Colorado Revised Statutes 2021

TITLE 44

REVENUE - REGULATION OF ACTIVITIES

Editor's note: (1) This title 44 was added to the Colorado Revised Statutes in 2018, effective October 1, 2018, by the following 9 bills. See L. 2018:

(a) Senate Bill 18-030, ch. 7, p. 40, § 1;
(b) Senate Bill 18-034, ch. 14, p. 167 § 1;
(c) Senate Bill 18-035, ch. 15, p. 251, § 1;
(d) Senate Bill 18-036, ch. 34, p. 371, § 1;
(e) House Bill 18-1023, ch. 55, p. 502, § 1;
(f) House Bill 18-1024, ch. 26, p. 285, § 1;
(g) House Bill 18-1025, ch. 152, p. 949, § 1;
(h) House Bill 18-1026, ch. 24, p. 279, § 1; and
(i) House Bill 18-1027, ch. 31, p. 333, § 1.

GENERAL PROVISIONS

ARTICLE 1

Common Provisions

44-1-101. Short title. The short title of this title 44 is the "Department of Revenue Activities Regulation Act".

Source: L. 2018: Entire title added, effective October 1. (For the 9 bills that added this title 44 and their locations in the 2018 Session Laws, see the editor's note following the title 44 heading.)

44-1-102. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Before the enactment of this title 44, laws administered by the department of revenue that regulate a variety of activities were codified in two titles of the Colorado Revised Statutes, most prominently in title 12, which governs professions and occupations;

(b) Most professions and occupations are regulated by the department of regulatory agencies pursuant to title 12, but prior to the 2017 legislative session, title 12 contained numerous laws that did not pertain to the regulation of professions and occupations and were not administered by the department of regulatory agencies;

(c) With the enactment of section 2-3-510 in 2016, the general assembly directed the office of legislative legal services to study an organizational recodification of title 12 of the

Colorado Revised Statutes, including relocating laws that do not pertain to professions and occupations and are not administered by the department of regulatory agencies;

(d) Based on recommendations from the title 12 recodification study, the general assembly enacted several bills in the 2017 legislative session to relocate out of title 12 many laws that are administered by entities other than the department of regulatory agencies;

(e) The study also recommended creating a new title 44 for purposes of consolidating laws administered by the department of revenue that regulate activities into a single title in order to facilitate both:

(I) The public's and regulated entities' understanding of the laws that apply to them; and

(II) The department of revenue's administration of these laws; and

(f) Creating a new title 44 consisting of laws administered by the department of revenue that regulate various activities is necessary to implement the recommendations of the title 12 recodification study and facilitate the reorganization of title 12 pertaining to the regulation of professions and occupations.

Source: L. 2018: Entire title added, effective October 1. (For the 9 bills that added this title 44 and their locations in the 2018 Session Laws, see the editor's note following the title 44 heading.)

44-1-103. Definitions. As used in this title 44, unless the context otherwise requires:

(1) "Department" means the department of revenue created in section 24-1-117.

(1.5) (a) "Driver's history" means a driver's history record made and maintained in accordance with section 42-2-121 (2).

(b) "Driver's history" does not include a misdemeanor or felony conviction, notwithstanding that the conviction is included within the driver's history record made and maintained in accordance with section 42-2-121 (2).

(2) "Executive director" means the executive director of the department.

Source: L. 2018: Entire title added, effective October 1. (For the 9 bills that added this title 44 and their locations in the 2018 Session Laws, see the editor's note following the title 44 heading.) **L. 2021:** (1.5) added, (SB 21-040), ch. 59, p. 240, § 4, effective September 7.

44-1-104. Use of driver's history for professional licensing, permit, or registration decisions. (1) When a person applies for a license, permit, or registration under this title 44, the department shall not consider an event in the applicant's driver's history when determining whether to issue to the applicant a new, renewal, or reinstated license, permit, or registration unless:

(a) The event is relevant to the performance of the profession or occupation that is the subject of the application; and

(b) (I) The operation of a motor vehicle is a duty of the profession or occupation that is the subject of the application;

(II) The event is a part of a pattern of behavior that is relevant to the performance of the profession or occupation that is the subject of the application; or

(III) The event occurred within three years before the date that the applicant submitted the application to the department.

(2) (a) Unless subsection (2)(b) of this section applies, the department shall not consider an event within the driver's history of a license holder, permit holder, or registrant when determining:

(I) Whether to impose discipline;

(II) The type of discipline to impose; or

(III) The severity of discipline to impose.

(b) The department may consider an event within a driver's history if:

(I) The event is relevant to the performance of the profession or occupation for which the license holder, permit holder, or registrant is licensed, permitted, or registered; and

(II) (A) The operation of a motor vehicle is a duty of the profession or occupation for which the license holder, permit holder, or registrant is licensed, permitted, or registered;

(B) The event is a part of a pattern of behavior that is relevant to the performance of the profession or occupation for which the license holder, permit holder, or registrant is licensed, permitted, or registered; or

(C) The event occurred within three years before the act upon which the discipline is based.

Source: L. 2021: Entire section added, (SB 21-040), ch. 59, p. 241, § 5, effective September 7.

ALCOHOL AND TOBACCO REGULATION

ARTICLE 3

Alcohol Beverages

Editor's note: This article 3 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 3, see the comparative tables located in the back of the index.

Law reviews. For comment, "The Substantive Fallacy of the Twenty-first Amendment", see 61 Den. L.J. 235 (1984); for article, "Administrative Sanctions Against Colorado Liquor Licenses", see 30 Colo. Law. 61 (Dec. 2001); for article, "Basics of Colorado Liquor Licensing Law", see 38 Colo. Law. 71 (Oct. 2009).

PART 1

GENERAL PROVISIONS

44-3-101. Short title. The short title of this article 3 is the "Colorado Liquor Code".

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 950, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-101 as it existed prior to 2018.

44-3-102. Legislative declaration. (1) The general assembly hereby declares that this article 3 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 3 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 alcohol beverages, subject to the terms, conditions, limitations, and restrictions in this article 3.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 951, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-102 as it existed prior to 2018.

44-3-103. Definitions. As used in this article 3 and article 4 of this title 44, unless the context otherwise requires:

(1) "Adult" means a person lawfully permitted to purchase alcohol beverages.

(2) "Alcohol beverage" means fermented malt beverage or malt, vinous, or spirituous liquors; except that "alcohol beverage" shall not include confectionery containing alcohol within the limits prescribed by section 25-5-410 (1)(i)(II).

(3) "Alternating proprietor licensed premises" means a distinct and definite area, as specified in an alternating use of premises application, that is owned by or in possession of a person licensed pursuant to section 44-3-402, 44-3-403, 44-3-417, or 44-3-422 and within which the licensee and other persons licensed pursuant to section 44-3-402, 44-3-403, 44-3-417, or 44-3-422 are authorized to manufacture and store vinous liquors or malt liquors in accordance with this article 3.

(4) "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 alcohol beverages by the drink.

(5) "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.

(6) "Brewery" means any establishment where malt liquors are manufactured, except brew pubs licensed under this article 3.

(7) "Campus" means property owned or used by an institution of higher education to regularly provide students with education, housing, or college activities.

(8) "Campus liquor complex" means an area within a campus that is licensed to serve alcohol under section 44-3-413 (3).

(9) "Club" means:

(a) A corporation that:

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

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

(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 that is a regularly chartered branch, or lodge, or chapter of a national organization that is operated solely for the objects of a patriotic or fraternal organization or society, but not for pecuniary gain.

(10) "Colorado grown" means wine produced from one hundred percent Colorado-grown grapes, other fruits, or other agricultural products containing natural sugar, including honey, manufactured by a winery that is located in Colorado and licensed pursuant to part 3 of this article 3.

(11) "Common consumption area" means an area designed as a common area in an entertainment district approved by the local licensing authority that uses physical barriers to close the area to motor vehicle traffic and limit pedestrian access.

(11.5) "Communal outdoor dining area" means an outdoor space that is used for food and alcohol beverage service by two or more licensees licensed under this article 3 or article 4 of this title 44 as a:

(a) Tavern;

(b) Hotel and restaurant;

(c) Brew pub;

(d) Distillery pub;

(e) Vintner's restaurant;

(f) Beer and wine licensee;

(g) Manufacturer that operates a sales room authorized under section 44-3-402 (2) or (7);

(h) Beer wholesaler that operates a sales room under section 44-3-407 (1)(b)(I);

(i) Limited winery;

(j) Lodging and entertainment facility;

(k) Optional premises; or

(l) Fermented malt beverage retailer licensed for consumption on the premises.

(12) "Distill" or "distillation" means the process by which alcohol that is created by fermentation is separated from the portion of the liquid that has no alcohol content.

(13) "Distillery" means any establishment where spirituous liquors are manufactured.

(14) "Distillery pub" means a retail establishment:

(a) Whose primary purpose is selling and serving food and alcohol beverages for on-premises consumption; and

(b) That ferments and distills not more than eight hundred seventy-five thousand liters of spirituous liquor on its licensed premises each calendar year.

(15) "Entertainment district" means an area that:

(a) Is located within a municipality, a city and county, or the unincorporated area of a county and is designated in accordance with section 44-3-301 (11)(b) as an entertainment district;

(b) Comprises no more than one hundred acres; and

(c) Contains at least twenty thousand square feet of premises that, at the time the district is created, is licensed pursuant to this article 3 as a:

(I) Tavern;

(II) Hotel and restaurant;

(III) Brew pub;

(IV) Distillery pub;
(V) Retail gaming tavern;
(VI) Vintner's restaurant;
(VII) Beer and wine licensee;
(VIII) Manufacturer that operates a sales room pursuant to section 44-3-402 (2) or (7);
(IX) Beer wholesaler that operates a sales room pursuant to section 44-3-407 (1)(b)(I);
(X) Limited winery;
(XI) Lodging and entertainment facility licensee; or
(XII) Optional premises.

(16) "Expert taster" means an individual, other than a qualified student or qualified employee, who is at least twenty-one years of age and who is employed in the brewing industry or has demonstrated expertise or experience in brewing.

(17) "Ferment" or "fermentation" means the chemical process by which sugar is converted into alcohol.

(18) "Fermented malt beverage" has the same meaning as provided in section 44-4-103 (1).

(19) "Good cause", for the 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 3 or any rules promulgated pursuant to this article 3;

(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 section 44-3-301 (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 subsection (19)(d), "disorderly conduct" has the meaning as provided for in section 18-9-106.

(20) "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 grams of carbon dioxide per hundred milliliters. For the purpose of simplicity of administration of this article 3, hard cider shall in all respects be treated as a vinous liquor except where expressly provided otherwise.

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

(22) "Inhabitant", 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.

(23) "License" means a grant to a licensee to manufacture or sell alcohol beverages as provided by this article 3.

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

(25) "Limited winery" means any establishment manufacturing not more than one hundred thousand gallons, or the metric equivalent thereof, of vinous liquors annually within Colorado.

(26) "Liquor-licensed drugstore" means any drugstore licensed by the state board of pharmacy 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.

(27) "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.

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

(29) "Lodging and entertainment facility" means an establishment that:

(a) Is either:

(I) A lodging facility, the primary business of which is to provide the public with sleeping rooms and meeting facilities; or

(II) An entertainment facility, the primary business of which is to provide the public with sports or entertainment activities within its licensed premises; and

(b) Incidental to its primary business, sells and serves alcohol beverages at retail for consumption on the premises and has sandwiches and light snacks available for consumption on the premises.

(30) (a) "Malt liquors" includes beer and means 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 not less than one-half of one percent alcohol by volume.

(b) For purposes of licenses described in section 44-3-401 (1)(j) to (1)(p), (1)(s), (1)(t), (1)(v), and (1)(w), "malt liquors" includes fermented malt beverages when purchased from a retailer licensed pursuant to section 44-4-104 (1)(c).

(31) "Meal" means a quantity of food of such nature as is ordinarily consumed by an individual at regular intervals for the purpose of sustenance.

(32) "Medicinal spirituous liquors" means any alcohol beverage, excepting beer and wine, that has been aged in wood for four years and bonded by the United States government and is at least one hundred proof.

(33) (a) "Optional premises" means:

(I) The premises specified in an application for a hotel and restaurant license under this article 3 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 the licensee is authorized to sell or serve alcohol beverages in accordance with this article 3 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 (33), "outdoor sports and recreational facility" means a facility that charges a fee for the use of such facility.

(34) "Package", "packaged", or "packaging" means the process by which wine is bottled, canned, kegged, or otherwise packed into a sealed container.

(35) "Person" means a natural person, partnership, association, company, corporation, or organization or a manager, agent, servant, officer, or employee thereof.

(36) "Personal consumer" means an individual who is at least twenty-one years of age, does not hold an alcohol beverage license issued in this state, and intends to use wine purchased under section 44-3-104 for personal consumption only and not for resale or other commercial purposes.

(37) "Powdered alcohol" means alcohol that is prepared or sold in a powder or crystalline form for either direct use or reconstitution.

(38) (a) "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.

(b) Notwithstanding subsection (38)(a) of this section, for a winery authorized to manufacture vinous liquors pursuant to section 44-3-402 or 44-3-403, the licensed premises may include up to two noncontiguous locations, both of which are used for manufacturing purposes, within a radius of ten miles.

(39) "Promotional association" means an association that is incorporated within Colorado, organizes and promotes entertainment activities within a common consumption area, and is organized or authorized by two or more people who own or lease property within an entertainment district.

(40) "Qualified employee" means an individual who:

(a) Is employed by a state institution of higher education;

(b) Is engaged in manufacturing and tasting malt liquors for teaching or research purposes; and

(c) Is at least twenty-one years of age.

(41) "Qualified student" means a student who:

(a) Is enrolled in a brewing class or program offered at or by a state institution of higher education; and

(b) Is at least twenty-one years of age.

(42) "Racetrack" means any premises where race meets or simulcast races with pari-mutuel wagering are held in accordance with the provisions of article 32 of this title 44.

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

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

(45) "Resort complex" means a hotel with at least fifty sleeping rooms and that has related sports and recreational facilities for the convenience of its guests or the general public located contiguous or adjacent to the hotel. For purposes of a resort complex only, "contiguous or adjacent" means within the overall boundaries or scheme of development or regularly accessible from the hotel by its members and guests.

(46) "Resort hotel" means a hotel, as defined in subsection (21) of this section, with well-defined occupancy seasons.

(47) "Restaurant" means an establishment, which is not a hotel as defined in subsection (21) 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 30 of this title 44, 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 (47) shall be construed to prohibit the use in a restaurant of orchestras, singers, floor shows, coin-operated music machines, amusement devices 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.

(48) "Retail liquor store" means an establishment engaged only in the sale of malt, vinous, and spirituous liquors in sealed containers for consumption off the premises and nonalcohol products, but only if the annual gross revenues from the sale of nonalcohol products do not exceed twenty percent of the retail liquor store establishment's total annual gross sales revenues, as determined in accordance with section 44-3-409 (1)(b).

(49) "Sales room" means an area in which a licensed winery, pursuant to section 44-3-402 (2); limited winery, pursuant to section 44-3-403 (2)(e); distillery, pursuant to section 44-3-402 (7); or beer wholesaler, pursuant to section 44-3-407 (1)(b), sells and serves alcohol beverages for consumption on the licensed premises, sells alcohol beverages in sealed containers for consumption off the licensed premises, or both.

(50) "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).

(51) "Sealed containers" means any container or receptacle used for holding an alcohol beverage, which container or receptacle is corked or sealed with any stub, stopper, or cap.

(52) "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 3 or article 4 or 5 of this title 44; 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 3; to traffic in for any consideration promised or obtained, directly or indirectly.

(53) "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.

(54) "Spirituous liquors" means any alcohol beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin, powdered alcohol, 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 (30) and (59) of this section, shall not be construed to be fermented malt or malt or vinous liquor but shall be construed to be spirituous liquor.

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

(56) "Tastings" means the sampling of malt, vinous, or spiritous liquors that may occur on the premises of a retail liquor store licensee or liquor-licensed drugstore licensee by adult patrons of the licensee pursuant to the provisions of section 44-3-301 (10).

(57) "Tavern" means an establishment serving alcohol beverages in which the principal business is the sale of alcohol beverages at retail for consumption on the premises and where sandwiches and light snacks are available for consumption on the premises.

(58) "Tax-paid wine" means vinous liquors on which federal excise taxes have been paid.

(59) (a) "Vinous liquors" means wine and fortified wines that:

(I) Contain not less than one-half of one percent and not more than twenty-one percent alcohol by volume; and

(II) Are produced by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

(b) For the purpose of simplifying the administration of this article 3, sake is deemed a vinous liquor.

(60) "Vintner's restaurant" means a retail establishment that sells food for consumption on the premises and that manufactures not more than nine hundred twenty-five thousand gallons of wine on its premises or licensed alternating proprietor licensed premises, combined, each calendar year.

(61) "Winery" means any establishment where vinous liquors are manufactured; except that the term does not include a vintner's restaurant licensed pursuant to section 44-3-422.

Source: L. 2018: (59) amended, (SB 18-079), ch. 120, p. 822, § 1, effective August 8; (42) amended, (HB 18-1024), ch. 26, p. 321, § 6, effective October 1; entire article added with relocations, (HB 18-1025), ch. 152, p. 951, § 2, effective October 1. **L. 2019:** (3), (5), (6), (30), and (40)(b) amended, (SB 19-011), ch. 1, p. 5, § 4, effective January 31; (15)(a), (15)(c)(X), and (15)(c)(XI) amended and (15)(x)(XII) added, (SB 19-141), ch. 207, p. 2204, § 1, effective August 2. **L. 2020:** (3) and (60) amended, (HB 20-1055), ch. 15, p. 67, § 1, effective September 14. **L. 2021:** (11.5) added, (HB 21-1027), ch. 290, p. 1714, § 2, effective June 22; (14)(b) and (60) amended, (SB 21-270), ch. 479, p. 3422, § 1, effective September 7; (38) amended, (HB 21-1044), ch. 165, p. 925, § 1, effective September 7.

Editor's note: (1) This section is similar to former § 12-47-103 as it existed prior to 2018.

(2) (a) Subsection (42) of this section was numbered as § 12-47-103 (25) in HB 18-1024. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

(b) Subsection (59) of this section was numbered as § 12-47-103 (39) in SB 18-079. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

44-3-104. Wine shipments - permits. (1) (a) The holder of a winery direct shipper's permit may sell and deliver wine that is produced or bottled by the permittee to a personal consumer located in Colorado.

(b) The holder of a winery direct shipper's permit may not sell or ship wine to a minor, as defined in section 2-4-401 (6).

(2) A winery direct shipper's permit may be issued to only a person who applies for such permit to the state licensing authority and who:

(a) Operates a winery located in the United States and holds all state and federal licenses, permits, or both, necessary to operate the winery, including the federal winemaker's and blender's basic permit;

(b) Expressly submits to personal jurisdiction in Colorado state and federal courts for civil, criminal, and administrative proceedings and expressly submits to venue in the city and county of Denver, Colorado, as proper venue for any proceedings that may be initiated by or against the state licensing authority; and

(c) Except as provided in sections 44-3-402 (1) and 44-3-407 (3), does not directly or indirectly have any financial interest in a Colorado wholesaler or retailer licensed pursuant to section 44-3-407, 44-3-409, or 44-3-410.

(3) (a) All wine sold or shipped by the holder of a winery direct shipper's permit shall be in a package that is clearly and conspicuously labeled, showing that:

(I) The package contains wine; and

(II) The package may be delivered only to a person who is twenty-one years of age or older.

(b) Wine sold or shipped by a holder of a winery direct shipper's permit may not be delivered to any person other than:

(I) The person who purchased the wine;

(II) A recipient designated in advance by such purchaser; or

(III) A person who is twenty-one years of age or older.

(c) Wine may be delivered only to a person who is twenty-one years of age or older after the person accepting the package:

(I) Presents valid proof of identity and age; and

(II) Personally signs a receipt acknowledging delivery of the package.

(4) The holder of a winery direct shipper's permit shall maintain records of all sales and deliveries made under the permit in accordance with section 44-3-701.

(5) A personal consumer purchasing wine from the holder of a winery direct shipper's permit may not resell the wine.

(6) The state licensing authority may adopt rules and forms necessary to implement this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 958, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-104 as it existed prior to 2018.

44-3-105. Local option. The operation of this article 3 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 alcohol beverages or to limit the sale of alcohol beverages to any one or more of the classes of licenses as provided by this article 3 within their respective limits. The local option question shall be submitted only upon a petition signed by not less than fifteen percent of the registered electors in the municipality or city and county; otherwise, the procedure with reference to the calling and holding of the elections shall be substantially in accordance with the election laws of the state. The expenses of the election shall be borne by the municipality or city and county in which the elections are held. The question of prohibition of sale of alcohol beverages or the limitation of sales to any one or more of the classes of licenses provided in this article 3 shall not be submitted to the registered electors more than once in any four-year period.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 959, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-105 as it existed prior to 2018.

44-3-106. Exemptions. (1) The provisions of this article 3 shall not apply to the sale or distribution of sacramental wines sold and used for religious purposes.

(2) (a) Notwithstanding any provision of this article 3 to the contrary, when permitted by federal law and rules and regulations promulgated pursuant thereto, an adult may produce, for personal use and not for sale, an amount of malt or vinous liquor equal to the amount that is exempt from the federal excise tax on the alcohol beverage when produced by an adult for personal use and not for sale.

(b) The production of 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) Malt or vinous liquors produced pursuant to this subsection (2) shall be exempt from any tax imposed by this article 3, and the producer shall not be required to obtain any license provided by this article 3.

(d) Malt liquors or vinous liquors produced in accordance with this subsection (2) may be transported and delivered by the producer to any licensed premises where consumption of malt liquors or vinous liquors by persons at least twenty-one years of age is authorized for use at organized affairs, exhibitions, or competitions, such as home brew or wine-making contests, tastings, or judgings. To claim this exemption, consumption must be limited solely to the participants in and judges of the events. Malt liquors or vinous liquors used for the purposes described in this subsection (2)(d) must also be served in portions not exceeding six ounces and must not be sold, offered for sale, or made available for consumption by the general public.

(3) (a) The provisions of this article 3 or article 4 of this title 44, with the exception of the requirements of section 44-3-503, shall not apply to the occasional sale of an alcohol beverage to any individual twenty-one years of age or older at public auction by any person where the auction sale is for the purpose of disposing of the alcohol beverage as may lawfully have come into the possession of the person in the due course of the person's regular business in the following manner:

(I) By reason of the failure of the owner of the alcohol beverage to claim the same or to furnish instructions as to the disposition thereof;

(II) By reason of the foreclosure of any lawful lien upon the alcohol beverage by the person in accordance with lawful procedure;

(III) By reason of salvage of the alcohol beverage, in the case of carriers, from shipments damaged in transit;

(IV) By reason of a lawful donation of the alcohol beverage to an organization qualifying under section 44-5-102 for a special event permit; except that no more than four public auctions per year shall be conducted pursuant to this subsection (3)(a)(IV).

(b) The state licensing authority shall be presented records of all transactions referred to in subsection (3)(a) of this section.

(4) Any passenger twenty-one years of age or 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 the airport may lawfully possess up to one gallon or four liters (one imperial gallon), whichever measure is applicable, of an alcohol beverage without liability for the Colorado excise tax thereon.

(5) This article 3 shall not apply to state institutions of higher education when the institutions are engaged in the manufacture of vinous liquor on alternating proprietor licensed premises or premises licensed pursuant to section 44-3-402 or 44-3-403, for the purpose of enology research and education.

(6) This article 3 does not apply to a state institution of higher education when the institution is engaged in the manufacture and tasting, at the place of manufacture or at a licensed premises, of malt liquors for teaching or research purposes, so long as the malt liquor is not sold or offered for sale and is only tasted by a qualified student, qualified employee, or expert taster. Any unused malt liquor product that is produced by a state institution of higher education in accordance with this subsection (6) must be removed from a licensed premises at the end of an event if the event is held at a licensed premises located off campus.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 960, § 2, effective October 1. **L. 2019:** (2)(a), (2)(b), and (2)(c) amended, (SB 19-011), ch. 1, p. 6, § 5, effective January 31.

Editor's note: This section is similar to former § 12-47-106 as it existed prior to 2018.

44-3-107. Permitted acts - auctions at special events - definition. (1) 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 the person does not individually manage or receive any direct financial benefit from the operation of such license.

(2) (a) An organization that is holding a special event pursuant to article 5 of this title 44 may, subject to the requirements of subsection (2)(b) of this section:

(I) Bring onto and remove from the licensed premises or unlicensed premises where the special event is held alcohol beverages in sealed containers that were donated to or otherwise lawfully obtained by the organization for fund-raising purposes; and

(II) Auction the alcohol beverages in sealed containers for fund-raising purposes while on the licensed premises or unlicensed premises where the special event is held.

(b) (I) An organization holding a special event and, if the special event is held on a licensed premises, the licensee on whose licensed premises the special event is held, or, if the special event is held on unlicensed premises, the person on whose unlicensed premises the special event is held, shall ensure that any alcohol beverages in sealed containers brought onto, auctioned at, or removed from the premises remain sealed at all times while on the premises.

(II) The licensee on whose licensed premises the special event is held or the person on whose unlicensed premises the special event is held, as applicable, shall not require or accept any fee for, percentage or portion of the proceeds from, or other financial benefit specifically related to the auction of alcohol beverages in sealed containers on the premises.

(c) The retail value of alcohol beverages donated to an organization pursuant to this section by a retailer licensed under section 44-3-409, 44-3-410, or 44-4-104 (1)(c) to sell alcohol beverages at retail for consumption off the licensed premises does not count against the annual limit on purchases from those retailers specified in section 44-3-411 (2), 44-3-413 (7)(b), 44-3-414 (2), 44-3-416 (2), 44-3-417 (3), 44-3-418 (2), 44-3-419 (4), 44-3-420 (2), 44-3-422 (3), 44-3-426 (4)(b), or 44-3-428 (2).

(d) (I) A retailer licensed under this article 3 or article 4 of this title 44 that donates alcohol beverages to an organization pursuant to this section is not liable for any violation of section 44-3-901 committed by the organization or other person on the premises where the special event is held or involving the donated alcohol beverages if the licensed retailer that donated the alcohol beverages was not involved in the violation and did not engage in any act or omission that constitutes an unlawful act under section 44-3-901.

(II) The state and local licensing authorities shall consider mitigating factors, including a licensee's lack of knowledge of a violation, in determining whether to hold a licensee on whose licensed premises the special event was held responsible for any violation of section 44-3-901 that occurred on the licensed premises and that was committed by the organization holding the special event.

(e) As used in this subsection (2), "organization" means an organization described in section 44-5-102 (1):

(I) That obtains a special event permit under article 5 of this title 44 to hold a special event on a premises licensed under section 44-3-403, 44-3-404, 44-3-413 (3), 44-3-418, 44-3-419, or 44-3-424;

(II) That is holding a special event at a retail premises licensed under this article 3 to sell alcohol beverages for consumption on the licensed premises; or

(III) That is otherwise exempt from article 5 of this title 44 pursuant to section 44-5-108.

Source: L. 2018: Entire section amended, (SB 18-067), ch. 4, p. 29, § 1, effective March 1; entire article added with relocations, (HB 18-1025), ch. 152, p. 961, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-47-107 as it existed prior to 2018.

(2) This section was numbered as § 12-47-107 in SB 18-067. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

PART 2

44-3-201. State licensing authority - creation. (1) For the purpose of regulating and controlling the licensing of the manufacture, distribution, and sale of alcohol beverages in this state, there is hereby created the state licensing authority, which shall be the executive director or the deputy director if the executive director so designates.

(2) The executive director 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, clerks and inspectors as may be determined to be necessary.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 962, § 2, effective October 1. **L. 2019:** Entire section amended, (SB 19-241), ch. 390, p. 3478, § 60, effective August 2.

Editor's note: This section is similar to former § 12-47-201 as it existed prior to 2018.

44-3-202. Duties of state licensing authority. (1) The state licensing authority shall:

(a) Grant or refuse licenses for the manufacture, distribution, and sale of alcohol beverages as provided by law and suspend or revoke such licenses upon a violation of this article 3, article 4 or 5 of this title 44, or any rule adopted pursuant to those articles;

(b) Make general rules and special rulings and findings as necessary for the proper regulation and control of the manufacture, distribution, and sale of alcohol beverages and for the enforcement of this article 3 and articles 4 and 5 of this title 44 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 alcohol beverages sold or stamps purchased or customers served, shall be open for inspection by the public;

(e) Prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to section 24-1-136, a report accounting to the governor 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 as to applications for licenses and renewals of the licenses provided in sections 44-3-409 to 44-3-420 and 44-4-104 (1).

(2) (a) (I) Rules adopted pursuant to subsection (1)(b) of this section may cover, without limitation, the following subjects:

(A) Compliance with or enforcement or violation of any provision of this article 3, article 4 or 5 of this title 44, or any rule issued pursuant to those articles;

(B) Specifications of duties of officers and employees;

(C) Instructions for local licensing authorities and law enforcement officers;

(D) All forms necessary or convenient in the administration of this article 3 and articles 4 and 5 of this title 44;

(E) Inspections, investigations, searches, seizures, and activities as may become necessary from time to time, including a range of penalties for use by licensing authorities, which shall include aggravating and mitigating factors to be considered, when licensees' employees violate certain provisions of this article 3 and article 4 of this title 44, including the sale or service of alcohol beverages to persons under twenty-one years of age or to visibly intoxicated persons;

(F) Limitation of number of licensees as to any area or vicinity;

(G) Misrepresentation, unfair practices, and unfair competition;

(H) Control of signs and other displays on licensed premises;

(I) Use of screens;

(J) Identification of licensees and their employees;

(K) Storage, warehouses, and transportation;

(L) Health and sanitary requirements;

(M) Standards of cleanliness, orderliness, and decency, and sampling and analysis of products;

(N) Standards of purity and labeling;

(O) Records to be kept by licensees and availability thereof;

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

(Q) 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.

(R) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this article 3 and articles 4 and 5 of this title 44;

(S) Repealed.

(T) Sales rooms operated by licensed wineries, distilleries, limited wineries, or beer wholesalers, including the manner by which a licensee operating a sales room notifies the state licensing authority of its sales rooms, the content of the notice, and any other necessary provisions related to the notice requirement.

(II) Nothing in this article 3 and articles 4 and 5 of this title 44 shall be construed as delegating to the state licensing authority the power to fix prices. The licensing authority shall make no rule 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 rules shall be reasonable and just.

(b) (I) (A) The state licensing authority shall make no rule regulating or prohibiting the sale of alcohol beverages on credit offered or extended by a licensee to a retailer where the credit is offered or extended for thirty days or less. The state licensing authority shall enforce the prohibition against extending credit for more than thirty days for the sale of alcohol beverages pursuant to 27 CFR 6 and may adopt rules regulating or prohibiting the sale of alcohol beverages on credit where the credit is offered or extended for more than thirty days, consistent with the federal regulations.

(B) Nothing in this subsection (2)(b)(I) allows the state licensing authority to adopt a rule that restricts the ability of a licensee to, or prohibits a licensee from, making sales of alcohol

beverages, on a cash-on-delivery basis, to a retailer who is or may be in arrears in payments to a licensee for prior alcohol beverage sales.

(II) Licensees shall comply with the prohibition against extending credit to a retailer for more than thirty days for the sale of alcohol beverages, including beer, contained in 27 CFR 6 and with rules adopted by the state licensing authority that are consistent with 27 CFR 6.

(III) Notwithstanding any provision of this article 3 to the contrary, a liquor-licensed drugstore licensed under section 44-3-410 on or after January 1, 2017, shall not purchase alcohol beverages on credit or accept an offer or extension of credit from a licensee and shall effect payment upon delivery of the alcohol beverages.

(IV) As used in this subsection (2)(b), "licensee" shall have the same meaning as "industry member", as defined in 27 CFR 6.11, and includes a person engaged in business as a distiller, brewer, rectifier, blender, or other producer; as an importer or wholesaler of alcohol beverages; or as a bottler or warehouseman and bottler of spiritous liquors.

(3) In any hearing held by the state licensing authority pursuant to this article 3 or article 4 or 5 of this title 44, 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 produced in 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 3 or article 4 or 5 of this title 44 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 any license granted pursuant to this article 3 or article 4 or 5 of this title 44.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 962, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-47-202 as it existed prior to 2018.

(2) Subsection (2)(a)(I)(S) provided for the repeal of subsection (2)(a)(I)(S), effective January 1, 2019. (See L. 2016, pp. 1530, 1539.)

44-3-203. Performance of duties. (1) The performance of the functions or activities set forth in this article 3 and articles 4 and 5 of this title 44 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 3 and articles 4 and 5 of this title 44 and the rules promulgated thereunder, concerning persons licensed pursuant to this article 3 and articles 4 and 5 of this title 44 as wholesalers, manufacturers, importers, and public transportation system licensees.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 965, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-203 as it existed prior to 2018.

PART 3

STATE AND LOCAL LICENSING

44-3-301. Licensing in general. (1) No local licensing authority shall issue a license provided for in this article 3 or article 4 or 5 of this title 44 until that share of the license fee due the state has been received by the department. All licenses granted pursuant to this article 3 and articles 4 and 5 of this title 44 shall be valid for a period of one year from the date of their issuance unless revoked or suspended pursuant to section 44-3-601 or 44-3-306.

(2) (a) Before granting any license, all licensing authorities shall consider, except where this article 3 and article 4 of this title 44 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 license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w) or 44-3-412 (1) or in a financial institution referred to in section 44-3-308 (4) 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 shall not approve an application for a second or additional license that would have the effect of restraining competition.

(b) A local licensing authority or the state on state-owned property may deny the issuance of any new tavern or retail liquor store license whenever such authority determines that the issuance of the license would result in or add to an undue concentration of the same class of license and, as a result, require the use of additional law enforcement resources.

(c) The state licensing authority shall approve the proposed premises for a winery applying pursuant to section 44-3-402 or 44-3-403, which premises includes up to two noncontiguous locations used for manufacturing vinous liquors, or a modification of the licensed premises of a winery licensed pursuant to section 44-3-402 or 44-3-403 to include up to two noncontiguous locations used for manufacturing vinous liquors if the alcohol and tobacco tax and trade bureau of the United States department of the treasury has approved the description and diagram of the proposed or modified premises. Additionally, with the initial license application that includes noncontiguous locations within the proposed premises or a subsequent application to modify the premises to include noncontiguous locations, the winery licensee must submit proof from the municipality in which the premises is located of compliance with all applicable zoning, building, fire, and other requirements for occupancy and operation. The state licensing authority may, by rule, establish a one-time application fee and an annual renewal fee, neither of which may exceed five hundred dollars per location, for applications under this subsection (2)(c).

(3) (a) (I) Each license issued under this article 3 and article 4 of this title 44 is separate and distinct. It is unlawful for any person to exercise any of the privileges granted under any license other than the license the person holds or for any licensee to allow any other person to exercise the privileges granted under the licensee's license, except as provided in section 44-3-402 (3), 44-3-403 (2)(a), 44-3-404, or 44-3-417 (1)(b). A separate license must be issued for each specific business or business entity and each geographic location, and in the license the

particular alcohol beverages the applicant is authorized to manufacture or sell must be named and described.

(II) For purposes of this section, each of the following is considered a single business and location:

(A) A resort complex with common ownership;

(B) A campus liquor complex;

(C) A hotel and restaurant licensee with optional premises;

(D) An optional premises licensee for optional premises located on an outdoor sports and recreational facility;

(E) A winery licensed pursuant to section 44-3-402 or 44-3-403 that has noncontiguous locations included in the licensed premises; and

(F) A festival at which more than one licensee participates pursuant to a festival permit.

(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 the premises.

(4) (a) The licenses provided pursuant to this article 3 and article 4 of this title 44 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 alcohol beverages that may be sold on the premises or optional premises. The license shall be conspicuously placed at all times on the licensed premises or optional premises, and all sheriffs and police officers shall see to it that every person selling 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 alcohol beverages until the person applying for the license produces a license issued and granted by the state licensing authority covering the whole period for which a license or license renewal is sought.

(5) In computing any period of time prescribed by this article 3, 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.

(6) (a) Licensees at facilities owned by a municipality, county, or special district or at publicly or privately owned sports and entertainment venues with a minimum seating capacity of one thousand five hundred seats may possess and serve for on-premises consumption any type of alcohol beverage as may be permitted pursuant to guidelines established by the local and state licensing authorities, and the licensees need not have meals available for consumption.

(b) Nothing in this article 3 shall prohibit a licensee at a sports and entertainment venue described in subsection (6)(a) of this section from selling or providing alcohol beverages in sealed containers, as authorized by the license in effect, to adult occupants of luxury boxes located at stadiums, arenas, and similar sports and entertainment venues that are included within the licensed premises of the licensee. However, no person shall be allowed to leave the licensed premises with a sealed container of alcohol beverage that was obtained in the luxury box. As used in this subsection (6)(b), "luxury box" means a limited public access room or booth that is used by its occupants and their guests at sports and entertainment venues that are provided within the licensed premises.

(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 (7). Failure to report shall be grounds for suspension or revocation of the license.

(8) Each licensee holding a fermented malt beverage on-premises license or on- and off-premises license, beer and wine license, tavern license, lodging and entertainment license, club license, arts license, or racetrack license shall manage the premises himself or herself or employ a separate and distinct manager on the premises and shall report the name of the manager to the state and local licensing authorities. The 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 (8). The failure to report is grounds for suspension of the license.

(9) (a) (I) (A) Subject to subsections (9)(a)(I)(B) and (9)(a)(I)(C) of this section, a licensee may move its 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 the license was granted for a place outside the corporate limits of any city, town, or city and county, but it is unlawful to sell any alcohol beverage at the new location until permission is granted by the state and local licensing authorities.

(B) The state and local licensing authorities shall not grant permission under this subsection (9)(a)(I) to a fermented malt beverage retailer licensed under section 44-4-107 (1)(a) to move its permanent location if the new location is: Within one thousand five hundred feet of a retail liquor store licensed under section 44-3-409; for a premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of a retail liquor store licensed under section 44-3-409; or, for a premises located in a municipality with a population of ten thousand or fewer that is contiguous to the city and county of Denver, within one thousand five hundred feet of a retail liquor store licensed under section 44-3-409.

(C) The state and local licensing authorities shall not grant permission under this subsection (9)(a)(I) to a retail liquor store licensed under section 44-3-409 to move its permanent location if the new location is: Within one thousand five hundred feet of another retail liquor store licensed under section 44-3-409; for a premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of another retail liquor store licensed under section 44-3-409; or, for a premises located in a municipality with a population of ten thousand or fewer that is contiguous to the city and county of Denver, within one thousand five hundred feet of another retail liquor store licensed under section 44-3-409.

(II) Notwithstanding subsection (9)(a)(I) of this section and subject to subsection (9)(a)(I)(C) of this section, for a retail liquor store licensed on or before January 1, 2016, the licensee may apply to move the permanent location to another place within or outside the municipality or county in which the license was originally granted. It is unlawful for the licensee to sell any alcohol beverages at the new location until permission is granted by the state and local licensing authorities.

(b) (I) In permitting a change of location, the 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.

(II) If the state and local licensing authorities approve an application for a change of location submitted under subsection (9)(a)(II) of this section by a retail liquor store licensed on or before January 1, 2016, the licensee must change the location of its premises within three years after the approval is granted.

(10) (a) The provisions of this subsection (10) shall only apply within a county, city and county, or municipality if the governing body of the county, city and county, or municipality adopts an ordinance or resolution authorizing tastings pursuant to this subsection (10). The ordinance or resolution may provide for stricter limits than this subsection (10) on the number of tastings per year per licensee, the days on which tastings may occur, or the number of hours each tasting may last.

(b) A retail liquor store or liquor-licensed drugstore licensee who wishes to conduct tastings may submit an application or application renewal to the local licensing authority. The local licensing authority may reject the application if the applicant fails to establish that he or she is able to conduct tastings without violating the provisions of this section or creating a public safety risk to the neighborhood. A local licensing authority may establish its own application procedure and may charge a reasonable application fee.

(c) Tastings are subject to the following limitations:

(I) Tastings shall be conducted only:

(A) By a person who: Has completed a server training program that meets the standards established by the liquor enforcement division in the department and is a retail liquor store or liquor-licensed drugstore licensee, an employee of a retail liquor store or liquor-licensed drugstore licensee, or a representative, employee, or agent of the licensed wholesaler, brew pub, distillery pub, manufacturer, limited winery, importer, or vintner's restaurant promoting the alcohol beverages for the tasting; and

(B) On a licensee's licensed premises.

(II) The alcohol beverage used in tastings must be purchased through a licensed wholesaler, licensed brew pub, licensed distillery pub, or winery licensed pursuant to section 44-3-403 at a cost that is not less than the laid-in cost of the alcohol beverage.

(III) The size of an individual alcohol sample shall not exceed one ounce of malt or vinous liquor or one-half of one ounce of spirituous liquor.

(IV) Tastings shall not exceed a total of five hours in duration per day, which need not be consecutive.

(V) The licensee may conduct tastings only during the operating hours in which the licensee on whose premises the tastings occur is permitted to sell alcohol beverages, and in no case earlier than 11 a.m. or later than 9 p.m.

(VI) The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.

(VII) The licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises, destroy the samples immediately following the completion of the tasting, or store any open containers of unconsumed alcohol beverages in a secure area outside the sales area of the licensed premises for use at a tasting conducted at a later time or date.

(VIII) The licensee shall not serve a person who is under twenty-one years of age or who is visibly intoxicated.

(IX) The licensee shall not serve more than four individual samples to a patron during a tasting.

(X) Alcohol samples shall be in open containers and shall be provided to a patron free of charge.

(XI) The licensee may conduct tastings on no more than one hundred fifty-six days per year.

(XII) No manufacturer of spirituous or vinous liquors shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a tasting. The retail liquor store or liquor-licensed drugstore licensee bears the financial and all other responsibility for a tasting conducted on its licensed premises.

(d) A violation of a limitation specified in this subsection (10) by a retail liquor store or liquor-licensed drugstore licensee, whether by the licensee's employees, agents, or otherwise or by a representative, employee, or agent of the licensed wholesaler, brew pub, distillery pub, manufacturer, limited winery, importer, or vintner's restaurant that promoted the alcohol beverages for the tasting, is the responsibility of, and section 44-3-801 applies to, the retail liquor store or liquor-licensed drugstore licensee that conducted the tasting.

(e) A retail liquor store or liquor-licensed drugstore licensee conducting a tasting shall be subject to the same revocation, suspension, and enforcement provisions as otherwise apply to the licensee.

(f) Nothing in this subsection (10) shall affect the ability of a Colorado winery licensed pursuant to section 44-3-402 or 44-3-403 to conduct a tasting pursuant to the authority of section 44-3-402 (2) or 44-3-403 (2)(e).

(11) (a) This subsection (11) applies only within an entertainment district that a governing body of a local licensing authority has created by ordinance or resolution. This subsection (11) does not apply to a special event permit issued under article 5 of this title 44 or the holder thereof unless the permit holder desires to use an existing common consumption area and agrees in writing to the requirements of this article 3 and the local licensing authority concerning the common consumption area.

(b) A governing body of a local licensing authority may create an entertainment district by adopting an ordinance or resolution. An entertainment district shall not exceed one hundred acres. The ordinance or resolution may impose stricter limits than required by this subsection (11) on the size, security, or hours of operation of any common consumption area created within the entertainment district.

(c) (I) A certified promotional association may operate a common consumption area within an entertainment district and authorize the attachment of a licensed premises to the common consumption area.

(II) An association or licensed tavern, lodging and entertainment facility, hotel and restaurant, brew pub, distillery pub, retail gaming tavern, vintner's restaurant, beer and wine licensee, manufacturer or beer wholesaler that operates a sales room, or limited winery that wishes to create a promotional association may submit an application to the local licensing authority. To qualify for certification, the promotional association must:

(A) Have a board of directors;

(B) Have at least one director from each licensed premises attached to the common consumption area on the board of directors; and

(C) Agree to submit annual reports by January 31 of each year to the local licensing authority showing a detailed map of the boundaries of the common consumption area, the common consumption area's hours of operation, a list of attached licensed premises, a list of the directors and officers of the promotional association, security arrangements within the common consumption area, and any violation of this article 3 committed by an attached licensed premises.

(III) The local licensing authority may refuse to certify or may decertify a promotional association of a common consumption area if the promotional association:

(A) Fails to submit the report required by subsection (11)(c)(II)(C) of this section by January 31 of each year;

(B) Fails to establish that the licensed premises and common consumption area can be operated without violating this article 3 or creating a safety risk to the neighborhood;

(C) Fails to have at least two licensed premises attached to the common consumption area;

(D) Fails to obtain or maintain a properly endorsed general liability and liquor liability insurance policy that is reasonably acceptable to the local licensing authority and names the local licensing authority as an additional insured;

(E) The use is not compatible with the reasonable requirements of the neighborhood or the desires of the adult inhabitants; or

(F) Violates section 44-3-910.

(d) A person shall not attach a premises licensed under this article 3 to a common consumption area unless authorized by the local licensing authority. Any noncontiguous location included in the licensed premises of a winery licensed pursuant to section 44-3-402 or 44-3-403 that falls outside the approved boundaries of an entertainment district or a common consumption area authorized pursuant to this subsection (11) shall not be included as part of a certified promotional association or entertainment district even though the licensed premises of that winery is within the entertainment district.

(e) (I) A licensed tavern, lodging and entertainment facility, hotel and restaurant, brew pub, distillery pub, retail gaming tavern, vintner's restaurant, beer and wine licensee, manufacturer or beer wholesaler that operates a sales room, limited winery, or optional premises that wishes to attach to a common consumption area may submit an application to the local licensing authority. To qualify, the licensee must include a request for authority to attach to the common consumption area from the certified promotional association of the common consumption area unless the promotional association does not exist when the application is submitted; if so, the applicant shall request the authority when a promotional association is certified and shall demonstrate to the local licensing authority that the authority has been obtained by the time the applicant's license issued under this article 3 is renewed.

(II) The local licensing authority may deauthorize or refuse to authorize or reauthorize a licensee's attachment to a common consumption area if the licensed premises is not within or on the perimeter of the common consumption area and if the licensee:

(A) Fails to obtain or retain authority to attach to the common consumption area from the certified promotional association;

(B) Fails to establish that the licensed premises and common consumption area can be operated without violating this article 3 or creating a safety risk to the neighborhood; or

(C) Violates section 44-3-910.

(f) A local licensing authority may establish application procedures and a fee for certifying a promotional authority or authorizing attachment to a common consumption area. The authority shall establish the fee in an amount designed to reasonably offset the cost of implementing this subsection (11). Notwithstanding any other provision of this article 3, a local authority may set the hours during which a common consumption area and attached licensed premises may serve alcohol and the customers may consume alcohol. Before certifying a promotional association, the local licensing authority shall consider 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.

(12) (a) Notwithstanding any other provision of this article 3, on and after July 1, 2016, the state and local licensing authorities shall not issue a new license under this article 3 authorizing the sale at retail of malt, vinous, or spirituous liquors in sealed containers for consumption off the licensed premises if the premises for which the retail license is sought is located:

(I) Within one thousand five hundred feet of another licensed premises licensed to sell malt, vinous, or spirituous liquors at retail for off-premises consumption;

(II) For a premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of another licensed premises licensed to sell malt, vinous, or spirituous liquors at retail for off-premises consumption; or

(III) For a premises located in a municipality with a population of ten thousand or fewer that is contiguous to the city and county of Denver, within one thousand five hundred feet of another licensed premises licensed to sell malt, vinous, or spirituous liquors at retail for off-premises consumption.

(a.5) (I) Notwithstanding any other provision of this article 3, on and after June 4, 2018, the state and local licensing authorities shall not issue a new fermented malt beverage retailer's license under article 4 of this title 44 authorizing the sale at retail of fermented malt beverages in sealed containers for consumption off the licensed premises if the premises for which the retail license is sought is located within five hundred feet of a retail liquor store licensed under section 44-3-409.

(II) This subsection (12)(a.5) does not apply to a person that owns or leases a proposed fermented malt beverage retailer licensed premises and, as of January 1, 2019, has applied for or received from the municipality, city and county, or county in which the premises are located:

(A) A building permit for the structure to be used for the fermented malt beverage retailer licensed premises, which permit is currently active and will not expire before the completion of the liquor licensing process; or

(B) A certificate of occupancy for the structure to be used for the fermented malt beverage retailer licensed premises.

(b) For purposes of subsection (12)(a) of this section, a license under this article 3 authorizing the sale at retail of malt, vinous, or spirituous liquors in sealed containers for consumption off the licensed premises includes a license under this article 3 authorizing the sale

of malt and vinous liquors in sealed containers not to be consumed at the place where the malt and vinous liquors are sold.

(c) For purposes of determining whether the distance requirements specified in subsections (12)(a) and (12)(a.5) of this section are satisfied, the distance shall be determined by a radius measurement that begins at the principal doorway of the premises for which the application is made and ends at the principal doorway of the other retail licensed premises.

Source: L. 2018: (2)(a), (9)(a), (10)(c)(I), (10)(c)(V), (10)(c)(VII), (10)(c)(XI), (10)(c)(XII), (10)(d), and (12) amended, (SB 18-243), ch. 366, p. 2195, § 5, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 965, § 2, effective October 1; (8) amended, (SB 18-243), ch. 366, p. 2195, § 5, effective July 1, 2019. **L. 2019:** (3)(a) amended, (SB 19-011), ch. 1, p. 6, § 6, effective January 31; (8) amended, (SB 19-028), ch. 4, p. 24, § 3, effective February 20; (11)(e)(I) amended, (SB 19-141), ch. 207, p. 2204, § 2, effective August 2. **L. 2021:** (2)(c) added and (3)(a) and (11)(d) amended, (HB 21-1044), ch. 165, p. 925, § 2, effective September 7; (3)(a) amended, (SB 21-082), ch. 195, p. 1044, § 1, effective September 7.

Editor's note: (1) This section is similar to former § 12-47-301 as it existed prior to 2018.

(2) (a) Subsections (2)(a), (9)(a), (10)(c)(I), (10)(c)(V), (10)(c)(VII), (10)(c)(XI), (10)(c)(XII), (10)(d), and (12) of this section were numbered as § 12-47-301 (2)(a), (9)(a), (10)(c)(I), (10)(c)(V), (10)(c)(VII), (10)(c)(XI), (10)(c)(XII), (10)(d), and (12), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

(b) Subsection (8) of this section was numbered as § 12-47-301 (8) in SB 18-243. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025, effective July 1, 2019.

(3) Amendments to subsection (3)(a) by SB 21-082 and HB 21-1044 were harmonized.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-3-302. License renewal - rules. (1) (a) Ninety days before the expiration date of an existing license, the state licensing authority shall notify the licensee of the expiration date by any method reasonably likely to actually notify the licensee. The state licensing authority shall promulgate rules setting the procedure to notify a licensee in accordance with this subsection (1)(a).

(b) For the renewal of an existing license, the licensee must apply to the local licensing authority not less than forty-five days and to the state licensing authority not less than thirty days before the date of expiration. The local licensing authority shall not accept an application for renewal of a license after the date of expiration, except as provided in subsection (2) of this section. Filing with the local licensing authority is deemed filing with the state licensing authority. The state licensing authority shall process all renewal applications that are filed with the local licensing authorities before the expiration date and subsequently approved and shall extend the expiration date until the state license application process is completed. 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)(b).

(c) The local licensing authority may hold a hearing on the application for renewal, but not until a notice of hearing has been conspicuously posted on the licensed premises for ten days and notice of the hearing has been provided the applicant at least ten days before the hearing. The licensing authority may refuse to renew any license for good cause, subject to judicial review. The state licensing authority shall hold any renewal hearing in accordance with section 44-3-305 (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 the licensee's late renewal application.

(b) A state or local licensing authority shall not 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 44-3-311 or a reissued license pursuant to subsection (2)(d) of this section.

(c) Notwithstanding the amount specified for the fee in subsection (2)(a) of this section, the state licensing authority by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3) to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the state licensing authority by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4).

(d) (I) Notwithstanding subsection (2)(b) of this section, with the permission of the licensing authority, a licensee whose permanent annual license has been expired for more than ninety days but less than one hundred eighty days may submit to the local licensing authority, or to the state licensing authority in the case of a licensee whose alcohol beverage license is not subject to issuance or approval by a local licensing authority, an application for a reissued license. The licensing authority has the sole discretion to determine whether to allow a licensee to apply for a reissued license.

(II) If the licensing authority does not allow the licensee's application, then the licensee must apply for a new license pursuant to section 44-3-311. A person who has applied for a new license shall not sell, or possess for sale in public view, any alcohol beverage until all required licenses have been obtained.

(III) For licensees subject to issuance or approval by a local licensing authority, if the local licensing authority allows the licensee to apply for a reissuance of the expired license, the licensee must submit to the local licensing authority:

(A) An application for a reissued license;

(B) Payment of a five-hundred-dollar late application fee; and

(C) Payment of a fine of twenty-five dollars per day for each day the license has been expired beyond ninety days.

(IV) After the local licensing authority accepts the application, late application fee, and fine, the licensee may continue to operate and sell alcohol beverages until the state licensing

authority and local licensing authority have each taken final action on the licensee's application for license reissuance.

(V) If the local licensing authority approves the reissuance of the licensee's license, the local licensing authority shall forward the approved application to the state licensing authority for review. In addition to the late application fee and fine imposed by the local licensing authority, the state licensing authority shall impose a five-hundred-dollar late application fee and a fine of twenty-five dollars per day for each day the license has been expired beyond ninety days.

(VI) For licensees who are not subject to issuance or approval by a local licensing authority, if the state licensing authority allows the licensee to apply for a reissuance of the expired license, the licensee must submit to the state licensing authority:

(A) An application for a reissued license;

(B) Payment of a five-hundred-dollar late application fee; and

(C) Payment of a fine of twenty-five dollars per day for each day the license has been expired beyond ninety days.

(VII) After the state licensing authority accepts the application, late application fee, and fine, the licensee may continue to operate and sell alcohol beverages until the state licensing authority takes final action on the licensee's application for license reissuance.

(VIII) If the state licensing authority approves the reissuance, the licensee will maintain the same license period dates as if the license had been renewed prior to the expiration date.

(IX) If either the local or state licensing authority denies the licensee's application for reissuance of the expired license, then the licensee may apply for a new license pursuant to section 44-3-311.

(X) Neither the state nor local licensing authority may grant a licensee's application for license reissuance more than three times in any five-year period.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 972, § 2, effective October 1. **L. 2020:** (1) amended, (SB 20-086), ch. 67, p. 269, § 1, effective September 14.

Editor's note: This section is similar to former § 12-47-302 as it existed prior to 2018.

44-3-303. Transfer of ownership and temporary permits. (1) (a) No license granted under the provisions of this article 3 or article 4 of this title 44 shall be transferable except as provided in this subsection (1), but this shall not prevent a change of location as provided in section 44-3-301 (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) (I) Except as provided in subsection (1)(c)(II) of this section, for any other transfer of ownership, application must 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 44-3-307 and 1 CCR 203-2, rule 47-302, entitled "Changing, Altering, or Modifying Licensed

Premises", or any analogous successor rule. The local licensing authority may conduct a hearing on the application for transfer of ownership after providing notice in accordance with subsection (1)(c)(III) of this section. Any transfer of ownership hearing by the state licensing authority must be held in accordance with section 44-3-305 (2).

(II) A license merger and conversion as provided for in section 44-3-410 (1)(b) includes a transfer of ownership of at least two retail liquor stores, a change of location of one of the retail liquor stores, and a merger and conversion of the retail liquor store licenses into a single liquor-licensed drugstore license, all as part of a single transaction, and the liquor-licensed drugstore applicant need not apply separately for a transfer of ownership under this section. The liquor-licensed drugstore applying for a license merger and conversion pursuant to section 44-3-410 (1)(b) is ineligible for a temporary permit pursuant to this section. The local licensing authority shall consider the reasonable requirements of the neighborhood pursuant to section 44-3-312 when making a determination on the merger and conversion of the retail liquor store licenses into a single liquor-licensed drugstore license. The local licensing authority may hold a hearing on the application for the license merger and conversion after providing notice in accordance with subsection (1)(c)(III) of this section.

(III) Prior to holding a hearing as provided in this subsection (1)(c), the local licensing authority shall notify the applicant of the hearing at least ten days before the hearing and shall post, or may direct the license applicant to post, a notice of the hearing in a conspicuous location on the licensed premises for at least ten consecutive days before the hearing.

(d) The state or a local licensing authority shall not approve a transfer of ownership under this subsection (1) until the applicant files with the local licensing authority confirmation from each wholesaler licensed under this article 3 that has sold alcohol beverages to the transferor that the wholesaler has been paid in full for all alcohol beverages delivered to the transferor.

(2) Notwithstanding any provision of this article 3 to the contrary, a local licensing authority may issue a temporary permit to a transferee of any retail class of alcohol beverage license issued by the local licensing authority pursuant to this article 3 or article 4 of this title 44; except that a local licensing authority shall not issue a temporary permit to a liquor-licensed drugstore that has acquired ownership of licensed retail liquor stores in accordance with section 44-3-410 (1)(b). A temporary permit authorizes a transferee to continue selling alcohol beverages as permitted under the permanent license during the period in which an application to transfer the ownership of the license is pending.

(3) A temporary permit shall authorize a transferee to conduct business and sell 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 alcohol beverages are sold shall have been previously licensed by the state and local licensing authorities, and the license shall have been valid at the time the application for transfer of ownership was filed with the local licensing authority 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 an application for the transfer of the liquor license. The 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;

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

(V) A statement that all accounts for alcohol beverages sold to the applicant are paid.

(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.

(d) When applying with the local licensing authority for a temporary permit, the applicant shall provide a copy, by facsimile or otherwise, of the statement made pursuant to subsection (3)(b)(V) of this section to the state licensing authority. The statement is a public record and shall be open to inspection by the public.

(4) A temporary permit, if granted, by a local licensing authority shall be issued within five working days after the receipt of the 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 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 the permit for an additional period not to exceed sixty days.

(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.

(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 3 or article 4 of this title 44 or has violated any rule 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.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 974, § 2, effective October 1. **L. 2019:** IP(3)(b) and (6) amended, (SB 19-241), ch. 390, p. 3478, § 61, effective August 2.

Editor's note: This section is similar to former § 12-47-303 as it existed prior to 2018.

44-3-304. State licensing authority - application and issuance procedures - definitions - rules. (1) (a) Applications for licenses under the provisions of this article 3 and articles 4 and 5 of this title 44 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. The 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 the person or persons as the state licensing authority may prescribe.

(b) Notwithstanding the requirements of subsection (1)(a) of this section, an applicant seeking licenses for multiple locations may request the state licensing authority to establish a master file. All requests for a master file shall be made on forms provided by the state licensing authority and shall contain such information as the state licensing authority may require to enable the authority to determine the suitability of the license applicant and its principal owners as required pursuant to section 44-3-307. The state licensing authority shall either approve the request for a master file and issue an approval letter, or deny the request pursuant to the provisions of section 44-3-305. Any change to information contained in the master file shall be reported by the applicant or licensee to the state licensing authority within thirty days after the change. Failure to report all changes as required may be grounds for suspension or revocation of a license or licenses as determined by the state licensing authority. No local licensing authority shall require applicants with an approved master file to file additional background investigation forms or fingerprints. Nothing in this section shall prohibit a local licensing authority from conducting its own investigation, or from verifying any of the information provided by the applicant, or from denying the application of the applicant pursuant to the provisions set forth in section 44-3-307.

(c) As used in this part 3, "master file" means a file that is established by the state licensing authority and that contains licensing and background information for an applicant seeking licenses pursuant to this article 3 in multiple locations. The master file shall be available to the local licensing authority.

(d) The state licensing authority shall promulgate rules governing the minimum number of multiple locations required to establish and maintain a master file.

(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 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 the application for a license.

(b) As used in subsection (2)(a) of this section, "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.

(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 44-3-309.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 976, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-304 as it existed prior to 2018.

44-3-305. 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 3, or if the character of the applicant or its officers or directors is such that violations of this article 3 or article 4 or 5 of this title 44 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. 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. The hearing shall be conducted in accordance with the provisions of section 24-4-105, and judicial review of the state licensing authority's decision shall be pursuant to section 24-4-106.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 978, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-305 as it existed prior to 2018.

44-3-306. 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, the 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 the approval.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 978, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-306 as it existed prior to 2018.

44-3-307. Persons prohibited as licensees - definition. (1) (a) No license provided by this article 3 or article 4 or 5 of this title 44 shall be issued to or held by:

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

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

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

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

(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;

(VI) Any person unless the person's character, record, and reputation are satisfactory to the respective licensing authority;

(VII) Any natural person under twenty-one years of age.

(b) (I) 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.

(II) With respect to arts or club license applications, an investigation of the character of the president or chair of the board and the operational manager shall be deemed sufficient to determine whether to issue the arts or club license to the applicant.

(2) (a) No license provided by this article 3 shall be issued to or held by a peace officer described in section 16-2.5-121, 16-2.5-122, 16-2.5-123, 16-2.5-125, 16-2.5-126, 16-2.5-128, or 16-2.5-129, or the state licensing authority or any of its inspectors or employees.

(b) A peace officer described in section 16-2.5-103, 16-2.5-105, 16-2.5-108, 16-2.5-132, or 16-2.5-149 may not obtain or hold a license under this article 3 to operate a licensed premises that is located within the same jurisdiction that employs the peace officer.

(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 subsection (3)(a) of this section, "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.

(c) At the time of the application for a license, the applicant shall submit fingerprints and file personal history information concerning the applicant's qualifications for a license on forms prepared by the state licensing authority. The state and local licensing authorities shall submit such fingerprints to the Colorado bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. An applicant who has previously submitted fingerprints for alcohol beverage licensing purposes may request that the fingerprints on file be used. When the results of a fingerprint-based criminal history record check of an applicant performed pursuant to this section reveal a record of arrest without a disposition, the licensing authority shall require the applicant to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d). The licensing authorities shall use the information resulting from the fingerprint-based and, if applicable, name-based criminal history record check to investigate and to determine if an applicant is qualified for a license pursuant to this article 3 and article 4 of this title 44. The licensing authority is not prohibited from verifying any of the

information required to be submitted by an applicant pursuant to this section. An applicant shall not be required to submit additional information beyond that required in this subsection (3) unless the licensing authority has determined any of the following:

(I) The applicant has misrepresented a material fact;

(II) The applicant has an established criminal history record;

(III) A prior criminal or administrative proceeding determined that the applicant violated alcohol beverage laws;

(IV) The information submitted by an applicant is incomplete; or

(V) The character, record, or reputation of the applicant, his or her agent, or his or her principal is such that a potential violation of this article 3 or article 4 of this title 44 may occur if a license is issued to the applicant.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 978, § 2, effective October 1. **L. 2019:** IP(3)(c) amended, (HB 19-1166), ch. 125, p. 559, § 52, effective April 18.

Editor's note: This section is similar to former § 12-47-307 as it existed prior to 2018.

44-3-308. Unlawful financial assistance. (1) (a) (I) It is unlawful for any person licensed pursuant to this article 3 as a manufacturer, limited winery, 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 this article 3 or article 4 or 5 of this title 44:

(A) Any financial assistance, including the extension of credit for more than thirty days, as specified in section 44-3-202 (2)(b) or in rules of the state licensing authority; or

(B) Any equipment, fixtures, chattels, or furnishings used in the storing, handling, serving, or dispensing of food or alcohol beverages within the premises or for making any structural alterations or improvements in or on the building in which the premises is located.

(II) This subsection (1) does not:

(A) Apply to signs or displays within the licensed premises; or

(B) Prevent a representative, employee, or agent of a person licensed under this article 3 as a manufacturer, limited winery, wholesaler, or importer from pouring or serving the licensee's alcohol beverage products as part of a tasting being conducted on the licensed premises of a person licensed under this article 3 to sell alcohol beverages at retail for off-premises consumption, and pouring or serving the licensee's alcohol beverages does not constitute labor provided by a person licensed under this article 3 as a manufacturer, limited winery, wholesaler, or importer to a person licensed under this article 3 to sell alcohol beverages at retail.

(b) Notwithstanding the provisions of subsection (1)(a) of this section, any person or party described in subsection (1)(a) of this section may provide financial or in-kind assistance, directly or indirectly, to a nonprofit arts organization that has been issued an arts license pursuant to section 44-3-419 or to a state-supported institution of higher education in Colorado, including local district colleges, area technical colleges, and the Auraria higher education center, or the governing board of a state-supported institution of higher education, or to a nonpublic institution of higher education as defined in section 23-3.7-102 that is operating pursuant to 26

U.S.C. sec. 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, if the institution has been issued a license pursuant to this article 3 or article 4 or 5 of this title 44.

(2) The state licensing authority, by rule, 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 3. 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 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.

(3) (a) (I) It is unlawful for any person licensed to sell at retail pursuant to this article 3 or article 4 of this title 44 to receive and obtain from the persons or parties described and referred to in 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 alcohol beverages within the premises or from making any structural alterations or improvements in or on the building on which the premises is located.

(II) This subsection (3) does not:

(A) Apply to signs or displays within the premises or to advertising materials that are intended primarily to advertise the product of the wholesaler or manufacturer and 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; or

(B) Prevent a representative, employee, or agent of a licensee described and referred to in subsection (1)(a) of this section from pouring or serving the licensee's alcohol beverage products as part of a tasting being conducted on the licensed premises of the person licensed under this article 3 to sell alcohol beverages at retail for off-premises consumption, and pouring or serving the licensee's alcohol beverages does not constitute labor provided by a licensee described in subsection (1)(a) of this section to a person licensed under this article 3 to sell alcohol beverages at retail.

(b) Notwithstanding the provisions of subsection (3)(a) of this section, a nonprofit arts organization that has been issued an arts license pursuant to section 44-3-419 or a state-supported institution of higher education in Colorado, including local district colleges, area technical colleges, and the Auraria higher education center, or the governing board of a state-supported institution of higher education, or a nonpublic institution of higher education as defined in section 23-3.7-102 that is operating pursuant to 26 U.S.C. sec. 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, if the institution has been issued a license pursuant to this article 3 or article 4 or 5 of this title 44, may receive financial or in-kind assistance, directly or indirectly, from the persons or parties described and referred to in subsection (1)(a) of this section.

(4) (a) Except as otherwise authorized, it is unlawful for any person or corporation holding any license pursuant to this article 3 or article 4 of this title 44 or any person who is a stockholder, director, or officer of any corporation holding a license pursuant to this article 3 or article 4 of this title 44 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 3 or article 4 of this title 44, but this subsection (4) does not apply to banks or savings and loan associations 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 3 or article 4 of this title 44, 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 this article 3 or article 4 of this title 44; except that this subsection (4)(a) does not apply to any financial institution that comes into possession of a licensed premises by virtue of a foreclosure or deed in lieu of foreclosure if the financial institution does not retain such premises for longer than one year or for such time exceeding one year as provided in subsection (4)(b) of this section.

(b) In the case of a financial institution 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 subsection (4)(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.

(5) (a) 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 this article 3 or article 4 or 5 of this title 44 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 3 or article 4 or 5 of this title 44 may be influenced or caused, directly or indirectly, to buy, sell, dispense, or handle the product of any manufacturer of alcohol beverages.

(b) This subsection (5) does not:

(I) Apply to displays within the premises; or

(II) Prevent a representative, employee, or agent of a person licensed under this article 3 as a manufacturer, limited winery, wholesaler, or importer from pouring or serving the licensee's alcohol beverage products as part of a tasting being conducted on the licensed premises of a person licensed under this article 3 to sell alcohol beverages at retail for off-premises consumption, and pouring or serving the licensee's alcohol beverages does not constitute labor provided by a person licensed under this article 3 as a manufacturer, limited winery, wholesaler, or importer to a person licensed under this article 3 to sell alcohol beverages at retail.

(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 the transaction, agreement, or arrangement.

(7) This section is intended to prohibit and prevent the control of the outlets for the sale of alcohol beverages by any persons or parties other than the persons licensed pursuant to the provisions of this article 3 or article 4 or 5 of this title 44.

(8) It is unlawful for an owner, part owner, shareholder, or person interested directly or indirectly in a brew pub, distillery 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 3 or article 4 of this title 44.

Source: L. 2018: (1)(a), (3)(a), and (5) amended, (SB 18-243), ch. 366, p. 2198, § 6, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 980, § 2, effective October 1. **L. 2019:** IP(1)(a)(I), (1)(a)(II)(B), and (5)(b)(II) amended, (SB 19-011), ch. 1, p. 6, § 7, effective January 31.

Editor's note: (1) This section is similar to former § 12-47-308 as it existed prior to 2018.

(2) Subsections (1)(a), (3)(a), and (5) of this section were numbered as § 12-47-308 (1)(a), (3)(a), and (5), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-3-309. Local licensing authority - applications - optional premises licenses. (1) A local licensing authority may issue only the following alcohol beverage licenses upon payment of the fee specified in section 44-3-505:

(a) Retail liquor store license;
(b) Liquor-licensed drugstore license;
(c) Beer and wine license;
(d) Hotel and restaurant license;
(e) Tavern license;
(f) Brew pub license;
(g) Club license;
(h) Arts license;
(i) Racetrack license;
(j) Optional premises license;
(k) Retail gaming tavern license;
(l) Vintner's restaurant license;
(m) Distillery pub license;
(n) Lodging and entertainment license.

(2) An application for any license specified in subsection (1) of this section or section 44-4-107 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) 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.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 983, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-309 as it existed prior to 2018.

44-3-310. Optional premises license - local option. (1) No optional premises license, or optional premises permit for a hotel and restaurant license, as defined in section 44-3-103 (33)(a), 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 3, the governing body may adopt additional standards for the issuance of optional premises licenses or for optional premises for a hotel and restaurant license that may include:

(a) The specific types of outdoor sports and recreational facilities 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 that any one licensee may have on an outdoor sports or recreational facility;

(c) A restriction on the minimum size of any applicant's outdoor sports or recreational facility 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 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. The 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. The 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 3 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 alcohol beverages for future use on the optional premises. The applicant shall file the application and additional information 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. The notice must contain the specific days and hours on which the optional premises are to be used. This subsection (4) does not permit the violation of any other provision of this article 3 under circumstances not specified in this subsection (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 983, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-310 as it existed prior to 2018.

44-3-311. Public notice - posting and publication - definition. (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 the 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 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 issuance of a license pursuant to section 44-3-309 (1) 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 that encompasses part or all of the neighborhood under consideration from presenting evidence subject to this section. The representative shall reside within the neighborhood group's geographic boundaries and shall be a member of the neighborhood group. The representative shall not be entitled to cross-examine witnesses or seek judicial review of the licensing authority's decision.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 985, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-311 as it existed prior to 2018.

44-3-312. 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 sections 44-3-309 (1) and 44-4-107 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 3 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 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. For the merger and conversion of retail liquor store licenses to a single liquor-licensed drugstore license in accordance with section 44-3-410 (1)(b), the local licensing authority shall consider the reasonable requirements of the neighborhood and the desires of the adult inhabitants of the neighborhood.

(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 the 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 3 and article 4 of this title 44, 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 the approval, who shall investigate and either approve or disapprove such application.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 986, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-312 as it existed prior to 2018.

44-3-313. Restrictions for applications for new license. (1) An application for the issuance of any license specified in section 44-3-309 (1) or 44-4-107 (1) shall not be received or acted upon:

(a) (I) If the application for a license described in section 44-3-309 (1) 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) Subsection (1)(a)(I) of this section shall not apply to cities in which limited gaming is permitted pursuant to section 9 of article XVIII of the state constitution.

(III) No licensing authority shall consider an application for any license to sell fermented malt beverages at retail pursuant to section 44-4-107 (1) if, within one year before 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 alcohol beverages as contemplated is not permitted under the applicable zoning laws of the municipality, city and county, or county;

(d) (I) If the building in which the alcohol beverages are to be sold pursuant to a license described in section 44-3-309 (1) is located within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary; except that this subsection (1)(d)(I) does not:

(A) Affect the renewal or reissuance of a license once granted;

(B) Apply to licensed premises located or to be located on land owned by a municipality;

(C) Apply to an existing licensed premises on land owned by the state;

(D) Apply to a liquor license in effect and actively doing business before the principal campus was constructed;

(E) Apply to any club located within the principal campus of any college, university, or seminary that limits its membership to the faculty or staff of the institution; or

(F) Apply to a campus liquor complex.

(II) The distances referred to in subsection (1)(d)(I) of this section 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.

(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 subsection (1)(d) for 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 subsection (1)(d).

(IV) In addition to the requirements of section 44-3-312 (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 44-3-802.

(e) (I) If the building in which the fermented malt beverages are to be sold pursuant to a license under section 44-4-107 (1)(a) is located within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary; except that this subsection (1)(e)(I) does not apply to:

(A) Licensed premises located or to be located on land owned by a municipality;

(B) An existing licensed premises on land owned by the state;

(C) A fermented malt beverage retailer that held a valid license and was actively doing business before the principal campus was constructed;

(D) A club located within the principal campus of any college, university, or seminary that limits its membership to the faculty or staff of the institution; or

(E) A campus liquor complex.

(II) The distances referred to in subsection (1)(e)(I) of this section 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 fermented malt beverages are to be sold, using a route of direct pedestrian access.

(III) The local licensing authority of any city and county, by rule or regulation; the governing body of any other municipality, by ordinance; or the governing body of any other county, by resolution, may:

(A) Eliminate or modify the distance restrictions imposed by this subsection (1)(e); or

(B) Eliminate one or more types of schools or campuses from the application of any distance restriction established by or pursuant to this subsection (1)(e).

(IV) In addition to the requirements of section 44-3-312 (2), the local licensing authority shall consider the evidence and make a specific finding of fact as to whether the building in which the fermented malt beverages are to be sold is located within any distance restriction established by or pursuant to this subsection (1)(e). The finding is subject to judicial review pursuant to section 44-3-802.

(V) This subsection (1)(e) applies to:

(A) Applications for new fermented malt beverage retailer's licenses under section 44-4-107 (1)(a) submitted on or after June 4, 2018; and

(B) Applications submitted on or after June 4, 2018, under section 44-3-301 (9) by fermented malt beverage retailers licensed under section 44-4-107 (1)(a) to change the permanent location of the fermented malt beverage retailer's licensed premises.

(2) An application for the issuance of a tavern or retail liquor store license may be denied under this article 3 if the local licensing authority or the state on state-owned property determines, pursuant to section 44-3-301 (2)(b), that the issuance of the license would result in or add to an undue concentration of the same class of license and, as a result, require the use of additional law enforcement resources.

Source: L. 2018: IP(1) amended and (1)(e) added, (SB 18-243), ch. 366, p. 2200, § 7, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 987, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-47-313 as it existed prior to 2018.

(2) Subsections IP(1) and (1)(e) of this section were numbered as § 12-47-313 IP(1) and (1)(e), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

PART 4

CLASSES OF LICENSES AND PERMITS

44-3-401. Classes of licenses and permits - rules. (1) For the purpose of regulating the manufacture, sale, and distribution of alcohol beverages, 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 or permit from any of the following classes, subject to the provisions and restrictions provided by this article 3:

(a) Manufacturer's license;
(b) Limited winery license;
(c) Nonresident manufacturer's license;
(d) Importer's license;
(e) Malt liquor importer's license;
(f) Wholesaler's liquor license;
(g) Wholesaler's beer license;
(h) Retail liquor store license;
(i) Liquor-licensed drugstore license;
(j) Beer and wine license;
(k) Hotel and restaurant license;
(l) Tavern license;
(m) Brew pub license;
(n) Club license;

(o) Arts license;
(p) Racetrack license;
(q) Public transportation system license;
(r) Optional premises license;
(s) Retail gaming tavern license;
(t) Vintner's restaurant license;
(u) Wine packaging permit;
(v) Distillery pub license;
(w) Lodging and entertainment license;
(x) Manager's permit.

(2) If the federal alcohol and tobacco tax and trade bureau approves the purchase, sale, possession, or manufacturing of powdered alcohol in the United States, the state licensing authority shall adopt rules establishing a mechanism for regulating the manufacture, purchase, sale, possession, and use of powdered alcohol.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 988, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-401 as it existed prior to 2018.

44-3-402. 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 3; 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. Wholesalers of malt liquors receiving products to be held as required by this subsection (1)(b) shall be liable for the payment of any tax due on such products under section 44-3-503 (1)(a).

(c) To sell vinous or spirituous liquors of their own manufacture within the state to persons licensed by this article 3 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 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) (a) A winery licensed pursuant to this section may conduct tastings 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 44-3-403, on the licensed premises of the winery and at one other approved sales room location at no additional cost, whether included in

the license at the time of the original license issuance or by supplemental application. If the licensed premises includes multiple noncontiguous locations, the winery may operate a sales room on only one of those noncontiguous locations. Any additional sales room operated on a noncontiguous location of the licensed premises must be approved in accordance with the process outlined in subsection (2)(c) of this section.

(b) A winery licensed pursuant to this section may serve and sell food, general merchandise, and nonalcohol beverages for consumer consumption on or off the licensed premises.

(c) (I) (A) Prior to operating a sales room location, a winery licensed pursuant to this section shall, at the time of application to the state licensing authority, send a copy of the application or supplemental application for a sales room to the local licensing authority in the jurisdiction in which the sales room is proposed. The local licensing authority may submit a response to the application, including its determination specified in subsection (2)(c)(II) of this section, to the state licensing authority but must submit its response within forty-five days after the licensed winery submits its sales room application to the state licensing authority, or, for purposes of an application to operate a temporary sales room for not more than three consecutive days, within the time specified by the state licensing authority by rule.

(B) If the local licensing authority does not submit a response to the state licensing authority within the time specified in subsection (2)(c)(I)(A) of this section, the state licensing authority shall deem that the local licensing authority has determined that the proposed sales room will not impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances or that the applicant will sufficiently mitigate any impacts identified by the local licensing authority.

(II) The state licensing authority must consider the response from the local licensing authority, if any, and may deny the proposed sales room application if the local licensing authority determines that approval of the proposed sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, which may be determined by the local licensing authority without requiring a public hearing, or that the applicant cannot sufficiently mitigate any potential impacts identified by the local licensing authority.

