of the product by the winery or of importation of the product, whichever is later.

~~(H)~~ An amount equal to one hundred percent of ~~the~~ SUCH excise tax ~~collected pursuant to this paragraph (b.2)~~ shall be transferred from the general fund to the Colorado wine industry development fund created in section 35-29.5-105, C.R.S. Such transfers shall be made by the state treasurer as soon as possible after the twentieth day of the month following the collection of such excise tax.

~~(e)~~ (d) ~~In 1973 the Colorado general assembly enacted House Bill No. 1279 (part 3 of article 1 of title 25, C.R.S.), which stated that~~ The policy of this state is that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of ~~alcoholic~~ ALCOHOL beverages, but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society. The general assembly finds that the cost of implementing a statewide treatment plan is greater than originally estimated. By increasing the excise tax on ~~alcoholic~~ ALCOHOL beverages in Colorado, it is the intent

of this general assembly that the increased revenues derived from this subsection (1) be viewed as one of the sources of funding for the future development of alcoholism treatment programs under the statute enacted in 1973 and for the payment of other related direct and indirect costs caused by the consumption of alcohol BEVERAGES.

(2) The state licensing authority shall make and publish such rules and regulations to secure and enforce the collection and payment of such tax as it may deem proper if such rules and regulations are not inconsistent with the provisions of this article.

(3) Except as provided in ~~subparagraph (H) of paragraph (b.2)~~ PARAGRAPH (c) of subsection (1) of this section, the excise taxes and excise tax surcharges provided for in this section shall be paid to the department of revenue upon the filing of the return provided for in subsection (4) of this section and shall be delivered to the department of revenue on or before the twentieth day of the month following the month in which such ~~malt, vinous, and spirituous liquors~~ ALCOHOL BEVERAGES are first sold in this state. As used in this subsection (3), "first sold" means the sale or disposal which occurs when a licensed wholesaler sells, transfers, or otherwise disposes of a product or when a manufacturer sells to a licensed wholesaler or a consumer.

(4) Each LICENSED manufacturer and wholesaler of ~~malt, vinous, and spirituous liquors~~ ALCOHOL BEVERAGES within this state shall file, on or before the twentieth day of each month, an exact, verified return with the state licensing authority showing for the preceding calendar month the quantities of ~~malt, vinous, and spirituous liquors~~ ALCOHOL BEVERAGES:

(a) Constituting ~~his~~ THE LICENSEE'S beginning and ending inventory for such month;

(b) Manufactured by ~~him~~ THE LICENSEE in this state;

(c) Shipped to ~~him~~ THE LICENSEE from within this state and received by ~~him~~ THE LICENSEE in this state;

(d) Shipped to ~~him~~ THE LICENSEE from outside this state and received by ~~him~~ THE LICENSEE in this state;

(e) Sold or disposed of by ~~him~~ THE LICENSEE to persons or purchasers in this state; and

(f) Sold or disposed of by ~~him~~ THE LICENSEE to persons or purchasers outside this state, separately indicating those sales or transactions of ~~liquors~~ ALCOHOL BEVERAGES to which the excise tax is not applicable.

(5) The return, on forms prescribed by the state licensing authority, shall also show the amount of excise tax payable, after allowances for all proper deductions, for ~~malt, vinous, and spirituous liquors~~ ALCOHOL BEVERAGES sold by the manufacturer or wholesaler in this state and shall include such additional information as the state licensing authority may require for the proper administration of this article. The payment of the excise tax provided for in this section, in the amount disclosed by the return, shall accompany the return and shall be paid to the department of revenue. Each manufacturer and wholesaler required to file a return shall keep complete and

accurate books and records, accounts, and other documents as may be necessary to substantiate the accuracy of his OR HER return and the amount of excise tax due and shall retain such records for a period of three years.

(6) The state licensing authority, after public hearing of which the licensee shall have due notice as provided in this article, shall suspend or revoke any license issued pursuant to this article for a failure to pay any excise tax required by this article and may suspend or revoke such license for a violation of or failure to comply with the rules and regulations promulgated by said authority.

~~(7) Repealed.~~

~~(8)~~ (7) If the excise tax is not paid when due, there shall be added to the amount of the tax as a penalty a sum equivalent to ten percent thereof and, in addition thereto, interest on the tax and a penalty at the rate of one percent a month or fraction of a month from the date the tax became due until paid. Nothing in this section shall be construed to relieve any person otherwise liable from liability for payment of the excise tax.

~~(9)~~ (8) The department of revenue shall make refund or allow a credit to the manufacturer or the wholesaler, as the case may be, of the amount of the excise tax paid on ~~malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGES sold in this state when, after payment of the excise tax, such ~~malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGES are rendered unsalable by reason of destruction or damage upon submission of evidence satisfactory to the state licensing authority that such excise tax has actually been paid. Such refund or credit shall be made by the department of revenue within sixty days after the submission of evidence satisfactory to said department.

~~(10)~~ (9) (a) In order to economize and to simplify administrative procedures, the state licensing authority may authorize a procedure whereby a manufacturer or wholesaler of ~~malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGES entitled by law to a refund of the tax provided in this section may instead receive a credit against the tax due on other sales by claiming said credit on the next month's return and attaching a duplicate bill of lading, invoice, or affidavit showing such transaction.

(b) To the extent and so long as federal law precludes this state from collecting its excise tax on vinous and spirituous liquors sold and delivered on ceded federal property, any manufacturer or wholesaler of such liquors making any such sales and deliveries on such federal property within the boundaries of this state may receive a refund of or a credit for the excise tax paid this state on such liquors.

12-47-504. [Formerly 12-47-127.5] Lien to secure payment of taxes - exemptions - recovery. (1) (a) The state of Colorado and the department of revenue shall have a lien, to secure the payment of the taxes, penalties, and interest imposed pursuant to section ~~12-47-127~~ 12-47-503 upon all the assets and property of the wholesaler or manufacturer owing such tax, including the stock in trade, business fixtures, and equipment owned or used by the wholesaler or manufacturer in the conduct of ~~his~~ business, as long as a delinquency in the payment of such tax continues. Such lien shall be prior to any lien of any kind whatsoever, including existing liens for taxes.

(b) Any wholesaler and manufacturer or person in possession shall provide a copy of any lease pertaining to the assets and property described in paragraph (a) of this subsection (1) to the department of revenue within ten days after seizure by the department of such assets and property. The department shall verify that such lease is bona fide and notify the owner that such lease has been received by the department. The department shall use its best efforts to notify the owner of the real or personal property ~~which~~ THAT might be subject to the lien created in paragraph (a) of this subsection (1). The real or personal property of an owner who has made a bona fide lease to a wholesaler or manufacturer shall be exempt from the lien created in paragraph (a) of this subsection (1) if such property can reasonably be identified from the lease description or if the lessee is given an option to purchase in such lease and has not exercised such option to become the owner of the property leased. This exemption shall be effective from the date of the execution of the lease. Such exemption shall also apply if the lease is recorded with the county clerk and recorder of the county where the property is located or based on a memorandum of the lease is filed with the department of revenue on such forms as may be prescribed by said department after the execution of the lease at a cost for such filing of two dollars and fifty cents per document. Motor vehicles ~~which~~ THAT are properly registered in this state, showing the lessor as owner thereof, shall be exempt from the lien created in paragraph (a) of this subsection (1); except that said lien shall apply to the extent that the lessee has an earned reserve, allowance for depreciation not to exceed fair market value, or similar interest which is or may be credited to the lessee. Where the lessor and lessee are blood relatives or relatives by law or have twenty-five percent or more common ownership, a lease between such lessee and such lessor shall not be considered as bona fide for the purposes of this section.

(2) (a) Any wholesaler or manufacturer who files a return pursuant to section ~~12-47-127~~ 12-47-503 but who fails to accompany it with payment of the excise tax disclosed on the return shall be sent a notice by the executive director of the department of revenue. Such notice shall state that the excise tax is due and unpaid and shall state the amount of the tax, penalty, and interest owed pursuant to section ~~12-47-127~~ 12-47-503. The notice shall be sent by first-class mail and shall be directed to the last address of such wholesaler or manufacturer on file with the department of revenue.

(b) (I) If a wholesaler or manufacturer fails to file both the return and the payment required by section ~~12-47-127~~ 12-47-503, the executive director of the department of revenue shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the wholesaler or manufacturer is delinquent and shall add any penalty and interest authorized in section ~~12-47-127~~ 12-47-503. The executive director shall give ~~to~~ the delinquent taxpayer written notice of such estimated tax, penalty, and interest, which notice shall be sent by first-class mail, and shall be directed to the last address of such person on file with the department of revenue.

(II) The remedies available to a taxpayer pursuant to article 21 of title 39, C.R.S., shall be available to any wholesaler or manufacturer who seeks to contest the estimated tax, penalty, or interest specified in the notice mailed pursuant to subparagraph (I) of this paragraph (b).

(3) If any taxes, penalties, or interest imposed pursuant to section ~~12-47-127~~

12-47-503 are not paid within ten days after the notice if mailed pursuant to subsection (2) of this section, the executive director of the department of revenue may seek to enforce collection of the unpaid amounts in accordance with the provisions of article 21 of title 39, C.R.S., to the extent that such provisions are not in conflict with or inconsistent with the provisions of this article.

