

## CHAPTER 272

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**PROFESSIONS AND OCCUPATIONS**

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**SENATE BILL 09-254**

BY SENATOR(S) Bacon, Veiga;  
also REPRESENTATIVE(S) Scanlan and Balmer, Fischer, Frangas, Kefalas, Kerr J., Liston, Priola, Ryden.

**AN ACT**

**CONCERNING THE AUTHORITY OF CERTAIN LICENSED BEER MANUFACTURERS TO USE COMMON LICENSED PREMISES FOR THE PRODUCTION OF BEER PRODUCTS IN THIS STATE.**

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

**SECTION 1.** 12-46-104 (1) (a), Colorado Revised Statutes, is amended to read:

**12-46-104. 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) (I) A manufacturer's license shall be granted and issued to any person, partnership, association, organization, or corporation qualifying under 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 fifty dollars to the state licensing authority. A manufacturer so licensed may have additional warehouses in the state upon payment of the wholesaler's license fee as provided in this section.

(II) A MANUFACTURER THAT HAS RECEIVED A LICENSE PURSUANT TO THIS PARAGRAPH (a) SHALL BE AUTHORIZED TO MANUFACTURE FERMENTED MALT BEVERAGES UPON AN ALTERNATING PROPRIETOR LICENSED PREMISES, AS DEFINED IN SECTION 12-47-103, AS APPROVED BY THE STATE LICENSING AUTHORITY, BUT THE MANUFACTURER SHALL NOT CONDUCT RETAIL SALES OF FERMENTED MALT BEVERAGES FROM AN AREA LICENSED OR DEFINED AS AN ALTERNATING PROPRIETOR LICENSED PREMISES.

**SECTION 2.** 12-47-103 (2.5) and (4), Colorado Revised Statutes, are amended to read:

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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.*

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

(2.5) "Alternating proprietor licensed premises" means a distinct and definite area, as specified in an alternating use of ~~wine~~ premises application, that is owned by or in possession of a ~~winery~~ PERSON licensed pursuant to ~~section~~ SECTION 12-46-104 (1) (a), 12-47-402, ~~or~~ 12-47-403, OR 12-47-415 and within which such licensee and other ~~wineries~~ PERSONS licensed pursuant to ~~section~~ SECTION 12-46-104 (1) (a), 12-47-402, ~~or~~ 12-47-403, OR 12-47-415, are authorized to manufacture and store vinous ~~liquor~~ LIQUORS, MALT LIQUORS, OR FERMENTED MALT BEVERAGES in accordance with the provisions of this article OR ARTICLE 46 OF THIS TITLE, AS APPLICABLE.

(4) "Brew pub" means a retail establishment that manufactures not more than one million eight hundred sixty thousand gallons of malt liquor on its LICENSED premises OR LICENSED ALTERNATING PROPRIETOR LICENSED PREMISES, COMBINED, each CALENDAR year.

**SECTION 3.** 12-47-202 (2) (a) (I) (P) and (2) (a) (I) (Q), Colorado Revised Statutes, are amended, and the said 12-47-202 (2) (a) (I) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH, to read:

**12-47-202. Duties of state licensing authority.** (2) (a) (I) 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:

(P) Practices unduly designed to increase the consumption of alcohol beverages; ~~and~~

~~(Q) 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~~ IMPLEMENTATION, STANDARDIZATION, AND ENFORCEMENT OF ALTERNATING PROPRIETOR LICENSED PREMISES. THE STATE LICENSING AUTHORITY SHALL CONSULT WITH INTERESTED PARTIES FROM THE ALCOHOL BEVERAGE INDUSTRY IN DEVELOPING APPROPRIATE RULES TO ENSURE ADEQUATE OVERSIGHT AND REGULATION OF ALTERNATING PROPRIETOR LICENSED PREMISES; AND

(R) 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.

**SECTION 4.** 12-47-301 (3) (a), Colorado Revised Statutes, is amended to read:

**12-47-301. Licensing in general.** (3) (a) Each license issued under this article and article 46 of this title is separate and distinct. It is unlawful for any person to exercise any of the privileges granted under any license other than that which the person holds or for any licensee to allow any other person to exercise such privileges granted under the licensee's license, except as provided in ~~section~~ SECTION 12-46-104 (1) (a), 12-47-402 (2.5), 12-47-403 (2) (a), ~~or~~ 12-47-403.5, OR 12-47-415 (1) (b). A separate license shall be issued for each specific business or

business entity and each geographical location, and in said license the particular 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, an optional premises licensee for optional premises located on an outdoor sports and recreational facility, and a wine festival at which more than one licensee participates pursuant to a wine festival permit shall be considered a single business and location.

**SECTION 5.** 12-47-402 (2.5), Colorado Revised Statutes, is amended to read:

**12-47-402. Manufacturer's license.** (2.5) (a) Any winery that has received a license pursuant to this section shall be authorized to manufacture vinous liquors upon an alternating proprietor licensed premises, as approved by the state licensing authority, but retail sales of vinous liquors shall not be conducted from an area licensed or defined as an alternating proprietor licensed premises.