(III) The state licensing authority shall not grant approval of an additional sales room unless the applicant affirms to the state licensing authority that the applicant has complied with local zoning restrictions.

(IV) A licensed winery that is operating a sales room as of August 5, 2015, or that is granted approval pursuant to this subsection (2)(c) to operate a sales room on or after August 5, 2015, shall notify the state licensing authority of all sales rooms it operates. The state licensing authority shall maintain a list of all licensed winery sales rooms in the state and make the list available on its website.

(V) The local licensing authority may request that the state licensing authority take action in accordance with section 44-3-601 against a licensed winery approved to operate a sales room if the local licensing authority:

(A) Demonstrates to the state licensing authority that the licensee has engaged in an unlawful act as set forth in part 9 of this article 3; or

(B) Shows good cause as specified in section 44-3-103 (19)(a), (19)(b), or (19)(d).

(VI) This subsection (2)(c) does not apply if the licensed winery does not sell and serve vinous liquors for consumption on the licensed premises or in an approved sales room.

(3) (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 44-3-407 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.

(4) A winery that has received a license pursuant to this section may ship wine directly to personal consumers if the winery also has received a winery direct shipper's permit under section 44-3-104.

(5) (a) It is unlawful for a manufacturer licensed under this article 3 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 3 or article 4 of this title 44.

(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.

(6) 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 the applicant is sold by the respective wholesaler. The contract shall be submitted to the state licensing authority with an application, and the applicant, if licensed, shall have a continuing duty to submit any subsequent revisions, amendments, or superseding contracts to the state licensing authority.

(7) (a) A manufacturer of spirituous liquors licensed pursuant to this section may conduct tastings and sell to customers spirituous liquors of its own manufacture on its licensed premises and at one other approved sales room location at no additional cost. A sales room location may be included in the license at the time of the original license issuance or by supplemental application.

(b) A manufacturer of spirituous liquors licensed pursuant to this section may serve and sell food, general merchandise, and nonalcohol beverages for consumer consumption on or off the licensed premises.

(c) (I) (A) Prior to operating a sales room location, a manufacturer of spirituous liquors licensed pursuant to this section shall, at the time of application to the state licensing authority, send a copy of the application or supplemental application for a sales room to the local licensing authority in the jurisdiction in which the sales room is proposed. The local licensing authority may submit a response to the application, including its determination specified in subsection

(7)(c)(II) of this section, to the state licensing authority but must submit its response within forty-five days after the licensee submits its sales room application to the state licensing authority, or, for purposes of an application to operate a temporary sales room for not more than three consecutive days, within the time specified by the state licensing authority by rule.

(B) If the local licensing authority does not submit a response to the state licensing authority within the time specified in subsection (7)(c)(I)(A) of this section, the state licensing authority shall deem that the local licensing authority has determined that the proposed sales room will not impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances or that the applicant will sufficiently mitigate any impacts identified by the local licensing authority.

(II) The state licensing authority must consider the response from the local licensing authority, if any, and may deny the proposed sales room application if the local licensing authority determines that approval of the proposed sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, which may be determined by the local licensing authority without requiring a public hearing, or that the applicant cannot sufficiently mitigate any potential impacts identified by the local licensing authority.

(III) The state licensing authority shall not grant approval of an additional sales room unless the applicant affirms to the state licensing authority that the applicant has complied with local zoning restrictions.

(IV) A licensed spirituous liquors manufacturer that is operating a sales room as of August 5, 2015, or that is granted approval pursuant to this subsection (7)(c) to operate a sales room on or after August 5, 2015, shall notify the state licensing authority of all sales rooms it operates. The state licensing authority shall maintain a list of all licensed spirituous liquor manufacturer sales rooms in the state and make the list available on its website.

(V) The local licensing authority may request that the state licensing authority take action in accordance with section 44-3-601 against a licensed spirituous liquors manufacturer approved to operate a sales room if the local licensing authority:

(A) Demonstrates to the state licensing authority that the licensee has engaged in an unlawful act as set forth in part 9 of this article 3; or

(B) Shows good cause as specified in section 44-3-103 (19)(a), (19)(b), or (19)(d).

(VI) This subsection (7)(c) does not apply if the licensed spirituous liquors manufacturer does not sell and serve its spirituous liquors for consumption on the licensed premises or in an approved sales room.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 990, § 2, effective October 1. **L. 2019:** (3)(c) and (5)(a) amended, (SB 19-011), ch. 1, p. 7, § 8, effective January 31. **L. 2021:** (2)(a) amended, (HB 21-1044), ch. 165, p. 927, § 3, effective September 7.

Editor's note: This section is similar to former § 12-47-402 as it existed prior to 2018.

44-3-403. Limited winery license - rules. (1) A Colorado limited winery license shall be granted by the state licensing authority to an applicant that certifies that it will manufacture not more than one hundred thousand gallons, or the metric equivalent thereof, of vinous liquors

within Colorado. 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 vinous liquors upon its licensed premises and, in order to enhance the growth and viability of the Colorado wine industry, upon alternating proprietor licensed premises, as approved by the state licensing authority;

(b) To sell vinous liquors of its own manufacture within this state at wholesale, at retail, or to personal consumers, including, if the limited winery also has received a winery direct shipper's permit under section 44-3-104, sales to be delivered by common carrier or by the limited winery licensee to personal consumers in accordance with all requirements in section 44-3-104;

(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) (I) (A) Except as provided in subsection (2)(e)(I)(B) of this section and subject to subsection (2)(e)(II) of this section, to conduct tastings and sell vinous liquors of its own manufacture, as well as vinous liquors manufactured by other Colorado wineries, on the licensed premises of the limited winery and up to five other approved sales room locations, whether included in the license at the time of the original license issuance or by supplemental application. If the licensed premises includes multiple noncontiguous locations, the licensee may operate a sales room on only one of those noncontiguous locations. Any additional sales room operated on a noncontiguous location of the licensed premises must be approved as one of the licensee's additional sales rooms allowed under this subsection (2)(e)(I)(A) in accordance with the process outlined in subsection (2)(e)(II) of this section.

(B) A limited winery licensee shall not conduct retail sales from an area licensed or defined as an alternating proprietor licensed premises.

(II) (A) Prior to operating a sales room location, a limited winery licensed pursuant to this section shall, at the time of application to the state licensing authority, send a copy of the application or supplemental application for a sales room to the local licensing authority in the jurisdiction in which the sales room is proposed. The local licensing authority may submit a response to the application, including its determination specified in subsection (2)(e)(II)(B) of this section, to the state licensing authority but must submit its response within forty-five days after the licensed limited winery submits its sales room application to the state licensing authority, or, for purposes of an application to operate a temporary sales room for not more than three consecutive days, within the time specified by the state licensing authority by rule. If the local licensing authority does not submit a response to the state licensing authority within the time specified in this subsection (2)(e)(II)(A), the state licensing authority shall deem that the local licensing authority has determined that the proposed sales room will not impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances or that the applicant will sufficiently mitigate any impacts identified by the local licensing authority.

(B) The state licensing authority must consider the response from the local licensing authority, if any, and may deny the proposed sales room application if the local licensing

authority determines that approval of the proposed sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, which may be determined by the local licensing authority without requiring a public hearing, or that the applicant cannot sufficiently mitigate any potential impacts identified by the local licensing authority.

(C) The state licensing authority shall not grant approval of an additional sales room unless the applicant affirms to the state licensing authority that the limited winery applicant has complied with local zoning restrictions.

(D) A licensed limited winery that is operating a sales room as of August 5, 2015, or that is granted approval pursuant to this subsection (2)(e)(II) to operate a sales room on or after August 5, 2015, shall notify the state licensing authority of all sales rooms it operates. The state licensing authority shall maintain a list of all limited winery licensee sales rooms in the state and make the list available on its website.

(E) The local licensing authority may request that the state licensing authority take action in accordance with section 44-3-601 against a licensed limited winery approved to operate a sales room if the local licensing authority demonstrates to the state licensing authority that the licensee has engaged in an unlawful act as set forth in part 9 of this article 3 or shows good cause as specified in section 44-3-103 (19)(a), (19)(b), or (19)(d).

(F) This subsection (2)(e)(II) does not apply if the licensed limited winery does not sell and serve vinous liquors for consumption on the licensed premises or in an approved sales room.

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

(3) In order to encourage and maintain the integrity and authenticity of Colorado's viticultural identity, support the wine-grape and fruit growing industries in Colorado, and inform the consumer of the source of grapes and fruit used by Colorado limited wineries to produce vinous liquors, the liquor enforcement division shall, after consultation with the Colorado wine industry and other interested parties from the alcohol beverage industry, within one year after June 1, 2005, enact rules for the implementation, standardization, and enforcement of appellation labeling requirements that are consistent with, and, with respect to the origin of the grapes and other fruit used to manufacture the vinous liquor, more informative than currently required by federal wine labeling regulations set forth in 27 CFR 4, "Labeling and Advertising of Wine", and related regulations. Colorado's labeling regulations shall apply to a manufacturer licensed pursuant to section 44-3-402 or a Colorado limited winery licensed under this section in the manufacture of the vinous liquor contained in the labeled bottle. Honey wine, including honey wine flavored with fruit, herbs, or spices, shall be exempt from the labeling requirements included in this section.

(4) (a) A winery may affix the phrase "Colorado Grown" to bottles of wine described in section 44-3-103 (10).

(b) Effective July 1, 2006, it shall be unlawful for a Colorado winery to make any misleading statement on its product label regarding the origin of grapes, fruit, or other agricultural products used to make vinous liquor. This subsection (4)(b) shall not be construed to apply to the winery's name or address or to an appellation allowed under federal regulations.

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

(6) (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 3.

(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.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 994, § 2, effective October 1. **L. 2019:** (2)(e)(I)(A) amended, (SB 19-241), ch. 390, p. 3479, § 62, effective August 2. **L. 2021:** (2)(e)(I)(A) amended, (HB 21-1044), ch. 165, p. 927, § 4, effective September 7.

Editor's note: This section is similar to former § 12-47-403 as it existed prior to 2018.

44-3-404. Festival permit - rules. (1) (a) A person listed in subsection (9) of this section may file a festival permit application with the state licensing authority. The applicant must:

(I) Specify the licensed premises for the first of the festivals to be held;

(II) File the application at least ten business days before the festival is to be held; and

(III) Include a twenty-five dollar annual processing fee with the application filed with the state licensing authority.

(b) (I) A local licensing authority may create a local permit for festivals; except that a limited winery licensee or winery licensee need not obtain a local permit to participate in or hold a festival. If a local licensing authority does not create a local permit under this subsection (1)(b), an applicant need not obtain a local permit under this subsection (1)(b) to conduct festivals.

(II) If a licensee is applying for both a festival permit and a special event liquor permit issued under article 5 of this title 44, the licensee need not apply for any local permit established in accordance with subsection (1)(b)(I) of this section.

(c) If a festival permittee notifies the state licensing authority and the appropriate local licensing authority of the location of and dates of each festival at least ten business days before holding the festival, the permittee may hold up to, but no more than, nine festivals during the twelve months after the festival permit is issued.

(2) The licensee that holds the festival must file the application for the permit, but other licensees may jointly participate under the permit issued to the licensee that applied for the permit.

(3) Notification of all subsequent festivals shall be by supplemental application, as approved by the state licensing authority.

(4) The state licensing authority may deny a festival permit or supplemental application for any of the following reasons:

(a) A documented history of violations of this article 3 or rules issued under this article 3 by any participating licensee;

(b) The filing of an incomplete or late application; or

(c) A finding that the application, if granted, would result in violations of this article 3 or rules issued under this article 3 or violations of the laws of a local government.

(5) After the issuance of an initial festival permit, all supplemental applications that are complete and filed in a timely manner are deemed approved unless the state licensing authority provides the permittee with a notice of denial at least seventy-two hours prior to the date of the event.

(6) Notwithstanding any other provision of this article 3, the permittee and participating licensees are authorized to use the licensed premises jointly to conduct alcohol beverage tastings and to engage in the same retail sales of alcohol beverages that the permittee and participating licensees are authorized to conduct at their licensed premises. A festival permit does not authorize the permittee to use the licensed premises for more than seventy-two hours for any one festival.

(7) If a violation of this article 3 occurs during a festival and the licensee responsible for the violation can be identified, the state or local licensing authority may charge and impose appropriate penalties on the licensee. If the responsible party cannot be identified, the state licensing authority may send a written notice to every licensee identified on the permit application and may fine each the same dollar amount, which fine must not exceed twenty-five dollars per licensee or two hundred dollars in the aggregate. A joint fine levied pursuant to this subsection (7) does not apply to the revocation of the licensee's license under section 44-3-601.

(8) A joint fine levied pursuant to subsection (7) of this section shall not create or increase civil liability under section 44-3-801 (3) for a participating licensee or create joint liability for such a licensee.

(9) This section applies to a person licensed under section 44-3-402, 44-3-403, 44-3-407, 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-422, or 44-3-426.

(10) The state licensing authority may adopt rules necessary to implement and administer this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 996, § 2, effective October 1. **L. 2021:** (1), (2), IP(4), (5), (6), and (7) amended and (9) and (10) added, (SB 21-082), ch. 195, p. 1044, § 2, effective September 7.

Editor's note: This section is similar to former § 12-47-403.5 as it existed prior to 2018.

44-3-405. 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 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.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 997, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-404 as it existed prior to 2018.

44-3-406. Nonresident manufacturers and importers of malt liquor. (1) A nonresident manufacturer's license shall be issued to persons brewing malt liquor outside 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 3;

(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 3;

(c) To solicit orders from retail licensees licensed under this article 3 or article 4 of this title 44 and fill the 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 44-3-405; except that each such license obtained shall be separate and distinct.

(5) Each manufacturer, nonresident manufacturer, and malt liquor importer shall enter into a written contract with each wholesaler with which the manufacturer, nonresident manufacturer, and malt liquor importer intends to do business that designates the territory within which the product of the 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 any application and the 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 3, or any person, partnership, association, organization, or corporation interested financially in or with the licensee, to be interested financially, directly or indirectly, in the business of any person licensed to sell at retail pursuant to this article 3 or article 4 of this title 44.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 998, § 2, effective October 1. **L. 2019:** (3)(c) and (6) amended, (SB 19-011), ch. 1, p. 7, § 9, effective January 31.

Editor's note: This section is similar to former § 12-47-405 as it existed prior to 2018.

44-3-407. Wholesaler's license - discrimination in wholesale sales prohibited. (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 3;

(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) (I) A wholesaler's beer license shall be issued to persons that sell malt liquors at wholesale to retailers licensed under this article 3 or article 4 of this title 44 and that 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 the products for the following purposes only:

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

(B) 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 to sell at retail for consumption on or off the licensed premises pursuant to this article 3 or article 4 of this title 44.

(II) (A) Prior to operating a sales room as authorized by this subsection (1)(b), a wholesaler's beer licensee that is licensed pursuant to this section shall, at the time of application to the state licensing authority, send a copy of the application or supplemental application for a sales room to the local licensing authority in the jurisdiction in which the sales room is proposed. The local licensing authority may submit a response to the application, including its determination specified in subsection (1)(b)(II)(B) of this section, to the state licensing authority but must submit its response within forty-five days after the wholesaler's beer licensee submits its sales room application to the state licensing authority. If the local licensing authority does not submit a response to the state licensing authority within forty-five days after submission of the sales room application, the state licensing authority shall deem that the local licensing authority has determined that the proposed sales room will not impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances or that the applicant will sufficiently mitigate any impacts identified by the local licensing authority.

(B) The state licensing authority must consider the response from the local licensing authority, if any, and may deny the proposed sales room application if the local licensing authority determines that approval of the proposed sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, which may be determined by the local licensing authority without requiring a public hearing, or that the applicant cannot sufficiently mitigate any potential impacts identified by the local licensing authority.

(C) A wholesaler's beer licensee that is operating a sales room as of August 5, 2015, or that is granted approval pursuant to this subsection (1)(b)(II) to operate a sales room on or after August 5, 2015, shall notify the state licensing authority of its sales room. The state licensing authority shall maintain a list of all wholesaler's beer licensee sales rooms in the state and make the list available on its website.

(D) The local licensing authority may request that the state licensing authority take action in accordance with section 44-3-601 against a wholesaler's beer licensee approved to operate a sales room if the local licensing authority demonstrates to the state licensing authority that the licensee has engaged in an unlawful act as set forth in part 9 of this article 3 or shows good cause as specified in section 44-3-103 (19)(a), (19)(b), or (19)(d).

(E) This subsection (1)(b)(II) does not apply if the wholesaler's beer licensee does not sell and serve malt liquors for consumption on the licensed premises.

(c) Each license shall be separate and distinct, but any person may secure both licenses upon the payment in advance of both fees provided in this article 3.

(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 the licensee at the licensee's warehouse facilities prior to delivery to persons holding licenses pursuant to this article 3 or article 4 of this title 44.

(e) (I) A brewer or importer licensed pursuant to this article 3 shall not sell malt liquors to a wholesaler without having a written contract with the 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.

(f) Notwithstanding any provision of this article 3 to the contrary, a wholesaler licensed pursuant to subsection (1)(a) of this section may establish a program for its employees to purchase directly from the wholesaler vinous or spirituous liquors sold by that wholesaler.

(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 or article 4 of this title 44.

(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.

(4) (a) A wholesaler shall make available to all retailers licensed pursuant to this article 3 and article 4 of this title 44 in this state without discrimination all malt, vinous, and spirituous liquors offered by the wholesaler for sale at wholesale. A wholesaler shall use its best efforts to make available to licensed retailers each brand of alcohol beverage that the wholesaler has been authorized to distribute.

(b) Nothing in this section prohibits a wholesaler from establishing reasonable allocation procedures when the anticipated demand for a product is greater than the supply of the product.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 999, § 2, effective October 1. **L. 2019:** IP(1)(b)(I), (1)(b)(I)(B), (1)(d), (2), and (4)(a) amended, (SB 19-011), ch. 1, p. 8, § 10, effective January 31.

Editor's note: This section is similar to former § 12-47-406 as it existed prior to 2018.

44-3-408. Termination of wholesalers - remedies - definitions. (1) (a) Except as provided in subsections (2) to (4) of this section, no supplier shall terminate an agreement with a wholesaler unless all of the following occur:

(I) The wholesaler fails to comply with a provision of a written agreement between the wholesaler and the supplier;

(II) The wholesaler receives written notification by certified mail, return receipt requested, from the supplier of the alleged noncompliance and is afforded no less than sixty days in which to cure such noncompliance;

(III) The wholesaler fails to cure such noncompliance within the allotted sixty-day cure period; and

(IV) The supplier provides written notice by certified mail, return receipt requested, to the wholesaler of such continued failure to comply with the agreement. The notification shall contain a statement of the intention of the supplier to terminate or not renew the agreement, the reasons for termination or nonrenewal, and the date the termination or nonrenewal shall take effect.

(b) If a wholesaler cures an alleged noncompliance within the cure period provided in subsection (1)(a)(II) of this section, any notice of termination from a supplier to a wholesaler shall be null and void.

(2) A supplier may immediately terminate an agreement with a wholesaler, effective upon furnishing written notification to the wholesaler by certified mail, return receipt requested, for any of the following reasons:

(a) The wholesaler's failure to pay any account when due and upon written demand by the supplier for payment, in accordance with agreed payment terms;

(b) The assignment or attempted assignment by the wholesaler for the benefit of creditors, the institution of proceedings in bankruptcy by or against the wholesaler, the dissolution or liquidation of the wholesaler, or the insolvency of the wholesaler;

(c) The revocation or suspension of, or the failure to renew for a period of more than fourteen days, a state, local, or federal license or permit to sell products in this state;

(d) Failure of an owner of a wholesaler to sell his or her ownership interest in the distribution rights to the supplier's products within one hundred twenty days after the owner of a wholesaler has been convicted of a felony that, in the supplier's sole judgment, adversely affects the goodwill of the wholesaler or supplier;

(e) A wholesaler has been convicted of, found guilty of, or pleaded guilty or nolo contendere to, a charge of violating a law or regulation of the United States or of this state if it materially and adversely affects the ability of the wholesaler or supplier to continue to sell its products in this state;

(f) Any attempted transfer of ownership of the wholesaler, stock of the wholesaler, or stock of any parent corporation of the wholesaler, or any change in the beneficial ownership or control of any entity, without obtaining the prior written approval of the supplier, except as may otherwise be permitted pursuant to a written agreement between the parties;

(g) Fraudulent conduct in the wholesaler's dealings with the supplier or its products, including the intentional sale of products outside the supplier's established quality standards;

(h) The wholesaler ceases to conduct business for five consecutive business days, unless such cessation is the result of an act of God, war, or a condition of national, state, or local emergency; or

(i) Any sale of products, directly or indirectly, to customers located outside the territory assigned to the wholesaler by the supplier. This subsection (2)(i) shall not prohibit wholesalers from making sales to licensed retailers who buy off the wholesaler's dock, so long as the retailer's licensed location is within the wholesaler's assigned territory.

(3) The supplier shall have the right to terminate an agreement with a wholesaler at any time by giving the wholesaler at least ninety days' written notice by certified mail, return receipt requested, with copies by first-class mail to all other wholesalers in all other states who have entered into the same distribution agreement with the supplier.

(4) If a particular brand of products is transferred by purchase or otherwise from a supplier to a successor supplier, the following shall occur:

(a) The successor supplier shall notify the existing wholesaler of the successor supplier's intent not to appoint the existing wholesaler for all or part of the existing wholesaler's territory for the product. The successor supplier shall mail the notice of termination by certified mail, return receipt requested, to the existing wholesaler. The successor supplier shall include in the notice the names, addresses, and telephone numbers of the successor wholesalers.

(b) (I) The successor wholesaler shall negotiate with the existing wholesaler to determine the fair market value of the existing wholesaler's right to distribute the product in the existing wholesaler's territory immediately before the successor supplier acquired rights to the particular brand of products. The successor wholesaler and the existing wholesaler shall negotiate the fair market value in good faith.

(II) The existing wholesaler shall continue to distribute the product until payment of the compensation agreed to under subsection (4)(b)(I) of this section, or awarded under subsection (4)(c) of this section, is received.

(c) (I) If the successor wholesaler and the existing wholesaler fail to reach a written agreement on the fair market value within thirty days after the existing wholesaler receives the notice required pursuant to subsection (4)(a) of this section, the successor wholesaler or the existing wholesaler shall send a written notice to the other party requesting arbitration pursuant to the uniform arbitration act, part 2 of article 22 of title 13. Arbitration shall be held for the purpose of determining the fair market value of the existing wholesaler's right to distribute the product in the existing wholesaler's territory immediately before the successor supplier acquired rights to the particular brand of products.

(II) Notice of intent to arbitrate shall be sent, as provided in subsection (4)(c)(I) of this section, not later than thirty-five days after the existing wholesaler receives the notice required pursuant to subsection (4)(a) of this section. The arbitration proceeding shall conclude not later than forty-five days after the date the notice of intent to arbitrate is mailed to a party.

(III) Any arbitration held pursuant to this subsection (4) shall be conducted in a city within this state that:

(A) Is closest to the existing wholesaler; and

(B) Has a population of more than twenty thousand.

(IV) Any arbitration held pursuant to this subsection (4)(c) shall be conducted before one impartial arbitrator, to be selected by the American arbitration association or its successor. The arbitration shall be conducted in accordance with the rules and procedures of the uniform arbitration act, part 2 of article 22 of title 13.

(V) An arbitrator's award in any arbitration held pursuant to this subsection (4)(c) shall be monetary only and shall not enjoin or compel conduct. Any arbitration held pursuant to this subsection (4)(c) shall be in lieu of all other remedies and procedures.

(VI) The cost of the arbitrator and any other direct costs of an arbitration held pursuant to this subsection (4)(c) shall be equally divided by the parties engaged in the arbitration. All other costs shall be paid by the party incurring them.

(VII) The arbitrator in any arbitration held pursuant to this subsection (4)(c) shall render a written decision not later than thirty days after the conclusion of the arbitration, unless this time is extended by mutual agreement of the parties and the arbitrator. The decision of the arbitrator is final and binding on the parties. The arbitrator's award may be enforced by commencing a civil action in any court of competent jurisdiction. Under no circumstances may the parties appeal the decision of the arbitrator.

(VIII) An existing wholesaler or successor wholesaler who fails to participate in the arbitration hearings in any arbitration held pursuant to this subsection (4)(c) waives all rights the existing wholesaler or successor wholesaler would have had in the arbitration and is considered to have consented to the determination of the arbitrator.

(IX) If the existing wholesaler does not receive payment from the successor wholesaler of the settlement or arbitration award required under subsection (4)(b) or (4)(c) of this section within thirty days after the date of the settlement or arbitration award:

(A) The existing wholesaler shall remain the wholesaler of the product in the existing wholesaler's territory to at least the same extent that the existing wholesaler distributed the product immediately before the successor wholesaler acquired rights to the product; and

(B) The existing wholesaler is not entitled to the settlement or arbitration award.

(5) (a) Any wholesaler or supplier who is aggrieved by a violation of any provision of subsections (1) and (3) of this section shall be entitled to recovery of damages caused by the violation. Except for a dispute arising under subsection (4) of this section, damages shall be sought in a civil action in any court of competent jurisdiction.

(b) Any dispute arising under subsections (1) and (3) of this section may also be settled by such dispute resolution procedures as may be provided by a written agreement between the parties.

(6) Nothing in this section shall be construed to limit or prohibit good-faith settlements voluntarily entered into by the parties.

(7) Nothing in this section shall be construed to give an existing wholesaler or a successor wholesaler any right to compensation if an agreement with the existing wholesaler or successor wholesaler is terminated by a successor supplier pursuant to subsections (1) to (3) of this section.

(8) Nothing in this section shall apply to a manufacturer that produces less than three hundred thousand gallons of malt beverages per calendar year.

(9) As used in this section:

(a) "Existing wholesaler" means a wholesaler who distributes a particular brand of products at the time a successor supplier acquires rights to manufacture or import the particular brand of products.

(b) "Fair market value" means the value that would be determined in a transaction entered into without duress or threat of termination of the existing wholesaler's right and shall include all elements of value, including goodwill and going-concern value.

(c) "Products" means malt liquors.

(d) "Successor supplier" means a primary source of supply, a brewer, or an importer that acquires rights to a product from a predecessor supplier.

(e) "Successor wholesaler" means one or more wholesalers designated by a successor supplier to replace the existing wholesaler, for all or part of the existing wholesaler's territory, in the distribution of the existing product or products.

(f) "Supplier" means any person, partnership, corporation, association, or other business enterprise that is engaged in the manufacturing or importing of products.

(g) "Wholesaler" means the holder of a Colorado wholesaler's beer license.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1001, § 2, effective October 1. **L. 2019:** (9)(c) and (9)(g) amended, (SB 19-011), ch. 1, p. 8, § 11, effective January 31.

Editor's note: This section is similar to former § 12-47-406.3 as it existed prior to 2018.

44-3-409. Retail liquor store license - rules. (1) (a) (I) 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 44-3-410 or except as allowed under this article 3.

(II) On and after July 1, 2016, the state and local licensing authorities shall not issue a new retail liquor store license if the premises for which the retail liquor store license is sought is located:

(A) Within one thousand five hundred feet of another retail liquor store licensed under this section or a liquor-licensed drugstore licensed under section 44-3-410;

(B) For a premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of another retail liquor store licensed under this section or a liquor-licensed drugstore licensed under section 44-3-410; or

(C) For a premises located in a municipality with a population of ten thousand or fewer that is contiguous to the city and county of Denver, within one thousand five hundred feet of another retail liquor store licensed under this section or a liquor-licensed drugstore licensed under section 44-3-410.

(b) In addition, retail liquor stores may sell any nonalcohol products, but only if the annual gross revenues from the sale of nonalcohol products do not exceed twenty percent of the retail liquor store's total annual gross sales revenues. For purposes of calculating the annual gross revenues from the sale of nonalcohol products, sales revenues from the following products are excluded:

(I) Lottery products;

(II) Cigarettes, tobacco products, and nicotine products, as defined in section 18-13-121 (5);

(III) Ice, soft drinks, and mixers; and

(IV) Nonfood items related to the consumption of malt, vinous, or spirituous liquors.

(c) Nothing in this section or in section 44-3-103 (48) prohibits a licensed retail liquor store from:

(I) Selling items on behalf of or to benefit a charitable organization, as defined in section 39-26-102, or a nonprofit corporation subject to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, and determined to be exempt from federal income tax by the federal internal revenue service, if the retail liquor store does not receive compensation for the sale;

(II) At the option of the licensee, displaying promotional material furnished by a manufacturer or wholesaler, which material permits a customer to purchase other items from a third person, so long as the retail liquor store licensee does not receive payment from the third person and the customer orders the additional merchandise directly from the third person; or

(III) Allowing tastings to be conducted on the licensed premises if the licensee has received authorization to conduct tastings pursuant to section 44-3-301.

(2) (a) A person licensed under this section to sell malt, vinous, and spirituous liquors in a retail liquor store:

(I) Shall purchase the malt, vinous, and spirituous liquors only from a wholesaler licensed pursuant to this article 3; and

(II) (A) Shall not sell malt, vinous, or spirituous liquors to consumers at a price that is below the retail liquor store's cost, as listed on the invoice, to purchase the malt, vinous, or spirituous liquors, unless the sale is of discontinued or close-out malt, vinous, or spirituous liquors.

(B) This subsection (2)(a)(II) does not prohibit a retail liquor store from operating a bona fide loyalty or rewards program for malt, vinous, or spirituous liquors so long as the price for the product is not below the retail liquor store's costs as listed on the invoice. The state licensing authority may adopt rules to implement this subsection (2)(a)(II).

(b) A person licensed under this section that obtains additional retail liquor store licenses in accordance with subsection (4)(b)(III) of this section may operate under a single or consolidated corporate entity but shall not commingle purchases of or credit extensions for purchases of malt, vinous, or spirituous liquors from a wholesaler licensed under this article 3 for more than one licensed premises. A wholesaler licensed under this article 3 shall not base the price for the malt, vinous, or spirituous liquors it sells to a retail liquor store licensed under this section on the total volume of malt, vinous, or spirituous liquors that the licensee purchases for multiple licensed premises.

(3) (a) A person licensed to sell at retail who complies with this subsection (3) and rules promulgated pursuant to this subsection (3) may deliver malt, vinous, and spirituous liquors to a person of legal age if:

(I) The person receiving the delivery of malt, vinous, or spirituous liquors is located at a place that is not licensed pursuant to this section;

(II) The delivery is made by an employee of the licensed retail liquor store who is at least twenty-one years of age and who is using a vehicle owned or leased by the licensee to make the delivery;

(III) The person making the delivery verifies, in accordance with section 44-3-901 (11), that the person receiving the delivery of malt, vinous, or spirituous liquors is at least twenty-one years of age; and

(IV) The retail liquor store derives no more than fifty percent of its gross annual revenues from total sales of malt, vinous, and spirituous liquors from the sale of malt, vinous, and spirituous liquors that the retail liquor store delivers.

(b) The state licensing authority shall promulgate rules as necessary for the proper delivery of malt, vinous, and spirituous liquors and is authorized to issue a permit to any person who is licensed under this section to sell at retail and delivers the liquors pursuant to this subsection (3). A permit issued under this subsection (3) is subject to the same suspension and revocation provisions as are set forth in section 44-3-601 for other licenses granted pursuant to this article 3.

(4) (a) Except as provided in subsection (4)(b) of this section, 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 3.

(b) An owner, part owner, shareholder, or person interested directly or indirectly in a retail liquor store may have an interest in:

(I) An arts license granted under this article 3;

(II) An airline public transportation system license granted under this article 3;

(III) For a retail liquor store licensed on or before January 1, 2016, and whose license holder is a Colorado resident, additional retail liquor store licenses as follows, but only if the premises for which a license is sought satisfies the distance requirements specified in subsection (1)(a)(II) of this section:

(A) On or after January 1, 2017, and before January 1, 2022, one additional retail liquor store license, for a maximum of up to two total retail liquor store licenses;

(B) On or after January 1, 2022, and before January 1, 2027, up to two additional retail liquor store licenses, for a maximum of three total retail liquor store licenses; and

(C) On or after January 1, 2027, up to three additional retail liquor store licenses, for a maximum of four total retail liquor store licenses; or

(IV) A financial institution referred to in section 44-3-308 (4).

(5) A liquor-licensed drugstore may apply to the state and local licensing authorities, as part of a single application, for a merger and conversion of retail liquor store licenses to a single liquor-licensed drugstore license as provided in section 44-3-410 (1)(b).

Source: L. 2018: (1)(a)(I) amended, (SB 18-067), ch. 4, p. 31, § 2, effective March 1; (1)(a)(II) amended, (SB 18-243), ch. 366, p. 2201, § 8, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 1005, § 2, effective October 1; (2) and (3) amended, (SB 18-243), ch. 366, p. 2201, § 8, effective January 1, 2019.

Editor's note: (1) This section is similar to former § 12-47-407 as it existed prior to 2018.

(2) (a) Subsection (1)(a)(I) of this section was numbered as § 12-47-407 (1)(a)(I) in SB 18-067. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

(b) Subsection (1)(a)(II) of this section was numbered as § 12-47-407 (1)(a)(II) in SB 18-243. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

(c) Subsections (2) and (3) of this section were numbered as § 12-47-407 (2) and (3), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025, effective January 1, 2019.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-3-410. Liquor-licensed drugstore license - multiple licenses permitted - requirements - rules. (1) (a) (I) 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. On and after July 1, 2016, except as permitted under subsection (1)(b) of this section, the state and local licensing authorities shall not issue a new liquor-licensed drugstore license if the licensed premises for which a liquor-licensed drugstore license is sought is located:

(A) Within one thousand five hundred feet of a retail liquor store licensed under section 44-3-409;

(B) For a drugstore premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of a retail liquor store licensed under section 44-3-409; or

(C) For a drugstore premises located in a municipality with a population of ten thousand or fewer that is contiguous to the city and county of Denver, within one thousand five hundred feet of a retail liquor store licensed under section 44-3-409.

(II) Nothing in this subsection (1) prohibits:

(A) The renewal or transfer of ownership of a liquor-licensed drugstore license initially issued prior to July 1, 2016.

(B) A liquor-licensed drugstore licensee from allowing tastings on the licensed premises if the applicable local licensing authority has authorized the liquor-licensed drugstore to conduct tastings on its licensed premises in accordance with section 44-3-301 (10).

(b) (I) On or after January 1, 2017, to qualify for an additional liquor-licensed drugstore license under this section, a liquor-licensed drugstore licensee, or a retail liquor store licensee that was licensed as a liquor-licensed drugstore on February 21, 2016, must apply to the state and local licensing authorities, as part of a single application, for a transfer of ownership of at least two licensed retail liquor stores that were licensed or had applied for a license on or before May 1, 2016, a change of location of one of the retail liquor stores, and a merger and conversion of the retail liquor store licenses into a single liquor-licensed drugstore license. The applicant may apply for a transfer, change of location, and merger and conversion only if all of the following requirements are met:

(A) The retail liquor stores that are the subject of the transfer of ownership are located within the same local licensing authority jurisdiction as the drugstore premises for which the applicant is seeking a liquor-licensed drugstore license, and, if any retail liquor stores are located within one thousand five hundred feet of the drugstore premises or, for a drugstore premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of the drugstore premises, the applicant applies to transfer ownership of all retail liquor stores located within that distance. If there are no licensed retail liquor stores or only one licensed retail liquor store within the same local licensing authority jurisdiction as the drugstore premises for which a liquor-licensed drugstore license is sought, the applicant shall apply to transfer ownership of one or two retail liquor stores, as necessary, that are located in the local licensing authority jurisdiction that is nearest to the jurisdiction in which the drugstore premises is located.

(B) Upon transfer and conversion of the retail liquor store licenses to a single liquor-licensed drugstore license, the drugstore premises for which the liquor-licensed drugstore license is sought will be located at least one thousand five hundred feet from all licensed retail liquor

stores that are within the same local licensing authority jurisdiction as the drugstore premises or, for a drugstore premises located in a municipality with a population of ten thousand or fewer, at least three thousand feet from all licensed retail liquor stores that are within the same local licensing authority jurisdiction as the drugstore premises.

(II) For purposes of determining whether the distance requirements specified in subsection (1)(b)(I) of this section are satisfied, the distance shall be determined by a radius measurement that begins at the principal doorway of the drugstore premises for which the application is made and ends at the principal doorway of the licensed retail liquor store.

(III) In making its determination on the transfer of ownership, change of location, and license merger and conversion application, the local licensing authority shall consider the reasonable requirements of the neighborhood and the desires of the adult inhabitants in accordance with section 44-3-312.

(IV) In addition to any other requirements for licensure under this section or this article 3, a person applying for a new liquor-licensed drugstore license in accordance with this subsection (1)(b) on or after January 1, 2017, or to renew a liquor-licensed drugstore license issued on or after January 1, 2017, under this subsection (1)(b) must:

(A) Provide evidence to the state and local licensing authorities that at least twenty percent of the licensee's gross annual income derived from total sales during the prior twelve months at the drugstore premises for which a new or renewal licenses is sought is from the sale of food items, as defined by the state licensing authority by rule; and

(B) Make and keep its premises open to the public.

(2) (a) A person licensed under this section to sell malt, vinous, and spirituous liquors as provided in this section shall:

(I) Purchase malt, vinous, and spirituous liquors only from a wholesaler licensed under this article 3;

(II) (A) Not sell malt, vinous, or spirituous liquors to consumers at a price that is below the liquor-licensed drugstore's cost, as listed on the invoice, to purchase the malt, vinous, or spirituous liquors, unless the sale is of discontinued or close-out malt, vinous, or spirituous liquors.

(B) This subsection (2)(a)(II) does not prohibit a liquor-licensed drugstore from operating a bona fide loyalty or rewards program for malt, vinous, or spirituous liquors so long as the price for the product is not below the liquor-licensed drugstore's costs as listed on the invoice. The state licensing authority may adopt rules to implement this subsection (2)(a)(II).

(III) Not allow consumers to purchase malt, vinous, or spirituous liquors at a self-checkout or other mechanism that allows the consumer to complete the alcohol beverage purchase without assistance from and completion of the entire transaction by an employee of the liquor-licensed drugstore;

(IV) Require, in accordance with section 44-3-901 (11), consumers attempting to purchase malt, vinous, or spirituous liquors to present a valid identification, as determined by the state licensing authority by rule; and

(V) Not sell clothing or accessories imprinted with advertising, logos, slogans, trademarks, or messages related to alcohol beverages.

(b) A person licensed under this section on or after January 1, 2017, shall not purchase malt, vinous, or spirituous liquors from a wholesaler on credit and shall effect payment upon delivery of the alcohol beverages.

(3) (a) A liquor-licensed drugstore licensee who complies with this subsection (3) and rules promulgated pursuant to this subsection (3) may deliver malt, vinous, and spirituous liquors to a person of legal age if:

(I) The person receiving the delivery of malt, vinous, or spirituous liquors is located at a place that is not licensed pursuant to this section;

(II) The delivery is made by an employee of the liquor-licensed drugstore who is at least twenty-one years of age and who is using a vehicle owned or leased by the licensee to make the delivery;

(III) The person making the delivery verifies, in accordance with section 44-3-901 (11), that the person receiving the delivery of malt, vinous, or spirituous liquors is at least twenty-one years of age; and

(IV) The liquor-licensed drugstore derives no more than fifty percent of its gross annual revenues from total sales of malt, vinous, and spirituous liquors from the sale of malt, vinous, and spirituous liquors that the liquor-licensed drugstore delivers.

(b) The state licensing authority shall promulgate rules as necessary for the proper delivery of malt, vinous, and spirituous liquors and is authorized to issue a permit to any liquor-licensed drugstore licensee that will allow the licensee to deliver the liquors pursuant to the rules and this subsection (3). A permit issued under this subsection (3) is subject to the same suspension and revocation provisions as are set forth in sections 44-3-306 and 44-3-601 for other licenses granted pursuant to this article 3.

(4) (a) Except as provided in subsection (4)(b) of this section, 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 3.

(b) An owner, part owner, shareholder, or person interested directly or indirectly in a liquor-licensed drugstore may have an interest in:

(I) An arts license granted under this article 3;

(II) An airline public transportation system license granted under this article 3;

(III) A financial institution referred to in section 44-3-308 (4);

(IV) For a liquor-licensed drugstore licensed on or before January 1, 2016, or a liquor-licensed drugstore licensee that was licensed as a liquor-licensed drugstore on February 21, 2016, that converted its license to a retail liquor store license after February 21, 2016, and that applied on or before May 1, 2017, to convert its retail liquor store license back to a liquor-licensed drugstore license, additional liquor-licensed drugstore licenses as follows, but only if obtained in accordance with subsection (1)(b) of this section:

(A) On or after January 1, 2017, and before January 1, 2022, four additional liquor-licensed drugstore licenses, for a maximum of five total liquor-licensed drugstore licenses;

(B) On or after January 1, 2022, and before January 1, 2027, up to seven additional liquor-licensed drugstore licenses, for a maximum of eight total liquor-licensed drugstore licenses;

(C) On or after January 1, 2027, and before January 1, 2032, up to twelve additional liquor-licensed drugstore licenses, for a maximum of thirteen total liquor-licensed drugstore licenses;

(D) On or after January 1, 2032, and before January 1, 2037, up to nineteen additional liquor-licensed drugstore licenses, for a maximum of twenty total liquor-licensed drugstore licenses; and

(E) On or after January 1, 2037, an unlimited number of additional liquor-licensed drugstore licenses.

(V) For a liquor-licensed drugstore that submitted an application for a new liquor-licensed drugstore license before October 1, 2016, additional liquor-licensed drugstore licenses as follows, but only if obtained in accordance with subsection (1)(b) of this section:

(A) On or after January 1, 2019, and before January 1, 2022, four additional liquor-licensed drugstore licenses, for a maximum of five total liquor-licensed drugstore licenses;

(B) On or after January 1, 2022, and before January 1, 2027, up to seven additional liquor-licensed drugstore licenses, for a maximum of eight total liquor-licensed drugstore licenses;

(C) On or after January 1, 2027, and before January 1, 2032, up to twelve additional liquor-licensed drugstore licenses, for a maximum of thirteen total liquor-licensed drugstore licenses;

(D) On or after January 1, 2032, and before January 1, 2037, up to nineteen additional liquor-licensed drugstore licenses, for a maximum of twenty total liquor-licensed drugstore licenses; and

(E) On or after January 1, 2037, an unlimited number of additional liquor-licensed drugstore licenses.

(c) Subsection (4)(b)(V) of this section does not apply to a liquor-licensed drugstore licensee that was licensed as a liquor-licensed drugstore on February 21, 2016, that converted its license to a retail liquor store license after February 21, 2016, and that applied on or before May 1, 2017, to convert its retail liquor store license back to a liquor-licensed drugstore license.

(5) (a) A liquor-licensed drugstore licensed under this section shall not store alcohol beverages off the licensed premises.

(b) A licensed wholesaler shall make all deliveries of alcohol beverages to a liquor-licensed drugstore:

(I) Through a common carrier, a contract carrier, or on vehicles owned by the wholesaler; and

(II) Only to the business address of the liquor-licensed drugstore.

(6) (a) A liquor-licensed drugstore licensed under this section on or after January 1, 2017, shall have at least one manager permitted under section 44-3-427 who works on the licensed premises. The liquor-licensed drugstore shall designate at least one permitted manager on the licensed premises to conduct the liquor-licensed drugstore's purchases of alcohol beverages from a licensed wholesaler. A licensed wholesaler shall take orders for alcohol beverages only from a permitted manager designated by the liquor-licensed drugstore.

(b) A liquor-licensed drugstore that is involved in selling alcohol beverages must obtain and maintain a certification as a responsible alcohol beverage vendor in accordance with part 10 of this article 3.

(c) An employee of a liquor-licensed drugstore who is under twenty-one years of age shall not deliver malt, vinous, or spirituous liquors offered for sale on, or sold and removed from, the licensed premises.

(7) A person licensed under this section that obtains additional liquor-licensed drugstore licenses in accordance with subsection (4)(b)(IV) or (4)(b)(V) of this section may operate under a single or consolidated corporate entity but shall not commingle purchases of or credit extensions for purchases of malt, vinous, or spirituous liquors from a wholesaler licensed under this article 3 for more than one licensed premises. A wholesaler licensed under this article 3 shall not base the price for the malt, vinous, or spirituous liquors it sells to a liquor-licensed drugstore licensed under this section on the total volume of malt, vinous, or spirituous liquors that the licensee purchases for multiple licensed premises.

Source: L. 2018: (1)(a)(I), IP(1)(b)(IV), (1)(b)(IV)(B), and IP(4)(b)(IV) amended and (4)(b)(V) and (4)(c) added, (SB 18-243), ch. 366, p. 2202, § 9, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 1007, § 2, effective October 1; (2)(a)(II), (2)(a)(III), and (3) amended and (7) added, (SB 18-243), ch. 366, p. 2202, § 9, effective January 1, 2019. **L. 2020:** (6)(c) amended, (SB 20-032), ch. 28, p. 98, § 1, effective September 14.

Editor's note: (1) This section is similar to former § 12-47-408 as it existed prior to 2018.

(2) (a) Subsections (1)(a)(I), IP(1)(b)(IV), (1)(b)(IV)(B), IP(4)(b)(IV), (4)(b)(V), and (4)(c) of this section were numbered as § 12-47-408 (1)(a)(I), IP(1)(b)(IV), (1)(b)(IV)(B), IP(4)(b)(IV), (4)(b)(V), and (4)(c), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

(b) Subsections (2)(a)(II), (2)(a)(III), (3), and (7) of this section were numbered as § 12-47-408 (2)(a)(II), (2)(a)(III), (3), and (8), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025, effective January 1, 2019.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-3-411. 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. Beer and wine licensees shall have sandwiches and light snacks available for consumption on the premises during business hours, but need not have meals available for consumption.

(2) (a) Every person selling malt and vinous liquors as provided in this section shall purchase malt and vinous liquors only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, any person selling malt and vinous liquors as provided in this section may purchase not more than two thousand dollars' worth of malt and vinous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) A beer and wine licensee shall retain evidence of each purchase of malt and vinous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the malt or vinous liquor purchased, and the price paid for the purchase. The beer and wine licensee shall retain the receipt and shall make it 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 3 or article 4 of this title 44; except that the person may have an interest in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1011, § 2, effective October 1. **L. 2019:** (1) and (2) amended, (SB 19-011), ch. 1, p. 9, § 12, effective January 31.

Editor's note: This section is similar to former § 12-47-409 as it existed prior to 2018.

44-3-412. 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 alcohol beverages 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 alcohol beverages by the drink and shall not serve 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 44-3-501 (3) or 44-3-505 (4)(a), but is subject to all other fees and all other requirements of this article 3.

(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 44-3-601 if the permittee violates any provision of this article 3 or any rule adopted pursuant to this article 3 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 3 or article 4 of this title 44; except that a person regulated under this section may have an interest in other bed and breakfast permits; in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w) or 44-4-104 (1)(c); or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1012, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-410 as it existed prior to 2018.

44-3-413. Hotel and restaurant license - definitions - rules. (1) Except as otherwise provided in subsection (2) of this section, a hotel and restaurant license shall be issued to persons selling alcohol beverages in the place where the alcohol beverages are to be consumed, subject to the following restrictions:

(a) Restaurants shall sell alcohol beverages as provided in this section only to customers of the 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 over any period of time of at least one year.

(b) Hotels shall sell alcohol beverages as provided in this section only to customers of the 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 over any period of time of at least one year.

(c) Any hotel and restaurant licensee who is open for business and selling alcohol beverages 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 subsection (1)(c) shall be construed to require a licensee to be open for business between the hours of 8 a.m. and 8 p.m.

(d) A hotel may be designated as a resort complex if it has at least fifty sleeping rooms and has related sports and recreational facilities located contiguous or adjacent to the hotel for the convenience of its guests or the general public. For purposes of a resort complex only, "contiguous or adjacent" means within the overall boundaries or scheme of development or regularly accessible from the hotel by its members and guests.

(2) (a) A resort complex shall designate its principal licensed premises and additional separate, related facilities that are located contiguous or adjacent to the licensed premises of the resort complex. Each related facility shall be identified by the resort complex at the time of initial licensure or upon license renewal. Each related facility shall also be clearly identified by its geographic location within the overall boundaries of the licensed premises of the resort complex. A resort complex may apply for a resort-complex-related facility permit for each related facility at the time of initial licensure, upon license renewal, or at any time upon application by the resort complex.

(b) Customers and guests who purchase alcohol beverages at one related facility are permitted to carry such beverages to other related facilities within the overall licensed premises boundaries of the resort complex.

(c) Each related facility shall remain at all times under the ownership and control of the resort complex licensee. Any subletting or transfer of ownership or change of control of a related facility without proper notification and approval by state and local licensing authorities shall be considered a violation of this article 3 and will be cause for the denial, suspension, revocation, or cancellation of the license of the entire resort complex, including all of its related facilities, pursuant to section 44-3-601.

(d) Except as provided in this subsection (2), for violations of section 44-3-307, and for violations of this article 3 and rules promulgated pursuant to this article 3 that are intentionally authorized by the ownership or management of a resort complex, each related facility shall be considered separately licensed or permitted for the purpose of application of the sanctions imposed under section 44-3-601.

(e) For purposes of this subsection (2), "related facility" means those areas, as approved by the state and local licensing authorities, that are contiguous or adjacent to the resort hotel and that are owned by or under the exclusive possession and control of the resort complex licensee. "Related facilities" shall include:

(I) Those indoor areas or facilities contiguous or adjacent to the licensed premises of the resort complex that are operated under a separate trade name and are used by resort complex patrons;

(II) Related outdoor sports and recreation facilities located contiguous or adjacent to the resort complex that are used by patrons of the resort complex for a fee; and

(III) Distinct areas or facilities contiguous or adjacent to the resort complex that are directly related to the resort complex use.

(3) (a) An institution of higher education, or a person who contracts with the institution to provide food services, that is licensed under this section may apply to be designated a campus liquor complex at the time of initial licensure or upon license renewal.

(b) A licensee shall designate its principal licensed premises and additional separate, related facilities that are located within the campus liquor complex. The licensee may identify each related facility that serves alcohol at the time of initial licensure or upon license renewal. To be approved for a campus liquor complex related facility permit, each related facility must be clearly identified by its geographic location within the boundaries of the campus, including the specific point of service, and each area where alcohol beverages are consumed must be clearly identified by a description and map of the area.

(c) A licensee may apply for a related facility permit for each related facility within the campus liquor complex at the time of initial licensure, upon license renewal, or at any time upon application by the licensee.

(d) (I) To be permitted, each related facility must remain at all times under the ownership or control of the licensee. A licensee that sublets or transfers ownership of, or changes control of, a related facility without notifying and obtaining approval from state and local licensing authorities violates this article 3, and the violation is grounds for denial, suspension, revocation, or cancellation of the campus liquor complex license and all related facility permits in accordance with section 44-3-601.

(II) The institution of higher education shall designate a manager for the campus liquor complex and for each related facility.

(e) Except as provided in this subsection (3), for violations of this article 3 and rules promulgated under this article 3 that are intentionally authorized by the ownership or management of a related facility, each related facility is deemed separately permitted for the purpose of application of the sanctions authorized under section 44-3-601.

(f) For purposes of this subsection (3), "related facility" means those areas approved by the state and local licensing authorities that are on the campus of the institution of higher education licensed under this section and that are owned by or under the exclusive possession and control of the institution of higher education holding the license. "Related facilities" include an area or facility operated under a separate trade name.

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

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

(b) Sell alcohol beverages 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 guest rooms if the price of the alcohol beverages is clearly posted. For purposes of this section, "minibar" means a closed container, either nonrefrigerated or refrigerated in

whole or in part, access to the interior of which is restricted by means of a locking device 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 the lodging facility to sell alcohol beverages pursuant to subsection (4)(b) of this section if the lodging facility and hotel share common ownership and are located within one thousand feet of one another. The alcohol beverages that may be sold pursuant to this subsection (4)(c) must be provided by and subject to the control of the licensed hotel. For purposes of this subsection (4)(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 subsection (4)(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 3 shall be measured using the nearest and most direct routes of pedestrian access.

(5) The state licensing authority shall promulgate rules that prohibit the placement of a container of alcohol beverages in a minibar if the container has a capacity of more than five hundred milliliters.

(6) 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.

(7) (a) Except as provided in subsection (7)(b) of this section, every person selling alcohol beverages as provided in this section shall purchase alcohol beverages only from a wholesaler licensed pursuant to this article 3.

(b) (I) During a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(II) A hotel and restaurant licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

(8) 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.

(9) Each hotel and restaurant licensee shall 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.

(10) The registered manager for each hotel and restaurant license, the hotel and restaurant licensee, or an employee or agent of the hotel and restaurant licensee shall purchase alcohol beverages for one licensed premises only, and the purchases shall be separate and distinct from purchases for any other hotel and restaurant license.

(11) 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.

(12) Either the state or the local licensing authority may refuse to accept any person as a registered manager unless the person is satisfactory to the respective licensing authorities as to 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.

(13) 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.

(14) (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 3 or article 4 of this title 44.

(b) Notwithstanding subsection (14)(a) of this section, an owner, part owner, shareholder, or person interested directly or indirectly in a hotel and restaurant license may conduct, own either in whole or in part, or be directly or indirectly interested in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1012, § 2, effective October 1. **L. 2019:** (7) amended, (SB 19-011), ch. 1, p. 9, § 13, effective January 31.

Editor's note: This section is similar to former § 12-47-411 as it existed prior to 2018.

44-3-414. Tavern license. (1) A tavern license shall be issued to persons selling alcohol beverages by the drink only to customers for consumption on the premises. A tavern licensee shall have sandwiches and light snacks available for consumption on the premises during business hours, but need not have meals available for consumption.

(2) (a) Every person selling alcohol beverages as provided in this section shall purchase alcohol beverages only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) A tavern licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The tavern licensee shall retain the receipt and make it 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 tavern licenses to conduct, own either in whole or in part, or be directly or indirectly

interested in any other business licensed pursuant to this article 3 or article 4 of this title 44; except that the person may have an interest in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

(4) Each tavern licensee shall manage or have a separate and distinct manager for each licensed premises and shall register the manager of each licensed premises with both the state and the local licensing authority. No person shall be a registered manager for more than one tavern license.

(5) The registered manager for each tavern license, the tavern licensee, or an employee or agent of the tavern licensee shall purchase alcohol beverages for one licensed premises only, and the purchases shall be separate and distinct from purchases for any other tavern license.

(6) When a person ceases to be a registered manager for a tavern license, for whatever reason, the tavern licensee shall notify the licensing authorities within five days and shall designate a new registered manager within thirty days.

(7) The state licensing authority or the local licensing authority may refuse to accept any person as a registered manager unless the person is satisfactory to the respective licensing authorities as to 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.

(8) The tavern licensee shall pay a registration fee not to exceed seventy-five dollars for actual and necessary expenses incurred in determining the character, record, and reputation of each registered manager. Such fee shall be paid to both the state and the local licensing authority.

(9) (a) At the time a tavern license is due for renewal or by one year after August 10, 2016, whichever occurs later, a tavern licensed under this section that does not have as its principal business the sale of alcohol beverages, has a valid license on August 10, 2016, and is a lodging and entertainment facility may apply to, and the applicable local licensing authority shall, convert the tavern license to a lodging and entertainment license under section 44-3-428, and the licensee may continue to operate as a lodging and entertainment facility licensee. If a tavern licensee does not have as its principal business the sale of alcohol beverages but is not a lodging and entertainment facility, at the time the tavern license is due for renewal or by one year after August 10, 2016, whichever occurs later, the licensee may apply to, and the applicable local licensing authority shall, convert the tavern license to another license under this article 3, if any, for which the person qualifies.

(b) A person applying under this subsection (9) to convert an existing tavern license to another license under this article 3 may apply to convert the license, even if the location of the licensed premises is within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary, so long as the local licensing authority has previously approved the location of the licensed premises in accordance with section 44-3-313 (1)(d).

Source: L. 2018: (9)(a) amended, (HB 18-1375), ch. 274, p. 1696, § 7, effective May 29; entire article added with relocations, (HB 18-1025), ch. 152, p. 1017, § 2, effective October 1. **L. 2019:** (2) amended, (SB 19-011), ch. 1, p. 10, § 14, effective January 31.

Editor's note: (1) This section is similar to former § 12-47-412 as it existed prior to 2018.

(2) Subsection (9)(a) of this section was numbered as § 12-47-412 (9)(a) in HB 18-1375. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

44-3-415. 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 alcohol beverages by the drink only to customers for consumption on the optional premises and for storing alcohol beverages in a secure area on or off the optional premises for future use on the optional premises.

(2) (a) 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 3 or article 4 of this title 44.

(b) Notwithstanding subsection (2)(a) of this section, an owner, part owner, shareholder, or person interested directly or indirectly in an optional premises license may own, either in whole or in part, or be directly or indirectly interested in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1019, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-413 as it existed prior to 2018.

44-3-416. Retail gaming tavern license. (1) A retail gaming tavern license shall be issued to persons who are licensed pursuant to section 44-30-501 (1)(c), who sell alcohol beverages by individual drink for consumption on the premises, and who sell sandwiches or light snacks or who contract with an establishment that provides the 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 alcohol beverages as described in this section shall purchase the alcohol beverages only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, or spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) A retail gaming tavern licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

(3) Nothing in this article 3 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 3 or article 4 of this title 44; except that the person may have an interest in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1019, § 2, effective October 1; (1) amended, (SB 18-034), ch. 14, p. 238, § 8, effective October 1. **L. 2019:** (2) amended, (SB 19-011), ch. 1, p. 10, § 15, effective January 31.

Editor's note: (1) This section is similar to former § 12-47-414 as it existed prior to 2018.

(2) Subsection (1) of this section was numbered as § 12-47-414 (1) in SB 18-034. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

44-3-417. Brew pub license - definitions. (1) (a) A brew pub license may be issued to any person operating a brew pub and also selling alcohol beverages for consumption on the premises.

(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 44-3-103 (5).

(2) (a) Except as provided in subsection (2)(b) of this section, during the hours established in section 44-3-901 (6)(b), malt liquors manufactured by a brew pub licensee on the licensed premises or alternating proprietor licensed premises may be:

(I) Furnished for consumption on the premises;

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

(III) Sold to the public in sealed containers for off-premises consumption. Except as provided in subsection (2)(a.5) of this section, only malt liquors manufactured and packaged by the licensee on the licensed premises or on an alternating proprietor licensed premises may be sold to the public in sealed containers.

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

(a.5) (I) For purposes of sales to the public in sealed containers pursuant to subsection (2)(a)(III) of this section, a brew pub licensee may also sell on the licensed premises malt liquors that are manufactured by the licensee on another brew pub licensed premises that is under the same ownership as the brew pub licensed premises at which the sale occurs.

(II) As used in this subsection (2)(a.5), "same ownership" means that a person or group of persons has at least fifty percent ownership interest in the licensed brew pub at which the sale to the public of malt liquors in sealed containers occurs and in another brew pub licensed premises at which the malt liquors being sold were manufactured.

(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.

(3) (a) Every person selling alcohol beverages pursuant to this section shall purchase alcohol beverages, other than those that are manufactured at the licensed brew pub, from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) The brew pub licensee shall retain evidence of each purchase of malt, vinous, and spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to state and local licensing authorities at all times during business hours.

(4) A brew pub licensee shall sell alcohol beverages 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 3 or article 4 of this title 44.

(b) Notwithstanding subsection (5)(a) of this section, a person interested directly or indirectly in a brew pub license may conduct, own either in whole or in part, or be directly or indirectly interested in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1020, § 2, effective October 1. **L. 2019:** (1)(b), IP(2)(a), (2)(a)(III), (2)(b), and (3) amended, (SB 19-011), ch. 1, p. 11, § 16, effective January 31. **L. 2020:** (2)(a)(III) amended and (2)(a.5) added, (SB 20-194), ch. 263, p. 1264, § 1, effective September 14.

Editor's note: This section is similar to former § 12-47-415 as it existed prior to 2018.

44-3-418. Club license - legislative declaration. (1) A club license shall be issued to persons selling alcohol beverages by the drink only to members of the club and guests and only for consumption on the premises of the club.

(2) (a) Every person selling alcohol beverages as provided in this section shall purchase the alcohol beverages only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) The club licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it 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 that has a policy to restrict membership on the basis of sex, sexual orientation, gender identity, gender expression, marital status, race, creed, religion, color, ancestry, or national origin shall, when issuing a receipt for expenses that 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, 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 3 or article 4 of this title 44; except that:

(a) Such a person may have an interest in an arts license or an airline public transportation system license granted under this article 3, or in a financial institution referred to in section 44-3-308 (4);

(b) Any person who owns, in whole or in part, directly or indirectly, any other license issued pursuant to this article 3 or article 4 of this title 44 may be listed as an officer or director on a club license if the person does not individually manage or receive any direct financial benefit from the operation of the license.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1021, § 2, effective October 1. **L. 2019:** (2) amended, (SB 19-011), ch. 1, p. 11, § 17, effective January 31. **L. 2021:** (3)(b) amended, (HB 21-1108), ch. 156, p. 899, § 49, effective September 7.

Editor's note: This section is similar to former § 12-47-416 as it existed prior to 2018.

Cross references: (1) For section 162 (a) of the federal "Internal Revenue Code of 1986", see 26 U.S.C. § 162 (a).

(2) For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of Colorado 2021.

44-3-419. Arts license - definition. (1) (a) An arts license may be issued to any nonprofit arts organization that sponsors and presents productions or performances of an artistic or cultural nature, and the arts license permits the licensee to sell alcohol beverages only to

patrons of the productions or performances for consumption on the licensed premises in connection with the productions or performances. No person licensed pursuant to this section shall permit any exterior or interior advertising concerning the sale of alcohol beverages on the licensed 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 subsection (1)(a) of this section and subject to the same restrictions.

(2) Any provision of this article 3 to the contrary notwithstanding, the proximity of premises licensed pursuant to this section to any public or parochial school or the principal campus of a 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 a public or parochial school shall not contain a licensed premises. The campus of a college, university, or seminary may contain a licensed premises.

(3) As used in this section, "nonprofit arts organization" means only an organization subject to the provisions of articles 121 to 137 of title 7 and held to be tax-exempt by the federal internal revenue service.

(4) (a) Every person selling alcohol beverages as provided in this section shall purchase the alcohol beverages only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) An arts licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1022, § 2, effective October 1. **L. 2019:** (4) amended, (SB 19-011), ch. 1, p. 12, § 18, effective January 31.

Editor's note: This section is similar to former § 12-47-417 as it existed prior to 2018.

44-3-420. Racetrack license. (1) A racetrack licensee may sell alcohol beverages by the drink for consumption on the licensed premises only to customers of the racetrack and shall serve food as well as alcohol beverages.

(2) (a) Every person selling alcohol beverages as provided in this section shall purchase the alcohol beverages only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) A racetrack licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of

purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it 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 3 to sell alcohol beverages by the drink for consumption on the licensed premises, the person is not required to obtain a racetrack class license pursuant to this section if simulcast races with pari-mutuel wagering occur on the 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 3 or article 4 of this title 44; except that a person licensed under this section may have an interest in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1023, § 2, effective October 1. **L. 2019:** (2) amended, (SB 19-011), ch. 1, p. 12, § 19, effective January 31.

Editor's note: This section is similar to former § 12-47-418 as it existed prior to 2018.

44-3-421. Public transportation system license. (1) The state licensing authority shall issue a public transportation system license to every person operating a public transportation system that sells alcohol beverages by the drink to be served and consumed in or upon any dining, club, or parlor car; plane; bus; or other conveyance of the public transportation system. A public transportation system license issued to a commercial airline authorizes the licensee to sell alcohol beverages by the drink in an airport or airport concourse private club room that is in existence and operated by the licensee on or before April 1, 1995. A public transportation system license issued to a common carrier railroad authorizes the licensee to sell alcohol beverages by the drink at any event not open to the public that is held in a museum owned and operated by the licensee if the licensee notifies the appropriate local law enforcement agency of the event no later than fourteen days prior to the scheduled date of the event.

(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 3 or article 4 of this title 44; except that a person licensed under this section may be interested in any other retail license issued pursuant to this article 3 or article 4 of this title 44 or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1024, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-419 as it existed prior to 2018.

44-3-422. Vintner's restaurant license. (1) (a) A vintner's restaurant license may be issued to a person operating a vintner's restaurant and also selling alcohol beverages for consumption on the premises.

(b) A vintner's restaurant licensed pursuant to this section to manufacture vinous liquors upon its licensed premises may, upon approval of the state licensing authority, manufacture vinous liquors upon alternating proprietor licensed premises within the restrictions specified in section 44-3-103 (60).

(2) (a) Except as provided in subsection (2)(b) of this section, during the hours established in section 44-3-901 (6)(b), vinous liquors manufactured by a vintner's restaurant licensee on the licensed premises may be:

(I) Furnished for consumption on the premises;

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

(III) Sold to the public in sealed containers for off-premises consumption. Only vinous liquors fermented, manufactured, and packaged on the licensed premises or alternating proprietor licensed premises by the licensee shall be sold in sealed containers.

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

(b) A vintner's restaurant authorized to manufacture vinous liquors upon alternating proprietor licensed premises shall not conduct retail sales of vinous liquors from an area licensed or defined as an alternating proprietor licensed premises.

(3) (a) Every person selling alcohol beverages pursuant to this section shall purchase the alcohol beverages, other than those that are manufactured at the licensed vintner's restaurant, from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) The vintner's restaurant licensee shall retain evidence of each purchase of malt, vinous, and spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to state and local licensing authorities at all times during business hours.

(4) A vintner's restaurant licensee may sell alcohol beverages 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 subsection (5)(b) of this section, 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 3 or article 4 of this title 44.

(b) A person interested directly or indirectly in a vintner's restaurant license may conduct, own either in whole or in part, or be directly or indirectly interested in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1025, § 2, effective October 1. **L. 2019:** (3) amended, (SB 19-011), ch. 1, p. 13, § 20, effective January 31. **L. 2020:** (1) and (2) amended, (HB 20-1055), ch. 15, p. 67, § 2, effective September 14.

Editor's note: This section is similar to former § 12-47-420 as it existed prior to 2018.

44-3-423. Removal of vinous liquor from licensed premises. (1) Notwithstanding any provision of this article 3 to the contrary, a licensee described in subsection (2) of this section may permit a customer of the licensee to reseal and remove from the licensed premises one opened container of partially consumed vinous liquor purchased on the premises so long as the originally sealed container did not contain more than seven hundred fifty milliliters of vinous liquor.

(2) This section applies to a person:

(a) That is duly licensed as a:

(I) Manufacturer under section 44-3-402;

(II) Limited winery under section 44-3-403;

(III) Beer and wine licensee under section 44-3-411;

(IV) Hotel and restaurant under section 44-3-413;

(V) Tavern under section 44-3-414;

(VI) Brew pub under section 44-3-417;

(VII) Vintner's restaurant under section 44-3-422;

(VIII) Club under section 44-3-418;

(IX) Distillery pub under section 44-3-426; or

(X) Lodging and entertainment facility under section 44-3-428; and

(b) That has meals, as defined in section 44-3-103 (31), or sandwiches and light snacks available for consumption on the licensed premises.

Source: L. 2018: (2)(b) amended, (SB 18-173), ch. 102, p. 780, § 1, effective August 8; entire article added with relocations, (HB 18-1025), ch. 152, p. 1026, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-47-421 as it existed prior to 2018.

(2) Subsection (2)(b) of this section was numbered as § 12-47-421 (2)(b) in SB 18-173. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

44-3-424. Art gallery permit - definition. (1) A person operating an art gallery that offers complimentary alcohol beverages for consumption only on the premises may be issued an art gallery permit, which shall be renewed annually. An art gallery permittee shall not, directly or indirectly, sell alcohol beverages by the drink, shall not serve alcohol beverages for more than four hours in any one day, and shall not serve alcohol beverages more than fifteen days per year of licensure.

(2) (a) The state or local licensing authority may reject the application for an art gallery permit if the applicant fails to establish that the applicant is able to offer complimentary alcohol beverages without violating this section or creating a public safety risk to the neighborhood.

(b) Upon initial application, and for each renewal, the applicant shall list each day that alcohol beverages will be served, which days shall not be changed without a minimum of fifteen days' written notice to the state and local licensing authority.

(3) An art gallery shall not be denied an art gallery permit based solely on the art gallery's proximity to any public or private school or the principal campus of a college, university, or seminary.

(4) An art gallery shall not charge an entrance fee or a cover charge in connection with offering complimentary alcohol beverages for consumption only on the premises.

(5) An art gallery permit may be suspended or revoked in accordance with section 44-3-601 if the permittee violates any provision of this article 3 or any rule adopted pursuant to this article 3 or fails to truthfully furnish any required information in connection with a permit application.

(6) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in an art gallery 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 3 or article 4 of this title 44; except that a person regulated under this section may have an interest in other art gallery permits; in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c); or in a financial institution referred to in section 44-3-308 (4).

(7) As used in this section, "art gallery" means an establishment whose primary purpose is to exhibit and offer for sale works of fine art as defined in section 6-15-101 or precious or semiprecious metals or stones as defined in section 18-16-102.

(8) An art gallery issued a permit shall not intentionally allow more than two hundred fifty people to be on the premises at one time when alcohol beverages are being served.

(9) Nothing in this section shall be construed to abrogate any insurance coverage required by law; to authorize a licensed art gallery to violate section 44-3-901, including, without limitation, serving a visibly intoxicated person and taking an alcohol beverage off the licensed premises; or to violate any zoning or occupancy ordinances or laws.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1027, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-422 as it existed prior to 2018.

44-3-425. Wine packaging permit - limitations - rules. (1) (a) The state licensing authority may issue a wine packaging permit to a winery licensed under section 44-3-402, a limited winery licensed under section 44-3-403, or a wholesaler licensed under section 44-3-407 that allows the licensed winery, limited winery, or wholesaler to package tax-paid wine manufactured by another winery or manufacturer.

(b) A licensed winery, limited winery, or wholesaler that obtains a wine packaging permit under this section shall:

(I) Take possession and custody of the tax-paid wine that it packages; and

(II) Return the packaged tax-paid wine either to the original manufacturer of the tax-paid wine or to the original manufacturer's licensed wholesaler; except that, if the original manufacturer's wholesaler obtains a wine packaging permit pursuant to this section, the wholesaler need not return the packaged tax-paid wine to the original manufacturer.

(2) A licensed winery or limited winery that obtains a wine packaging permit pursuant to this section shall not sell or distribute tax-paid wine it packages:

(a) To a person licensed to sell alcohol beverages at retail, for consumption on or off the licensed premises, under section 44-3-409, 44-3-410, 44-3-411, 44-3-412, 44-3-413, 44-3-414, 44-3-415, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-421, 44-3-422, 44-3-424, 44-3-426, or 44-3-428; or

(b) Directly to a consumer.

(3) The state licensing authority may adopt rules as necessary to implement and administer this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1028, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-423 as it existed prior to 2018.

44-3-426. Distillery pub license - legislative declaration - definition. (1) The general assembly finds and determines that:

(a) Colorado is a state that welcomes and encourages entrepreneurs and new business opportunities;

(b) Currently, manufacturing of spirituous liquors by persons licensed as manufacturers pursuant to section 44-3-402 is a thriving industry, with new distilleries opening throughout the state and increasing the availability of Colorado-produced craft spirits both within and outside the state;

(c) The spirituous liquors manufacturing business focuses primarily on producing a spirituous liquor product that the licensed spirits manufacturer can then sell and distribute, through a wholesaler, throughout the state and in other states to retail outlets;

(d) While licensed spirits manufacturers are permitted to sell their products directly to consumers, the majority of the manufacturing business is selling the bulk of a manufacturer's product to retail outlets that then sell the product to consumers;

(e) On the other hand, the main focus of a distillery pub business authorized by this section is to operate a local pub in which food and alcohol beverages, including a small quantity of spirituous liquors fermented and distilled on site, are sold and served for on-premises consumption;

(f) While a distillery pub is allowed to produce, serve, and distribute its own spirituous liquors, unlike a licensed spirits manufacturer, the production level for a distillery pub is capped, and the ability to distribute to retail outlets is greatly restricted, thereby establishing a new business model that is distinct from, and serves a different clientele than, a licensed spirits manufacturer;

(g) Additionally, unlike a licensed spirits manufacturer, which is only required to obtain a license from the state licensing authority, a distillery pub must obtain both a state and local license after demonstrating that the distillery pub meets the reasonable requirements and the desires of the adult inhabitants of the neighborhood in which it will be situated; and

(h) It is important to encourage the new distillery pub business model, which will add to the thriving craft spirits industry in this state without disrupting the ever-growing spirituous liquors manufacturing industry.

(2) A distillery pub license may be issued to any person operating a distillery pub and also selling food and alcohol beverages for consumption on the premises. At least fifteen percent of the gross on-premises food and alcohol beverage income of the licensed distillery pub must be from the sale of food. For purposes of this subsection (2), "food" means a quantity of foodstuffs of a nature that is ordinarily consumed by an individual at regular intervals for the purpose of sustenance.

(3) During the hours established in section 44-3-901 (6)(b), a licensed distillery pub may, with regard to spirituous liquors fermented and distilled by the distillery pub licensee on the licensed premises:

(a) Furnish its spirituous liquors for consumption on the premises;

(b) Sell its spirituous liquors to independent wholesalers for distribution to licensed retailers;

(c) Sell its spirituous liquors to the public in sealed containers for off-premises consumption, as long as the spirituous liquors are fermented, distilled, and packaged on the licensed premises by the licensee; or

(d) Sell its spirituous liquors at wholesale to licensed retailers in an amount up to two thousand seven hundred liters per spirituous liquor product per calendar year.

(4) (a) Except as provided in subsection (4)(b) of this section, every person selling alcohol beverages pursuant to this section must purchase alcohol beverages, other than those that are fermented and distilled at the licensed distillery pub, from a wholesaler licensed pursuant to this article 3.

(b) (I) During a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(II) The distillery pub licensee shall retain evidence of each purchase of malt, vinous, and spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to state and local licensing authorities at all times during business hours.

(5) (a) Except as provided in subsection (5)(b) of this section, it is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a distillery 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 3 or article 4 of this title 44.

(b) A person interested directly or indirectly in a distillery pub license may conduct, own either in whole or in part, or be directly or indirectly interested in:

(I) Other distillery pub licenses;

(II) A license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c); or

(III) A financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1028, § 2, effective October 1. **L. 2019:** (4) amended, (SB 19-011), ch. 1, p. 13, § 21, effective January 31.

Editor's note: This section is similar to former § 12-47-424 as it existed prior to 2018.

44-3-427. Liquor-licensed drugstore manager's permit. (1) The state licensing authority may issue a manager's permit to an individual who is employed by a liquor-licensed drugstore licensed under section 44-3-410 and who will be in actual control of the liquor-licensed drugstore's alcohol beverage operations.

(2) An individual seeking a manager's permit shall apply to the state licensing authority in the form and manner required by the state licensing authority. To obtain a manager's permit, the individual must demonstrate that he or she:

(a) Has not been convicted of a crime involving the sale or distribution of alcohol beverages within the eight years immediately preceding the date on which the application is submitted;

(b) Has not been convicted of any felony within the five years immediately preceding the date on which the application is submitted; except that in considering the conviction of a felony, the state licensing authority is governed by section 24-5-101;

(c) Is at least twenty-one years of age; and

(d) Has not had a manager's permit or any similar permit issued by the state, a local jurisdiction, or another state or foreign jurisdiction revoked by the issuing authority within the three years immediately preceding the date on which the application is submitted.

(3) It is unlawful for an individual who has a manager's permit issued under this section to be interested directly or indirectly in:

(a) A wholesaler licensed pursuant to section 44-3-407;

(b) A limited winery licensed pursuant to section 44-3-403;

(c) An importer licensed pursuant to section 44-3-405;

(d) A manufacturer licensed pursuant to section 44-3-402 or 44-3-406; or

(e) Any business licensed under this article 3 that has had its license revoked by the state licensing authority within the eight years immediately preceding the date on which the individual applies for a manager's permit under this section.

(4) In recognition of the state's flourishing local breweries, wineries, and distilleries that locally produce high-quality malt, vinous, and spirituous liquors, managers of liquor-licensed drugstores are encouraged to purchase and promote locally produced alcohol beverage products in their liquor-licensed drugstores.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1030, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-425 as it existed prior to 2018.

44-3-428. Lodging and entertainment license. (1) A lodging and entertainment license may be issued to a lodging and entertainment facility selling alcohol beverages by the drink only to customers for consumption on the premises. A lodging and entertainment facility licensee shall have sandwiches and light snacks available for consumption on the premises during business hours but need not have meals available for consumption.

(2) (a) A lodging and entertainment facility licensed to sell alcohol beverages as provided in this section shall purchase alcohol beverages only from a wholesaler licensed

pursuant to this article 3; except that, during a calendar year, a lodging and entertainment facility licensed to sell alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) A lodging and entertainment facility licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The lodging and entertainment facility licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

(3) (a) Except as provided in subsection (3)(b) of this section, it is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in lodging and entertainment licenses to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44.

(b) An owner, part owner, shareholder, or person interested directly or indirectly in a lodging and entertainment license may have an interest in:

(I) A license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c); or

(II) A financial institution referred to in section 44-3-308 (4).

(4) (a) Each lodging and entertainment facility licensee shall manage or have a separate and distinct manager for each licensed premises and shall register the manager of each licensed premises with both the state and the local licensing authority. A person shall not be a registered manager for more than one lodging and entertainment license.

(b) The registered manager for each lodging and entertainment license, the lodging and entertainment facility licensee, or an employee or agent of the lodging and entertainment facility licensee shall purchase alcohol beverages for one licensed premises only, and the purchases shall be separate and distinct from purchases for any other lodging and entertainment license.

(c) When a person ceases to be a registered manager for a lodging and entertainment license, the lodging and entertainment facility licensee shall notify the licensing authorities within five days and shall designate a new registered manager within thirty days.

(d) The state licensing authority or the local licensing authority may refuse to accept any person as a registered manager unless the person is satisfactory to the respective licensing authorities as to 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 the agency.