12-47-505. [Formerly 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:

(a) (I) For each retail liquor store license for premises located within any municipality or city and county, one hundred fifty dollars;

(II) For each retail liquor store license for premises located outside the municipal limits of any municipality or city and county, two hundred fifty dollars;

(b) (I) For each liquor-licensed drugstore license for premises located within any municipality or city and county, one hundred fifty dollars;

(II) For each liquor-licensed drugstore license for premises located outside the municipal limits of any municipality or city and county, two hundred fifty dollars;

(c) (I) For each beer and wine license for premises located within any municipality or city and county, except as provided in subparagraph (III) of this paragraph (c), ~~one hundred fifty~~ THREE HUNDRED TWENTY-FIVE dollars;

(II) For each beer and wine license for premises located outside the municipal limits of any municipality or city and county, except as provided in subparagraph (III) of this paragraph (c), ~~two hundred fifty~~ FOUR HUNDRED TWENTY-FIVE dollars;

(III) For each beer and wine license issued to a resort hotel, ~~two~~ THREE hundred SEVENTY-FIVE dollars;

(d) For each hotel and restaurant license, ~~three~~ FIVE hundred ~~twenty-five~~ dollars;

~~(d.1)~~ (e) For each tavern license, ~~three hundred twenty-five~~ FIVE HUNDRED dollars;

~~(d.2)~~ (f) For each optional premises license, ~~three~~ FIVE hundred ~~twenty-five~~ dollars;

~~(d.3)~~ (g) For each retail gaming tavern license, ~~three~~ FIVE hundred ~~twenty-five~~ dollars;

~~(d.4)~~ (h) For each application for approval of a contract to sell ~~alcoholic~~ ALCOHOL beverages pursuant to section ~~12-47-119 (2) (e)~~ 12-47-411 (3) (c), three hundred twenty-five dollars;

~~(d.5)~~ (i) For each brew pub license, ~~three hundred twenty-five~~ FIVE HUNDRED dollars;

~~(e)~~ (j) For each club license, ~~one hundred~~ TWO HUNDRED SEVENTY-FIVE dollars;

- ~~(e-1)~~ (k) For each arts license, ~~one hundred~~ TWO HUNDRED SEVENTY-FIVE dollars;
- ~~(f)~~ (l) For each racetrack license, ~~three hundred twenty-five~~ FIVE HUNDRED dollars;
- ~~(g)~~ (m) For each bed and breakfast permit, twenty-five dollars.

(2) No rebate shall be paid by any municipality, city and county, or county of any ~~alcoholic liquor~~ ALCOHOL BEVERAGE license fee paid for any such license issued by it except upon affirmative action by the respective local licensing authority rebating a proportionate amount of such license fee.

(3) **[Formerly 12-47-124 (2)]** EIGHTY-FIVE PERCENT OF THE LOCAL LICENSE FEES PROVIDED FOR IN THIS ARTICLE AND ARTICLE 46 OF THIS TITLE SHALL BE PAID TO THE DEPARTMENT OF REVENUE, WHICH SHALL TRANSMIT SAID FEES TO THE STATE TREASURER TO BE CREDITED TO THE OLD AGE PENSION FUND.

(4) (a) **[Formerly 12-47-135 (3)]** EACH APPLICATION FOR A LICENSE PROVIDED FOR IN THIS ARTICLE AND ARTICLE 46 OF THIS TITLE FILED WITH A LOCAL LICENSING AUTHORITY SHALL BE ACCOMPANIED BY AN APPLICATION FEE IN AN AMOUNT DETERMINED BY THE LOCAL LICENSING AUTHORITY TO COVER ACTUAL AND NECESSARY EXPENSES SUBJECT TO THE FOLLOWING LIMITATIONS:

(I) FOR A NEW LICENSE, NOT TO EXCEED FIVE HUNDRED DOLLARS;

(II) FOR A TRANSFER OF LOCATION OR OWNERSHIP, NOT TO EXCEED FIVE HUNDRED DOLLARS EACH;

(III) FOR A RENEWAL OF LICENSE, NOT TO EXCEED FIFTY DOLLARS; EXCEPT THAT AN EXPIRED LICENSE RENEWAL FEE SHALL NOT EXCEED FIVE HUNDRED DOLLARS.

(b) NO FEES OR CHARGES OF ANY KIND, EXCEPT AS PROVIDED IN THIS ARTICLE OR ARTICLE 46 OF THIS TITLE, MAY BE CHARGED BY THE LOCAL LICENSING AUTHORITY TO THE LICENSE HOLDER OR APPLICANT FOR THE PURPOSES OF GRANTING OR RENEWING A LICENSE OR TRANSFERRING OWNERSHIP OR LOCATION OF A LICENSE.

(5) THE LOCAL LICENSING AUTHORITY MAY CHARGE CORPORATE APPLICANTS AND LIMITED LIABILITY COMPANIES UP TO ONE HUNDRED DOLLARS FOR THE COST OF EACH FINGERPRINT ANALYSIS AND BACKGROUND INVESTIGATION UNDERTAKEN TO QUALIFY NEW OFFICERS, DIRECTORS, STOCKHOLDERS, OR MEMBERS PURSUANT TO THE REQUIREMENTS OF SECTION 12-47-307 (1) (a); HOWEVER, NO LOCAL LICENSING AUTHORITY SHALL COLLECT SUCH A FEE IF THE APPLICANT HAS ALREADY UNDERGONE A BACKGROUND INVESTIGATION BY AND PAID A FEE TO THE STATE LICENSING AUTHORITY.

PART 6 DISCIPLINARY ACTIONS

12-47-601. [Formerly 12-47-110] Suspension - revocation - fines. (1) In addition to any other penalties prescribed by this article OR ARTICLE 46 OR 48 OF THIS TITLE, the state or any local licensing authority has the power, on its own motion or on complaint, after investigation and public hearing at which the licensee shall be

afforded an opportunity to be heard, to suspend or revoke any license issued by such authority for any violation by the licensee or by any of the agents, servants, or employees of such licensee of the provisions of this article, or any of the rules or regulations authorized pursuant to this article or of any of the terms, conditions, or provisions of the license issued by such authority. ~~In addition, any state or local licensing authority, in its discretion, may revoke or elect not to renew a retail license if it determines that the licensed location has been inactive, without good cause, for at least one year or, in the case of a retail license approved for a facility which has not been constructed, such facility has not been constructed and placed in operation within two years of approval of the license application or construction of the facility has not commenced within one year of such approval.~~ Any licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing ~~which~~ THAT the licensing authority is authorized to conduct.

(2) Notice of suspension or revocation, as well as any required notice of such hearing, shall be given by mailing the same in writing to the licensee at the address contained in such license. NO SUCH SUSPENSION SHALL BE FOR A LONGER PERIOD THAN SIX MONTHS. IF ANY LICENSE IS SUSPENDED OR REVOKED, NO PART OF THE FEES PAID THEREFOR SHALL BE RETURNED TO THE LICENSEE. Any license may be ~~temporarily~~ SUMMARILY suspended by the issuing licensing authority without notice pending any prosecution, investigation, or public hearing. Nothing in this section shall prevent the summary suspension of such license for a TEMPORARY period of not more than fifteen days. ~~No such suspension shall be for a longer period than six months. If any license is suspended or revoked, no part of the fees paid therefor shall be returned to the licensee.~~

(3) (a) Whenever a decision of the state or any local licensing authority suspending a ~~retail~~ license for fourteen days or less becomes final, whether by failure of the ~~retail~~ licensee to appeal the decision or by exhaustion of all appeals and judicial review, the ~~retail~~ licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having ~~his retail~~ THE license suspended for all or part of the suspension period. Upon the receipt of the petition, the state or the local licensing authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

(I) That the public welfare and morals would not be impaired by permitting the ~~retail~~ licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;

(II) That the books and records of the ~~retail~~ licensee are kept in such a manner that the loss of sales of ~~alcoholic~~ ALCOHOL beverages ~~which~~ THAT the ~~retail~~ licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and

(III) That the ~~retail~~ licensee has not had his OR HER license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the ~~retail~~ license.

(b) The fine accepted shall be the equivalent to twenty percent of the ~~retail~~ licensee's estimated gross revenues from sales of ~~alcoholic~~ ALCOHOL beverages during the period of the proposed suspension; except that the fine shall be not less than two hundred dollars nor more than five thousand dollars.

(c) Payment of any fine pursuant to the provisions of this subsection (3) shall be in the form of cash or in the form of a certified check or cashier's check made payable to the state or local licensing authority, whichever is appropriate.

(4) Upon payment of the fine pursuant to subsection (3) of this section, the state or the local licensing authority shall enter its further order permanently staying the imposition of the suspension. If the fine is paid to a local licensing authority, the governing body of the authority shall cause such moneys to be paid into the general fund of the local licensing authority. Fines paid to the state licensing authority pursuant to subsection (3) of this section shall be transmitted to the state treasurer who shall credit the same to the general fund.

(5) In connection with any petition pursuant to subsection (3) of this section, the authority of the state or local licensing authority is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(6) If the state or the local licensing authority does not make the findings required in paragraph (a) of subsection (3) of this section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the state or the local licensing authority.