(b) ANY BREWERY THAT HAS RECEIVED A LICENSE PURSUANT TO THIS SECTION SHALL BE AUTHORIZED TO MANUFACTURE MALT LIQUORS UPON AN ALTERNATING PROPRIETOR LICENSED PREMISES, AS APPROVED BY THE STATE LICENSING AUTHORITY, BUT RETAIL SALES OF MALT LIQUORS SHALL NOT BE CONDUCTED FROM AN AREA LICENSED OR DEFINED AS AN ALTERNATING PROPRIETOR LICENSED PREMISES.

(c) ANY WINERY OR BREWERY THAT HOLDS A WHOLESALER'S LICENSE PURSUANT TO SECTION 12-46-104 (1) (b) OR 12-47-406 MAY ENGAGE IN THE WHOLESALE SALE OF ALCOHOL BEVERAGES THAT THE LICENSEE MANUFACTURED AT AN ALTERNATING PROPRIETOR LICENSED PREMISES FROM BOTH ITS LICENSED PREMISES AND THE ALTERNATING PROPRIETOR LICENSED PREMISES WHERE THE ALCOHOL BEVERAGES WERE MANUFACTURED.

**SECTION 6. Repeal.** 12-47-403 (2) (a) (II), Colorado Revised Statutes, is repealed as follows:

**12-47-403. Limited winery license.** (2) A limited winery licensee is authorized:

(a) (II) ~~To ensure adequate oversight and regulation of alternating proprietor licensed premises, within one hundred twenty days after August 5, 2008, the liquor enforcement division in the department of revenue, after consultation with the Colorado wine industry and other interested parties from the alcohol beverage industry, shall adopt rules for the implementation, standardization, and enforcement of alternating proprietor licensed premises.~~

**SECTION 7.** 12-47-415 (1) and (2), Colorado Revised Statutes, are amended to read:

**12-47-415. Brew pub license.** (1) (a) 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.~~

(b) A BREW PUB LICENSED PURSUANT TO THIS SECTION TO MANUFACTURE MALT LIQUORS UPON ITS LICENSED PREMISES MAY, UPON APPROVAL OF THE STATE LICENSING AUTHORITY, MANUFACTURE MALT LIQUORS UPON ALTERNATING PROPRIETOR LICENSED PREMISES WITHIN THE RESTRICTIONS SPECIFIED IN SECTION 12-47-103 (4).

(2) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2), during the hours established in section 12-47-901 (5) (b), malt liquors manufactured by a brew pub licensee on the licensed premises OR ALTERNATING PROPRIETOR LICENSED PREMISES may be:

(a) (I) Furnished for consumption on the premises;

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

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

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

(b) A BREW PUB AUTHORIZED TO MANUFACTURE MALT LIQUORS UPON ALTERNATING PROPRIETOR LICENSED PREMISES SHALL NOT CONDUCT RETAIL SALES OF MALT LIQUORS FROM AN AREA LICENSED OR DEFINED AS AN ALTERNATING PROPRIETOR LICENSED PREMISES.

**SECTION 8.** 12-47-501 (2) (a) (V), Colorado Revised Statutes, is amended to read:

**12-47-501. State fees.** (2) (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:

(V) Applications for alternating use of ~~wine~~ premises pursuant to ~~section~~ SECTION 12-46-104 (1) (a), 12-47-402 ~~or~~ (2.5), 12-47-403 (2) (a), OR 12-47-415 (1) (b) and rules adopted pursuant to those sections;

**SECTION 9.** 12-47-503 (4) (g), Colorado Revised Statutes, is amended to read:

**12-47-503. Excise tax - records.** (4) Each licensed manufacturer and wholesaler of 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 alcohol beverages:

(g) For ~~wineries~~ PERSONS licensed pursuant to ~~section~~ SECTION 12-46-104 (1) (a), 12-47-402 ~~or~~ (2.5), 12-47-403 (2) (a), OR 12-47-415 (1) (b), a separate report of vinous liquors, MALT LIQUORS, OR FERMENTED MALT BEVERAGES, AS APPLICABLE, THAT WERE manufactured OR inventoried IN, or transferred from, AN alternating

proprietor licensed premises.

**SECTION 10.** 12-47-901 (2), Colorado Revised Statutes, is amended to read:

**12-47-901. Unlawful acts - exceptions.** (2) It is unlawful for any person licensed as a manufacturer, ~~or as a limited winery, licensee~~ OR BREW PUB 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, except as allowed pursuant to ~~section~~ SECTION 12-46-104 (1) (a), 12-47-402 (2.5), ~~or~~ 12-47-403 (2) (a), OR 12-47-415 (1) (b).

**SECTION 11. Applicability.** This act shall apply to licenses issued or renewed on or after the effective date of this act.

**SECTION 12. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 18, 2009