(e) The lodging and entertainment facility licensee shall pay a registration fee, not to exceed seventy-five dollars, for actual and necessary expenses incurred in determining the character, record, and reputation of each registered manager. The lodging and entertainment facility licensee shall pay the fee to both the state and the local licensing authority.

(5) At the time a tavern license issued under section 44-3-414 is due for renewal or by one year after August 10, 2016, whichever occurs later, a person licensed as a tavern that does not have as its principal business the sale of alcohol beverages, has a valid license on August 10, 2016, and is a lodging and entertainment facility may apply to, and the applicable local licensing

authority shall, convert the tavern license to a lodging and entertainment license under this section, and the person may continue to operate as a lodging and entertainment facility licensee. A person applying to convert an existing tavern license to a lodging and entertainment license under this subsection (5) may apply to convert the license, even if the location of the licensed premises is within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary, so long as the local licensing authority has previously approved the location of the licensed premises in accordance with section 44-3-313 (1)(d).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1031, § 2, effective October 1. **L. 2019:** (2) amended, (SB 19-011), ch. 1, p. 14, § 22, effective January 31.

Editor's note: This section is similar to former § 12-47-426 as it existed prior to 2018.

44-3-429. Purchasing alcohol from a surrendered license of common ownership - definition. (1) This section applies to a person that has been issued the following license types:

(a) Beer and wine license under section 44-3-411;

(b) Hotel and restaurant license under section 44-3-413;

(c) Tavern license under section 44-3-414;

(d) Retail gaming tavern license under section 44-3-416;

(e) Brew pub license under section 44-3-417;

(f) Club license under section 44-3-418;

(g) Arts license under section 44-3-419;

(h) Racetrack license under section 44-3-420;

(i) Vintner's restaurant license under section 44-3-422;

(j) Distillery pub license under section 44-3-426; or

(k) Lodging and entertainment facility license under section 44-3-428.

(2) Notwithstanding sections 44-3-411, 44-3-413, 44-3-414, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-422, 44-3-426, and 44-3-428, a current licensee listed in subsection (1) of this section may purchase the remaining alcohol beverage inventory from a former licensee listed in subsection (1) of this section if:

(a) Within the last sixty days, the seller's license for a licensed premises has been surrendered or revoked or the seller has lost legal possession of the licensed premises; and

(b) There is common ownership between the seller and the purchaser.

(3) In order to sell the remaining alcohol beverage inventory from a licensed premises for which a license is being surrendered or revoked or of which the seller has lost legal possession to another licensee listed in subsection (1) of this section, the seller must:

(a) Have surrendered the license for the premises within the last sixty days, have had the license for the premises revoked within the last sixty days, or have lost legal possession of the licensed premises within the last sixty days;

(b) Return, within thirty days after the license was surrendered or revoked or the seller lost legal possession of the licensed premises, all alcohol beverages that the seller has not paid for to the wholesaler from whom the seller obtained the alcohol beverages on credit, and the wholesaler shall cancel the debt for the returned inventory;

(c) Offer and give wholesalers from whom the seller purchased remaining alcohol beverages a thirty-day option to repurchase any remaining alcohol beverages that the wholesaler sold to the seller before selling any inventory to a purchaser listed in subsection (1) of this section;

(d) Possess proof that all wholesalers the seller has purchased alcohol beverages from for the licensed premises have been paid in full for those purchases; and

(e) Sell the alcohol beverage inventory for only one licensed premises.

(4) The licensee purchasing alcohol beverages under this section shall retain evidence of the purchase in the form of a purchase receipt showing the name of the seller, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt for three years and make it available to the state and local licensing authorities at all times during business hours.

(5) The state licensing authority shall not promulgate rules that regulate or establish the price at which the inventory may be sold under this section.

(6) A wholesaler shall not transport the alcohol beverage inventory from the seller's premises to the purchaser's premises. The seller may transport the alcohol beverage inventory to the purchaser's licensed premises.

(7) Nothing in this section allows a licensee to sell alcohol beverages if:

(a) The seller's license is not being surrendered or revoked or the seller did not lose legal possession of the licensed premises within the last sixty days;

(b) Common ownership does not exist;

(c) The seller is selling the business and transferring the license to a new owner; or

(d) The seller is changing the location of the licensed premises.

(8) For the purposes of this section, "common ownership" means that a person owns at least a ten percent ownership interest in both the seller and the purchaser at the time the license is surrendered or revoked or the seller lost legal possession of the licensed premises.

Source: L. 2018: Entire section added, (SB 18-138), ch. 94, p. 737, § 1, effective August 8.

Editor's note: This section was numbered as § 12-47-427 in SB 18-138. That section was harmonized with HB 18-1025 and relocated to this section.

PART 5

LICENSE FEES AND EXCISE TAXES

44-3-501. State fees - rules - one-time fee waiver - repeal. (1) The applicant shall pay the following license and permit fees to the department annually in advance:

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

(I) For each brewery, three hundred dollars;

(II) For each winery, three hundred dollars;

(III) For each distillery or rectifier:

(A) On or after August 10, 2016, and before August 10, 2017, six hundred seventy-five dollars; and

(B) On or after August 10, 2017, three hundred dollars;

(IV) For each limited winery, seventy dollars;

(b) For each importer's license, three hundred dollars;

(c) For each wholesaler's liquor license:

(I) On or after August 10, 2016, and before August 10, 2017, eight hundred dollars; and

(II) On or after August 10, 2017, five hundred fifty dollars;

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

(e) For each retail liquor store license, one hundred dollars;

(f) For each liquor-licensed drugstore license, one hundred dollars;

(g) For each beer and wine license, seventy-five dollars;

(h) For each hotel and restaurant license, seventy-five dollars;

(i) For each resort-complex-related facility permit, seventy-five dollars per related facility, as defined in section 44-3-413 (2)(e);

(j) For each related facility permit, seventy-five dollars per related facility, as defined in section 44-3-413 (3)(f);

(k) For each tavern license, seventy-five dollars;

(l) For each optional premises license, seventy-five dollars;

(m) For each retail gaming tavern license, seventy-five dollars;

(n) For each brew pub, distillery pub, or vintner's restaurant license, three hundred twenty-five dollars;

(o) For each club license, seventy-five dollars;

(p) For each arts license, seventy-five dollars;

(q) For each racetrack license, seventy-five dollars;

(r) For each public transportation system license, seventy-five 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.

(s) For each bed and breakfast permit, fifty dollars;

(t) For each art gallery permit, fifty dollars;

(u) For each wine packaging permit, two hundred dollars;

(v) For each lodging and entertainment license, seventy-five dollars;

(w) For each manager's permit, one hundred dollars.

(2) Notwithstanding the amount specified for any fee in subsection (1) of this section, the executive director by rule, or as otherwise provided by law, may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3) to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the executive director, by rule or as otherwise provided by law, may increase the amount of one or more of the fees as provided in section 24-75-402 (4).

(3) (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:

(I) Applications for new liquor licenses pursuant to section 44-3-304 and rules adopted pursuant to that section;

(II) Applications to change location pursuant to section 44-3-301 (9) and rules adopted pursuant to that section;

(III) Applications for transfer of ownership pursuant to section 44-3-303 (1)(c) and rules adopted pursuant to that section;

(IV) Applications for modification of licensed premises pursuant to section 44-3-301 and rules adopted pursuant to that section;

(V) Applications for alternating use of premises pursuant to section 44-3-402 (3), 44-3-403 (2)(a), or 44-3-417 (1)(b) and rules adopted pursuant to those sections;

(VI) Applications for branch warehouse permits pursuant to section 44-3-407 and rules adopted pursuant to that section;

(VII) Applications for approval of a contract to sell alcohol beverages pursuant to section 44-3-413 (4)(c);

(VIII) Applications for warehouse storage permits pursuant to section 44-3-202 and rules adopted pursuant to that section;

(IX) Applications for duplicate licenses;

(X) Applications for wine shipment permits pursuant to section 44-3-104;

(XI) Sole source registrations or new product registrations pursuant to section 44-3-901 (4)(b);

(XII) Hotel and restaurant optional premises registrations;

(XIII) Expired license renewal and reissuance applications pursuant to section 44-3-302;

(XIV) Notice of change of name or trade name pursuant to section 44-3-301 and rules adopted pursuant to that section;

(XV) Applications for wine packing permits pursuant to section 44-3-425;

(XVI) Applications for transfer of ownership, change of location, and license merger and conversion pursuant to section 44-3-410 (1)(b);

(XVII) Applications for manager's permits pursuant to section 44-3-427;

(XVIII) Applications for the renewal of a license or permit issued in accordance with this article 3; and

(XIX) Applications for a permit for or attachment to a communal outdoor dining area or for modification of a licensed premises to include a communal outdoor dining area.

(b) The amounts of such fees, when added to the other fees transferred to the liquor enforcement division and state licensing authority cash fund pursuant to sections 44-4-105, 44-3-502 (1), and 44-5-104 shall reflect the direct and indirect costs of the liquor enforcement division and the state licensing authority in the administration and enforcement of this article 3 and articles 4 and 5 of this title 44.

(c) The state licensing authority may charge corporate applicants and limited liability companies licensed under this article 3 and article 4 of this title 44 a fee for the cost of each fingerprint analysis and background investigation undertaken to qualify new officers, directors, stockholders, members, or managers pursuant to the requirements of section 44-3-307 (1); 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.

(d) At least annually, the amounts of the fees shall be reviewed and, if necessary, adjusted to reflect the direct and indirect costs of the liquor enforcement division and the state licensing authority.

(4) Except as provided in subsection (5) 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 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.

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

(6) (a) Notwithstanding any provision of this section to the contrary, the following fees imposed pursuant to this section are waived for twelve months following December 7, 2020:

(I) License fees imposed pursuant to subsections (1)(a)(IV), (1)(g), (1)(h), (1)(i), (1)(j), (1)(k), (1)(l), (1)(m), (1)(n), (1)(o), (1)(p), (1)(q), and (1)(v) of this section and pursuant to section 44-4-105;

(II) Application fees imposed pursuant to subsections (3)(a)(I), (3)(a)(XII), and (3)(a)(XIII) of this section and pursuant to regulation 47-302 (F), 1 CCR 203-2; and

(III) All fees associated with the renewal of a license.

(b) The waiver of fees specified in subsection (6)(a) of this section applies to the following license types:

(I) A limited winery license under section 44-3-403;

(II) A beer and wine license under section 44-3-411;

(III) A hotel and restaurant license under section 44-3-413;

(IV) A tavern license under section 44-3-414;

(V) An optional premises license under section 44-3-415;

(VI) A retail gaming tavern license under section 44-3-416;

(VII) A brew pub license under section 44-3-417;

(VIII) A club license under section 44-3-418;

(IX) An arts license under section 44-3-419;

(X) A racetrack license under section 44-3-420;

(XI) A vintner's restaurant license under section 44-3-422;

(XII) A distillery pub license under section 44-3-426;

(XIII) A lodging and entertainment license under section 44-3-428;

(XIV) A fermented malt beverage license under section 44-4-107 (1)(b); and

(XV) A fermented malt beverage license under section 44-4-107 (1)(c).

(c) The general assembly shall appropriate an amount not to exceed one million eight hundred seventy-eight thousand dollars from the general fund to the liquor enforcement division and state licensing authority cash fund for use by the department to offset the reduction in fee revenues used by the department for the direct and indirect costs of the liquor enforcement division and the state licensing authority in the administration and enforcement of articles 3 to 5 of this title 44.

(d) This subsection (6) is repealed, effective December 31, 2022.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1033, § 2, effective October 1. **L. 2019:** (3)(a)(V) amended, (SB 19-011), ch. 1, p. 14, § 23, effective January 31; IP(1) and (2) amended, (SB 19-241), ch. 390, p. 3479, § 63, effective August 2. **L. 2020:** (3)(a)(XVII) amended and (3)(a)(XVIII) added, (SB 20-086), ch. 67, p. 270, § 2, effective

September 14. **L. 2020 1st Ex. Sess.:** (6) added, (SB 20B-001), ch. 2, p. 16, § 7, effective December 7. **L. 2021:** (3)(a)(XVII) and (3)(a)(XVIII) amended and (3)(a)(XIX) added, (HB 21-1027), ch. 290, p. 1716, § 4, effective June 22.

Editor's note: This section is similar to former § 12-47-501 as it existed prior to 2018.

Cross references: For the legislative declaration in SB 20B-001, see section 1 of chapter 2, Session Laws of Colorado 2020, First Extraordinary Session.

44-3-502. Fees and taxes - allocation. (1) (a) All state license fees and taxes provided for by this article 3 and all fees provided for by section 44-3-501 (3) and (4) for processing applications, reports, and notices shall be paid to the department, which shall transmit the fees and taxes to the state treasurer. The state treasurer shall credit eighty-five percent of 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 fifty dollars of each state license fee provided for by this article 3 and the processing fees provided for by section 44-3-501 (3) and (4) for processing applications, reports, and notices shall be transferred out of the general fund to the liquor enforcement division and state licensing authority cash fund. The 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 and the liquor enforcement division shall be paid out of appropriations from the liquor enforcement division and state licensing authority cash fund as provided in section 44-6-101.

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

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1037, § 2, effective October 1; (1)(c) amended, (HB 18-1026), ch. 24, p. 281, § 5, effective October 1.

Editor's note: (1) This section is similar to former § 12-47-502 as it existed prior to 2018.

(2) Subsection (1)(c) of this section was numbered as § 12-47-502 (1)(c) in HB 18-1026. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

44-3-503. Excise tax - records - rules - definition. (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 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 the 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, the holder of a winery direct shipper's permit, 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 the beverage is transported by a manufacturer or wholesaler to a point outside of the state and

disposed of there, then the 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, distillery pub, and vintner's restaurant licensees.

(b) The department shall promulgate rules concerning the excise tax applied to powdered alcohol at 60.26 cents per liter for the amount of liters of water suggested to be added by the manufacturer's packaging.

(c) (I) 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 subsection (1)(c)(I) shall be transferred from the general fund to the Colorado wine industry development fund created in section 35-29.5-105. 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.

(II) In addition to the excise tax imposed pursuant to subsection (1)(a) of this section, an additional excise tax surcharge at the rate of 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. An amount equal to one hundred percent of the excise tax surcharge collected pursuant to this subsection (1)(c)(II) shall be transferred from the general fund to the Colorado wine industry development fund created in section 35-29.5-105. 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.

(d) (I) 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 subsection (1)(d) shall be paid to the department 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. 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.

(II) The excise tax imposed in accordance with this subsection (1)(d) does not apply to produce used in the production of hard cider.

(e) The policy of this state is that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of 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 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 to secure and enforce the collection and payment of the tax as it may deem proper if the rules are not inconsistent with the provisions of this article 3.

(3) Except as provided in subsection (1)(d) of this section, the excise taxes and excise tax surcharges provided for in this section shall be paid to the department upon the filing of the return provided for in subsection (4) of this section and shall be delivered to the department on or before the twentieth day of the month following the month in which such alcohol beverages are first sold in this state. As used in this subsection (3), "first sold" means the sale or disposal that occurs when a licensed wholesaler sells, transfers, or otherwise disposes of a product, when a manufacturer sells to a licensed wholesaler or a consumer, or when a holder of a winery direct shipper's permit ships to a personal consumer in this state.

(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:

(a) Constituting the licensee's beginning and ending inventory for the month;

(b) Manufactured by the licensee in this state;

(c) Shipped to the licensee from within this state and received by the licensee in this state;

(d) Shipped to the licensee from outside this state and received by the licensee in this state;

(e) Sold or disposed of by the licensee to persons or purchasers in this state;

(f) Sold or disposed of by the licensee to persons or purchasers outside this state, separately indicating those sales or transactions of alcohol beverages to which the excise tax is not applicable; and

(g) For persons licensed pursuant to section 44-3-402 (3), 44-3-403 (2)(a), or 44-3-417 (1)(b), a separate report of vinous or malt liquors, as applicable, that were manufactured or inventoried in, or transferred from, an alternating proprietor licensed premises.

(5) Each holder of a winery direct shipper's permit under section 44-3-104 shall file, on or before the twentieth day of each calendar month, an exact, verified return with the state licensing authority showing for the preceding calendar month the quantities of vinous liquor shipped to personal consumers in this state.

(6) 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 alcohol beverages sold by the manufacturer, wholesaler, or holder of a winery direct shipper's permit in this state and shall include any additional information as the state licensing authority may require for the proper administration of this article 3. 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. Each manufacturer, wholesaler, or holder of a winery direct shipper's permit 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.

(7) The state licensing authority, after public hearing of which the licensee shall have due notice as provided in this article 3, shall suspend or revoke any license or winery direct shipper's permit issued pursuant to this article 3 for a failure to pay any excise tax required by

this article 3 and may suspend or revoke the license or permit for a violation of or failure to comply with the rules promulgated by the authority.

(8) 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) The department shall make a refund or allow a credit to the manufacturer, the wholesaler, or the holder of a winery direct shipper's permit, as the case may be, of the amount of the excise tax paid on alcohol beverages sold in this state when, after payment of the excise tax, the alcohol beverages are rendered unsalable by reason of destruction or damage upon submission of evidence satisfactory to the state licensing authority that the excise tax has actually been paid. Such refund or credit shall be made by the department within sixty days after the submission of evidence satisfactory to the department.

(10) (a) In order to economize and to simplify administrative procedures, the state licensing authority may authorize a procedure whereby a manufacturer or wholesaler of alcohol beverages or holder of a winery direct shipper's permit 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 to this state on such liquors.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1037, § 2, effective October 1. **L. 2019:** (1)(a) and (4)(g) amended, (SB 19-011), ch. 1, p. 14, § 24, effective January 31; (1)(d) amended, (SB 19-142), ch. 421, p. 3686, § 2, effective September 1.

Editor's note: This section is similar to former § 12-47-503 as it existed prior to 2018.

44-3-504. Lien to secure payment of taxes - exemptions - recovery. (1) (a) The state of Colorado and the department shall have a lien, to secure the payment of the taxes, penalties, and interest imposed pursuant to section 44-3-503 upon all the assets and property of the wholesaler or manufacturer owing the tax, including the stock in trade, business fixtures, and equipment owned or used by the wholesaler or manufacturer in the conduct of business, as long as a delinquency in the payment of the tax continues. The 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 subsection (1)(a) of this section to the department within ten days after seizure by the department of the assets and property. The department shall verify that the lease is bona fide and notify the owner that the lease has been received by the department. The department shall use its best efforts to notify the owner of the real or personal property that might be subject to the lien created in subsection (1)(a) of this

section. 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 subsection (1)(a) of this section if the property can reasonably be identified from the lease description or if the lessee is given an option to purchase in the lease and has not exercised the option to become the owner of the property leased. This exemption shall be effective from the date of the execution of the lease. The 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 or a memorandum of the lease is filed with the department on such forms as may be prescribed by the department after the execution of the lease at a cost for the filing of two dollars and fifty cents per document. Motor vehicles that are properly registered in this state, showing the lessor as owner thereof, shall be exempt from the lien created in subsection (1)(a) of this section; 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 that 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 the lessee and the 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 44-3-503 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. The 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 44-3-503. The notice shall be sent by first-class mail and shall be directed to the last address of the wholesaler or manufacturer on file with the department.

(b) (I) If a wholesaler or manufacturer fails to file both the return and the payment required by section 44-3-503, the executive director 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 44-3-503. The executive director shall give the delinquent taxpayer written notice of the estimated tax, penalty, and interest, which notice shall be sent by first-class mail and shall be directed to the last address of the person on file with the department.

(II) The remedies available to a taxpayer pursuant to article 21 of title 39 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 subsection (2)(b)(I) of this section.

(3) If any taxes, penalties, or interest imposed pursuant to section 44-3-503 are not paid within ten days after the notice is mailed pursuant to subsection (2) of this section, the executive director may seek to enforce collection of the unpaid amounts in accordance with the provisions of article 21 of title 39, to the extent that those provisions are not in conflict with or inconsistent with the provisions of this article 3.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1040, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-504 as it existed prior to 2018.

44-3-505. Local license fees. (1) The applicant shall pay the following license fees 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 subsection (1)(c)(III) of this section, 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 subsection (1)(c)(III) of this section, four hundred twenty-five dollars;

(III) For each beer and wine license issued to a resort hotel, three hundred seventy-five dollars;

(d) For each hotel and restaurant license, five hundred dollars;

(e) For each tavern license, five hundred dollars;

(f) For each optional premises license, five hundred dollars;

(g) For each retail gaming tavern license, five hundred dollars;

(h) For each application for approval of a contract to sell alcohol beverages pursuant to section 44-3-413 (4)(c), three hundred twenty-five dollars;

(i) For each brew pub, distillery pub, or vintner's restaurant license, five hundred dollars;

(j) For each club license, two hundred seventy-five dollars;

(k) For each arts license, two hundred seventy-five dollars;

(l) For each racetrack license, five hundred dollars;

(m) For each bed and breakfast permit, twenty-five dollars;

(n) For each resort-complex-related facility permit, one hundred dollars per related facility, as defined in section 44-3-413 (2)(e);

(o) For each art gallery permit, twenty-five dollars;

(p) For each lodging and entertainment license, five hundred dollars;

(q) For each related facility permit, one hundred dollars per related facility, as defined in section 44-3-413 (3)(f).

(2) No rebate shall be paid by any municipality, city and county, or county of any 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) Eighty-five percent of the local license fees provided for in this article 3 and article 4 of this title 44 must be paid to the department, which shall transmit said fees to the state treasurer to be credited to the old age pension fund.

(4) (a) Each application for a license provided for in this article 3 and article 4 of this title 44 filed with a local licensing authority must 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 the following:

(A) On or before July 1, 2008, six hundred twenty-five dollars;

(B) After July 1, 2008, and before July 2, 2009, seven hundred fifty dollars;

(C) After July 1, 2009, and before July 2, 2010, eight hundred seventy-five dollars;

(D) After July 2, 2010, one thousand dollars;

(II) For a transfer of location or ownership, not to exceed the following for each:

(A) On or before July 1, 2008, six hundred twenty-five dollars;

(B) After July 1, 2008, seven hundred fifty dollars;

(III) For a renewal of license, not to exceed the following; except that an expired license renewal fee shall not exceed five hundred dollars:

(A) On or before July 1, 2008, seventy-five dollars;

(B) After July 1, 2008, one hundred dollars;

(IV) For a new license or renewal application for an art gallery permit, not to exceed one hundred dollars;

(V) For a transfer of ownership, change of location, and license merger and conversion pursuant to section 44-3-410 (1)(b), not to exceed one thousand dollars.

(b) No fees or charges of any kind, except as provided in this article 3 or article 4 of this title 44, 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, members, or managers pursuant to the requirements of section 44-3-307 (1); 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.

(6) The local licensing authority may charge a fee to approve the attachment to a communal outdoor dining area or for modification of a licensed premises to include a communal outdoor dining area. The local licensing authority shall set the fee in an amount to cover the direct and indirect costs of administering the approval.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1042, § 2, effective October 1. **L. 2021:** (6) added, (HB 21-1027), ch. 290, p. 1716, § 5, effective June 22.

Editor's note: This section is similar to former § 12-47-505 as it existed prior to 2018.

PART 6

DISCIPLINARY ACTIONS

44-3-601. Suspension - revocation - fines - rules. (1) (a) Subject to subsection (8) of this section, in addition to any other penalties prescribed by this article 3 or article 4 or 5 of this title 44, 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 fine a licensee or to suspend or revoke, in whole or in part, any license or permit issued by such authority for any violation by the licensee or by any of the agents, servants, or employees of the licensee of this article 3; any rules authorized by this article 3; or any of the terms, conditions, or provisions of the license or permit issued by such authority. A licensing authority may impose a fine pursuant to this subsection (1) regardless of whether a licensee has petitioned the licensing authority pursuant to subsection (3)(a) of this section for permission to pay a fine in lieu of license or permit suspension, and the licensing authority need not make the findings specified in subsections (3)(a)(I) and (3)(a)(II) of this section.

(b) 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 that the licensing authority is authorized to conduct.

(c) For the purposes of imposing a fine, the state licensing authority shall adopt rules establishing categories of violations by level of severity and associated ranges of penalties for state and local licensing authorities, including aggravating and mitigating factors to be considered in determining penalties. A fine imposed pursuant to this subsection (1) must be between five hundred and one hundred thousand dollars; except that penalties for a first violation that is in the least severe level of license violations established pursuant to this subsection (1)(c) must not exceed five thousand dollars.

(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 the license or permit. No such suspension shall be for a longer period than six months. If any license or permit is suspended or revoked, no part of the fees paid therefor shall be returned to the licensee. Any license or permit may be 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 a license or permit for a temporary period of not more than fifteen days.

(3) (a) Whenever a decision of the state or any local licensing authority suspending a license or permit becomes final, whether by failure of the licensee to appeal the decision or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of the license or permit suspension 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 that it deems desirable and may, in its sole discretion, grant the petition if it is satisfied that:

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

(II) The books and records of the licensee are kept in such a manner that the loss of sales of alcohol beverages that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy.

(b) Subject to subsection (8) of this section, the fine accepted by the licensee pursuant to subsection (3)(a) of this section shall be equivalent to twenty percent of the licensee's estimated gross revenues from sales of alcohol beverages during the period of the proposed suspension; except that the fine must be between five hundred and one hundred thousand dollars.

(c) Repealed.

(3.5) The method of payment of any fine pursuant to subsection (1) or (3) of this section:

(a) To a local licensing authority shall be in the form of cash or in the form of a certified check or cashier's check made payable to the local licensing authority;

(b) To the state licensing authority shall be in the form determined by the state licensing authority by rule.

(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 money 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 subsection (3)(a) 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) (a) The following applies only if the licensing authority has decided to impose a suspension for a violation of section 44-3-901 (1)(a), (1)(b), or (6)(a)(I) that occurs in a sales room for a licensee operating pursuant to section 44-3-402 (2) or (7), 44-3-403 (2)(c), or 44-3-407 (1)(b):

(I) If the licensing authority decides to accept a fine in lieu of a license suspension, the licensing authority shall only include in the computation of the fine the estimated gross revenues of the retail sales of the sales room where the violation occurred, and not any manufacturing or wholesale activities of the licensee; except that the fine must be between two hundred and five thousand dollars; and

(II) If the licensing authority declines to accept a fine, it shall limit any suspension to the designated premises for the sales room where the violation occurred, and not any manufacturing or wholesale activities of the licensee. In the case of a temporary sales room for not more than three consecutive days, the licensing authority shall apply a suspension issued in accordance with this section only to future temporary sales rooms and not any manufacturing or wholesale activities of the licensee.

(b) The following applies only if the licensing authority has decided to impose a suspension for a violation of section 44-3-901 (1)(a), (1)(b), or (6)(a)(I) that occurs in a retail establishment for licensees operating pursuant to section 44-3-417, 44-3-422, or 44-3-426:

(I) If the licensing authority decides to accept a fine in lieu of a license suspension, the licensing authority shall only include in the computation of the fine the estimated gross revenues of the retail activities of the licensee, and not any manufacturing or wholesale activities of the licensee; except that the fine must be between two hundred and five thousand dollars; and

(II) If the licensing authority declines to accept a fine, it shall limit any suspension to the retail activities of the licensee, and not any manufacturing or wholesale activities of the licensee.

(c) When imposing a suspension or fine against a retail establishment licensed under section 44-4-107 (1) or this article 3 for a violation of section 44-3-901 (6)(a)(I), the licensing authority shall not take into consideration any violation of section 44-3-901 (6)(a)(I) by the licensee that occurred more than five years before the date on which the violation for which the suspension or fine is being imposed occurred.

(9) When penalizing a vendor who has violated provisions of this article 3 and article 4 of this title 44 that prohibit the service of an alcohol beverage to a minor or a visibly intoxicated person, state and local licensing authorities shall consider it a mitigating factor if the vendor is a responsible alcohol beverage vendor as defined by part 10 of this article 3. In addition, the state licensing authority by rule may include other violations of this article 3 and article 4 of this title 44 that licensing authorities shall consider for mitigation if the vendor qualifies as a responsible alcohol beverage vendor.

Source: L. 2018: (8)(c) added, (SB 18-243), ch. 366, p. 2205, § 10, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 1044, § 2, effective October 1. **L. 2020:** (1) and (3)(b) amended, (3)(c) repealed, and (3.5) added, (SB 20-110), ch. 290, p. 1434, § 1, effective July 13.

Editor's note: (1) This section is similar to former § 12-47-601 as it existed prior to 2018.

(2) Subsection (8)(c) of this section was numbered as § 12-47-601 (7.5)(c) in SB 18-243. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

PART 7

INSPECTION OF BOOKS AND RECORDS

44-3-701. 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 the 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 3, and may require an audit to be made of the books of account and records on any occasions as it may consider necessary by an auditor to be selected by the state licensing authority, who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1047, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-701 as it existed prior to 2018.

PART 8

JUDICIAL REVIEW AND CIVIL LIABILITY

44-3-801. Civil liability - legislative declaration - definitions. (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 alcohol beverages is abolished and that in certain cases the consumption of 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 3 or article 4 or 5 of this title 44 and the agents or servants of the person.

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

(I) It is proven that the licensee willfully and knowingly sold or served any alcohol beverage to the 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 the sale or service.

(b) No civil action may be brought pursuant to this subsection (3) by the person to whom the 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 alcohol beverage is civilly liable to any injured individual or his or her estate for any injury to the 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 alcohol beverages, except when:

(I) It is proven that the social host knowingly served any alcohol beverage to the person who was under the age of twenty-one years or knowingly provided the person under the age of twenty-one a place to consume an alcoholic beverage; and

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

(b) No civil action may be brought pursuant to this subsection (4) by the person to whom the 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.

(5) An instructor or entity that complies with section 18-13-122 (5)(c) shall not be liable for civil damages resulting from the intoxication of a minor due to the minor's unauthorized consumption of alcohol beverages during instruction in culinary arts, food service, or restaurant management pursuant to section 18-13-122 (5)(c).

(6) (a) The limitations on damages set forth in subsections (3)(c) and (4)(c) of this section must be adjusted for inflation as of January 1, 1998, January 1, 2008, January 1, 2020, and each January 1 every two years thereafter. The adjustments made on January 1, 1998, January 1, 2008, January 1, 2020, and each January 1 every two years thereafter must be based on the cumulative annual adjustment for inflation for each year since the effective date of the damages limitations in subsections (3)(c) and (4)(c) of this section. The adjustments made pursuant to this subsection (6)(a) must be rounded upward or downward to the nearest ten-dollar increment.

(b) As used in this subsection (6), "inflation" means the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index.

(c) The secretary of state shall certify the adjusted limitation on damages within fourteen days after the appropriate information is available, and:

(I) The adjusted limitation on damages as of January 1, 1998, is applicable to all claims for relief that accrue on or after January 1, 1998, and before January 1, 2008;

(II) The adjusted limitation on damages as of January 1, 2008, is applicable to all claims for relief that accrue on and after January 1, 2008, and before January 1, 2020; and

(III) The adjusted limitation on damages as of January 1, 2020, and each January 1 every two years thereafter is applicable to all claims for relief that accrue on and after the specified January 1 and before the January 1 two years thereafter.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1047, § 2, effective October 1. **L. 2019:** (6)(a) and (6)(c) amended, (SB 19-109), ch. 83, p. 295, § 1, effective August 2.

Editor's note: This section is similar to former § 12-47-801 as it existed prior to 2018.

44-3-802. 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 a transcript is demanded by the person taking the appeal or when a transcript is furnished by the licensing authority pursuant to court order.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1049, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-802 as it existed prior to 2018.

PART 9

UNLAWFUL ACTS - ENFORCEMENT

44-3-901. Unlawful acts - exceptions - definitions. (1) Except as provided in section 18-13-122, 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 alcohol beverage to a visibly intoxicated person or to a known habitual drunkard;

(b) (I) To sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any alcohol beverage to or for any person under the age of twenty-one years.

(II) If a person is convicted of an offense pursuant to subsection (1)(b)(I) of this section for serving, giving away, disposing of, exchanging, or delivering or permitting the serving, giving, or procuring of any alcohol beverage to a person under the age of twenty-one years, the court shall consider the following in mitigation:

(A) After consuming the alcohol, the underage person was in need of medical assistance as a result of consuming alcohol; and

(B) Within six hours after the underage person consumed the alcohol, the defendant contacted the police or emergency medical personnel to report that the underage person was in need of medical assistance as a result of consuming alcohol.

(c) To obtain or attempt to obtain any alcohol beverage by misrepresentation of age or by any other method in any place where alcohol beverages are sold when a person is under twenty-one years of age;

(d) To 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 a person is under twenty-one years of age;

(e) To knowingly, or under conditions that an average parent or guardian should have knowledge of, suffer or permit any person under twenty-one years of age, of whom such person may be a parent or guardian, to violate the provisions of subsection (1)(c) or (1)(d) of this section;

(f) To buy any vinous or spirituous liquor from any person not licensed to sell at retail as provided by this article 3 except as otherwise provided in this article 3;

(g) To sell at retail any malt, vinous, or spirituous liquors in sealed containers without holding a retail liquor store or liquor-licensed drugstore license, except as permitted by section 44-3-107 (2) or 44-3-301 (6)(b) or any other provision of this article 3, or to sell at retail any fermented malt beverages in sealed containers without holding a fermented malt beverage retailer's license under sections 44-4-104 (1)(c) and 44-4-107 (1)(a);

(h) To manufacture, sell, or possess for sale any alcohol beverage unless licensed to do so as provided by this article 3 or article 4 or 5 of this title 44 and unless all licenses required are in full force and effect;

(i) (I) To consume any alcohol beverages:

(A) In any public place except on any licensed premises permitted under this article 3 or article 4 of this title 44 to sell any alcohol beverages by the drink for consumption on the licensed premises;

(B) Upon any premises licensed to sell alcohol beverages for consumption on the licensed premises, the sale of which is not authorized by the state licensing authority;

(C) At any time on such premises other than the alcohol beverages purchased from the establishment; or

(D) In any public room on the licensed premises during hours during which the sale of the alcohol beverage is prohibited under this article 3.

(II) Notwithstanding subsection (1)(i)(I) of this section, a person who is at least twenty-one years of age may consume alcohol beverages while the person is a passenger aboard a luxury limousine or a charter bus, as those terms are defined in section 40-10.1-301. Nothing in this subsection (1)(i)(II) authorizes an owner or operator of a luxury limousine or charter bus to sell or distribute alcohol beverages without obtaining a public transportation system license pursuant to section 44-3-421.

(III) Notwithstanding subsection (1)(i)(I) of this section, it shall not be unlawful for adult patrons of a retail liquor store or liquor-licensed drugstore licensee to consume malt, vinous, or spirituous liquors on the licensed premises when the consumption is conducted within the limitations of the licensee's license and is part of a tasting if authorization for the tasting has been granted pursuant to section 44-3-301.

(IV) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for adult patrons of an art gallery permittee to consume alcohol beverages on the premises when the consumption is conducted within the limitations of a valid permit granted pursuant to section 44-3-424.

(V) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for adult patrons of the Colorado state fair to consume malt, vinous, or spirituous liquor upon unlicensed areas within the designated fairgrounds of the Colorado state fair authority or at a licensed premises on the fairgrounds when not purchased at the licensed premises, but this subsection (1)(i)(V) does not authorize a patron to remove an alcohol beverage from the fairgrounds.

(VI) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for adult patrons of a licensed premises that is attached to a common consumption area to consume alcohol beverages upon unlicensed areas within a common consumption area, but this subsection (1)(i)(VI) does not authorize a patron to remove an alcohol beverage from the common consumption area.

(VII) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for a person who is at least twenty-one years of age to consume any alcohol beverages in any public place, other than a public right of way, where consumption of alcohol beverages has been specifically authorized by ordinance, resolution, or rule adopted by a municipality, city and county, or county or, for purposes of state parks, state wildlife areas, or other properties open to recreation that are under the supervision of the parks and wildlife commission created in article 9 of title 33, by the parks and wildlife commission.

(VIII) Notwithstanding subsection (1)(i)(I) of this section and when and where consumption is specifically authorized by an ordinance adopted by the city and county of Denver, it is not unlawful for adult patrons of the national western center to consume malt, vinous, or spirituous liquors in unlicensed areas of the national western center or at a licensed

premises in the national western center when not purchased at the licensed premises. This subsection (1)(i)(VIII) does not authorize a patron to remove an alcohol beverage from the national western center.

(j) 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 alcohol beverages upon the premises for the purpose of consuming the beverages on the premises during the hours in which the sale of such beverages is prohibited or to consume such beverages upon premises operated in the manner described in this subsection (1)(j);

(k) To possess any package, parcel, or container on which the excise tax has not been paid;

(l) 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 alcohol beverage;

(m) Who is a common carrier regulated under article 10.1 of title 40, or is an agent or employee of such common carrier, to deliver alcohol beverages for any person who has not been issued a license or permit pursuant to this article 3;

(n) To remove an alcohol beverage from a licensed premises where the liquor license for the licensed premises allows only on-premises consumption of alcohol beverages, except as permitted under subsection (1)(i)(VI) of this section or section 44-3-107 (2).

(2) (a) An underage person is immune from arrest and prosecution under subsection (1)(c) or (1)(d) of this section if he or she establishes the following:

(I) The underage person called 911 and reported that another underage person was in need of medical assistance due to alcohol consumption;

(II) The underage person who called 911 provided his or her name to the 911 operator;

(III) The underage person was the first person to make the 911 report; and

(IV) The underage person who made the 911 call remained on the scene with the underage person in need of medical assistance until assistance arrived and cooperated with medical assistance or law enforcement personnel on the scene.

(b) The immunity described in subsection (2)(a) of this section also extends to the underage person who was in need of medical assistance due to alcohol consumption if the conditions of subsection (2)(a) of this section are satisfied.

(3) It is unlawful for any person licensed as a manufacturer, limited winery, brew pub, or distillery pub pursuant to this article 3 to manufacture alcohol beverages in any location other than the permanent location specifically designated in the license for manufacturing, except as allowed pursuant to section 44-3-402 (3), 44-3-403 (2)(a), 44-3-417 (1)(b), or 44-3-422 (1)(b).

(4) (a) It is unlawful for any person to import or sell any imported alcohol beverage in this state unless that 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 that person holds a valid importer's license issued under the provisions of this article 3.

(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 the state licensing authority to import and sell under and subject to the provisions of the importer's license any brand of alcohol beverage for which he or she is not the primary source of supply in the United States if the licensee is the sole source of supply of that brand of alcohol beverage in the state of

Colorado and authorization is determined by the state licensing authority as not constituting a violation of section 44-3-308.

(c) Any such manufacturer or importer shall file with the state licensing authority notice of intent to import one or more specified brands of the alcohol beverage, together with a statement that the manufacturer or importer is the primary source of supply in the United States for the brand, unless exempted pursuant to subsection (4)(b) of this section, in which case, the manufacturer or importer shall also file a statement that the manufacturer or importer is the sole source of supply of that brand of beverage in the state of Colorado. Upon the request of the state licensing authority, the manufacturer or importer shall file a copy of the manufacturer's federal brand label approval form as required by the federal bureau of alcohol, tobacco, firearms, and explosives or any of its successor agencies. Thereafter, the licensee shall file with the state licensing authority a copy of each sales invoice with a monthly sales report as required by section 44-3-503 (4) and (6).

(d) As used in this subsection (4), the term "primary source of supply in the United States" means the manufacturer, the producer, the owner of such 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 alcohol beverage wholesalers.

(e) It is unlawful for any person licensed as an importer of alcohol beverages pursuant to this article 3 to deliver any such alcohol beverages to any person not in possession of a valid wholesaler's license.

(5) It is unlawful for any person licensed to sell at wholesale pursuant to this article 3:

(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 subsection (5)(a) shall prevent delivery from a truck or other vehicle of orders previously taken;

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

(c) To purchase or receive any alcohol beverage from any person not licensed pursuant to this article 3 or article 4 of this title 44, unless otherwise provided in this article 3;

(d) To sell or serve any 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 (6) of this section.

(6) It is unlawful for any person licensed to sell at retail pursuant to this article 3 or article 4 of this title 44:

(a) (I) To sell an alcohol beverage to any person under the age of twenty-one years, to a habitual drunkard, or to a visibly intoxicated person. 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 3 or article 4 of this title 44.

(II) (A) If a licensee or 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 alcohol beverage, the licensee or employee shall be authorized to confiscate the fraudulent proof of age, if possible, and shall, within 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 seventy-two hours after the confiscation shall not constitute a criminal offense, notwithstanding section 44-3-904 (1)(a).

(B) If a licensee or 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 alcohol beverage, the licensee or 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 the person in a reasonable manner for the purpose of ascertaining whether the person is guilty of any unlawful act under this section. Questioning of a person by a licensee or a licensee's employee or a peace or police officer does not render the licensee, 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 that contains notice of the provisions of this subsection (6)(a).

(IV) Any licensee or licensee's employee acting in good faith in accordance with the provisions of subsection (6)(a)(II) of this section 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 subsection (6)(a)(II) of this section.

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

(I) For consumption on the premises on any day of the week, except between the hours of 2 a.m. and 7 a.m.;

(II) In sealed containers, beginning at 8 a.m. until 12 midnight each day; except that no malt, vinous, or spirituous liquors shall be sold, served, or distributed in a sealed container on Christmas day;

(c) To sell fermented malt beverages:

(I) To any person under the age of twenty-one years, except as provided in section 18-13-122;

(II) To any person between the hours of 12 midnight and 8 a.m.; or

(III) In a sealed container on Christmas day;

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

(e) Except as provided in section 44-3-107 (2), to have in possession or upon the licensed premises any alcohol beverage, the sale of which is not permitted by said license;

(f) To buy any alcohol beverages from any person not licensed to sell at wholesale as provided by this article 3 except as otherwise provided in this article 3;

(g) To sell at retail alcohol beverages except in the permanent location specifically designated in the license for such sale;

(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) (I) To sell malt, vinous, or spirituous liquors or fermented malt beverages in a place where the alcohol beverages are to be consumed, unless the place is a hotel, restaurant, tavern, lodging and entertainment facility, racetrack, club, retail gaming tavern, or arts licensed premises or unless the place is a dining, club, or parlor car; plane; bus; or other conveyance or facility of a public transportation system.

(II) Notwithstanding subsection (6)(i)(I) of this section, it shall not be unlawful for a retail liquor store or liquor-licensed drugstore licensee to allow tastings to be conducted on his or her licensed premises if authorization for the tastings has been granted pursuant to section 44-3-301.

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

(k) (I) Except as provided in subsections (6)(k)(II), (6)(k)(IV), and (6)(k)(V) of this section, to have on the licensed premises, if licensed as a retail liquor store, liquor-licensed drugstore, or fermented malt beverage retailer, any container that shows evidence of having once been opened or that contains a volume of liquor less than that specified on the label of the container;

(II) (A) A person holding a retail liquor store or liquor-licensed drugstore license under this article 3 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 3 for the purpose of sampling malt, vinous, or spirituous liquors by the retail liquor store or liquor-licensed drugstore licensee only.

(B) A person holding a fermented malt beverage retailer's license under section 44-4-107 (1)(a) may have upon the licensed premises fermented malt beverages in open containers when the open containers were brought onto the licensed premises by and remain solely in the possession of the sales personnel of a person licensed to sell at wholesale pursuant to article 4 of

this title 44 for the purpose of sampling fermented malt beverages by the fermented malt beverage retailer licensee only.

(III) Nothing in this subsection (6)(k) applies to any liquor-licensed drugstore where the contents, or a portion of the contents, have been used in compounding prescriptions.

(IV) It is not unlawful for a retail liquor store or liquor-licensed drugstore licensee to allow tastings to be conducted on the licensed premises if authorization for the tastings has been granted pursuant to section 44-3-301.

(V) A person holding a retail liquor store or liquor-licensed drugstore license under this article 3 or a fermented malt beverage retailer's license under section 44-4-107 (1)(a) may have upon the licensed premises an open container of an alcohol beverage product that the licensee discovers to be damaged or defective so long as the licensee marks the product as damaged or for return and stores the open container outside the sales area of the licensed premises until the licensee is able to return the product to the wholesaler from whom the product was purchased.

(l) To employ or permit, if the person is licensed to sell 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 alcohol beverage is to be sold and consumed if the person is a hotel and restaurant licensee or the registered manager of a hotel and restaurant license requires the 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", part 6 of article 21 of title 24. This subsection (6)(n) does not apply to those activities, equipment, and devices authorized and legally operated pursuant to articles 30 and 32 of this title 44.

(II) A person who violates any provision of this subsection (6)(n) is guilty of a class 5 felony and, upon conviction thereof, shall be punished as provided in section 18-1.3-401.

(o) To authorize or permit toughperson fighting as defined in section 12-110-104;

(p) (I) (A) To permit a person under eighteen years of age to sell, dispense, or participate in the sale or dispensing of any alcohol beverage; or

(B) Except as provided in subsection (6)(p)(II) of this section, to employ a person who is at least eighteen years of age but under twenty-one years of age to sell or dispense malt, vinous, or spirituous liquors unless the employee is supervised by another person who is on the licensed premises and is at least twenty-one years of age; except that this subsection (6)(p)(I)(B) does not apply to a retail liquor store licensed under section 44-3-409 or a liquor-licensed drugstore licensed under section 44-3-410;

(II) If licensed as a tavern under section 44-3-414 that does not regularly serve meals or a lodging and entertainment facility under section 44-3-428 that does not regularly serve meals, to permit an employee who is under twenty-one years of age to sell malt, vinous, or spirituous liquors; or

(III) If licensed as a retail liquor store under section 44-3-409, a liquor-licensed drugstore under section 44-3-410, or a fermented malt beverage retailer under section 44-4-107 (1)(a), to permit an employee who is under twenty-one years of age to deliver malt, vinous, or spirituous liquors or fermented malt beverages offered for sale on, or sold and removed from, the

licensed premises of the retail liquor store, liquor-licensed drugstore, or fermented malt beverage retailer.

(7) It is unlawful for any importer, manufacturer, or brewer to sell or to bring into this state for purposes of sale any malt liquor without causing 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.

(8) (a) It is unlawful for any person licensed pursuant to this article 3 or article 4 of this title 44 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.

(b) Notwithstanding subsection (8)(a) of this section, it shall not be unlawful for a retail liquor store or liquor-licensed drugstore licensee to allow tastings to be conducted on his or her licensed premises if authorization for the tastings has been granted pursuant to section 44-3-301.

(9) Repealed.

(10) (a) (I) Except as provided in subsection (10)(c) of this section, it is unlawful for a person who is licensed to sell alcohol beverages for consumption on the licensed premises to knowingly permit the removal of an alcohol beverage from the licensed premises.

(II) (A) Except as provided in subsection (10)(a)(II)(C) of this section, the licensee shall not be charged with permitting the removal of an alcohol beverage from the licensed premises when the licensee has posted a sign at least ten inches wide and six inches high by each exit used by the public that contains the following notice in type that is at least one-half inch in height:

WARNING

DO NOT LEAVE THE PREMISES OF THIS ESTABLISHMENT WITH AN ALCOHOL BEVERAGE.

IT IS ILLEGAL TO CONSUME AN ALCOHOL BEVERAGE IN A PUBLIC PLACE.

A FINE OF UP TO $250 MAY BE IMPOSED BY THE COURTS FOR A VIOLATION OF THIS PROVISION.

(B) A person licensed pursuant to section 44-3-416 must post a sign with the specified notice and in the minimum type size required by subsection (10)(a)(II)(A) of this section that is at least twelve inches wide and eighteen inches high.

(C) Regardless of whether a licensee posts a sign as specified in subsection (10)(a)(II) of this section, the licensee may be charged with knowingly permitting the removal of an alcohol beverage from the licensed premises if the licensee shows reckless disregard for the prohibition against alcohol beverage removal from the licensed premises, which may include permitting the removal of an alcohol beverage from the licensed premises three times within a twelve-month period, regardless of whether the three incidents occur on the same day or separate days. A licensee may be charged with knowingly permitting the removal of an alcohol beverage from the licensed premises upon the third occurrence of alcohol beverage removal from the licensed premises.

(III) In addition to posting a sign as described in subsection (10)(a)(II) of this section, a licensee may also station personnel at each exit used by the public in order to prevent the removal of an alcohol beverage from the licensed premises.

(b) This subsection (10) applies to persons licensed or permitted to sell or serve alcohol beverages for consumption on the licensed premises pursuant to section 44-3-403, 44-3-411, 44-3-412, 44-3-413, 44-3-414, 44-3-415, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-421, 44-3-422, 44-3-424, 44-3-426, 44-3-428, or 44-4-107 (1)(b).

(c) This subsection (10) does not preclude a licensee described in section 44-3-423 (2) from permitting a customer to remove from the licensed premises one opened container of partially consumed vinous liquor that was purchased on the licensed premises and has been resealed, as permitted by section 44-3-423 (1).

(11) (a) Except as provided in subsection (11)(b) of this section, a retail licensee or an employee of a retail licensee shall not sell malt, vinous, or spirituous liquors or fermented malt beverages to a consumer for consumption off the licensed premises unless the retail licensee or employee verifies that the consumer is at least twenty-one years of age by requiring the consumer to present a valid identification, as determined by the state licensing authority by rule. The retail licensee or employee shall make a determination from the information presented whether the purchaser is at least twenty-one years of age.

(b) It is not unlawful for a retail licensee or employee of a retail licensee to sell malt, vinous, or spirituous liquors or fermented malt beverages to a consumer who is or reasonably appears to be over fifty years of age and who failed to present an acceptable form of identification.

(c) As used in this subsection (11), "retail licensee" means a person licensed under section 44-3-409, 44-3-410, 44-4-104 (1)(c), or 44-4-107 (1)(a).

Source: L. 2018: IP(1), (1)(g), (1)(n), and (6)(e) amended, (SB 18-067), ch. 4, p. 31, § 3, effective March 1; (1)(m) amended, (HB 18-1375), ch. 274, p. 1696, § 8, effective May 29; (4)(c) amended, (SB 18-124), ch. 23, p. 277, § 1, effective August 8; entire article added with relocations, (HB 18-1025), ch. 152, p. 1049, § 2, effective October 1; (6)(n)(I) amended, (HB 18-1024), ch. 26, p. 321, § 7, effective October 1; IP(1), (1)(g), (1)(i)(I), (1)(i)(II), (6)(c), (6)(k), (6)(p)(I)(B), (6)(p)(II), (6)(p)(III), (10)(b), and (11) amended and (1)(i)(VII) added, (SB 18-243), ch. 366, p. 2205, § 11, effective January 1, 2019. **L. 2019:** IP(1)(i)(I), (1)(i)(I)(A), (1)(i)(VII), (3), IP(5), (5)(b), and (7) amended, (SB 19-011), ch. 1, p. 15, § 25, effective January 31; (1)(i)(VIII) added, (SB 19-200), ch. 307, p. 2798, § 1, effective August 2; (6)(o) amended, (HB 19-1172), ch. 136, p. 1734, § 262, effective October 1. **L. 2020:** (3) amended, (HB 20-1055), ch. 15, p. 68, § 3, effective September 14.

Editor's note: (1) This section is similar to former § 12-47-901 as it existed prior to 2018.

(2) (a) Subsections IP(1), (1)(g), (1)(n), and (6)(e) of this section were numbered as § 12-47-901 IP(1), (1)(f), (1)(m), and (5)(e), respectively, in SB 18-067. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

(b) Subsection (1)(m) of this section was numbered as § 12-47-901 (1)(l) in HB 18-1375. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

(c) Subsection (4)(c) of this section was numbered as § 12-47-901 (3)(c) in SB 18-124. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

(d) Subsection (6)(n)(I) of this section was numbered as § 12-47-901 (5)(n)(I) in HB 18-1024. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

(e) Subsections IP(1), (1)(g), (1)(i)(I), (1)(i)(II), (1)(i)(VII), (6)(c), (6)(k), (6)(p)(I)(B), (6)(p)(II), (6)(p)(III), (10)(b), and (11) of this section were numbered as § 12-47-901 IP(1), (1)(f), (1)(h)(I), (1)(h)(II), (1)(h)(VII), (5)(c), (5)(k), (5)(p)(I)(B), (5)(p)(II), (5)(p)(III), (9)(b), and (10), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025, effective January 1, 2019.

(3) Subsection (9)(b) provided for the repeal of subsection (9), effective January 1, 2019. (See L. 2016, pp. 1536, 1539.)

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-3-902. Testing for intoxication by law enforcement officers - when prohibited. (1) No person who is patronizing a licensed premises as defined in sections 44-3-103 (24) and 44-4-103 (3) shall be required or solicited by any law enforcement officer to submit to any mechanical test for the purpose of determining the alcohol content of the person's blood or breath while he or she is upon the licensed premises except to determine if there is a violation of section 42-4-1301 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 the alleged intoxication is a violation of any provision of this article 3.

(2) An ex parte order to permit any law enforcement officer to solicit any person who is patronizing a licensed premises, as defined in sections 44-3-103 (24) and 44-4-103 (3), to submit to any mechanical test for the purpose of determining the alcohol content of the person's blood or breath while he or she 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 alcohol beverage to a visibly intoxicated person or minor in violation of section 44-3-901 (1)(a) or (6)(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 the 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 that is proposed to be the subject of the court order;

(II) Evidence that shows probable cause to believe that there have been frequent and continuing violations of section 44-3-901 (1)(a) or (6)(a)(I) regarding the crime of providing any 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 44-3-901 (1)(a) or (6)(a)(I) regarding the crime of providing 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 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.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1059, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-902 as it existed prior to 2018.

44-3-903. Alcohol-without-liquid devices - legislative declaration - definition - unlawful acts. (1) (a) The general assembly hereby finds and declares that:

(I) Alcohol-without-liquid (AWOL) devices create alcohol vapor by pouring alcohol into a diffuser capsule connected to an oxygen pipe;

(II) AWOL devices enable individuals to inhale or snort the alcohol vapor created from certain alcohol beverages through a tube into the nose or mouth rather than drink the alcohol beverage in its liquid form through the mouth;

(III) Alcohol vapor ingested from an AWOL device bypasses the stomach and the filtering capabilities of the liver and is absorbed through blood vessels in the nose or lungs creating a faster and more intense "high" or intoxicating effect on the brain;

(IV) The popularity of AWOL devices is increasing in the nightclub and bar businesses throughout the nation; and

(V) AWOL devices are being marketed as a way to become intoxicated without a hangover and as a "dieter's dream" because there are no calories associated with inhaling or snorting alcohol vapor.

(b) The general assembly, therefore, determines that:

(I) AWOL devices will substantially increase the economic costs of alcohol abuse in Colorado;

(II) AWOL devices are not conducive to the health, safety, and welfare of the citizens of Colorado; and

(III) The possession, sale, purchase, and use of AWOL devices in this state should be prohibited.

(2) For purposes of this section, "AWOL device" means a device, machine, apparatus, or appliance that mixes an alcohol beverage with pure or diluted oxygen to produce an alcohol vapor that an individual can inhale or snort. "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication.

(3) Except as otherwise provided in subsection (5) of this section, it is unlawful for a person to possess, purchase, sell, offer to sell, or use an AWOL device in this state. A person who violates this section shall be punished in accordance with the provisions of section 44-3-904 (2).

(4) In addition to the penalty imposed by this section, if a person that violates subsection (3) of this section is a licensee, the state or local licensing authority may suspend or revoke the license of the licensee in accordance with the provisions of section 44-3-601.

(5) (a) Subsection (3) of this section shall not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university, as defined in section 23-2-102 (11), conducting bona fide research, or to a pharmaceutical company or biotechnology company conducting bona fide research and that complies with the provisions of this subsection (5).

(b) A hospital, state institution, private college or university, pharmaceutical company, or biotechnology company that possesses an AWOL device or that intends to acquire an AWOL device, shall, by September 1, 2005, or within thirty days prior to the acquisition, whichever is later, file with the Colorado department of public health and environment or its designee a notice of possession of AWOL device or a notice of acquisition of AWOL device, as appropriate.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1060, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-902.5 as it existed prior to 2018.

44-3-904. Violations - penalties. (1) (a) **[*Editor's note: This version of subsection (1)(a) is effective until March 1, 2022.*]** Any person violating any of the provisions of this article 3 or article 4 or 5 of this title 44 or any of the rules 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.

(a) **[*Editor's note: This version of subsection (1)(a) is effective March 1, 2022.*]** Except as provided in subsections (2), (3), and (4) of this section, any person violating any of the provisions of this article 3 or article 4 or 5 of this title 44 or any of the rules authorized and adopted pursuant to such articles commits a civil infraction.

(b) The penalties provided in this section shall not be affected by the penalties provided in any other section of this article 3 or article 4 or 5 of this title 44 but shall be construed to be in addition to any other penalties.

(2) Any person violating any of the provisions of section 44-3-901 (1)(a), (1)(g), (1)(h), (1)(j), (1)(l), (1)(m), (6)(a)(I), or (6)(b) or section 44-3-903 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(3) **[*Editor's note: This version of subsection (3) is effective until March 1, 2022.*]** A person violating the provisions of section 44-3-901 (1)(b) commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501.

(3) **[*Editor's note: This version of subsection (3) is effective March 1, 2022.*]** A person violating the provisions of section 44-3-901 (1)(b) commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(4) Any person violating any of the provisions of section 44-3-901 (1)(c) or (1)(d) commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. For the second conviction and for all subsequent convictions of violating the provisions of section 44-3-901 (1)(c) or (1)(d), 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 (5) of this section.

(5) At the discretion of the court, the fines provided for violations of section 44-3-901 (1)(c) and (1)(d) 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 the public work is to be completed.

(6) Any person who knowingly violates the provisions of section 44-3-901 (1)(b), (1)(e), or (1)(l) or any person who knowingly induces, aids, or encourages a person under the age of eighteen years to violate the provisions of section 44-3-901 (1)(b), (1)(c), or (1)(d) may be proceeded against pursuant to section 18-6-701 for contributing to the delinquency of a minor.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1061, § 2, effective October 1. **L. 2021:** (1)(a) and (3) amended, (SB 21-271), ch. 462, p. 3327, § 784, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-47-903 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-3-905. 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, the inspectors and their supervisors shall have the power to arrest. The inspectors and their supervisors shall also have the authority to issue summonses for violations of the provisions of this article 3 and articles 4 and 5 of this title 44.

(2) It is the duty of all sheriffs and police officers to enforce the provisions of this article 3 and articles 4 and 5 of this title 44 and the rules made pursuant to said articles and to arrest and complain against any person violating any of the provisions of this article 3 or rules pertaining thereto. It is the duty of the district attorney of the respective judicial districts of this state to prosecute all violations of 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 said articles for any such person, knowingly, to fail to perform any duties pursuant to this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1062, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-904 as it existed prior to 2018.

44-3-906. 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 alcohol beverages are being sold, bartered, exchanged, divided, or unlawfully given away, or kept for such purposes, or carried in violation of this article 3 and article 4 of this title 44 within the jurisdiction of such court, and describing in the affidavit the premises, wagon, automobile, truck, vehicle, contrivance, thing, or device to be searched, the judge of the court shall issue a warrant to any officer, which the complainant may designate, having power to serve original process commanding the officer to search the premises (other than a home), wagon, automobile, truck, vehicle, contrivance, thing, or device described in the affidavit.

(2) The 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 alcohol beverages and that you bring the same or any part thereof found in such search, together with such vessels in which such 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 ....., ...
Judge of the ..... Court

(3) The officer charged with the execution of the 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 that by said warrant the officer is directed to search and may execute said warrant any hour of the day or night.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1063, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-905 as it existed prior to 2018.

44-3-907. Return on warrant - sale of liquor seized. (1) If any 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 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 the warrant. The 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 property so seized or the value of same or for damages alleged to arise by reason of the seizure and detention. The judgment entered shall find said alcohol beverages to be unlawful and shall direct their 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 the 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 a violation of law as the evidence in the case justifies. If the officer refuses or neglects to so proceed as specified, 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 3, 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 alcohol beverages and intended for unlawful use, sale, barter, exchange, or gift.

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

(6) No warrant issued pursuant to this article 3 shall authorize the search of any place where a person may lawfully keep alcohol beverages as provided in this article 3. 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 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.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1064, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-906 as it existed prior to 2018.

44-3-908. Loss of property rights. There shall be no property rights of any kind in any 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 3 or article 4 of this title 44.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1065, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-907 as it existed prior to 2018.

44-3-909. Colorado state fair - common consumption area - national western center - consumption on premises. (1) Notwithstanding any other provision of this article 3, a person who purchases an alcohol beverage for consumption from a vendor licensed under this article 3 that is either attached to a common consumption area or licensed for the fairgrounds of the Colorado state fair authority may leave the licensed premises with the alcohol beverage and possess and consume the alcohol beverage at any place within the common consumption area or fairgrounds if the person does not remove the alcohol beverage from the common consumption area or fairgrounds. This subsection (1) does not authorize a person to bring into the common consumption area or fairgrounds an alcohol beverage purchased outside of the common consumption area or fairgrounds.

(2) When and where specifically authorized by an ordinance adopted by the city and county of Denver and notwithstanding any other provision of this article 3, a person who purchases an alcohol beverage for consumption from a vendor licensed under this article 3 for the national western center may leave the licensed premises with the alcohol beverage and possess and consume the alcohol beverage at any place within the national western center if the person does not remove the alcohol beverage from the national western center. This subsection

(2) does not authorize a person to bring into the national western center an alcohol beverage purchased outside the national western center.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1065, § 2, effective October 1. **L. 2019:** Entire section amended, (SB 19-200), ch. 307, p. 2798, § 2, effective August 2.

Editor's note: This section is similar to former § 12-47-908 as it existed prior to 2018.

44-3-910. Common consumption areas. (1) A promotional association or attached licensed premises shall not:

(a) Employ a person to serve alcohol beverages or provide security within the common consumption area unless the server has completed the server and seller training program established by the director of the liquor enforcement division of the department;

(b) Sell or provide an alcohol beverage to a customer for consumption within the common consumption area but not within the licensed premises in a container that is larger than sixteen ounces;

(c) Sell or provide an alcohol beverage to a customer for consumption within the common consumption area but not within the licensed premises unless the container is disposable and contains the name of the vendor in at least twenty-four-point font;

(d) Permit customers to leave the licensed premises with an alcohol beverage unless the beverage container complies with subsections (1)(b) and (1)(c) of this section;

(e) Operate the common consumption area during hours the licensed premises cannot sell alcohol under this article 3 or the limitations imposed by the local licensing authority;

(f) Operate the common consumption area in an area that exceeds the maximum authorized by this article 3 or by the local licensing authority;

(g) Sell, serve, dispose of, exchange, or deliver, or permit the sale, serving, giving, or procuring of, an alcohol beverage to a visibly intoxicated person or to a known habitual drunkard;

(h) Sell, serve, dispose of, exchange, or deliver, or permit the sale, serving, or giving of an alcohol beverage to a person under twenty-one years of age; or

(i) Permit a visibly intoxicated person to loiter within the common consumption area.

(2) The promotional association shall promptly remove all alcohol beverages from the common consumption area at the end of the hours of operation.

(3) A person shall not consume an alcohol beverage within the common consumption area unless it was purchased from an attached, licensed premises.

(4) This section does not apply to a special event permit issued under article 5 of this title 44 or the holder thereof unless the permit holder desires to use an existing common consumption area and agrees in writing to the requirements of this article 3 and the local licensing authority concerning the common consumption area.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1065, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-909 as it existed prior to 2018.

44-3-911. Takeout and delivery of alcohol beverages - permit - on-premises consumption licenses - requirements and limitations - rules - definition - repeal. (1) (a) Notwithstanding any other provision of this article 3 or article 4 of this title 44 and subject to subsections (2) and (3) of this section:

(I) Between the hours of 7 a.m. and 12 midnight, a licensee may sell and deliver an alcohol beverage to a customer for consumption off the licensed premises; and

(II) If an alcohol beverage is part of a takeout order for consumption off the licensed premises:

(A) A customer may remove the alcohol beverage from the licensed premises if the alcohol beverage is in a sealed container that complies with the rules of the state licensing authority; and

(B) The licensee may allow a customer to remove the alcohol beverage from the licensed premises.

(b) Subject to subsections (2) and (3) of this section, a licensee may sell or deliver alcohol beverages under this section by the drink.

(2) To sell and deliver an alcohol beverage or to allow a customer to remove an alcohol beverage from the licensed premises as either is authorized under subsection (1) of this section, the licensee must:

(a) Have any applicable permits issued under this section to sell alcohol beverages for takeout or delivery; except that this subsection (2)(a) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24;

(b) Sell or deliver:

(I) The alcohol beverage only to a customer who is twenty-one years of age or older;

(II) The alcohol beverage in a sealed container that complies with the rules of the state licensing authority; and

(III) No more than the following amounts of alcohol beverages per delivery or takeout order unless the governor has declared a disaster emergency under part 7 of article 33.5 of title 24:

(A) One thousand five hundred milliliters, approximately 50.8 fluid ounces, of vinous liquors;

(B) One hundred forty-four fluid ounces, approximately four thousand two hundred fifty-nine milliliters, of malt liquors, fermented malt beverages, and hard cider; and

(C) One liter, approximately 33.8 fluid ounces, of spirituous liquors.

(c) Derive no more than fifty percent of its gross annual revenues from total sales of food and alcohol beverages from the sale of alcohol beverages through takeout orders and that the licensee delivers; except that:

(I) This subsection (2)(c) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24; or

(II) This subsection (2)(c) does not apply to a sales room at a premises licensed under section 44-3-402 or 44-3-407; and

(d) If an alcohol beverage is being delivered, use a delivery person who complies with subsection (3) of this section.

(3) To deliver an alcohol beverage under this section, the delivery person must:

(a) Deliver the alcohol beverage to a place that is not licensed under this article 3 or article 4 of this title 44;

(b) Be an employee of the licensee who is twenty-one years of age or older;

(c) Deliver an alcohol beverage only to a person who is twenty-one years of age or older; and

(d) Have satisfactorily completed the server and seller training program established under section 44-3-1002.

(4) (a) The state licensing authority shall promulgate rules:

(I) Specifying the types of containers that may be used for takeout or delivery of an alcohol beverage under this section;

(II) Creating a permit for takeout and delivery of alcohol beverages;

(III) Setting fees for the processing and approval of a takeout or delivery permit application; and

(IV) Concerning any other matter necessary for the safe and effective implementation of this section.

(b) The state licensing authority shall issue a permit to a licensee to sell alcohol beverages for takeout and delivery if the licensee demonstrates the ability to comply with this section. A permit issued under this subsection (4)(b) is subject to the suspension and revocation provisions set forth in section 44-3-601.

(c) (I) The local licensing authority may create a permit for takeout and delivery of alcohol beverages to implement this section. If a local licensing authority does not create a permit under this subsection (4)(c), a licensee need not obtain a local permit to sell and deliver an alcohol beverage or to allow a customer to remove an alcohol beverage from the licensed premises.

(II) A local licensing authority may establish fees for the processing and approval of a takeout or delivery permit application, but the amount of the fee must not exceed the amount of the fee set by the state licensing authority under subsection (4)(a)(III) of this section.

(III) If a local licensing authority creates a takeout or delivery permit:

(A) The licensee must obtain the permit to sell and deliver an alcohol beverage or to allow a customer to remove an alcohol beverage from the licensed premises as either is authorized under subsection (1) of this section; and

(B) The local licensing authority shall issue a permit to a licensee to sell alcohol beverages for takeout and delivery if the licensee demonstrates the ability to comply with this section.

(IV) A permit issued under this subsection (4)(c) is subject to the suspension and revocation provisions set forth in section 44-3-601.

(V) A manufacturer licensed under section 44-3-402 that operates a sales room or a wholesaler licensed under section 44-3-407 that operates a sales room need not obtain a permit from the local licensing authority to sell and deliver an alcohol beverage or to allow a customer to remove an alcohol beverage from the licensed premises.

(d) The licensee shall submit an application for a permit issued under this section to the state licensing authority and the local licensing authority, if applicable, simultaneously. Approval by either the state licensing authority or a local licensing authority does not guarantee approval by the other licensing authority.

(5) For the purposes of this article 3 and article 4 of this title 44, an alcohol beverage that is sold and delivered to a customer's home for consumption off the licensed premises under this section is sold at the licensed premises.

(6) (a) (I) This section authorizes a license holder that is issued a license under one of the following sections to sell an alcohol beverage to a customer for consumption off of the licensed premises: Section 44-3-402 that operates a sales room or section 44-3-407 that operates a sales room or section 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-418, 44-3-422, 44-3-426, 44-3-428, 44-4-104 (1)(c)(I)(A), or 44-4-104 (1)(c)(III).

(II) This section authorizes a license holder that is issued a license under one of the following sections to deliver an alcohol beverage to a customer for consumption off of the licensed premises: Section 44-3-411, 44-3-412, 44-3-413, 44-3-414, 44-3-415, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-421, 44-3-422, 44-3-426, or 44-3-428.

(III) This section authorizes a license holder that is issued a license under section 44-3-402 and that operates a sales room or section 44-3-407 and that operates a sales room to deliver an alcohol beverage to a customer for consumption off of the licensed premises. This subsection (6)(a)(III) is repealed, effective January 2, 2022.

(b) (I) This section does not apply to a person issued a license or permit that is not listed in subsection (6)(a) of this section or to a caterer who is licensed to sell alcohol beverages.

(II) Subsection (2)(b)(III) of this section does not apply to:

(A) A manufacturer licensed under section 44-3-402 that operates a sales room or a wholesaler licensed under section 44-3-407 that operates a sales room; and

(B) The sale of an alcohol beverage manufactured by the licensee and sold by a brew pub licensed under section 44-3-417, a vintner's restaurant licensed under section 44-3-422, or a distillery pub licensed under section 44-3-426.

(7) This section is repealed, effective July 1, 2025.

Source: L. 2020: Entire section added, (SB 20-213), ch. 262, p. 1260, § 1, effective July 10. **L. 2021:** (1)(a)(I), (2)(b)(III), (6)(a), and (7) amended, (HB 21-1027), ch. 290, p. 1713, § 1, effective June 22; (4)(b) amended, (SB 21-266), ch. 423, p. 2809, § 46, effective July 2.

44-3-912. Communal outdoor dining areas - permit required - rules. (1) Notwithstanding any other provision of this article 3 or article 4 of this title 44 and subject to the approval of the state and local licensing authorities, a communal outdoor dining area may be shared by two or more persons licensed for on-premises consumption, including an approved sales room, under this article 3 or article 4 of this title 44.

(2) A licensee shall not sell or serve alcohol beverages in a communal outdoor dining area unless:

(a) The licensee obtains a permit from the state licensing authority and pays the permitting fee established by rule; and

(b) The state and local licensing authorities have first approved:

(I) Attaching the license to the communal outdoor dining area; and

(II) A modification of the licensed premises of each attached licensee to include the communal outdoor dining area.

(3) This section does not apply to a special event permit issued under article 5 of this title 44 or the holder of the permit unless the permit holder holds a special event at an existing communal outdoor dining area and agrees in writing to the requirements of this article 3 for and the local licensing authority for the communal outdoor dining area.

(4) To be approved, a communal outdoor dining area must be within one thousand feet of the permanent licensed premises of each of the licenses attached to the communal outdoor dining area. This distance must be computed by direct measurement, using a route of direct pedestrian access, from the nearest property line of the land used for the communal outdoor dining area to the nearest portion of the building where the permanent licensed premises is located.

(5) If a violation of this article 3 or article 4 of this title 44 occurs within a communal outdoor dining area and the licensee responsible for the violation can be identified, that licensee is subject to discipline as set forth in section 44-3-601. If the licensee responsible for the violation cannot be identified, each attached licensee is deemed jointly responsible and subject to discipline for the violation.

(6) The state licensing authority shall promulgate rules governing communal outdoor dining areas, including rules governing:

(a) Applications;

(b) Modification of the licensed premises to include a communal outdoor dining area;

(c) Supervision and control of the communal outdoor dining area by the attached licensees;

(d) Submission to and approval of security and control plans by the state and local licensing authorities;

(e) Removal of alcohol beverages from the communal outdoor dining area;

(f) Special events held within a communal outdoor dining area; and

(g) Insurance requirements.

Source: L. 2021: Entire section added, (HB 21-1027), ch. 290, p. 1715, § 3, effective June 22.

PART 10

RESPONSIBLE ALCOHOL BEVERAGE VENDOR ACT

44-3-1001. Short title. The short title of this part 10 is the "Responsible Alcohol Beverage Vendor Act".

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1066, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-1001 as it existed prior to 2018.

44-3-1002. Responsible vendors - standards. (1) To be a responsible alcohol beverage vendor, a vendor shall comply with the server and seller training program established by the director of the liquor enforcement division of the department.

(2) The director of the liquor enforcement division shall set standards for compliance with the server and seller training program. When creating standards, the director shall consider input from local and state government, the alcohol beverage industry, and any other state or national seller and server programs.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1066, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-1002 as it existed prior to 2018.

ARTICLE 4

Fermented Malt Beverages

Editor's note: This article 4 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 4, see the comparative tables located in the back of the index.

44-4-101. Short title. The short title of this article 4 is the "Colorado Beer Code".

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1067, § 2, effective October 1.

Editor's note: This section is similar to former § 12-46-101 as it existed prior to 2018.

44-4-102. Legislative declaration. (1) The general assembly hereby declares that it is in the public interest that fermented malt beverages shall be sold at retail only by persons licensed as provided in this article 4. The general assembly further declares that it is lawful to sell fermented malt beverages at retail subject to this article 4 and applicable provisions of articles 3 and 5 of this title 44.

(2) The general assembly further recognizes that fermented malt beverages and malt liquors are separate and distinct from, and have a unique regulatory history in relation to, vinous and spirituous liquors; however, maintaining a separate regulatory framework and licensing structure for fermented malt beverages under this article 4 is no longer necessary except at the retail level. Furthermore, to aid administrative efficiency, article 3 of this title 44 applies to the regulation of fermented malt beverages, except when otherwise expressly provided for in this article 4.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1067, § 2, effective October 1. **L. 2019:** Entire section amended, (SB 19-011), ch. 1, p. 1, § 1, effective January 31.

Editor's note: This section is similar to former § 12-46-102 as it existed prior to 2018.

44-4-103. Definitions. Definitions applicable to this article 4 also appear in article 3 of this title 44. As used in this article 4, unless the context otherwise requires:

(1) (a) "Fermented malt beverage" means malt liquors, when purchased by a fermented malt beverage retailer from a wholesaler licensed pursuant to article 3 of this title 44; or when sold by a fermented malt beverage retailer to consumers or to persons licensed under section 44-3-411, 44-3-413, 44-3-414, 44-3-416 to 44-3-420, 44-3-422, 44-3-426, or 44-3-428.

(b) "Fermented malt beverage" does not include confectionery containing alcohol within the limits prescribed by section 25-5-410 (1)(i)(II).

(2) "License" means a grant to a licensee to sell fermented malt beverages at retail as provided by this article 4.

(3) "Licensed premises" means the premises specified in an application for a license under this article 4 that are owned or in possession of the licensee and within which the licensee is authorized to sell, dispense, or serve fermented malt beverages in accordance with the provisions of this article 4.

(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) Repealed.

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

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1067, § 2, effective October 1. **L. 2019:** (1)(a) and (2) amended and (5) repealed, (SB 19-011), ch. 1, p. 2, § 2, effective January 31.

Editor's note: This section is similar to former § 12-46-103 as it existed prior to 2018.

44-4-104. Licenses - state license fees - requirements - definition. (1) The licenses to be granted and issued by the state licensing authority pursuant to this article 4 for the retail sale of fermented malt beverages are as follows:

(a) and (b) Repealed.

(c) (I) (A) A retailer's license shall be granted and issued to any person, partnership, association, organization, or corporation qualifying under section 44-3-301 and not prohibited from licensure under section 44-3-307 to sell at retail fermented malt beverages either for consumption off the licensed premises or for consumption on the licensed premises or, subject to subsection (1)(c)(III) of this section, for consumption on and off the licensed premises, upon paying an annual license fee of seventy-five dollars to the state licensing authority.

(B) A person licensed pursuant to this subsection (1)(c) to sell fermented malt beverages at retail shall purchase the fermented malt beverages only from a wholesaler licensed pursuant to article 3 of this title 44.

(II) Except as otherwise provided in subsection (1)(c)(III) of this section:

(A) The state licensing authority shall not issue a new or renew a fermented malt beverage retailer's license for the sale of fermented malt beverages for consumption on and off the licensed premises; and

(B) Any licensee holding a fermented malt beverage license authorizing the sale of fermented malt beverages for consumption on and off the licensed premises that was issued by the state licensing authority under this subsection (1)(c) before June 4, 2018, that applies to renew the license on or after June 4, 2018, and whose licensed premises is located in a county with a population of thirty-five thousand or more and not in an underserved area must simultaneously apply to convert the license either to a license for the sale of fermented malt

beverages at retail for consumption off the licensed premises or to a license for the sale of fermented malt beverages at retail for consumption on the licensed premises.

(III) (A) The state licensing authority may issue a new or renew a fermented malt beverage retailer's license for the sale of fermented malt beverages for consumption on and off the licensed premises if the licensed premises is located in a county with a population of less than thirty-five thousand or in an underserved area.

(B) Repealed.

(IV) As used in this subsection (1)(c), "underserved area" means an area that is within a county with a population of thirty-five thousand or more but lies outside of municipal boundaries or is a city or town with a population of less than seven thousand five hundred.

(V) For purposes of this subsection (1)(c), population is determined according to the most recently available population statistics of the United States census bureau.

(d) Repealed.

(e) (I) Notwithstanding any law to the contrary, beginning on January 31, 2019, the state licensing authority shall not issue or renew any licenses under this section except for licenses authorized under subsection (1)(c) of this section.

(II) Licenses issued by the state licensing authority under subsection (1)(a), (1)(b), or (1)(d) of this section in effect on January 31, 2019, immediately convert, on January 31, 2019, without any further act by the state licensing authority or the licensee, as follows:

(A) A manufacturer's license that was issued under subsection (1)(a) of this section, as it existed before January 31, 2019, converts to a manufacturer's license issued pursuant to section 44-3-402 for the manufacture of malt liquors;

(B) A wholesaler's license that was issued under subsection (1)(b) of this section, as it existed before January 31, 2019, converts to a wholesaler's beer license issued pursuant to section 44-3-407 (1)(b);

(C) A nonresident manufacturer's license that was issued under subsection (1)(d)(I) of this section, as it existed before January 31, 2019, converts to a nonresident manufacturer's license issued pursuant to section 44-3-406 (1); and

(D) An importer's license that was issued under subsection (1)(d)(II) of this section, as it existed before January 31, 2019, converts to a malt liquor importer's license issued pursuant to section 44-3-406 (2).