(7) The provisions of subsections (3) to (6) of this section shall be effective and may be implemented by the state licensing authority upon its decision to accept and adopt the optional procedures set forth in said subsections. The provisions of subsections (3) to (6) of this section shall be effective and may be implemented by a local licensing authority only after the governing body of the municipality, the governing body of the city and county, or the board of county commissioners of the county chooses to do so and acts, by appropriate resolution or ordinance, to accept and adopt the optional procedures set forth in said subsections. Any such actions may be revoked in a similar manner.

(8) Each local licensing authority shall report all actions taken to impose fines, suspensions, and revocations to the state licensing authority in a manner as required by the state licensing authority. No later than ~~January 15, 1989, and on or before every January 15 thereafter~~ JANUARY 15 OF EACH YEAR, a report of the preceding year's actions in which fines, suspensions, or revocations were imposed by local licensing authorities and by the state licensing authority shall be compiled by the state licensing authority. ~~The report shall be consolidated with the report required pursuant to section 12-46-107.~~ One copy of said report shall be filed with the chief clerk of the house of representatives, one copy shall be filed with the secretary of the senate, and six copies shall be filed in the joint legislative library.

~~(9) Repealed.~~

PART 7
INSPECTION OF BOOKS AND RECORDS

12-47-701. [Formerly 12-47-109] Inspection procedures. Each licensee shall keep a complete set of books of account, invoices, copies of orders, shipping instructions, bills of lading, weigh bills, correspondence, and all other records necessary to show fully the business transactions of such licensee, all of which shall be open at all times during business hours for the inspection and examination of said state licensing authority or its duly authorized representatives. The state licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this article, and may require an audit to be made of such books of account and records on such occasions as it may consider necessary by an auditor to be selected by said state licensing authority who shall likewise have access to all books and records of such licensee, and the expense thereof shall be paid by said licensee.

PART 8
JUDICIAL REVIEW AND CIVIL LIABILITY

12-47-801. [Formerly 12-47-128.5] Civil liability - legislative declaration.
(1) The general assembly hereby finds, determines, and declares that this section shall be interpreted so that any common law cause of action against a vendor of ~~alcoholic~~ ALCOHOL beverages is abolished and that in certain cases the consumption of ~~alcoholic~~ ALCOHOL beverages rather than the sale, service, or provision thereof is the proximate cause of injuries or damages inflicted upon another by an intoxicated person except as otherwise provided in this section.

(2) As used in this section, "licensee" means a person licensed under the provisions of this article or article 46 OR 48 of this title and the agents or servants of such person.

(3) (a) No licensee is civilly liable to any injured individual or his OR HER estate for any injury to such individual or damage to any property suffered because of the intoxication of any person due to the sale or service of any ~~alcoholic~~ ALCOHOL beverage to such person, except when:

(I) It is proven that the licensee willfully and knowingly sold or served any ~~malt, vinous, or spirituous liquor~~ ALCOHOL BEVERAGE to such person who was under the age of twenty-one years or who was visibly intoxicated; and

(II) The civil action is commenced within one year after such sale or service.

(b) No civil action may be brought pursuant to this subsection (3) by the person to whom the ~~alcoholic~~ ALCOHOL beverage was sold or served or by his OR HER estate, legal guardian, or dependent.

(c) In any civil action brought pursuant to this subsection (3), the total liability in any such action shall not exceed one hundred fifty thousand dollars.

(4) (a) No social host who furnishes any ~~alcoholic~~ ALCOHOL beverage is civilly liable to any injured individual or his OR HER estate for any injury to such individual

or damage to any property suffered, including any action for wrongful death, because of the intoxication of any person due to the consumption of such ~~alcoholic~~ ALCOHOL beverages, except when:

(I) It is proven that the social host willfully and knowingly served any ~~malt, vinous, or spirituous liquor~~ ALCOHOL BEVERAGE to such person who was under the age of twenty-one years; and

(II) The civil action is commenced within one year after such service.

(b) No civil action may be brought pursuant to this subsection (4) by the person to whom such ~~alcoholic~~ ALCOHOL beverage was served or by his OR HER estate, legal guardian, or dependent.

(c) The total liability in any such action shall not exceed one hundred fifty thousand dollars.

12-47-802. [Formerly 12-47-141] Judicial review. Any person applying to the courts for a review of the state or any local licensing authority's decision shall apply for review within thirty days after the date of decision of refusal by a local licensing authority or, in the case of approval by a local licensing authority, within thirty days after the date of decision by the state licensing authority and shall be required to pay the cost of preparing a transcript of proceedings before the licensing authority when such a transcript is demanded by the person taking the appeal or when such a transcript is furnished by the licensing authority pursuant to court order.

PART 9 UNLAWFUL ACTS - ENFORCEMENT

12-47-901. [Formerly 12-47-128] Unlawful acts - exceptions. (1) Except as provided in section 18-13-122, C.R.S., it is unlawful for any person:

(a) To sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any ~~malt, vinous, or spirituous liquor~~ ALCOHOL BEVERAGE to or for any person under the age of twenty-one years, to a visibly intoxicated person, or to a known habitual drunkard;

(b) To obtain or attempt to obtain ~~malt, vinous, or spirituous liquor~~ ANY ALCOHOL BEVERAGE by misrepresentation of age or by any other method in any place where ~~malt, vinous, or spirituous liquor~~ is ALCOHOL BEVERAGES ARE sold when such person is under twenty-one years of age;

(c) To ~~have in his possession~~ ~~malt, vinous, or spirituous liquor~~ POSSESS ALCOHOL BEVERAGES in any store, in any public place, including public streets, alleys, roads, or highways, or upon property owned by the state of Colorado or any subdivision thereof, or inside vehicles while upon the public streets, alleys, roads, or highways when such person is under twenty-one years of age;

(d) To knowingly, or under conditions ~~which~~ THAT an average parent or guardian should have knowledge of, suffer or permit any person under twenty-one years of age, of whom ~~he~~ SUCH PERSON may be a parent or guardian, to violate the provisions of

paragraph (b) or (c) of this subsection (1);

(e) To buy any vinous or spirituous liquor from any person not licensed to sell at retail as provided by this article except as otherwise provided in this article;

(f) To sell at retail any malt, vinous, or spirituous liquors in sealed containers without holding a retail liquor store or liquor-licensed drugstore license;

(g) To manufacture, sell, or possess for sale any ~~malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGE unless licensed to do so as provided by this article OR ARTICLE 46 OR 48 OF THIS TITLE and unless all licenses required are in full force and effect;

(h) To consume malt, vinous, or spirituous liquor in any public place except on any licensed premises permitted under this article to sell such liquor by the drink for consumption thereon; to consume any ~~malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGE upon any premises licensed to sell liquor for consumption on the licensed premises, the sale of which is not authorized by the state licensing authority; to consume ~~malt, vinous, or spirituous liquor~~ ALCOHOL BEVERAGES at any time on such premises other than such ~~liquor~~ ALCOHOL BEVERAGE as is purchased from such establishment; or to consume ~~malt, vinous, or spirituous liquor~~ ALCOHOL BEVERAGES in any public room on such premises during such hours as the sale of such ~~liquor~~ BEVERAGE is prohibited under this article;

(i) To regularly provide premises, or any portion thereof, together with soft drinks or other mix, ice, glasses, or containers at a direct or indirect cost or charge to any person who brings ~~alcoholic~~ ALCOHOL beverages upon such premises for the purpose of consuming such ~~alcoholic~~ beverages on said premises during the hours in which the sale of ~~alcoholic~~ SUCH beverages is prohibited or to consume ~~alcoholic~~ SUCH beverages upon premises operated in the manner described in this paragraph (i);

(j) To ~~have in his possession~~ POSSESS any package, parcel, or container on which the excise tax has not been paid;

(k) With knowledge, to permit or fail to prevent the use of his OR HER identification, including a driver's license, by a person who is under twenty-one years of age, for the unlawful purchase of any ~~malt, vinous, or spirituous liquor~~ ALCOHOL BEVERAGE;

(l) Who is a common carrier regulated under article 10 or 11 of title 40, C.R.S., or is an agent or employee of such common carrier, to deliver ~~alcoholic~~ ALCOHOL beverages for any person who has not been issued a license or permit pursuant to this article.

(2) It is unlawful for any person licensed as a manufacturer or as a limited winery licensee pursuant to this article OR ARTICLE 46 OF THIS TITLE TO MANUFACTURE ALCOHOL BEVERAGES EXCEPT IN THE PERMANENT LOCATION SPECIFICALLY DESIGNATED IN THE LICENSE FOR SUCH MANUFACTURE.

~~(a) Repealed.~~

~~(b) To manufacture malt, vinous, or spirituous liquors except in the permanent~~

location specifically designated in the license for such manufacture;

~~(c) Repealed.~~

~~(3) (a) The general assembly determines and declares it to be in the best interests of the state of Colorado to preserve and strengthen the regulation scheme for vinous and spirituous liquors in this state in order to assure the accurate collection of liquor excise taxes due the state, to protect the health and welfare of liquor consumers, and to aid the jurisdiction and enforcement of state laws.~~

~~(b) (a) It is unlawful for any person to import or sell any imported vinous or spirituous liquor~~ ALCOHOL BEVERAGE in this state unless such person is the primary source of supply in the United States for the brand of such liquor to be imported into or sold within this state and unless such person holds a valid importer's license issued under the provisions of this article.

