

## CHAPTER 220

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**PROFESSIONS AND OCCUPATIONS**


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**HOUSE BILL 04-1357**

BY REPRESENTATIVE(S) Rose, Berry, Boyd, Crane, Frangas, Hall, Hoppe, Larson, McFadyen, Rippey, Smith, Spradley, and Stafford;  
also SENATOR(S) Isgar, Chlouber, and Tupa.

**AN ACT**

**CONCERNING AUTHORIZATION FOR A WINERY TO OWN A RESTAURANT LICENSED TO SELL ALCOHOL BEVERAGES, AND, IN CONNECTION THEREWITH, ALLOWING A WINERY TO SELL BEVERAGES OF ITS OWN MANUFACTURE IN SUCH RESTAURANT.**

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

**SECTION 1.** 12-47-103 (40), Colorado Revised Statutes, is amended, and the said 12-47-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**12-47-103. Definitions.** As used in this article and article 46 of this title, unless the context otherwise requires:

(39.5) "VINTNER'S RESTAURANT" MEANS A RETAIL ESTABLISHMENT THAT SELLS FOOD FOR CONSUMPTION ON THE PREMISES AND THAT MANUFACTURES NOT MORE THAN TWO HUNDRED FIFTY THOUSAND GALLONS OF WINE ON ITS PREMISES EACH YEAR.

(40) "Winery" means any establishment where vinous liquors are manufactured; EXCEPT THAT THE TERM DOES NOT INCLUDE A VINTNER'S RESTAURANT LICENSED PURSUANT TO SECTION 12-47-420.

**SECTION 2.** 12-47-309 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**12-47-309. 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 12-47-505:

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

(l) VINTNER'S RESTAURANT LICENSE.

**SECTION 3.** 12-47-401 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**12-47-401. 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:

(t) VINTNER'S RESTAURANT LICENSE.

**SECTION 4.** Part 4 of article 47 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-47-420. Vintner's restaurant license.** (1) A VINTNER'S RESTAURANT LICENSE MAY BE ISSUED TO A PERSON OPERATING A VINTNER'S RESTAURANT AND ALSO SELLING MALT, VINOUS, AND SPIRITUOUS LIQUORS IN THE PLACE WHERE SUCH LIQUORS ARE TO BE CONSUMED.

(2) DURING THE HOURS ESTABLISHED IN SECTION 12-47-901 (5) (b), VINOUS LIQUORS MANUFACTURED BY A VINTNER'S RESTAURANT 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 VINOUS LIQUORS FERMENTED, 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 FIFTY 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 VINTNER'S RESTAURANT, 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 VINTNER'S RESTAURANT 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.

(5) (a) SUBJECT TO PARAGRAPH (b) OF THIS SUBSECTION (5), IT IS UNLAWFUL FOR AN OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A VINTNER'S RESTAURANT LICENSE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANOTHER BUSINESS LICENSED PURSUANT TO THIS ARTICLE.

(b) A PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A VINTNER'S RESTAURANT LICENSE MAY CONDUCT, OWN IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANOTHER VINTNER'S RESTAURANT, 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).

**SECTION 5.** 12-47-503 (1) (a) and (1) (c), Colorado Revised Statutes, are amended to read:

**12-47-503. 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 beverages, not otherwise exempt from the tax, sold, offered for sale, or used in this state; except that, upon the same beverages, only one such tax shall be paid in this state. The manufacturer thereof, or the first licensee receiving 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 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 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 AND VINTNER'S RESTAURANT LICENSEES.

(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 OR VINTNER'S RESTAURANT, whether true or hybrid. The excise tax imposed pursuant to this paragraph (c) shall be paid to the department of revenue by the licensed winery OR VINTNER'S RESTAURANT at the time of purchase of the product by the winery OR VINTNER'S RESTAURANT or of importation of the product, whichever is later. An amount equal to one hundred percent of such excise tax 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.

**SECTION 6.** 12-47-501 (1) (l), Colorado Revised Statutes, is amended to read:

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

(l) For each brew pub OR VINTNER'S RESTAURANT license, three hundred twenty-five dollars;

**SECTION 7.** 12-47-505 (1) (i), Colorado Revised Statutes, is amended to read:

**12-47-505. 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:

(i) For each brew pub OR VINTNER'S RESTAURANT license, five hundred dollars;

**SECTION 8.** 12-47-301 (2) (a), Colorado Revised Statutes, is amended to read:

**12-47-301. Licensing in general.** (2) (a) Before granting any license, all licensing authorities shall consider, except where 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 that are or may be placed upon the neighborhood by the local licensing authority. With respect to a second or additional hotel and restaurant OR VINTNER'S 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 OR VINTNER'S RESTAURANT license that would have the effect of restraining competition shall be approved.

**SECTION 9.** 12-47-901 (5) (b) (II), Colorado Revised Statutes, is amended to read:

**12-47-901. Unlawful acts - exceptions.** (5) It is unlawful for any person licensed to sell at retail pursuant to this article:

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

(II) In sealed containers, on Monday through Saturday, beginning at 8 a.m. until 12 midnight each day; except that, for a limited winery OR VINTNER'S RESTAURANT 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 malt, vinous, or spirituous liquors shall be sold, served, or distributed in a sealed container on Christmas day.

**SECTION 10.** 12-47-308 (8), Colorado Revised Statutes, is amended to read:

**12-47-308. Unlawful financial assistance.** (8) It is unlawful for an owner, part owner, shareholder, or person interested directly or indirectly in ~~any~~ A brew pub OR VINTNER'S RESTAURANT license to conduct, own in whole or in part, or be directly or indirectly interested in a wholesaler's license issued under this article.

**SECTION 11.** 12-47-411 (13) (b), Colorado Revised Statutes, is amended to read:

**12-47-411. Hotel and restaurant license.** (13) (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 LICENSE, brew pub license or establishment, VINTNER'S RESTAURANT LICENSE, OR tavern 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).

**SECTION 12.** 12-47-415 (5) (b), Colorado Revised Statutes, is amended to read:

**12-47-415. Brew pub license.** (5) (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, VINTNER'S RESTAURANT, 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).

**SECTION 13.** 12-47-419 (2), Colorado Revised Statutes, is amended to read:

**12-47-419. Public transportation system license.** (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), AND A LICENSED AIRLINE PUBLIC TRANSPORTATION SYSTEM MAY BE INTERESTED IN ANY OTHER RETAIL LIQUOR LICENSE OR IN A FINANCIAL INSTITUTION REFERRED TO IN SECTION 12-47-308 (4).

**SECTION 14. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 12, 2004