(III) The conversion of a license issued under subsection (1)(a), (1)(b), or (1)(d) of this section to a license issued under article 3 of this title 44 pursuant to subsection (1)(e)(II) of this section is a continuation of the prior license issued pursuant to this article 4 and does not affect:

(A) Any prior discipline, limitation, or condition imposed by the state licensing authority on a licensee;

(B) The deadline for renewal of a license; or

(C) Any pending or future investigation or administrative proceeding.

(2) Notwithstanding the amount specified for any fee in subsection (1) of this section, the state licensing authority, by rule or as otherwise provided by law, may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3) to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the state licensing authority, by rule or as otherwise provided by law, may increase the amount of one or more of the fees as provided in section 24-75-402 (4).

(3) Repealed.

(4) It is unlawful for any retail licensee under this article 4 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 article 3 of this title 44.

Source: L. 2018: IP(1) and (1)(c) amended, (SB 18-243), ch. 366, p. 2191, § 2, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 1068, § 2, effective October 1. **L. 2019:** IP(1), (1)(c)(I), and (4) amended, (1)(a), (1)(b), (1)(d), and (3) repealed, and (1)(e) added (SB 19-011), ch. 1, p. 2, § 3, effective January 31; (1)(c) amended, (SB 19-028), ch. 4, p. 22, § 1, effective February 20.

Editor's note: (1) This section is similar to former § 12-46-104 as it existed prior to 2018.

(2) Subsections IP(1) and (1)(c) of this section were numbered as § 12-46-104 IP(1) and (1)(c), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

(3) Amendments to subsection (1)(c) by SB 19-011 and SB 19-028 were harmonized.

(4) Subsection (1)(c)(III)(B) provided for the repeal of subsection (1)(c)(III)(B), effective September 1, 2021. (See L. 2019, p. 22.)

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-4-105. Fees and taxes - allocation. (1) (a) (I) 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:

(A) Applications for new fermented malt beverage licenses pursuant to section 44-3-301 and rules thereunder;

(B) Applications for change of location pursuant to section 44-3-301 and rules thereunder;

(C) Applications for changing, altering, or modifying licensed premises pursuant to section 44-3-301 and rules thereunder;

(D) Applications for duplicate licenses;

(E) Notices of change of name or trade name pursuant to section 44-3-301 and rules thereunder; and

(F) Applications for the renewal of a license or permit issued in accordance with this article 4.

(II) When added to the other fees and taxes transferred to the liquor enforcement division and state licensing authority cash fund under subsection (2) of this section and section 44-3-502 (1), the state licensing authority shall set the amounts of the fees imposed under this subsection (1)(a) to reflect the direct and indirect costs of the liquor enforcement division and the state licensing authority in the administration and enforcement of this article 4 and articles 3 and 5 of this title 44. At least annually, the amounts of the fees shall be reviewed and, if necessary, adjusted to reflect these direct and indirect costs.

(b) Except as provided in subsection (1)(c) of this section, the state licensing authority shall establish a basic fee 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 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 subsection (1)(b) of this section shall not be applicable to any state or local governmental agency.

(2) (a) All state license fees provided for by this article 4 and all fees provided for by subsections (1)(a) and (1)(b) of this section for processing applications, reports, and notices shall be paid to the department, which shall transmit the fees and taxes to the state treasurer. The state treasurer shall credit eighty-five percent of 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 fifty dollars of each state license fee provided for by this article 4 and the processing fees provided for by subsections (1)(a) and (1)(b) of this section shall be transferred out of the general fund to the liquor enforcement division and state licensing authority cash fund. The transfer shall be made by the state treasurer as soon as possible after the twentieth day of the month following the payment of the fees.

(c) The expenditures of the state licensing authority and the liquor enforcement division shall be paid out of appropriations from the liquor enforcement division and state licensing authority cash fund as provided in section 44-6-101.

(3) Eighty-five percent of the local license fees set forth in section 44-4-107 (2) shall be paid to the department, which shall transmit the fees to the state treasurer to be credited to the old age pension fund.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1070, § 2, effective October 1; (2)(c) amended, (HB 18-1026), ch. 24, p. 281, § 4, effective October 1. **L. 2019:** (1)(a) amended, (SB 19-011), ch. 1, p. 16, § 26, effective January 31. **L. 2020:** (1)(a) amended, (SB 20-086), ch. 67, p. 270, § 3, effective September 14.

Editor's note: (1) This section is similar to former § 12-46-105 as it existed prior to 2018.

(2) Subsection (2)(c) of this section was numbered as § 12-46-105 (2)(c) in HB 18-1026. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

44-4-106. Lawful acts. (1) It is lawful for a person under eighteen years of age who is under the supervision of a person on the premises eighteen years of age or older 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 twenty-one years of age may handle and otherwise act with respect to fermented malt beverages in the same manner as that person does with other items sold at retail; except that:

(a) A person under eighteen years of age shall not sell or dispense fermented malt beverages, check age identification, or make deliveries beyond the customary parking area for the customers of the retail outlet; and

(b) A person who is under twenty-one years of age shall not deliver fermented malt beverages in sealed containers to customers under section 44-4-107 (6).

(2) This section does not permit the violation of any other provisions of this section under circumstances not specified in this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1071, § 2, effective October 1; entire section amended, (SB 18-243), ch. 366, p. 2192, § 3, effective January 1, 2019.

Editor's note: (1) This section is similar to former § 12-46-106 as it existed prior to 2018.

(2) This section was numbered as § 12-46-106 in SB 18-243. That section was harmonized with and relocated to this section as this section appears in HB 18-1025, effective January 1, 2019.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-4-107. Local licensing authority - application - fees - definitions - rules. (1) The local licensing authority shall issue only the following classes of fermented malt beverage licenses:

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

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

(c) (I) Subject to subsections (1)(c)(II) and (1)(c)(III) of this section, sales for consumption both on and off the premises of the licensee.

(II) Except as otherwise provided in subsection (1)(c)(III) of this section:

(A) A local licensing authority shall not issue a new fermented malt beverage license or renew an existing fermented malt beverage license for the sale of fermented malt beverages for consumption on and off the licensed premises; and

(B) Any licensee holding a fermented malt beverage license issued under this subsection (1)(c) prior to June 4, 2018, that applies to renew the license on or after June 4, 2018, and whose licensed premises is located in a county with a population of thirty-five thousand or more and not in an underserved area must simultaneously apply to convert the license either to a license for the sale of fermented malt beverages for consumption off the licensed premises as specified in subsection (1)(a) of this section or to a license for the sale of fermented malt beverages for consumption on the licensed premises as specified in subsection (1)(b) of this section.

(III) (A) The local licensing authority may issue a new or renew a fermented malt beverage retailer's license for the sale of fermented malt beverages for consumption on and off the licensed premises if the licensed premises is located in a county with a population of less than thirty-five thousand or in an underserved area.

(B) Repealed.

(IV) As used in this subsection (1)(c), "underserved area" means an area that is within a county with a population of thirty-five thousand or more but lies outside of municipal boundaries or is a city or town with a population of less than seven thousand five hundred.

(V) For purposes of this subsection (1)(c), population is determined according to the most recently available population statistics of the United States census bureau.

(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.

(3) (a) In addition to any other requirements specified in this article 4 or article 3 of this title 44, to qualify for a new license under subsection (1)(a) of this section on or after June 4, 2018, or to renew a license that was issued under subsection (1)(a) of this section on or after June 4, 2018, a person must derive at least twenty percent of its gross annual revenues from total sales from the sale of food items for consumption off the premises.

(b) For purposes of calculating gross annual revenues from total sales, revenues derived from the sale of the following products are excluded:

(I) Fuel products, as defined in section 8-20-201 (2);

(II) Cigarettes, tobacco products, and nicotine products, as defined in section 18-13-121 (5); and

(III) Lottery products.

(c) The state licensing authority may adopt rules specifying the form and manner in which an applicant for a new or renewal license may demonstrate compliance with this subsection (3).

(d) This subsection (3) does not apply to a person that owns or leases a proposed fermented malt beverage retailer licensed premises and, as of January 1, 2019, has applied for or received from the municipality, city and county, or county in which the premises are located:

(I) A building permit for the structure to be used for the fermented malt beverage retailer licensed premises, which permit is currently active and will not expire before the completion of the liquor licensing process; or

(II) A certificate of occupancy for the structure to be used for the fermented malt beverage retailer licensed premises.

(e) As used in this subsection (3), "food items" means any raw, cooked, or processed edible substance, ice, or beverage, other than a beverage containing alcohol, that is intended for use or for sale, in whole or in part, for human consumption.

(4) On or after January 1, 2019, a fermented malt beverage retailer licensed under subsection (1)(a) of this section:

(a) (I) Shall not sell fermented malt beverages to consumers at a price that is below the retailer's cost, as listed on the invoice, to purchase the fermented malt beverages, unless the sale is of discontinued or close-out fermented malt beverages.

(II) This subsection (4)(a) does not prohibit a fermented malt beverage retailer from operating a bona fide loyalty or rewards program for fermented malt beverages so long as the price for the product is not below the retailer's costs as listed on the invoice. The state licensing authority may adopt rules to implement this subsection (4)(a).

(b) Shall not allow consumers to purchase fermented malt beverages at a self-checkout or other mechanism that allows the consumer to complete the fermented malt beverages

purchase without assistance from and completion of the entire transaction by an employee of the fermented malt beverage retailer.

(5) A person licensed under subsection (1)(a) of this section that holds multiple fermented malt beverage retailer's licenses for multiple licensed premises may operate under a single or consolidated corporate entity but shall not commingle purchases of or credit extensions for purchases of alcohol beverage product from a wholesaler licensed under article 3 of this title 44 for more than one licensed premises. A wholesaler licensed under article 3 of this title 44 shall not base the price for the alcohol beverage product it sells to a fermented malt beverage retailer licensed under subsection (1)(a) of this section on the total volume of alcohol beverage product that the retailer purchases for multiple licensed premises.

(6) (a) A person licensed under subsection (1)(a) of this section who complies with this subsection (6) and rules promulgated under this subsection (6) may deliver fermented malt beverages in sealed containers to a person of legal age if:

(I) The person receiving the delivery of fermented malt beverages is located at a place that is not licensed pursuant to this section;

(II) The delivery is made by an employee of the fermented malt beverage retailer who is at least twenty-one years of age and who is using a vehicle owned or leased by the licensee to make the delivery;

(III) The person making the delivery verifies, in accordance with section 44-3-901 (11), that the person receiving the delivery of fermented malt beverages is at least twenty-one years of age; and

(IV) The fermented malt beverage retailer derives no more than fifty percent of its gross annual revenues from total sales of fermented malt beverages from the sale of fermented malt beverages that the fermented malt beverage retailer delivers.

(b) The state licensing authority shall promulgate rules as necessary for the proper delivery of fermented malt beverages pursuant to this subsection (6) and may issue a permit to any person who is licensed pursuant to and delivers fermented malt beverages under subsection (1)(a) of this section. A permit issued under this subsection (6) is subject to the same suspension and revocation provisions as are set forth in section 44-3-601 for other licenses granted pursuant to article 3 of this title 44.

Source: L. 2018: (1)(c) amended and (3) added, (SB 18-243), ch. 366, p. 2192, § 4, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 1072, § 2, effective October 1; (4) to (6) added, (SB 18-243), ch. 366, p. 2192, § 4, effective January 1, 2019. **L. 2019:** (5) amended, (SB 19-011), ch. 1, p. 16, § 27, effective January 31; (1)(c) amended, (SB 19-028), ch. 4, p. 23, § 2, effective February 20.

Editor's note: (1) This section is similar to former § 12-46-107 as it existed prior to 2018.

(2) (a) Subsections (1)(c) and (3) of this section were numbered as § 12-46-107 (1)(c) and (3), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

(b) Subsections (4), (5), and (6) of this section were numbered as § 12-46-107 (4), (5), and (6), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025, effective January 1, 2019.

(3) Subsection (1)(c)(III)(B) provided for the repeal of subsection (1)(c)(III)(B), effective September 1, 2021. (See L. 2019, p. 23.)

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-4-108. Exemption. (Repealed)

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1072, § 2, effective October 1. **L. 2019:** Entire section repealed, (SB 19-011), ch. 1, p. 17, § 28, effective January 31.

Editor's note: This section was similar to former § 12-46-108 as it existed prior to 2018.

44-4-109. Liquor industry working group - creation - duties - report - repeal. (Repealed)

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1072, § 2, effective October 1.

Editor's note: (1) This section was similar to former § 12-46-109 as it existed prior to 2018.

(2) Subsection (4) provided for the repeal of this section, effective July 1, 2019. (See L. 2016, p. 1528.)

ARTICLE 5

Special Event Liquor Permits

Editor's note: This article 5 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 5, see the comparative tables located in the back of the index.

44-5-101. Special licenses authorized. (1) The state or local licensing authority, as defined in articles 3 and 4 of this title 44, may issue a special event permit for the sale, by the drink only, of fermented malt beverages, as defined in section 44-4-103, or the sale, by the drink only, of malt, spirituous, or vinous liquors, as defined in section 44-3-103, to organizations and political candidates qualifying under this article 5, subject to the applicable provisions of articles 3 and 4 of this title 44 and to the limitations imposed by this article 5.

(2) For purposes of this article 5, a state institution of higher education includes each principal campus of a state system of higher education.

Source: L. 2018: Entire section amended, (HB 18-1096), ch. 33, p. 369, § 1, effective August 8; entire article added with relocations, (HB 18-1025), ch. 152, p. 1074, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-48-101 as it existed prior to 2018.

(2) This section was numbered as § 12-48-101 in HB 18-1096. That section was harmonized with and relocated to this section as this section appears in HB 18-1025.

44-5-102. Qualifications for permit. (1) A special event permit issued under this article 5 may be issued to:

(a) An organization, whether or not presently licensed under articles 3 and 4 of this title 44, that:

(I) Has been incorporated under the laws of this state for purposes of a social, fraternal, patriotic, political, educational, or athletic nature, and not for pecuniary gain;

(II) Is a regularly chartered branch, lodge, or chapter of a national organization or society organized for the purposes specified in subsection (1)(a)(I) of this section and is nonprofit in nature;

(III) Is a regularly established religious or philanthropic institution; or

(IV) Is a state institution of higher education;

(b) A political candidate who has filed the necessary reports and statements with the secretary of state pursuant to article 45 of title 1; or

(c) Any municipality, county, or special district.

(2) Repealed.

(3) Notwithstanding any law to the contrary, and subject to this article 5, the state or local licensing authority may issue a special event permit to a state agency, the Colorado wine industry development board, created in section 35-29.5-103, or an instrumentality of a municipality or county that promotes:

(a) Alcohol beverages manufactured in the state; or

(b) Tourism in an area of the state where alcohol beverages are manufactured.

Source: L. 2018: (1) amended and (2) repealed, (HB 18-1096), ch. 33, p. 369, § 2, effective August 8; entire article added with relocations, (HB 18-1025), ch. 152, p. 1074, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-48-102 as it existed prior to 2018.

(2) Subsections (1) and (2) of this section were numbered as § 12-48-102 (1) and (2), respectively, in HB 18-1096. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

44-5-103. Grounds for issuance of special permits. (1) (a) 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 44-3-403, 44-3-404, 44-3-413 (3), 44-3-418, 44-3-419, or 44-3-424. The holder of a special event permit issued pursuant to this subsection (1) is responsible for any violation of article 3 of this title 44.

(b) If a violation of this article 5 or article 3 of this title 44 occurs during a special event festival and the responsible licensee can be identified, the state or local licensing authority may charge and impose appropriate penalties on the licensee. If the responsible licensee cannot be

identified, the state licensing authority may send written notice to every licensee identified on the permit applications and may fine each the same dollar amount. The fine shall not exceed twenty-five dollars per licensee or two hundred dollars in the aggregate. A joint fine levied pursuant to this subsection (1)(b) does not apply to the revocation of a licensee's license under section 44-3-601.

(2) Nothing in this article 5 shall be construed to prohibit the sale or dispensing of malt, vinous, or spirituous liquors on any closed street, highway, or public byway for which a special event permit has been issued.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1075, § 2, effective October 1. **L. 2021:** (1)(b) amended, (SB 21-082), ch. 195, p. 1046, § 3, effective September 7.

Editor's note: This section is similar to former § 12-48-103 as it existed prior to 2018.

44-5-104. Fees for special permits. (1) Special event permit fees are:

(a) Ten dollars per day for a malt beverage permit;

(b) Twenty-five dollars per day for a malt, vinous, and spirituous liquor permit.

(2) All fees are payable in advance to the department for applications for special event permits submitted to the state licensing authority for approval.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1075, § 2, effective October 1.

Editor's note: This section is similar to former § 12-48-104 as it existed prior to 2018.

44-5-105. Restrictions related to permits. (1) Each special event permit shall be issued for a specific location and is not valid for any other location.

(2) A special event permit authorizes sale of the beverage or the liquors specified only during the following hours:

(a) Between the hours of five a.m. of the day specified in a malt beverage permit and until twelve midnight on the same day;

(b) Between the hours of seven a.m. of the day specified in a malt, vinous, and spirituous liquor permit and until two a.m. of the day immediately following.

(3) The state or a local licensing authority shall not issue a special event permit to any organization for more than fifteen days in one calendar year.

(4) No issuance of a special event permit shall have the effect of requiring the state or local licensing authority to issue such a permit upon any subsequent application by an organization.

(5) Sandwiches or other food snacks shall be available during all hours of service of malt, spirituous, or vinous liquors, but prepared meals need not be served.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1075, § 2, effective October 1.

Editor's note: This section is similar to former § 12-48-105 as it existed prior to 2018.

44-5-106. Grounds for denial of special permit. (1) The state or local licensing authority may deny the issuance of a special event permit upon the grounds that the issuance would be injurious to the public welfare because of the nature of the special event, its location within the community, or the failure of the applicant in a past special event to conduct the event in compliance with applicable laws.

(2) Public notice of the proposed permit and of the procedure for protesting issuance of the permit shall be conspicuously posted at the proposed location for at least ten days before approval of the permit by the local licensing authority.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1076, § 2, effective October 1.

Editor's note: This section is similar to former § 12-48-106 as it existed prior to 2018.

44-5-107. Applications for special permit. (1) Applications for a special event permit shall be made with the appropriate local licensing authority on forms provided by the state licensing authority and shall be verified by oath or affirmation of an officer of the organization or of the political candidate making application.

(2) In addition to the fees provided in section 44-5-104, an applicant shall include payment of a fee established by the local licensing authority, not to exceed one hundred dollars, for both investigation and issuance of a permit. Upon approval of any application, the local licensing authority shall notify the state licensing authority of the approval, except as provided by subsection (5) of this section. The state licensing authority shall promptly act and either approve or disapprove the application. In reviewing an application, the local licensing authority shall apply the same standards for approval and denial applicable to the state licensing authority under this article 5.

(3) The local licensing authority shall cause a hearing to be held if, after investigation and upon review of the contents of any protest filed by affected persons, sufficient grounds appear to exist for denial of a permit. Any protest shall be filed by affected persons within ten days after the date of notice pursuant to section 44-5-106 (2). Any hearing required by this subsection (3) or any hearing held at the discretion of the local licensing authority shall be held at least ten days after the initial posting of the notice, and notice thereof shall be provided to the applicant and any person who has filed a protest.

(4) The local licensing authority may assign all or any portion of its functions under this article 5 to an administrative officer.

(5) (a) A local licensing authority may elect not to notify the state licensing authority to obtain the state licensing authority's approval or disapproval of an application for a special event permit. The local licensing authority is required only to report to the liquor enforcement division, within ten days after it issues a permit, the name of the organization to which a permit was issued, the address of the permitted location, and the permitted dates of alcohol beverage service.

(b) A local licensing authority electing not to notify the state licensing authority shall promptly act upon each application and either approve or disapprove each application for a special event permit.

(c) The state licensing authority shall establish and maintain a website containing the statewide permitting activity of organizations that receive permits under this article 5. In order to ensure compliance with section 44-5-105 (3), which restricts the number of permits issued to an organization in a calendar year, the local licensing authority shall access information made available on the website of the state licensing authority to determine the statewide permitting activity of the organization applying for the permit. The local licensing authority shall consider compliance with section 44-5-105 (3) before approving any application.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1076, § 2, effective October 1.

Editor's note: This section is similar to former § 12-48-107 as it existed prior to 2018.

44-5-108. Exemptions. An organization otherwise qualifying under section 44-5-102 shall be exempt from the provisions of this article 5 and shall be deemed to be dispensing gratuitously and not to be selling fermented malt beverages or malt, spirituous, or vinous liquors when it serves, by the drink, fermented malt beverages or malt, spirituous, or vinous liquors to its members and their guests at a private function held by the organization on unlicensed premises, so long as any admission or other charge, if any, required to be paid or given by any such member as a condition to entry or participation in the event is uniform as to all without regard to whether or not a member or such member's guest consumes or does not consume such beverages or liquors. For purposes of this section, all invited attendees at a private function held by a state institution of higher education shall be considered members or guests of the institution.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1077, § 2, effective October 1.

Editor's note: This section is similar to former § 12-48-108 as it existed prior to 2018.

44-5-109. Alcohol beverages obtained for a special event - authority of club licensee to commingle with inventory. If a person licensed under section 44-3-418 purchases alcohol beverages from a wholesaler for purposes of a special event held on the licensee's premises, the licensee is not required to store the alcohol beverages purchased for the special event separately from the licensee's inventory.

Source: L. 2021: Entire section added, (SB 21-133), ch. 112, p. 440, § 1, effective September 7.

Editor's note: Section 2 of chapter 112 (SB 21-133), Session Laws of Colorado 2021, provides that the act adding this section applies to special event permits issued on or after September 7, 2021.

ARTICLE 6

Liquor Enforcement Division and

State Licensing Authority Cash Fund

Editor's note: This article 6 was added with relocations in 2018. The former C.R.S. section number is shown in the editor's note following the section that was relocated.

44-6-101. Liquor enforcement division and state licensing authority cash fund. There is hereby created in the state treasury the liquor enforcement division and state licensing authority cash fund. The fund consists of money transferred in accordance with sections 44-3-502 (1), 44-4-105 (2), and 44-7-104.5 (6). The general assembly shall make annual appropriations from the fund for a portion of the direct and indirect costs of the liquor enforcement division and the state licensing authority in the administration and enforcement of articles 3 to 5 and 7 of this title 44. Any money remaining in the fund at the end of each fiscal year remains in the fund and does not revert to the general fund or any other fund. The fund shall be maintained in accordance with section 24-75-402.

Source: L. 2018: Entire article added with relocations, (HB 18-1026), ch. 24, p. 280, § 2, effective October 1; entire section amended, (HB 18-1025), ch 152, p. 1079, § 11, effective October 1. **L. 2020:** Entire section amended, (HB 20-1001), ch. 302, p. 1517, § 16, effective July 14.

Editor's note: (1) This section is similar to former § 24-35-401 as it existed prior to 2018.

(2) This section was numbered as § 24-35-401 in HB 18-1025. That section was harmonized with and relocated to this section as this section appears in HB 18-1026.

ARTICLE 7

Regulation of Tobacco Sales

Editor's note: This article 7 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 7, see the comparative tables located in the back of the index.

44-7-101. Legislative declaration. (1) The general assembly finds that:

(a) The use of cigarettes, tobacco products, or nicotine products creates dangerous risks to the health of the people of the state of Colorado;

(b) Studies have shown that most people who use cigarettes, tobacco products, or nicotine products started using them before the age of eighteen; and

(c) The costs of health care for persons suffering from diseases caused by the use of cigarettes, tobacco products, or nicotine products are borne by all people of the state of Colorado.

(2) The general assembly also recognizes that federal regulations now require states, through designated state agencies, to develop programs to reduce the use of cigarettes, tobacco products, or nicotine products by minors as demonstrated by random inspection of businesses that sell cigarettes, tobacco products, or nicotine products at retail.

Source: L. 2018: Entire article added with relocations, (SB 18-036), ch. 34, p. 372, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-501 as it existed prior to 2018.

44-7-102. Definitions. As used in this article 7, unless the context otherwise requires:

(1) "Cigarette, tobacco product, or nicotine product" has the same meaning as provided in section 18-13-121 (5).

(2) (a) "Distributor" means a person who sells or distributes cigarettes, tobacco products, or nicotine products to licensed retailers in this state.

(b) "Distributor" includes a "distributor" or "distributing subcontractor" as those terms are defined in section 39-28.5-101.

(3) "Division" means the division of liquor enforcement within the department.

(4) "Electronic smoking device" has the meaning set forth in section 25-14-203 (4.5).

(5) "Hearing officer" means a person designated by the executive director to conduct hearings held pursuant to section 44-7-105.

(6) "Local authority" means the governing body of a local government or any authority designated by a municipal or county charter, municipal ordinance, or county resolution to regulate retailers.

(7) "Local government" means a statutory or home rule municipality, county, or city and county.

(8) "Minor" means a person under twenty-one years of age.

(9) "New retail location" means a retail location in the state at which cigarettes, tobacco products, or nicotine products were not sold before July 14, 2020.

(10) "Retailer" means the owner or operator of a business of any kind at a specific location that sells cigarettes, tobacco products, or nicotine products to a user or consumer.

(11) "School" has the meaning set forth in section 44-3-103 (50).

(12) "State license" means a license issued by the division in accordance with section 44-7-104.5.

(13) (a) "Wholesaler" means a person engaged in the wholesale distribution of cigarettes, tobacco products, or nicotine products in this state.

(b) "Wholesaler" includes a "wholesaler" and "wholesale subcontractor" as those terms are defined in section 39-28-101.

Source: L. 2018: Entire article added with relocations, (SB 18-036), ch. 34, p. 373, § 2, effective October 1. **L. 2020:** Entire section amended, (HB 20-1001), ch. 302, p. 1505, § 6, effective July 14.

Editor's note: This section is similar to former § 24-35-502 as it existed prior to 2018.

44-7-103. Sale of cigarettes, tobacco products, or nicotine products to persons under twenty-one years of age or in vending machines prohibited - warning sign - small quantity sales prohibited - rules. (1) A retailer shall not sell or permit the sale of cigarettes, tobacco products, or nicotine products to a minor; except that it is not a violation if the retailer establishes that the person selling the cigarette, tobacco product, or nicotine product was

presented with and reasonably relied upon a valid government-issued photographic identification, as determined by the executive director by rule, that identified the person purchasing the cigarette, tobacco product, or nicotine product as being twenty-one years of age or older. A retailer shall require an individual who seeks to purchase cigarettes, tobacco products, or nicotine products and who appears to be under fifty years of age to present to the retailer a valid government-issued photographic identification at the time of purchase.

(2) A retailer shall not sell or offer to sell any cigarettes, tobacco products, or nicotine products by use of a vending machine or other coin-operated machine; except that cigarettes may be sold at retail through vending machines only in an age-restricted area of a licensed gaming establishment, as defined in section 44-30-103 (18).

(3) Any person who sells or offers to sell cigarettes, tobacco products, or nicotine products shall display a warning sign as specified in this subsection (3). The warning sign must be displayed in a prominent place in the building and on any vending or coin-operated machine at all times, must have a minimum height of three inches and a width of six inches, and must read as follows:

WARNING

IT IS ILLEGAL TO SELL CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE. STATE LAW REQUIRES THAT, TO PURCHASE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT THIS RETAIL LOCATION, A PERSON MUST PRESENT A VALID GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION AT THE TIME OF PURCHASE IF THE PERSON APPEARS TO BE UNDER FIFTY YEARS OF AGE.

(4) No retailer shall sell or offer to sell individual cigarettes, or any pack or container of cigarettes containing fewer than twenty cigarettes, or roll-your-own tobacco in any package containing less than 0.60 ounces of tobacco.

(4.5) A retailer shall not permit a person under eighteen years of age to sell or participate in the sale of cigarettes, tobacco products, or nicotine products. This section does not prohibit an employee of a retailer who is eighteen years of age or older but under twenty-one years of age from handling or otherwise having any contact with cigarettes, tobacco products, or nicotine products that are offered for sale at the retailer's business.

(5) Nothing in this section affects federal laws concerning cigarettes, tobacco products, or nicotine products, as they apply to military bases and Indian reservations within the state.

Source: L. 2018: Entire article added with relocations, (SB 18-036), ch. 34, p. 373, § 2, effective October 1. **L. 2020:** (1), (2), and (3) amended and (4.5) added, (HB 20-1001), ch. 302, p. 1506, § 7, effective July 14.

Editor's note: This section is similar to former § 24-35-503 as it existed prior to 2018.

44-7-104. Enforcement authority - designation of agency - coordination - sharing of information - rules. (1) The division has the power to enforce all state statutes relating to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors. The division is designated as the lead state agency for the enforcement of state statutes in compliance

with federal laws relating to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors.

(2) The division shall coordinate the enforcement of state laws relating to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors by multiple state agencies to avoid duplicative inspections of the same retailer by multiple state agencies.

(3) (a) The division shall work with the department of human services and the department of public health and environment to ensure compliance with federal regulations for continued receipt of all federal funds contingent upon compliance with laws related to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors.

(b) (I) To the degree that is achievable within the amount of fees collected, each year, the division shall perform, cause to be performed, or coordinate with a local authority in the performance of at least two compliance checks at each retail location at which cigarettes, tobacco products, or nicotine products are sold or at least the minimum number of annual compliance checks required by federal regulations, whichever is greater. The division shall perform a compliance check by engaging a person under twenty-one years of age to enter a retail location to purchase cigarettes, tobacco products, or nicotine products.

(II) If a compliance check of a retail location performed pursuant to subsection (3)(b)(I) of this section reveals a violation of this article 7, the division, or a local authority in coordination with the division pursuant to section 44-7-104.5 (4)(c), shall conduct an additional compliance check of the retail location within three to six months after the compliance check at which the violation was discovered.

(c) In order to pay for the inspections required by subsection (3)(b) of this section, the division shall apply for a grant from the tobacco education, prevention, and cessation program established in part 8 of article 3.5 of title 25.

(4) In order to enforce laws relating to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors, the department of revenue shall maintain and publish on the division's public website the business names and addresses of state-licensed retailers that sell cigarettes, tobacco products, or nicotine products and may share the list or information included in the list with any state or local agency responsible for the enforcement of laws relating to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors.

(5) (a) To ensure the protection of public health, the executive director shall promulgate rules concerning the division's enforcement of this article 7, including rules:

(I) To set necessary and reasonable fee amounts that will cover the direct and indirect cost of enforcement and administration; except that the fee amount must not exceed four hundred dollars per year. The executive director may by rule increase the maximum fee amount to six hundred dollars if the division determines that statewide compliance with this article 7 falls below ninety percent.

(II) For retailers with more than ten retail locations under the same corporate or business entity, that allow the corporate or business entity to pay a single, large-operator license fee instead of paying a separate fee for each retail location. Notwithstanding subsection (5)(a)(I) of this section, the fee amount must be sufficient to cover the division's direct and indirect costs of enforcing and administering this article 7 in relation to a large operator. Nothing in this subsection (5)(a)(II) prevents the division from enforcing this article 7 on a per-retail location basis.

(III) In accordance with subsections (2) and (3)(b) of this section, regarding the number and manner of compliance checks of retail locations that the division shall perform, cause to be performed, or coordinate with a local authority in the performance of each year. The rules must ensure that any coordination between the division and a local authority on the performance of compliance checks satisfies federal requirements and that local authorities apprise the division in an appropriate form and manner of compliance checks conducted.

(IV) To ensure that complaints received by the division are forwarded to the appropriate local authority and that complaints received by the local authority are forwarded to the division for the timely investigation into and action taken on the complaints. The rules must ensure that local authorities apprise the division of complaints and any action taken on those complaints.

(V) Regarding retailers' obligations to comply with the division's document production requests related to implementation and enforcement of this article 7.

(b) The executive director may promulgate rules authorizing a person to apply for a temporary state license and requiring the payment of a temporary state license fee. If the executive director promulgates such rules, the rules must specify that the temporary state license remains in effect for no more than thirty days and is not renewable.

(c) In promulgating rules pursuant to this subsection (5), the executive director may consult with the department of human services, the department of public health and environment, local governments, and any other state or local agencies the executive director deems appropriate.

(d) On or before July 1, 2021, the executive director shall, in consultation with licensed wholesalers and retailers, promulgate rules regarding the targeted enforcement against the smuggling of cigarettes, tobacco products, or nicotine products.

Source: L. 2018: Entire article added with relocations, (SB 18-036), ch. 34, p. 374, § 2, effective October 1. **L. 2020:** (3)(b) and (4) amended and (5) added, (HB 20-1001), ch. 302, p. 1507, § 8, effective July 14.

Editor's note: This section is similar to former § 24-35-504 as it existed prior to 2018.

44-7-104.5. License required - fees - rules - repeal. (1) (a) (I) On or after July 1, 2021, a retailer doing business in this state shall not sell or offer for sale cigarettes, tobacco products, or nicotine products in this state without first obtaining a state license as a retailer from the division.

(II) A state license is valid for one year and may be renewed by application in the form and manner prescribed by the division and by payment of a fee set by rule pursuant to section 44-7-104 (5)(a)(I).

(b) An owner of multiple retail locations in the state at which cigarettes, tobacco products, or nicotine products are sold or offered for sale must apply for a separate state license for each retail location. If the executive director wishes to authorize an owner of multiple retail locations in the state to apply simultaneously for state licenses for each retail location owned by submitting a joint application, the executive director may establish by rule:

(I) The process by which the owner may apply for state licenses for multiple retail locations in a joint application; and

(II) A joint application fee.

(2) (a) Except as provided in subsection (4)(b) of this section, the division shall approve or deny a state license application within sixty days after receiving the application. The division may deny an application only for good cause. If the division denies an application, the division shall inform the applicant in writing of the reasons for the denial, and the applicant, within fourteen days after receiving the written denial, may request that a hearing be held on the matter in accordance with section 44-7-105.

(b) (I) If a retailer that sold or offered to sell cigarettes, tobacco products, or nicotine products at a retail location in the state before July 1, 2021, has applied for a state license from the division and paid the state license fee on or before July 1, 2021, the retailer may continue to sell or offer to sell cigarettes, tobacco products, or nicotine products on or after July 1, 2021, without a state license during the pendency of the division's review of the retailer's state license application.

(II) This subsection (2)(b) is repealed, effective July 1, 2022.

(3) (a) Upon obtaining a state license from the division for a retail location, a retailer shall conspicuously display the state license at the retail location.

(b) (I) State licenses are not transferable. If a licensee ceases to be a retailer at a retail location by reason of discontinuation, sale, or transfer of the licensee's business, the licensee shall notify the division in writing on or before the date on which the discontinuance, sale, or transfer takes effect.

(II) If a person to whom a retailer's retail location is sold applies for a state license for the retail location within thirty days after taking ownership of the retail location, which date of taking ownership must be demonstrated in the application in a manner determined by the division, the person may continue to sell or offer to sell cigarettes, tobacco products, or nicotine products without a state license during the pendency of the division's review of the person's state license application.

(4) (a) If a local government imposes licensing requirements on retailers, the licensing requirements must be as stringent as, and may be more stringent than, the statewide licensing requirements set forth in this article 7.

(b) If a retailer applies for a state license from the division pursuant to this section for a retail location that is within the jurisdiction of a local government that imposes licensing requirements on retailers, the division shall:

(I) Issue a state license to the retailer upon the retailer demonstrating to the division that the retailer has obtained a local license and paying the state license fee; and

(II) (A) Except as provided in subsection (4)(b)(II)(B) of this section, set the state license renewal date on the same date as the local license renewal date. The division shall prorate the initial state license fee if setting the state license renewal date in line with the local license renewal date requires renewal within less than twelve months after the initial state license was issued.

(B) If a local government first imposes a local licensing requirement on cigarettes, tobacco products, or nicotine products on or after July 1, 2021, the local government shall set the local license renewal date for a retailer on the same date as the state license renewal date.

(c) The division shall collaborate with any local authority regarding the performance of compliance checks and complaints received in accordance with rules promulgated by the executive director pursuant to section 44-7-104 (5)(a)(III).

(5) (a) Ninety days before the expiration date of an existing state license, the division shall notify the licensee of the expiration date of the state license by electronic mail or by first-class mail, as determined by the executive director, at the mailing address that the division has on file for the licensee. The division shall establish a process for a licensee to confirm receipt of a notice sent pursuant to this subsection (5)(a). The division shall describe the confirmation process in the notice itself and on the division's website.

(b) If the state license concerns a retail location that is located within the jurisdiction of a local authority that imposes licensing requirements on retailers, the division shall renew the licensee's state license upon the licensee demonstrating to the division that the licensee is operating under a valid local license and paying the renewal state license fee.

(c) If the retailer's state license concerns a retail location that is located within the jurisdiction of a local authority that imposes licensing requirements on retailers and the local authority:

(I) Suspends the retailer's local license, the division shall, pursuant to the notice and hearing process set forth in section 44-7-105 (1)(b), suspend the retailer's state license until the retailer can demonstrate to the division's satisfaction that the local license has been reinstated; or

(II) Revokes the retailer's local license, the division shall, pursuant to the notice and hearing process set forth in section 44-7-105 (1)(b), revoke the retailer's state license.

(6) The division shall transfer any fees collected in accordance with this article 7 to the state treasurer, who shall credit the fees to the liquor enforcement division and state licensing authority cash fund created in section 44-6-101.

Source: L. 2020: Entire section added, (HB 20-1001), ch. 302, p. 1509, § 9, effective July 14.

44-7-104.7. Restrictions on sales - minimum distance requirement - advertising restriction - online sales prohibited - exemptions - rules. (1) (a) Unless a local authority has approved an application for a new retail location pursuant to an ordinance or resolution adopted pursuant to subsection (1)(d) of this section, the division shall not approve a state license application for the new retail location if the new retail location is located within five hundred feet of a school. The distance between the new retail location and the school is measured from the nearest property line of land used for school purposes to the nearest portion of the building where cigarettes, tobacco products, or nicotine products will be sold, using a route of direct pedestrian access.

(b) This subsection (1) does not apply to retail locations at which cigarettes, tobacco products, or nicotine products were sold before July 14, 2020.

(c) If a retail location that was in existence as of July 14, 2020, is transferred to a new owner after July 14, 2020, the new owner need not comply with this subsection (1).

(d) A local authority may by ordinance or resolution:

(I) Eliminate one or more types of schools from the distance restriction set forth in subsection (1)(a) of this section; or

(II) Adopt shorter distance restrictions.

(2) A retailer shall not advertise an electronic smoking device product in a manner that is visible from outside the retail location at which the product is offered for sale.

(3) (a) Except as provided in subsection (3)(b) or (3)(c) of this section, a person shall not ship or deliver cigarettes, tobacco products, or nicotine products directly to a consumer in this state.

(b) (I) A retailer licensed to sell cigarettes, tobacco products, or nicotine products pursuant to this article 7 that complies with this subsection (3)(b) and rules promulgated pursuant to this subsection (3)(b) may deliver cigarettes, tobacco products, or nicotine products to a person twenty-one years of age or older if:

(A) The person receiving the delivery of cigarettes, tobacco products, or nicotine products is located at a place that is not licensed pursuant to this article 7;

(B) The delivery is made by an owner or employee of the licensed retailer who is at least twenty-one years of age; and

(C) The person making the delivery verifies that the person receiving the delivery is twenty-one years of age or older by requiring the person receiving the delivery to present a valid government-issued photographic identification. The licensee or employee shall make a determination from the information presented whether the person receiving the delivery is twenty-one years of age or older.

(II) The executive director shall promulgate rules as necessary for the proper delivery of cigarettes, tobacco products, or nicotine products, and the division is authorized to issue a permit to any retailer that is licensed under this article 7 and delivers cigarettes, tobacco products, or nicotine products pursuant to this subsection (3)(b). A permit issued under this subsection (3)(b) is subject to the same suspension and revocation provisions as are set forth in section 44-7-105 (1)(b).

(c) The prohibition set forth in subsection (3)(a) of this section does not apply to the direct shipment or delivery of cigars and pipe tobacco to a consumer who is twenty-one years of age or older.

Source: L. 2020: Entire section added, (HB 20-1001), ch. 302, p. 1511, § 10, effective July 14.

44-7-105. Enforcement - fines - suspension and revocation - injunctive relief - hearings - appeals. (1) (a) (I) Subject to the fine limitations contained in section 44-7-106, the division, on its own motion or on a complaint from another governmental agency responsible for the enforcement of laws relating to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors, may penalize retailers for violations of this article 7.

(II) The division, in the name of the people of the state of Colorado and through the attorney general of the state of Colorado, may apply for an injunction in any court of competent jurisdiction to enjoin any person from committing an act prohibited by this article 7. If the division establishes that the defendant has been or is committing an act prohibited by this article 7, the court shall enter a decree enjoining the defendant from further committing the act. An injunctive proceeding may be brought pursuant to this article 7 in addition to, and not in lieu of, penalties and other remedies provided in this article 7 and the rules promulgated pursuant to this article 7 or otherwise provided by law.

(b) In addition to any other sanctions prescribed by this article 7 or rules promulgated pursuant to this article 7, the division may, after investigation and a public hearing at which a retailer must be afforded an opportunity to be heard, fine a retailer or, if the retailer holds a state

license, suspend or revoke the retailer's state license for a violation of this article 7 or any rule promulgated pursuant to this article 7 committed by the retailer or by any agent or employee of the retailer.

(2) (a) A retailer accused of violating this article 7 or any rule promulgated pursuant to this article 7 is entitled to written notice of the time and place of the hearing personally delivered to the retailer at the actual retail location or mailed to the retailer at the last-known address as shown by the records of the division. The retailer is also entitled to be represented by counsel, to present evidence, and to cross-examine witnesses.

(b) A retailer that does not claim an affirmative defense pursuant to section 44-7-106 (2) may waive its right to a hearing and pay the appropriate fine.

(3) A hearing pursuant to this section shall be conducted at a location designated by the division before a hearing officer. The hearing officer may administer oaths and issue subpoenas to require the presence of persons and the production of documents relating to any alleged violation of this article 7 or any rule promulgated pursuant to this article 7.

(4) If the hearing officer finds, by a preponderance of the evidence, that the retailer violated this article 7 or any rule promulgated pursuant to this article 7, the hearing officer may issue a written order to suspend or revoke the retailer's state license or to levy a fine against the retailer in accordance with section 44-7-106.

(5) The decision of the hearing officer is a final agency action. Any appeal of the decision of the hearing officer shall be filed with a district court of competent jurisdiction.

(6) Any unpaid fine levied pursuant to this section, together with reasonable attorney fees, may be collected in a civil action filed by the attorney general.

(7) The division shall forward any fines collected for violations of this article 7 or any rule promulgated pursuant to this article 7 to the state treasurer, who shall credit them to the cigarette, tobacco product, and nicotine product use by minors prevention fund created in section 44-7-107.

(8) Nothing in this section or section 44-7-106 prohibits a local government from imposing sanctions on a retailer for a violation of a local ordinance or resolution.

Source: L. 2018: Entire article added with relocations, (SB 18-036), ch. 34, p. 375, § 2, effective October 1. **L. 2020:** Entire section amended, (HB 20-1001), ch. 302, p. 1513, § 11, effective July 14.

Editor's note: This section is similar to former § 24-35-505 as it existed prior to 2018.

44-7-106. Limitation on fines. (1) (a) For a violation of section 44-7-103 (1), the penalty is as follows:

(I) A fine in an amount of at least two hundred fifty dollars but not more than five hundred dollars for a first violation committed within a twenty-four-month period;

(II) A fine in an amount of at least five hundred dollars but not more than seven hundred fifty dollars for a second violation within a twenty-four-month period and a prohibition against the retailer selling cigarettes, tobacco products, or nicotine products at the retail location at which the violation occurred for at least seven days following the date that the fine is imposed;

(III) A fine in an amount of at least seven hundred fifty dollars but not more than one thousand dollars for a third violation within a twenty-four-month period and a prohibition

against the retailer selling cigarettes, tobacco products, or nicotine products at the retail location at which the violation occurred for at least thirty days following the date that the fine is imposed; and

(IV) A fine in an amount of at least one thousand dollars but not more than fifteen thousand dollars for a fourth or subsequent violation within a twenty-four-month period and a prohibition against the retailer selling cigarettes, tobacco products, or nicotine products at the retail location at which the violation occurred for up to three years following the date that the fine is imposed.

(b) For a violation of section 44-7-103 (4), the penalty is as follows:

(I) A written warning for a first violation committed within a twenty-four-month period;

(II) A fine of two hundred fifty dollars for a second violation within a twenty-four-month period;

(III) A fine of five hundred dollars for a third violation within a twenty-four-month period;

(IV) A fine of one thousand dollars for a fourth violation within a twenty-four-month period; and

(V) A fine of at least one thousand dollars but not more than fifteen thousand dollars for a fifth or subsequent violation within a twenty-four-month period.

(c) (I) On or after July 1, 2021, a person who sells or offers to sell cigarettes, tobacco products, or nicotine products without a valid state license issued pursuant to this section is subject to the following civil fines for each retail location at which the person sells or offers to sell cigarettes, tobacco products, or nicotine products without a valid state license:

(A) One thousand dollars for the first violation;

(B) Two thousand dollars for the second violation within twenty-four months; and

(C) Three thousand dollars for the third or subsequent violation within twenty-four months.

(II) Each sale of or offer to sell cigarettes, tobacco products, or nicotine products without a valid state license is a distinct violation of this section subject to a fine.

(III) If the division finds that a retailer has violated this subsection (1)(c) three times within twenty-four months, the division shall issue the retailer an order prohibiting the retailer from selling cigarettes, tobacco products, or nicotine products, which order renders the retailer ineligible to apply for a state license for three years following the date of the order.

(IV) The fine amounts set forth in subsection (1)(c)(I) of this section also apply to violations of section 44-7-104.7 (2) and (3).

(2) Notwithstanding subsection (1) of this section, a fine for a violation of section 44-7-103 (1) shall not be imposed upon a retailer that can establish an affirmative defense to the satisfaction of the division or the hearing officer that, prior to the date of the violation, it:

(a) Had adopted and enforced a written policy against selling cigarettes, tobacco products, or nicotine products to persons under twenty-one years of age;

(b) Had informed its employees of the applicable laws regarding the sale of cigarettes, tobacco products, or nicotine products to persons under twenty-one years of age;

(c) Required employees to verify the age of cigarette, tobacco product, or nicotine product customers by way of photographic identification; and

(d) Had established and imposed disciplinary sanctions for noncompliance.

(3) The affirmative defense established in subsection (2) of this section may be used by a retailer only once at each location within any twenty-four-month period.

(4) (a) (I) The penalty for a violation of section 44-7-103 (2) or (4.5) is a fine of twenty-five dollars for a first violation committed within a twenty-four-month period.

(II) The penalty for a violation of section 44-7-103 (3) is a written warning for a first violation committed within a twenty-four-month period.

(b) For a violation of section 44-7-103 (2), (3), or (4.5), the penalty is as follows:

(I) A fine of fifty dollars for a second violation within a twenty-four-month period;

(II) A fine of one hundred dollars for a third violation within a twenty-four-month period;

(III) A fine of two hundred fifty dollars for a fourth violation within a twenty-four-month period; and

(IV) A fine of at least two hundred fifty dollars but not more than one thousand dollars for a fifth or subsequent violation within a twenty-four-month period.

(5) Notwithstanding subsection (3) of this section, a licensed gaming establishment, as defined in section 44-30-103 (18) that has a cigar-tobacco bar, as defined in section 25-14-203 (4), on July 14, 2020, shall be afforded two affirmative defenses within a twenty-four-month period.

Source: L. 2018: Entire article added with relocations, (SB 18-036), ch. 34, p. 375, § 2, effective October 1. **L. 2020:** Entire section amended, (HB 20-1001), ch. 302, p. 1514, § 12, effective July 14.

Editor's note: This section is similar to former § 24-35-506 as it existed prior to 2018.

44-7-107. Cigarette, tobacco product, and nicotine product use by minors prevention fund - grants. (1) There is hereby created in the state treasury the cigarette, tobacco product, and nicotine product use by minors prevention fund, referred to in this section as the "fund". Money in the fund is subject to annual appropriation by the general assembly. Any interest derived from the deposit and investment of money in the fund remains in the fund. Any unexpended or unencumbered money remaining in the fund at the end of any fiscal year remains in the fund and does not revert or transfer to the general fund or any other fund of the state.

(2) Subject to annual appropriations by the general assembly, the department of human services may make grants from the fund to programs designed to develop training materials for retailers related to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors or to programs designed to prevent the use of cigarettes, tobacco products, or nicotine products by minors.

Source: L. 2018: Entire article added with relocations, (SB 18-036), ch. 34, p. 377, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-507 as it existed prior to 2018.

MARIJUANA REGULATION

ARTICLE 10

Regulated Marijuana

Editor's note: This article 10 was added with relocations in 2020. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 10, see the comparative tables located in the back of the index.

Cross references: For the medical marijuana program and medical review board, see § 25-1.5-106.

Law reviews: For article, "The New, More Regulated Frontier for Medical Marijuana", see 39 Colo. Law. 29 (Nov. 2010); for article, "Colorado's Emerging Medical Marijuana Legal Framework and Constitutional Rights", see 40 Colo. Law. 69 (Nov. 2011); for article, "Employment Law and Medical Marijuana: An Uncertain Relationship", see 41 Colo. Law. 57 (Jan. 2012); for article, "Amendment 64: Five Years Later", see 46 Colo. Law. 34 (Oct. 2017); for article, "Colorado Marijuana Regulation Five Years Later: Have We Learned Anything at All?", see 96 Denv. L. Rev. 221 (2019).

PART 1

COLORADO MARIJUANA CODE

44-10-101. Short title. The short title of this article 10 is the "Colorado Marijuana Code".

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2824, § 5, effective January 1, 2020.

44-10-102. Legislative declaration. (1) The general assembly hereby declares that this article 10 is 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.

(2) The general assembly further declares that it is unlawful under state law to cultivate, manufacture, distribute, sell, or test medical marijuana and medical marijuana products, except in compliance with the terms, conditions, limitations, and restrictions in section 14 of article XVIII of the state constitution and this article 10 or when acting as a primary caregiver in compliance with the terms, conditions, limitations, and restrictions of section 25-1.5-106.

(3) The general assembly further declares that it is unlawful under state law to cultivate, manufacture, distribute, or sell retail marijuana and retail marijuana products, except in compliance with the terms, conditions, limitations, and restrictions in section 16 of article XVIII of the state constitution and this article 10.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2824, § 5, effective January 1, 2020.

Editor's note: This is similar to former §§ 44-11-102 and 44-12-102 as they existed prior to 2020.

44-10-103. Definitions - rules. As used in this article 10, unless the context otherwise requires:

(1) "Accelerator cultivator" means a social equity licensee qualified to participate in the accelerator program established pursuant to this article 10 and authorized pursuant to rule to exercise the privileges of a retail marijuana cultivation facility on the premises of an accelerator-endorsed retail marijuana cultivation facility licensee.

(2) "Accelerator-endorsed licensee" means a retail marijuana cultivation facility licensee, retail marijuana products manufacturer licensee, or retail marijuana store who has, pursuant to rule, been endorsed to host and offer technical and capital support to a social equity licensee pursuant to the requirements of the accelerator program established pursuant to this article 10.

(3) Repealed.

(4) "Accelerator manufacturer" means a social equity licensee qualified to participate in the accelerator program established pursuant to this article 10 and authorized pursuant to rule to exercise the privileges of a retail marijuana products manufacturer on the premises of an accelerator-endorsed retail marijuana products manufacturing licensee.

(4.5) "Accelerator store" means a social equity licensee qualified to participate in the accelerator program established pursuant to this article 10 and authorized pursuant to rule to exercise the privileges of a retail marijuana store on the premises of an accelerator-endorsed retail marijuana store licensee.

(5) "Acquire", when used in connection with the acquisition of an owner's interest of a medical marijuana business or retail marijuana business, means obtaining ownership, control, power to vote, or sole power of disposition of the owner's interest, directly or indirectly or through one or more transactions or subsidiaries, through purchase, assignment, transfer, exchange, succession, or other means.

(6) "Acting in concert" means knowing participation in a joint activity or interdependent conscious parallel action toward a common goal, whether or not pursuant to an express agreement.

(6.5) "Adverse weather event" means:

(a) Damaging weather, which involves a drought, a freeze, hail, excessive moisture, excessive wind, or a tornado;

(b) An adverse natural occurrence, which involves an earthquake, wildfire, or flood; or

(c) Any additional adverse weather event or adverse natural occurrence as the state licensing authority may define by rule.

(7) "Advertising" means the act of providing consideration for the publication, dissemination, solicitation, or circulation of visual, oral, or written communication to directly induce any person to patronize a particular medical marijuana business or retail marijuana business or purchase particular regulated marijuana. "Advertising" does not include packaging and labeling, consumer education materials, or branding.

(8) "Affiliate" of, or person "affiliated with", has the same meaning as defined in 17 CFR 230.405.

(9) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" owner's interest is determined in accordance with 17 CFR 240.13d-3.

(10) "Branding" means promotion of a business's brand through publicizing the medical marijuana business's or retail marijuana business's name, logo, or distinct design features of the brand.

(11) "Consumer education materials" means any informational materials that seek to educate consumers about regulated marijuana generally, including but not limited to education regarding the safe consumption of marijuana, regulated marijuana concentrate, or regulated marijuana products, provided they are not distributed or made available to individuals under twenty-one years of age.

(12) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control with", means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

(13) "Controlling beneficial owner" is limited to a person that satisfies one or more of the following criteria:

(a) A natural person, an entity as defined in section 7-90-102 (20) that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, a publicly traded corporation, or a qualified private fund that is not a qualified institutional investor:

(I) Acting alone or acting in concert, that owns or acquires beneficial ownership of ten percent or more of the owner's interest of a medical marijuana business or retail marijuana business;

(II) That is an affiliate that controls a medical marijuana business or retail marijuana business and includes, without limitation, any manager; or

(III) That is otherwise in a position to control the medical marijuana business or retail marijuana business except as authorized in section 44-10-506 or 44-10-606; or

(b) A qualified institutional investor acting alone or acting in concert that owns or acquires beneficial ownership of more than thirty percent of the owner's interest of a medical marijuana business or retail marijuana business.

(14) "Escorted" means appropriately checked into a limited access area and accompanied by a person licensed by the state licensing authority; except that trade craftspeople not normally engaged in the business of cultivating, processing, selling, or testing regulated marijuana need not be accompanied on a full-time basis, but only reasonably monitored.

(15) "Executive director" means the executive director of the department of revenue.

(16) "Fibrous waste" means any roots, stalks, and stems from a medical or retail marijuana plant.

(17) "Good cause", for purposes of refusing or denying a license renewal, reinstatement, 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 10; any rules promulgated pursuant to this article 10; or any supplemental local law, rules, or regulations;

(b) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority;

(c) The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

(18) "Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches; is produced from a cutting, clipping, or seedling; and is in a cultivating container.

(19) "Indirect financial interest holder" means a person that is not an affiliate, a controlling beneficial owner, or a passive beneficial owner of a medical marijuana business or retail marijuana business and that:

(a) Holds a commercially reasonable royalty interest in exchange for a medical marijuana business's or retail marijuana business's use of the person's intellectual property;

(b) Holds a permitted economic interest that was issued prior to January 1, 2020, and that has not been converted into an owner's interest;

(c) Is a contract counterparty with a medical marijuana business or retail marijuana business, other than a customary employment agreement, that has a direct nexus to the cultivation, manufacture, or sale of regulated marijuana, including, but not limited to, a lease of real property on which the medical marijuana business or retail marijuana business operates, a lease of equipment used in the cultivation of regulated marijuana, a secured or unsecured financing agreement with the medical marijuana business or retail marijuana business, a security contract with the medical marijuana business or retail marijuana business, or a management agreement with the medical marijuana business or retail marijuana business, provided that no such contract compensates the contract counterparty with a percentage of revenue for profits of the medical marijuana business or retail marijuana business; or

(d) Is identified by rule by the state licensing authority as an indirect financial interest holder.

(20) "Industrial fiber products" means intermediate or finished products made from fibrous waste that are not intended for human or animal consumption and are not usable or recognizable as medical or retail marijuana. Industrial fiber products include but are not limited to cordage, paper, fuel, textiles, bedding, insulation, construction materials, compost materials, and industrial materials.

(21) "Industrial hemp" means a plant of the genus cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry weight basis.

(22) "Industrial hemp product" means a finished product containing industrial hemp that:

(a) Is a cosmetic, food, food additive, or herb;

(b) Is for human use or consumption;

(c) Contains any part of the hemp plant, including naturally occurring cannabinoids, compounds, concentrates, extracts, isolates, resins, or derivatives; and

(d) Contains a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry weight basis.

(23) "License" means to grant a license, permit, or registration pursuant to this article 10.

(24) "Licensed premises" means the premises specified in an application for a license under this article 10 that are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, sell, or test regulated marijuana and regulated marijuana products in accordance with this article 10.

(25) "Licensee" means a person licensed or registered pursuant to this article 10.

(26) "Limited access areas", subject to the provisions of section 44-10-1001, means a building, room, or other contiguous area upon the licensed premises where regulated marijuana and regulated marijuana products are cultivated, manufactured, stored, weighed, packaged, sold, possessed for sale, or tested, under control of the licensee, with access limited to only those persons licensed by the state licensing authority and those visitors escorted by a person licensed by the state licensing authority. All areas of ingress or egress to limited access areas must be clearly identified as such by a sign as designated by the state licensing authority.

(27) "Local jurisdiction" means a locality as defined in section 16 (2)(e) of article XVIII of the state constitution.

(28) "Local licensing authority" means an authority designated by municipal, county, or city and county charter, ordinance, or resolution, or the governing body of a municipality or city and county, or the board of county commissioners of a county if no such authority is designated.

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

(30) "Manager" has the same meaning as in section 7-90-102 (35.7).

(31) "Marijuana accessories" has the same meaning as defined in section 16 (2)(g) of article XVIII of the state constitution.

(32) "Marijuana-based workforce development or training program" means a program designed to train individuals to work in the regulated marijuana industry operated by an entity licensed under this article 10 or by a school that is authorized by the private occupational school division.

(33) "Marijuana consumer waste" means any component left after the consumption of a regulated marijuana product, including but not limited to containers, packages, cartridges, pods, cups, batteries, all-in-one disposable devices, and any other waste component left after the regulated marijuana is consumed as defined by rules promulgated by the state licensing authority.

(33.5) "Marijuana hospitality business" means a facility, which may be mobile, licensed to permit the consumption of marijuana pursuant to this article 10; rules promulgated pursuant to this article 10; and the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

(34) "Medical marijuana" means marijuana that is grown and sold pursuant to the provisions of this article 10 and for a purpose authorized by section 14 of article XVIII of the state constitution but shall not be considered a nonprescription drug for purposes of section 12-280-103 (28) or 39-26-717, or an over-the-counter medication for purposes of section 25.5-5-322. If the context requires, medical marijuana includes medical marijuana concentrate and medical marijuana products.

(35) "Medical marijuana business" means any of the following entities licensed pursuant to this article 10: A medical marijuana store, a medical marijuana cultivation facility, a medical marijuana products manufacturer, a medical marijuana testing facility, a marijuana research and development licensee, a medical marijuana business operator, or a medical marijuana transporter.

(36) "Medical marijuana business operator" means an entity or person that is not an owner and that is licensed to provide professional operational services to a medical marijuana business for direct remuneration from the medical marijuana business. A medical marijuana

business operator is not, by virtue of its status as a medical marijuana business operator, a controlling beneficial owner or a passive beneficial owner of any medical marijuana business it operates.

(36.5) "Medical marijuana concentrate" means a subset of medical marijuana that is separated from the medical marijuana plant and results in matter with a higher concentration of cannabinoids than naturally occur in the plant. Medical marijuana concentrate contains cannabinoids and may contain terpenes and other chemicals that are naturally occurring in medical marijuana plants that have been separated from medical marijuana. Medical marijuana concentrate may also include residual amounts of the types of solvents, as permitted by the marijuana rules. The state licensing authority may further define by rule subcategories of medical marijuana concentrate and authorize limited ingredients based on the method of production of medical marijuana concentrate. Unless the context otherwise requires, medical marijuana concentrate is included when this article 10 refers to medical marijuana product.

(37) "Medical marijuana cultivation facility" means a person licensed pursuant to this article 10 to operate a business as described in section 44-10-502.

(38) "Medical marijuana product" means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

(39) "Medical marijuana products manufacturer" means a person licensed pursuant to this article 10 to operate a business as described in section 44-10-503.

(40) "Medical marijuana store" means a person licensed pursuant to this article 10 to operate a business as described in section 44-10-501 that sells medical marijuana to registered patients or primary caregivers as defined in section 14 of article XVIII of the state constitution, but is not a primary caregiver.

(41) "Medical marijuana transporter" means an entity or person licensed to transport medical marijuana and medical marijuana products from one medical marijuana business to another medical marijuana business and to temporarily store the transported medical marijuana and medical marijuana products at its licensed premises, but is not authorized to sell medical marijuana or medical marijuana products under any circumstances.

(42) "Mobile distribution center" means any vehicle other than a common passenger light-duty vehicle with a short wheel base used to carry a quantity of marijuana greater than one ounce.

(43) "Opaque" means that the packaging does not allow the product to be seen without opening the packaging material.

(44) "Operating fees", as referred to in section 16 (5)(f) of article XVIII of the state constitution, means fees that may be charged by a local jurisdiction for costs, including but not limited to inspection, administration, and enforcement of retail marijuana businesses authorized pursuant to this article 10.

(45) "Owner's interest" has the same meaning as in section 7-90-102 (44) and is synonymous with the term "security" unless the context otherwise requires.

(46) "Passive beneficial owner" means any person acquiring any owner's interest in a medical marijuana business or retail marijuana business that is not otherwise a controlling beneficial owner or in control.

(47) "Permitted economic interest" means any unsecured convertible debt instrument, option agreement, warrant, or any other right to obtain an ownership interest when the holder of

such interest is a natural person who is a lawful United States resident and whose right to convert into an ownership interest is contingent on the holder qualifying and obtaining a license as an owner under this article 10, or such other agreements as may be permitted by rule of the state licensing authority.

(48) "Person" has the same meaning as defined in section 7-90-102 (49).

(49) "Premises" means a distinctly identified, as required by the state licensing authority, and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

(50) "Publicly traded corporation" means any person other than an individual that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia or another country that authorizes the sale of marijuana and that:

(a) Has a class of securities registered pursuant to 15 U.S.C. sec. 77a et seq., that:

(I) Constitutes "covered securities" pursuant to 15 U.S.C. sec. 77r (b)(1)(A); or

(II) Is qualified and quoted on the OTCQX or OTCQB tier of the OTC markets if:

(A) The person is then required to file reports and is filing reports on a current basis with the federal securities and exchange commission pursuant to 15 U.S.C. sec. 78a et seq., as if the securities constituted "covered securities" as described in subsection (50)(a)(I) of this section; and

(B) The person has established and is in compliance with corporate governance measures pursuant to corporate governance obligations imposed on securities qualified and quoted on the OTCQX tier of the OTC markets.

(b) Is an entity that has a class of securities listed on the Canadian securities exchange, Toronto stock exchange, TSX venture exchange, or other equity securities exchange recognized by the state licensing authority, if:

(I) The entity constitutes a "foreign private issuer", as defined in 17 CFR 230.405, whose securities are exempt from registration pursuant to 15 U.S.C. sec. 78a et seq., pursuant to 17 CFR 240.12g3-2; and

(II) The entity has been, for the preceding three hundred sixty-five days or since the formation of the entity, in compliance with all governance and reporting obligations imposed by the relevant exchange on such entity;

(c) Is reasonably identified as a publicly traded corporation by rule; or

(d) A "publicly traded corporation" described in subsection (50)(a), (50)(b), or (50)(c) of this section does not include:

(I) An "ineligible issuer", as defined in 17 CFR 230.405, unless such publicly traded corporation satisfies the definition of ineligible issuer solely because it is one or more of the following, and the person is filing reports on a current basis with the federal securities and exchange commission pursuant to 15 U.S.C. sec. 78a et seq., as if the securities constituted "covered securities" as described in subsection (50)(a)(I) of this section, and prior to becoming a publicly traded corporation, the person for at least two years was licensed by the state licensing authority as a medical marijuana business or retail marijuana business with a demonstrated history of operations in the state of Colorado, and during such time was not subject to suspension or revocation of the license:

(A) A "blank check company", as defined in 17 CFR 230.419 (a)(2);

(B) An issuer in an offering of "penny stock", as defined in 17 CFR 240.3a51-1; or

(C) A "shell company", as defined in 17 CFR 240.12b-2; and

(II) A person disqualified as a "bad actor" pursuant to 17 CFR 230.506 (d)(1).

(51) "Qualified institutional investor" means:

(a) A bank, as defined in 15 U.S.C. sec. 78c (a)(6), if the bank is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

(b) A bank holding company, as defined in 12 U.S.C. sec. 1841 (a)(1), if the bank holding company is registered and current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

(c) An insurance company, as defined in 15 U.S.C. sec. 80a-2 (a)(17), if the insurance company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

(d) An investment company registered and subject to 15 U.S.C. sec. 80a-1 et seq., if the investment company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

(e) An employee benefit plan or pension fund subject to 29 U.S.C. sec. 1001 et seq., excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary holding company licensee that directly or indirectly owns ten percent or more of a licensee;

(f) A state or federal government pension plan;

(g) A group comprised entirely of persons specified in subsections (51)(a) to (51)(f) of this section; or

(h) Any other entity identified by rule by the state licensing authority.

(52) "Qualified private fund" means an issuer that would be an investment company, as defined in, but for the exclusions provided under, 15 U.S.C. sec. 80a-3, and that:

(a) Is advised or managed by an investment adviser, as defined and registered pursuant to 15 U.S.C. sec. 80b-1 et seq., and for which the registered investment adviser is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder; and

(b) Satisfies one or more of the following:

(I) Is organized under the law of a state or the United States;

(II) Is organized, operated, or sponsored by a "U.S. person", as defined under 17 CFR 230.902(k), as amended; or

(III) Sells securities to a "U.S. person", as defined under 17 CFR 230.902(k), as amended.

(53) "Reasonable cause" means just or legitimate grounds based in law and in fact to believe that the particular requested action furthers the purposes of this article 10 or protects public safety.

(54) "Regulated marijuana" means medical marijuana and retail marijuana. If the context requires, regulated marijuana includes medical marijuana concentrate, medical marijuana products, retail marijuana concentrate, and retail marijuana products.

(55) "Regulated marijuana products" means medical marijuana products and retail marijuana products.

(56) "Resealable" means that the package continues to function within effectiveness specifications, which shall be established by the state licensing authority similar to the federal "Poison Prevention Packaging Act of 1970", 15 U.S.C. sec. 1471 et seq., for the number of

openings and closings customary for its size and contents, which shall be determined by the state licensing authority.

(57) "Retail marijuana" means "marijuana" or "marihuana", as defined in section 16 (2)(f) of article XVIII of the state constitution, that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana business. If the context requires, retail marijuana includes retail marijuana concentrate and retail marijuana products.

(58) "Retail marijuana business" means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer, a marijuana hospitality business, a retail marijuana hospitality and sales business, a retail marijuana testing facility, a retail marijuana business operator, or a retail marijuana transporter licensed pursuant to this article 10.

(59) "Retail marijuana business operator" means an entity or person that is not an owner and that is licensed to provide professional operational services to a retail marijuana business for direct remuneration from the retail marijuana business.

(59.5) "Retail marijuana concentrate" means a subset of retail marijuana that is separated from the retail marijuana plant and results in matter with a higher concentration of cannabinoids than naturally occur in the plant. Retail marijuana concentrate contains cannabinoids and may contain terpenes and other chemicals that are naturally occurring in retail marijuana plants that have been separated from retail marijuana. Retail marijuana concentrate may also include residual amounts of the types of solvents, as permitted by the marijuana rules. The state licensing authority may further define by rule subcategories of retail marijuana concentrate and authorize limited ingredients based on the method of production of retail marijuana concentrate. Unless the context otherwise requires, retail marijuana concentrate is included when this article 10 refers to retail marijuana product.

(60) "Retail marijuana cultivation facility" has the same meaning as "marijuana cultivation facility" as defined in section 16 (2)(h) of article XVIII of the state constitution.

(60.5) "Retail marijuana hospitality and sales business" means a facility, which cannot be mobile, licensed to permit the consumption of only the retail marijuana or retail marijuana products it has sold pursuant to the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

(61) "Retail marijuana products" means "marijuana products" as defined in section 16 (2)(k) of article XVIII of the state constitution that are produced at a retail marijuana products manufacturer.

(62) "Retail marijuana products manufacturer" has the same meaning as "marijuana product manufacturing facility" as defined in section 16 (2)(j) of article XVIII of the state constitution.

(63) "Retail marijuana store" has the same meaning as defined in section 16 (2)(n) of article XVIII of the state constitution.

(64) "Retail marijuana testing facility" means "marijuana testing facility" as defined in section 16 (2)(l) of article XVIII of the state constitution that is licensed pursuant to this article 10.

(65) "Retail marijuana transporter" means an entity or person licensed to transport retail marijuana and retail marijuana products from one retail marijuana business to another retail marijuana business and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell retail marijuana or retail marijuana products under any circumstances.

(66) "Sale" or "sell" includes to exchange, barter, or traffic in; to solicit or receive and order except through a licensee licensed under this article 10; to deliver for value in any way other than gratuitously; to peddle or possess with intent to sell; or to traffic in for any consideration promised or obtained directly or indirectly.

(67) "School" means a public or private preschool or a public or private elementary, middle, junior high, or high school or institution of higher education.

(68) "Security" has the same meaning as defined in 15 U.S.C. sec. 77b (a)(1) et seq.

(68.5) "Social equity licensee" means a natural person who meets the criteria established pursuant to section 44-10-308 (4). A person qualified as a social equity licensee may participate in the accelerator program established pursuant to this article 10 or may hold a regulated marijuana business license or permit issued pursuant to this article 10.

(69) "State licensing authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, and testing of regulated marijuana in this state pursuant to section 44-10-201.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2825, § 5, effective January 1, 2020; (33.5) and (60.5) added and (58) amended, (HB 19-1230), ch. 340, p. 3117, § 12, effective January 1, 2020. **L. 2020:** (1), (2), and (4) amended, (3) repealed, and (4.5) and (68.5) added, (HB 20-1424), ch. 184, p. 842, § 1, effective September 14. **L. 2021:** (36.5) and (59.5) added, (HB 21-1317), ch. 313, p. 1915, § 6, effective June 24; (6.5) added, (HB 21-1301), ch. 304, p. 1825, § 3, effective September 7; (8), (9), (41), IP(50)(a), (50)(a)(I), (50)(a)(II)(A), (50)(b)(I), (50)(d), (51), IP(52), (52)(a), (65), and (68) amended, (HB 21-1178), ch. 130, p. 521, § 1, effective September 7.

Editor's note: (1) This section is similar to former §§ 44-11-104 and 44-12-103 as they existed prior to 2020.

(2) Subsection (34) of this section was numbered as § 44-11-104 (11) in HB 19-1172. That provision was harmonized with and relocated to this section as this section appears in SB 19-224.

44-10-104. Applicability - medical marijuana - retail marijuana. (1) (a) A county, city and county, or municipality may adopt and enforce a resolution or ordinance licensing, regulating, or prohibiting the cultivation or sale of medical marijuana. In a county, city and county, or municipality where such an ordinance or resolution has been adopted, a person who is not registered as a patient or primary caregiver pursuant to section 25-1.5-106 and who is cultivating or selling medical marijuana is not entitled to an affirmative defense to a criminal prosecution as provided for in section 14 of article XVIII of the state constitution unless the person is in compliance with the applicable county or municipal law.

(b) The operation of this article 10 as it relates to medical marijuana shall be statewide unless a municipality, county, city, or city and county, by either a majority of the registered electors of the municipality, county, city, or city and county voting at a regular election or special election called in accordance with the "Colorado Municipal Election Code of 1965", article 10 of title 31, or the "Uniform Election Code of 1992", articles 1 to 13 of title 1, as applicable, or a majority of the members of the governing board for the municipality, county,

city, or city and county, vote to prohibit the operation of medical marijuana stores, medical marijuana cultivation facilities, and medical marijuana products manufacturers' licenses.

(c) All businesses for the purpose of cultivation, manufacture, or sale of medical marijuana or medical marijuana products, as defined in this article 10, are subject to the terms and conditions of this article 10 and any rules promulgated pursuant to this article 10.

(2) (a) A person applying for licensure pursuant to this article 10 must complete forms as provided by the state licensing authority and must pay the application fee and the licensing fee, which must be credited to the marijuana cash fund established pursuant to section 44-10-801. The state licensing authority shall forward, within seven days, one-half of the retail marijuana business license application fee to the local jurisdiction unless the application is for an accelerator cultivator, accelerator manufacturer, or accelerator store license or unless the local jurisdiction has prohibited the operation of retail marijuana businesses pursuant to section 16 (5)(f) of article XVIII of the state constitution. If the license is denied, the state licensing authority shall refund the licensing fee to the applicant.

(b) The state licensing authority shall act upon a retail marijuana business license application made pursuant to subsection (1)(a) of this section no sooner than forty-five days and no later than ninety days after the date of the retail marijuana business license application. The state licensing authority shall process retail marijuana business license applications in the order in which complete applications are received by the state licensing authority.

(3) As provided in section 16 (5)(f) of article XVIII of the state constitution, any local jurisdiction may enact ordinances or regulations governing the time, place, manner, and number of retail marijuana businesses, which may include a local licensing requirement, or may prohibit the operation of retail marijuana businesses through the enactment of an ordinance or through a referred or initiated measure. If a county acts through an initiated measure, the proponents shall submit a petition signed by not less than fifteen percent of the registered electors in the county.

(4) This article 10 sets forth the exclusive means by which cultivation, manufacture, sale, distribution, dispensing, and testing of regulated marijuana and regulated marijuana products may occur in the state of Colorado.

(5) (a) Nothing in this article 10 is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or cultivating of regulated marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees.

(b) Nothing in this article 10 prohibits a person, employer, school, hospital, detention facility, corporation, or any other entity that occupies, owns, or controls a property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or cultivating of regulated marijuana on or in that property.

(c) Notwithstanding any other provision of this subsection (5), holding or exercising the privileges of any license issued pursuant to this article 10 shall not constitute an unsuitable or unlawful act or practice within the meaning of the statutes and rules governing the Colorado limited gaming control commission.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2835, § 5, effective January 1, 2020. **L. 2020:** (2)(a) amended, (HB 20-1424), ch. 184, p. 843, § 2, effective September 14.

Editor's note: This section is similar to former §§ 44-11-103, 44-11-106, and 44-12-104 as they existed prior to 2020.

44-10-105. Marijuana employee designation. An employee of a licensee is not an agricultural worker unless the employee is a laborer at a farm, plantation, ranch, nursery, range, greenhouse, orchard, or other structure used for the raising of agricultural or horticultural commodities, as long as the structure is utilized for at least fifty percent of the total output produced.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2839, § 5, effective January 1, 2020. **L. 2021:** Entire section amended, (SB 21-087), ch. 337, p. 2186, § 13, effective June 25.

44-10-106. Marijuana employee labor rights. If the national labor relations board or a court rules that marijuana or marijuana-related businesses are not covered by the federal "National Labor Relations Act", 29 U.S.C. sec. 151 et seq., then a marijuana business or marijuana-related business and its employees doing business in Colorado are covered by the "Labor Peace Act", part 1 of article 3 of title 8, to the same extent that a business would be covered by the federal "National Labor Relations Act", 29 U.S.C. sec. 151 et seq., absent such a ruling.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2839, § 5, effective January 1, 2020.

PART 2

STATE LICENSING AUTHORITY

44-10-201. State licensing authority - creation. (1) (a) For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, and testing of regulated marijuana in this state, there is hereby created the state licensing authority, which is the executive director or the deputy director of the department if the executive director so designates.

(b) The state licensing authority also has regulatory authority for retail marijuana and retail marijuana products as permitted in section 16 of article XVIII of the state constitution and this article 10.

(2) The executive director is the chief administrative officer of the state licensing authority and may employ, pursuant to section 13 of article XII of the state constitution, such officers and employees as may be determined to be necessary, which officers and employees are part of the department.

(3) A state licensing authority employee with regulatory oversight responsibilities for marijuana businesses licensed by the state licensing authority shall not work for, represent, or provide consulting services to or otherwise derive pecuniary gain from a medical or retail marijuana business licensed by the state licensing authority or other business entity established

for the primary purpose of providing services to the marijuana industry for a period of six months following his or her last day of employment with the state licensing authority.

(4) **[*Editor's note: This version of subsection (4) is effective until March 1, 2022.*]** Any person who discloses confidential records or information in violation of the provisions of this article 10 commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501. Any criminal prosecution pursuant to the provisions of this section must be brought within five years from the date the violation occurred.

(4) **[*Editor's note: This version of subsection (4) is effective March 1, 2022.*]** Any person who discloses confidential records or information in violation of the provisions of this article 10 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. Any criminal prosecution pursuant to the provisions of this section must be brought within five years from the date the violation occurred.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2840, § 5, effective January 1, 2020. **L. 2021:** (4) amended, (SB 21-271), ch. 462, p. 3327, § 785, effective March 1, 2022.

Editor's note: (1) This section is similar to former §§ 44-11-201 and 44-12-201 as they existed prior to 2020.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-10-202. Powers and duties of state licensing authority - stakeholder work group - rules - report - legislative declaration - repeal. (1) Powers and duties. The state licensing authority shall:

(a) Develop and maintain a seed-to-sale tracking system that tracks regulated marijuana from either the seed or immature plant stage until the regulated marijuana or regulated marijuana product is sold to a patient at a medical marijuana store or to a customer at a retail marijuana store or a retail marijuana hospitality and sales business to ensure that no regulated marijuana grown or processed by a medical marijuana business or retail marijuana business is sold or otherwise transferred except by a medical or retail marijuana store or a retail marijuana hospitality and sales business; except that the medical marijuana or medical marijuana product is no longer subject to the tracking system once the medical marijuana or medical marijuana product has been:

(I) Repealed.