~~(b) (b) If it is determined by the state licensing authority, in its discretion, as not constituting unfair competition or unfair practice, any importer may be authorized by said state licensing authority to import and sell under and subject to the provisions of his SUCH IMPORTER'S license any brand of vinous or spirituous liquor~~ ALCOHOL BEVERAGE for which he OR SHE is not the primary source of supply in the United States if such licensee is the sole source of supply of that brand of liquor ALCOHOL BEVERAGE in the state of Colorado and such authorization is determined by the state licensing authority as not constituting a violation of section ~~12-47-129~~ 12-47-308.

~~(c) (c) Any such manufacturer or importer shall, at least thirty days before the importation or sale of any such vinous or spirituous liquor~~ ALCOHOL BEVERAGE in this state, file with the state licensing authority notice of intent to import one or more specified brands of such liquor BEVERAGE, together with a statement that he SUCH MANUFACTURER OR IMPORTER is the primary source of supply in the United States for any such brand, unless exempted pursuant to paragraph ~~(c) (b)~~ (b) of this subsection (3), in which case, a statement that he SUCH MANUFACTURER OR IMPORTER is the sole source of supply of that brand of liquor BEVERAGE in the state of Colorado, and, upon the request of the state licensing authority, a copy of the manufacturer's federal brand label approval form as required by the federal bureau of alcohol, tobacco, and firearms. Thereafter, said licensee shall file with the state licensing authority a copy of each sales invoice with a monthly sales report as required by section ~~12-47-127 (4) and (5)~~ 12-47-503 (4) AND (5).

~~(d) (d) As used in this subsection (3), the term "primary source of supply in the United States" means the manufacturer, the producer, the owner of such liquor~~ ALCOHOL BEVERAGE at the time it becomes a marketable product, the bottler in the United States, or the exclusive agent within the United States, or any of the states, of any such manufacturer, producer, owner, or bottler outside the United States. To be the "primary source of supply in the United States", the said manufacturer or importer must be the first source, such as the manufacturer or the source closest to the manufacturer, in the channel of commerce from which the product can be secured by Colorado liquor ALCOHOL BEVERAGE wholesalers.

~~(e) (e) It is unlawful for any person licensed as an importer of malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGES pursuant to this article to deliver any such

~~liquors~~ BEVERAGES to any person not in possession of a valid wholesaler's license.

(4) It is unlawful for any person licensed to sell at wholesale pursuant to this article OR ARTICLE 46 OF THIS TITLE:

~~(a) Repealed.~~

~~(b)~~ (a) To peddle malt, vinous, or spirituous liquor at wholesale or by means of a truck or other vehicle if the sale is consummated and delivery made concurrently, but nothing in this paragraph ~~(b)~~ (a) shall prevent delivery from a truck or other vehicle of orders previously taken;

~~(c)~~ (b) To deliver FERMENTED MALT BEVERAGES OR malt liquors to any retail licensee located outside the geographic territory designated on the license application filed with the state licensing authority if such person holds a wholesaler's beer license;

~~(d)~~ (c) To purchase or receive any ~~malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGE from any person not licensed pursuant to this article OR ARTICLE 46 OF THIS TITLE, unless otherwise provided in this article;

~~(e)~~ (d) To sell or serve any ~~malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGE to consumers for consumption on or off the licensed premises during any hours retailers are prohibited from selling or serving such liquors pursuant to subsection (5) of this section.

(5) It is unlawful for any person licensed to sell at retail pursuant to this article:

(a) (I) To sell ~~malt, vinous, or spirituous liquors~~ AN ALCOHOL BEVERAGE to any person under the age of twenty-one years, to a habitual drunkard, or to a visibly intoxicated person, or to permit any ~~malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGE to be sold or dispensed by a person under eighteen years of age, or to permit any such person to participate in the sale or dispensing thereof. If a person who, in fact, is not twenty-one years of age exhibits a fraudulent proof of age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this article OR ARTICLE 46 OF THIS TITLE. Notwithstanding any provision in this subparagraph (I) to the contrary, no person under twenty-one years of age shall be employed to sell or dispense malt, vinous, or spirituous liquors unless he or she is supervised by another person who is on premise and has attained twenty-one years of age. No employee of a tavern licensed pursuant to section ~~12-47-119.5~~ 12-47-412, that does not regularly serve meals AS DEFINED IN SECTION 12-47-103 (19), or a retail liquor store shall sell malt, vinous, or spirituous liquors unless such person is at least twenty-one years of age. ~~For purposes of this subparagraph (I), "meal" means a quantity of food of such nature as is ordinarily consumed by an individual at regular intervals for the purpose of sustenance.~~

(II) (A) If a licensee or ~~his~~ A LICENSEE'S employee has reasonable cause to believe that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any ~~malt liquors, vinous liquors, or spirituous liquors, as defined in this article~~ ALCOHOL BEVERAGE, the licensee or employee shall BE

AUTHORIZED TO confiscate such fraudulent proof of age, if possible, and shall, within ~~twenty-four~~ SEVENTY-TWO hours after the confiscation, turn it over to a STATE OR local law enforcement agency. The failure to confiscate such fraudulent proof of age or to turn it over to a STATE OR local law enforcement agency within ~~twenty-four~~ SEVENTY-TWO hours after the confiscation shall not constitute a criminal offense, notwithstanding section ~~12-47-130 (1) (a)~~ 12-47-903 (1) (a).

(B) If a licensee or ~~his~~ A LICENSEE'S employee believes that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any ~~malt liquors, vinous liquors, or spirituous liquors, as defined in this article~~ ALCOHOL BEVERAGE, the licensee or ~~his~~ THE LICENSEE'S employee or any peace or police officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of any unlawful act under this section. Such questioning of a person by a licensee or ~~his~~ A LICENSEE'S employee or a peace or police officer does not render the licensee, ~~his~~ THE LICENSEE'S employee, or a peace or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

(III) Each licensee shall display a printed card ~~pursuant to paragraph (h) of this subsection (5), which~~ THAT contains notice of the provisions of this paragraph (a).

(IV) Any licensee or ~~his~~ LICENSEE'S employee acting in good faith in accordance with the provisions of SUBPARAGRAPH (II) OF this paragraph (a) shall be immune from any liability, civil or criminal; except that a licensee or employee acting willfully or wantonly shall not be immune from liability pursuant to SUBPARAGRAPH (II) OF this paragraph (a).

~~(b) Repealed.~~

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

~~(A) (I)~~ For consumption on the premises on any ~~Monday through Saturday and on any Sunday which falls on a December 31, beginning each day at 12 midnight until 2 a.m. and from 7 a.m. until 12 midnight;~~ DAY OF THE WEEK, EXCEPT BETWEEN THE HOURS OF 2 A.M. AND 7 A.M.

~~(B)~~ For consumption on the premises, on any Sunday, other than any Sunday which falls on a December 31, and on Christmas, beginning at 12 midnight until 2 a.m. and from 8 a.m. until 8 p.m.;

~~(C) Repealed.~~

~~(D) (II)~~ In sealed containers, on Monday through Saturday, beginning at 8 a.m. until 12 midnight each day; except that, for a limited winery licensee, sales of vinous liquors in sealed containers or by the glass shall be permitted on Sunday beginning at 8 a.m. until 12 midnight. No ~~alcoholic beverage~~ MALT, VINOUS, OR SPIRITUOUS LIQUORS shall be sold, served, or distributed in a sealed container on Christmas day.

~~(H) Notwithstanding the provisions of sub-subparagraph (B) of subparagraph (f)~~

of this paragraph (c), hotel and restaurant licensees, beer and wine licensees, tavern licensees, club licensees, brew pub licensees, and arts licensees, upon the payment of an additional annual fee of two hundred dollars to the local licensing authority; may obtain a special license to sell, serve, or distribute malt, vinous, and spirituous liquors by the drink after the hour of 8 p.m. and until 12 midnight on any Sunday other than a Sunday which falls on a December 31, and Christmas:

(c) [Formerly 12-46-112 (1)(a)] Except as provided in section 18-13-122, C.R.S., it is unlawful for any person to sell fermented malt beverages to any person under the age of twenty-one years or to any person between the hours of 12 midnight and 5 a.m.