(II) Transferred to a pesticide manufacturer in quantities that are limited as specified in rules promulgated by the state licensing authority, in consultation with the departments of public health and environment and agriculture. The rules must define a pesticide manufacturer that is authorized to conduct research and must authorize a pesticide manufacturer to conduct research to establish safe and effective protocols for the use of pesticides on medical marijuana. Notwithstanding any other provision of law, a pesticide manufacturer authorized pursuant to this subsection (1)(a)(II) to conduct pesticide research regarding marijuana must be located in Colorado, must conduct the research in Colorado, and is exempt from all otherwise applicable

restrictions on the possession and use of medical marijuana or medical marijuana products; except that the manufacturer shall:

(A) Not possess at any time a quantity of medical marijuana or medical marijuana product in excess of the limit established in rules promulgated by the state licensing authority;

(B) Use the medical marijuana and medical marijuana product only for the pesticide research authorized pursuant to this subsection (1)(a)(II);

(C) Destroy, in compliance with rules promulgated by the state licensing authority, all medical marijuana and medical marijuana products remaining after the research has been completed; and

(D) Not apply pesticides for research purposes on the licensed premises of a medical marijuana business.

(b) Grant or refuse state licenses for the cultivation, manufacture, distribution, sale, hospitality, and testing of regulated marijuana and regulated marijuana products as provided by law; suspend, fine, restrict, or revoke such licenses, whether active, expired, or surrendered, upon a violation of this article 10 or any rule promulgated pursuant to this article 10; and impose any penalty authorized by this article 10 or any rule promulgated pursuant to this article 10. The state licensing authority may take any action with respect to a registration or permit pursuant to this article 10 as it may with respect to a license pursuant to this article 10, in accordance with the procedures established pursuant to this article 10.

(c) Promulgate rules for the proper regulation and control of the cultivation, manufacture, distribution, sale, and testing of regulated marijuana and regulated marijuana products and for the enforcement of this article 10 and promulgate amended rules and such special rulings and findings as necessary;

(d) Hear and determine at a public hearing any contested state license denial and any complaints against a licensee and 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 so held, all in accordance with article 4 of title 24. The state licensing authority may, at its discretion, delegate to the department hearing officers the authority to conduct licensing, disciplinary, and rule-making hearings pursuant to section 24-4-105. When conducting the hearings, the hearing officers are employees of the state licensing authority under the direction and supervision of the executive director and the state licensing authority.

(e) Develop such forms, licenses, identification cards, and applications as are necessary or convenient in the discretion of the state licensing authority for the administration of this article 10 or rules promulgated pursuant to this article 10;

(f) Prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to section 24-1-136, a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the state licensing authority;

(g) Collect and maintain data related to licensing disqualifications and all sanctions based on past criminal history pursuant to the requirements in section 24-34-104 (6)(b)(IX); and

(h) (I) On or before November 1, 2021, in collaboration with the governor's deputy legal counsel and the governor's special advisor on cannabis, convene a working group to examine the existing rules and tax laws that apply to the state's wholesale marijuana cultivation market. The working group shall explore options on how the existing rules and tax laws could be amended to better position businesses in the state to be competitive if marijuana is legalized under federal

law. On or before June 1, 2022, the working group shall submit a report of its findings and recommendations to the executive director and the general assembly, which report may include recommendations for legislation.

(II) This subsection (1)(h) is repealed, effective September 1, 2022.

(2) Nothing in this article 10 delegates to the state licensing authority the power to fix prices for regulated marijuana.

(3) Nothing in this article 10 limits a law enforcement agency's ability to investigate unlawful activity in relation to a medical marijuana business or retail marijuana business. A law enforcement agency has the authority to run a Colorado crime information center criminal history record check of a primary caregiver, licensee, or employee of a licensee during an investigation of unlawful activity related to medical marijuana. A law enforcement agency has the authority to run a Colorado crime information center criminal history record check of a licensee or employee of a licensee during an investigation of unlawful activity related to regulated marijuana and regulated marijuana products.

(4) The executive director of the department of public health and environment shall provide to the state licensing authority standards for licensing laboratories pursuant to the requirements as outlined in section 44-10-203 (2)(d)(II) for regulated marijuana and regulated marijuana products.

(5) (a) The state licensing authority has the authority to petition a district court for an investigative subpoena applicable to a person who is not licensed pursuant to this article 10 to obtain documents or information necessary to enforce the provisions of this article 10 and any rules promulgated pursuant to this article 10 after reasonable efforts have been made to obtain requested documents or information without a subpoena.

(b) The state licensing authority may apply to any court of competent jurisdiction to temporarily restrain or preliminarily or permanently enjoin the act in question of a person who is not licensed pursuant to this article 10 and to enforce compliance with this article 10 or any rule or order issued pursuant to this article 10 whenever it appears to the state licensing authority upon sufficient evidence satisfactory to the state licensing authority that any person has been or is committing an act prohibited by this article 10, a rule promulgated pursuant to this article 10, a rule or an order issued pursuant to this article 10, and the act:

(I) Threatens public health or safety;

(II) Constitutes an unlawful act for which the person does not hold the required license under this article 10; or

(III) Constitutes a violation of an order of the state licensing authority.

(6) The general assembly finds and declares that matters related to labeling as regulated pursuant to this section and section 44-10-203 (2)(f), packaging as regulated pursuant to this section and section 44-10-203 (3)(b), and testing as regulated pursuant to this section and section 44-10-203 (2)(d) are matters of statewide concern and the sole regulatory authority for labeling, packaging, and testing is section 44-10-203.

(7) Repealed.

(8) (a) The state licensing authority shall convene a stakeholder work group to develop:

(I) A uniform certification form to be used by recommending physicians when authorizing the patient to purchase more than the statutorily allowed quantities, as required by section 25-1.5-106 (5), which may be relied upon by medical marijuana stores. The form must contain a uniform weight and uniform potency description to enable a medical marijuana store to

fulfill its obligations without the need to make a further calculation or examine other documents. The form shall not contain any information concerning the patient's medical condition or diagnosis.

(II) A tangible educational resource regarding the use of regulated marijuana concentrate. The educational resource must provide information as determined by rule and education, including but not limited to:

(A) Examples of visual representation of a serving size recommended for each type of concentrate;

(B) Risks and precautions;

(C) Other statutory and regulatory labeling requirements mandated on marijuana products; and

(D) A notice that describes the penalties associated with marijuana diversion.

(b) The uniform certification and educational resource must be completed by January 1, 2022.

(c) This subsection (8) is repealed, effective July 1, 2022.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2840, § 5, effective January 1, 2020; IP(1)(a) and (1)(b) amended, (HB 19-1230), ch. 340, p. 3118, § 13, effective January 1, 2020. **L. 2020:** (1)(a)(I) repealed, (HB 20-1402), ch. 216, p. 1060, § 74, effective June 30. **L. 2021:** (8) added, (HB 21-1317), ch. 313, p. 1920, § 10, effective June 24; (1)(b) amended, (HB 21-1178), ch. 130, p. 524, § 2, effective September 7; (1)(f) and (1)(g) amended and (1)(h) added, (HB 21-1301), ch. 304, p. 1825, § 4, effective September 7.

Editor's note: (1) This section is similar to former §§ 44-12-202 IP(2), (2)(a), (2)(b), and (3)(a)(IV)(G) and 44-11-202 (1)(c), (1)(e), and (1)(f) as they existed prior to 2020.

(2) Subsection (7)(b) provided for the repeal of subsection (7), effective July 1, 2021. (See L. 2019, p. 2840.)

44-10-203. State licensing authority - rules - definition. (1) **Permissive rule-making.** Rules promulgated pursuant to section 44-10-202 (1)(c) may include but need not be limited to the following subjects:

(a) Labeling guidelines concerning the total content of THC per unit of weight;

(b) Control of informational and product displays on licensed premises;

(c) Records to be kept by licensees and the required availability of the records;

(d) Permitted economic interests issued prior to January 1, 2020, including a process for a criminal history record check, a requirement that a permitted economic interest applicant submit to and pass a criminal history record check, a divestiture, and other agreements that would qualify as permitted economic interests;

(e) Specifications of duties of officers and employees of the state licensing authority;

(f) Instructions for local licensing authorities and law enforcement officers;

(g) Requirements for inspections, investigations, searches, seizures, forfeitures, and such additional activities as may become necessary from time to time;

(h) Prohibition of misrepresentation and unfair practices;

(i) Marijuana research and development licenses, including application requirements; renewal requirements, including whether additional research projects may be added or

considered; conditions for license revocation; security measures to ensure marijuana is not diverted to purposes other than research or diverted outside of the regulated marijuana market; the amount of plants, useable marijuana, marijuana concentrates, or marijuana products a licensee may have on its premises; licensee reporting requirements; the conditions under which marijuana possessed by medical marijuana licensees may be donated to marijuana research and development licensees or transferred to a nonmetric-based research facility; provisions to prevent contamination; requirements for destruction or transfer of marijuana after the research is concluded; and any additional requirements;

(j) A definition for "disproportionate impacted area" to the extent relevant state of Colorado data exists, is available, and is used for the purpose of determining eligibility for a social equity licensee;

(j.5) The implementation of contingency plans pursuant to sections 44-10-502 (10) and 44-10-602 (14), including the definition of outdoor cultivation, adverse weather event, or adverse natural occurrence and the process, procedures, requirements, and restrictions for contingency plans; and

(k) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this article 10.

(2) **Mandatory rule-making.** Rules promulgated pursuant to section 44-10-202 (1)(c) must include but need not be limited to the following subjects:

(a) Procedures consistent with this article 10 for the issuance, renewal, suspension, and revocation of licenses to operate medical marijuana businesses and retail marijuana businesses;

(b) Subject to the limitations contained in section 16 (5)(a)(II) of article XVIII of the state constitution and consistent with this article 10, a schedule of application, licensing, and renewal fees for medical marijuana businesses and retail marijuana businesses;

(c) Qualifications for licensure pursuant to this article 10, including but not limited to the requirement for a fingerprint-based criminal history record check for all controlling beneficial owners, passive beneficial owners, managers, contractors, employees, and other support staff of entities licensed pursuant to this article 10;

(d) (I) Establishment of a marijuana and marijuana products independent testing and certification program for marijuana business licensees, within an implementation time frame established by the department, requiring licensees to test marijuana and industrial hemp products to ensure, at a minimum, that products sold for human consumption by persons licensed pursuant to this article 10 do not contain contaminants that are injurious to health and to ensure correct labeling.

(II) Testing may include analysis for microbial and residual solvents and chemical and biological contaminants deemed to be public health hazards by the Colorado department of public health and environment based on medical reports and published scientific literature.

(III) (A) If test results indicate the presence of quantities of any substance determined to be injurious to health, the medical marijuana or retail marijuana licensee shall immediately quarantine the products and notify the state licensing authority. The state licensing authority shall give the licensee an opportunity to remediate the product if the test indicated the presence of a microbial. If the licensee is unable to remediate the product, the licensee shall document and properly destroy the adulterated product.

(B) If retail marijuana or retail marijuana product test results indicate the presence of quantities of any substance determined to be injurious to health, the state licensing authority shall give the licensee an opportunity to retest the retail marijuana or retail marijuana product.

(C) If two additional tests of the retail marijuana or retail marijuana product do not indicate the presence of quantities of any substance determined to be injurious to health, the product may be used or sold by the retail marijuana licensee.

(IV) (A) Testing must also verify THC potency representations and homogeneity for correct labeling and provide a cannabinoid profile for the regulated marijuana product.

(B) An individual retail marijuana piece of ten milligrams or less that has gone through process validation is exempt from continued homogeneity testing.

(C) Homogeneity testing for one hundred milligram servings of retail marijuana may utilize validation measures.

(V) The state licensing authority shall determine an acceptable variance for potency representations and procedures to address potency misrepresentations. The state licensing authority shall determine an acceptable variance of at least plus or minus fifteen percent for potency representations and procedures to address potency misrepresentations.

(VI) The state licensing authority shall determine the protocols and frequency of regulated marijuana testing by licensees.

(VII) A state, local, or municipal agency shall not employ or use the results of any test of regulated marijuana or regulated marijuana products conducted by an analytical laboratory that is not certified pursuant to this subsection (2)(d)(VII) for the particular testing category or that is not accredited to the International Organization for Standardization/International Electrotechnical Commission 17025:2005 standard, or any subsequent superseding standard, in that field of testing. Starting January 1, 2018, a state, local, or municipal agency may use or employ the results of any test of regulated marijuana or regulated marijuana products conducted on or after January 1, 2018, by an analytical laboratory that is certified pursuant to this subsection (2)(d)(VII) for the particular testing category or is accredited pursuant to the International Organization for Standardization/International Electrotechnical Commission 17025:2005 standard, or any subsequent superseding standard, in that field of testing.

(VIII) On or before January 1, 2019, the state licensing authority shall require a medical marijuana testing facility or retail marijuana testing facility to be accredited by a body that is itself recognized by the International Laboratory Accreditation Cooperation in a category of testing pursuant to the International Organization for Standardization/International Electrotechnical Commission 17025:2005 standard, or a subsequent superseding standard, in order to receive certification or maintain certification; except that the state licensing authority may by rule establish conditions for providing extensions to a newly licensed medical marijuana testing facility or retail marijuana testing facility for a period not to exceed twelve months or a medical marijuana testing facility or retail marijuana testing facility for good cause as defined by rules promulgated by the state licensing authority, which must include but may not be limited to when an application for accreditation has been submitted and is pending with a recognized accrediting body.

(IX) The state licensing authority shall promulgate rules that prevent redundant testing of marijuana and marijuana concentrate, including, but not limited to, potency testing of marijuana allocated to extractions, and residual solvent testing of marijuana concentrate when all

inputs of the marijuana concentrate have passed residual solvent testing pursuant to this subsection (2)(d).

(e) Security requirements for any premises licensed pursuant to this article 10, including, at a minimum, lighting, physical security, video, and alarm requirements, and other minimum procedures for internal control as deemed necessary by the state licensing authority to properly administer and enforce the provisions of this article 10, including reporting requirements for changes, alterations, or modifications to the premises;

(f) Labeling requirements for regulated marijuana and regulated marijuana products sold by a medical marijuana business or retail marijuana business that are at least as stringent as those imposed by section 25-4-1614 (3)(a) and include but are not limited to:

(I) Warning labels;

(II) Amount of THC per serving and the number of servings per package for regulated marijuana products;

(III) A universal symbol indicating that the package contains marijuana; and

(IV) Potency of the regulated marijuana and regulated marijuana products;

(g) Health and safety regulations and standards for the manufacture of regulated marijuana products and the cultivation of regulated marijuana;

(h) Regulation of the storage of, warehouses for, and transportation of regulated marijuana and regulated marijuana products;

(i) Sanitary requirements for medical marijuana businesses and retail marijuana businesses, including but not limited to sanitary requirements for the preparation of regulated marijuana products;

(j) The reporting and transmittal of monthly sales tax payments by medical marijuana stores and retail marijuana stores and any applicable excise tax payments by retail marijuana cultivation facilities;

(k) Authorization for the department to have access to licensing information to ensure sales, excise, and income tax payment and the effective administration of this article 10;

(l) Compliance with, enforcement of, or violation of any provision of this article 10, section 18-18-406.3 (7), or any rule promulgated pursuant to this article 10, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license issued pursuant to this article 10;

(m) Establishing a schedule of penalties and procedures for issuing and appealing citations for violation of statutes and rules and issuing administrative citations;

(n) Medical marijuana transporter licensed businesses and retail marijuana transporter licensed businesses, including requirements for drivers, including obtaining and maintaining a valid Colorado driver's license; insurance requirements; acceptable time frames for transport, storage, and delivery; requirements for transport vehicles; requirements for deliveries; and requirements for licensed premises;

(o) Medical marijuana business operator licenses and retail marijuana business operator licensees, including the form and structure of allowable agreements between operators and the medical or retail marijuana business;

(p) Nonescorted visitors in limited access areas;

(q) Temporary appointee registrations issued pursuant to section 44-10-401 (3), including occupational and business registration requirements; application time frames;

notification requirements; issuance, expiration, renewal, suspension, and revocation of a temporary appointee registration; and conditions of registration;

(r) Requirements for a centralized distribution permit for medical marijuana cultivation facilities or retail marijuana cultivation facilities issued pursuant to section 44-10-502 (6) or 44-10-602 (7), including but not limited to permit application requirements and privileges and restrictions of a centralized distribution permit;

(s) Requirements for issuance of colocation permits to a marijuana research and development licensee authorizing colocation with a medical marijuana products manufacturer or retail marijuana products manufacturer licensed premises, including application requirements, eligibility, restrictions to prevent cross-contamination and to ensure physical separation of inventory and research activities, and other privileges and restrictions of permits;

(t) Development of individual identification cards for natural persons who are controlling beneficial owners, and any person operating, working in, or having unescorted access to the limited access areas of the licensed premises of a medical marijuana business or retail marijuana business including a fingerprint-based criminal history record check as may be required by the state licensing authority prior to issuing a card;

(u) Identification of state licensees and their controlling beneficial owners, passive beneficial owners, managers, and employees;

(v) The specification of acceptable forms of picture identification that a medical marijuana store or retail marijuana store may accept when verifying a sale, including but not limited to government-issued identification cards;

(w) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(x) The conditions under which a licensee is authorized to transfer fibrous waste to a person for the purpose of producing only industrial fiber products. The conditions must include contract requirements that stipulate that the fibrous waste will only be used to produce industrial fiber products; record-keeping requirements; security measures related to the transport and transfer of fibrous waste; requirements for handling contaminated fibrous waste; and processes associated with handling fibrous waste. The rules must not require licensees to alter fibrous waste from its natural state prior to transfer.

(y) Requiring that edible regulated marijuana products be clearly identifiable, when practicable, with a standard symbol indicating that they contain marijuana and are not for consumption by children. The symbols promulgated by rule of the state licensing authority must not appropriate signs or symbols associated with another Colorado business or industry;

(z) Requirements to prevent the sale or diversion of retail marijuana and retail marijuana products to persons under twenty-one years of age;

(aa) The implementation of an accelerator program including but not limited to rules to establish requirements for social equity licensees operating on the same licensed premises or on separate premises possessed by an accelerator-endorsed licensee. The state licensing authority's rules establishing an accelerator program may include requirements for severed custodianship of regulated marijuana products, protections of the intellectual property of a social equity licensee, incentives for accelerator-endorsed licensees, and additional requirements if a person applying for an accelerator endorsement has less than two years' experience operating a licensed facility pursuant to this article 10. An accelerator-endorsed licensee is not required to exercise the privileges of its license on the premises where a social equity licensee operates. The state

licensing authority's implementation of an accelerator program is extended from July 1, 2020, to January 1, 2021.

(bb) Conditions under which a licensee is authorized to collect marijuana consumer waste and transfer it to a person for the purposes of reuse or recycling in accordance with all requirements established by the department of public health and environment pertaining to waste disposal and recycling. The conditions must include:

(I) That the person receiving marijuana consumer waste from a licensee is, to the extent required by law, registered with the department of public health and environment;

(II) Record-keeping requirements;

(III) Security measures related to the collection and transfer of marijuana consumer waste;

(IV) Health and safety requirements, including requirements for the handling of marijuana consumer waste; and

(V) Processes associated with handling marijuana consumer waste, including destruction of any remaining regulated marijuana in the marijuana consumer waste.

(cc) Requirements for a transition permit for medical marijuana cultivation facilities or retail marijuana cultivation facilities issued pursuant to section 44-10-313 (13)(c), including but not limited to permit application requirements and restrictions of a transition permit.

(dd) Requirements for medical marijuana and medical marijuana products delivery as described in section 44-10-501 (11) and section 44-10-505 (5) and retail marijuana and retail marijuana products delivery as described in section 44-10-601 (13) and section 44-10-605 (5), including:

(I) Qualifications and eligibility requirements for licensed medical marijuana stores, retail marijuana stores, medical marijuana transporters, and retail marijuana transporters applying for a medical marijuana delivery permit;

(II) Training requirements for personnel of medical marijuana stores, retail marijuana stores, medical marijuana transporters, and retail marijuana transporters that hold a medical marijuana or retail marijuana delivery permit who will deliver medical marijuana or medical marijuana products or retail marijuana or retail marijuana products pursuant to this article 10 and requirements that medical marijuana stores, retail marijuana stores, medical marijuana transporters, and retail marijuana transporters obtain a responsible vendor designation pursuant to section 44-10-1201 prior to conducting a delivery;

(III) Procedures for proof of medical marijuana registry and age identification and verification;

(IV) Security requirements;

(V) Delivery vehicle requirements, including requirements for surveillance;

(VI) Record-keeping requirements;

(VII) Limits on the amount of medical marijuana and medical marijuana products and retail marijuana and retail marijuana products that may be carried in a delivery vehicle and delivered to a patient or parent or guardian or individual, which cannot exceed limits placed on sales at licensed medical marijuana stores;

(VIII) Limits on the amount of retail marijuana and retail marijuana products that may be carried in a delivery vehicle and delivered to an individual, which cannot exceed limits placed on sales at retail marijuana stores;

(IX) Inventory tracking system requirements, which include the ability to determine the amount of medical marijuana a patient has purchased that day in real time by searching a patient registration number;

(X) Health and safety requirements for medical marijuana and medical marijuana products delivered to a patient or parent or guardian and for retail marijuana and retail marijuana products delivered to an individual;

(XI) Confidentiality requirements to ensure that persons delivering medical marijuana and medical marijuana products or retail marijuana and retail marijuana products pursuant to this article 10 do not disclose personal identifying information to any person other than those who need that information in order to take, process, or deliver the order or as otherwise required or authorized by this article 10, title 18, or title 25;

(XII) An application fee and annual renewal fee for the medical marijuana delivery permit and the retail marijuana delivery permit. The amount of the fee must reflect the expected costs of administering the medical marijuana delivery permit and the retail marijuana delivery permit and may be adjusted by the state licensing authority to reflect the permit's actual direct and indirect costs.

(XIII) The permitted hours of delivery of medical marijuana and medical marijuana products and retail marijuana and retail marijuana products;

(XIV) Requirements for areas where medical marijuana and medical marijuana products or retail marijuana and retail marijuana products orders are stored, weighed, packaged, prepared, and tagged, including requirements that medical marijuana and medical marijuana products or retail marijuana and retail marijuana products cannot be placed into a delivery vehicle until after an order has been placed and that all delivery orders must be packaged on the licensed premises of a medical marijuana store or retail marijuana store or its associated state licensing authority-authorized storage facility as defined by rule after an order has been received; and

(XV) Payment methods, including but not limited to the use of gift cards and prepayment accounts.

(ee) (I) (A) Ownership and financial disclosure procedures and requirements pursuant to this article 10;

(B) Records a medical marijuana business or retail marijuana business is required to maintain regarding its controlling beneficial owners, passive beneficial owners, and indirect financial interest holders that may be subject to disclosure at renewal or as part of any other investigation following initial licensure of a medical marijuana business or retail marijuana business;

(C) Procedures and requirements for findings of suitability pursuant to this article 10, including fees necessary to cover the direct and indirect costs of any suitability investigation;

(D) Procedures and requirements concerning the divestiture of the beneficial ownership of a person found unsuitable by the state licensing authority;

(E) Procedures, processes, and requirements for transfers of ownership involving a publicly traded corporation, including but not limited to mergers with a publicly traded corporation, investment by a publicly traded corporation, and public offerings;

(F) Designation of persons that by virtue of common control constitute controlling beneficial owners;

(G) Modification of the percentage of owner's interests that may be held by a controlling beneficial owner and passive beneficial owner;

(H) Designation of persons that qualify for an exemption from an otherwise required finding of suitability; and

(I) Designation of indirect financial interest holders and qualified institutional investors.

(II) Rules promulgated pursuant to this subsection (2)(ee) must not be any more restrictive than the requirements expressly established under this article 10.

(ff) The implementation of marijuana hospitality and retail marijuana hospitality and sales business licenses, including but not limited to:

(I) General insurance liability requirements;

(II) A sales limit per transaction for retail marijuana and retail marijuana products that may be sold to a patron of a retail marijuana hospitality and sales business; except that the sales limit established by the state licensing authority must not be an amount less than one gram of retail marijuana flower, one-quarter of one gram of retail marijuana concentrate, or a retail marijuana product containing not more than ten milligrams of active THC;

(III) Restrictions on the type of any retail marijuana or retail marijuana product authorized to be sold, including that the marijuana or product be meant for consumption in the licensed premises of the business;

(IV) Prohibitions on activity that would require additional licensure on the licensed premises, including but not limited to sales, manufacturing, or cultivation activity;

(V) Requirements for marijuana hospitality businesses and retail marijuana hospitality and sales businesses operating pursuant to section 44-10-609 or 44-10-610 in a retail food business;

(VI) Requirements for marijuana hospitality businesses and retail marijuana hospitality and sales business licensees to destroy any unconsumed marijuana or marijuana products left behind by a patron; and

(VII) Rules to ensure compliance with section 42-4-1305.5;

(gg) For marijuana hospitality businesses that are mobile, regulations including but not limited to:

(I) Registration of vehicles and proper designation of vehicles used as mobile licensed premises;

(II) Surveillance cameras inside the vehicles;

(III) Global positioning system tracking and route logging in an established route manifest system;

(IV) Compliance with section 42-4-1305.5;

(V) Ensuring activity is not visible outside of the vehicle; and

(VI) Proper ventilation within the vehicle;

(hh) The circumstances that constitute a significant physical or geographic hardship as used in section 44-10-501 (13);

(ii) Effective January 1, 2023, requirements for medical and retail marijuana concentrate to promote consumer health and awareness, which shall include a recommended serving size, visual representation of one recommended serving, and labeling requirements and may include a measuring device that may be used to measure one recommended serving.

(3) In promulgating rules pursuant to this section, the state licensing authority may seek the assistance of the department of public health and environment when necessary before promulgating rules on the following subjects:

(a) Signage, marketing, and advertising, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching persons under eighteen years of age for medical marijuana and have a high likelihood of reaching persons under twenty-one years of age for retail marijuana and other such rules that may include:

(I) Allowing packaging and accessory branding;

(II) Prohibiting health or physical benefit claims in advertising, merchandising, and packaging;

(III) Prohibiting unsolicited pop-up advertising on the internet;

(IV) Prohibiting banner ads on mass-market websites;

(V) Prohibiting opt-in marketing that does not permit an easy and permanent opt-out feature;

(VI) Prohibiting marketing directed toward location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is eighteen years of age or older for medical marijuana and twenty-one years of age or older for retail marijuana and includes a permanent and easy opt-out feature;

(VII) Prohibiting advertising and marketing by a medical marijuana business that is specifically directed at persons who are under twenty-one years of age; and

(VIII) Requirements that any advertising or marketing specific to medical marijuana concentrate or retail marijuana concentrate include a notice regarding the potential risks of medical marijuana concentrate or retail marijuana concentrate overconsumption;

(b) A prohibition on the sale of regulated marijuana and regulated marijuana products unless the product is:

(I) Packaged in packaging meeting requirements established by the state licensing authority similar to the federal "Poison Prevention Packaging Act of 1970", 15 U.S.C. sec. 1471 et seq., as amended; and

(II) Placed in an opaque and resealable exit package or container meeting requirements established by the state licensing authority at the point of sale prior to exiting the store;

(c) The safe and lawful transport of regulated marijuana and regulated marijuana products between the licensed business and testing laboratories;

(d) A standardized marijuana serving size amount for edible retail marijuana products that does not contain more than ten milligrams of active THC, designed only to provide consumers with information about the total number of servings of active THC in a particular retail marijuana product, not as a limitation on the total amount of THC in any particular item; labeling requirements regarding servings for edible retail marijuana products; and limitations on the total amount of active THC in a sealed internal package that is no more than one hundred milligrams of active THC;

(e) Prohibition on or regulation of additives to any regulated marijuana product, including but not limited to those that are toxic, designed to make the product more addictive, designed to make the product more appealing to children, or misleading to consumers, but not including common baking and cooking items;

(f) Permission for a local fire department to conduct an annual fire inspection of a medical marijuana cultivation facility or retail marijuana cultivation facility; and

(g) A prohibition on the production and sale of edible regulated marijuana products that are in the distinct shape of a human, animal, or fruit. Geometric shapes and products that are

simply fruit flavored are not considered fruit. Products in the shape of a marijuana leaf are permissible. Nothing in this subsection (3)(g) applies to a company logo.

(h) A requirement that every medical marijuana store and retail marijuana store post, at all times and in a prominent place, a warning that has a minimum height of three inches and a width of six inches and that reads:

Warning: Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

(4) **Equivalency.** Rules promulgated pursuant to section 44-10-202 (1)(c) must also include establishing the equivalent of one ounce of retail marijuana flower in various retail marijuana products, including retail marijuana concentrate. Prior to promulgating the rules required by this subsection (4), the state licensing authority may contract for a scientific study to determine the equivalency of marijuana flower in retail marijuana products, including retail marijuana concentrate.

(5) **Statewide class system cultivation facility rules - medical marijuana.** (a) The state licensing authority shall create a statewide licensure class system for medical marijuana cultivation facility licenses. The classifications may be based upon square footage of the facility; lights, lumens, or wattage; lit canopy; the number of cultivating plants; other reasonable metrics; or any combination thereof. The state licensing authority shall create a fee structure for the licensure class system.

(b) (I) The state licensing authority may establish limitations on medical marijuana production through one or more of the following methods:

(A) Placing or modifying a limit on the number of licenses that it issues, by class or overall, but in placing or modifying the limits, the state licensing authority shall consider the reasonable availability of new licenses after a limit is established or modified;

(B) Placing or modifying a limit on the amount of production permitted by a medical marijuana cultivation facility license or class of licenses based upon some reasonable metric or set of metrics, including but not limited to those items detailed in subsection (5)(a) of this section, previous months' sales, pending sales, or other reasonable metrics as determined by the state licensing authority; and

(C) Placing or modifying a limit on the total amount of production by medical marijuana cultivation facility licensees in the state collectively, based upon some reasonable metric or set of metrics including but not limited to those items detailed in subsection (5)(a) of this section, as determined by the state licensing authority.

(II) When considering any such limitations, the state licensing authority shall:

(A) Consider the total current and anticipated demand for medical marijuana and medical marijuana products in Colorado;

(B) Consider any other relevant factors; and

(C) Attempt to minimize the market for unlawful marijuana; and

(c) The state licensing authority may adopt rules that limit the amount of medical marijuana inventory that a medical marijuana store may have on hand. If the state licensing authority adopts a limitation, the limitation must be commercially reasonable and consider factors including a medical marijuana store's sales history and the number of patients who are registered at a medical marijuana store as their primary store.

(6) **Statewide class system cultivation facility rules - retail marijuana.** (a) The state licensing authority shall create a statewide licensure class system for retail marijuana cultivation facility licenses. The classifications may be based upon square footage of the facility; lights, lumens, or wattage; lit canopy; the number of cultivating plants; other reasonable metrics; or any combination thereof. The state licensing authority shall create a fee structure for the licensure class system.

(b) The state licensing authority may establish limitations on retail marijuana production through one or more of the following methods:

(I) Placing or modifying a limit on the number of licenses that it issues, by class or overall, but in placing or modifying the limits, the authority shall consider the reasonable availability of new licenses after a limit is established or modified;

(II) Placing or modifying a limit on the amount of production permitted by a retail marijuana cultivation facility license or class of licenses based upon some reasonable metric or set of metrics including but not limited to those items detailed in subsection (6)(a) of this section, previous months' sales, pending sales, or other reasonable metrics as determined by the state licensing authority; and

(III) Placing or modifying a limit on the total amount of production by retail marijuana cultivation facility licensees in the state collectively, based upon some reasonable metric or set of metrics including but not limited to those items detailed in subsection (6)(a) of this section, as determined by the state licensing authority.

(c) Notwithstanding anything contained in this article 10 to the contrary, in considering any such limitations, the state licensing authority, in addition to any other relevant considerations, shall:

(I) Consider the total current and anticipated demand for retail marijuana and retail marijuana products in Colorado; and

(II) Attempt to minimize the market for unlawful marijuana.

(7) The state licensing authority may deny, suspend, revoke, fine, or impose other sanctions against a person's license issued pursuant to this article 10 if the state licensing authority finds the person or the person's controlling beneficial owner, passive beneficial owner, or indirect financial interest holder failed to timely file any report, disclosure, registration statement, or other submission required by any state or federal regulatory authority that is related to the conduct of their business.

(8) The state licensing authority shall treat a metered-dose inhaler the same as a vaporized delivery device for purposes of regulation and testing.

(9) (a) The state licensing authority may, by rule, establish procedures for the conditional issuance of an employee license identification card at the time of application.

(b) (I) The state licensing authority shall base its issuance of an employee license identification card pursuant to this subsection (9) on the results of an initial investigation that demonstrate the applicant is qualified to hold such license. The employee license application for which an employee license identification card was issued pursuant to this subsection (9) remains subject to denial pending the complete results of the applicant's initial fingerprint-based criminal history record check.

(II) Results of a fingerprint-based criminal history record check that demonstrate that an applicant possessing an employee license identification card pursuant to this subsection (9) is not qualified to hold a license issued under this article 10 are grounds for denial of the employee

license application. If the employee license application is denied, the applicant shall return the employee license identification card to the state licensing authority within a time period that the state licensing authority establishes by rule.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2843, § 5, effective January 1, 2020; (2)(ff) and (2)(gg) added, (HB 19-1230), ch. 340, p. 3118, § 14, effective January 1, 2020. **L. 2020:** (1)(i), (1)(j), and (2)(aa) amended and (1)(k) added, (HB 20-1424), ch. 184, p. 843, § 3, effective September 14. **L. 2021:** (2)(dd)(IX), (2)(ff)(VII), and (3)(a)(V) amended and (2)(hh), (2)(ii), (3)(a)(VII), and (3)(a)(VIII) added, (HB 21-1317), ch. 313, p. 1916, § 7, effective June 24; (1)(j) amended and (1)(j.5) and (9) added, (HB 21-1301), ch. 304, p. 1826, § 5, effective September 7; (2)(q) amended, (HB 21-1178), ch. 130, p. 524, § 3, effective September 7.

Editor's note: This section is similar to former §§ 44-12-202 (3), (4), and (5) and 44-11-202 (2)(a), (3)(a), and (4) as they existed prior to 2020.

44-10-204. Confidentiality. (1) The state licensing authority shall maintain the confidentiality of:

(a) Reports or other information obtained from a medical marijuana or retail marijuana licensee or a medical marijuana or retail marijuana license applicant containing any individualized data, information, or records related to the applicant or licensee or its operation, including sales information, leases, business organization records, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any customer information, or any other records that are exempt from public inspection pursuant to state law. Such reports or other information may be used only for a purpose authorized by this article 10, for investigation or enforcement of any international, federal, state, or local securities law or regulations, or for any other state or local law enforcement purpose. Any information released related to patients may be used only for a purpose authorized by this article 10, to verify that a person who presented a registry identification card issued pursuant to section 25-1.5-106 (9) to a state or local law enforcement official is lawfully in possession of such card, as a part of an active investigation, as a part of a proceeding authorized by this article 10 or article 1.5 of title 25, or for any state or local law enforcement purpose involving evidence of sales transactions in violation of this article 10 or evidence of criminal activity. The information or records related to a patient constitute medical data as described by section 24-72-204 (3)(a)(I), and the information or records may only be disclosed to those persons directly involved with an active investigation or proceeding. Any customer information may be used only for a purpose authorized by this article 10.

(b) Investigative records and documents related to ongoing investigations. Those records and documents may be used only for a purpose authorized by this article 10 or for any other state or local law enforcement purpose.

(c) Computer systems maintained by the state licensing authority and the vendors with which the state licensing authority has contracted.

(2) The state licensing authority shall make available for public inspection:

(a) Documents related to final agency actions and orders;

(b) Records related to testing on an aggregated and de-identified basis;

(c) Demographic information related to applicants and licensees available on an aggregated and de-identified basis; and

(d) Enforcement forms and compliance checklists.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2856, § 5, effective January 1, 2020.

44-10-205. Change designation of marijuana from medical to retail - report - repeal. (1) On or before January 3, 2022, the state licensing authority shall submit to the general assembly a report analyzing the feasibility of allowing changing regulated marijuana's designation from medical to retail between medical marijuana cultivation facilities and retail marijuana cultivation facilities and between medical marijuana products manufacturers and retail marijuana products manufacturers. The report must include the identification of:

(a) Potential economic impacts, including potential impacts on regulated marijuana businesses and on statewide and regional revenue;

(b) Potential production management impacts;

(c) Potential impacts on wholesale, patient, and consumer prices for the medical and retail marijuana markets;

(d) Stakeholder perspectives, including support or opposition to future statutory changes to allow changing regulated marijuana's designation from medical to retail between medical marijuana cultivation facilities and retail marijuana cultivation facilities and between medical marijuana products manufacturers and retail marijuana products manufacturers;

(e) Potential impacts or challenges for local governments; and

(f) Potential alternatives to allowing changing regulated marijuana's designation from medical to retail between medical marijuana cultivation facilities and retail marijuana cultivation facilities and between medical marijuana products manufacturers and retail marijuana products manufacturers.

(2) This section is repealed, effective July 1, 2022.

Source: L. 2021: Entire section added, (HB 21-1216), ch. 306, p. 1834, § 6, effective June 23.

PART 3

LICENSING PROCEDURES

44-10-301. Local licensing authority - applications - licenses. (1) A local licensing authority may issue only the following medical marijuana licenses upon payment of the fee and compliance with all local licensing requirements to be determined by the local licensing authority:

(a) A medical marijuana store license;

(b) A medical marijuana cultivation facility license;

(c) A medical marijuana products manufacturer license;

(d) A medical marijuana testing facility license;

(e) A medical marijuana transporter license;

(f) A medical marijuana business operator license;

(g) A marijuana research and development license; and

(h) A medical marijuana delivery permit.

(2) (a) (I) A local licensing authority shall not issue a local license to a medical marijuana business within a municipality, city and county, or the unincorporated portion of a county unless the governing body of the municipality or city and county has adopted an ordinance, or the governing body of the county has adopted a resolution, containing specific standards for license issuance, or if no such ordinance or resolution is adopted prior to July 1, 2012, then a local licensing authority shall consider the minimum licensing requirements of this part 3 when issuing a license.

(II) In addition to all other standards applicable to the issuance of licenses under this article 10, the local governing body may adopt additional standards for the issuance of medical marijuana store, medical marijuana cultivation facility, or medical marijuana products manufacturer licenses consistent with the intent of this article 10 that may include, but need not be limited to:

(A) Distance restrictions between premises for which local licenses are issued;

(B) Reasonable restrictions on the size of an applicant's licensed premises; and

(C) Any other requirements necessary to ensure the control of the premises and the ease of enforcement of the terms and conditions of the license.

(b) An application for a license specified in subsection (1) of this section must be filed with the state licensing authority and the appropriate local licensing authority on forms provided by the state licensing authority and must contain such information as the state licensing authority may require and any forms as the local licensing authority may require. Each application must be verified by the oath or affirmation of the persons prescribed by the state licensing authority.

(c) An applicant shall file, at the time of application for a license, 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 or state licensing authority may impose additional requirements necessary for the approval of the application.

(3) **Retail marijuana businesses.** (a) When the state licensing authority receives an application for original licensing or renewal of an existing license or permit for any retail marijuana business, the state licensing authority shall provide, within seven days, a copy of the application to the local jurisdiction in which the business is to be located unless the local jurisdiction has prohibited the operation of retail marijuana businesses pursuant to section 16 (5)(f) of article XVIII of the state constitution. The local jurisdiction shall determine whether the application complies with local restrictions on time, place, manner, and the number of retail marijuana businesses. The local jurisdiction shall inform the state licensing authority whether the application complies with local restrictions on time, place, manner, and the number of retail marijuana businesses.

(b) A local jurisdiction may impose a separate local licensing requirement for retail marijuana businesses as a part of its restrictions on time, place, manner, and the number of marijuana businesses. A local jurisdiction may decline to impose any local licensing requirements, but a local jurisdiction shall notify the state licensing authority that it either approves or denies each application forwarded to it.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2857, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-11-301 and 44-12-301 as they existed prior to 2020.

44-10-302. Local license fees - medical marijuana. (1) Each application for a local license for a medical marijuana business provided for in section 44-10-301 (1) filed with a local licensing authority must be accompanied by an application fee in an amount determined by the local licensing authority.

(2) License fees as determined by the local licensing authority must be paid to the treasurer of the municipality, city and county, or county where the licensed premises is located in advance of the approval, denial, or renewal of the license.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2859, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-1-503 as it existed prior to 2020.

44-10-303. Public hearing notice - posting and publication. (1) **Medical marijuana business licenses.** (a) Upon receipt of an application for a local license for a medical marijuana business, except an application for renewal or for transfer of ownership, a local licensing authority may schedule a public hearing upon the application to be held not less than thirty days after the date of the application. If the local licensing authority schedules a hearing for a medical marijuana business license application, it shall post and publish public notice thereof not less than ten days prior to the hearing. The local licensing authority shall give public notice by posting a sign in a conspicuous place on the license applicant's premises for which license application has been made and by publication in a newspaper of general circulation in the county in which the applicant's premises are located.

(b) Public notice given by posting must 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, 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. The sign must contain the names and addresses of the officers, directors, or manager of the facility to be licensed.

(c) Public notice given by publication must contain the same information as that required for signs.

(d) If the building in which medical marijuana is to be cultivated, manufactured, or distributed is in existence at the time of the application, a sign posted as required in subsections (1) and (2) of this section must 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 a sign at the premises upon which the building is to be constructed in such a manner that the notice is conspicuous and plainly visible to the general public.

(2) **Medical marijuana application review.** (a) When conducting its application review, the state licensing authority may advise the local licensing authority of any items that it

finds that could result in the denial of the license application. Upon correction of the noted discrepancies, if the correction is permitted by the state licensing authority, the state licensing authority shall notify the local licensing authority of its conditional approval of the license application amendments. The state licensing authority shall then issue the applicant's state license, which is conditioned upon local authority approval.

(b) All applications submitted for review must be accompanied by all applicable state and local license and application fees. Any applications that are later denied or withdrawn may allow for a refund of license fees only. All application fees provided by an applicant must be retained by the respective licensing authority.

(3) **Retail marijuana business licenses.** (a) If a local jurisdiction issues local licenses for a retail marijuana business, a local jurisdiction may schedule a public hearing on the application. If the local jurisdiction schedules a hearing, it shall post and publish public notice thereof not less than ten days prior to the hearing. The local jurisdiction shall give public notice by posting a sign in a conspicuous place on the license applicant's premises for which a local license application has been made and by publication in a newspaper of general circulation in the county in which the applicant's premises are located.

(b) If a local jurisdiction does not issue local retail marijuana business licenses, the local jurisdiction may give public notice of the state license application by posting a sign in a conspicuous place on the state license applicant's premises for which a state license application has been made and by publication in a newspaper of general circulation in the county in which the applicant's premises are located.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2859, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-11-302 and 44-12-302 as they existed prior to 2020.

44-10-304. Results of investigation - decision of authorities - medical marijuana. (1) Not less than five days prior to the date of the public hearing authorized in section 44-10-303, the local licensing authority shall make known its findings, based on its investigation, in writing to the applicant and other parties of interest. The local licensing authority has authority to refuse to issue a license provided for in this section for good cause, subject to judicial review.

(2) Before entering a decision approving or denying the application for a local medical marijuana business license, the local licensing authority may consider, except where this article 10 specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which application has been made, including the number, type, and availability of medical marijuana stores, medical marijuana cultivation facilities, or medical marijuana products manufacturers located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

(3) Within thirty days after the public hearing or completion of the application investigation, a local licensing authority shall issue its decision approving or denying an application for local licensure. The decision must be in writing and must state the reasons for the

decision. The local licensing authority shall send a copy of the decision by certified mail to the applicant at the address shown in the application.

(4) After approval of an application, the local licensing authority shall not issue a local license until the building in which the business to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with the applicable provisions of this article 10, and then only after the state or local licensing authority has inspected the premises 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 pursuant to section 44-10-301 (4).

(5) After approval of an application for conditional state licensure, the state licensing authority shall notify the local licensing authority of such approval. After approval of an application for local licensure, the local licensing authority shall notify the state licensing authority of such approval, and the state licensing authority shall investigate and either approve or disapprove the application for state licensure.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2860, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-11-303 as it existed prior to 2020.

44-10-305. State licensing authority - application and issuance procedures. (1) Applications for a state medical marijuana business or retail marijuana business license under the provisions of this article 10 must be made to the state licensing authority on forms prepared and furnished by the state licensing authority and must set forth such information as the state licensing authority may require to enable the state licensing authority to determine whether a state medical marijuana business or retail marijuana business license should be granted. The information must include the name and address of the applicant, disclosures required by section 44-10-309, and all other information deemed necessary by the state licensing authority. Each application must be verified by the oath or affirmation of such person or persons as the state licensing authority may prescribe.

(2) (a) The state licensing authority shall issue a state license to a medical marijuana store, a medical marijuana cultivation facility, a medical marijuana products manufacturer, a medical marijuana testing facility, a medical marijuana transporter, a medical marijuana business operator, or a marijuana research and development facility pursuant to this section upon satisfactory completion of the applicable criminal history background check associated with the application, and the state license is conditioned upon local licensing authority approval. A license applicant is prohibited from operating a licensed medical marijuana business without both state and local licensing authority approval. The denial of an application by the local licensing authority is considered as a basis for the state licensing authority to revoke the state-issued license.

(b) (I) The state licensing authority may issue a state license to an applicant pursuant to this section for a retail marijuana business upon completion of the applicable criminal history background check associated with the application, and the state license is conditioned upon local jurisdiction approval. A license applicant is prohibited from operating a licensed retail marijuana business without state and local jurisdiction approval. If the applicant does not receive local

jurisdiction approval within one year from the date of state licensing authority approval, the state license expires and may not be renewed. If an application is denied by the local licensing authority, the state licensing authority shall revoke the state-issued license.

(II) Repealed.

(3) Nothing in this article 10 preempts or otherwise impairs the power of a local government to enact ordinances or resolutions concerning matters authorized to local governments.

(4) Prior to accepting an application for a license, registration, or permit, the state licensing authority shall inform the applicant that having a medical marijuana or retail marijuana license and working in the medical marijuana or retail marijuana industry may have adverse federal immigration consequences.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2861, § 5, effective January 1, 2020; (2)(b) amended, (HB 19-1230), ch. 340, p. 3119, § 15, effective January 1, 2020.

Editor's note: (1) This section is similar to former §§ 44-11-304 and 44-12-303 (1) as they existed prior to 2020.

(2) Subsection (2)(b)(II)(B) provided for the repeal of subsection (2)(b)(II), effective July 1, 2021. (See L. 2019, p. 3119.)

44-10-306. Denial of application. (1) The state licensing authority shall deny a state license if the premises on which the applicant proposes to conduct its business does not meet the requirements of this article 10 or for reasons set forth in section 44-10-103 (17)(c) or 44-10-305, and the state licensing authority may refuse or deny a license, renewal, reinstatement, or initial license for good cause as defined by section 44-10-103 (17)(a) or (17)(b).

(2) If the state licensing authority denies a state license pursuant to subsection (1) of this section, the applicant is entitled to a hearing pursuant to section 24-4-104 (9) and judicial review pursuant to section 24-4-106. The state licensing authority shall provide written notice of the grounds for denial of the state license to the applicant and to the local licensing authority at least fifteen days prior to the hearing.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2862, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-11-305 and 44-12-304 as it existed prior to 2020.

44-10-307. Persons prohibited as licensees - definition. (1) A license provided by this article 10 shall not be issued to or held by:

(a) A person until the fee therefore has been paid;

(b) An individual whose criminal history indicates that he or she is not of good moral character after considering the factors in section 24-5-101 (2);

(c) A person other than an individual if the criminal history of any of its controlling beneficial owners indicates that a controlling beneficial owner is not of good moral character after considering the factors in section 24-5-101 (2);

(d) A person under twenty-one years of age;

(e) A person licensed pursuant to this article 10 who, during a period of licensure, or who, at the time of application, has failed to:

(I) File any tax return with a taxing agency related to a medical marijuana business or retail marijuana business;

(II) Pay any taxes, interest, or penalties due as determined by final agency action related to a medical marijuana business or retail marijuana business;

(f) A person who fails to meet qualifications for licensure that directly and demonstrably relate to the operation of a medical marijuana business;

(g) (I) A person who was convicted of a felony in the three years immediately preceding his or her application date or who is currently subject to a sentence for a felony conviction; except that, for a person applying to be a social equity licensee, a marijuana conviction shall not be the sole basis for license denial; or

(II) A person who is currently subject to a deferred judgment or sentence for a felony;

(h) A person who employs another person at a medical marijuana business or retail marijuana business who has not submitted fingerprints for a criminal history record check or whose criminal history record check reveals that the person is ineligible;

(i) A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;

(j) A person applying for a license for a location that is currently licensed as a retail food establishment;

(k) A publicly traded entity that does not constitute a publicly traded corporation as defined in this article 10;

(l) A person that is or has a controlling beneficial owner, passive beneficial owner, or indirect financial interest holder that is organized or formed under the laws of a country determined by the United States secretary of state to have repeatedly provided support for acts of international terrorism or is included among the list of "covered countries" in section 1502 of the federal "Dodd-Frank Wall Street Reform and Consumer Protection Act", Pub.L. 111-203;

(m) A person that is or has a controlling beneficial owner that is an "ineligible issuer" pursuant to section 44-10-103 (50)(d)(I);

(n) A person that is or has a controlling beneficial owner that is disqualified as a "bad actor" pursuant to 17 CFR 230.506 (d)(1);

(o) A person that is not a publicly traded corporation that is or has a passive beneficial owner or indirect financial interest holder that is disqualified as a "bad actor" pursuant to 17 CFR 230.506 (d)(1);

(p) A person that is a publicly traded corporation that is or has a nonobjecting passive beneficial owner or indirect financial interest holder that is disqualified as a "bad actor" pursuant to 17 CFR 230.506 (d)(1); or

(q) A person that is or has a controlling beneficial owner, passive beneficial owner, or indirect financial interest holder that is prohibited from engaging in transactions pursuant to this article 10 due to its designation on the "Specially Designated Nationals and Blocked Persons" list maintained by the federal office of foreign assets control.

(2) The state licensing authority may deny or revoke a license if the applicant or licensee's criminal character or criminal record poses a threat to the regulation or control of marijuana.

(3) A medical marijuana license provided by this article 10 shall not be issued to or held by:

(a) A licensed physician making patient recommendations; or

(b) A person whose authority to be a primary caregiver as defined in section 25-1.5-106 (2) has been revoked by the state health agency.

(4) (a) In investigating the qualifications of an applicant or a licensee, the state and local licensing authorities 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 or local licensing authority considers the applicant's criminal history record, the state or 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 state license.

(b) As used in subsection (4)(a) of this section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency that administers 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.

(c) At the time of filing an application for issuance or renewal of a state medical marijuana business license or retail marijuana business license, an applicant shall submit a set of his or her fingerprints and file personal history information concerning the applicant's qualifications for a state license on forms prepared by the state licensing authority. The state or local licensing authority or local jurisdiction shall submit the fingerprints to the Colorado bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The state or local licensing authority or local jurisdiction may acquire a name-based criminal history record check for an applicant or a license holder who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for state or local licensing purposes may request that the fingerprints on file be used. The state or local licensing authority or local jurisdiction shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a state or local license pursuant to this article 10. The state or local licensing authority or local jurisdiction may verify any of the information an applicant is required to submit.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2862, § 5, effective January 1, 2020. **L. 2020:** (1)(g)(I) amended, (HB 20-1424), ch. 184, p. 844, § 4, effective September 14. **L. 2021:** (1)(n), (1)(o), and (1)(p) amended, (HB 21-1178), ch. 130, p. 524, § 4, effective September 7.

Editor's note: This section is similar to former §§ 44-11-306 and 44-12-305 as they existed prior to 2020.

44-10-308. Business and owner requirements - legislative declaration - definition. (1) (a) The general assembly hereby finds and declares that:

(I) Medical marijuana businesses and retail marijuana businesses need to be able to access capital in order to effectively grow their businesses and remain competitive in the marketplace;

(II) The current regulatory structure for regulated marijuana and regulated marijuana products creates a substantial barrier to investment from out-of-state interests and publicly traded corporations;

(III) There is insufficient capital in the state to properly fund the capital needs of Colorado medical marijuana businesses and retail marijuana businesses;

(IV) Colorado medical marijuana businesses and retail marijuana businesses need to have ready access to capital from investors from outside of Colorado;

(IV.5) Under certain circumstances, permitting publicly traded corporations to hold an interest in medical marijuana businesses will benefit Colorado's medical marijuana market;

(V) Providing access to legitimate sources of capital helps prevent the opportunity for those who engage in illegal activity to gain entry into the state's regulated medical and retail marijuana market;

(VI) Publicly traded corporations offering securities for investment in medical marijuana businesses or retail marijuana businesses must tell the public the truth about their business, the securities they are selling, and the risks involved with investing in medical marijuana businesses or retail marijuana businesses, and persons that sell and trade securities related to medical marijuana businesses or retail marijuana businesses are prohibited from engaging in deceit, misrepresentations, and other fraud in the sale of the securities; and

(VII) Recognizing that participation by publicly traded corporations in Colorado's medical marijuana industry and retail marijuana industry creates an increased need to assess barriers of entry for minority- and woman-owned businesses, with such efforts being made to identify solutions to arrive at a greater balance and for further equity for minority- and woman-owned businesses, and in a manner that is consistent with the public safety and enforcement goals as stated in this subsection (1), it is therefore of substantive importance to address the lack of minority- and woman-owned businesses' inclusion in Colorado's medical marijuana industry and retail marijuana industry, social justice issues associated with marijuana prohibition, suitability issues relating to past convictions for potential licensees, licensing fees, and economic challenges that arise with the application processes.

(b) Therefore, the general assembly is providing a mechanism for Colorado medical marijuana businesses and retail marijuana businesses to access capital from investors in other states and from certain publicly traded corporations pursuant to this article 10.

(2) (Deleted by amendment, L. 2019.)

(3) (a) All natural persons with day-to-day operational control over the business must be Colorado residents.

(b) A person, other than an individual, that is a medical marijuana business or retail marijuana business or a controlling beneficial owner shall appoint and continuously maintain a registered agent that satisfies the requirements of section 7-90-701. The medical marijuana

business or retail marijuana business shall inform the state licensing authority of a change in the registered agent within ten days after the change.

(4) Effective January 1, 2021, a person who qualifies as a social equity licensee may apply for any regulated marijuana business license or permit, including but not limited to accelerator store, accelerator cultivator, and accelerator manufacturer licenses, issued pursuant to this article 10. A person qualifies as a social equity licensee if such person meets the following criteria, in addition to any criteria established by rule of the state licensing authority:

(a) Is a Colorado resident;

(b) Has not been the beneficial owner of a license subject to disciplinary or legal action from the state resulting in the revocation of a license issued pursuant to this article 10;

(c) Has demonstrated at least one of the following:

(I) The applicant has resided for at least fifteen years between the years 1980 and 2010 in a census tract designated by the office of economic development and international trade as an opportunity zone or designated as a disproportionate impacted area as defined by rule pursuant to section 44-10-203 (1)(j);

(II) The applicant or the applicant's parent, legal guardian, sibling, spouse, child, or minor in their guardianship was arrested for a marijuana offense, convicted of a marijuana offense, or was subject to civil asset forfeiture related to a marijuana investigation; or

(III) The applicant's household income in the year prior to application did not exceed an amount determined by rule of the state licensing authority; and

(d) The social equity licensee, or collectively one or more social equity licensees, holds at least fifty-one percent of the beneficial ownership of the regulated marijuana business license.

(5) A person who meets the criteria in this section for a social equity licensee, pursuant to rule and agency discretion, may be eligible for incentives available through the department of revenue or office of economic development and international trade, including but not limited to a reduction in application or license fees.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2865, § 5, effective January 1, 2020. **L. 2020:** (4) and (5) added, (HB 20-1424), ch. 184, p. 844, § 5, effective September 14. **L. 2021:** (1)(a)(VII) amended, (HB 21-1178), ch. 130, p. 525, § 5, effective September 7.

Editor's note: This section is similar to former §§ 44-11-307 and 44-12-306 as they existed prior to 2020.

44-10-309. Business owner and financial interest disclosure requirements. (1) Applicants for the issuance of a state license shall disclose to the state licensing authority the following:

(a) A complete and accurate organizational chart of the medical marijuana business or retail marijuana business reflecting the identity and ownership percentages of its controlling beneficial owners;

(b) The following information regarding all controlling beneficial owners of the medical marijuana business or retail marijuana business:

(I) If the controlling beneficial owner is a publicly traded corporation, the applicant shall disclose the controlling beneficial owners' managers and any beneficial owners that directly or

indirectly beneficially own ten percent or more of the owner's interest in the controlling beneficial owner.

(II) If the controlling beneficial owner is not a publicly traded corporation and is not a qualified private fund, the applicant shall disclose the controlling beneficial owner's managers and any beneficial owners that directly or indirectly beneficially own ten percent or more of the owner's interest in the controlling beneficial owner.

(III) If the controlling beneficial owner is a qualified private fund, the applicant shall disclose a complete and accurate organizational chart of the qualified private fund reflecting the identity and ownership percentages of the qualified private fund's managers, investment advisers, investment adviser representatives, any trustee or equivalent, and any other person that controls the investment in, or management or operations of, the medical marijuana business or retail marijuana business.

(IV) If the controlling beneficial owner is a natural person, the applicant shall disclose the natural person's identifying information.

(c) A person that is both a passive beneficial owner and an indirect financial interest holder in the medical marijuana business or retail marijuana business; and

(d) Any indirect financial interest holder that holds two or more indirect financial interests in the medical marijuana business or retail marijuana business or that is contributing over fifty percent of the operating capital of the medical marijuana business or retail marijuana business.

(2) The state licensing authority may request that the medical marijuana business or retail marijuana business disclose the following:

(a) Each beneficial owner and affiliate of an applicant, medical marijuana business or retail marijuana business, or controlling beneficial owner that is not a publicly traded corporation or a qualified private fund; and

(b) Each affiliate of a controlling beneficial owner that is a qualified private fund.

(3) For reasonable cause, the state licensing authority may require disclosure of:

(a) A complete and accurate list of each nonobjecting beneficial interest owner of an applicant, medical marijuana business or retail marijuana business, or controlling beneficial owner that is a publicly traded corporation;

(b) Passive beneficial owners of the medical marijuana business or retail marijuana business, and for any passive beneficial owner that is not a natural person, the members of the board of directors, general partners, managing members, or managers and ten percent or more owners of the passive beneficial owner;

(c) A list of each beneficial owner in a qualified private fund that is a controlling beneficial owner;

(d) All indirect financial interest holders of the medical marijuana business or retail marijuana business, and for any indirect financial interest holder that is not a natural person and ten percent or more beneficial owners of the indirect financial interest holder.

(4) An applicant or medical marijuana business or retail marijuana business that is not a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, indirect financial interest holders, and qualified institutional investors are not persons prohibited pursuant to section 44-10-307, or otherwise restricted from holding an interest under this article 10. An applicant's or medical marijuana

business's or retail marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the state licensing authority.

(5) An applicant or medical marijuana business or retail marijuana business that is a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its nonobjecting passive beneficial owners, indirect financial interest holders, and qualified institutional investors are not persons prohibited pursuant to section 44-10-307, or otherwise restricted from holding an interest under this article 10. An applicant's or medical marijuana business's or retail marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the state licensing authority.

(6) This section does not restrict the state licensing authority's ability to reasonably request information or records at renewal or as part of any other investigation following initial licensure of a medical marijuana business or retail marijuana business.

(7) The securities commissioner may, by rule or order, require additional disclosures if such information is full and fair with respect to the investment or in the interest of investor protection.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2868, § 5, effective January 1, 2020.

44-10-310. Business owner and financial interest suitability requirements. (1) This section applies to all persons required to submit a finding of suitability.

(2) Any person intending to become a controlling beneficial owner of any medical marijuana business or retail marijuana business, except as otherwise provided in section 44-10-312 (4), shall first submit a request to the state licensing authority for a finding of suitability or an exemption from an otherwise required finding of suitability.

(3) For reasonable cause, any other person that was disclosed or that should have been disclosed pursuant to section 44-10-309, including but not limited to a passive beneficial owner, shall submit a request for a finding of suitability.

(4) Failure to provide all requested information in connection with a request for a finding of suitability is grounds for denial of that finding of suitability.

(5) Failure to receive all required findings of suitability is grounds for denial of an application or for suspension, revocation, or other sanction against the license by the state licensing authority. For initial applications, the finding of suitability shall be required prior to submitting the application for licensure.

(6) Any person required to obtain a finding of suitability shall do so on forms provided by the state licensing authority, and the forms must contain such information as the state licensing authority may require. Each suitability application must be verified by the oath or affirmation of the persons prescribed by the state licensing authority.

(7) A person requesting a finding of suitability shall provide the state licensing authority with a deposit to cover the direct and indirect costs of any investigation necessary to determine any required finding of suitability unless otherwise established by rule. The state licensing authority may make further rules regarding the deposit and direct and indirect costs that must be billed against the deposit, unless otherwise established by rule.

(8) When determining whether a person is suitable or unsuitable for licensure, the state licensing authority may consider the person's criminal character or record, licensing character or record, or financial character or record.

(9) A person that would otherwise be required to obtain a finding of suitability may request an exemption from the state licensing authority as determined by rule.

(10) Absent reasonable cause, the state licensing authority shall approve or deny a request for a finding of suitability within one hundred twenty days from the date of submission of the request for such finding.

(11) The state licensing authority may deny, suspend, revoke, fine, or impose other sanctions against a person's license issued pursuant to this article 10 if the state licensing authority finds the person or the person's controlling beneficial owner, passive beneficial owner, or indirect financial interest holder to be unsuitable pursuant to this section.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2870, § 5, effective January 1, 2020.

44-10-311. Restrictions for applications for new licenses. (1) The state or a local licensing authority shall not receive or act upon an application for the issuance of a state or local medical marijuana business license pursuant to this article 10:

(a) If the application for a state or local license concerns a particular location that is the same as or within one thousand feet of a location for which, within the two years immediately preceding the date of the application, the state or a local licensing authority denied an application for the same class of license due to the nature of the use or other concern related to the location;

(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 of the premises;

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

(d) (I) If the building in which medical marijuana is to be sold is located within one thousand feet of a school; an alcohol or drug treatment facility; the principal campus of a college, university, or seminary; or a residential child care facility. The provisions of this section do 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, nor do the provisions of this section apply to an existing licensed premises on land owned by the state or apply to a license in effect and actively doing business before said principal campus was constructed. The local licensing authority of a city and county, by rule or regulation; the governing body of a municipality, by ordinance; and the governing body of a county, by resolution, may vary the distance restrictions imposed by this subsection (1)(d)(I) for a license or may eliminate one or more types of schools, campuses, or facilities from the application of a distance restriction established by or pursuant to this subsection (1)(d)(I).

(II) The distances referred to in this subsection (1)(d) are to be computed by direct measurement from the nearest property line of the land used for a school or campus to the nearest portion of the building in which medical marijuana is to be sold, using a route of direct pedestrian access.

(III) In addition to the requirements of section 44-10-304 (2), the local licensing authority shall consider the evidence and make a specific finding of fact as to whether the building in which the medical marijuana is to be sold is located within any distance restrictions established by or pursuant to this subsection (1)(d).

(2) The state licensing authority shall not approve an application for the issuance of a state retail marijuana business license pursuant to this article 10 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 of the premises.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2872, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-11-308 and 44-12-307 as they existed prior to 2020.

44-10-312. Transfer of ownership. (1) A state or local license granted under the provisions of this article 10 is not transferable except as provided in this section, but this section does not prevent a change of location as provided in section 44-10-313 (13).

(2) For a transfer of ownership involving a controlling beneficial owner, a license holder shall apply 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 state and local licensing authorities shall consider only the requirements of this article 10, any rules promulgated by the state licensing authority, and any other local restrictions. The local licensing authority or local jurisdiction may hold a hearing on the application for transfer of ownership. The local licensing authority or local jurisdiction shall not hold a hearing pursuant to this subsection (2) until the local licensing authority or local jurisdiction has posted a notice of hearing in the manner described in section 44-10-303 (2) on the licensed premises for a period of ten days and has provided notice of the hearing to the applicant at least ten days prior to the hearing. Any transfer of ownership hearing by the state licensing authority must be held in compliance with the requirements specified in section 44-10-303.

(3) For a transfer of ownership involving a passive beneficial owner, the license holder shall notify the state licensing authority on forms prepared and furnished by the state licensing authority within forty-five days to the extent disclosure is required by section 44-10-309.

(4) A person that becomes a controlling beneficial owner of a publicly traded corporation that is a medical marijuana business or retail marijuana business or that becomes a beneficial owner, through direct or indirect ownership of a controlling beneficial owner, of ten percent or more of a medical marijuana business or retail marijuana business that is a publicly traded corporation must disclose the information required by section 44-10-309 and apply to the state licensing authority for a finding of suitability or exemption from a finding of suitability pursuant to section 44-10-310 within forty-five days after becoming such a controlling beneficial owner. A medical marijuana business or retail marijuana business shall notify each person that is subject to this subsection (4) of its requirements as soon as the medical marijuana business or retail marijuana business becomes aware of the beneficial ownership triggering the requirement, provided that the obligations of the person subject to this subsection (4) are independent of, and

unaffected by, the medical marijuana business's or retail marijuana business's failure to give the notice.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2873, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-11-309 and 44-12-308 as they existed prior to 2020.

44-10-313. Licensing in general. (1) (a) This article 10 authorizes a county, municipality, or city and county to prohibit the operation of a medical marijuana business and to enact reasonable regulations or other restrictions applicable to medical marijuana businesses based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana that are more restrictive than this article 10.

(b) Local jurisdictions are authorized to adopt and enforce regulations for retail marijuana businesses that are at least as restrictive as the provisions of this article 10 and any rule promulgated pursuant to this article 10.

(2) (a) A medical marijuana business may not operate until it has been licensed by the local licensing authority and the state licensing authority pursuant to this article 10. If the state licensing authority issues the applicant a state license and the local licensing authority subsequently denies the applicant a license, the state licensing authority shall consider the local licensing authority denial as a basis for the revocation of the state-issued license. In connection with a license, the applicant shall provide a complete and accurate list of all controlling beneficial owners, passive beneficial owners to the extent disclosure is required by section 44-10-309, and employees who manage, own, or are otherwise substantially associated with the operation and shall provide a complete and accurate application as required by the state licensing authority.

(b) A retail marijuana business may not operate until it is licensed by the state licensing authority pursuant to this article 10 and approved by the local jurisdiction. If an application is denied by the local licensing authority, the state licensing authority shall revoke the state-issued license. In connection with a license, the applicant shall provide a complete and accurate application as required by the state licensing authority.

(3) A medical marijuana business that is not a publicly traded corporation shall notify the state licensing authority in writing within ten days after a controlling beneficial owner, passive beneficial owner, or manager ceases to work at, manage, own, or otherwise be associated with the operation. The controlling beneficial owner, passive beneficial owner, or manager shall surrender to the state licensing authority any identification card that may have been issued by the state licensing authority on or before the date of the notification.

(4) A medical marijuana business or retail marijuana business that is not a publicly traded corporation shall notify the state licensing authority in writing of the name, address, and date of birth of a controlling beneficial owner, passive beneficial owner, or manager before the new controlling beneficial owner, passive beneficial owner, or manager begins managing or associating with the operation. Any controlling beneficial owner, passive beneficial owner, manager, or employee must pass a fingerprint-based criminal history record check as required by

the state licensing authority and obtain the required identification prior to being associated with, managing, owning, or working at the operation.

(5) (a) A medical marijuana business shall not acquire, possess, cultivate, deliver, transfer, transport, supply, or dispense marijuana for any purpose except to assist patients, as defined by section 14 (1) of article XVIII of the state constitution.

(b) A retail marijuana business shall not acquire, possess, cultivate, deliver, transfer, transport, supply, or dispense marijuana for any purpose except as authorized by section 16 of article XVIII of the state constitution and this article 10.

(6) (a) All employee licenses granted pursuant to this article 10 are valid for a period not to exceed two years after the date of issuance unless revoked or suspended pursuant to this article 10 or the rules promulgated pursuant to this article 10.

(b) All regulated marijuana business licenses and licenses granted to a controlling beneficial owner pursuant to this article 10 are valid for a period of one year after the date of issuance unless revoked or suspended pursuant to this article 10 or the rules promulgated pursuant to this article 10.

(7) Before granting a local or state license, the respective licensing authority may consider, except where this article 10 specifically provides otherwise, the requirements of this article 10 and any rules promulgated pursuant to this article 10, and all other reasonable restrictions that are or may be placed upon the licensee by the licensing authority. With respect to a second or additional license for the same medical marijuana business licensee or the same owner of another licensed medical marijuana business pursuant to this article 10, each licensing authority shall consider the effect on competition of granting or denying the additional licenses to such licensee and shall not approve an application for a second or additional license that would have the effect of restraining competition.

(8) (a) Each license issued under this article 10 is separate and distinct. It is unlawful for a person to exercise any of the privileges granted under a license other than the license that the person holds or for a licensee to allow any other person to exercise the privileges granted under the licensee's license. A separate license is required for each specific business or business entity and each geographical location.

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

(9) (a) The licenses provided pursuant to this article 10 must specify the date of issuance, the period of licensure, the name of the licensee, and the premises licensed. The licensee shall conspicuously place the license at all times on the licensed premises.

(b) A local licensing authority shall not transfer location of or renew a license to sell medical marijuana until the applicant for the license provides verification that a license was issued and granted by the state licensing authority for the previous license term. The state licensing authority shall not transfer location of or renew a state license until the applicant provides verification that a license was issued and granted by the local licensing authority for the previous license term.

(10) In computing any period of time prescribed by this article 10, the day of the act, event, or default from which the designated period of time begins to run is not included. Saturdays, Sundays, and legal holidays are counted as any other day.

(11) (a) Except for a publicly traded corporation, a medical marijuana business licensee shall report each transfer or change of financial interest in the license to the state and local licensing authorities thirty days prior to any transfer or change pursuant to section 44-10-312. Except for a publicly traded corporation, a report is required for transfers of an owner's interest of any entity regardless of size.

(b) Except for a publicly traded corporation, a retail marijuana business licensee shall report each transfer or change of financial interest in the license to the state and local licensing authorities and receive approval prior to any transfer or change pursuant to section 44-10-312. Except for a publicly traded corporation, a report is required for transfers of an owner's interest of any entity regardless of size.

(12) Each licensee shall manage the licensed premises himself or herself or employ a separate and distinct manager on the premises and shall report the name of the manager to the state and local licensing authorities. The licensee shall report any change in manager to the state and local licensing authorities prior to the change pursuant to subsection (4) of this section.

(13) (a) A licensee may move the permanent location to any other place in Colorado once permission to do so is granted by the state and local licensing authorities or local jurisdiction provided for in this article 10. Upon receipt of an application for change of location, the state licensing authority shall, within seven days, submit a copy of the application to the local licensing authority or local jurisdiction to determine whether the transfer complies with all local restrictions on change of location.

(b) In permitting a change of location, the state and local licensing authorities or local jurisdiction shall consider all reasonable restrictions that are or may be placed upon the new location by the governing board or local licensing authority of the municipality, city and county, or county, and any such change in location must be in accordance with all requirements of this article 10 and rules promulgated pursuant to this article 10.

(c) (I) A medical marijuana cultivation facility or retail marijuana cultivation facility that has obtained an approved change of location from the state licensing authority may operate one license at two geographical locations for the purpose of transitioning operations from one location to another if:

(A) The total plants cultivated at both locations do not exceed any plant count limit imposed on the license by this article 10 and any rules promulgated by the state licensing authority;

(B) The licensed premises of both geographical locations comply with all surveillance, security, and inventory tracking requirements imposed by this article 10 and any rules promulgated by the state licensing authority;

(C) Both the transferring location and the receiving location track all plants virtually in transition in the seed-to-sale tracking system to ensure proper tracking for taxation and tracking purposes;

(D) Operation at both geographical locations does not exceed one hundred eighty days, unless for good cause shown, the one-hundred-eighty-day deadline may be extended for an additional one hundred twenty days; and

(E) The medical marijuana cultivation facility or retail marijuana cultivation facility licensee obtains the proper state permit and local permit or license. If the change of location is within the same local jurisdiction, the licensee must first obtain a transition permit from the state licensing authority and, if required by the local jurisdiction, a transition permit or other form of

approval from the local licensing authority or local jurisdiction. If the change of location is to a different local jurisdiction, the licensee must first obtain a license from the local licensing authority or local jurisdiction where it intends to locate, a transition permit from the state licensing authority, and, if required by the local jurisdiction, a transition permit or other form of approval from the local licensing authority or local jurisdiction for the local jurisdiction where it intends to locate.

(II) Conduct at either location may be the basis for fine, suspension, revocation, or other sanction against the license.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2873, § 5, effective January 1, 2020. **L. 2020:** (6) amended, (HB 20-1080), ch. 81, p. 329, § 1, effective September 14.

Editor's note: This section is similar to former §§ 44-11-310 and 44-12-309 as they existed prior to 2020.

44-10-314. License renewal. (1) Ninety days prior to the expiration date of an existing medical marijuana business or retail marijuana business license, the state licensing authority shall notify the licensee of the expiration date by first-class mail at the licensee's address of record with the state licensing authority. A licensee must apply for the renewal of an existing license to the local licensing authority within the time frame required by local ordinance or regulation and to the state licensing authority prior to the expiration of the license. The licensee shall provide the state licensing authority with information establishing that the application complies with all local requirements for the renewal of a license. If a licensee submits a timely and sufficient renewal application, the licensee may continue to operate until the application is finally acted upon by the state licensing authority. The local licensing authority may hold a hearing on the application for renewal of a medical marijuana business license only if the licensee has had complaints filed against it, has a history of violations, or there are allegations against the licensee that would constitute good cause. The local licensing authority shall not hold a renewal hearing provided for by this subsection (1) for a medical marijuana store until it has posted a notice of hearing on the licensed medical marijuana store premises in the manner described in section 44-10-303 (2) for a period of ten days and provided notice to the applicant at least ten days prior to the hearing. The local licensing authority may refuse to renew any license for good cause, subject to judicial review.

(2) The state licensing authority may require an additional fingerprint request when there is a demonstrated investigative need.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2877, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-11-311 (1) and (2) and 44-12-310 (1) as they existed prior to 2020.

44-10-315. Inactive licenses. The state or local licensing authority, in its discretion, may revoke or elect not to renew any license if it determines that the licensed premises have been inactive, without good cause, for at least one year.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2879, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-11-312 and 44-12-311 as they existed prior to 2020.

44-10-316. Unlawful financial assistance. (1) The state licensing authority, by rule, shall require a complete disclosure pursuant to section 44-10-309 in connection with each license issued under this article 10.

(2) This section is intended to prohibit and prevent the control of the outlets for the sale of regulated marijuana and regulated marijuana products by a person or party other than the persons licensed pursuant to the provisions of this article 10.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2879, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-11-313 and 44-12-312 as they existed prior to 2020.

PART 4

LICENSE TYPES

44-10-401. Classes of licenses. (1) For the purpose of regulating the cultivation, manufacture, distribution, hospitality, and sale of regulated marijuana and regulated marijuana products, 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 classes listed in subsection (2) of this section, subject to the provisions and restrictions provided by this article 10.

(2) (a) The following are medical marijuana licenses:

(I) Medical marijuana store license;

(II) Medical marijuana cultivation facility license;

(III) Medical marijuana products manufacturer license;

(IV) Medical marijuana testing facility license;

(V) Medical marijuana transporter license;

(VI) Medical marijuana business operator license; and

(VII) Marijuana research and development license.

(b) The following are retail marijuana licenses:

(I) Retail marijuana store license;

(II) Retail marijuana cultivation facility license;

(III) Retail marijuana products manufacturer license;

(IV) Retail marijuana testing facility license;

(V) Retail marijuana transporter license;

(VI) Retail marijuana business operator license;

(VII) Accelerator cultivator license;

(VIII) Accelerator manufacturer license;

(IX) Marijuana hospitality business license;

(X) Retail marijuana hospitality and sales business license; and

(XI) Accelerator store license.

(c) The following are regulated marijuana licenses or registrations: Occupational licenses and registrations for owners, managers, operators, employees, contractors, and other support staff employed by, working in, or having access to restricted areas of the licensed premises, as determined by the state licensing authority. The state licensing authority may take any action with respect to a registration or permit pursuant to this article 10 as it may with respect to a license pursuant to this article 10, in accordance with the procedures established pursuant to this article 10.

(3) (a) Prior to accepting a court appointment as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or any other similarly situated person to take possession of, operate, manage, or control a licensed medical marijuana business, the proposed appointee shall certify to the court that the proposed appointee is not prohibited from being issued a medical marijuana license pursuant to section 44-10-307 (1). Within the time frame established by rules promulgated by the state licensing authority pursuant to section 44-10-203 (2)(q), an appointee shall notify the state and local licensing authorities of the appointment and shall apply to the state licensing authority for a finding of suitability.

(b) Upon notification of an appointment required by subsection (3)(a) of this section, the state licensing authority shall issue a temporary appointee registration to the appointee effective as of the date of the appointment. Pursuant to sections 24-4-104, 44-10-202 (1)(b), and 44-10-901, the appointee's temporary appointee registration may be suspended, revoked, or subject to other sanction if the state licensing authority finds the appointee to be unsuitable or if the appointee fails to comply with this article 10, the rules promulgated pursuant thereto, or any order of the state licensing authority. If an appointee's temporary appointee registration is suspended or revoked, the appointee shall immediately cease performing all activities for which a license is required by this article 10. For purposes of section 44-10-901 (1), the appointee is deemed an agent of the licensed medical marijuana business.