(d) To offer for sale or solicit any order for vinous or spirituous liquors in person at retail except within the licensed premises;

(e) To have in possession or upon the licensed premises any ~~malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGE, the sale of which is not permitted by said license;

(f) To buy any ~~vinous or spirituous liquor~~ ALCOHOL BEVERAGES from any person not licensed to sell at wholesale as provided by this article except as otherwise provided in this article;

(g) ~~(f)~~ To sell at retail ~~malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGES except in the permanent location specifically designated in the license for such sale. ~~or in such place to which a licensee may desire to move his permanent location. Such licensee may move his permanent location to any other place in the same city, town, or city and county for which the license was originally granted, or in the same county if such license was granted for a place outside the corporate limits of any city, town, or city and county, but it shall be unlawful to sell any malt, vinous, or spirituous liquor at any such place until permission to do so is granted by all the licensing authorities provided for in this article.~~

~~(H) In permitting such change of location, such licensing authorities shall consider the reasonable requirements of the neighborhood to which the applicant seeks to change his location, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all reasonable restrictions which are or may be placed upon the new district by the council, board of trustees, or licensing authority of the city, town, or city and county or by the board of county commissioners of any county. If such licensing authorities permit such change, they shall issue such permit without charge.~~

(h) To fail to display at all times in a prominent place a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter to be a minimum of one-half inch in height, which shall read as follows:

WARNING

IT IS ILLEGAL TO SELL WHISKEY, WINE, OR BEER TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS OR TO

ATTEMPT TO PURCHASE THE SAME.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

IT IS ILLEGAL IF YOU ARE TWENTY-ONE YEARS OF AGE OR OLDER FOR YOU TO PURCHASE WHISKEY, WINE, OR BEER FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE.

FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.

(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;

(j) To display or cause to be displayed, on the licensed premises, any exterior sign advertising any particular brand of malt liquors unless the particular brand so designated in the sign is dispensed on ~~draught and~~ DRAFT OR in sealed containers within the licensed premises wherein the sign is displayed;

(k) To have on the licensed premises, if licensed as a retail liquor store or liquor-licensed drugstore, any container ~~which~~ THAT shows evidence of having once been opened or ~~which~~ THAT contains a volume of liquor less than that specified on the label of such container; except that a person holding a retail liquor store or liquor-licensed drugstore license, may have upon the licensed premises malt, vinous, or spirituous liquors in open containers, when the open containers were brought on the licensed premises by and remain solely in the possession of the sales personnel of a person licensed to sell at wholesale pursuant to this article for the purpose of sampling malt, vinous, or spirituous liquors by the retail licensee only. Nothing in this paragraph (k) shall apply to any liquor-licensed drugstore where the contents, or a portion thereof, have been used in compounding prescriptions.

(l) To employ or permit, if such person is licensed to sell ~~alcoholic~~ ALCOHOL beverages for on-premises consumption or is the agent or manager of said licensee, any employee, waiter, waitress, entertainer, host, hostess, or agent of said licensee to solicit from patrons in any manner, for himself or herself or for any other employee, the purchase of any food, beverage, or any other thing of value;

(m) To require a wholesaler to make delivery to any premises other than the specific hotel and restaurant premises where the ~~alcoholic beverage~~ MALT, VINOUS, OR SPIRITUOUS LIQUOR is to be sold and consumed if such person is a hotel and restaurant licensee or the registered manager of a hotel and restaurant license requires such delivery;

(n) (I) To authorize or permit any gambling, or the use of any gambling machine or device, except as provided by the "Bingo and Raffles Law", article 9 of this title.

The provisions of this paragraph (n) shall not apply to those activities, equipment, and devices authorized and legally operated pursuant to articles 47.1 and 60 of this title.

(II) Any person who violates any provision of this paragraph (n) is guilty of a class 5 felony and, upon conviction thereof, shall be punished as provided in section 18-1-105, C.R.S.

~~(III) Any organization which has applied for a permit by the state licensing authority to hold a gambling event pursuant to this paragraph (n) as said paragraph (n) existed prior to April 30, 1984, and which entered into a contract prior to April 13, 1984, for the operation of such a gambling event may hold the event on or after April 30, 1984, but only if the state licensing authority received an application for a permit prior to April 13, 1984, and thereafter has granted a permit, and only if said gambling event is held prior to July 1, 1984. No such gambling event shall be held on or after July 1, 1984, whether or not a permit has been applied for or granted by the state licensing authority.~~

~~(IV) Any fees paid by an applicant for a license or permit under this paragraph (n) shall be refunded to the applicant, if the applicant is prevented from conducting any of the activities which the license or permit would have authorized because of the elimination of casino-type gambling by Senate Bill No. 217, enacted at the second regular session of the fifty-fourth general assembly.~~

~~(6) (a) It is unlawful for any person to import or sell malt liquor in this state unless such person is the primary source of supply in the United States for the brand of malt liquor imported into or sold within this state and unless such person holds a valid nonresident manufacturer's or malt liquor importer's license pursuant to the provisions of section 12-47-114.1.~~

~~(b) If it is determined by the state licensing authority, in its discretion, as not constituting unfair competition or unfair practice, any such licensed nonresident or resident manufacturer or malt liquor importer may be authorized by said state licensing authority to import and sell, under and subject to the provisions of his license, any brand of malt liquor for which he is not the primary source of supply in the United States if such licensee is the sole source of supply of that brand of malt liquor in the state of Colorado.~~

~~(c) Any such nonresident or resident manufacturer or malt liquor importer shall, at least thirty days before the importation or sale of any such malt liquor in this state, file with the state licensing authority notice of intent to import one or more specified brands of malt liquor, together with a statement that he is the primary source of supply in the United States for any such brand, unless exempted pursuant to paragraph (b) of this subsection (6), in which case a statement that he is the sole source of supply of that brand of malt liquor in the state of Colorado shall be filed.~~

~~(d) As used in this subsection (6), the term "primary source of supply in the United States" means the brewer, manufacturer, or producer of malt liquor, or the exclusive agent within the United States, or any of the states, of any such brewer, manufacturer, or producer of malt liquor outside the United States.~~

~~(7)~~ (6) It is unlawful for any importer, manufacturer, or brewer to sell or to bring into this state for purposes of sale any FERMENTED MALT BEVERAGE OR ANY malt liquor without causing ~~such malt liquor~~ THE SAME to be unloaded and placed in the physical possession of a licensed wholesaler at the wholesaler's licensed premises in this state and to be inventoried for purposes of tax collection prior to delivery to a retailer or consumer.

(7) **[Formerly 12-46-112 (2)(a)]** IT IS UNLAWFUL FOR ANY PERSON LICENSED PURSUANT TO THIS ARTICLE OR ARTICLE 46 OF THIS TITLE TO GIVE AWAY FERMENTED MALT BEVERAGES FOR THE PURPOSE OF INFLUENCING THE SALE OF ANY PARTICULAR KIND, MAKE, OR BRAND OF ANY MALT BEVERAGE AND TO FURNISH OR SUPPLY ANY COMMODITY OR ARTICLE AT LESS THAN ITS MARKET PRICE FOR SAID PURPOSE, EXCEPT ADVERTISING MATERIAL AND SIGNS.

(8) **[Formerly 12-46-112 (3)]** IT IS UNLAWFUL FOR ANY MANUFACTURER OR WHOLESALER LICENSED PURSUANT TO ARTICLE 46 OF THIS TITLE TO SELL, DELIVER, OR CAUSE TO BE DELIVERED TO ANY RETAIL LICENSEE ANY BEVERAGE CONTAINING ALCOHOL IN EXCESS OF THREE AND TWO-TENTHS PERCENT BY WEIGHT OR FOUR PERCENT BY VOLUME, OR FOR ANY FERMENTED MALT BEVERAGE RETAILER TO SELL, POSSESS, OR PERMIT THE CONSUMPTION ON THE PREMISES OF ANY OF THE BEVERAGES CONTAINING ALCOHOL IN EXCESS OF THREE AND TWO-TENTHS PERCENT BY WEIGHT OR FOUR PERCENT BY VOLUME, OR FOR ANY FERMENTED MALT BEVERAGE RETAIL LICENSEE TO HOLD OR OPERATE UNDER ANY LICENSE FOR THE SALE OF ANY BEVERAGES CONTAINING ALCOHOL IN EXCESS OF THREE AND TWO-TENTHS PERCENT BY WEIGHT OR FOUR PERCENT BY VOLUME FOR THE SAME PREMISES. ANY VIOLATION BY ANY FERMENTED MALT BEVERAGE LICENSEE OF THE PROVISIONS OF THIS SUBSECTION (8) SHALL IMMEDIATELY CAUSE THE CANCELLATION OF THE LICENSE GRANTED UNDER THIS ARTICLE.

12-47-902. [Formerly 12-47-128.2] Testing for intoxication by law enforcement officers - when prohibited. (1) No person who is patronizing a licensed premises as defined in ~~section 12-47-103 (7)~~ SECTIONS 12-47-103 (13) AND 12-46-103 (3) shall be required or solicited by any law enforcement officer to submit to any mechanical test for the purpose of determining the ~~alcoholic~~ ALCOHOL content of such person's blood or breath while such person is upon such licensed premises except to determine if there is a violation of section 42-4-1301, C.R.S., by a driver of a motor vehicle unless the law enforcement officer is acting pursuant to a court order obtained in the manner described in subsection (2) of this section. No such test may be performed upon any licensed premises to obtain evidence of alleged intoxication, except pursuant to a court order as provided in this section or in case of a medical emergency, regardless of whether such alleged intoxication is a violation of any provision of this article.

(2) An ex parte order to permit any law enforcement officer to solicit any person who is patronizing a licensed premises as defined in ~~section 12-47-103 (7)~~ SECTIONS 12-47-103 (13) AND 12-46-103 (3) to submit to any mechanical test for the purpose of determining the ~~alcoholic~~ ALCOHOL content of ~~his~~ SUCH PERSON'S blood or breath while such person is upon such licensed premises may be issued by any judge of competent jurisdiction in the state of Colorado, including a district, county, or municipal court judge, upon application of a district attorney or a law enforcement agency showing probable cause to believe that evidence will be obtained of the

commission of the crime of providing any ~~malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGE to a visibly intoxicated person or minor in violation of section ~~12-47-128 (1) (a) or (5) (a) (I)~~ 12-47-901 (1) (a) OR (5) (a) (I).

(3) Each application for an ex parte order as described in subsection (2) of this section shall be made in writing upon oath or affirmation to a judge of competent jurisdiction, including a district, county, or municipal court judge, and shall state the applicant's authority to make such application. Each application shall include the following information:

(a) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(b) A complete statement of the facts and circumstances relied upon by the applicant to justify his OR HER belief that an order should be issued, which shall include, but not be limited to:

(I) A sufficient description of the licensed premises ~~which~~ THAT is proposed to be the subject of the court order;

(II) Evidence ~~which~~ THAT shows probable cause to believe that there have been frequent and continuing violations of section ~~12-47-128 (1) (a) or (5) (a) (I)~~ 12-47-901 (1) (a) OR (5) (a) (I) regarding the crime of providing any ~~malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGE to a visibly intoxicated person or minor; and

(III) A complete statement as to whether or not other investigative procedures have been tried and failed, or why other investigative procedures reasonably appear to be impractical for economic or other reasons or unlikely to succeed if tried.

(4) Upon an application being made in accordance with subsection (3) of this section, the judge may enter an ex parte order, as requested or as modified, authorizing or approving testing as described in subsection (2) of this section in a particular licensed premises located within the territorial jurisdiction of the court in which the judge is sitting, and within the jurisdiction of the district attorney or law enforcement agency making the request, if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause to believe that there have been frequent and continuing violations of section ~~12-47-128 (1) (a) or (5) (a) (I)~~ 12-47-901 (1) (a) OR (5) (a) (I) regarding the crime of providing any ~~malt, vinous, or spirituous liquor~~ AN ALCOHOL BEVERAGE to a visibly intoxicated person or minor; and

(b) Normal investigative procedures have been tried and failed, or reasonably appear impractical for economic or other reasons or unlikely to succeed if tried.

(5) Any order issued pursuant to subsection (4) of this section, the application for such order, and any information or evidence submitted to the court in support of such order, shall not be disclosed to any person other than the law enforcement officer or agency ~~which~~ THAT applied for the order until the order has been executed at the licensed premises to which the order applies.

(6) Any evidence obtained through any violation of this section shall not be admissible in any court of this state or in any administrative proceeding in this state.

12-47-903. [Formerly 12-47-130] Violations - penalties. (1) (a) Any person violating any of the provisions of this article or ARTICLE 46 OR 48 OF THIS TITLE OR any of the rules and regulations authorized and adopted pursuant to ~~§~~ SUCH ARTICLES is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than two hundred fifty dollars for each offense.

(b) The penalties provided in this section shall not be affected by the penalties provided in any other section of this article OR ARTICLE 46 OR 48 OF THIS TITLE but shall be construed to be in addition to any other penalties.

(2) Any person violating any of the provisions of section ~~12-47-128~~ 12-47-901 (1) (a), (1) (f), (1) (g), (1) (i), (1) (k), (1) (l), (5) (a) (I), or ~~(5) (e) (F)~~ (5) (b) commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

(3) Any person violating any of the provisions of section ~~12-47-128~~ 12-47-901 (1) (b) or (1) (c) commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. For the second conviction and for all subsequent convictions of violating the provisions of section ~~12-47-128 (1) (b) or (1) (c)~~ 12-47-901 (1) (b) or (1) (c), the court shall impose at least the minimum fine and shall have no discretion to suspend any fine so imposed; except that the court may provide for the payment of such fine as provided in subsection (4) of this section.

(4) At the discretion of the court, the fines provided for violations of section ~~12-47-128~~ 12-47-901 (1) (b) and (1) (c) may be ordered to be paid by public work only at a reasonable hourly rate to be established by the court who shall designate the time within which such public work is to be completed.

(5) Any person violating the provisions of section ~~12-47-128~~ 12-47-901 (1) (d) may be proceeded against pursuant to section 18-6-701, C.R.S., for contributing to the delinquency of a minor.

12-47-904. [Formerly 12-47-131] Duties of inspectors and police officers.

(1) The inspectors of the liquor enforcement division and their supervisors, while actually engaged in performing their duties and while acting under proper orders or regulations, shall have and exercise all the powers vested in peace officers of this state. In the exercise of their duties, such inspectors and their supervisors shall have the power to arrest. Such inspectors and their supervisors shall also have the authority to issue summons for violations of the provisions of this article AND ARTICLES 46 AND 48 OF THIS TITLE.

(2) It is the duty of all sheriffs and police officers to enforce the provisions of this article and ARTICLES 46 AND 48 OF THIS TITLE AND the rules and regulations made ~~thereunder~~ PURSUANT TO SAID ARTICLES and to arrest and complain against any person violating any of the provisions of this article or rules and regulations pertaining thereto. It is the duty of the district attorney of the respective judicial districts of this state to prosecute all violations of ~~this article~~ SAID ARTICLES in the manner and form as is now provided by law for the prosecution of crimes and misdemeanors, and it is a violation of ~~this article~~ SAID ARTICLES for any such person,

knowingly, to fail to perform any of his duties pursuant to this section.

12-47-905. [Formerly 12-47-132] Warrants - searches and seizures. (1) If any person makes an affidavit before the judge of any county or district court stating that he OR SHE has reason to and does believe that ~~alcoholic liquors~~ ALCOHOL BEVERAGES are being sold, bartered, exchanged, divided, or unlawfully given away, or kept for such purposes, or carried in violation of this article AND ARTICLE 46 OF THIS TITLE within the jurisdiction of such court, and describing in such affidavit the premises, wagon, automobile, truck, vehicle, contrivance, thing, or device to be searched, the judge of such court shall issue a warrant to any officer, which the complainant may designate, having power to serve original process commanding such officer to search the premises (other than a home), wagon, automobile, truck, vehicle, contrivance, thing, or device described in such affidavit.

(2) Such warrant shall be substantially as follows:

STATE OF COLORADO)

)ss.

County of

The People of the State of Colorado to

Greeting:

Whereas, there has been filed with the undersigned an affidavit of which the following is a copy:

(Here copy of affidavit)

Therefore you are hereby commanded, in the name of the people of the State of Colorado, forthwith, together with the necessary and proper assistance to enter into

.....
.....

(Here describe place mentioned in the affidavit)

of the said situated in the county of aforesaid and there diligently search for the said ~~alcoholic liquors~~ ALCOHOL BEVERAGES and that you bring the same or any part thereof found in such search, together with such vessels in which such ~~liquors~~ BEVERAGES are found and the implements and furniture used in connection therewith, and the wagon, automobile, truck, vehicle, contrivance, thing, or device in which carried, forthwith before me, to be disposed of and dealt with according to law.

Given under my hand and seal this day of, ~~A.D. 19~~,

.....
Judge of the Court

(3) The officer charged with the execution of said warrant, when necessary to obtain entrance or when entrance has been refused, may break open any premises (other than a home), wagon, automobile, truck, vehicle, contrivance, thing, or device which by said warrant ~~he~~ THE OFFICER is directed to search and may execute said warrant any hour of the day or night.

12-47-906. [Formerly 12-47-133] Return on warrant - sale of liquor seized.

(1) If any ~~alcoholic liquors~~ ALCOHOL BEVERAGES are there found, said officer shall seize the same and the vessels in which they are contained and all implements and furniture used or kept in connection with such ~~liquors~~ BEVERAGES in the illegal selling, bartering, exchanging, giving away, or carrying of same, and any wagon, automobile, truck, vehicle, contrivance, thing, or device used in conveying the same,

and safely keep them and make immediate return on such warrant. Such property shall not be taken from the custody of any officer seizing or holding the same by writ of replevin or other process while the proceedings relating thereto are pending.

(2) Final judgment of conviction in such proceedings shall be a bar to any suit for the recovery of any such property so seized or the value of same or for damages alleged to arise by reason of such seizure and detention. The judgment entered shall find said ~~liquor~~ ALCOHOL BEVERAGES to be unlawful and shall direct its destruction or sale forthwith, in the manner provided by subsection (7) of this section. The wagon, automobile, truck, vehicle, contrivance, thing, or device, vessels, implements, and furniture shall likewise be ordered disposed of in the same manner as personal property is sold under execution, and the proceeds therefrom applied, first in the payment of the cost of the prosecution and of any fine imposed, and the balance, if any, paid into the general school fund of the county in which such conviction is had.

(3) The officer serving the warrant shall forthwith proceed in the manner required for the institution of a criminal action in the court issuing the warrant, charging such violation of law as the evidence in the case justifies. If such officer refuses or neglects to so proceed, then the person filing the affidavit for the search warrant, or any other person, may so proceed.

(4) If, during the trial of a person charged with a violation of this article, the evidence presented discloses that fluids were poured out, or otherwise destroyed, manifestly for the purpose of preventing seizure, said fluids shall be held to be prima facie ~~alcoholic liquors~~ ALCOHOL BEVERAGES and intended for unlawful use, sale, barter, exchange, or gift.