(c) The appointee shall inform the court of any action taken against the temporary appointee registration by the state licensing authority pursuant to section 24-4-104 or 44-10-901 within two business days of any such action.

(d) Unless otherwise permitted by this article 10 and rules promulgated pursuant to this article 10, a person shall not take possession of, operate, manage, or control a medical marijuana business on behalf of another except by court appointment and in accordance with this subsection (3) and rules promulgated pursuant thereto.

(4) All persons licensed pursuant to this article 10 shall collect sales tax on all sales made pursuant to the licensing activities.

(5) A state chartered bank or a credit union may loan money to any person licensed pursuant to this article 10 for the operation of a licensed medical or retail marijuana business.

(6) For a person applying to be a social equity licensee, the state licensing authority shall not deny an application on the sole basis of the prior marijuana conviction of the applicant and at its discretion may waive other requirements.

(7) A person may not operate a license issued pursuant to this article 10 at the same location as a license or permit issued pursuant to article 3, 4, or 5 of this title 44.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2879, § 5, effective January 1, 2020; (1) and (2)(b)(VII) amended and (2)(b)(IX), (2)(b)(X), and (7) added, (HB 19-1230), ch. 340, p. 3120, § 16, effective January 1, 2020. **L. 2020:** (2)(b)(VII), (2)(b)(VIII), (2)(b)(IX), (2)(b)(X), and (6) amended and (2)(b)(XI) added, (HB 20-1424), ch. 184, p. 845, § 6, effective September 14; (2)(c) amended, (HB 20-1080), ch. 81, p. 329, § 2, effective September 14; (5) amended, (HB 20-1217), ch. 93, p. 370, § 5, effective September 14. **L. 2021:** (1) and (2)(c) amended, (HB 21-1178), ch. 130, p. 525, § 6, effective September 7.

Editor's note: This section is similar to former §§ 44-11-401 and 44-12-401 as they existed prior to 2020.

PART 5

MEDICAL MARIJUANA LICENSE TYPES

44-10-501. Medical marijuana store license. (1) (a) A medical marijuana store license may be issued only to a person selling medical marijuana pursuant to the terms and conditions of this article 10.

(b) **[*Editor's note: This version of subsection (1)(b) is effective until January 1, 2022.*]** The medical marijuana store shall track all of its medical marijuana and medical marijuana products from the point that they are transferred from a medical marijuana cultivation facility or medical marijuana products manufacturer to the point of sale.

(b) **[*Editor's note: This version of subsection (1)(b) is effective January 1, 2022.*]** (I) The medical marijuana store shall track all of its medical marijuana and medical marijuana products from the point that they are transferred from a medical marijuana cultivation facility or medical marijuana products manufacturer to the point of sale. When completing a patient sales transaction, the medical marijuana store shall immediately record each sales transaction in the seed-to-sale inventory tracking system in order to allow the seed-to-sale inventory tracking system to:

(A) Continuously monitor entry of patient data to identify discrepancies with daily authorized quantity limits and THC potency authorizations;

(B) Access and retrieve real-time sales data based on patient identification number; and

(C) Respond with a user error message if a sale to a patient or caregiver will exceed the patient's daily authorized quantity limit for that business day or THC potency authorization.

(II) In the event of a temporary outage of the seed-to-sale tracking system, a medical marijuana store may rely upon the physician's certification required by section 25-1.5-106 and is not responsible for any unintentional sale in excess of the authorized quantity limit that occurs during the outage, provided however that the medical marijuana store uploads its sales data into the seed-to-sale tracking system as soon as reasonably practical after the end of the outage.

(III) The data collected pursuant to this subsection (1)(b), including any personal identifying patient information, is subject to the confidentiality requirements of section 44-10-204.

(2) (a) Notwithstanding the provisions of this section, a medical marijuana store licensee may also sell medical marijuana products that are prepackaged and labeled so as to clearly indicate all of the following:

(I) That the product contains medical marijuana;

(II) That the product is manufactured without any regulatory oversight for health, safety, or efficacy; and

(III) That there may be health risks associated with the consumption or use of the product.

(b) A medical marijuana store licensee may contract with a medical marijuana products manufacturer licensee for the manufacture of medical marijuana products upon a medical marijuana products manufacturer licensee's licensed premises.

(3) (a) Every person selling medical marijuana as provided for in this article 10 shall sell only medical marijuana acquired from a medical marijuana cultivation facility licensee, medical marijuana products manufacturer licensee, or another medical marijuana store.

(b) A medical marijuana store may not sell more than two ounces of medical marijuana to a patient or caregiver; except that a medical marijuana store may sell more than two ounces to a patient or caregiver who has been recommended an extended ounce count by his or her recommending physician in accordance with regulations adopted by the state licensing authority.

(c) In addition to medical marijuana, a medical marijuana store may sell no more than six immature plants to a patient; except that a medical marijuana store may sell more than six immature plants, but may not exceed half the recommended plant count, to a patient who has been recommended an expanded plant count by his or her recommending physician in accordance with regulations adopted by the state licensing authority. A medical marijuana store may sell immature plants to a primary caregiver, another medical marijuana store, or a medical marijuana products manufacturer pursuant to rules promulgated by the state licensing authority.

(d) A medical marijuana store may sell medical marijuana to another medical marijuana store, a medical marijuana cultivation facility, or a medical marijuana products manufacturer pursuant to rules promulgated by the state licensing authority.

(e) (I) A medical marijuana store that sells an industrial hemp product shall ensure that the industrial hemp product has passed all testing required by rules promulgated by the state licensing authority pursuant to section 44-10-203 (2)(d). Prior to taking possession of the industrial hemp product, a medical marijuana store shall verify the industrial hemp product passed all testing required for medical marijuana products at a licensed medical marijuana testing facility and that the person transferring the industrial hemp product has received a registration from the department of public health and environment pursuant to section 25-5-426.

(II) Absent sampling and testing standards established by the department of public health and environment for the sampling and testing of an industrial hemp product, a person transferring an industrial hemp product to a medical marijuana store pursuant to this section shall comply with sampling and testing standards consistent with those established by the state licensing authority pursuant to this article 10. The state licensing authority shall report to the department of public health and environment any investigations or findings of violations of this section by a person registered pursuant to section 25-5-426.

(f) The provisions of this subsection (3) do not apply to medical marijuana products.

(g) **[*Editor's note: This subsection (3)(g) is effective January 1, 2022.*]** When completing a sale of medical marijuana concentrate, the medical marijuana store shall provide the patient with the tangible educational resource created by the state licensing authority pursuant to section 44-10-202 (8) regarding the use of medical marijuana concentrate.

(4) **[*Editor's note: This version of subsection (4) is effective until January 1, 2022.*]** Prior to initiating a sale, the employee of the medical marijuana store making the sale shall verify that the purchaser has a valid registry identification card issued pursuant to section 25-1.5-106 or a copy of a current and complete new application for the medical marijuana registry administered by the department of public health and environment that is documented by proof as having been submitted to the department of public health and environment within the preceding thirty-five days, and a valid picture identification card that matches the name on the registry identification card. A purchaser may not provide a copy of a renewal application in order to make a purchase at a medical marijuana store. A purchaser may only make a purchase using a copy of his or her application from 8 a.m. to 5 p.m., Monday through Friday. If the purchaser presents a copy of his or her application at the time of purchase, the employee must contact the department of public health and environment to determine whether the purchaser's application has been denied. The employee shall not complete the transaction if the purchaser's application has been denied. If the purchaser's application has been denied, the employee is authorized to confiscate the purchaser's copy of the application and the documentation of proof of submittal, if possible, and shall, within seventy-two hours after the confiscation, turn it over to the department of public health and environment or a local law enforcement agency. The failure to confiscate the copy of the application and document of proof of submittal or to turn it over to the state health department or a state or local law enforcement agency within seventy-two hours after the confiscation is not a criminal offense.

(4) **[*Editor's note: This version of subsection (4) is effective January 1, 2022.*]** (a) Prior to initiating a sale, the employee of the medical marijuana store making the sale shall verify:

(I) That the purchaser has a valid registry identification card issued pursuant to section 25-1.5-106 or a copy of a current and complete new application for the medical marijuana registry administered by the department of public health and environment that is documented by proof as having been submitted to the department of public health and environment within the preceding thirty-five days;

(II) A valid picture identification card that matches the name on the registry identification card; and

(III) That the patient's or caregiver's purchase will not exceed the patient's daily authorized quantity limit or the amount listed on the patient's certification, whichever is greater, and the purchase aligns with the purchase authority information in the seed-to-sale tracking system.

(b) A purchaser may not provide a copy of a renewal application in order to make a purchase at a medical marijuana store. A purchaser may only make a purchase using a copy of the purchaser's application from 8 a.m. to 5 p.m., Monday through Friday. If the purchaser presents a copy of the purchaser's application at the time of purchase, the employee must contact the department of public health and environment to determine whether the purchaser's application has been denied. The employee shall not complete the transaction if the purchaser's application has been denied. If the purchaser's application has been denied, the employee is

authorized to confiscate the purchaser's copy of the application and the documentation of proof of submittal, if possible, and shall, within seventy-two hours after the confiscation, turn it over to the department of public health and environment or a local law enforcement agency. The failure to confiscate the copy of the application and document of proof of submittal or to turn it over to the state health department or a state or local law enforcement agency within seventy-two hours after the confiscation is not a criminal offense.

(c) If the patient seeks to purchase more than the statutorily allowed daily authorized limit of concentrate for the patient's age group, the patient shall present the patient's certification at the time of purchase and the medical marijuana store shall not exceed statutorily allowed quantities or the quantities specified in the certification.

(5) Transactions for the sale of medical marijuana or a medical marijuana product at a medical marijuana store may be completed by using an automated machine that is in a restricted access area of the store if the machine complies with the rules promulgated by the state licensing authority regarding the transaction of sale of product at a medical marijuana store and the transaction complies with subsection (4) of this section.

(6) A medical marijuana store may provide, except as required by section 44-10-203 (2)(d), a sample of its products to a facility that has a medical marijuana testing facility license from the state licensing authority for testing and research purposes. A medical marijuana store shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the results of the testing.

(7) (Deleted by amendment, L. 2019.)

(8) A licensed medical marijuana store shall comply with all provisions of article 34 of title 24, as the provisions relate to persons with disabilities.

(9) Notwithstanding the provisions of section 44-10-701 (3)(g), a medical marijuana store may sell below cost or donate to a patient who has been designated indigent by the state health agency or who is in hospice care:

(a) Medical marijuana; or

(b) No more than six immature plants; except that a medical marijuana store may sell or donate more than six immature plants, but may not exceed half the recommended plant count, to a patient who has been recommended an expanded plant count by his or her recommending physician; or

(c) Medical marijuana products to patients.

(10) (a) **[*Editor's note: This version of subsection (10)(a) is effective until January 1, 2022.*]** Except as provided in subsection (10)(b) of this section, a medical marijuana store shall not sell, individually or in any combination, more than two ounces of medical marijuana flower, forty grams of medical marijuana concentrate, or medical marijuana products containing a combined total of twenty thousand milligrams to a patient in a single business day.

(a) **[*Editor's note: This version of subsection (10)(a) is effective January 1, 2022.*]** Except as provided in subsection (10)(b) of this section, a medical marijuana store shall not sell, individually or in any combination, more than two ounces of medical marijuana flower, eight grams of medical marijuana concentrate, or medical marijuana products containing a combined total of twenty thousand milligrams to a patient in a single business day.

(b) (I) A medical marijuana store may sell medical marijuana flower in an amount that exceeds the sales limitation established pursuant to subsection (10)(a) of this section only to a

patient who has a physician recommendation for more than two ounces of flower and is registered with the medical marijuana store.

(II) **[*Editor's note: This version of subsection (10)(b)(II) is effective until January 1, 2022.*]** A medical marijuana store may sell medical marijuana concentrate or medical marijuana products in an amount that exceeds the sales limitation pursuant to subsection (10)(a) of this section only to a patient who has a physician exemption from the sales limitation and is registered with the medical marijuana store. A physician making medical marijuana recommendations for a debilitating medical condition or disabling medical condition pursuant to article 1.5 of title 25 may exempt a patient from the medical marijuana concentrate or medical marijuana products sales limitation established in subsection (10)(a) of this section. A physician providing an exemption shall document and maintain the exemption in the physician's record-keeping system for the patient and shall provide written documentation to the patient to allow a medical marijuana store to verify the exemption. The written documentation of the exemption provided to a patient must, at a minimum, include the patient's name and registry number, the physician's name, valid license number, physical business address, any electronic mailing address, and phone number. The state health agency may require a physician providing an exemption to the sales limitation to document the exemption in the medical marijuana registry.

(II) **[*Editor's note: This version of subsection (10)(b)(II) is effective January 1, 2022.*]** A medical marijuana store may sell medical marijuana products in an amount that exceeds the sales limitation pursuant to subsection (10)(a) of this section only to a patient who has a physician exemption from the sales limitation and is registered with the medical marijuana store. A physician making medical marijuana recommendations for a debilitating medical condition or disabling medical condition pursuant to article 1.5 of title 25 may exempt a patient from the medical marijuana concentrate or medical marijuana products sales limitation established in subsection (10)(a) of this section. A physician providing an exemption shall document and maintain the exemption in the physician's record-keeping system for the patient and shall provide written documentation to the patient to allow a medical marijuana store to verify the exemption. The written documentation of the exemption provided to a patient must, at a minimum, include the patient's name and registry number, the physician's name, valid license number, physical business address, any electronic mailing address, and phone number. The state health agency may require a physician providing an exemption to the sales limitation to document the exemption in the medical marijuana registry.

(III) **[*Editor's note: This subsection (10)(b)(III) is effective January 1, 2022.*]** (A) A medical marijuana store or medical marijuana stores shall not sell any more than eight grams of medical marijuana concentrate to a patient in a single day; except that this subsection (10)(b) does not apply if the patient is homebound, if the physician's certification specifically states that the patient needs more than eight grams of medical marijuana concentrate, if it would be a significant physical or geographic hardship for the patient to make a daily purchase, or if the patient had a registry identification card prior to eighteen years of age.

(B) Notwithstanding the provisions of subsection (10)(b)(III)(A) of this section, if the patient is eighteen to twenty years of age, a medical marijuana store or medical marijuana stores shall not sell any more than two grams of medical marijuana concentrate to a patient in a single day; except that this subsection (10)(b) does not apply if the patient is homebound, if the physician's certification specifically states the patient needs more than two grams of medical marijuana concentrate, if it would be a significant physical or geographic hardship for the patient

to make a daily purchase, or if the patient had a registry identification card prior to eighteen years of age.

(c) The state licensing authority may promulgate rules to establish certain exemptions to the medical marijuana concentrate or medical marijuana products sales limitation and may establish record-keeping requirements for medical marijuana stores engaging in sales transactions pursuant to any exemption to the sales limitation. When establishing any exemptions, the state licensing authority shall consult with members of the medical marijuana patient community and physicians making medical marijuana recommendations pursuant to section 14 of article XVIII of the state constitution and article 1.5 of title 25.

(d) A medical marijuana store shall not engage in sales transactions to the same patient during the same business day when the medical marijuana store or its employee knows or reasonably should have known that the sales transaction would result in the patient possessing more than the sales limitation established by subsection (10)(a) of this section.

(11) (a) (I) There is authorized a medical marijuana delivery permit to a medical marijuana store license authorizing the permit holder to deliver medical marijuana and medical marijuana products.

(II) A medical marijuana delivery permit is valid for one year and may be renewed annually upon renewal of the medical marijuana store license.

(III) A medical marijuana delivery permit issued pursuant to this section applies to only one medical marijuana store; except that a single medical marijuana delivery permit may apply to multiple medical marijuana stores provided that the medical marijuana stores are in the same local jurisdiction and are identically owned, as defined by the state licensing authority for purposes of this section.

(IV) The state licensing authority may issue a medical marijuana delivery permit to a qualified applicant, as determined by the state licensing authority, that holds a medical marijuana store license issued pursuant to this article 10. The state licensing authority has discretion in determining whether an applicant is qualified to receive a medical marijuana delivery permit. A medical marijuana delivery permit issued by the state licensing authority is deemed a revocable privilege of a licensed medical marijuana store. A violation related to a medical marijuana delivery permit is grounds for a fine or suspension or revocation of the delivery permit or medical marijuana store license.

(b) A medical marijuana store licensee shall not make deliveries of medical marijuana or medical marijuana products to patients or parents or guardians while also transporting medical marijuana or medical marijuana products between licensed premises in the same vehicle.

(c) A licensed medical marijuana store shall charge a one-dollar surcharge on each delivery. The licensed medical marijuana store shall remit the surcharges collected on a monthly basis to the municipality where the licensed medical marijuana store is located, or to the county if the licensed medical marijuana store is in an unincorporated area, for local law enforcement costs related to marijuana enforcement. Failure to comply with this subsection (11)(c) may result in nonrenewal of the medical marijuana delivery permit.

(d) A licensed medical marijuana store with a medical marijuana delivery permit may deliver medical marijuana and medical marijuana products only to the patient or parent or guardian who placed the order and who:

(I) Is a current registrant of the medical marijuana patient registry and is twenty-one years of age or older or the parent or guardian of a patient who is also the patient's primary caregiver;

(II) Receives the delivery of medical marijuana or medical marijuana products pursuant to rules; and

(III) Possesses an acceptable form of identification.

(e) Any person delivering medical marijuana or medical marijuana products must possess a valid occupational license and be a current employee of the licensed medical marijuana store or medical marijuana transporter licensee with a valid medical marijuana delivery permit; must have undergone training regarding proof-of-age identification and verification, including all forms of identification that are deemed acceptable by the state licensing authority; and must have any other training required by the state licensing authority.

(f) In accordance with this subsection (11) and rules adopted to implement this subsection (11), a licensed medical marijuana store with a valid medical marijuana delivery permit may:

(I) Receive an order by electronic or other means from a patient or the parent or guardian for the purchase and delivery of medical marijuana or medical marijuana products. When using an online platform for marijuana delivery, the platform must require the patient or parent or guardian to choose a medical marijuana store before viewing the price.

(II) Deliver medical marijuana and medical marijuana products not in excess of the amounts established by the state licensing authority;

(III) Deliver only to a patient or a parent or guardian at the address provided in the order;

(IV) Deliver no more than once per day to the same patient or parent or guardian or residence;

(V) (A) Deliver only to private residences.

(B) For purposes of this section, "private residences" means private premises where a person lives, such as a private dwelling place or place of habitation, and specifically excludes any premises located at a school or on the campus of an institution of higher education, or any other public property.

(VI) Deliver medical marijuana or medical marijuana products only by a motor vehicle that complies with this section and the rules promulgated pursuant to this section and section 44-10-203 (2)(dd); and

(VII) Use an employee to conduct deliveries, or contract with a medical marijuana transporter that has a valid medical marijuana delivery permit to conduct deliveries on its behalf, from its medical marijuana store or its associated state licensing authority-authorized storage facility as defined by rule.

(g) (I) At the time of the order, the medical marijuana store shall require the patient or parent or guardian to provide information necessary to verify the patient is qualified to purchase and receive a delivery of medical marijuana and medical marijuana products pursuant to this section. The provided information must, at a minimum, include the following:

(A) The patient's name and date of birth;

(B) The registration number reflected on the patient's registry identification card issued pursuant to section 25-1.5-106;

(C) If the patient is under eighteen years of age, the name and date of birth of the parent or guardian designated as the patient's primary caregiver and, if applicable, the registration number of the primary caregiver;

(D) The address of the residence where the order will be delivered; and

(E) Any other information required by state licensing authority rule.

(II) Prior to transferring possession of the order to a patient or a parent or guardian, the person delivering the order shall inspect the patient's or parent's or guardian's identification and registry identification card issued pursuant to section 25-1.5-106, verify the possession of a valid registry identification card issued pursuant to section 25-1.5-106, and verify that the information provided at the time of the order matches the name and age on the patient's or parent's or guardian's identification.

(h) (I) Unless otherwise provided by the state licensing authority by rules promulgated pursuant to this article 10, all requirements applicable to other licenses issued pursuant to this article 10 apply to the delivery of medical marijuana and medical marijuana products, including but not limited to inventory tracking, transportation, and packaging and labeling requirements.

(II) The advertising regulations and prohibitions adopted pursuant to section 44-10-203 (3)(a) apply to medical marijuana delivery operations pursuant to this subsection (11).

(i) It is not a violation of any provision of state, civil, or criminal law for a licensed medical marijuana store or medical marijuana transporter licensee with a valid medical marijuana delivery permit, or such person who has made timely and sufficient application for the renewal of the permit, or its licensees to possess, transport, and deliver medical marijuana and medical marijuana products pursuant to a medical marijuana delivery permit in amounts that do not exceed amounts established by the state licensing authority.

(j) A local law enforcement agency may request state licensing authority reports, including complaints, investigative actions, and final agency action orders, related to criminal activity materially related to medical marijuana delivery in the law enforcement agency's jurisdiction, and the state licensing authority shall promptly provide any reports in its possession for the law enforcement agency's jurisdiction.

(k) (I) Notwithstanding any provisions of this section, delivery of medical marijuana or medical marijuana products is not permitted in any municipality, county, or city and county unless the municipality, county, or city and county, by either a majority of the registered electors of the municipality, county, or city and county voting at a regular election or special election called in accordance with the "Colorado Municipal Election Code of 1965", article 10 of title 31, or the "Uniform Election Code of 1992", articles 1 to 13 of title 1, as applicable, or a majority of the members of the governing board for the municipality, county, or city and county, vote to allow the delivery of medical marijuana or medical marijuana products pursuant to this section.

(II) An ordinance adopted pursuant to subsection (11)(k)(I) of this section may prohibit delivery of medical marijuana or medical marijuana products from a medical marijuana store that is outside a municipality's, county's, city's, or city and county's jurisdictional boundaries to an address within its jurisdictional boundaries.

(l) Notwithstanding any provisions of this section, delivery of retail marijuana or retail marijuana products is not permitted at any school or on the campus of any institution of higher education.

(m) (I) The state licensing authority shall begin issuing medical marijuana delivery permits to qualified medical marijuana store applicants on, but not earlier than, January 2, 2020.

(II) No later than January 2, 2021, the state licensing authority shall submit a report to the finance committees of the house of representatives and the senate, or any successor committees, regarding the number of medical marijuana delivery applications submitted, the number of medical marijuana delivery permits issued, any findings by the state licensing authority of criminal activity materially related to medical marijuana delivery, and any incident reports that include felony charges materially related to medical marijuana delivery, which were filed and reported to the state licensing authority by the law enforcement agency, district attorney, or other agency responsible for filing the felony charges. The state licensing authority may consult with the division of criminal justice in the department of public safety in the collection and analysis of additional crime data materially related to medical marijuana delivery.

(12) Notwithstanding any other provision of law to the contrary, a licensed medical marijuana store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2882, § 5, effective January 1, 2020 (see editor's note). **L. 2021:** (1)(b), (4), (10)(a), and (10)(b)(II) amended and (3)(g) and (10)(b)(III) added, (HB 21-1317), ch. 313, p. 1917, § 8, effective January 1, 2022.

Editor's note: (1) This section is similar to former § 44-11-402 as it existed prior to 2020.

(2) Section 38 of chapter 315 (SB 19-224), Session Laws of Colorado 2019, provides that the effective date of subsection (3)(e) is July 1, 2020.

44-10-502. Medical marijuana cultivation facility license - rules - definitions. (1) A medical marijuana cultivation facility may be issued only to a person who cultivates medical marijuana for sale and distribution to licensed medical marijuana stores, medical marijuana products manufacturer licensees, or other medical marijuana cultivation facilities.

(2) A medical marijuana cultivation facility shall track the marijuana it cultivates from seed or immature plant to wholesale purchase.

(3) A medical marijuana cultivation facility may provide, except as required by section 44-10-203 (2)(d), a sample of its products to a facility that has a medical marijuana testing facility license from the state licensing authority for testing and research purposes. A medical marijuana cultivation facility shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the testing results.

(4) Medical marijuana or medical marijuana products may not be consumed on the premises of a medical marijuana cultivation facility.

(5) (a) A medical marijuana cultivation facility licensee may provide a medical marijuana sample and a medical marijuana concentrate sample to no more than five managers employed by the licensee for purposes of quality control and product development. A medical marijuana cultivation facility licensee may designate no more than five managers per calendar month as recipients of quality control and product development samples authorized pursuant to this subsection (5)(a).

(b) Managers who receive a sample pursuant to subsection (5)(a) of this section must have a valid registry identification card issued pursuant to section 25-1.5-106 (9).

(c) A sample authorized pursuant to subsection (5)(a) of this section is limited to one gram of medical marijuana per batch as defined in rules promulgated by the state licensing authority and one-quarter gram of a medical marijuana concentrate per batch as defined in rules promulgated by the state licensing authority; except that the limit is one-half gram of medical marijuana concentrate if the intended use of the final medical marijuana product is to be used in a device that can deliver medical marijuana concentrate in a vaporized form to the person inhaling from the device.

(d) A sample authorized pursuant to subsection (5)(a) of this section must be labeled and packaged pursuant to the rules promulgated pursuant to section 44-10-203 (2)(f) and (3)(b).

(e) A sample provided pursuant to subsection (5)(a) of this section must be tracked with the seed-to-sale tracking system. Prior to a manager receiving a sample, a manager must be designated in the seed-to-sale tracking system as a recipient of quality control and product development samples. A manager receiving a sample must make a voluntary decision to be tracked in the seed-to-sale tracking system and is not a consumer pursuant to section 16 (5)(c) of article XVIII of the state constitution. The medical marijuana cultivation facility licensee shall maintain documentation of all samples and shall make the documentation available to the state licensing authority.

(f) Prior to a manager receiving a sample pursuant to subsection (5)(a) of this section, a medical marijuana cultivation facility licensee shall provide a standard operating procedure to the manager explaining requirements pursuant to this section and personal possession limits pursuant to section 18-18-406.

(g) A manager shall not:

(I) Receive more than one ounce total of medical marijuana samples or fifteen grams of medical marijuana concentrate samples per calendar month, regardless of the number of licenses that the manager is associated with; or

(II) Provide or resell the sample to another licensed employee, a customer, or any other individual.

(h) A medical marijuana cultivation facility licensee shall not:

(I) Allow a manager to consume the sample on the licensed premises; or

(II) Use the sample as a means of compensation to a manager.

(i) The state licensing authority may establish additional inventory tracking and record keeping, including additional reporting required for implementation. The medical marijuana cultivation facility licensee shall maintain the information required by this subsection (5)(i) on the licensed premises for inspection by the state and local licensing authorities.

(j) For purposes of this subsection (5) only, "manager" means an employee of the medical marijuana business who holds a valid key license or associated key license and is currently designated pursuant to state licensing authority rules as the manager of the medical marijuana business.

(6) (a) The state licensing authority may issue a centralized distribution permit to a medical marijuana cultivation facility authorizing temporary storage on its licensed premises of medical marijuana concentrate and medical marijuana products received from a medical marijuana products manufacturer for the sole purpose of transfer to the permit holder's commonly owned medical marijuana stores. Prior to exercising the privileges of a centralized distribution permit, a medical marijuana cultivation facility licensed pursuant to this section shall, at the time of application to the state licensing authority, send a copy of the application or

supplemental application for a centralized distribution permit to the local licensing authority in the jurisdiction in which the centralized distribution permit is proposed. The state licensing authority shall notify the local licensing authority of its decision regarding the centralized distribution permit.

(b) A medical marijuana cultivation facility shall not store medical marijuana concentrate or medical marijuana products pursuant to a centralized distribution permit for more than ninety days.

(c) A medical marijuana cultivation facility shall not accept any medical marijuana concentrate or medical marijuana products pursuant to a centralized distribution permit unless the medical marijuana concentrate and medical marijuana products are packaged and labeled for sale to a patient as required by rules promulgated by the state licensing authority pursuant to section 44-10-203 (2)(f) and (3)(b).

(d) All medical marijuana concentrate and medical marijuana products stored and prepared for transport on a medical marijuana cultivation facility's licensed premises pursuant to a centralized distribution permit must only be transferred to a medical marijuana cultivation facility licensee's commonly owned medical marijuana stores. All transfers of medical marijuana concentrate and medical marijuana products by a medical marijuana cultivation facility pursuant to a centralized distribution permit are without consideration.

(e) All security and surveillance requirements that apply to a medical marijuana cultivation facility apply to activities conducted pursuant to the privileges of a centralized distribution permit.

(f) A medical marijuana cultivation facility shall track all medical marijuana concentrate and medical marijuana products possessed pursuant to a centralized distribution permit in the seed-to-sale tracking system from the point they are received from a medical marijuana products manufacturer to the point of transfer to a medical marijuana cultivation facility licensee's commonly owned medical marijuana stores.

(g) For purposes of this subsection (6) only, "commonly owned" means licenses that have an ownership structure with at least one natural person with a minimum of five percent ownership in each license.

(7) A medical marijuana cultivation facility shall only obtain medical marijuana seeds or immature plants from its own medical marijuana, commonly owned from the retail marijuana of an identical direct beneficial owner, or marijuana that is properly transferred from another medical marijuana business pursuant to the inventory tracking requirements imposed by rule.

(8) Notwithstanding any other provision of law to the contrary, a licensed medical marijuana cultivation facility may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

(9) **[*Editor's note: This subsection (9) is effective July 1, 2022.*]** (a) After obtaining passing testing results, a medical marijuana cultivation facility may receive a transfer of retail marijuana from a co-located retail marijuana cultivation facility with at least one identical controlling beneficial owner and change the designation of the retail marijuana to medical marijuana. The medical marijuana cultivation facility shall enter the designation change into the seed-to-sale tracking system and, after the change is entered into the system, the marijuana is medical marijuana and is the property of the medical marijuana cultivation facility. The marijuana that changed designation pursuant to this subsection (9)(a) shall not be transferred to the originating retail marijuana cultivation facility or any retail marijuana licensee, have its

designation changed from medical marijuana to retail marijuana, or otherwise be treated as retail marijuana.

(b) Both the medical marijuana cultivation facility and retail marijuana cultivation facility must remain at or under their respective regulated inventory limits before and after the designation is conducted pursuant to subsection (9)(a) of this section.

(c) A transfer and change of designation of retail marijuana to medical marijuana pursuant to this subsection (9) is not a transaction that results in a right to refund of any retail marijuana excise tax incurred or paid prior to that transfer and change of designation.

(10) (a) Beginning January 1, 2022, a medical marijuana cultivation facility licensee that cultivates medical marijuana outdoors may file a contingency plan for its outdoor cultivation operation to address how the licensee will respond when there is an adverse weather event. If the licensee files a contingency plan, the licensee shall also submit a copy of the plan to the local licensing authority in the local jurisdiction where the licensee operates. If the contingency plan is approved by the state licensing authority, the medical marijuana cultivation facility licensee may follow the contingency plan in the case of an adverse weather event.

(b) After the state licensing authority approves a contingency plan, it shall notify the local licensing authority of the approval. The local licensing authority may enforce local land use and zoning laws and regulations regarding the contingency plan and may develop internal regulatory processes to evaluate contingency plans.

(c) On and after January 1, 2023, a local licensing authority may require that an applicant for a medical marijuana cultivation facility license include a contingency plan with the application for the local licensing authority's review and approval.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2890, § 5, effective January 1, 2020. **L. 2021:** (10) added, (HB 21-1301), ch. 304, p. 1827, § 6, effective September 7; (9) added, (HB 21-1216), ch. 306, p. 1832, § 1, effective July 1, 2022.

Editor's note: This section is similar to former § 44-11-403 as it existed prior to 2020.

44-10-503. Medical marijuana products manufacturer license - rules - definition. (1) (a) A medical marijuana products manufacturer license may be issued to a person that manufactures medical marijuana products, pursuant to the terms and conditions of this article 10.

(b) A medical marijuana products manufacturer may cultivate its own medical marijuana if it obtains a medical marijuana cultivation facility license, it may purchase medical marijuana from a medical marijuana store pursuant to subsection (3) of this section, it may purchase medical marijuana from a medical marijuana cultivation facility licensee, or it may purchase medical marijuana from another medical marijuana products manufacturer. A medical marijuana products manufacturer shall track all of its medical marijuana from the point it is either transferred from its medical marijuana cultivation facility or the point when it is delivered to the medical marijuana products manufacturer from a medical marijuana store, medical marijuana cultivation facility licensee, or a medical marijuana products manufacturer to the point of transfer to a medical marijuana store or a medical marijuana products manufacturer or a medical marijuana cultivation facility that has obtained a centralized distribution permit.

(2) Medical marijuana products must be prepared on a licensed premises that is used exclusively for the manufacture and preparation of medical marijuana products and using

equipment that is used exclusively for the manufacture and preparation of medical marijuana products; except that, subject to rules of the state licensing authority, a medical marijuana products manufacturer licensee may share the same premises as a commonly owned marijuana research and development licensee so long as virtual or physical separation of inventory and research activity is maintained.

(3) A medical marijuana products manufacturer shall have a written agreement or contract with a medical marijuana store or a medical marijuana products manufacturer, which contract must at a minimum set forth the total amount of medical marijuana obtained from the medical marijuana store or the medical marijuana products manufacturer to be used in the manufacturing process, and the total amount of medical marijuana products to be manufactured from the medical marijuana obtained from the medical marijuana store or the medical marijuana products manufacturer. The medical marijuana products manufacturer may sell its products to any medical marijuana store or to any medical marijuana products manufacturer.

(4) All licensed premises on which medical marijuana products are manufactured must meet the sanitary standards for medical marijuana product preparation promulgated pursuant to section 44-10-203 (2)(i).

(5) (a) The medical marijuana product must be sealed and conspicuously labeled in compliance with this article 10 and any rules promulgated pursuant to this article 10. The labeling of medical marijuana products is a matter of statewide concern.

(b) (I) A medical marijuana products manufacturer that uses an industrial hemp product as an ingredient in a medical marijuana product shall ensure that the industrial hemp product has passed all testing required by rules promulgated by the state licensing authority pursuant to section 44-10-203 (2)(d). Prior to taking possession of the industrial hemp product, a medical marijuana products manufacturer shall verify the industrial hemp product passed all testing required for medical marijuana products at a licensed medical marijuana testing facility and that the person transferring the industrial hemp product has received a registration from the department of public health and environment pursuant to section 25-5-426.

(II) Absent sampling and testing standards established by the department of public health and environment for the sampling and testing of an industrial hemp product, a person transferring an industrial hemp product to a medical marijuana products manufacturer pursuant to this section shall comply with sampling and testing standards consistent with those established by the state licensing authority pursuant to this article 10. The state licensing authority shall report to the department of public health and environment any investigations or findings of violations of this section by a person registered pursuant to section 25-5-426.

(6) Medical marijuana or medical marijuana products may not be consumed on a premises licensed pursuant to this article 10.

(7) Notwithstanding any other provision of state law, sales of medical marijuana products shall not be exempt from state or local sales tax.

(8) A medical marijuana products manufacturer may provide, except as required by section 44-10-203 (2)(d), a sample of its products to a facility that has a medical marijuana testing facility license from the state licensing authority for testing and research purposes. A medical marijuana products manufacturer shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the results of the testing.

(9) A medical marijuana products manufacturer shall not:

(a) Add any medical marijuana to a food product where the manufacturer of the food product holds a trademark to the food product's name; except that a medical marijuana products manufacturer may use a trademarked food product if the manufacturer uses the product as a component or as part of a recipe and where the medical marijuana products manufacturer does not state or advertise to the patient that the final medical marijuana product contains a trademarked food product;

(b) Intentionally or knowingly label or package a medical marijuana product in a manner that would cause a reasonable patient confusion as to whether the medical marijuana product was a trademarked food product; or

(c) Label or package a medical marijuana product in a manner that violates any federal trademark law or regulation.

(10) (a) A medical marijuana products manufacturer licensee may provide a medical marijuana concentrate and a medical marijuana product sample to no more than five managers employed by the licensee for purposes of quality control and product development. A medical marijuana products manufacturer licensee may designate no more than five managers per calendar month as recipients of quality control and product development samples authorized pursuant to this subsection (10)(a).

(b) Managers who receive a sample pursuant to subsection (10)(a) of this section must have a valid registry identification card issued pursuant to section 25-1.5-106 (9).

(c) A sample authorized pursuant to subsection (10)(a) of this section is limited to one serving size of edible medical marijuana product and its applicable equivalent serving size of nonedible medical marijuana product per batch as defined in rules promulgated by the state licensing authority and one-quarter gram of medical marijuana concentrate per batch as defined in rules promulgated by the state licensing authority; except that the limit is one-half gram of medical marijuana concentrate if the intended use of the final product is to be used in a device that can be used to deliver medical marijuana concentrate in a vaporized form to the person inhaling from the device.

(d) A sample authorized pursuant to subsection (10)(a) of this section must be labeled and packaged pursuant to the rules promulgated pursuant to section 44-10-203 (2)(f) and (3)(b).

(e) A sample provided pursuant to subsection (10)(a) of this section must be tracked with the seed-to-sale tracking system. Prior to a manager receiving a sample, a manager must be designated in the seed-to-sale tracking system as a recipient of quality control and product development samples. A manager receiving a sample must make a voluntary decision to be tracked in the seed-to-sale tracking system and is not a consumer pursuant to section 16 (5)(c) of article XVIII of the state constitution. The medical marijuana products manufacturer licensee shall maintain documentation of all samples and shall make the documentation available to the state licensing authority.

(f) Prior to a manager receiving a sample pursuant to subsection (10)(a) of this section, a medical marijuana products manufacturer licensee shall provide a standard operating procedure to the manager explaining requirements pursuant to this section and personal possession limits pursuant to section 18-18-406.

(g) A manager shall not:

(I) Receive more than a total of fifteen grams of medical marijuana concentrate or fourteen individual serving-size edibles or its applicable equivalent in nonedible medical

marijuana products per calendar month, regardless of the number of licenses that the manager is associated with; or

(II) Provide to or resell the sample to another licensed employee, a customer, or any other individual.

(h) A medical marijuana products manufacturer licensee shall not:

(I) Allow a manager to consume the sample on the licensed premises; or

(II) Use the sample as a means of compensation to a manager.

(i) The state licensing authority may establish additional inventory tracking and record keeping, including additional reporting required for implementation. The medical marijuana products manufacturer licensee shall maintain the information required by this subsection (10)(i) on the licensed premises for inspection by the state and local licensing authorities.

(j) For purposes of this subsection (10) only, "manager" means an employee of the medical marijuana products manufacturer who holds a valid key license or associated key license and is currently designated pursuant to state licensing authority rules as the manager of the medical marijuana products manufacturer.

(11) Notwithstanding any other provision of law to the contrary, a licensed medical marijuana products manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

(12) **[*Editor's note: This subsection (12) is effective July 1, 2022.*]** (a) After obtaining passing testing results, a medical marijuana products manufacturer may receive a transfer of retail marijuana that has been extracted and is in a concentrated form from a co-located retail marijuana products manufacturer with at least one identical controlling beneficial owner and change the designation of the retail marijuana that has been extracted and is in a concentrated form to medical marijuana that has been extracted and is in a concentrated form. The medical marijuana products manufacturer shall enter the designation change into the seed-to-sale tracking system and, after the change is entered into the system, the product is a medical marijuana product and is the property of the medical marijuana products manufacturer. A product that changed designation pursuant to this subsection (12)(a) shall not be transferred to the originating retail marijuana products manufacturer or any retail marijuana licensee, have its designation changed from a medical marijuana product, or otherwise be treated as a retail marijuana product.

(b) A transfer and change of designation of retail marijuana that has been extracted and is in a concentrated form to medical marijuana that has been extracted and is in a concentrated form pursuant to this subsection (12) is not a transaction that results in a right to refund of any retail marijuana excise tax incurred or paid prior to that transfer and change of designation.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2893, § 5, effective January 1, 2020 (see editor's note). **L. 2021:** (12) added, (HB 21-1216), ch. 306, p. 1833, § 2, effective July 1, 2022.

Editor's note: (1) This section is similar to former § 44-11-404 as it existed prior to 2020.

(2) Section 38 of chapter 315 (SB 19-224), Session Laws of Colorado 2019, provides that the effective date of subsection (5)(b) is July 1, 2020.

44-10-504. Medical marijuana testing facility license - rules. (1) (a) A medical marijuana testing facility license may be issued to a person who performs testing and research on medical marijuana, industrial hemp products as regulated by part 4 of article 5 of title 25, for medical marijuana licensees, medical marijuana and medical marijuana products for marijuana and research development licensees, and marijuana or marijuana products grown or produced by a registered patient or registered primary caregiver on behalf of a registered patient, upon verification of registration pursuant to section 25-1.5-106 (7)(e) and verification that the patient is a participant in a clinical or observational study conducted by a marijuana research and development licensee, and industrial hemp products as regulated by part 4 of article 5 of title 25. The facility may develop and test medical marijuana products.

(b) The testing of medical marijuana, medical marijuana products, and medical marijuana concentrate, and the associated standards, is a matter of statewide concern.

(2) The state licensing authority shall promulgate rules pursuant to its authority in section 44-10-202 (1)(c) related to acceptable testing and research practices, including but not limited to testing, standards, quality control analysis, equipment certification and calibration, and chemical identification and other substances used in bona fide research methods.

(3) A person who has an interest in a medical marijuana testing facility license from the state licensing authority for testing purposes shall not have any interest in a licensed medical marijuana store, a licensed medical marijuana cultivation facility, a licensed medical marijuana products manufacturer, a licensed retail marijuana store, a licensed retail marijuana cultivation facility, or a licensed retail marijuana products manufacturer. A person that has an interest in a licensed medical marijuana store, a licensed medical marijuana cultivation facility, a licensed medical marijuana products manufacturer, a licensed retail marijuana store, a licensed retail marijuana cultivation facility, or a licensed retail marijuana products manufacturer shall not have an interest in a facility that has a medical marijuana testing facility license.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2897, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-11-405 as it existed prior to 2020.

44-10-505. Medical marijuana transporter license - definition. (1) (a) A medical marijuana transporter license may be issued to a person to provide logistics, distribution, delivery, and storage of medical marijuana and medical marijuana products. Notwithstanding any other provisions of law, a medical marijuana transporter license is valid for two years but cannot be transferred with a change of ownership. A licensed medical marijuana transporter is responsible for the medical marijuana and medical marijuana products once it takes control of the product.

(b) A licensed medical marijuana transporter may contract with multiple licensed medical marijuana businesses.

(c) On and after July 1, 2017, all medical marijuana transporters shall hold a valid medical marijuana transporter license; except that an entity licensed pursuant to this article 10 that provides its own distribution is not required to have a medical marijuana transporter license to transport and distribute its products. The state licensing authority shall begin accepting applications after January 1, 2017.

(2) A medical marijuana transporter licensee may maintain a licensed premises to temporarily store medical marijuana and medical marijuana products and to use as a centralized distribution point. The licensed premises must be located in a jurisdiction that permits the operation of medical marijuana stores. A licensed medical marijuana transporter may store and distribute medical marijuana and medical marijuana products from this location. A storage facility must meet the same security requirements that are required to obtain a medical marijuana cultivation facility license.

(3) A medical marijuana transporter licensee shall use the seed-to-sale tracking system developed pursuant to section 44-10-202 (1)(a) to create shipping manifests documenting the transport of medical marijuana and medical marijuana products throughout the state.

(4) A medical marijuana transporter licensee may:

(a) Maintain and operate one or more warehouses in the state to handle medical marijuana and medical marijuana products; and

(b) Deliver medical marijuana and medical marijuana products on orders previously taken if the place where orders are taken and delivered is licensed.

(5) (a) (I) There is authorized a medical marijuana delivery permit to a medical marijuana transporter license authorizing the permit holder to deliver medical marijuana and medical marijuana products.

(II) A medical marijuana delivery permit is valid for one year and may be renewed annually upon renewal of the medical marijuana transporter license.

(III) A medical marijuana delivery permit issued pursuant to this section applies to only one medical marijuana transporter; except that a single medical marijuana delivery permit may apply to multiple medical marijuana transporters if the medical marijuana transporters are in the same local jurisdiction and are identically owned, as defined by the state licensing authority for purposes of this section.

(IV) The state licensing authority may issue a medical marijuana delivery permit to a qualified applicant, as determined by the state licensing authority, that holds a medical marijuana transporter license issued pursuant to this article 10. The state licensing authority has discretion in determining whether an applicant is qualified to receive a medical marijuana delivery permit. A medical marijuana delivery permit issued by the state licensing authority is deemed a revocable privilege of a licensed medical marijuana transporter. A violation related to a medical marijuana delivery permit is grounds for a fine or suspension or revocation of the delivery permit or medical marijuana transporter license.

(b) A medical marijuana transporter licensee shall not make deliveries of medical marijuana or medical marijuana products to patients or parents or guardians while also transporting medical marijuana or medical marijuana products between licensed premises in the same vehicle.

(c) A licensed medical marijuana transporter with a medical marijuana delivery permit may deliver medical marijuana and medical marijuana products on behalf of a medical marijuana store only to the patient or parent or guardian who placed the order with a medical marijuana store and who:

(I) Is a current registrant of the medical marijuana patient registry and is twenty-one years of age or older or the parent or guardian of a patient who is also the patient's primary caregiver;

(II) Receives the delivery of medical marijuana or medical marijuana products pursuant to rules; and

(III) Possesses an acceptable form of identification.

(d) In accordance with this subsection (5) and rules adopted to implement this subsection (5), a licensed medical marijuana transporter with a valid medical marijuana delivery permit may:

(I) Not accept orders on behalf of a medical marijuana store and may only pick up already packaged medical marijuana delivery orders from a medical marijuana store or its associated state licensing authority-authorized storage facility as defined by rule and deliver those orders to the appropriate patient, parent, or guardian;

(II) Deliver medical marijuana and medical marijuana products not in excess of the amounts established by the state licensing authority;

(III) Deliver only to a patient or parent or guardian at the address provided in the order;

(IV) Deliver no more than once per day to the same patient or residence;

(V) (A) Deliver only to a private residence.

(B) For purposes of this section, "private residences" means private premises where a person lives, such as a private dwelling place or place of habitation, and specifically excludes any premises located at a school or on the campus of an institution of higher education, or any other public property.

(VI) Deliver medical marijuana or medical marijuana products only by a motor vehicle that complies with this section and the rules promulgated pursuant to this section and section 44-10-203 (2)(dd); and

(VII) Use an employee to conduct deliveries on behalf of, and pursuant to a contract with, a medical marijuana store that has a valid medical marijuana delivery permit from its medical marijuana store or its associated state licensing authority-authorized storage facility as defined by rule.

(e) Prior to transferring possession of the order to a patient or a parent or guardian, the person delivering the order shall inspect the patient's or parent's or guardian's identification and registry identification card issued pursuant to section 25-1.5-106, verify the possession of a valid registry identification card issued pursuant to section 25-1.5-106, and verify that the information provided at the time of the order matches the name and age on the patient's or parent's or guardian's identification.

(f) Any person delivering medical marijuana or medical marijuana products for a medical marijuana transporter must possess a valid occupational license and be a current employee of the medical marijuana transporter licensee with a valid medical marijuana delivery permit; must have undergone training regarding proof-of-age identification and verification, including all forms of identification that are deemed acceptable by the state licensing authority; and must have any other training required by the state licensing authority.

(g) (I) Unless otherwise provided by the state licensing authority by rules promulgated pursuant to this article 10, all requirements applicable to other licenses issued pursuant to this article 10 apply to the delivery of medical marijuana and medical marijuana products, including but not limited to inventory tracking, transportation, and packaging and labeling requirements.

(II) The advertising regulations and prohibitions adopted pursuant to section 44-10-203 (3)(a) apply to medical marijuana delivery operations pursuant to this subsection (5).

(h) It is not a violation of any provision of state, civil, or criminal law for a licensed medical marijuana transporter licensee with a valid medical marijuana delivery permit, or such person who has made timely and sufficient application for the renewal of the permit, or its licensees to possess, transport, and deliver medical marijuana and medical marijuana products pursuant to a medical marijuana delivery permit in amounts that do not exceed amounts established by the state licensing authority.

(i) (I) Notwithstanding any provisions of this section, delivery of medical marijuana or medical marijuana products is not permitted in any municipality, county, or city and county unless the municipality, county, or city and county, by either a majority of the registered electors of the municipality, county, or city and county voting at a regular election or special election called in accordance with the "Colorado Municipal Election Code of 1965", article 10 of title 31, or the "Uniform Election Code of 1992", articles 1 to 13 of title 1, as applicable, or a majority of the members of the governing board for the municipality, county, or city and county vote to allow the delivery of medical marijuana or medical marijuana products pursuant to this section.

(II) An ordinance adopted pursuant to subsection (5)(i)(I) of this section may prohibit delivery of medical marijuana or medical marijuana products from a medical marijuana store that is outside a municipality's, county's, city's, or city and county's jurisdictional boundaries to an address within its jurisdictional boundaries.

(j) The state licensing authority shall begin issuing medical marijuana delivery permits to qualified medical marijuana transporter applicants on, but not earlier than, January 2, 2021.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2898, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-11-406 as it existed prior to 2020.

44-10-506. Medical marijuana business operator license. A medical marijuana business operator license may be issued to an entity or person who operates a medical marijuana business licensed pursuant to this article 10, for another medical marijuana business or retail marijuana business licensed pursuant to this article 10, and who may receive a portion of the profits as compensation.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2901, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-11-407 as it existed prior to 2020.

44-10-507. Marijuana research and development license. (1) A marijuana research and development license may be issued to a person to grow, cultivate, possess, and transfer, by sale or donation, marijuana pursuant to section 44-10-203 (1)(i) or subsection (4) of this section for the limited research purposes identified in subsection (2) of this section.

(2) A license identified in subsection (1) of this section may be issued for the following limited research purposes:

(a) To test chemical potency and composition levels;

(b) To conduct clinical investigations of marijuana-derived medicinal products;

(c) To conduct research on the efficacy and safety of administering marijuana as part of medical treatment;

(d) To conduct genomic, horticultural, or agricultural research; and

(e) To conduct research on marijuana-affiliated products or systems.

(3) (a) As part of the application process for a marijuana research and development license, an applicant shall submit to the state licensing authority a description of the research that the applicant intends to conduct and whether the research will be conducted with a public institution or using public money. If the research will not be conducted with a public institution or with public money, the state licensing authority shall grant the application if it determines that the application meets the criteria in subsection (2) of this section.

(b) If the research will be conducted with a public institution or public money, the scientific advisory council established in section 25-1.5-106.5 (3) shall review an applicant's research project to determine that it meets the requirements of subsection (2) of this section and to assess the following:

(I) The project's quality, study design, value, or impact;

(II) Whether the applicant has the appropriate personnel; expertise; facilities; infrastructure; funding; and human, animal, or other approvals in place to successfully conduct the project; and

(III) Whether the amount of marijuana to be grown by the applicant is consistent with the project's scope and goals.

(c) If the scientific advisory council determines that the research project does not meet the requirements of subsection (2) of this section or assesses the criteria in this subsection (3) to be inadequate, the application must be denied.

(4) A marijuana research and development licensee may only transfer, by sale or donation, marijuana grown within its operation to other marijuana research and development licensees. The state licensing authority may impose sanctions on a marijuana research and development license for violations of this subsection (4) and any other violation of this article 10.

(5) A marijuana research and development licensee may contract to perform research in conjunction with a public higher education research institution or another marijuana research and development licensee.

(6) The growing, cultivating, possessing, or transferring, by sale or donation, of marijuana in accordance with this section and the rules adopted pursuant to it, by a marijuana research and development licensee, is not a criminal or civil offense under state law. A marijuana research and development license must be issued in the name of the applicant and must specify the location in Colorado at which the marijuana research and development licensee intends to operate. A marijuana research and development licensee shall not allow any other person to exercise the privilege of the license.

(7) If the research conducted includes a public institution or public money, the scientific advisory council shall review any reports made by marijuana research and development licensees under state licensing authority rule and provide the state licensing authority with its determination on whether the research project continues to meet research qualifications pursuant to this section.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2902, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-11-408 as it existed prior to 2020.

PART 6

RETAIL MARIJUANA LICENSE TYPES

44-10-601. Retail marijuana store license - rules - definitions. (1) (a) A retail marijuana store license may be issued only to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this article 10.

(b) A retail marijuana store may cultivate its own retail marijuana if it obtains a retail marijuana cultivation facility license, or it may purchase retail marijuana from a licensed retail marijuana cultivation facility.

(c) A retail marijuana store shall not accept any retail marijuana purchased from a retail marijuana cultivation facility unless the retail marijuana store is provided with evidence that any applicable excise tax due, pursuant to article 28.8 of title 39, was paid.

(d) The retail marijuana store shall track all of its retail marijuana and retail marijuana products from the point that they are transferred from a retail marijuana cultivation facility or retail marijuana products manufacturer to the point of sale.

(2) (a) Notwithstanding the provisions of this section, a retail marijuana store licensee may also sell retail marijuana products that are prepackaged and labeled as required by rules of the state licensing authority pursuant to section 44-10-203 (2)(f) and (3)(b).

(b) A retail marijuana store licensee may transact with a retail marijuana products manufacturer licensee for the purchase of retail marijuana products upon a retail marijuana products manufacturer licensee's licensed premises or a retail marijuana store's licensed premises.

(c) A retail marijuana store may sell retail marijuana and retail marijuana products to a retail marijuana hospitality and sales business licensee.

(3) (a) (I) A retail marijuana store may not sell more than one ounce of retail marijuana or its equivalent in retail marijuana products, including retail marijuana concentrate, except for nonedible, nonpsychoactive retail marijuana products, including ointments, lotions, balms, and other nontransdermal topical products, during a single transaction to a person.

(II) As used in this subsection (3)(a), "equivalent in retail marijuana products" has the same meaning as established by the state licensing authority by rule pursuant to section 44-10-203 (4).

(b) (I) Prior to initiating a sale, the employee of the retail marijuana store making the sale shall verify that the purchaser has a valid identification card showing the purchaser is twenty-one years of age or older. If a person under twenty-one years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age shall not be grounds for the revocation or suspension of any license issued under this article 10.

(II) (A) If a retail marijuana store licensee or 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 retail marijuana or marijuana product, the licensee or employee is

authorized to confiscate such fraudulent proof of age, if possible, and shall, within seventy-two hours after the confiscation, remit to a state or local law enforcement agency. The failure to confiscate such fraudulent proof of age or to remit to a state or local law enforcement agency within seventy-two hours after the confiscation does not constitute a criminal offense.

(B) If a retail marijuana store licensee or 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 retail marijuana or retail marijuana product, the licensee or 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 regarding the purchase of retail marijuana. The questioning of a person by an employee or a peace or police officer does not render the licensee, the employee, or the peace or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

(c) (I) A retail marijuana store that sells an industrial hemp product shall ensure that the industrial hemp product has passed all testing required by rules promulgated by the state licensing authority pursuant to section 44-10-203 (2)(d). Prior to taking possession of the industrial hemp product, a retail marijuana store shall verify the industrial hemp product passed all testing required for retail marijuana products at a licensed retail marijuana testing facility and that the person transferring the industrial hemp product has received a registration from the department of public health and environment pursuant to section 25-5-426.

(II) Absent sampling and testing standards established by the department of public health and environment for the sampling and testing of an industrial hemp product, a person transferring an industrial hemp product to a retail marijuana store pursuant to this section shall comply with sampling and testing standards consistent with those established by the state licensing authority pursuant to this article 10. The state licensing authority shall report to the department of public health and environment any investigations or findings of violations of this section by a person registered pursuant to section 25-5-426.

(d) **[*Editor's note: This subsection (3)(d) is effective January 1, 2022.*]** When completing a sale of retail marijuana concentrate, the retail marijuana store shall provide the customer with the tangible educational resource created by the state licensing authority through rule-making pursuant to section 44-10-202 (8) regarding the use of medical marijuana concentrate.

(4) A retail marijuana store may provide, except as required by section 44-10-203 (2)(d), a sample of its products to a facility that has a marijuana testing facility license from the state licensing authority for testing and research purposes. A retail marijuana store shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the results of the testing.

(5) All retail marijuana and retail marijuana products sold at a licensed retail marijuana store shall be packaged and labeled as required by rules of the state licensing authority pursuant to section 44-10-203 (2)(f) and (3)(b).

(6) A licensed retail marijuana store shall comply with all provisions of article 34 of title 24, as the provisions relate to persons with disabilities.

(7) (a) A licensed retail marijuana store may only sell retail marijuana, retail marijuana products, marijuana accessories, nonconsumable products such as apparel, and marijuana related products such as childproof packaging containers, but is prohibited from selling or giving away

any consumable product, including but not limited to cigarettes or alcohol, or edible product that does not contain marijuana, including but not limited to sodas, candies, or baked goods; except that a retail marijuana store may sell industrial hemp products.

(b) A licensed retail marijuana store may not sell any retail marijuana or retail marijuana products that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to article 3 or 4 of this title 44.

(c) A licensed retail marijuana store shall not sell retail marijuana or retail marijuana products over the internet nor deliver retail marijuana or retail marijuana products to a person not physically present in the retail marijuana store's licensed premises.

(8) The premises of a licensed retail marijuana store is the only place where an automatic dispensing machine that contains retail marijuana or retail marijuana products may be located. If a licensed retail marijuana store uses an automatic dispensing machine that contains retail marijuana and retail marijuana products, it must comply with the regulations promulgated by the state licensing authority for its use.

(9) Retail marijuana or retail marijuana products may not be consumed on the premises of a retail marijuana store.

(10) Notwithstanding any other provision of state law, sales of retail marijuana and retail marijuana products are not exempt from state or local sales tax.

(11) A display case containing marijuana concentrate must include the potency of the marijuana concentrate next to the name of the product.

(12) Notwithstanding any other provision of law to the contrary, a licensed retail marijuana store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

(13) (a) (I) There is authorized a retail marijuana delivery permit to a retail marijuana store license authorizing the permit holder to deliver retail marijuana and retail marijuana products.

(II) A retail marijuana delivery permit is valid for one year and may be renewed annually upon renewal of the retail marijuana store license or retail marijuana transporter license.

(III) A retail marijuana delivery permit issued pursuant to this section applies to only one retail marijuana store; except that a single retail marijuana delivery permit may apply to multiple retail marijuana stores if the retail marijuana stores are in the same local jurisdiction and are identically owned, as defined by the state licensing authority for purposes of this section.

(IV) The state licensing authority may issue a retail marijuana delivery permit to a qualified applicant, as determined by the state licensing authority, that holds a retail marijuana store license issued pursuant to this article 10. A permit applicant is prohibited from delivering retail marijuana and retail marijuana products without state and local jurisdiction approval. If the applicant does not receive local jurisdiction approval within one year from the date of the state licensing authority approval, the state permit expires and may not be renewed. If an application is denied by the local licensing authority, the state licensing authority shall revoke the state-issued permit. The state licensing authority has discretion in determining whether an applicant is qualified to receive a retail marijuana delivery permit. A retail marijuana delivery permit issued by the state licensing authority is deemed a revocable privilege of a licensed retail marijuana store or retail marijuana transporter licensee. A violation related to a retail marijuana delivery

permit is grounds for a fine or suspension or revocation of the delivery permit or retail marijuana store license.

(b) A retail marijuana store licensee shall not make deliveries of retail marijuana or retail marijuana products to individuals while also transporting retail marijuana or retail marijuana products between licensed premises in the same vehicle.

(c) The licensed retail marijuana store shall charge a one-dollar surcharge on each delivery. The licensed retail marijuana store shall remit the surcharges collected on a monthly basis to the municipality where the licensed retail marijuana store is located, or to the county if the licensed retail marijuana store is in an unincorporated area, for local law enforcement costs related to marijuana enforcement. Failure to comply with this subsection (13)(c) may result in nonrenewal of the retail marijuana delivery permit.

(d) A licensed retail marijuana store with a retail marijuana delivery permit may deliver retail marijuana and retail marijuana products only to the individual who placed the order and who:

(I) Is twenty-one years of age or older;

(II) Receives the delivery of retail marijuana or retail marijuana products pursuant to rules; and

(III) Possesses an acceptable form of identification.

(e) Any person delivering retail marijuana or retail marijuana products must possess a valid occupational license and be a current employee of the licensed retail marijuana store or retail marijuana transporter licensee with a valid retail marijuana delivery permit; must have undergone training regarding proof-of-age identification and verification, including all forms of identification that are deemed acceptable by the state licensing authority; and must have any other training required by the state licensing authority.

(f) In accordance with this subsection (13) and rules adopted to implement this subsection (13), a licensed retail marijuana store with a valid retail marijuana delivery permit may:

(I) Receive an order through electronic or other means for the purchase and delivery of retail marijuana or retail marijuana products. When using an online platform for marijuana delivery, the platform must require the individual to choose a retail marijuana store before viewing the price.

(II) Deliver retail marijuana or retail marijuana products not in excess of the amounts established by the state licensing authority;

(III) Deliver only to an individual at the address provided in the order;

(IV) Deliver no more than once per day to the same individual or residence;

(V) (A) Deliver only to private residences.

(B) For purposes of this section, "private residences" means private premises where a person lives, such as a private dwelling place or place of habitation, and specifically excludes any premises located at a school or on the campus of an institution of higher education, or any other public property.

(VI) Deliver retail marijuana or retail marijuana products only by a motor vehicle that complies with this section and the rules promulgated pursuant to this section and section 44-10-203 (2)(dd); and

(VII) Use an employee to conduct deliveries, or contract with a retail marijuana transporter that has a valid retail marijuana delivery permit to conduct deliveries on its behalf,

from its retail marijuana store or its associated state licensing authority-authorized storage facility as defined by rule.

(g) (I) At the time of the order, the retail marijuana store shall require the individual to provide information necessary to verify the individual is at least twenty-one years of age. The provided information must, at a minimum, include the following:

(A) The individual's name and date of birth;

(B) The address of the residence where the order will be delivered; and

(C) Any other information required by state licensing authority rule.

(II) Prior to transferring possession of the order to an individual, the person delivering the order shall inspect the individual's identification and verify that the information provided at the time of the order matches the name and age on the individual's identification.

(h) (I) Unless otherwise provided by the state licensing authority by rules promulgated pursuant to this article 10, all requirements applicable to other licenses issued pursuant to this article 10 apply to the delivery of retail marijuana and retail marijuana products, including but not limited to inventory tracking, transportation, and packaging and labeling requirements.

(II) The advertising regulations and prohibitions adopted pursuant to section 44-10-203 (3)(a) apply to retail marijuana delivery operations pursuant to this subsection (13).

(i) It is not a violation of any provision of state, civil, or criminal law for a licensed retail marijuana store or retail marijuana transporter licensee with a valid retail marijuana delivery permit, or such person who has made timely and sufficient application for the renewal of the permit, or its licensees to possess, transport, and deliver retail marijuana or retail marijuana products pursuant to a retail marijuana delivery permit in amounts that do not exceed amounts established by the state licensing authority.

(j) A local law enforcement agency may request state licensing authority reports, including complaints, investigative action, and final agency action orders, related to criminal activity materially related to retail marijuana delivery in the law enforcement agency's jurisdiction, and the state licensing authority shall promptly provide any reports in its possession for the law enforcement agency's jurisdiction.

(k) (I) Notwithstanding any provisions of this section, delivery of retail marijuana or retail marijuana products is not permitted in any municipality, county, or city and county unless the municipality, county, or city and county, by either a majority of the registered electors of the municipality, county, or city and county voting at a regular election or special election called in accordance with the "Colorado Municipal Election Code of 1965", article 10 of title 31, or the "Uniform Election Code of 1992", articles 1 to 13 of title 1, as applicable, or a majority of the members of the governing board for the municipality, county, or city and county, vote to allow the delivery of retail marijuana or retail marijuana products pursuant to this section.

(II) An ordinance adopted pursuant to subsection (13)(k)(I) of this section may prohibit delivery of retail marijuana and retail marijuana products from a retail marijuana store that is outside a municipality's, county's, city's, or city and county's jurisdictional boundaries to an address within its jurisdictional boundaries.

(l) Notwithstanding any provisions of this section, delivery of retail marijuana or retail marijuana products is not permitted at any school or on the campus of any institution of higher education.

(m) The state licensing authority shall begin issuing retail marijuana delivery permits to qualified retail marijuana store applicants on, but not earlier than, January 2, 2021.

(14) An accelerator store licensee may operate on the premises of a retail marijuana store licensee if before each accelerator store licensee operates, the retail marijuana store licensee has its premises endorsed pursuant to rule and each accelerator store licensee is approved to operate on that premises.

(15) A retail marijuana store licensee that hosts an accelerator store licensee may, pursuant to rule, provide technical and compliance assistance to an accelerator store licensee operating on its premises. A retail marijuana store licensee that hosts an accelerator store licensee may, pursuant to rule, provide capital assistance to an accelerator store licensee operating on its premises.

(16) A retail marijuana store, pursuant to rule and the state licensing authority discretion, may be eligible for incentives available through the department of revenue or the office of economic development and international trade, including but not limited to a reduction in application or license fees.

(17) **[*Editor's note: This subsection (17) is effective January 1, 2022.*]** A retail marijuana store or retail marijuana stores shall not sell any more than eight grams of retail marijuana concentrate to a person in a single day.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2903, § 5, effective January 1, 2020 (see editor's note); (2)(c) added, (HB 19-1230), ch. 340, p. 3120, § 17, effective January 1, 2020. **L. 2020:** (14), (15), and (16) added, (HB 20-1424), ch. 184, p. 846, § 7, effective September 14. **L. 2021:** (3)(d) and (17) added, (HB 21-1317), ch. 313, p. 1919, § 9, effective January 1, 2022.

Editor's note: (1) This section is similar to former § 44-12-402 as it existed prior to 2020.

(2) Section 38 of chapter 315 (SB 19-224), Session Laws of Colorado 2019, provides that the effective date of subsection (3)(c) is July 1, 2020.

44-10-602. Retail marijuana cultivation facility license - rules - definitions. (1) A retail marijuana cultivation facility license may be issued only to a person who cultivates retail marijuana for sale and distribution to licensed retail marijuana stores, retail marijuana products manufacturer licensees, retail marijuana hospitality and sales business, or other retail marijuana cultivation facilities.

(2) A retail marijuana cultivation facility shall remit any applicable excise tax due in accordance with article 28.8 of title 39, based on the average wholesale prices set by the state licensing authority.

(3) A retail marijuana cultivation facility shall track the marijuana it cultivates from seed or immature plant to wholesale purchase. Prior to delivery of any sold retail marijuana, the retail marijuana cultivation facility shall provide evidence that it paid any applicable excise tax on the retail marijuana due pursuant to article 28.8 of title 39.

(4) A retail marijuana cultivation facility may provide, except as required by section 44-10-203 (2)(d), a sample of its products to a facility that has a retail marijuana testing facility license from the state licensing authority for testing and research purposes. A retail marijuana cultivation facility shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the testing results.

(5) Retail marijuana or retail marijuana products may not be consumed on the premises of a retail marijuana cultivation facility.

(6) (a) A retail marijuana cultivation facility licensee may provide a retail marijuana sample and a retail marijuana concentrate sample to no more than five managers employed by the licensee for purposes of quality control and product development. A retail marijuana cultivation facility licensee may designate no more than five managers per calendar month as recipients of quality control and product development samples authorized pursuant to this subsection (6)(a).

(b) An excise tax shall be levied and collected on the sample of unprocessed retail marijuana by a retail marijuana cultivation facility. The excise tax must be calculated based on the average market rate of the unprocessed retail marijuana.

(c) A sample authorized pursuant to subsection (6)(a) of this section is limited to one gram of retail marijuana per batch as defined in rules promulgated by the state licensing authority, and one-quarter gram of a retail marijuana concentrate per batch as defined in rules promulgated by the state licensing authority; except that the limit is one-half gram of retail marijuana concentrate if the intended use of the final product is to be used in a device that can be used to deliver retail marijuana concentrate in a vaporized form to the person inhaling from the device.

(d) A sample authorized pursuant to subsection (6)(a) of this section must be labeled and packaged pursuant to the rules promulgated pursuant to section 44-10-203 (2)(f) and (3)(b).

(e) A sample provided pursuant to subsection (6)(a) of this section must be tracked with the seed-to-sale tracking system. Prior to a manager receiving a sample, a manager must be designated in the seed-to-sale tracking system as a recipient of quality control and product development samples. A manager receiving a sample must make a voluntary decision to be tracked in the seed-to-sale tracking system and is not a consumer pursuant to section 16 (5)(c) of article XVIII of the state constitution. The retail marijuana cultivation facility licensee shall maintain documentation of all samples and shall make the documentation available to the state licensing authority.

(f) Prior to a manager receiving a sample pursuant to subsection (6)(a) of this section, a retail marijuana cultivation facility licensee shall provide a standard operating procedure to the manager explaining requirements pursuant to this section and personal possession limits pursuant to section 18-18-406.

(g) A manager shall not:

(I) Receive more than one ounce total of retail marijuana or eight grams of retail marijuana concentrate samples per calendar month, regardless of the number of licenses that the manager is associated with; or

(II) Provide to or resell the sample to another licensed employee, a customer, or any other individual.

(h) A retail marijuana cultivation facility licensee shall not:

(I) Allow a manager to consume the sample on the licensed premises; or

(II) Use the sample as a means of compensation to a manager.

(i) The state licensing authority may establish additional inventory tracking and record keeping, including additional reporting required for implementation. The retail marijuana cultivation facility licensee shall maintain the information required by this subsection (6)(i) on the licensed premises for inspection by the state and local licensing authorities.

(j) For purposes of this subsection (6) only, "manager" means an employee of the retail marijuana cultivation facility who holds a valid key license or associated key license and is currently designated pursuant to state licensing authority rules as the manager of the retail marijuana cultivation facility.

(7) (a) The state licensing authority may issue a centralized distribution permit to a retail marijuana cultivation facility authorizing temporary storage on its licensed premises of retail marijuana concentrate and retail marijuana products received from a retail marijuana business for the sole purpose of transfer to the permit holder's commonly owned retail marijuana stores. Prior to exercising the privileges of a centralized distribution permit, a retail marijuana cultivation facility licensed pursuant to this section shall, at the time of application to the state licensing authority, send a copy of the application or supplemental application for a centralized distribution permit to the local jurisdiction in which the centralized distribution permit is proposed. The state licensing authority shall notify the local jurisdiction of its decision regarding the centralized distribution permit.

(b) A retail marijuana cultivation facility shall not store retail marijuana concentrate or retail marijuana products pursuant to a centralized distribution permit for more than ninety days.

(c) A retail marijuana cultivation facility shall not accept any retail marijuana concentrate or retail marijuana products pursuant to a centralized distribution permit unless the retail marijuana concentrate and retail marijuana products are packaged and labeled for sale to a consumer as required by rules promulgated by the state licensing authority pursuant to section 44-10-203 (2)(f) and (3)(b).

(d) All retail marijuana concentrate and retail marijuana products stored and prepared for transport on a retail marijuana cultivation facility's licensed premises pursuant to a centralized distribution permit must only be transferred to a retail marijuana cultivation facility licensee's commonly owned retail marijuana stores. All transfers of retail marijuana concentrate and retail marijuana products by a retail marijuana cultivation facility pursuant to a centralized distribution permit are without consideration.

(e) All security and surveillance requirements that apply to a retail marijuana cultivation facility apply to activities conducted pursuant to the privileges of a centralized distribution permit.

(f) A retail marijuana cultivation facility shall track all retail marijuana concentrate and retail marijuana products possessed pursuant to a centralized distribution permit in the seed-to-sale tracking system from the point it is received from a retail marijuana business to the point of transfer to a retail marijuana cultivation facility licensee's commonly owned retail marijuana stores.

(g) For purposes of this section only, "commonly owned" means licenses that have an ownership structure with at least one natural person with a minimum of five percent ownership in each license.

(8) Notwithstanding any other provision of law to the contrary, a licensed retail marijuana cultivation facility may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

(9) An accelerator cultivator licensee may operate on the premises of a retail marijuana cultivation facility licensee if before each accelerator cultivator licensee operates, the retail marijuana cultivation facility licensee has its premises endorsed pursuant to rule and each accelerator cultivator licensee is approved to operate on that premises.

(10) A retail marijuana cultivation facility licensee that hosts an accelerator cultivator licensee may, pursuant to rule, provide technical and compliance assistance to an accelerator cultivator licensee operating on its premises. A retail marijuana products manufacturer licensee that hosts an accelerator cultivator licensee may, pursuant to rule, provide capital assistance to an accelerator cultivator licensee operating on its premises.

(11) A retail marijuana cultivation facility licensee that hosts an accelerator cultivator licensee, pursuant to rule and the state licensing authority discretion, may be eligible for incentives available through the department of revenue or the office of economic development and international trade, including but not limited to a reduction in application or license fees.

(12) A retail marijuana cultivation facility shall only obtain retail marijuana seeds or immature plants from its own retail marijuana, commonly owned from the medical marijuana of an identical direct beneficial owner, or marijuana that is properly transferred from another retail marijuana business pursuant to the inventory tracking requirements imposed by rule.

(13) **[*Editor's note: This subsection (13) is effective July 1, 2022.*]** (a) After obtaining passing test results required by subsection (4) of this section, a retail marijuana cultivation facility may transfer retail marijuana to a co-located medical marijuana cultivation facility with at least one identical controlling beneficial owner and change the designation of the retail marijuana to medical marijuana. Pursuant to section 44-10-502 (9)(a), after the medical marijuana cultivation facility enters the designation change into the seed-to-sale tracking system, the marijuana is medical marijuana and is the property of the medical marijuana cultivation facility. The marijuana that changed designation pursuant to this subsection (13)(a) shall not be transferred to the originating retail marijuana cultivation facility or any retail marijuana licensee, have its designation changed from medical marijuana to retail marijuana, or otherwise be treated as retail marijuana.

(b) Both the medical marijuana cultivation facility and retail marijuana cultivation facility must remain at or under their respective regulated inventory limits before and after the designation is conducted pursuant to subsection (13)(a) of this section.

(c) A transfer and change of designation of retail marijuana to medical marijuana pursuant to this subsection (13) is not a transaction that results in a right to refund of any retail marijuana excise tax incurred or paid prior to that transfer and change of designation.

(14) (a) Beginning January 1, 2022, a retail marijuana cultivation facility licensee that cultivates retail marijuana outdoors may file a contingency plan for its outdoor cultivation operation to address how the licensee will respond when there is an adverse weather event. If the licensee files a contingency plan, the licensee shall also submit a copy of the plan to the local licensing authority in the local jurisdiction where the licensee operates. If the contingency plan is approved by the state licensing authority, the retail marijuana cultivation facility licensee may follow the contingency plan in the case of an adverse weather event.

(b) After the state licensing authority approves a contingency plan, it shall notify the local licensing authority of the approval. The local licensing authority may enforce local land use and zoning laws and regulations regarding the contingency plan and may develop internal regulatory processes to evaluate contingency plans.

(c) On and after January 1, 2023, a local licensing authority may require that an applicant for a retail marijuana cultivation facility license include a contingency plan with the application for the local licensing authority's review and approval.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2909, § 5, effective January 1, 2020; (1) amended, (HB 19-1230), ch. 340, p. 3121, § 18, effective January 1, 2020. **L. 2020:** (9), (10), and (11) amended, (HB 20-1424), ch. 184, p. 846, § 8, effective September 14. **L. 2021:** (14) added, (HB 21-1301), ch. 304, p. 1827, § 7, effective September 7; (13) added, (HB 21-1216), ch. 306, p. 1833, § 3, effective July 1, 2022.

Editor's note: This section is similar to former § 44-12-403 as it existed prior to 2020.

44-10-603. Retail marijuana products manufacturer license - rules - definition. (1) (a) A retail marijuana products manufacturer license may be issued to a person who manufactures retail marijuana products pursuant to the terms and conditions of this article 10.

(b) A retail marijuana products manufacturer may cultivate its own retail marijuana if it obtains a retail marijuana cultivation facility license, or it may purchase retail marijuana from a licensed retail marijuana cultivation facility. A retail marijuana products manufacturer shall track all of its retail marijuana from the point it is either transferred from its retail marijuana cultivation facility or the point when it is delivered to the retail marijuana products manufacturer from a licensed retail marijuana cultivation facility to the point of transfer to a licensed retail marijuana store, a licensed retail marijuana products manufacturer, a retail marijuana testing facility, or a licensed retail marijuana cultivation facility with a centralized distribution permit pursuant to section 44-10-602 (7).

(c) A retail marijuana products manufacturer shall not accept any retail marijuana purchased from a retail marijuana cultivation facility unless the retail marijuana products manufacturer is provided with evidence that any applicable excise tax due pursuant to article 28.8 of title 39 was paid.

(d) A retail marijuana products manufacturer shall not:

(I) Add any marijuana to a food product where the manufacturer of the food product holds a trademark to the food product's name; except that a retail marijuana products manufacturer may use a trademarked food product if the manufacturer uses the product as a component or as part of a recipe and where the retail marijuana products manufacturer does not state or advertise to the consumer that the final retail marijuana product contains a trademarked food product;

(II) Intentionally or knowingly label or package a retail marijuana product in a manner that would cause a reasonable consumer confusion as to whether the retail marijuana product was a trademarked food product; or

(III) Label or package a product in a manner that violates any federal trademark law or regulation.

(e) A retail marijuana products manufacturer may sell retail marijuana and retail marijuana products to a retail marijuana hospitality and sales business.

(2) Retail marijuana products must be prepared on a licensed premises that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products and using equipment that is used exclusively for the manufacture and preparation of retail marijuana products; except that, if permitted by the local jurisdiction and subject to rules of the state licensing authority, a retail marijuana products manufacturer licensee may share the same premises as:

(a) A medical marijuana products manufacturer licensee so long as a virtual or physical separation of inventory is maintained;

(b) A commonly owned marijuana research and development licensee so long as virtual or physical separation of inventory and research activity is maintained; or

(c) An accelerator manufacturer licensee if the retail marijuana products manufacturer has its premises endorsed pursuant to rule before each accelerator manufacturer licensee operates and each accelerator manufacturer licensee is approved to operate on that premises.

(3) All licensed premises on which retail marijuana products are manufactured must meet the sanitary standards for retail marijuana product preparation promulgated pursuant to section 44-10-203 (2)(i).