(5) If no person is in possession of the premises where illegal ~~alcoholic liquors~~ ALCOHOL BEVERAGES are found, the officer seizing such ~~liquors~~ BEVERAGES shall post in a conspicuous place on said premises a copy of ~~his~~ THE warrant, and if at the time fixed for any hearing concerning the ~~liquor~~ BEVERAGES seized, or within thirty days thereafter, no person appears, the court in which the hearing was to be held shall order such ~~liquors~~ BEVERAGES destroyed or sold in the manner provided in subsection (7) of this section.

(6) No warrant issued pursuant to this article shall authorize the search of any place where a person may lawfully keep ~~alcoholic liquors~~ ALCOHOL BEVERAGES as provided in this article. No warrant shall be issued to search a home occupied as such, as provided in this section, unless it or some part of it is used in connection with or as a store, shop, hotel, boardinghouse, rooming house, or place of public resort.

(7) Any sale of ~~alcoholic liquors~~ ALCOHOL BEVERAGES conducted upon order of court pursuant to this section shall be conducted in the following manner:

(a) The officer ordered by the court to conduct the sale shall give notice of the time and place of the sale by posting a notice in a prominent place in the county for a period of five consecutive days prior to the day of the sale. The notice shall describe as fully as possible the property to be sold and shall state the time and place of the sale.

(b) The sale shall be conducted as a public auction in some suitable public place

on the specified day at some time between the hours of 9 a.m. and 5 p.m., and the time chosen for the sale shall be indicated in the notice.

12-47-907. [Formerly 12-47-134] Loss of property rights.

~~(1) Repealed.~~

~~(2) There shall be no property rights of any kind in any alcoholic liquors ALCOHOL BEVERAGES, vessels, appliances, fixtures, bars, furniture, implements, wagons, automobiles, trucks, vehicles, contrivances, or any other things or devices used in or kept for the purpose of violating any of the provisions of this article OR ARTICLE 46 OF THIS TITLE.~~

SECTION 4. Repeal of sections not being relocated in section 3 of this act. Sections 12-47-125 and 12-47-143, Colorado Revised Statutes, 1991 Repl. Vol., are repealed.

SECTION 5. Article 29.5 of title 35, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

35-29.5-101.5. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT COLORADO HAS A SUBSTANTIAL INTEREST IN PROMOTING THE DEVELOPMENT OF A VIABLE AND STABLE WINE INDUSTRY IN THIS STATE. THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT GRAPE CULTIVATION IS CLOSELY RELATED TO FRUIT CULTIVATION CARRIED OUT IN VARIOUS PARTS OF COLORADO; THAT GRAPE CULTIVATION AND WINE PRODUCTION ARE A LOGICAL SUPPLEMENT TO, AND DEVELOPMENT OF, EXISTING AGRICULTURAL BUSINESS CONDUCTED IN THE STATE; THAT WINE PRODUCTION HAS BECOME A SIGNIFICANT INDUSTRY IN OTHER STATES BECAUSE OF THE ACTION OF STATE AND LOCAL GOVERNMENTS IN THOSE AREAS TO FOSTER DEVELOPMENT OF THE INDUSTRY; THAT A VIABLE WINE INDUSTRY CAN ENHANCE COLORADO'S TOURIST INDUSTRY; THAT SOME ASPECTS OF WINE INDUSTRY DEVELOPMENT CAN BEST BE ACCOMPLISHED BY AN INDUSTRY-WIDE APPROACH RATHER THAN BY INDIVIDUAL PRODUCERS, SUCH AS CONDUCTING SCIENTIFIC RESEARCH AND DISSEMINATING AND PUBLISHING THE RESULTS OF SUCH RESEARCH, PROMOTING COLORADO WINES AS DISTINCT FROM THOSE PRODUCED IN OTHER REGIONS, AND PROMOTING AWARENESS OF RESPONSIBLE CONSUMPTION OF WINE; AND THAT THE STATE SHOULD AID COLORADO'S WINE INDUSTRY THROUGH RESEARCH AND PROMOTION TO ALLOW THE INDUSTRY TO REALIZE ITS FULL POTENTIAL IN THIS STATE.

SECTION 6. 35-29.5-102, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

35-29.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1.5) "EASTERN SLOPE" MEANS THE AREA EAST OF THE CONTINENTAL DIVIDE.

(2.5) "GRAND VALLEY VITICULTURAL AREA" MEANS THE FEDERALLY DEFINED AREA IN MESA COUNTY IN WHICH WINE GRAPES ARE GROWN.

(3.5) "WESTERN SLOPE" MEANS THE AREA WEST OF THE CONTINENTAL DIVIDE, EXCLUDING THE GRAND VALLEY VITICULTURAL AREA.

SECTION 7. 35-29.5-103 (2) (a), (2) (b), (2) (c), (3), and (4), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

35-29.5-103. Colorado wine industry development board - creation - members. (2) (a) The board shall consist of ~~eight~~ NINE members appointed by the governor. In making appointments, the governor shall take into consideration any nominations or recommendations made by the wine industry organization in Colorado.

(b) (I) ~~At least two of the appointments shall be representatives from wine grape producers. At least two~~ FIVE of the appointments shall be representatives of licensed wineries in the state. OF SUCH FIVE APPOINTMENTS, ONE SHALL BE A REPRESENTATIVE OF LICENSED WINERIES IN THE WESTERN SLOPE, ONE SHALL BE A REPRESENTATIVE OF LICENSED WINERIES IN THE GRAND VALLEY VITICULTURAL AREA, ONE SHALL BE A REPRESENTATIVE OF LICENSED WINERIES IN THE EASTERN SLOPE, AND TWO SHALL BE AT-LARGE REPRESENTATIVES. THE APPOINTMENT OF AT-LARGE MEMBERS SHALL REFLECT THE PROPORTION OF FEES AND EXCISE TAXES PAID BY WINERIES IN EACH OF THE THREE REGIONS. AT LEAST ONE OF THE WINERY REPRESENTATIVES SHALL ALSO BE A GROWER. ~~At least one appointment shall be a representative of the wholesale wine distributors in Colorado. At least one appointment shall be a representative of the retail wine distributors in Colorado. The two remaining appointments shall be members of the public in Colorado who have demonstrated by membership in an industry organization, public service, or otherwise, active interest in the development of the Colorado wine industry or Colorado tourism industry, or both, and who possess some unique skills and experience in the marketing, production, or packaging areas that will benefit the board in carrying out its duties.~~

(II) TWO APPOINTMENTS SHALL BE REPRESENTATIVES OF THE WHOLESALE WINE DISTRIBUTORS IN COLORADO.

(III) ONE APPOINTMENT SHALL BE A REPRESENTATIVE OF WINE GRAPE PRODUCERS.

(IV) ONE APPOINTMENT SHALL BE A REPRESENTATIVE OF THE RETAIL WINE DISTRIBUTORS IN COLORADO.

(c) A representative of the Colorado tourism board, ~~and~~ a representative of Colorado state university, AND A MEMBER OF THE PUBLIC shall be invited to serve on the board in an ex officio capacity.

(3) Except as provided in subsection (4) of this section with respect to initial appointments to the board, members of the board shall serve for terms of ~~two~~ FOUR years each to continue in office until a successor is appointed and qualified; except that in the case of a vacancy on the board, an appointment shall be for the remainder of the unexpired term. NO MEMBER SHALL BE APPOINTED TO CONSECUTIVE TERMS; EXCEPT THAT ANY MEMBER APPOINTED FOR LESS THAN TWO YEARS IN THE CASE OF A VACANCY MAY BE APPOINTED UPON THE EXPIRATION OF THE SHORTER TERM TO SERVE A FOUR-YEAR TERM.

(4) Of the members of the board appointed to terms commencing on and after ~~July 1, 1990~~, JULY 1, 1997, at least one of the representatives from the ~~wine-grape producers~~ WHOLESALE WINE DISTRIBUTORS AND one of the representatives from licensed wineries, ~~and one of the public representatives~~ shall be appointed for terms of three years. THEREAFTER, ALL APPOINTMENTS EXCEPT THOSE NECESSARY TO FILL MID-TERM VACANCIES SHALL BE FOR ONE FOUR-YEAR TERM.

SECTION 8. 35-29.5-104, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

35-29.5-104. Duties and powers of the board. (2) THE BOARD SHALL PROMOTE ALL WINES PRODUCED OR FINISHED BY A LICENSED COLORADO WINERY.

SECTION 9. 35-29.5-105 (2), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

35-29.5-105. Colorado wine industry development fund - use of moneys. (2) In any fiscal year, the board shall budget from moneys in the fund, at least one-third toward research and development and at least one-third toward promotion and marketing of the Colorado wine industry, including any administrative costs associated therewith. ANY REVENUE GENERATED BY RESEARCH MAY BE DEDUCTED FROM THE AMOUNT BUDGETED FOR RESEARCH.

SECTION 10. 12-44-301 (2), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-44-301. Definitions. As used in this part 3, unless the context otherwise requires:

(2) "Lodging establishment" means a bed and breakfast, as defined in section 12-47-103 ~~(1-7)~~ (3), or a hotel, motel, resort, or public inn, as defined in section 12-44-101 (3).

SECTION 11. 12-48-103 (2), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-48-103. Grounds for issuance of special permits. (2) A special event permit may be issued under this section notwithstanding the fact that the special event is to be held on premises licensed under the provisions of section ~~12-47-120~~ or ~~12-47-120.5~~ 12-47-416 OR 12-47-417. The holder of a special event permit issued pursuant to this subsection (2) shall be responsible for any violation of article 47 of this title.

SECTION 12. 18-1-901 (3) (1) (III), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-1-901. Definitions. (3) (1) (III) "Peace officer, level II," means ~~an inspector of the state licensing authority under section 12-46-116, C.R.S., of the "Colorado Beer Code";~~ an inspector of the STATE LICENSING AUTHORITY UNDER THE "COLORADO BEER CODE" OR THE liquor enforcement division under section ~~12-47-131~~ 12-47-904, C.R.S.; an authorized investigator of the state lottery division

pursuant to section 24-35-205 (3) or 24-35-206 (7), C.R.S.; any authorized investigator and the director of the division of gaming and the executive director of the department of revenue pursuant to section 12-47.1-204, C.R.S.; any fire arson investigator appointed by the chief of any fire department and approved by the sheriff or the chief of police of the jurisdiction in which such fire arson investigator performs duties; any officer, guard, or supervisory employee within the department of corrections, except any investigator employed by the department of corrections; a security guard employed by the state of Colorado; a security officer as defined in section 24-7-101, C.R.S.; a district wildlife manager, special district wildlife manager, or parks and recreation officer defined as a peace officer pursuant to section 33-1-102, C.R.S., and acting under the authority of a peace officer pursuant to sections 33-6-101 and 33-15-101, C.R.S.; an investigator for the division of racing events and the investigator's supervisors, including the director of the division of racing events pursuant to section 12-60-203, C.R.S., or a railroad employee defined as a peace officer pursuant to section 40-32-104.5, C.R.S., who shall have access to Colorado bureau of investigation fugitive and stolen property records. "Peace officer, level II," has the authority to enforce all the laws of the state of Colorado while acting within the scope of his authority and in the performance of his duties, and section 18-1-106 (1.5) and section 18-3-107 shall apply to "peace officer, level II".

SECTION 13. 18-9-123 (1) (a) (I), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-9-123. Bringing alcohol beverages, bottles, or cans into the major league baseball stadium. (1) (a) It shall be unlawful for any person to carry or bring into the Denver metropolitan major league baseball stadium district stadium, as defined in section 32-14-103 (5) and (10), C.R.S., and referred to in this section as the "stadium", the following:

(I) Any ~~alcoholic~~ ALCOHOL beverage or ~~alcoholic~~ ALCOHOL liquor as defined in section 12-47-103 ~~(1.5)~~ (2), C.R.S.; or

SECTION 14. 18-13-121 (4) (a) (III) (A), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-13-121. Furnishing cigarettes or tobacco products to minors - sale of cigarettes or tobacco products in vending machines prohibited - warning sign.

(4) (a) Any person who sells or offers to sell any cigarettes or tobacco products, as defined in section 39-28.5-101 (5), C.R.S., by use of a vending machine or other coin-operated machine commits a class 2 petty offense, and, upon conviction thereof, shall be punished by a fine of two hundred dollars; except that cigarettes may be sold at retail through vending machines only in:

(III) (A) Places where the vending machine is under the direct supervision of the owner of the establishment or an adult employee of the owner, including but not limited to, establishments holding a valid liquor license issued pursuant to PART 3 OF article 47 of title 12, C.R.S.

SECTION 15. 24-35-101 (1) (d), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-35-101. Functions of department of revenue. (1) There is hereby created the department of revenue, the functions of which are the collection of the following:

(d) Taxes levied and the license fees imposed by the provisions of ~~articles~~ ARTICLE 46 and PART 5 OF ARTICLE 47 of title 12, C.R.S., and the administration and enforcement of said provisions;

SECTION 16. 24-35-401, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-35-401. Liquor enforcement division cash fund. There is hereby created in the state treasury the liquor enforcement division cash fund. The fund shall consist of moneys transferred thereto in accordance with sections ~~12-46-110 (2) and 12-47-124 (1)~~ 12-46-105 (2) AND 12-47-502 (1), C.R.S. The general assembly shall make annual appropriations from the fund for a portion of the direct and indirect costs of the liquor enforcement division in the administration and enforcement of articles 46, 47, and 48 of title 12, C.R.S. Any money remaining in the fund at the end of each fiscal year which is in excess of the amount appropriated by the general assembly and a ten percent reserve shall revert to the general fund.

SECTION 17. 26-2-104 (2) (a), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

26-2-104. Public assistance programs - electronic benefits transfer service - rules. (2) (a) The state department is authorized to implement an electronic benefits transfer service for administering the delivery of public assistance payments and food stamps to recipients. The electronic benefits transfer service shall be designed to allow clients access to cash benefits through automated teller machines or similar electronic technology. The electronic benefits transfer service shall allow clients eligible for food stamps access to food items through the use of point of sale terminals at retail outlets. Only those businesses that offer products or services related to the purpose of the public assistance benefits shall be allowed to participate in the electronic benefits transfer service through the use of point of sale terminals. Clients shall not be allowed to access cash benefits through the electronic benefits transfer service from automated teller machines in this state located in licensed gaming establishments as defined in section 12-47.1-103 (15), C.R.S., in-state simulcast facilities as defined in section 12-60-102 (14), C.R.S., tracks for racing as defined in section 12-60-102 (26), C.R.S., commercial bingo facilities as defined in section 12-9-102 (2.3), C.R.S., stores or establishments in which the principal business is the sale of firearms, or retail establishments licensed to sell malt, vinous, or spirituous liquors pursuant to PART 3 OF article 47 of title 12, C.R.S. In the development and implementation of the service, the state department shall consult with representatives of those persons, agencies, and organizations that will use or be affected by the electronic benefits transfer service, including program clients, to assure that the service is as workable, effective, and efficient as possible. The electronic benefits transfer service shall be applicable to the public assistance programs described in subsection (1) of this section and to food stamps as described in part 3 of this article. The state department shall contract in accordance with state purchasing requirements with any entity for the development and administration of the electronic benefits transfer service. In order to ensure the integrity of the electronic benefits transfer service, the system developed pursuant to this section shall use, but is not limited to,

security measures such as individual personal identification numbers, photo identification, or fingerprint identification. The security method or methods selected shall be those that are most efficient and effective. The state board shall establish by rule a policy and procedure to limit losses to a client after the client reports that the electronic benefits transfer card or benefits have been lost or stolen.

SECTION 18. 35-29.5-105 (1), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

35-29.5-105. Colorado wine industry development fund - use of moneys.

(1) There is hereby created in the state treasury the Colorado wine industry development fund. The fund shall consist of moneys credited thereto pursuant to section ~~12-47-127 (1) (b.1) and (1) (b.2)~~ 12-47-503 (1) (b) AND (1) (c), C.R.S. All moneys in such fund are hereby continuously appropriated to the board for the expenses of the board in implementing the provisions of this article.

SECTION 19. 35-29.5-106, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

35-29.5-106. Use of phrase "Colorado Grown" on wine industry labeling. A winery located in Colorado and licensed pursuant to the provisions of PART 3 OF article 47 of title 12, C.R.S., may only affix the phrase "Colorado Grown" to bottles of wine of its own manufacture which contain wine produced from one hundred percent Colorado grown grapes, or other fruits.

SECTION 20. 39-22-104 (3) (e) (I), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate. (3) There shall be added to federal taxable income:

(e) (I) Any expenses incurred by a taxpayer with respect to expenditures made at, or payments made to, a club licensed pursuant to section ~~12-47-120~~ 12-47-416, C.R.S., which has a policy to restrict membership on the basis of sex, race, religion, color, ancestry, or national origin. Any such club shall provide on each receipt furnished to a taxpayer a printed statement as follows:

The expenditures covered by this receipt are
nondeductible for state income tax purposes.

SECTION 21. 39-22-304 (2) (e) (I), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-22-304. Net income of corporation - repeal. (2) There shall be added to federal taxable income:

(e) (I) Any expenses incurred by a taxpayer with respect to expenditures made at, or payments made to, a club licensed pursuant to section ~~12-47-120~~ 12-47-416, C.R.S., which has a policy to restrict membership on the basis of sex, race, religion, color, ancestry, or national origin. Any such club shall provide on each receipt furnished to a taxpayer a printed statement as follows:

The expenditures covered by this receipt are nondeductible for state income tax purposes.

SECTION 22. 42-2-125 (1) (m), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-2-125. Mandatory revocation of license and permit. (1) The department shall immediately revoke the license or permit of any driver, minor driver, or provisional driver upon receiving a record showing that such driver has:

(m) Been convicted of violating ~~section 12-46-112 (1) (c) or (1) (d), C.R.S., section 12-47-128 (1) (b) or (1) (e)~~ 12-47-901 (1) (b) OR (1) (c), C.R.S., or section 18-13-122 (2), C.R.S., or any counterpart municipal charter or ordinance offense to such sections.

SECTION 23. Effective date. This act shall take effect July 1, 1997.

SECTION 24. 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 8, 1997