(4) (a) The retail marijuana product must be sealed and conspicuously labeled in compliance with this article 10 and any rules promulgated pursuant to this article 10. The labeling of retail marijuana products is a matter of statewide concern.

(b) The standard symbol requirements as promulgated pursuant to section 44-10-203 (2)(y) do not apply to a multi-serving liquid retail marijuana product, which is impracticable to mark, if the product complies with all statutory and rule packaging requirements for multi-serving edibles and complies with the following enhanced requirements to reduce the risk of accidental ingestion. A multi-serving liquid must:

(I) Be packaged in a structure that uses a single mechanism to achieve both child-resistance and accurate pouring measurement of each liquid serving in increments equal to or less than ten milligrams of active THC per serving, with no more than one hundred milligrams of active THC total per package; and

(II) The measurement component is within the child-resistant cap or closure of the bottle and is not a separate component.

(5) Retail marijuana or retail marijuana products may not be consumed on the premises of a retail marijuana products manufacturer.

(6) A retail marijuana products manufacturer may provide, except as required by section 44-10-203 (2)(d), a sample of its products to a facility that has a retail marijuana testing facility license from the state licensing authority for testing and research purposes. A retail marijuana products manufacturer shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the results of the testing.

(7) An edible retail marijuana product may list its ingredients and compatibility with dietary practices.

(8) A licensed retail marijuana products manufacturer shall package and label each product manufactured as required by rules of the state licensing authority pursuant to section 44-10-203 (2)(f) and (3)(b).

(9) All retail marijuana products that require refrigeration to prevent spoilage must be stored and transported in a refrigerated environment.

(10) (a) A retail marijuana products manufacturer licensee may provide a retail marijuana product sample and a retail marijuana concentrate sample to no more than five managers employed by the licensee for purposes of quality control and product development. A retail marijuana products manufacturer licensee may designate no more than five managers per calendar month as recipients of quality control and product development samples authorized pursuant to this subsection (10)(a).

(b) A sample authorized pursuant to subsection (10)(a) of this section is limited to one serving size of an edible retail marijuana product not exceeding ten milligrams of THC and its applicable equivalent serving size of nonedible retail marijuana product per batch as defined in rules promulgated by the state licensing authority and one-quarter gram of retail marijuana concentrate per batch as defined in rules promulgated by the state licensing authority; except that the limit is one-half gram of retail marijuana concentrate if the intended use of the final product is to be used in a device that can be used to deliver retail marijuana concentrate in a vaporized form to the person inhaling from the device.

(c) A sample authorized pursuant to subsection (10)(a) of this section must be labeled and packaged pursuant to the rules promulgated pursuant to section 44-10-203 (2)(f) and (3)(b).

(d) A sample provided pursuant to subsection (10)(a) of this section must be tracked with the seed-to-sale tracking system. Prior to a manager receiving a sample, a manager must be designated in the seed-to-sale tracking system as a recipient of quality control and product development samples. A manager receiving a sample must make a voluntary decision to be tracked in the seed-to-sale tracking system and is not a consumer pursuant to section 16 (5)(c) of article XVIII of the state constitution. The retail marijuana products manufacturer licensee shall maintain documentation of all samples and shall make the documentation available to the state licensing authority.

(e) Prior to a manager receiving a sample pursuant to subsection (10)(a) of this section, a retail marijuana products manufacturer licensee shall provide a standard operating procedure to the manager explaining requirements pursuant to this section and personal possession limits pursuant to section 18-18-406.

(f) A manager shall not:

(I) Receive more than a total of eight grams of retail marijuana concentrate or fourteen individual serving-size edibles or its applicable equivalent in nonedible retail marijuana products per calendar month, regardless of the number of licenses that the manager is associated with; or

(II) Provide to or resell the sample to another licensed employee, a customer, or any other individual.

(g) A retail marijuana products manufacturing licensee shall not:

(I) Allow a manager to consume the sample on the licensed premises; or

(II) Use the sample as a means of compensation to a manager.

(h) The state licensing authority may establish additional inventory tracking and record keeping, including additional reporting required for implementation. The retail marijuana products manufacturer licensee shall maintain the information required by this subsection (10)(h) on the licensed premises for inspection by the state and local licensing authorities.

(i) For purposes of this subsection (10) only, "manager" means an employee of the retail marijuana products manufacturer who holds a valid key license or associated key license and is currently designated pursuant to state licensing authority rules as the manager of the retail marijuana products manufacturer.

(11) (a) A retail marijuana products manufacturer that uses an industrial hemp product as an ingredient in a retail marijuana product shall ensure that the industrial hemp product has passed all testing required by rules promulgated by the state licensing authority pursuant to section 44-10-203 (2)(d). Prior to taking possession of the industrial hemp product, a retail marijuana products manufacturer shall verify that the industrial hemp product passed all testing required for retail marijuana products at a licensed retail marijuana testing facility and that the

person transferring the industrial hemp product has received a registration from the department of public health and environment pursuant to section 25-5-426.

(b) Absent sampling and testing standards established by the department of public health and environment for the sampling and testing of an industrial hemp product, a person transferring industrial hemp product to a retail marijuana products manufacturer pursuant to this section shall comply with sampling and testing standards consistent with those established by the state licensing authority pursuant to this article 10. The state licensing authority shall report to the department of public health and environment any investigations or findings in violation of this section by a person registered pursuant to section 25-5-426.

(12) Notwithstanding any other provision of law to the contrary, a licensed retail marijuana products manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

(13) A retail marijuana products manufacturer licensee that hosts an accelerator manufacturer licensee may, pursuant to rule, provide technical and compliance assistance to an accelerator manufacturer licensee operating on its premises. A retail marijuana products manufacturer licensee that hosts an accelerator manufacturer licensee may, pursuant to rule, provide capital assistance to an accelerator manufacturer licensee operating on its premises.

(14) A retail marijuana products manufacturer licensee, pursuant to rule and the state licensing authority discretion, may be eligible for incentives through the department of revenue or the office of economic development and international trade, including but not limited to a reduction in application or license fees.

(15) **[*Editor's note: This subsection (15) is effective July 1, 2022.*]** (a) After obtaining passing test results required by subsection (6) of this section, a retail marijuana products manufacturer may transfer retail marijuana that has been extracted and is in a concentrated form to a co-located medical marijuana products manufacturer with at least one identical controlling beneficial owner and change the designation of the retail marijuana that has been extracted and is in a concentrated form to medical marijuana that has been extracted and is in a concentrated form. Pursuant to section 44-10-503 (12)(a), after the medical marijuana products manufacturer enters the designation change into the seed-to-sale tracking system, the product is a medical marijuana product and is the property of the medical marijuana products manufacturer. A product that changed designation pursuant to this subsection (15)(a) shall not be transferred to the originating retail marijuana products manufacturer or any retail marijuana licensee, have its designation changed from a medical marijuana product, or otherwise be treated as a retail marijuana product.

(b) A transfer and change of designation of retail marijuana that has been extracted and is in a concentrated form to medical marijuana that has been extracted and is in a concentrated form pursuant to this subsection (15) is not a transaction that results in a right to refund of any retail marijuana excise tax incurred or paid prior to that transfer and change of designation.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2913, § 5, effective January 1, 2020 (see editor's note); (1)(e) added, (HB 19-1230), ch. 340, p. 3121, § 19, effective January 1, 2020. **L. 2020:** (2)(c), (13), and (14) amended, (HB 20-1424), ch. 184, p. 847, § 9, effective September 14. **L. 2021:** (2) amended, (HB 21-1178), ch. 130, p. 525, § 7, effective September 7; (15) added, (HB 21-1216), ch. 306, p. 1834, § 4, effective July 1, 2022.

Editor's note: (1) This section is similar to former § 44-12-404 as it existed prior to 2020.

(2) Section 38 of chapter 315 (SB 19-224), Session Laws of Colorado 2019, provides that the effective date of subsection (11) is July 1, 2020.

44-10-604. Retail marijuana testing facility license - rules. (1) (a) A retail marijuana testing facility license may be issued to a person who performs testing and research on retail marijuana and industrial hemp as regulated by article 61 of title 35 and industrial hemp products as regulated by part 4 of article 5 of title 25. The facility may develop and test retail marijuana products, industrial hemp as regulated by article 61 of title 35, and industrial hemp products as regulated by part 4 of article 5 of title 25. Prior to performing testing on industrial hemp, a facility shall verify that the person requesting the testing has received a registration from the commissioner as required by section 35-61-104. Prior to performing testing on industrial hemp products, a facility shall verify that the person requesting the testing has received a registration as required by section 25-5-426.

(b) The testing of retail marijuana, retail marijuana products, and retail marijuana concentrate, and the associated standards, is a matter of statewide concern.

(2) The state licensing authority shall promulgate rules pursuant to its authority in section 44-10-202 (1)(c) related to acceptable testing and research practices, including but not limited to testing, standards, quality control analysis, equipment certification and calibration, and chemical identification and other substances used in bona fide research methods.

(3) A person who has an interest in a retail marijuana testing facility license from the state licensing authority for testing purposes shall not have any interest in a licensed medical marijuana store, a licensed medical marijuana cultivation facility, a licensed medical marijuana products manufacturer, a licensed retail marijuana store, a licensed retail marijuana cultivation facility, or a licensed retail marijuana products manufacturer. A person that has an interest in a licensed medical marijuana store, a licensed medical marijuana cultivation facility, a licensed medical marijuana products manufacturer, a licensed retail marijuana store, a licensed retail marijuana cultivation facility, or a licensed retail marijuana products manufacturer shall not have an interest in a facility that has a retail marijuana testing facility license.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2917, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-12-405 as it existed prior to 2020.

44-10-605. Retail marijuana transporter license - definition. (1) (a) A retail marijuana transporter license may be issued to a person to provide logistics, distribution, delivery, and storage of retail marijuana and retail marijuana products. Notwithstanding any other provisions of law, a retail marijuana transporter license is valid for two years but cannot be transferred with a change of ownership. A licensed retail marijuana transporter is responsible for the retail marijuana and retail marijuana products once it takes control of the product.

(b) A licensed retail marijuana transporter may contract with multiple licensed retail marijuana businesses.

(c) On and after July 1, 2017, all retail marijuana transporters shall hold a valid retail marijuana transporter license; except that an entity licensed pursuant to this article 10 that provides its own distribution is not required to have a retail marijuana transporter license to transport and distribute its products. The state licensing authority shall begin accepting applications after January 1, 2017.

(2) A retail marijuana transporter licensee may maintain a licensed premises to temporarily store retail marijuana and retail marijuana products and to use as a centralized distribution point. The licensed premises must be located in a jurisdiction that permits the operation of retail marijuana stores. A licensed retail marijuana transporter may store and distribute retail marijuana and retail marijuana products from this location. A storage facility must meet the same security requirements that are required to obtain a retail marijuana cultivation facility license.

(3) A retail marijuana transporter licensee shall use the seed-to-sale tracking system developed pursuant to section 44-10-202 (1)(a) to create shipping manifests documenting the transport of retail marijuana and retail marijuana products throughout the state.

(4) A retail marijuana transporter licensee may:

(a) Maintain and operate one or more warehouses in the state to handle retail marijuana and retail marijuana products; and

(b) Deliver retail marijuana products on orders previously taken if the place where orders are taken and delivered is licensed.

(5) (a) (I) There is authorized a retail marijuana delivery permit to a retail marijuana transporter license authorizing the permit holder to deliver retail marijuana and retail marijuana products.

(II) A retail marijuana delivery permit is valid for one year and may be renewed annually upon renewal of the retail marijuana transporter license.

(III) A retail marijuana delivery permit issued pursuant to this section applies to only one retail marijuana transporter; except that a single retail marijuana delivery permit may apply to multiple retail marijuana transporters provided that the retail marijuana transporters are in the same local jurisdiction and are identically owned, as defined by the state licensing authority for purposes of this section.

(IV) The state licensing authority may issue a retail marijuana delivery permit to a qualified applicant, as determined by the state licensing authority, that holds a retail marijuana transporter license issued pursuant to this article 10. A permit applicant is prohibited from delivering retail marijuana and retail marijuana products without state and local jurisdiction approval. If the applicant does not receive local jurisdiction approval within one year from the date of the state licensing authority approval, the state permit expires and may not be renewed. If an application is denied by the local licensing authority, the state licensing authority shall revoke the state-issued permit. The state licensing authority has discretion in determining whether an applicant is qualified to receive a retail marijuana delivery permit. A retail marijuana delivery permit issued by the state licensing authority is deemed a revocable privilege of a licensed retail marijuana transporter. A violation related to a retail marijuana delivery permit is grounds for a fine or suspension or revocation of the delivery permit or retail marijuana transporter license.

(b) A retail marijuana transporter licensee shall not make deliveries of retail marijuana or retail marijuana products to individuals while also transporting retail marijuana or retail marijuana products between licensed premises in the same vehicle.

(c) A licensed retail marijuana transporter with a retail marijuana delivery permit may deliver retail marijuana and retail marijuana products on behalf of a retail marijuana store only to the individual who placed the order with a retail marijuana store and who:

(I) Is twenty-one years of age or older;

(II) Receives the delivery of retail marijuana or retail marijuana products pursuant to rules; and

(III) Possesses an acceptable form of identification.

(d) In accordance with this subsection (5) and rules adopted to implement this subsection (5), a licensed retail marijuana transporter with a valid retail marijuana delivery permit may:

(I) Not accept orders on behalf of a retail marijuana store and may only pick up already packaged retail marijuana delivery orders from a retail marijuana store or its associated state licensing authority-authorized storage facility as defined by rule and deliver those orders to the appropriate individual;

(II) Deliver retail marijuana and retail marijuana products not in excess of the amounts established by the state licensing authority;

(III) Deliver only to an individual at the address provided in the order;

(IV) Deliver no more than once per day to the same individual or residence;

(V) (A) Deliver only to a private residence.

(B) For purposes of this section, "private residences" means private premises where a person lives, such as a private dwelling place or place of habitation, and specifically excludes any premises located at a school or on the campus of an institution of higher education, or any other public property.

(VI) Deliver retail marijuana or retail marijuana products only by a motor vehicle that complies with this section and the rules promulgated pursuant to this section and section 44-10-203 (2)(dd); and

(VII) Use an employee to conduct deliveries on behalf of, and pursuant to a contract with, a retail marijuana store that has a valid retail marijuana delivery permit from its retail marijuana store or its associated state licensing authority-authorized storage facility as defined by rule.

(e) Prior to transferring possession of the order to an individual, the person delivering the order shall inspect the individual's identification and verify that the information provided at the time of the order matches the name and age on the individual's identification.

(f) Any person delivering retail marijuana or retail marijuana products for a retail marijuana transporter must possess a valid occupational license and be a current employee of the retail marijuana transporter licensee with a valid retail marijuana delivery permit; must have undergone training regarding proof-of-age identification and verification, including all forms of identification that are deemed acceptable by the state licensing authority; and must have any other training required by the state licensing authority.

(g) (I) Unless otherwise provided by the state licensing authority by rules promulgated pursuant to this article 10, all requirements applicable to other licenses issued pursuant to this article 10 apply to the delivery of retail marijuana and retail marijuana products, including but not limited to inventory tracking, transportation, and packaging and labeling requirements.

(II) The advertising regulations and prohibitions adopted pursuant to section 44-10-203 (3)(a) apply to retail marijuana delivery operations pursuant to this subsection (5).

(h) It is not a violation of any provision of state, civil, or criminal law for a licensed retail marijuana transporter licensee with a valid retail marijuana delivery permit, or such person who has made timely and sufficient application for the renewal of the permit, or its licensees to possess, transport, and deliver retail marijuana and retail marijuana products pursuant to a retail marijuana delivery permit in amounts that do not exceed amounts established by the state licensing authority.

(i) (I) Notwithstanding any provisions of this section, delivery of retail marijuana or retail marijuana products is not permitted in any municipality, county, or city and county unless the municipality, county, or city and county, by either a majority of the registered electors of the municipality, county, or city and county voting at a regular election or special election called in accordance with the "Colorado Municipal Election Code of 1965", article 10 of title 31, or the "Uniform Election Code of 1992", articles 1 to 13 of title 1, as applicable, or a majority of the members of the governing board for the municipality, county, or city and county, vote to allow the delivery of retail marijuana or retail marijuana products pursuant to this section.

(II) An ordinance adopted pursuant to subsection (5)(i)(I) of this section may prohibit delivery of retail marijuana and retail marijuana products from a retail marijuana store that is outside a municipality's, county's, city's, or city and county's jurisdictional boundaries to an address within its jurisdictional boundaries.

(j) The state licensing authority shall begin issuing retail marijuana delivery permits to qualified retail marijuana transporter applicants on, but not earlier than, January 2, 2021.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2918, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-12-406 as it existed prior to 2020.

44-10-606. Retail marijuana business operator license. A retail marijuana business operator license may be issued to a person who operates a retail marijuana business licensed pursuant to this article 10, for an owner licensed pursuant to this article 10, and who may receive a portion of the profits as compensation.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2921, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-12-407 as it existed prior to 2020.

44-10-607. Retail marijuana accelerator cultivator license. (1) A retail marijuana accelerator cultivator license may be issued to a social equity licensee to exercise the privileges of a retail marijuana cultivation facility licensee on the premises of an accelerator-endorsed retail marijuana cultivation facility. The retail marijuana accelerator cultivator may receive technical assistance and financial support from the retail marijuana cultivation facility licensee with an accelerator endorsement.

(2) The state licensing authority shall begin accepting applications for retail marijuana accelerator cultivator licenses on January 1, 2021.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2921, § 5, effective January 1, 2020. **L. 2020:** Entire section amended, (HB 20-1424), ch. 184, p. 847, § 10, effective September 14.

44-10-608. Retail marijuana accelerator manufacturer license. (1) A retail marijuana accelerator manufacturer license may be issued to a social equity licensee to exercise the privileges of a retail marijuana products manufacturer licensee on the premises of an accelerator-endorsed retail marijuana products manufacturer. The retail marijuana accelerator manufacturer may receive technical assistance and financial support from the retail marijuana products manufacturer with an accelerator endorsement.

(2) The state licensing authority shall begin accepting applications for retail marijuana accelerator manufacturer licenses on January 1, 2021.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2921, § 5, effective January 1, 2020. **L. 2020:** Entire section amended, (HB 20-1424), ch. 184, p. 847, § 11, effective September 14.

44-10-609. Marijuana hospitality business license. (1) (a) The state licensing authority may issue a marijuana hospitality business license authorizing the licensee to operate a licensed premises in which marijuana may be consumed pursuant to this article 10, rules promulgated pursuant to this article 10, and the provisions of the ordinance or resolution of the local jurisdiction in which the licensee operates.

(b) Subject to provisions of this article 10 and the ordinance or resolution of the local jurisdiction in which the licensee operates, a retail food business as defined in section 25-4-1602 (14) that does not hold a license or permit issued pursuant to article 3, 4, or 5 of this title 44 may apply for a license to operate a marijuana hospitality business in an isolated portion of the premises of the retail food business. A retail food business operating a marijuana hospitality business pursuant to this subsection (1)(b) is subject to the terms and conditions of article 4 of title 25 and the rules promulgated pursuant to that article, including but not limited to licensure requirements and inspection and enforcement authority of the Colorado department of public health and environment. This subsection (1)(b) does not authorize the marijuana hospitality business to engage in the manufacture of medical marijuana-infused products or retail marijuana products or to add marijuana to foods produced or provided at the retail food business.

(c) If a municipality, county, city, or city and county has in effect as of January 1, 2020, an ordinance or resolution related to consumption of marijuana, nothing in this section restricts the enforcement of that ordinance or resolution, and the local jurisdiction may, by ordinance or resolution, require a business operating as a place for on-site marijuana consumption to be licensed pursuant to this section.

(d) The state licensing authority shall maintain a list of all marijuana hospitality businesses in the state and shall make the list available on its website.

(2) A marijuana hospitality business shall not:

(a) Engage in or permit the sale or exchange for remuneration of retail or medical marijuana, retail marijuana products, or medical marijuana-infused products in the licensed premises;

(b) Allow on-duty employees of the business to consume any marijuana in the licensed premises of the business;

(c) Distribute or allow distribution of free samples of marijuana in the licensed premises of the business;

(d) Allow the consumption of alcohol on the licensed premises;

(e) Allow the smoking of tobacco or tobacco products in the licensed premises of the business;

(f) Allow the use of any device using any liquid petroleum gas, a butane torch, a butane lighter, or matches in the licensed premises if prohibited by local ordinance or resolution;

(g) Allow any activity that would require an additional license under this article 10 in the licensed premises of the business, including but not limited to sales, manufacturing, or cultivation;

(h) Knowingly permit any activity or acts of disorderly conduct as described in section 18-9-106;

(i) Permit the use or consumption of marijuana by a patron who displays any visible signs of intoxication;

(j) Permit rowdiness, undue noise, or other disturbances or activity offensive to the average citizen or to the residents of the neighborhood in which the licensed premises is located; or

(k) Admit into the licensed premises of the business any person who is under twenty-one years of age.

(3) A marijuana hospitality business shall:

(a) Operate the business in a decent, orderly, and respectable manner;

(b) Require all employees of the business to successfully complete an annual responsible vendor training program authorized pursuant to section 44-10-1201;

(c) Ensure that the display and consumption of any marijuana is not visible from outside of the licensed premises of the business;

(d) Educate consumers of marijuana by providing informational materials regarding the safe consumption of marijuana. The materials must be based on the requirements established by the marijuana educational oversight committee, established pursuant to section 24-20-112 (4), and on the relevant research from the panel of health- care professionals appointed pursuant to section 25-1.5-110. Nothing in this subsection (3)(d) prohibits a local jurisdiction from adopting additional requirements for education on safe consumption.

(e) Maintain a record of all educational materials required by subsection (3)(d) of this section in the licensed premises for inspection by state and local licensing authorities and law enforcement; and

(f) If an emergency requires law enforcement, firefighters, emergency medical service providers, or other public safety personnel to enter a marijuana hospitality business, ensure that all employees and patrons of the business cease all consumption and other activities until such personnel have completed their investigation or services and have left the licensed premises.

(4) A marijuana hospitality business and its employees may remove an individual from the business for any reason, including a patron who displays any visible signs of intoxication.

Source: L. 2019: Entire section added, (HB 19-1230), ch. 340, p. 3121, § 20, effective January 1, 2020.

44-10-610. Retail marijuana hospitality and sales business license. (1) (a) The state licensing authority may issue a retail marijuana hospitality and sales business license authorizing the licensee to operate a licensed premises in which marijuana may be sold and consumed pursuant to this article 10, rules promulgated pursuant to this article 10, and the provisions of the ordinance or resolution of the local jurisdiction in which the licensee operates.

(b) Subject to provisions of this article 10 and the ordinance or resolution of the local jurisdiction in which the licensee operates, a retail food business as defined in section 25-4-1602 (14) that does not hold a license or permit issued pursuant to article 3, 4, or 5 of this title 44 may apply for a license to operate a retail marijuana hospitality and sales business in an isolated portion of the premises of the retail food business. A retail food business operating a retail marijuana hospitality and sales business pursuant to this subsection (1)(b) is subject to the terms and conditions of article 4 of title 25 and the rules promulgated pursuant to that article, including but not limited to licensure requirements and inspection and enforcement authority of the Colorado department of public health and environment. This subsection (1)(b) does not authorize the retail marijuana hospitality and sales business to engage in the manufacture of medical marijuana-infused products or retail marijuana products or to add marijuana to foods produced or provided at the retail food business.

(c) The state licensing authority shall maintain a list of all retail marijuana hospitality and sales businesses in the state and shall make the list available on its website.

(2) A retail marijuana hospitality and sales business licensee shall not:

(a) Engage in multiple sales transactions to the same patron during the same business day when the business's employee knows or reasonably should have known that the sales transaction would result in the patron possessing more than the sales limit established by the state licensing authority;

(b) Allow on-duty employees of the business to consume any marijuana in the licensed premises;

(c) Distribute or allow distribution of free samples of marijuana in the licensed premises of the business;

(d) Sell any retail marijuana or retail marijuana products that contain nicotine or, if the sale of alcohol would require a license or permit pursuant to article 3, 4, or 5 of this title 44, alcohol;

(e) Allow the consumption of alcohol on the licensed premises;

(f) Allow the smoking of tobacco or tobacco products in the licensed premises of the business;

(g) Allow the use of any device using any liquid petroleum gas, a butane torch, a butane lighter, or matches in the licensed premises if prohibited by local ordinance or resolution;

(h) Allow any activity that would require an additional license under this article 10 in the licensed premises of the business, including but not limited to manufacturing or cultivation activity;

(i) Knowingly permit any activity or acts of disorderly conduct as described in section 18-9-106;

(j) Sell, serve, or permit the sale or serving of retail marijuana or retail marijuana products to any patron who shows signs of visible intoxication;

(k) Permit rowdiness, undue noise, or other disturbances or activity offensive to the average citizen or to the residents of the neighborhood in which the licensed premises is located; or

(l) Admit into the licensed premises of a retail marijuana hospitality and sales business any person who is under twenty-one years of age.

(3) A retail marijuana hospitality and sales business licensee shall:

(a) Track all of its retail marijuana and retail marijuana products from the point that they are transferred from a retail marijuana store, retail marijuana products manufacturer, or retail marijuana cultivation facility to the point of sale to its patrons;

(b) Limit a patron to one transaction of no more than the sales limit set by the state licensing authority by rule pursuant to section 44-10-203 (2)(ff)(II);

(c) Before allowing a patron to leave the licensed premises with any retail marijuana or retail marijuana products, package and label the retail marijuana or retail marijuana products in accordance with procedures developed by the business that comply with the requirements of section 44-10-203 (2)(f) and (3)(b);

(d) Operate the business in a decent, orderly, and respectable manner;

(e) Require all employees of the business to successfully complete an annual responsible vendor training program authorized pursuant to section 44-10-1201;

(f) Ensure that the display and consumption of any retail marijuana or retail marijuana product is not visible from outside of the business;

(g) Educate consumers of marijuana by providing informational materials regarding the safe consumption of marijuana. The materials must be based on the requirements established by the marijuana educational oversight committee, established pursuant to section 24-20-112 (4), and on the relevant research from the panel of health- care professionals appointed pursuant to section 25-1.5-110. Nothing in this subsection (3)(g) prohibits a local jurisdiction from adopting additional requirements for education on safe consumption.

(h) Maintaining a record of all educational materials required by subsection (3)(g) of this section in the licensed premises for inspection by state and local licensing authorities and law enforcement; and

(i) If an emergency requires law enforcement, firefighters, emergency medical service providers, or other public safety personnel to enter a retail marijuana hospitality and sales business, ensure that all employees and patrons of the business cease all sales, consumption, and other activities until such personnel have completed their investigation or services and have left the licensed premises.

(4) A retail marijuana hospitality and sales business and its employees may remove an individual from the business for any reason, including a patron who displays any visible signs of intoxication.

(5) A retail marijuana hospitality and sales business may purchase retail marijuana or retail marijuana products from any retail marijuana store, retail marijuana cultivation facility, or retail marijuana products manufacturer.

Source: L. 2019: Entire section added, (HB 19-1230), ch. 340, p. 3121, § 20, effective January 1, 2020.

44-10-611. Retail marijuana accelerator store license. (1) A retail marijuana accelerator store license may be issued to a social equity licensee to exercise the privileges of a retail marijuana store licensee on the premises of an accelerator-endorsed retail marijuana store. The retail marijuana accelerator store may receive technical assistance and financial support from the retail marijuana store with an accelerator endorsement.

(2) The state licensing authority shall begin accepting applications for retail marijuana accelerator store licenses on January 1, 2021.

Source: L. 2020: Entire section added, (HB 20-1424), ch. 184, p. 848, § 12, effective September 14.

PART 7

UNLAWFUL ACTS

44-10-701. Unlawful acts - exceptions. (1) Except as otherwise provided in this article 10, it is unlawful for a person:

(a) Except in the licensed premises of a marijuana hospitality business licensed pursuant to section 44-10-609 or a retail marijuana hospitality and sales business licensed pursuant to section 44-10-610:

(I) To consume regulated marijuana or regulated marijuana products in a licensed medical marijuana business or retail marijuana business; or

(II) For a medical marijuana business or retail marijuana business to allow regulated marijuana or regulated marijuana products to be consumed upon its licensed premises;

(b) With knowledge, to permit or fail to prevent the use of his or her medical marijuana patient registry identification by any other person for the unlawful purchasing of medical marijuana.

(2) It is unlawful for a person to:

(a) Buy, sell, transfer, give away, or acquire regulated marijuana or regulated marijuana products except as allowed pursuant to this article 10 or section 14 or section 16 of article XVIII of the state constitution;

(b) Have a controlling beneficial ownership, passive beneficial ownership, or indirect financial interest in a license pursuant to this article 10 that was not disclosed in accordance with section 44-10-309; except that this subsection (2)(b) does not apply to banks or savings and loan associations supervised and regulated by an agency of the state or federal government, or to FHA-approved mortgagees, or to stockholders, directors, or officers thereof;

(c) Exercise any privilege of a license issued pursuant to this article 10 that the person does not hold;

(d) Exercise any privilege associated with holding a controlling beneficial ownership, passive beneficial ownership, or indirect financial interest in a license that was not disclosed in accordance with section 44-10-309; or

(e) Engage in transfer of ownership without prior approval as required by this article 10, including but not limited to:

(I) A proposed transferee operating a medical marijuana business or retail marijuana business before a transfer of ownership request for that business is approved in writing by the state licensing authority; or

(II) A current controlling beneficial owner, passive beneficial owner, or proposed transferor failing to retain full responsibility for a medical marijuana business or retail marijuana business identified in the transfer of ownership application until the transfer request is approved in writing by the state licensing authority.

(3) It is unlawful for a person licensed pursuant to this article 10:

(a) To fail to report a transfer required by section 44-10-313 (11);

(b) To knowingly adulterate or alter, or to attempt to adulterate or alter, any samples of regulated marijuana or regulated marijuana products for the purpose of circumventing contaminant testing detection limits or potency testing requirements;

(c) To use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors;

(d) To provide public premises, or any portion thereof, for the purpose of consumption of regulated marijuana in any form, except in the licensed premises of a marijuana hospitality business licensed pursuant to section 44-10-609 or a retail marijuana hospitality and sales business licensed pursuant to section 44-10-610;

(e) To have in possession or upon the licensed premises any regulated marijuana, the sale of which is not permitted by the license, except if it is for purposes of recycling;

(f) To have on the licensed premises any regulated marijuana or marijuana paraphernalia that shows evidence of the regulated marijuana having been consumed or partially consumed, except:

(I) If it is for purposes of recycling; or

(II) In the licensed premises of a marijuana hospitality business licensed pursuant to section 44-10-609 or a retail marijuana hospitality and sales business licensed pursuant to section 44-10-610;

(g) To violate the provisions of section 6-2-103 or 6-2-105;

(h) To abandon a licensed premises or otherwise cease operation without notifying the state and local licensing authorities at least forty-eight hours in advance and without accounting for and forfeiting to the state licensing authority for destruction all regulated marijuana or regulated marijuana products;

(i) To offer for sale or solicit an order for regulated marijuana in person except within the licensed premises;

(j) To buy regulated marijuana from a person not licensed to sell as provided by this article 10;

(k) To sell regulated marijuana except in the permanent location specifically designated in the license for sale; or

(l) To burn or otherwise destroy regulated marijuana or any substance containing regulated marijuana for the purpose of evading an investigation or preventing seizure.

(4) It is unlawful for any person licensed to sell medical marijuana pursuant to this article 10:

(a) (I) To sell medical marijuana to a person not licensed pursuant to this article 10 or to a person not able to produce a valid patient registry identification card, unless the person has a copy of a current and complete new application for the medical marijuana registry administered

by the department of public health and environment that is documented by a certified mail return receipt as having been submitted to the department of public health and environment within the preceding thirty-five days and the employee assisting the person has contacted the department of public health and environment and, as a result, determined the person's application has not been denied. Notwithstanding any provision in this subsection (4)(a)(I) to the contrary, a person under twenty-one years of age shall not be employed to sell or dispense medical marijuana at a medical marijuana store or grow or cultivate medical marijuana at a medical marijuana cultivation facility.

(II) If a licensee or a licensee's employee has reasonable cause to believe that a person is exhibiting a fraudulent patient registry identification card in an attempt to obtain medical marijuana, the licensee or employee is authorized to confiscate the fraudulent patient registry identification card, if possible, and shall, within seventy-two hours after the confiscation, turn it over to the state health department or local law enforcement agency. The failure to confiscate the fraudulent patient registry identification card or to turn it over to the state health department or a state or local law enforcement agency within seventy-two hours after the confiscation does not constitute a criminal offense.

(b) To require a medical marijuana store or medical marijuana store with a medical marijuana cultivation facility license to make delivery to any premises other than the specific licensed premises where the medical marijuana is to be sold.

(5) It is unlawful for any person licensed to sell retail marijuana or retail marijuana products pursuant to this article 10:

(a) To sell or permit the sale of retail marijuana or retail marijuana products to a person under twenty-one years of age; or

(b) To distribute marijuana or marijuana products, with or without remuneration, directly to another person using a mobile distribution store.

(6) It shall be unlawful for a physician who makes patient referrals to a licensed medical marijuana store to receive anything of value from the medical marijuana store licensee or its agents, servants, officers, or owners or anyone financially interested in the licensee, and it shall be unlawful for a licensee licensed pursuant to this article 10 to offer anything of value to a physician for making patient referrals to the licensed medical marijuana store.

(7) A peace officer or a law enforcement agency shall not use any patient information to make traffic stops pursuant to section 42-4-1302.

(8) (a) It is unlawful for a person to engage in any act or omission with the intent to evade disclosure, reporting, record keeping, or suitability requirements pursuant to this article 10, including but not limited to the following:

(I) Failing to file a report required under this article 10 or causing or attempting to cause a person to fail to file such a report;

(II) Filing or causing or attempting to cause a person to file a report required under this article 10 that contains a material omission or misstatement of fact;

(III) Making false or misleading statements regarding the offering of an owner's interest in a medical marijuana business or retail marijuana business; or

(IV) Structuring any transaction with the intent to evade disclosure, reporting, record keeping, or suitability requirements pursuant to this article 10.

(b) The state licensing authority may deny, suspend, revoke, fine, or impose other sanctions against a person's license issued under this article 10 if the state licensing authority

finds a violation of this subsection (8) by the person, the person's controlling beneficial owner, passive beneficial owner, indirect financial interest holder, or any agent or employee thereof.

(9) **[*Editor's note: This version of subsection (9) is effective until March 1, 2022.*]** A person who commits any acts that are unlawful pursuant to this article 10 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501; except that a violation of subsection (5)(a) of this section is a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501. For violations that would also constitute a violation of title 18, the violation shall be charged and prosecuted pursuant to title 18.

(9) **[*Editor's note: This version of subsection (9) is effective March 1, 2022.*]** A person who commits any acts that are unlawful pursuant to this article 10 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. For violations that would also constitute a violation of title 18, the violation shall be charged and prosecuted pursuant to title 18.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2922, § 5, effective January 1, 2020; (1)(a), (3)(d), and (3)(f) amended, (HB 19-1230), ch. 340, p. 3126, § 21, effective January 1, 2020. **L. 2021:** (9) amended, (SB 21-271), ch. 462, p. 3328, § 786, effective March 1, 2022.

Editor's note: (1) This section is similar to former §§ 44-11-901 and 44-12-901 as they existed prior to 2020.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-10-702. Unlawful open and public consumption. (1) The open and public, as defined in section 18-18-102 (20.3), consumption of marijuana is prohibited.

(2) The governing body of a county, city, city and county, or municipality may adopt an ordinance or resolution authorizing marijuana consumption locations or circumstances that are exceptions to the prohibition described in subsection (1) of this section if the locations are not accessible to the public or a substantial number of the public without restriction, including but not limited to restrictions on the age of the members of the public who are allowed access to such location.

(3) The prohibition in subsection (1) of this section does not apply to any business licensed pursuant to this article 10 that permits consumption on its premises if the business is operating within the conditions of licensure.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2926, § 5, effective January 1, 2020.

PART 8

FEES

44-10-801. Marijuana cash fund - repeal. (1) (a) All money collected by the state licensing authority pursuant to this article 10 must be transmitted to the state treasurer, who shall credit the same to the marijuana cash fund, which fund is hereby created and referred to in this section as the "fund". The fund consists of:

(I) The money collected by the state licensing authority; and

(II) Any additional general fund money appropriated to the fund that is necessary for the operation of the state licensing authority.

(b) Money in the fund is subject to annual appropriation by the general assembly to the department for the direct and indirect costs associated with implementing this article 10 and article 28.8 of title 39.

(c) Any money in the fund not expended for these purposes may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of money in the fund shall be credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and shall not be credited or transferred to the general fund or another fund.

(d) Repealed.

(e) (I) On July 1, 2021, the state treasurer shall transfer one million eight hundred five thousand three hundred seventeen dollars from the marijuana tax cash fund created in section 39-28.8-501 to the marijuana cash fund.

(II) On July 1, 2021, the state treasurer shall transfer one million two hundred thousand dollars from the general fund to the marijuana cash fund.

(III) This subsection (1)(e) is repealed, effective July 1, 2022.

(2) The executive director by rule or as otherwise provided by law may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3) to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the executive director by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402 (4).

(3) (a) The state licensing authority shall establish fees for processing the following types of applications, licenses, notices, or reports required to be submitted to the state licensing authority:

(I) Applications for licenses listed in section 44-10-401 and rules promulgated pursuant to that section;

(II) Applications to change location pursuant to section 44-10-313 (13) and rules promulgated pursuant to that section;

(III) Applications for transfer of ownership pursuant to section 44-10-312 and rules promulgated pursuant to that section;

(IV) License renewal and expired license renewal applications pursuant to section 44-10-314; and

(V) Licenses as listed in section 44-10-401.

(b) The amounts of such fees, when added to the other fees transferred to the fund pursuant to this section, must reflect the actual direct and indirect costs of the state licensing authority in the administration and enforcement of this article 10 so that the fees avoid exceeding the statutory limit on uncommitted reserves in administrative agency cash funds as set forth in section 24-75-402 (3).

(c) The state licensing authority may charge applicants licensed under this article 10 a fee for the cost of each fingerprint analysis and background investigation undertaken to qualify new officers, directors, managers, or employees.

(d) At least annually, the state licensing authority shall review the amounts of the fees and, if necessary, adjust the amounts to reflect the direct and indirect costs of the state licensing authority.

(4) Except as provided in subsection (5) of this section, the state licensing authority shall establish a basic fee that shall be paid at the time of service of any subpoena upon the state licensing authority, plus a fee for meals and a fee for mileage at the rate prescribed for state officers and employees in section 24-9-104 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 must 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.

(5) The subpoena fee established pursuant to subsection (4) of this section is not applicable to any federal, state, or local governmental agency.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2926, § 5, effective January 1, 2020; (1)(d)(III) added, (SB 19-213), ch. 139, p. 1741, § 2, effective January 1, 2020. **L. 2020:** (1)(d)(IV) added, (HB 20-1406), ch. 178, p. 814, § 23, effective June 29. **L. 2021:** (1)(e) added, (SB 21-283), ch. 303, p. 1820, § 2, effective June 23; (1)(d) repealed, (HB 21-1178), ch. 130, p. 526, § 8, effective September 7.

Editor's note: (1) This section is similar to former § 44-11-501 as it existed prior to 2020.

(2) Subsection (1)(d)(IV) was numbered as § 44-11-501 (1)(d)(IV) in HB 20-1406 but was relocated due to the relocation of § 44-11-501 by SB 19-224, effective January 1, 2020.

44-10-802. Fees - allocation. (1) Except as otherwise provided, all fees and fines provided for by this article 10 shall be paid to the department, which shall transmit the fees to the state treasurer. The state treasurer shall credit the fees to the marijuana cash fund created in section 44-10-801.

(2) The expenditures of the state licensing authority are paid out of appropriations from the marijuana cash fund created in section 44-10-801.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2928, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-11-502 as it existed prior to 2020.

44-10-803. Fees. (1) The state licensing authority may charge and collect fees pursuant to this article 10. For a person licensed to cultivate or sell medical marijuana or to manufacture medical marijuana products on or before December 10, 2012, the application fee for a retail marijuana business is five hundred dollars. The state licensing authority shall transfer two

hundred fifty dollars of the fee to the marijuana cash fund and submit two hundred fifty dollars to the local jurisdiction in which the license is proposed to be issued.

(2) Except as provided in subsection (1) of this section, the application fee for a retail marijuana business is five thousand dollars. The state licensing authority shall transfer two thousand five hundred dollars of the fee to the marijuana cash fund and remit two thousand five hundred dollars to the local jurisdiction in which the license is proposed to be issued. If the state licensing authority is considering raising the five-thousand-dollar application fee, it shall confer with each local jurisdiction in which a license pursuant to this article 10 is issued prior to raising the application fee. If the application fee amount is changed, it must be split evenly between the marijuana cash fund and the local jurisdiction in which the license is proposed to be issued.

(3) A local jurisdiction in which a license under this article 10 may be permitted may adopt and impose operating fees in an amount determined by the local jurisdiction on marijuana businesses and establishments located within the local jurisdiction.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2928, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-12-501 as it existed prior to 2020.

PART 9

DISCIPLINARY ACTIONS

44-10-901. Suspension - revocation - fines. (1) In addition to any other sanctions prescribed by this article 10 or rules promulgated pursuant to this article 10, the state licensing authority or local licensing authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee must be afforded an opportunity to be heard, to fine a licensee or to suspend or revoke a license issued by the authority for a violation by the licensee or by any of the agents or employees of the licensee of the provisions of this article 10, or any of the rules promulgated pursuant to this article 10, or of any of the terms, conditions, or provisions of the license issued by the state or local licensing authority. The state or local 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 a hearing that the state or local licensing authority is authorized to conduct.

(2) The state or local licensing authority shall provide notice of suspension, revocation, fine, or other sanction, as well as the required notice of the hearing pursuant to subsection (1) of this section, by mailing the same in writing to the licensee at the address contained in the license and, if different, at the last address furnished to the authority by the licensee. Except in the case of a summary suspension, a suspension is not for a period longer than six months. If a license is suspended or revoked, a part of the fees paid therefor are not returned to the licensee. Any license, registration, or permit may be summarily suspended by the issuing authority without notice pending any prosecution, investigation, or public hearing pursuant to the terms of section 24-4-104 (4). Nothing in this section prevents the summary suspension of a license pursuant to section 24-4-104 (4). Each patient registered with a medical marijuana store that has had its

license summarily suspended may immediately transfer his or her primary store to another licensed medical marijuana store.

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

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

(II) The books and records of the licensee are kept in such a manner that the loss of sales that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy; and

(III) The 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 that resulted in a final decision to suspend the license or permit.

(b) The fine accepted must be not less than five hundred dollars nor more than one hundred thousand dollars.

(c) Payment of a fine pursuant to the provisions of this subsection (3) must 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 licensing authority shall enter its further order permanently staying the imposition of the suspension. Fines paid to the state licensing authority pursuant to subsection (3) of this section are transmitted to the state treasurer, who shall credit the same to the general fund.

(5) In connection with a 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 the authority to complete its investigation and make its findings and, if the authority 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 local licensing authority does not make the findings required in subsection (3)(a) of this section and does not order the suspension permanently stayed, the suspension goes into effect on the operative date finally set by the state or local licensing authority.

(7) Each local licensing authority shall report all actions taken to impose fines, suspensions, and revocations to the state licensing authority in a manner required by the state licensing authority. No later than January 15 of each year, the state licensing authority shall compile a report of the preceding year's actions in which fines, suspensions, or revocations were imposed by the state licensing authority. The state licensing authority shall file one copy of the report with the chief clerk of the house of representatives, one copy with the secretary of the senate, and six copies in the joint legislative library.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2929, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-12-601 and 44-11-601 as they existed prior to 2020.

44-10-902. Disposition of unauthorized marijuana or marijuana products and related materials - rules. (1) The provisions of this section apply in addition to any criminal, civil, or administrative penalties and in addition to any other penalties prescribed by this article 10 or any rules promulgated pursuant to this article 10. Any provisions in this article 10 related to law enforcement are considered a cumulative right of the people in the enforcement of the criminal laws.

(2) Every licensee licensed under this article 10 is deemed, by virtue of applying for, holding, or renewing such person's license, to have expressly consented to the procedures set forth in this section.

(3) A state or local agency is not required to cultivate or care for any regulated marijuana or regulated marijuana product belonging to or seized from a licensee. A state or local agency is not authorized to sell marijuana, regulated or otherwise.

(4) If the state or local licensing authority issues a final agency order imposing a disciplinary action against a licensee pursuant to section 44-10-901, then, in addition to any other remedies, the licensing authority's final agency order may specify that some or all of the licensee's marijuana or marijuana product is not regulated marijuana or a regulated marijuana product and is an illegal controlled substance. The order may further specify that the licensee loses any interest in any of the marijuana or marijuana product even if the marijuana or marijuana product previously qualified as regulated marijuana or a regulated marijuana product. The final agency order may direct the destruction of any such marijuana and marijuana products, except as provided in subsections (5) and (6) of this section. The authorized destruction may include the incidental destruction of any containers, equipment, supplies, and other property associated with the marijuana or marijuana product.

(5) Following the issuance of a final agency order by the state or local licensing authority against a licensee and ordering destruction authorized by subsection (4) of this section, a licensee has fifteen days within which to file a petition for stay of agency action with the district court. The action must be filed in the city and county of Denver, which is deemed to be the residence of the state licensing authority for purposes of this section. The licensee shall serve the petition in accordance with the Colorado rules of civil procedure. The district court shall promptly rule upon the petition and determine whether the licensee has a substantial likelihood of success on judicial review so as to warrant delay of the destruction authorized by subsection (4) of this section or whether other circumstances, including but not limited to the need for preservation of evidence, warrant delay of such destruction. If destruction is so delayed pursuant to judicial order, the court shall issue an order setting forth terms and conditions pursuant to which the licensee may maintain the regulated marijuana and regulated marijuana product pending judicial review and prohibiting the licensee from using or distributing the regulated marijuana or regulated marijuana product pending the review. The licensing authority shall not carry out the destruction authorized by subsection (4) of this section until fifteen days have

passed without the filing of a petition for stay of agency action or until the court has issued an order denying stay of agency action pursuant to this subsection (5).

(6) A district attorney shall notify the state licensing authority if it begins investigating a medical marijuana business or retail marijuana business. If the state licensing authority has received notification from a district attorney that an investigation is being conducted, the state licensing authority shall not destroy any marijuana or marijuana products from the medical marijuana business or retail marijuana business until the destruction is approved by the district attorney.

(7) The state licensing authority shall promulgate rules governing the implementation of this section.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2930, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-12-602 and 44-11-602 as they existed prior to 2020.

PART 10

INSPECTION OF BOOKS AND RECORDS

44-10-1001. Inspection procedures. (1) Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which are open at all times during business hours for the inspection and examination by the 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 10 and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the state licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof must be paid by the licensee.

(2) The licensed premises, including any places of storage where regulated marijuana or regulated marijuana products are stored, cultivated, sold, dispensed, or tested are subject to inspection by the state or local licensing authority, or local jurisdictions and their investigators, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. Access is required during business hours for examination of any inventory or books and records required to be kept by the licensees. When any part of the licensed premises consists of a locked area, upon demand to the licensee, such area must be made available for inspection without delay, and, upon request by authorized representatives of the state or local jurisdiction, the licensee shall open the area for inspection.

(3) Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2932, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-12-701 and 44-11-701 as they existed prior to 2020.

PART 11

JUDICIAL REVIEW

44-10-1101. Judicial review. Decisions by the state licensing authority are subject to judicial review pursuant to section 24-4-106.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2932, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-12-801 and 44-11-801 as they existed prior to 2020.

PART 12

RESPONSIBLE VENDOR STANDARDS

44-10-1201. Responsible vendor program - standards - designation. (1) A person who wants to offer a responsible medical or retail marijuana vendor server and seller training program must submit an application to the state licensing authority for approval, which program is referred to in this part 12 as an "approved training program". The state licensing authority, in consultation with the department of public health and environment, shall approve the submitted program if the submitted program meets the minimum criteria described in subsection (2) of this section. The department of public health and environment shall review each submitted program and shall provide the state licensing authority with the department's analysis of whether the portions of the program related to the department's oversight meet the minimum criteria described in this section.

(2) An approved training program must contain, at a minimum, the following standards and be taught in a classroom setting in a minimum of a two-hour period:

(a) Program standards that specify, at a minimum, who must attend, the time frame for new staff to attend, recertification requirements, record keeping, testing and assessment protocols, and effectiveness evaluations; and

(b) A core curriculum of pertinent statutory and regulatory provisions, which curriculum includes but need not be limited to:

(I) Information on required licenses, age requirements, patient registry cards issued by the department of public health and environment, maintenance of records, privacy issues, and unlawful acts;

(II) Administrative and criminal liability and license and court sanctions;

(III) Statutory and regulatory requirements for employees and owners;

(III.5) Statutory and regulatory requirements related to marijuana delivery;

(IV) Acceptable forms of identification, including patient registry cards and associated documents and procedures;

(V) Local and state licensing and enforcement, which may include but need not be limited to key statutes and rules affecting patients, owners, managers, and employees; and

(VI) Information on serving size, THC and cannabinoid potency, and impairment.

(3) When promulgating program standards pursuant to subsection (2) of this section, the state licensing authority shall consider input from other state agencies, local jurisdictions, the medical and retail marijuana industry, and any other state or national seller server program.

(4) A provider of an approved training program shall maintain its training records at its principal place of business during the applicable year and for the preceding three years, and the provider shall make the records available for inspection by the licensing authority during normal business hours.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2933, § 5, effective January 1, 2020; (2)(b)(IV) and (2)(b)(V) amended and (2)(b)(VI) added, (HB 19-1230), ch. 340, p. 3126, § 22, effective January 1, 2020.

Editor's note: This section is similar to former § 44-11-110 as it existed prior to 2020.

44-10-1202. Responsible vendor - designation. (1) (a) A medical marijuana business or a retail marijuana business licensed pursuant to this article 10 may receive a responsible vendor designation from the program vendor after successfully completing a responsible medical or retail marijuana vendor server and seller training program approved by the state licensing authority. A responsible vendor designation is valid for two years from the date of issuance.

(b) Successful completion of an approved training program is achieved when the program has been attended by and, as determined by the program provider, satisfactorily completed by all employees selling and handling medical or retail marijuana, all managers, and all resident on-site owners, if any.

(c) In order to maintain the responsible vendor designation, the licensed medical marijuana business or retail marijuana business must have each new employee who sells or handles medical or retail marijuana, manager, or resident on-site owner attend and satisfactorily complete a responsible medical or retail marijuana vendor server and seller training program within ninety days after being employed or becoming an owner. The licensed medical marijuana business or retail marijuana business shall maintain documentation of completion of the program by new employees, managers, or owners.

(2) A licensed medical marijuana business or retail marijuana business that receives a responsible vendor designation from the program vendor shall maintain information on all persons licensed pursuant to this article 10 who are in its employment and who have been trained in an approved training program. The information includes the date, place, time, and duration of training and a list of all licensed persons attending each specific training class, which class includes a training examination or assessment that demonstrates proficiency.

(3) If a local or state licensing authority initiates an administrative action against a licensee who has complied with the requirements of this section and has been designated a responsible vendor, the licensing authority shall consider the designation as a mitigating factor when imposing sanctions or penalties on the licensee.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2934, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-11-1102 as it existed prior to 2020.

PART 13

SEVERABILITY

44-10-1301. Severability. If any provision of this article 10 is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this article 10 are valid, unless it appears to the court that the valid provisions of the statute are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that the legislature would have enacted the valid provisions without the void one; or unless the court determines that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2934, § 5, effective January 1, 2020.

Editor's note: This section is similar to former § 44-12-1101 as it existed prior to 2020.

PART 14

SUNSET REVIEW - ARTICLE REPEAL

44-10-1401. Sunset review - repeal of article. (1) This article 10 is repealed, effective September 1, 2028.

(2) Prior to the repeal of this article 10, the department of regulatory agencies shall conduct a sunset review as described in section 24-34-104 (5).

Source: L. 2019: Entire article added with relocations, (SB 19-224), ch. 315, p. 2935, § 5, effective January 1, 2020.

Editor's note: This section is similar to former §§ 44-11-1001 and 44-12-1001 as they existed prior to 2020.

ARTICLE 11

Medical Marijuana

44-11-101 to 44-11-1102. (Repealed)

Source: L. 2019: Entire article repealed, (SB 19-224), ch. 315, p. 2935, §§ 7, 6, effective January 1, 2020.

Editor's note: (1) This article 11 was added with relocations in 2018. For amendments to this article 11 prior to its repeal in 2020, consult page 231 of this volume of the 2019 Colorado Revised Statutes.

(2) This article 11 was relocated to article 10 of this title 44. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 11, see the comparative tables located in the back of the index.

ARTICLE 12

Colorado Retail Marijuana Code

44-12-101 to 44-12-1101. (Repealed)

Source: L. 2019: Entire article repealed, (SB 19-224), ch. 315, p. 2935, §§ 7, 6, effective January 1, 2020.

Editor's note: (1) This article 12 was added with relocations in 2018. For amendments to this article 12 prior to its repeal in 2020, consult page 283 of this volume of the 2019 Colorado Revised Statutes.

(2) This article 12 was relocated to article 10 of this title 44. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 12, see the comparative tables located in the back of the index.

AUTOMOBILES

ARTICLE 20

Sale of Self-propelled Vehicles

Editor's note: This article 20 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 20, see the comparative tables located in the back of the index.

PART 1

MOTOR VEHICLE DEALERS

44-20-101. Legislative declaration. (1) The general assembly hereby declares that:

(a) The sale and distribution of motor vehicles affects the public interest, and a significant factor of inducement in making a sale of a motor vehicle is the trust and confidence of the purchaser in the retail dealer from whom the purchase is made and the expectancy that the dealer will remain in business to provide service for the motor vehicle purchased;

(b) Proper motor vehicle service is important to highway safety and the manufacturers and distributors of motor vehicles have an obligation to the public not to terminate or refuse to continue their franchise agreements with retail dealers unless the manufacturer or distributor has

first established good cause for termination or noncontinuance of the agreement, to the end that there shall be no diminution of locally available service;

(c) The licensing and supervision of motor vehicle dealers by the motor vehicle dealer board are necessary for the protection of consumers, and therefore, the sale of motor vehicles by unlicensed dealers or salespersons, or by licensed dealers or salespersons who have demonstrated unfitness, should be prevented;

(d) Consumer education concerning the rules of the motor vehicle industry, the considerations when purchasing a motor vehicle, and the role, functions, and actions of the motor vehicle dealer board are necessary for the protection of the public and for maintaining the trust and confidence of the public in the motor vehicle dealer board; and

(e) Subject to the United States constitution and the Colorado constitution, this article 20 applies to each sales, service, and parts agreement in effect, regardless of when the agreement was adopted.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 41, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-101 as it existed prior to 2018.

44-20-102. Definitions. As used in this part 1, and in part 4 of this article 20, unless the context or section 44-20-402 otherwise requires:

(1) "Advertise" or "advertisement" means any commercial message in any newspaper, magazine, leaflet, flyer, or catalog, on radio, television, or a public address system, in direct mail literature or other printed material, on any interior or exterior sign or display, in any window display, on a computer display, or in any point-of-transaction literature or price tag that is delivered or made available to a customer or prospective customer in any manner; except that the term does not include materials required to be displayed by federal or state law.

(2) "Board" means the motor vehicle dealer board.

(3) "Business incidental thereto" means a business owned by the motor vehicle dealer or used motor vehicle dealer related to the sale of motor vehicles, including motor vehicle part sales, motor vehicle repair, motor vehicle recycling, motor vehicle security interest assignment, and motor vehicle towing.

(4) (a) "Buyer agent" means any person required to be licensed pursuant to this part 1 who is retained or hired by a consumer for a fee or other thing of value to assist, represent, or act on behalf of the consumer in connection with the purchase or lease of a motor vehicle.

(b) (I) "Buyer agent" does not include a person whose business includes the purchase of motor vehicles primarily for resale or lease; except that nothing in this subsection (4) prohibits a buyer agent from assisting a consumer regarding the disposal of a trade-in motor vehicle that is incident to the purchase or lease of a vehicle if the buyer agent does not advertise the sale of, or sell, the vehicle to the general public, directs interested dealers and wholesalers to communicate their offers directly to the consumer or to the consumer via the buyer agent, does not handle or transfer titles or funds between the consumer and the purchaser, receives no compensation from a dealer or wholesaler purchasing a consumer's vehicle, and identifies himself or herself as a buyer agent to dealers and wholesalers interested in the consumer's vehicle.

(II) A "buyer agent" licensed under this part 1 shall not be employed by or receive a fee from a person whose business includes the purchase of motor vehicles primarily for resale or lease, a motor vehicle manufacturer, a motor vehicle dealer, or a used motor vehicle dealer.

(5) "Coerce" means to compel or attempt to compel by threatening, retaliating, or exerting economic force or by not performing or complying with any terms or provisions of the franchise or agreement; except that recommendation, exposition, persuasion, urging, or argument do not constitute coercion.

(6) "Consumer" means a purchaser or lessee of a motor vehicle used for business, personal, family, or household purposes. "Consumer" does not include a purchaser of motor vehicles primarily for resale.

(7) (a) "Custom trailer" means any motor vehicle that is not driven or propelled by its own power and is designed to be attached to, become a part of, or be drawn by a motor vehicle and that is uniquely designed and manufactured for a specific purpose or customer.

(b) "Custom trailer" does not include manufactured housing, farm tractors, and other machines and tools used in the production, harvest, and care of farm products.

(8) "Director" means the director of the auto industry division created in section 44-20-105.

(9) "Distributor" means a person, resident or nonresident, who, in whole or in part, sells or distributes new motor vehicles to motor vehicle dealers or who maintains distributor representatives.

(10) "Fire truck" means a vehicle intended for use in the extermination of fires, with features that may include a fire pump, a water tank, an aerial ladder, an elevated platform, or any combination thereof.

(11) "Franchise" means the authority to sell or service and repair motor vehicles of a designated line-make granted through a sales, service, and parts agreement with a manufacturer, distributor, or manufacturer representative.

(12) "Good faith" means the duty of each party to any franchise and all officers, employees, or agents thereof to act in a fair and equitable manner toward each other so as to guarantee the one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party. Recommendation, endorsement, exposition, persuasion, urging, or argument shall not be deemed to constitute a lack of good faith.

(13) "Line-make" means a group or series of motor vehicles that have the same brand identification or brand name, based upon the manufacturer's trademark, trade name, or logo.

(14) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused motor vehicles; except that "manufacturer" does not include:

(a) A person who only manufactures utility trailers that weigh less than two thousand pounds and does not manufacture any other type of motor vehicle; and

(b) A person, other than a manufacturer operating a motor vehicle dealer in accordance with section 44-20-126, who is a licensed dealer selling motor vehicles that the person has manufactured.

(15) "Manufacturer representative" means a representative employed by a person who manufactures or assembles motor vehicles for the purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers or prospective dealers.

(16) "Motor vehicle" means every vehicle intended primarily for use on the public highways that is self-propelled and every vehicle intended primarily for operation on the public highways that is not self-propelled but is designed to be attached to, become a part of, or be drawn by a self-propelled vehicle, not including farm tractors and other machines and tools used in the production, harvesting, and care of farm products. "Motor vehicle" includes a low-power scooter or autocycle as either is defined in section 42-1-102.

(17) "Motor vehicle auctioneer" means any person, not otherwise required to be licensed pursuant to this part 1, who is engaged in the business of offering to sell, or selling, used motor vehicles owned by persons other than the auctioneer at public auction only. Any auctioning of motor vehicles by an auctioneer must be incidental to the primary business of auctioning goods.

(18) "Motor vehicle dealer" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, leases, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used motor vehicles or who is engaged wholly or in part in the business of selling or leasing new or new and used motor vehicles, whether or not the motor vehicles are owned by the person. The sale or lease of three or more new or new and used motor vehicles or the offering for sale or lease of more than three new or new and used motor vehicles at the same address or telephone number in any one calendar year is prima facie evidence that a person is engaged in the business of selling or leasing new or new and used motor vehicles. "Motor vehicle dealer" includes an owner of real property who allows more than three new or new and used motor vehicles to be offered for sale or lease on the property during one calendar year unless the property is leased to a licensed motor vehicle dealer. "Motor vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(b) Public officers while performing their official duties;

(c) Employees of a motor vehicle dealer when engaged in the specific performance of their duties as employees;

(d) A wholesaler or anyone selling motor vehicles solely to wholesalers;

(e) Any person engaged in the selling of a fire truck; or

(f) A motor vehicle auctioneer.

(19) "Motor vehicle salesperson" means a natural person who, for a salary, commission, or compensation of any kind, is employed either directly or indirectly, regularly or occasionally, by a motor vehicle dealer or used motor vehicle dealer to sell, lease, purchase, or exchange or to negotiate for the sale, lease, purchase, or exchange of motor vehicles.

(20) "New motor vehicle" means a motor vehicle that has been transferred on a manufacturer's statement of origin and that has sufficiently low mileage to be considered new, as determined by the board.

(21) "Person" means any natural person, estate, trust, limited liability company, partnership, association, corporation, or other legal entity, including a registered limited liability partnership.

(22) "Principal place of business" means a site or location devoted exclusively to the business for which the motor vehicle dealer or used motor vehicle dealer is licensed, and businesses incidental thereto, sufficiently designated to admit of definite description, with adequate contiguous space to permit the display of one or more new or used motor vehicles, with a permanent enclosed building or structure large enough to accommodate the office of the dealer

and to provide a safe place to keep the books and other records of the business of the dealer, at which site or location the principal portion of the dealer's business shall be conducted and the books and records thereof kept and maintained; except that a dealer may keep its books and records at an off-site location in Colorado after notifying the board in writing of the location at least thirty days in advance.

(23) "Recreational vehicle" means a camping trailer, fifth wheel trailer, motor home, recreational park trailer, travel trailer, or truck camper, all as defined in section 24-32-902, or multipurpose trailer, as defined in section 42-1-102.

(24) "Sales, service, and parts agreement" means an agreement between a manufacturer, distributor, or manufacturer representative and a motor vehicle or powersports dealer authorizing the dealer to sell and service a line-make of motor or powersports vehicles or imposing any duty on the dealer in consideration for the right to have or competitively operate a franchise, including any amendments or additional related agreements thereto. Each amendment, modification, or addendum that materially affects the rights, responsibilities, or obligations of the contracting parties creates a new sales, service, and parts agreement.

(25) "Site control provision" means an agreement that applies to real property owned or leased by a franchisee and that gives a motor vehicle or powersports vehicle manufacturer, distributor, or manufacturer representative the right to:

(a) Control the use and development of the real property;

(b) Require the franchisee to establish or maintain an exclusive dealership facility at the real property; or

(c) Restrict the franchisee from transferring, selling, leasing, developing, or changing the use of the real property.

(26) "Used motor vehicle dealer" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, leases, or offers an interest in used motor vehicles, or attempts to negotiate a sale, exchange, or lease of used motor vehicles, or who is engaged wholly or in part in the business of selling used motor vehicles, whether or not the motor vehicles are owned by the person. The sale of three or more used motor vehicles or the offering for sale of more than three used motor vehicles at the same address or telephone number in any one calendar year is prima facie evidence that a person is engaged in the business of selling used motor vehicles. "Used motor vehicle dealer" includes an owner of real property who allows more than three used motor vehicles to be offered for sale on the property during one calendar year unless the property is leased to a licensed used motor vehicle dealer. "Used motor vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(b) Public officers while performing their official duties;

(c) Employees of a used motor vehicle dealer when engaged in the specific performance of their duties as employees;

(d) A wholesaler or anyone selling motor vehicles solely to wholesalers;

(e) Mortgagees or secured parties as to sales in any one year of not more than twelve motor vehicles constituting collateral on a mortgage or security agreement, if the mortgagees or secured parties do not realize for their own account any money in excess of the outstanding balance secured by the mortgage or security agreement, plus costs of collection;

(f) A person who only sells or exchanges no more than four motor vehicles that are collector's items under part 3 or 4 of article 12 of title 42;

(g) A motor vehicle auctioneer; or

(h) An operator, as defined in section 42-4-2102 (5), who sells a motor vehicle pursuant to section 42-4-2104.

(27) "Wholesale motor vehicle auction dealer" means a person or firm that provides auction services in wholesale transactions in which the purchasers are motor vehicle dealers licensed by this state or any other jurisdiction or in consumer transactions of government vehicles at a time and place that does not conflict with a wholesale motor vehicle auction conducted by that licensee.

(28) "Wholesaler" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used motor vehicles solely to motor vehicle dealers or used motor vehicle dealers.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 42, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-102 as it existed prior to 2018.

44-20-103. Motor vehicle dealer board - creation. (1) There is hereby created and established the motor vehicle dealer board, consisting of nine members who have been residents of this state for at least five years, three of whom shall be licensed motor vehicle dealers, three of whom shall be licensed used motor vehicle dealers, and three of whom shall be members from the public at large. The members representing the public at large shall not have a present or past financial interest in a motor vehicle dealership. The terms of office of the board members shall be three years. Any vacancies shall be filled by appointment for the unexpired term.

(2) All board members shall be appointed by the governor.

(3) Each board member shall be reimbursed for actual and necessary expenses incurred while engaged in the discharge of official duties.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 47, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-103 as it existed prior to 2018.

44-20-104. Board - oath - meetings - powers and duties - rules. (1) Each member of the board, before entering on the discharge of the member's duties and within thirty days after the effective date of the member's appointment, shall subscribe an oath for the faithful performance of the member's duties before any officer authorized to administer oaths in this state and shall file the same with the secretary of state.

(2) The board shall annually in the month of July elect from the membership thereof a president, a first vice-president, and a second vice-president. The board shall meet at such times as it deems necessary. A majority of the board shall constitute a quorum at any meeting or hearing.

(3) The board is authorized and empowered:

(a) To promulgate, amend, and repeal rules reasonably necessary to implement this part 1, including the administration, enforcement, issuance, and denial of licenses to motor vehicle dealers, motor vehicle salespersons, used motor vehicle dealers, wholesale motor vehicle auction dealers, business disposers, and wholesalers, and the laws of the state of Colorado;

(b) To delegate to the board's executive secretary, employed pursuant to section 44-20-105 (2)(b), the authority to execute all actions within the power of the board, carry out the directives of the board, and make recommendations to the board on all matters within the authority of the board;

(c) To issue through the department a temporary license to any person applying for any license issued by the board. The temporary license shall permit the applicant to operate for a period not to exceed one hundred twenty days while the board is completing its investigation and determination of all facts relative to the qualifications of the applicant for the license. A temporary license is terminated when the applicant's license is issued or denied.

(d) (I) To issue through the department and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under standards established and set forth in this part 1, to refuse to issue to any applicant any license the board is authorized to issue by this part 1;

(II) To permit the executive director or the director to issue licenses pursuant to rules adopted by the board pursuant to subsection (3)(a) of this section;

(e) (I) After due notice and a hearing, to review the findings of an administrative law judge or a hearing officer from a hearing conducted pursuant to this part 1 to revoke and suspend or to order the director to issue or to reinstate, on such terms and conditions and for such period of time as to the board appear fair and just, any license issued under this part 1. The board may direct a letter of admonition for minor violations or may issue a letter of reprimand to any licensee for a violation of this part 1. A letter of admonition does not become a part of the licensee's record with the board. A letter of reprimand is a part of the licensee's record with the board for a period of two years after issuance and may be considered in aggravation of any subsequent violation by the licensee. When a letter of reprimand is sent to a licensee of the board, the licensee shall be notified in writing regarding the right to request in writing, within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated against the licensee to adjudicate the propriety of the conduct upon which the letter of reprimand is based. If a request is made within the twenty-day period, the letter of reprimand is deemed vacated and the matter shall be processed by means of formal disciplinary proceedings.

(II) The findings of the board pursuant to subsection (3)(e)(I) of this section shall be final.

(f) (I) To investigate through the director, on its own motion or upon the written and signed complaint of any person, any suspected or alleged violation by a motor vehicle dealer, motor vehicle salesperson, used motor vehicle dealer, wholesale motor vehicle auction dealer, business disposer, or wholesaler of any of the terms and provisions of this part 1 or of any rule promulgated by the board under the authority conferred upon it in this section. The board shall order an investigation of all written and signed complaints, may issue subpoenas, and may delegate the authority to issue subpoenas to the director, and the director shall make an investigation of all complaints transmitted by the board pursuant to section 44-20-105 (3). The

board may seek to resolve disputes before beginning an investigation or hearing through its own action or by direction to the director.

(II) After an investigation by the director or the director's designee, if the board determines that there is probable cause to believe a violation of this article 20 has occurred, it may order that an administrative hearing be held pursuant to section 24-4-105.

(g) To summarily issue cease-and-desist orders on such terms and conditions and for such period of time as to the board appears fair and just to any person who is licensed by the board pursuant to this part 1 if the orders are followed by notice and a hearing pursuant to section 44-20-122;

(h) To prescribe the forms to be used for applications for motor vehicle dealers', motor vehicle salespersons', used motor vehicle dealers', wholesale motor vehicle auction dealers', business disposal, and wholesalers' licenses to be issued and to require of the applicants, as a condition precedent to the issuance of the licenses, such information concerning their fitness to be licensed under this part 1 as it may consider necessary. Every application for a motor vehicle dealer's license or used motor vehicle dealer's license must contain, in addition to such information as the board may require, a statement of the following facts:

(I) The name and residence address of the applicant and the trade name, if any, under which the applicant intends to conduct the applicant's business and, if the applicant is a copartnership, the name and residence address of each member thereof, whether a limited or general partner, and the name under which the partnership business is to be conducted and, if the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors;

(II) A complete description, including the city, town, or village; the street and number, if any, of the principal place of business; and such other and additional places of business as shall be operated and maintained by the applicant in conjunction with the principal place of business;

(III) If the application is for a motor vehicle dealer's license, the names of the new motor vehicles that the applicant has been enfranchised to sell or exchange and the name and address of the manufacturer or distributor who has enfranchised the applicant;

(IV) The names and addresses of the persons who shall act as salespersons under the authority of the license, if issued.

(i) To adopt a seal with the words "motor vehicle dealer board" and such other devices as the board may desire engraved thereon by which it shall authenticate the acts of its office;

(j) To require that a motor vehicle dealer's or used motor vehicle dealer's principal place of business and such other sites or locations as may be operated and maintained by the dealers in conjunction with their principal place of business have erected or posted thereon the signs or devices providing information relating to the dealer's name, the location and address of the dealer's principal place of business, the type of license held by the dealer, and the number thereof, as the board shall consider necessary to enable any person doing business with the dealer to identify the dealer properly, and for this purpose to determine the size and shape of the signs or devices, the lettering thereon, and other details thereof and to prescribe rules for the location thereof;

(k) To conduct or cause to be conducted written examinations as prescribed by the board testing the competency of all first-time applicants for a motor vehicle dealer's license, motor vehicle salesperson's license, used motor vehicle dealer's license, wholesale motor vehicle auction dealer's license, or wholesaler's license;

(l) (I) To prescribe a form or forms to be used as a part of a contract for the sale of a motor vehicle by any motor vehicle dealer, business disposer, or motor vehicle salesperson, other than a retail installment sales contract subject to the provisions of the "Uniform Consumer Credit Code", articles 1 to 9 of title 5, which shall include the following information in addition to any other disclosures or information required by state or federal law:

(A) In twelve-point bold-faced type or a size at least three points larger than the smallest type appearing in the contract, an instruction that the form is a legal instrument and that, if the purchaser of the motor vehicle does not understand the form, the purchaser should seek legal assistance;

(B) In bold-faced type, of the size specified in subsection (3)(l)(I)(A) of this section, an instruction that only those terms in written form embody the contract for sale of a motor vehicle and that any conflicting oral representations made to the purchaser are void;

(C) In bold-faced type, of the size specified in subsection (3)(l)(I)(A) of this section, a notice that fraud or misrepresentation in the sale of a motor vehicle is punishable under the laws of this state;

(D) In bold-faced type, of the size specified in subsection (3)(l)(I)(A) of this section, if the contract for the sale of a motor vehicle requires a single lump sum payment of the purchase price, a clear disclosure to the purchaser of that fact or, if the contract is contingent upon the approval of credit financing for the purchaser arranged by or through the motor vehicle dealer, in bold-faced type, a statement that the purchaser shall agree to purchase the motor vehicle that is the subject of the sale from the motor vehicle dealer at not greater than a certain annual percentage rate of financing, which annual percentage rate of financing shall be agreed upon by the parties and entered in writing on the contract;

(E) Except as otherwise provided under part 1 of article 1 of title 6, where the purchase price of the motor vehicle is not paid to the motor vehicle dealer in full at the time of consummation of the sale and the purchaser and motor vehicle dealer elect that the motor vehicle dealer shall deliver and the purchaser shall take possession of the motor vehicle at such time, in bold-faced type, a statement that in the event financing cannot be arranged in accordance with the provisions stated in the contract, and the sale is not consummated, the purchaser shall agree to pay a daily rate and a mileage rate for use of the motor vehicle until such time as financing of the purchase price of the motor vehicle is arranged for the obligor by or through the authorized motor vehicle dealer or until the purchase price is paid to the authorized motor vehicle dealer in full by or through the obligor, which daily rate and mileage rate shall be specified and agreed upon by the parties and entered in writing on the contract.

(II) The information required by subsection (3)(l)(I) of this section shall be read and initialed by both parties at the time of the consummation of the sale of a motor vehicle.

(III) The use of the contract form required by subsection (3)(l)(I) of this section shall be mandatory for the sale of any motor vehicle.

(IV) The board may require a licensee to include with a consumer sales contract a written notice that provides to the consumer the contact information of the board and information about the board's authority over consumer motor vehicle sales.

(m) (I) (A) After final action is taken on a hearing held before an administrative law judge or a hearing officer, to review the findings of law and fact and the fairness of any fine imposed and to uphold the fine, to impose an administrative fine upon its own initiative, not to exceed ten thousand dollars for each offense by any licensee, or to vacate the fine imposed by

the judge or hearing officer; except that, for motor vehicle dealers who sell primarily motor vehicles that weigh under one thousand five hundred pounds, the fine for each offense must not exceed one thousand dollars. Whenever a hearing is heard by an administrative law judge, the maximum fine that may be imposed is ten thousand dollars for each offense by any person licensed by the board under this part 1; except that, for motor vehicle dealers who sell primarily vehicles that weigh under one thousand five hundred pounds, the fine for each offense must not exceed one thousand dollars. Whenever a licensing hearing is conducted by a hearing officer, the sanctions that may be recommended by the hearing officer are limited to the denial or grant of an unrestricted license or a restricted license under such terms as the hearing officer deems appropriate. Whenever a disciplinary hearing is conducted by a hearing officer, the hearing officer may only recommend a probationary period of no more than twelve months, a fine of no more than five hundred dollars, or both a probationary period and fine for each violation committed by a person licensed by the board.

(B) The board shall promulgate rules regarding circumstances in which a board member should not act as a hearing officer in a particular matter before the board because of business competition issues connected with the parties involved in the matter.

(II) The findings of the board pursuant to subsection (3)(m)(I) of this section shall be final.

(n) (I) To impose a fine of up to one thousand dollars per day per violation for any person found, after notice and hearing pursuant to section 24-4-105, to have violated the provisions of section 44-20-124 (2). For the purposes of this subsection (3)(n), the address for the notice to be given under section 24-4-105 is the last-known address for the person as indicated in the state motor vehicle records; the last-known address for the owner of the real property upon which motor vehicles are displayed in violation of section 44-20-124 (2) as indicated in the records of the county assessor's office; or an address for service of process in accordance with rule 4 of the Colorado rules of civil procedure.

(II) Any person who fails to pay a fine ordered by the board for a violation of section 44-20-124 (2) under this subsection (3)(n) shall be subject to enforcement proceedings, by the board through the attorney general, in the county or district court pursuant to the Colorado rules of civil procedure. Any fines collected under the provisions of this subsection (3)(n) shall be disposed of pursuant to section 44-20-133.

(4) The board shall promulgate rules by January 1, 2008, establishing enforcement and compliance standards to ensure that administrative penalties are equitably assessed and commensurate with the seriousness of the violation.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 47, § 2, effective October 1. **L. 2019:** (3)(a), (3)(f)(I), IP(3)(h), and IP(3)(l)(I) amended, (SB 19-249), ch. 309, p. 2801, § 1, effective August 2.

Editor's note: This section is similar to former § 12-6-104 as it existed prior to 2018.

44-20-105. Auto industry division - creation - powers and duties of executive director and director. (1) There is hereby created in the department the auto industry division, the head of which is the director of the division. The director is appointed by the executive director and serves at the pleasure of the executive director. The division shall exercise its

powers and perform its duties and functions under the department as if the division were transferred to the department by a **type 2** transfer as described in section 24-1-105.

(2) The executive director is hereby charged with the administration, enforcement, and issuance or denial of the licensing of buyer agents, distributors, manufacturer representatives, and manufacturers, and has the following powers and duties:

(a) To promulgate, amend, and repeal reasonable rules relating to those functions the executive director is mandated to carry out pursuant to this part 1 and the laws of the state of Colorado that the executive director deems necessary to implement this part 1;

(b) To employ, subject to the laws of the state of Colorado and after consultation with the board, an executive secretary for the board, who is accountable to the board and shall, pursuant to delegation by the board, discharge the responsibilities of the board under this part 1;

(c) To issue and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under standards established and set forth in this part 1, to refuse to issue to any applicant any license the executive director is authorized to issue by this part 1;

(d) To prescribe the forms to be used for applications for licenses to be issued by the executive director under this part 1 and to require of the applicants, as a condition precedent to the issuance of the licenses, such information concerning the applicant's fitness to be licensed under this part 1 as the executive director considers necessary;

(e) (I) To summarily issue cease-and-desist orders on such terms and conditions and for such period of time as to the executive director appears fair and just to any person who is licensed by the executive director pursuant to this part 1 if the orders are followed by notice and a hearing pursuant to section 44-20-104 (3)(e)(I);

(II) To issue cease-and-desist orders to persons acting as manufacturers without the manufacturer's license required by this part 1; and

(III) To impose a fine, not to exceed one thousand dollars per day, for each violation of section 44-20-124 (1) after a notice and hearing subject to section 24-4-105.

(3) (a) The director may:

(I) Employ such clerks, deputies, and assistants as the director considers necessary to discharge the duties imposed upon the director or executive director by this part 1 and to designate the duties of the clerks, deputies, and assistants;

(II) Investigate, upon the director's own initiative, upon the written and signed complaint of any person, or upon request by the board under section 44-20-104 (3)(f)(I), any suspected or alleged violation by a person licensed under this part 1 or of any rule promulgated under this article 20.

(b) The investigators and their supervisors utilized by the director, while actually engaged in performing their duties, have the authority as delegated by the director to issue subpoenas in relation to performance of their duties enforcing this part 1 and the authority as delegated by the director to issue summonses for violations of sections 44-20-124 (2) and 42-6-142, to issue misdemeanor summonses for violations of section 44-20-123 (1)(a), and to procure criminal records during an investigation.

(4) If any person fails to comply with a cease-and-desist order issued pursuant to this section, the executive director may bring a suit for injunction to prevent any further and continued violation of the order. In any such suit, the final proceedings of the executive director, based upon evidence in record, are prima facie evidence of the facts found therein.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 52, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-105 as it existed prior to 2018.

44-20-106. Records as evidence. Copies of all records and papers in the office of the board, director, or executive director, duly authenticated under the hand and seal of the board, director, or executive director, shall be received in evidence in all cases equally and with like effect as the original thereof.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 54, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-106 as it existed prior to 2018.

Cross references: For the provision in the Colorado rules of evidence concerning the admission of copies of public records, see C.R.E. 1005.

44-20-107. Attorney general to advise and represent. (1) The attorney general of this state shall represent the board, director, and executive director and shall give opinions on all questions of law relating to the interpretation of this part 1 or arising out of the administration thereof and shall appear for and in behalf of the board, director, and executive director in all actions brought by or against them, whether under this part 1 or otherwise.

(2) The board may request the attorney general to make civil investigations and enforce rules of the board in cases of civil violations and to bring and defend civil suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the board.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 54, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-107 as it existed prior to 2018.

44-20-108. Classes of licenses. (1) The following classes of licenses are issued under this part 1:

(a) Motor vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering new and used motor vehicles, and this form of license shall permit not more than two persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salespersons.

(b) Used motor vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering used motor vehicles only. The license shall also permit a licensee to negotiate for a consumer the sale, exchange, or lease of used and new motor vehicles not owned by the licensee, except those vehicles defined in section 42-1-102 (55) as motorcycles and section 33-14.5-101 (3) as off-highway vehicles; however, prior to completion of the sale, exchange, or lease of a motor vehicle not owned by the licensee, the licensee shall disclose in writing to the consumer whether the licensee will receive any

compensation from the consumer and whether the licensee will receive any compensation from the owner of the motor vehicle as a result of the transaction. If the licensee receives compensation from the owner of the motor vehicle as a result of the transaction, the licensee shall include in the written disclosure the name of the owner from whom the licensee will receive compensation. This form of license shall permit not more than two persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salespersons.

(c) A motor vehicle salesperson's license permits the licensee to engage in the activities of a motor vehicle salesperson while employed by a licensed motor vehicle dealer or used motor vehicle dealer.

(d) Manufacturer's or distributor's license shall permit the licensee to engage in the activities of a manufacturer, distributor, factory branch, or distributor branch and to sell fire trucks.

(e) A wholesaler's license permits the licensee to engage in the activities of a wholesaler, but does not permit more than two individuals, who must be named in the license and who must be owners or part owners of the business of the licensee, to perform the activities of a wholesaler.

(f) Manufacturer representative's license shall permit the licensee to engage in the activities of a manufacturer representative.

(g) Buyer agent's license shall permit the licensee to engage in the activities of a buyer agent.

(h) (I) Wholesale motor vehicle auction dealer's license shall permit a licensee to engage in the activities of a wholesale motor vehicle auction dealer if the licensee provides auction services solely in connection with wholesale transactions in which the purchasers are motor vehicle dealers licensed by this state or any other jurisdiction or in connection with the sale of government vehicles to consumers at a time and place that does not conflict with a wholesale motor vehicle auction conducted by that licensee. A wholesale motor vehicle auction dealer shall abide by all laws and rules of the state of Colorado.

(II) A wholesale motor vehicle auction dealer shall maintain a check and title insurance policy for the benefit of the dealer's customers or, alternatively, a wholesale motor vehicle auction dealer shall provide written guarantees of title to the dealer's purchasing customers and written guarantees of payment to the dealer's selling dealers with coverage and exclusions that are customary in check and title insurance policies available to wholesale motor vehicle auction dealers.

(i) If the sales value of all the motor vehicles sold does not exceed twenty percent of the business's gross revenue, the business disposal license permits a business to sell used motor vehicles that:

(I) Have been owned for more than one year;

(II) Have been used exclusively for business purposes;

(III) Are titled in the name of the business;

(IV) For which all related taxes have been paid; and

(V) Are not designed or used primarily to carry passengers, not including:

(A) A vehicle designed primarily for transporting more than ten individuals; or

(B) A truck having an enclosed cab and an open cargo area.

(2) Any license issued by the executive director pursuant to law in effect prior to July 1, 1992, shall be valid for the period for which issued.

(3) The licensing requirements of this part 1 do not apply to banks, savings banks, savings and loan associations, building and loan associations, or credit unions or an affiliate or subsidiary of the entities in offering to sell, or in the sale of, a motor vehicle that was subject to a lease or that has been repossessed or foreclosed upon if the repossession or foreclosure is in connection with a loan made or originated in Colorado.

(4) The licensing requirements of this part 1 shall not apply to an insurance company selling or offering to sell a motor vehicle through a motor vehicle dealer or used motor vehicle dealer if the vehicle is obtained by the company as a result of an insurance claim.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 54, § 2, effective October 1. **L. 2019:** (1)(e) amended, (HB 19-1286), ch. 425, p. 3715, § 1, effective August 2; (1)(i) added, (SB 19-249), ch. 309, p. 2802, § 2, effective August 2.

Editor's note: This section is similar to former § 12-6-108 as it existed prior to 2018.

44-20-109. Temporary motor vehicle dealer license. (1) (a) If a licensed motor vehicle dealer has entered into a written agreement to sell a dealership to a purchaser and the purchaser has been awarded a new dealership franchise, the board may issue a temporary motor vehicle dealer's license to the purchaser or prospective purchaser. The director shall issue the temporary license only after the board has received the applications for both a temporary motor vehicle dealer's license and a motor vehicle dealer's license, the appropriate application fee for the motor vehicle dealer's application, evidence of a passing test score, and evidence that the franchise has been awarded to the applicant by the manufacturer.

(b) A temporary motor vehicle dealer's license authorizes the licensee to act as a motor vehicle dealer. Temporary licensees are subject to this article 20 and to all applicable rules adopted by the executive director or the board. A temporary motor vehicle dealer's license is effective for up to sixty days or until the board acts on the licensee's application for a motor vehicle dealer's license, whichever is sooner.

(2) For the purpose of enabling an out-of-state dealer to sell vehicles on a temporary basis during specifically identified events, the director may issue, upon direction by the board, a temporary motor vehicle dealer's license, which is effective for thirty days. The temporary licensee is subject to the rules adopted by the executive director or the board.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 55, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-108.5 as it existed prior to 2018.

44-20-110. Display, form, custody, and use of licenses. (1) The board and the executive director shall prescribe the form of the license to be issued by the executive director and shall imprint on each license the seal of their offices. The executive director shall mail the license to the business address where the motor vehicle salesperson is licensed. Each motor vehicle salesperson shall keep a copy of the license at the salesperson's place of employment for

inspection by employers, consumers, the director, the executive director, or the board. Each motor vehicle dealer, manufacturer, distributor, wholesaler, manufacturer representative, wholesale motor vehicle auction dealer, or used motor vehicle dealer shall display conspicuously each person's license at the place of business for which the license was issued.

(2) Each license issued under this part 1 is separate and distinct. It is a violation of this part 1 for a person to exercise any of the privileges granted under a license that the person does not hold, or for a licensee to knowingly allow such an exercise of privileges.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 56, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-109 as it existed prior to 2018.

44-20-111. Fees - disposition - expenses - expiration of licenses. (1) Each application must be accompanied by the fee established in subsection (5) of this section for each of the following licenses:

(a) (I) Motor vehicle dealer's or used motor vehicle dealer's license;

(II) Motor vehicle dealer's or used motor vehicle dealer's license, for each place of business in addition to the principal place of business;

(III) Renewal or reissue of motor vehicle dealer's or used motor vehicle dealer's license after change in location or lapse in principal place of business;

(b) Manufacturer's license;

(c) Distributor's license;

(d) Wholesaler's license;

(e) Manufacturer representative's license;

(f) Motor vehicle salesperson's license including, but not limited to, reissuing a license;

(g) Buyer agent's license;

(h) Wholesale motor vehicle auction dealer's license; or

(i) Business disposal license.

(2) All fees shall be paid to the state treasurer, who shall credit the fees to the auto dealers license fund created in section 44-20-133.

(3) If an application for a buyer agent's, motor vehicle dealer's, used motor vehicle dealer's, wholesaler's, business disposer's, or motor vehicle salesperson's license is withdrawn by the applicant prior to issuance of the license, the director shall refund one-half of the license fee.

(4) (a) Licenses, if the same have not been suspended or revoked as provided in this part 1, shall be valid until one year following the month of issuance thereof and shall then expire; except that any license issued under this part 1 shall expire upon the voluntary surrender thereof or upon the abandonment of the licensee's place of business for a period of more than thirty days.

(b) Thirty days before the expiration of a license, the director shall mail to the licensee's business address of record a notice stating when the person's license is due to expire and the fee necessary to renew the license. For a salesperson or manufacturer representative, the notice shall be mailed to the address of the dealer or manufacturer where the person is licensed.

(c) Upon the expiration of the license, unless suspended or revoked, the same may be renewed upon the payment of the fees specified in this section that accompany applications, and the renewal may be made from year to year as a matter of right; except that, if a motor vehicle

dealer, used motor vehicle dealer, business disposer, or wholesaler voluntarily surrenders its license or abandons its place of business for a period of more than thirty days, the licensee is required to file a new application to renew its license.

(d) Notwithstanding subsection (4)(a) of this section, a person has a thirty-day grace period after his or her license expires, and the person may renew the license within thirty days pursuant to subsection (4)(c) of this section, so long as the person has a bond in full force and effect that complies with the applicable bonding requirements of section 44-20-112, 44-20-113, or 44-20-114 during the thirty-day period. A person applying during the thirty-day grace period shall pay a late fee established pursuant to subsection (5) of this section.

(5) (a) The board shall propose, as part of its annual budget request, an adjustment in the amount of each fee that the board is authorized by law to collect. The budget request and the adjusted fees for the board shall reflect direct and indirect costs.

(b) Based upon the appropriation made and subject to the approval of the executive director, the board shall adjust the fees collected by the executive director so that the revenue generated from the fees covers the direct and indirect costs of administering this article 20. The fees shall remain in effect for the fiscal year for which the appropriation is made.

(c) Whenever money appropriated to the board for its activities for the prior fiscal year is unexpended, the money shall be made a part of the appropriation to the board for the next fiscal year, and the amount shall not be raised from fees collected by the board or the executive director. If a supplemental appropriation is made to the board for its activities, the fees of the board and the executive director, when adjusted for the fiscal year next following that in which the supplemental appropriation was made, shall be adjusted by an additional amount that is sufficient to compensate for the supplemental appropriation. Money appropriated to the board in the annual general appropriation bill shall be from the fund provided in section 44-20-133.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 56, § 2, effective October 1. **L. 2019:** IP(1), (1)(h), (3), and (4)(c) amended and (1)(i) added, (SB 19-249), ch. 309, p. 2802, § 3, effective August 2.

Editor's note: This section is similar to former § 12-6-110 as it existed prior to 2018.

44-20-112. Bond of licensee. (1) Before any motor vehicle dealer's, wholesaler's, wholesale motor vehicle auction dealer's, business disposal, or used motor vehicle dealer's license is issued by the board through the executive director to an applicant, the applicant must procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101 or a good and sufficient bond with corporate surety duly licensed to do business within the state, approved as to form by the attorney general of the state, and conditioned that the applicant must not practice fraud or violate any provision of this part 1 related to fraud that is designated by the board by rule in conducting the business for which the applicant is licensed. A motor vehicle dealer, business disposer, or used motor vehicle dealer need not furnish an additional bond, savings account, deposit, or certificate of deposit under this section if the dealer furnishes a bond, savings account, deposit, or certificate of deposit under section 44-20-412.

(2) (a) The purpose of the bond procured by the applicant in accordance with subsection (1) of this section and section 44-20-114 (1) is to provide for the reimbursement for any loss or

damage suffered by any retail consumer caused by fraud or a violation of this part 1 related to fraud by a motor vehicle dealer, used motor vehicle dealer, wholesale motor vehicle auction dealer, business disposer, or wholesaler. For a wholesale transaction, the bond is available to each party to the transaction; except that, if a retail consumer is involved, the consumer has priority to recover from the bond. The amount of the bond must be fifty thousand dollars for a motor vehicle dealer applicant, used motor vehicle dealer applicant, wholesale motor vehicle auction dealer applicant, business disposal applicant, or wholesaler applicant; except that the amount of the bond must be five thousand dollars for those dealers who sell only small utility trailers that weigh less than two thousand pounds. The aggregate liability of the surety for all transactions is limited to the amount of the bond, regardless of the number of claims or claimants.

(b) No corporate surety shall be required to make any payment to any person claiming under the bond until a final determination of fraud has been made by the board or by a court of competent jurisdiction.

(3) All bonds required pursuant to this section shall be renewed annually at such time as the bondholder's license is renewed. The renewal may be done through a continuation certificate issued by the surety.

(4) Nothing in this part 1 shall interfere with the authority of the courts to administer and conduct an interpleader action for claims against a licensee's bond.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 58, § 2, effective October 1. **L. 2019:** (1) and (2)(a) amended, (SB 19-249), ch. 309, p. 2803, § 4, effective August 2. **L. 2020:** (1) and (2) amended, (SB 20-140), ch. 225, p. 1102, § 1, effective September 14.

Editor's note: This section is similar to former § 12-6-111 as it existed prior to 2018.

44-20-113. Motor vehicle salesperson's bond. (1) Before a motor vehicle salesperson's license is issued by the board through the executive director to any applicant, the applicant must procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101 or a good and sufficient bond in the amount of fifteen thousand dollars with corporate surety duly licensed to do business within the state, approved as to form by the attorney general of the state, and conditioned that the applicant must perform in good faith as a motor vehicle salesperson without fraud and without the violation of any provision of this part 1 related to fraud that is designated by the board by rule. A motor vehicle salesperson need not furnish an additional bond, savings account, deposit, or certificate of deposit under this section if the dealer furnishes a bond, savings account, deposit, or certificate of deposit under section 44-20-413.

(2) No corporate surety shall be required to make any payment to any person claiming under the bond until a final determination of fraud has been made by the board or by a court of competent jurisdiction.

(3) All bonds required pursuant to this section shall be renewed annually at such time as the bondholder's license is renewed. The renewal may be done through a continuation certificate issued by the surety.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 59, § 2, effective October 1. **L. 2020:** (1) and (2) amended, (SB 20-140), ch. 225, p. 1103, § 2, effective September 14.

Editor's note: This section is similar to former § 12-6-112 as it existed prior to 2018.

44-20-114. Buyer agent bonds. (1) To be issued a buyer agent's license, an applicant must procure and file with the executive director evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101 or a good and sufficient bond in the amount of five thousand dollars with a corporate surety duly licensed to do business within the state and approved as to form by the attorney general. The bond shall be available to ensure that the applicant shall perform in good faith as a buyer agent without fraud and without violating any provision of this part 1 related to fraud that is designated by the executive director by rule.

(2) All bonds required pursuant to this section shall be renewed annually at such time as the bondholder's license is renewed. The renewal may be done through a continuation certificate issued by the surety.

(3) No corporate surety shall be required to make any payment to any person claiming under the bond until a final determination of fraud has been made by the executive director or by a court of competent jurisdiction.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 59, § 2, effective October 1. **L. 2020:** (1) and (3) amended, (SB 20-140), ch. 225, p. 1103, § 3, effective September 14.

Editor's note: This section is similar to former § 12-6-112.2 as it existed prior to 2018.

44-20-115. Notice of claims honored against bond. (1) A corporate surety that has provided a bond to a licensee pursuant to section 44-20-112, 44-20-113, or 44-20-114 shall provide notice to the board and executive director of any claim that is honored against the bond within thirty days after the claim is honored.

(2) A notice provided by a corporate surety pursuant to subsection (1) of this section must be in the form required by the director, subject to approval by the board, and must include the name of the licensee, the name and address of the claimant, the amount of the honored claim, and the nature of the claim against the licensee.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 60, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-112.7 as it existed prior to 2018.

44-20-116. Testing licensees. Persons applying for a motor vehicle dealer's, used motor vehicle dealer's, wholesaler's, wholesale motor vehicle auction dealer's, or motor vehicle salesperson's license under this part 1 shall be examined for their knowledge of the motor vehicle laws of the state of Colorado and the rules promulgated pursuant to this part 1. If the applicant is

a corporation, the managing officer shall take the examination, and, if the applicant is a partnership, all the general partners shall take the examination. No license shall be issued except upon successful passing of the examination. The board shall implement by January 1, 2008, a psychometrically valid and reliable salesperson examination that measures the minimum level of competence necessary to practice. This section shall not apply to a powersports vehicle dealer, used powersports vehicle dealer, or powersports salesperson licensed pursuant to part 4 of this article 20.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 60, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-113 as it existed prior to 2018.

44-20-117. Filing of written warranties. Each licensed manufacturer shall file with the director all written warranties and changes in written warranties that the manufacturer makes on any motor vehicle or parts thereof. Each licensed manufacturer shall file with the director a copy of the delivery and preparation obligations of its dealers. These warranties and obligations constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 60, § 2, effective October 1; entire section amended, (SB 18-219), ch. 330, p. 1974, § 1, effective October 1.

Editor's note: (1) This section is similar to former § 12-6-114 as it existed prior to 2018.

(2) This section was numbered as § 12-6-114 in SB 18-219. That provision was harmonized with and relocated to this section as this section appears in SB 18-030.

44-20-118. Application - prelicensing education - fingerprint-based criminal history record check - rules. (1) Application for a motor vehicle dealer's, motor vehicle salesperson's, used motor vehicle dealer's, wholesale motor vehicle auction dealer's, wholesaler's, or business disposal license must be made to the board.

(2) Application for distributor's, manufacturer representative's, or manufacturer's licenses shall be made to the executive director.

(3) All fees for licenses shall be paid at the time of the filing of the application for the license.

(4) To be licensed as a motor vehicle dealer, a person must file with the board a certified copy of a certificate of appointment as a dealer from a manufacturer.

(5) (a) Each person applying for a manufacturer's or distributor's license must:

(I) File with the director a certified copy of a typical sales, service, and parts agreement with all motor vehicle dealers; and

(II) File evidence of the appointment of an agent for process in the state of Colorado.

(b) Within sixty days after amending, modifying, or adding an addendum to the sales, service, or parts agreement of more than one motor vehicle dealer, a licensed manufacturer or

distributor shall file a certified copy of the new sales, service, and parts agreement, including the changes, with the director if the amendment, modification, or addendum materially alters the rights and obligations of the contracting parties.

(6) All persons applying for a motor vehicle dealer's license, a used motor vehicle dealer's license, a wholesaler's license, a motor vehicle auctioneer's license, a motor vehicle salesperson's license, or a business disposal license must file with the board a good and sufficient instrument in writing in which the applicant appoints the secretary of the board as the true and lawful agent of the applicant upon whom all process may be served in any action commenced against the applicant arising out of any claim for damages suffered by a person by reason of a violation by the applicant of this part 1 or any condition of the applicant's bond.

(7) (a) A person applying for a used motor vehicle dealer's license, a wholesale motor vehicle auction dealer's license, or a wholesaler's license shall file with the board a certification that the applicant has met the educational requirements for licensure under this subsection (7). This subsection (7) shall not apply to a person who has held a license within the last three years as a motor vehicle dealer, used motor vehicle dealer, wholesaler, wholesale motor vehicle auction dealer, powersports vehicle dealer, or used powersports vehicle dealer under this part 1 or part 4 of this article 20.

(b) An applicant for a used motor vehicle dealer's license, a wholesale motor vehicle auction dealer's license, or a wholesaler's license shall not be licensed unless one of the following persons has completed an eight-hour prelicensing education program:

(I) The managing officer if the applicant is a corporation or limited liability company;

(II) All of the general partners if the applicant is any form of partnership; or

(III) The owner or managing officer if the applicant is a sole proprietorship.

(c) The prelicensing education program shall include, without limitation, state and federal statutes and rules governing the sale of motor vehicles.

(d) A prelicensing education program shall not fulfill the requirements of this section unless approved by the board. The board shall approve any program with a curriculum that reasonably covers the material required by this section within eight hours.

(e) The board may adopt rules establishing reasonable fees to be charged for the prelicensing education program.

(f) The board may adopt reasonable rules to implement this section, including, without limitation, rules that govern:

(I) The content and subject matter of education;

(II) The criteria, standards, and procedures for the approval of courses and course instructors;

(III) The training facility requirements; and

(IV) The methods of instruction.

(g) An approved prelicensing program provider shall issue a certificate to a person who successfully completes the approved prelicensing education program. The current certificate of completion, or a copy of the certificate, shall be posted conspicuously at the dealership's principal place of business.

(h) An approved prelicensing program provider shall submit a certificate to the director for each person who successfully completes the prelicensing education program. The certificate may be transmitted electronically.

(8) (a) With the submission of an application for any license issued under this part 1, each applicant shall submit a complete set of fingerprints to the Colorado bureau of investigation or the auto industry division for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The board or the executive director shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to be licensed. The board or the executive director may verify the information an applicant is required to submit. The applicant shall pay the costs associated with the fingerprint-based criminal history record check to the Colorado bureau of investigation.

(a.5) When the results of a fingerprint-based criminal history record check of an applicant performed pursuant to this subsection (8) reveal a record of arrest without a disposition, the department shall require that applicant to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

(b) This subsection (8) does not apply to a publicly traded company or the company's subsidiary.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 60, § 2, effective October 1. **L. 2019:** (8)(a.5) added, (HB 19-1166), ch. 125, p. 563, § 62, effective April 18; (1) and (6) amended, (SB 19-249), ch. 309, p. 2803, § 5, effective August 2.

Editor's note: This section is similar to former § 12-6-115 as it existed prior to 2018.

44-20-119. Notice of change of address or status. (1) The board, through the executive director, shall not issue a motor vehicle dealer's license or used motor vehicle dealer's license to any applicant therefor who has no principal place of business as is defined in this part 1. Should the motor vehicle dealer or used motor vehicle dealer change the site or location of the dealer's principal place of business, the dealer shall immediately upon making the change so notify the board in writing, and thereupon a new license shall be granted for the unexpired portion of the term of the license at a fee established pursuant to section 44-20-111. Should a motor vehicle dealer or used motor vehicle dealer, for any reason whatsoever, cease to possess a principal place of business, as defined in this part 1, from and on which the dealer conducts the business for which the dealer is licensed, the dealer shall immediately so notify in writing the board and, upon demand therefor by the board, shall deliver to it the dealer's license, which shall be held and retained until it appears to the board that the licensee again possesses a principal place of business; whereupon, the dealer's license shall be reissued. Nothing in this part 1 shall be construed to prevent a motor vehicle dealer or used motor vehicle dealer from conducting the business for which the dealer is licensed at one or more sites or locations not contiguous to the dealer's principal place of business but operated and maintained in conjunction therewith.

(2) (a) If a motor vehicle dealer changes to a new line-make of motor vehicles, adds another franchise for the sale of new motor vehicles, or cancels or, for any cause whatever, otherwise loses a franchise for the sale of new motor vehicles, the dealer shall immediately so notify the board. In the case of a cancellation or loss of franchise, the board shall determine whether the dealer who lost the franchise should be licensed as a used motor vehicle dealer.

(b) If the motor vehicle dealer no longer possesses a franchise to sell new motor vehicles, the board shall take up, and the motor vehicle dealer shall deliver to the board, the dealer's license, and the board shall direct the director to issue the dealer a used motor vehicle dealer's license.

(c) Upon the cancellation or loss of a franchise to sell new motor vehicles and the relicensing of a dealer as a used motor vehicle dealer, the dealer may continue in the business of a motor vehicle dealer for a time, not exceeding six months after the date of the relicensing of the dealer, to enable the dealer to dispose of the stock of new motor vehicles on hand at the time of relicensing, but not otherwise.

(3) If a motor vehicle salesperson is discharged, leaves an employer, or changes a place of employment, the motor vehicle dealer or used motor vehicle dealer who last employed the salesperson shall confiscate and return the salesperson's license to the board. Upon being reemployed as a motor vehicle salesperson, the motor vehicle salesperson shall notify the board. Upon receiving the notification, the board shall issue a new license for the unexpired portion of the returned license after collecting a fee set pursuant to section 44-20-111 (5). It shall be unlawful for the salesperson to act as a motor vehicle salesperson until a new license is procured.

(4) Should a wholesaler, for any reason whatsoever, change the wholesaler's place of business or business address during any license year, the wholesaler shall immediately so notify the board.

(5) Any wholesale motor vehicle auction dealer who changes a place of business or business address during any license year shall notify the board immediately of the dealer's new business address.

(6) (a) Except as specified in subsection (6)(d) of this section:

(I) A person holding an ownership interest in a licensed corporation, limited liability company, limited liability partnership, or other business entity shall not sell the interest to a person who does not already own an interest in the business entity until the owner applies to the board to be approved to hold an ownership interest in the business entity and the board approves the person to hold the interest.

(II) A licensed corporation, limited liability company, limited liability partnership, or other business entity shall notify the board within ten days after a transfer, other than a sale, of any ownership that results in a new person holding an interest in the business entity. To continue to hold ownership in the business, the transferee shall apply to the board for approval to continue holding an ownership interest in the business entity.

(b) To be approved by the board to hold an ownership interest in a licensed business entity, the new owner must demonstrate the qualifications necessary for licensing, including a fingerprint-based criminal history record check, in accordance with this part 1.

(c) (I) If the board does not approve a person to hold an ownership interest in a licensed business entity, the person shall transfer the interest within six months after acquiring the ownership interest.

(II) This subsection (6)(c) does not authorize a person to hold an interest in a licensed business entity when the person acquired the interest as the result of a sale that violates subsection (6)(a)(I) of this section.

(d) (I) This subsection (6) does not apply to the sale or transfer of an interest in a publicly traded company.

(II) This subsection (6) does not apply to the sale of an interest to an institutional investor of a business entity that is subject to the reporting requirements of the "Securities Exchange Act of 1934", 15 U.S.C. sec. 78a et seq., as amended. For the purposes of this subsection (6)(d)(II), "institutional investor" means an entity, such as a pension fund, endowment fund, insurance company, commercial bank, or mutual fund, that invests money on behalf of its members or clients and that is required by the United States securities and exchange commission to file a form 13F, or its successor form, to report quarterly holdings.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 63, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-116 as it existed prior to 2018.

44-20-120. Principal place of business - requirements. (1) The building or structure required to be located on a principal place of business shall have electrical service and adequate sanitary facilities.

(2) (a) In no event shall a room in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this part 1, unless the entire ground floor of the hotel, apartment house, or rooming house building or the dwelling house is devoted principally to and occupied for commercial purposes and the office of the dealer is located on the ground floor thereof.

(b) A motor vehicle dealer who operates the motor vehicle dealer's business from his or her primary residence and who has been a resident of Colorado for the immediately preceding twelve-month period and is a motor vehicle dealer only because the dealer sells custom trailers for one or more manufacturers and maintains an inventory of fewer than four vehicles at all times shall be exempt from subsection (2)(a) of this section. Any motor vehicle dealer who is issued dealer plates in accordance with this subsection (2)(b) and section 42-3-116 shall only use the plates on trailers.

(3) Nothing in this section shall be construed to exempt a motor vehicle dealer from local zoning ordinances.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 64, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-117 as it existed prior to 2018.

44-20-121. Licenses - grounds for denial, suspension, or revocation. (1) A manufacturer's or distributor's license may be denied, suspended, or revoked on the following grounds:

(a) Material misstatement in an application for a license;

(b) Willful failure to comply with this part 1 or any rule promulgated by the executive director;

(c) Engaging, in the past or present, in any illegal business practice.

(2) A manufacturer representative's license may be denied, suspended, or revoked on the following grounds:

(a) Material misstatement in an application for a license;

(b) Willful failure to comply with any provision of this part 1 or any rule promulgated by the executive director under this part 1;

(c) Having indulged in any unconscionable business practice pursuant to title 4;

(d) Having coerced or attempted to coerce any motor vehicle dealer to accept delivery of any motor vehicle, parts or accessories therefor, or any other commodities or services that have not been ordered by the dealer;

(e) Having coerced or attempted to coerce any motor vehicle dealer to enter into any agreement to do any act unfair to the dealer by threatening to cause the cancellation of the franchise of the dealer;

(f) Having withheld, threatened to withhold, reduced, or delayed without just cause an order for motor vehicles, parts or accessories therefor, or any other commodities or services that have been ordered by a motor vehicle dealer;

(g) Engaging, in the past or present, in any illegal business practice.

(3) A motor vehicle dealer's, wholesale motor vehicle auction dealer's, wholesaler's, buyer agent's, or used motor vehicle dealer's license may be denied, suspended, or revoked on the following grounds:

(a) Material misstatement in an application for a license;

(b) Violation of any of the terms and provisions of this part 1 or any rule promulgated by the board under this part 1;

(c) Having been convicted of or pleaded nolo contendere to any felony, or any crime pursuant to article 3, 4, or 5 of title 18, or any like crime pursuant to federal law or the law of any other state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of the conviction in any hearing held pursuant to this article 20.

(d) Defrauding any buyer, seller, motor vehicle salesperson, or financial institution to the person's damage;

(e) Intentional or negligent failure to perform any written agreement with any buyer or seller;

(f) Failure or refusal to furnish and keep in force any bond required under this part 1;

(g) Having made a fraudulent or illegal sale, transaction, or repossession;

(h) Willful misrepresentation, circumvention, or concealment of or failure to disclose, through whatsoever subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to the buyer;

(i) Intentionally publishing or circulating any advertising that is misleading or inaccurate in any material particular or that misrepresents any of the products sold or furnished by a licensed dealer;

(j) Knowingly purchasing, selling, or otherwise acquiring or disposing of a stolen motor vehicle;

(k) For any licensed motor vehicle dealer or used motor vehicle dealer, engaging in the business for which the dealer is licensed without at all times maintaining a principal place of business as required by this part 1 during reasonable business hours;

(l) Engaging in the business through employment of an unlicensed motor vehicle salesperson;

(m) Willfully violating any state or federal law respecting commerce or motor vehicles, or any lawful rule respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles;

(n) Representing or selling as a new and unused motor vehicle any motor vehicle that the dealer or salesperson knows has been used and operated for demonstration purposes or which the dealer or salesperson knows is otherwise a used motor vehicle;

(o) Violating any state or federal statute or regulation issued thereunder dealing with odometers;

(p) Selling to a retail customer a motor vehicle that is not equipped or in proper condition and adjustment as required by part 2 of article 4 of title 42 unless the vehicle is sold as a tow away, not to be driven;

(q) Committing a fraudulent insurance act pursuant to section 10-1-128;

(r) Failure to give notice to a prospective buyer of the acceptance or rejection of a motor vehicle purchase order agreement within a reasonable time period, as determined by the board, when the licensee is working with the prospective buyer on a finance sale or a consignment sale.

(4) A wholesaler's or wholesale motor vehicle auction dealer's license may be denied, suspended, or revoked for the selling, leasing, or offering or attempting to negotiate the sale, lease, or exchange of an interest in motor vehicles by the wholesaler or wholesale motor vehicle auction dealer to persons other than motor vehicle dealers, used motor vehicle dealers, or other wholesalers or wholesale motor vehicle auction dealers.

(5) The license of a motor vehicle dealer may be denied, revoked, suspended, or otherwise subject to discipline imposed under this part 1 if an owner is acting as a salesperson without a motor vehicle salesperson license and the owner commits any of the acts or omissions that subject a salesperson's license to denial, revocation, or suspension under subsection (6) of this section.

(6) The license of a motor vehicle salesperson may be denied, revoked, or suspended on the following grounds:

(a) Material misstatement in an application for a license;

(b) Failure to comply with any provision of this part 1 or any rule promulgated by the board or executive director under this part 1;

(c) Engaging in the business for which the licensee is licensed without having in force and effect a good and sufficient bond with corporate surety as provided in this part 1;

(d) Intentionally publishing or circulating any advertising that is misleading or inaccurate in any material particular or that misrepresents any motor vehicle products sold or attempted to be sold by the salesperson;

(e) Indulging in any fraudulent business practice;

(f) Selling, offering, or attempting to negotiate the sale, exchange, or lease of motor vehicles for any motor vehicle dealer or used motor vehicle dealer for which the salesperson is not licensed; except that negotiation with a motor vehicle dealer for the sale, exchange, or lease of new and used motor vehicles, except those vehicles defined in section 42-1-102 (55) as motorcycles and section 33-14.5-101 (3) as off-highway vehicles, by a salesperson compensated

for the negotiation by the used motor vehicle dealer for which the salesperson is licensed shall not be grounds for denial, revocation, or suspension;

(g) Representing oneself as a salesperson for any motor vehicle dealer or used motor vehicle dealer when the salesperson is not so employed and licensed;

(h) Having been convicted of or pleaded nolo contendere to any felony, or any crime pursuant to article 3, 4, or 5 of title 18, or any like crime pursuant to federal law or the law of any other state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of the conviction in any hearing held pursuant to this article 20.

(i) Having knowingly purchased, sold, or otherwise acquired or disposed of a stolen motor vehicle;

(j) Employing an unlicensed motor vehicle salesperson;

(k) Violating any state or federal statute or regulation issued thereunder dealing with odometers;

(l) Defrauding any retail buyer to the person's damage;

(m) Representing or selling as a new and unused motor vehicle any motor vehicle that the salesperson knows has been used and operated for demonstration purposes or that the salesperson knows is otherwise a used motor vehicle;

(n) Selling to a retail customer a motor vehicle that is not equipped or in proper condition and adjustment as required by part 2 of article 4 of title 42 unless the vehicle is sold as a tow away, not to be driven;

(o) Willfully violating any state or federal law respecting commerce or motor vehicles, or any lawful rule respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles;

(p) Improperly withholding, misappropriating, or converting to the salesperson's own use any money belonging to customers or other persons, received in the course of employment as a motor vehicle salesperson.

(6.5) A business disposal license may be denied, suspended, or revoked on the following grounds:

(a) Making a material misstatement in an application for a license;

(b) Violating this part 1 or a rule promulgated by the board under this part 1;

(c) Having been convicted of or pleaded nolo contendere to a felony, a crime under article 3, 4, or 5 of title 18, or any like crime under federal law or the law of another state. A certified copy of the judgment of conviction by a court of competent jurisdiction is conclusive evidence of the conviction in a hearing held under this article 20.

(d) Defrauding a buyer, seller, motor vehicle salesperson, or financial institution to the person's damage;

(e) Intentional or negligent failure to perform any written agreement with a buyer or seller;

(f) Making a fraudulent or illegal sale, transaction, or repossession;

(g) Willful misrepresentation or circumvention of, concealment of, or failure to disclose any of the material particulars required to or the nature of any of the material particulars required to be stated or furnished to the buyer;

(h) Intentionally publishing or circulating an advertisement that is misleading or inaccurate in any material particular or that misrepresents a product sold by or furnished by a licensed dealer;

(i) Knowingly selling, acquiring, or disposing of a stolen motor vehicle;

(j) Willfully violating a state or federal law governing commerce or motor vehicles or a rule governing commerce or motor vehicles promulgated by any licensing or regulating authority governing motor vehicles if the act constituting the violation directly and necessarily involves commerce or motor vehicles;

(k) Representing or selling as new a motor vehicle that the dealer or salesperson knows:

(I) Has been used for and operated for demonstration purposes; or

(II) Is a used motor vehicle;

(l) Violating a state or federal statute, rule, or regulation dealing with odometers;

(m) Selling to a retail customer a motor vehicle that is not equipped as required by or in proper condition and adjustment as required by part 2 of article 4 of title 42 unless the vehicle is sold as a tow-away and not to be driven;

(n) Committing a fraudulent insurance act under section 10-1-128;

(o) Failing to notify a prospective buyer of the acceptance or rejection of a motor vehicle purchase order agreement within a reasonable period, as determined by the board, when the licensee is working with the prospective buyer on a finance sale or a consignment sale;

(p) Failing to maintain in Colorado, when the business disposer is licensed, a place of business that:

(I) Is maintained by the business disposer and is located at a fixed address, other than solely a post office box or an electronic address; and

(II) Employs one or more individuals on a full-time basis.

(7) Any license issued pursuant to this part 1 may be denied, revoked, or suspended if unfitness of the licensee or licensee applicant is shown in the following:

(a) The licensing character or record of the licensee or licensee applicant;

(b) The criminal character or record of the licensee or licensee applicant;

(c) The financial character or record of the licensee or licensee applicant;

(d) Violation of any lawful order of the board.

(8) (a) Any license issued or for which an application has been made pursuant to this part 1 shall be revoked or denied if the licensee or applicant has been convicted of or pleaded no contest to any of the following offenses in this state or any other jurisdiction during the previous ten years:

(I) A felony in violation of article 3, 4, or 5 of title 18 or any similar crime under federal law or the law of any other state; or

(II) A crime involving odometer fraud, salvage fraud, motor vehicle title fraud, or the defrauding of a retail consumer in a motor vehicle sale or lease transaction.

(b) A certified copy of a judgment of conviction by a court of competent jurisdiction of an offense under subsection (8)(a) of this section is conclusive evidence of the conviction in any hearing held pursuant to this article 20.

(9) In any disciplinary hearing, action, or order of the board involving a violation of section 42-6-112 or 42-6-119 (3), it is an affirmative defense that the dealer has taken every reasonable action necessary to deliver or facilitate the delivery of the certificate of title within

thirty days. To qualify as having taken every reasonable action to deliver or facilitate the delivery of the certificate of title, the dealer must have, at a minimum:

(a) Processed and mailed any required loan payoffs in a reasonable amount of time;

(b) Contacted the prior lender and taken any actions necessary to obtain a certificate of title or duplicate certificate of title, either of which must be free of liens;

(c) Taken any action necessary to obtain information or signatures from the prior owner necessary to have a new certificate of title issued for the motor vehicle;

(d) Submitted all paperwork that the dealer has obtained to the authorized agent and that is necessary to have a new certificate of title issued for the motor vehicle; and

(e) Corrected any errors in any filings with the department in a reasonable amount of time.

(10) A person whose license issued under this part 1 is revoked or who surrenders a license to avoid discipline is ineligible to apply for a new license under this part 1 for one year after the date of revocation or surrender of the license.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 65, § 2, effective October 1. **L. 2019:** (6.5) added, (SB 19-249), ch. 309, p. 2804, § 6, effective August 2.

Editor's note: This section is similar to former § 12-6-118 as it existed prior to 2018.

44-20-122. Procedure for denial, suspension, or revocation of license - judicial review. (1) The denial, suspension, or revocation of licenses issued under this part 1 shall be in accordance with the provisions of sections 24-4-104 and 24-4-105; except that the discovery available under rule 26 (b)(2) of the Colorado rules of civil procedure is available in any proceeding.

(2) (a) (I) The board shall appoint an administrative law judge pursuant to part 10 of article 30 of title 24 to conduct any hearing concerning the licensing or discipline of a motor vehicle dealer, used motor vehicle dealer, wholesaler, buyer's agent, business disposer, or wholesale motor vehicle auction dealer; except that the board may, upon a unanimous vote of the members present when the vote is taken, conduct the hearing in lieu of appointing an administrative law judge.

(II) Beginning July 1, 2008, the board shall issue an annual report to the executive director detailing the number of hearings held pursuant to this subsection (2)(a) and the number of the hearings conducted by the board. If the board conducts greater than forty percent of the hearings, the executive director shall analyze the hearing procedures and acts and issue a report to the general assembly, which shall include any recommendations of the executive director.

(b) The board shall assign a hearing concerning the licensing or discipline of a motor vehicle salesperson to the executive director who shall appoint an officer to conduct a hearing.

(3) Hearings conducted before an administrative law judge shall be in accordance with the rules of procedure of the office of administrative courts. Hearings conducted before an officer appointed by the executive director shall be in accordance with the rules of procedure established by the executive director.

(4) The board may summarily suspend a licensee required to post a bond under this article 20 if the licensee does not have a bond in full force and effect as required by this article 20. The suspension shall become effective upon the earlier of the licensee receiving notice of the

suspension or within three days after the notice of suspension is mailed to a licensee's last-known address on file with the board. The notice may be effected by certified mail or personal delivery.

(5) The court of appeals shall have initial jurisdiction to review all final actions and orders that are subject to judicial review of the board. The proceedings shall be conducted in accordance with section 24-4-106 (11).

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 70, § 2, effective October 1. **L. 2019:** (2)(a)(I) amended, (SB 19-249), ch. 309, p. 2805, § 7, effective August 2.

Editor's note: This section is similar to former § 12-6-119 as it existed prior to 2018.

44-20-123. Sales activity following license denial, suspension, or revocation - unlawful act - penalty. (1) (a) It is unlawful and a violation of this part 1 for any person whose motor vehicle dealer's, used motor vehicle dealer's, motor vehicle wholesaler's, business disposer's, or motor vehicle salesperson's license has been denied, suspended, or revoked to exercise any of the privileges of the license that was denied, suspended, or revoked.

(b) A violation of subsection (1)(a) of this section shall be punishable in accordance with section 44-20-128; except that a second or subsequent violation of subsection (1)(a) of this section shall be a class 6 felony.

(c) In any trial for a violation of subsection (1)(a) of this section:

(I) A duly authenticated copy of the board's order of denial, suspension, or revocation shall constitute prima facie evidence of the denial, suspension, or revocation;

(II) A duly authenticated invoice, buyer's order, or other customary, written sales or purchase document or instrument proven to be signed by the defendant and indicating the defendant's role in the purchase or sale of a motor vehicle at any motor vehicle auction, wholesale motor vehicle sales location, or retail motor vehicle sales location, as applicable, shall constitute prima facie evidence of the defendant's exercise of a privilege of licensure;

(III) It shall be an affirmative defense that the defendant bought or sold a motor vehicle that was, at all relevant times, intended for the defendant's own use and not bought or sold for the purpose of profit or gain; and

(IV) The fact that the defendant has a motor vehicle dealer's, used motor vehicle dealer's, motor vehicle wholesaler's, or motor vehicle salesperson's license, or any other license to buy and sell motor vehicles, that is issued by a state or jurisdiction other than Colorado shall not constitute a defense.

(2) Upon the defendant's conviction by entry of a plea of guilty or nolo contendere or judgment or verdict of guilt in connection with a violation of subsection (1)(a) of this section or of section 44-20-124 (2) or 42-6-142 (1), the court shall immediately give the executive director written notice of the conviction. In addition, the court shall forward to the executive director copies of documentation of any conviction on a lesser included offense and any amended charge, plea bargain, deferred prosecution, deferred sentence, or deferred judgment in connection with the original charge.

(3) Upon receiving notice of a conviction or other disposition pursuant to subsection (2) of this section, the executive director or his or her designee shall forward the notice to the board, which shall immediately examine its files to determine whether in fact the defendant's license

was denied, suspended, or revoked at the time of the offense to which the conviction or other disposition relates. If in fact the defendant's license was denied, suspended, or revoked at the time of the offense, the board:

(a) Shall not issue or reinstate any license to the defendant until one year after the time the defendant would otherwise have been eligible to receive a new or reinstated license; and

(b) Shall revoke or suspend any other licenses held by the defendant until at least one year after the date of the conviction or other disposition.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 71, § 2, effective October 1. **L. 2019:** (1)(a) amended, (SB 19-249), ch. 309, p. 2806, § 8, effective August 2.

Editor's note: This section is similar to former § 12-6-119.5 as it existed prior to 2018.

44-20-124. Unlawful acts. (1) It is unlawful and a violation of this part 1 for any manufacturer, distributor, or manufacturer representative:

(a) To willfully fail to perform or cause to be performed any written warranties made with respect to any motor vehicle or parts thereof;

(b) To coerce or attempt to coerce any motor vehicle dealer to perform or allow to be performed any act that could be financially detrimental to the dealer or that would impair the dealer's goodwill or to enter into any agreement with a manufacturer or distributor that would be financially detrimental to the dealer or impair the dealer's goodwill, by threatening to cancel or not renew any franchise between a manufacturer or distributor and the dealer;

(c) To coerce or attempt to coerce any motor vehicle dealer to accept delivery of any motor vehicle, parts or accessories therefor, or any commodities or services that have not been ordered by the dealer;

(d) (I) To cancel or cause to be canceled, directly or indirectly, without just cause, the franchise of any motor vehicle dealer, and the nonrenewal of a franchise or selling agreement without just cause is a violation of this subsection (1)(d) and shall constitute an unfair cancellation.

(II) As used in this subsection (1)(d), "just cause" shall be determined in the context of all circumstances surrounding the cancellation or nonrenewal, including but not limited to:

(A) The amount of business transacted by the motor vehicle dealer;

(B) The investments necessarily made and obligations incurred by the motor vehicle dealer, including but not limited to goodwill, in the performance of its duties under the franchise agreement, together with the duration and permanency of the investments and obligations;

(C) The potential for harm to consumers as a result of disruption of the business of the motor vehicle dealer;

(D) The motor vehicle dealer's failure to provide adequate service of facilities, equipment, parts, and qualified service personnel;

(E) The motor vehicle dealer's failure to perform warranty work on behalf of the manufacturer, subject to reimbursement by the manufacturer; and

(F) The motor vehicle dealer's failure to substantially comply, in good faith, with requirements of the franchise that are determined to be reasonable and material.

(III) The following conduct by a motor vehicle dealer shall constitute just cause for termination without consideration of other factors:

(A) Conviction of, or a plea of guilty or nolo contendere to, a felony;

(B) A continuing pattern of fraudulent conduct against the manufacturer or consumers; or

(C) Continuing failure to operate for ten days or longer.

(e) To withhold, reduce, or delay unreasonably or without just cause delivery of motor vehicles, motor vehicle parts and accessories, commodities, or money due motor vehicle dealers for warranty work done by any motor vehicle dealer;

(f) To withhold, reduce, or delay unreasonably or without just cause services contracted for by motor vehicle dealers;

(g) To coerce any motor vehicle dealer to provide installment financing with a specified financial institution;

(h) To violate any duty imposed by, or fail to comply with, any provision of section 44-20-125, 44-20-126, or 44-20-127;

(i) (I) To fail to provide to the motor vehicle dealer, within twenty days after receipt of a notice of intent from a motor vehicle dealer, the list of documents and information necessary to approve the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer or the change in executive management of the dealership;

(II) To fail to confirm within twenty days after receipt of all documents and information listed in subsection (1)(i)(I) of this section that the documentation and information has been received;

(III) To refuse to approve, unreasonably, the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer within sixty days after the manufacturer has received all documents and information necessary to approve the sale or transfer of ownership, or to refuse to approve, unreasonably, the change in executive management of the dealership within sixty days after the manufacturer has received all information necessary to approve the change in management; except that nothing in this part 1 shall authorize the sale, transfer, or assignment of a franchise or a change of the principal operator without the approval of the manufacturer or distributor unless the manufacturer or distributor fails to send notice of the disapproval within sixty days after receiving all documents and information necessary to approve the sale or transfer of ownership; or

(IV) To condition the sale, transfer, relocation, or renewal of a franchise agreement, or to condition sales, services, parts, or finance incentives, upon site control or an agreement to renovate or make improvements to a facility; except that voluntary acceptance of the conditions by the dealer shall not constitute a violation;

(j) (I) (A) To fail or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make except as a result of a strike or labor difficulty, lack of manufacturing capacity, shortage of materials, freight embargo, or other cause over which the manufacturer has no control; or

(B) To require a dealer to pay an unreasonable fee, purchase unreasonable advertising displays or other materials, or comply with unreasonable training or facilities requirements as a prerequisite to receiving any particular model of that same line-make. For purposes of this subsection (1)(j)(I)(B), reasonableness shall be judged based on the circumstances of the individual dealer and the conditions of the market served by the dealer.

(II) This subsection (1)(j) shall not apply to manufacturers of recreational vehicles nor to manufacturers of vehicles with a passenger capacity of thirty-two or more.

(k) To require, coerce, or attempt to coerce any motor vehicle dealer to refrain from participation in the management of, investment in, or acquisition of any other line-make of new motor vehicles or related products; except that this subsection (1)(k) shall not apply unless the motor vehicle dealer:

(I) Maintains a reasonable line of credit for each make or line of new motor vehicles;

(II) Remains in compliance with reasonable capital standards and reasonable facilities requirements specified by the manufacturer; except that "reasonable facilities requirements" shall not include a requirement that a motor vehicle dealer establish or maintain exclusive facilities, personnel, or display space; and

(III) Provides written notice to the manufacturer, distributor, or manufacturer's representative, no less than ninety days prior to the dealer's intent to participate in the management of, investment in, or acquisition of another line-make of new motor vehicles or related products;

(l) (I) To fail to pay to a motor vehicle dealer, within ninety days after the termination, cancellation, or nonrenewal of a franchise, all of the following:

(A) The dealer cost, plus any charges made by the manufacturer for distribution, delivery, and taxes, less all allowances paid or credited to the motor vehicle dealer by the manufacturer, of unused, undamaged, and unsold motor vehicles in the motor vehicle dealer's inventory that were acquired from the manufacturer or from another motor vehicle dealer of the same line-make in the ordinary course of business within the previous twelve months;

(B) The dealer cost, less all allowances paid or credited to the motor vehicle dealer by the manufacturer, for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging and listed in the manufacturer's current parts catalog;

(C) The fair market value of each undamaged sign owned by the motor vehicle dealer and bearing a common name, trade name, or trademark of the manufacturer if acquisition of the sign was required by the manufacturer;

(D) The fair market value of all special tools and equipment that were acquired from the manufacturer or from sources approved and required by the manufacturer and that are in good and usable condition, excluding normal wear and tear; and

(E) The cost of transporting, handling, packing, and loading the motor vehicles, supplies, parts, accessories, signs, special tools, equipment, and furnishings described in this subsection (1)(l).

(II) This subsection (1)(l) shall only apply to manufacturers of recreational vehicles in cases where the manufacturer terminates, cancels, or fails to renew the recreational vehicle dealer franchise; and this subsection (1)(l) shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

(m) To require, coerce, or attempt to coerce any motor vehicle dealer to close or change the location of the motor vehicle dealer, or to make any substantial alterations to the dealer premises or facilities when doing so would be unreasonable or without written assurance of a sufficient supply of motor vehicles so as to justify the changes, in light of the current market and economic conditions;

(n) (I) To authorize or permit a person to perform warranty service repairs on motor vehicles unless the person is:

(A) A motor vehicle dealer with whom the manufacturer has entered into a franchise agreement for the sale and service of the manufacturer's motor vehicles; or

(B) A person or government entity that has purchased new motor vehicles pursuant to a manufacturer's fleet discount program and is performing the warranty service repairs only on vehicles owned by the person or entity.

(II) This subsection (1)(n) shall not apply to manufacturers of recreational vehicles nor to manufacturers of vehicles with a passenger capacity of thirty-two or more.

(o) To require, coerce, or attempt to coerce any motor vehicle dealer to prospectively agree to a release, assignment, novation, waiver, or estoppel that would relieve any person of a duty or liability imposed under this article 20 except in settlement of a bona fide dispute;

(p) To discriminate between or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make based upon unreasonable sales and service standards;

(q) To fail to make practically available any incentive, rebate, bonus, or other similar benefit to a motor vehicle dealer that is offered to another motor vehicle dealer of the same line-make within this state;

(r) To fail to pay to a motor vehicle dealer:

(I) Within ninety days after the termination, cancellation, or nonrenewal of a franchise for the failure of a dealer to meet performance sales and service obligations or after the termination, elimination, or cessation of a line-make, the cost of the lease for the facilities used for the franchise or line-make for the unexpired term of the lease, not to exceed one year; except that:

(A) If the motor vehicle dealer owns the facilities, the value of renting the facilities for one year, prorated for each line-make based upon total sales volume for the previous twelve months before the involuntary termination;

(B) If the dealer sells recreational vehicles and a subsequent manufacturer or distributor that manufactures or distributes recreational vehicles replaces any portion of the vacated facilities, the lease or rental value shall be prorated on a monthly basis unless the dealer sells motor vehicles that are not recreational vehicles;

(C) Nothing in this subsection (1)(r)(I) shall be construed to limit the application of subsection (1)(d) of this section;

(II) Within ninety days after the termination, elimination, or cessation of a line-make or the termination of a franchise due to the insolvency of the manufacturer or distributor, the fair market value of the motor vehicle dealer's goodwill for the line-make as of the date the manufacturer or distributor announces the action that results in the termination, elimination, or cessation, not including any amounts paid under subsections (1)(l)(I)(A) to (1)(l)(I)(E) of this section;

(s) To condition a franchise agreement on improvements to a facility unless reasonably required by the technology of a motor vehicle being sold at the facility;

(t) To sell or offer for sale a low-speed electric vehicle, as defined by section 42-1-102, for use on a roadway unless the vehicle complies with part 2 of article 4 of title 42;

(u) To charge back, deny motor vehicle allocation, withhold payments, or take other actions against a motor vehicle dealer if a motor vehicle sold by the motor vehicle dealer is exported from Colorado unless the manufacturer, distributor, or manufacturer representative proves that the motor vehicle dealer knew or reasonably should have known a motor vehicle was

intended to be exported, which shall operate as a rebuttable presumption that the motor vehicle dealer did not have the knowledge;

(v) Within ninety days after the termination, elimination, or cessation of a line-make or the termination, cancellation, or nonrenewal of a franchise by the manufacturer, distributor, or manufacturer representative, for any reason other than that the motor vehicle dealer commits fraud, makes a misrepresentation, or commits any other crime within the scope of the franchise agreement or in the operation of the dealership, to fail to reimburse a motor vehicle dealer for the cost depreciated by five percent per year of any upgrades or alterations to the motor vehicle dealer's facilities required by the manufacturer, distributor, or manufacturer representative within the previous five years;

(w) To fail to notify a motor vehicle dealer at least ninety days before the following and to provide the specific reasons for the following:

(I) Directly or indirectly terminating, canceling, or not renewing a franchise agreement; or

(II) Modifying, replacing, or attempting to modify or replace the franchise or selling agreement of a motor vehicle dealer, including a change in the dealer's geographic area upon which sales or service performance is measured, if the modification would substantially and adversely alter the rights or obligations of the dealer under the current franchise or selling agreement or would substantially impair the sales or service obligations or the dealer's investment;

(x) To require, coerce, or attempt to coerce a motor vehicle dealer to substantially alter a facility or premises if:

(I) The facility or premises has been altered within the last ten years at a cost of more than two hundred fifty thousand dollars and the alteration was required and approved by the manufacturer, distributor, or manufacturer representative unless subsection (1)(x)(II) of this section applies to the dealer; except that this subsection (1)(x) does not apply to improvements made to comply with health or safety laws, to improvements made to accommodate the technology requirements necessary to sell or service a line-make, to technological improvements related to electric, automated, compressed natural gas, and fuel-cell motor vehicles, or to improvements made to install or upgrade electric vehicle charging equipment; or

(II) The motor vehicle dealer sells only motorcycles or motorcycles and powersports vehicles, the facility or premises has been altered within the last ten years at a cost of more than twenty-five thousand dollars, and the alteration was required and approved by the manufacturer, distributor, or manufacturer representative; except that this subsection (1)(x) does not apply to improvements made to comply with health or safety laws, to improvements made to accommodate the technology requirements necessary to sell or service a line-make, to technological improvements related to electric, automated, compressed natural gas, and fuel-cell motorcycles and powersports vehicles, or to improvements made to install or upgrade electric vehicle charging equipment;

(y) (I) To sell or offer to sell new motor vehicles to a franchised motor vehicle dealer with whom the manufacturer has a franchise agreement at a lower actual price than the actual price offered to any other motor vehicle dealer with whom the manufacturer has a franchise agreement for the same motor vehicle similarly equipped; except that this subsection (1)(y) does not apply to:

(A) Resale to any government;

(B) Donation or use by the dealer in a driver education program; or

(C) A price change made in the ordinary course of business if made available to all motor vehicle dealers when the price changes.

(II) This subsection (1)(y) does not prohibit a manufacturer, distributor, or manufacturer representative from offering incentive programs, sales-promotion plans, or other discounts if the incentives or discounts are reasonably available to all motor vehicle dealers with whom the manufacturer has a franchise agreement.

(z) To require a motor vehicle dealer to grant a manufacturer, distributor, or manufacturer representative the following or to enforce the following if the exercise of the contractual right would stop the transfer of the motor vehicle dealer ownership from an owner to an immediate family member of the owner:

(I) A right of first refusal to purchase the motor vehicle dealer; or

(II) An option to purchase the motor vehicle dealer; and

(aa) (I) To use an unreasonable, arbitrary, or unfair performance standard in determining a motor vehicle dealer's compliance with a franchise agreement;

(II) To fail to communicate, upon the request of the dealer, any performance standard in a clear and concise writing to a motor vehicle dealer before applying the standard to the motor vehicle dealer.

(2) It is unlawful for any person to act as a motor vehicle dealer, manufacturer, distributor, wholesaler, manufacturer representative, used motor vehicle dealer, buyer agent, wholesale motor vehicle auction dealer, business disposer, or motor vehicle salesperson unless the person has been duly licensed under this part 1, except for:

(a) Persons exempt from licensure as a manufacturer under section 44-20-102 (14); however, manufacturers exempt from licensing shall comply with all other applicable requirements for manufacturers, including those pertaining to vehicle identification numbers and manufacturers' statements of origin; and

(b) Business owners selling a vehicle if the vehicle has been owned for more than one year, the vehicle has been used exclusively for business purposes, the vehicle is titled in the name of the business, all applicable taxes related to the vehicle have been paid, and the total number of vehicles sold by a business owner over a two-year period does not exceed twenty vehicles.

(3) It is unlawful and a violation of this part 1 for a buyer's agent to engage in the following:

(a) To make a material misstatement in an application for a license;

(b) To willfully fail to perform or cause to be performed any written agreement with respect to any motor vehicle or parts thereof;

(c) To defraud any buyer, seller, motor vehicle salesperson, or financial institution;

(d) To intentionally enter into a financial agreement with a seller of a motor vehicle for the buyer agent's own benefit;

(e) To coerce any motor vehicle dealer into providing installment financing with a specified financial institution.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 72, § 2, effective October 1. **L. 2019:** IP(2) amended, (SB 19-249), ch. 309, p. 2806, § 9, effective August 2.

Editor's note: This section is similar to former § 12-6-120 as it existed prior to 2018.

44-20-125. New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules. (1) No manufacturer shall establish an additional motor vehicle dealer, reopen a previously existing motor vehicle dealer, or authorize an existing motor vehicle dealer to relocate without first providing at least sixty days' notice to all of its franchised dealers within whose relevant market area the new, reopened, or relocated dealer would be located. The notice must state:

(a) The specific location at which the additional, reopened, or relocated motor vehicle dealer will be established;

(b) The date on or after which the manufacturer intends to be engaged in business with the additional, reopened, or relocated motor vehicle dealer at the proposed location; and

(c) The identity of all motor vehicle dealers who are franchised to sell the same line-make of vehicles with licensed locations in the relevant market area where the additional, reopened, or relocated motor vehicle dealer is proposed to be located.

(2) A manufacturer shall approve or disapprove of a motor vehicle dealer facility's initial site location, relocation, or reopening request within sixty days after the request or after sending the notice required by subsection (1) of this section to all of its franchised dealers, whichever is later.

(3) Subsection (1) of this section shall not apply to:

(a) The relocation of an existing dealer within two miles of its current location; or

(b) The establishment of a replacement dealer, within two years, either at the former location or within two miles of the former location.

(4) As used in this section:

(a) "Manufacturer" means a motor vehicle manufacturer, distributor, or manufacturer representative.

(b) "Relevant market area" means the greater of the following:

(I) The geographic area of responsibility defined in the franchise agreement of an existing dealer; or

(II) The geographic area within a radius of ten miles of any existing dealer of the same line-make of vehicle as the proposed additional motor vehicle dealer.

(5) (a) An existing motor vehicle dealer adversely affected by a reopening or relocation of an existing same line-make motor vehicle dealer or the addition of a same line-make motor vehicle dealer may, within ninety days after receipt of the notice required in subsection (1) of this section, file a legal action in a district court of competent jurisdiction or file an administrative complaint with the executive director to prevent or enjoin the relocation, reopening, or addition of the proposed motor vehicle dealer. An existing motor vehicle dealer is adversely impacted if:

(I) The dealer is located within the relevant market area of the proposed relocated, reopened, or additional dealership described in the notice required in subsection (1) of this section; or

(II) The existing dealer or dealers of the same line-make show that, during any twelve-month period of the thirty-six months preceding the receipt of the notice required in subsection (1) of this section, the dealer or dealers, or a dealer's predecessor, made at least twenty-five

percent of the dealer's retail sales of new motor vehicles to persons whose addresses are located within ten miles of the location of the proposed relocated, reopened, or additional dealership.

(b) The executive director shall refer a complaint filed under this section to an administrative law judge with the office of administrative courts for final agency action.

(c) In any court or administrative action, the manufacturer has the burden of proof on each of the following issues:

(I) The change in population;

(II) The relevant vehicle buyer profiles;

(III) The relevant historical new motor vehicle registrations for the line-make of vehicles versus the manufacturer's actual competitors in the relevant market area;

(IV) Whether the opening of the proposed additional, reopened, or relocated motor vehicle dealer is materially beneficial to the public interest or the consumers in the relevant market area;

(V) Whether the motor vehicle dealers of the same line-make in the relevant market area are providing adequate representation and convenient customer care, including the adequacy of sales and service facilities, equipment, parts, and qualified service personnel, for motor vehicles of the same line-make in the relevant market area;

(VI) The reasonably expected market penetration of the line-make, given the factors affecting penetration; and

(VII) Whether the additional, reopened, or relocated dealership is reasonable and justifiable based on expected economic and market conditions within the relevant market area.

(d) In any court or administrative action, the motor vehicle dealer has the burden of proof on each of the following issues:

(I) Whether the manufacturer has engaged in any action or omission that, directly or indirectly, denied the existing motor vehicle dealer of the same line-make the opportunity for reasonable growth or market expansion;

(II) Whether the manufacturer has coerced or attempted to coerce any existing motor vehicle dealer or dealers into consenting to additional or relocated franchises of the same line-make in the community or territory or relevant market area; and

(III) The size and permanency of the investment of and obligations incurred by the existing motor vehicle dealers of the same line-make located in the relevant market area.

(e) (I) In a legal or administrative action challenging the relocating, reopening, or addition of a motor vehicle dealer, the district court or administrative law judge shall make a determination of whether the relocation, reopening, or addition of a motor vehicle dealer is, based on the factors identified in subsections (5)(c) and (5)(d) of this section:

(A) In the public interest; and

(B) Fair and equitable to the existing motor vehicle dealers.

(II) The district court or the executive director shall deny any proposed relocating, reopening, or addition of a motor vehicle dealer unless the manufacturer shows by a preponderance of the evidence that the existing motor vehicle dealer or dealers of the same line-make in the relevant market area of the proposed dealership are not providing adequate representation of the line-make motor vehicles. A determination to deny, prevent, or enjoin the relocating, reopening, or addition of a motor vehicle dealer is effective for at least eighteen months.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 79, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-120.3 as it existed prior to 2018.

44-20-126. Independent control of dealer - definitions. (1) Except as otherwise provided in this section, no manufacturer shall own, operate, or control any motor vehicle dealer or used motor vehicle dealer in Colorado.

(2) Notwithstanding subsection (1) of this section, the following activities are not prohibited:

(a) (I) Except as provided in subsection (2)(a)(II) of this section, operation of a dealer for a temporary period, not to exceed twelve months, during the transition from one owner or operator to another independent owner or operator; except that the executive director may extend the period, not to exceed twenty-four months, upon showing by the manufacturer or distributor of the need to operate the dealership for such time to achieve a transition from an owner or operator to another independent third-party owner or operator;

(II) Operation of a dealer that sells recreational vehicles for not more than eighteen months during the transition from one owner or operator to another independent owner or operator;

(b) Ownership or control of a dealer while the dealer is being sold under a bona fide contract or purchase option to the operator of the dealer;

(c) Participation in the ownership of the dealer solely for the purpose of providing financing or a capital loan that will enable the dealer to become the majority owner of the dealer in less than seven years;

(d) Operation of a motor vehicle dealer if the manufacturer has no other dealers of the same line-make in this state; or

(e) and (f) Repealed.

(g) Ownership, operation, or control of one or more motor vehicle dealers if the manufacturer manufactures only electric vehicles and has no franchised dealers of the same line-make in this state.

(3) As used in this section:

(a) "Control" means to possess, directly, the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise; except that "control" does not include the relationship between a manufacturer and a motor vehicle dealer under a franchise agreement.

(b) "Manufacturer" means a motor vehicle manufacturer, distributor, or manufacturer representative.

(c) "Operate" means to directly or indirectly manage a motor vehicle dealer.

(d) "Own" means to hold any beneficial ownership interest of one percent or more of any class of equity interest in a dealer, whether as a shareholder, partner, limited liability company member, or otherwise. To "hold" an ownership interest means to have possession of, title to, or control of the ownership interest, either directly or through a fiduciary or agent.

(4) This section shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 82, § 2, effective October 1. **L. 2020:** (2)(d) amended, (2)(e) and (2)(f) repealed, and (2)(g) added, (SB 20-167), ch. 71, p. 302, § 1, effective September 14.

Editor's note: This section is similar to former § 12-6-120.5 as it existed prior to 2018.

44-20-127. Successor under existing franchise agreement - duties of manufacturer. (1) If a licensed motor vehicle dealer under franchise by a manufacturer dies or becomes incapacitated, the manufacturer shall act in good faith to allow a successor, which may include a family member, designated by the deceased or incapacitated motor vehicle dealer to succeed to ownership and operation of the dealer under the existing franchise agreement if:

(a) Within ninety days after the motor vehicle dealer's death or incapacity, the designated successor gives the manufacturer written notice of an intent to succeed to the rights of the deceased or incapacitated motor vehicle dealer in the franchise agreement;

(b) The designated successor agrees to be bound by all of the terms and conditions of the existing franchise agreement; and

(c) The designated successor meets the criteria generally applied by the manufacturer in qualifying motor vehicle dealers.

(2) A manufacturer may refuse to honor the existing franchise agreement with the designated successor only for good cause. The manufacturer may request in writing from a designated successor the personal and financial data that is reasonably necessary to determine whether the existing franchise agreement should be honored, and the designated successor shall supply the data promptly upon request.

(3) (a) If a manufacturer believes that good cause exists for refusing to honor the requested succession, the manufacturer shall send the designated successor, by certified or overnight mail, notice of its refusal to approve the succession within sixty days after the later of:

(I) Receipt of the notice of the designated successor's intent to succeed the motor vehicle dealer in the ownership and operation of the dealer; or

(II) The receipt of the requested personal and financial data.

(b) Failure to serve the notice pursuant to subsection (3)(a) of this section shall be considered approval of the designated successor, and the franchise agreement is considered amended to reflect the approval of the succession the day following the last day of the notice period specified in subsection (3)(a) of this section.

(c) If the manufacturer gives notice of refusal to approve the succession, the notice shall state the specific grounds for the refusal and shall state that the franchise agreement shall be discontinued not less than ninety days after the date the notice of refusal is served unless the proposed successor files an action in the district court to enjoin the action.

(4) This section shall not be construed to prohibit a motor vehicle dealer from designating a person as the successor in advance, by written instrument filed with the manufacturer. If the motor vehicle dealer files such an instrument, that instrument governs the succession rights to the management and operation of the dealer subject to the designated successor satisfying the manufacturer's qualification requirements as described in this section.

(5) This section shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 83, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-120.7 as it existed prior to 2018.

44-20-128. Penalty. [*Editor's note: This version of this section is effective until March 1, 2022.*] (1) Except as provided in subsection (2) of this section, any person who willfully violates this part 1 or who willfully commits any offense in this part 1 declared to be unlawful commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2) (a) Any person who willfully violates section 44-20-124 (2) by acting as a manufacturer, distributor, or manufacturer representative without proper authorization commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars or more than one thousand dollars for each separate offense; except that, if the violator is a corporation, the fine shall be not less than five hundred dollars or more than two thousand five hundred dollars for each separate offense. A second conviction shall be punished by a fine of two thousand five hundred dollars.

(b) Any person who willfully violates section 44-20-124 (2) by acting as a motor vehicle dealer, wholesaler, used motor vehicle dealer, buyer agent, wholesale motor vehicle auction dealer, business disposer, or motor vehicle salesperson without proper authorization commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one thousand dollars and a penalty of twenty-five hours of useful public service, neither of which the court may suspend, for each separate offense; except that, if the violator is a corporation, the corporation shall be punished by a fine of not less than five thousand dollars nor more than twenty-five thousand dollars for each separate offense. A second conviction for an individual shall be punished by a fine of not less than five thousand dollars nor more than twenty-five thousand dollars for each separate offense, which the court may not suspend.

44-20-128. Penalty. [*Editor's note: This version of this section is effective March 1, 2022.*] (1) Except as provided in subsection (2) of this section, any person who willfully violates this part 1 or who willfully commits any offense in this part 1 declared to be unlawful commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2) (a) Any person who willfully violates section 44-20-124 (2) by acting as a manufacturer, distributor, or manufacturer representative without proper authorization commits a petty offense.

(b) Any person who willfully violates section 44-20-124 (2) by acting as a motor vehicle dealer, wholesaler, used motor vehicle dealer, buyer agent, wholesale motor vehicle auction dealer, business disposer, or motor vehicle salesperson without proper authorization commits a petty offense.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 84, § 2, effective October 1. **L. 2019:** (2)(b) amended, (SB 19-249), ch. 309, p. 2806, § 10, effective August 2. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3328, § 787, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-6-121 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-20-129. Fines - disposition - unlicensed sales. Of any fine collected for a violation of section 44-20-124 (2), half shall be awarded to the law enforcement agency that investigated and issued the citation for the violation and half shall be credited to the auto dealers license fund created in section 44-20-133.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 85, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-121.5 as it existed prior to 2018.

44-20-130. Drafts not honored for payment - penalties. (1) If a motor vehicle dealer, wholesaler, or used motor vehicle dealer issues a draft or check to a motor vehicle dealer, wholesaler, used motor vehicle dealer, motor vehicle auction house, or consignor and fails to honor the draft or check, then the license of the licensee shall be subject to suspension pursuant to section 44-20-104 (3)(e)(I). The license suspension shall be effective upon the date of any final decision against the licensee based upon the unpaid draft or check. A licensee whose license has been suspended pursuant to the provisions of this subsection (1) shall not be eligible for reinstatement of the license and shall not be eligible to apply for any other license issued under this part 1 unless it is demonstrated to the board that the unpaid draft or check has been paid in full and that any fine imposed on the licensee pursuant to subsection (2) of this section has been paid in full.

(2) Any motor vehicle dealer, wholesaler, or used motor vehicle dealer that issues a draft or check to a motor vehicle dealer, wholesaler, used motor vehicle dealer, motor vehicle auction house, or consignor and who fails to honor the draft or check, causing loss to a third party, commits a misdemeanor and shall be punished by a fine of two thousand five hundred dollars. Any fine collected for a violation of this subsection (2) shall be awarded to the law enforcement agency that investigated and issued the citation for the violation.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 85, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-121.6 as it existed prior to 2018.

44-20-131. Right of action for loss. (1) (a) If a person suffers loss or damage by reason of fraud practiced on the person by a licensed dealer or one of the dealer's salespersons acting on the dealer's behalf or within the scope of the employment of the salesperson, or if a person suffers any loss or damage by reason of the violation by the dealer or salesperson of any provision of this part 1 related to fraud that is designated by the board by rule, whether or not the violation is the basis for denial, suspension, or revocation of a license, the person suffering loss

or damages has a right of action against the dealer or the dealer's motor vehicle salespersons. The right of a person to recover for loss or damage as provided in this subsection (1) against the dealer or salesperson is not limited to the amount of their respective bonds.

(b) A person suffering loss or damages has a right of action against a licensed business disposer if:

(I) The loss or damage is caused by fraud practiced on the person by the disposer or the disposer's agent within the scope of employment; or

(II) The loss or damage is caused by the disposer violating any provision of this part 1 related to fraud and the violation is designated by the board by rule, whether or not the violation is the basis for denial, suspension, or revocation of the license.

(2) If any person suffers any loss or damage by reason of any unlawful act as provided in section 44-20-124 (1)(a), the person shall have a right of action against the manufacturer, distributor, or manufacturer representative. In any court action wherein a manufacturer, distributor, or manufacturer representative has been found liable in damages to any person under this part 1, the amount of damages so determined shall be trebled and shall be recoverable by the person so damaged. Any person so damaged shall also be entitled to recover reasonable attorney fees as part of his or her damages.

(3) If any licensee suffers any loss or damage because of a violation of section 44-20-124 (1), the licensee shall have a right of action against the manufacturer, distributor, or manufacturer representative. In any court action wherein a manufacturer, distributor, or manufacturer representative has been found liable in damages to any licensee under this part 1, any licensee so damaged shall also be entitled to recover reasonable attorney fees and costs as part of his or her damages.

(4) A person who suffers loss or damages resulting from fraud may bring a separate action against, and recover from the surety on the bond of, the licensed dealer, business disposer, buyer agent, or salesperson if:

(a) The licensed dealer, disposer, buyer agent, or salesperson has not reimbursed the person for the loss or damages; and

(b) After either:

(I) The board issued a final agency order with a finding of fraud by a licensed dealer, disposer, buyer agent, or salesperson; or

(II) A court entered judgment upon a claim of fraud by a licensed dealer, disposer, buyer agent, or salesperson.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 85, § 2, effective October 1. **L. 2019:** (1) amended, (SB 19-249), ch. 309, p. 2806, § 11, effective August 2. **L. 2020:** (1) amended and (4) added, (SB 20-140), ch. 225, p. 1104, § 4, effective September 14.

Editor's note: This section is similar to former § 12-6-122 as it existed prior to 2018.

44-20-132. Contract disputes - venue - choice of law. (1) In the event of a dispute between a motor vehicle dealer and a manufacturer under a franchise agreement, notwithstanding any provision of the agreement to the contrary:

(a) At the option of the motor vehicle dealer, venue shall be proper in the county or judicial district where the dealer resides or has its principal place of business; and

(b) Colorado law shall govern, both substantively and procedurally.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 86, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-122.5 as it existed prior to 2018.

44-20-133. Disposition of fees - auto dealers license fund - created. (1) The department shall deposit all money received under this part 1 with the state treasurer, subject to section 24-35-101, together with a detailed statement of the receipts, and the money deposited with the state treasurer constitutes a fund to be known as the auto dealers license fund, which fund is hereby created; except that the department shall deposit fines imposed under sections 44-20-129 and 44-20-130 (2) in accordance with sections 44-20-129 and 44-20-130 (2). The fund shall be used under the direction of the board in the following manner:

(a) (I) For the payment of the expenses of the administration of the board as the general assembly deems necessary by making an appropriation therefor on an annual fiscal-year basis commencing July 1, 1971, and thereafter.

(II) Any money remaining in the fund on December 31, 1971, and at the close of each calendar year thereafter, after costs of administration of the law as provided in this part 1, shall remain in the auto dealers license fund to be used for educational and enforcement purposes as appropriated by the general assembly.

(b) To pay the department for the administration of actions or proceedings brought before the executive director pursuant to section 44-20-124;

(c) To enforce section 44-20-124 (2);

(d) To implement part 4 of this article 20;

(e) To enforce section 44-20-423 (2).

Source: L. 2018: IP(1) amended and (1)(d) and (1)(e) added, (HB 18-1105), ch. 28, p. 328, § 1, effective August 8; entire article added with relocations, (SB 18-030), ch. 7, p. 86, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-6-123 as it existed prior to 2018.

(2) Subsections IP(1), (1)(d), and (1)(e) of this section were numbered as § 12-6-123 IP(1), (1)(e), and (1)(f), respectively, in HB 18-1105. Those provisions were harmonized with and relocated to this section as this section appears in SB 18-030.

44-20-134. Advertisement - inclusion of dealer name. A motor vehicle dealer or used motor vehicle dealer or any agent of the dealers shall not advertise any offer for the sale, lease, or purchase of a motor vehicle or a used motor vehicle that creates the false impression that the vehicle is being offered by a private party or by a buyer's agent or that does not contain the name of the dealer or the word "dealer" or, if the name is contained in the offer and does not clearly reflect that the business is a dealer, both the name of the dealer and the word "dealer".

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 86, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-125 as it existed prior to 2018.

44-20-135. Audit reimbursement limitations - dealer claims. (1) (a) A manufacturer, distributor, or manufacturer representative shall have the right to audit warranty, sales, or incentive claims of a motor vehicle dealer for nine months after the date the claim was submitted.

(b) A manufacturer, distributor, or manufacturer representative shall not require documentation for warranty, sales, or incentive claims or audit warranty, sales, or incentive claims of a motor vehicle dealer more than fifteen months after the date the claim was submitted, nor shall the manufacturer require a charge back, reimbursement, or credit against a future transaction arising out of an audit or request for documentation arising more than nine months after the date the claim was submitted.

(2) The motor vehicle dealer shall have nine months after making a sale or providing service to submit warranty, sales, or incentive claims to the manufacturer, distributor, or manufacturer representative.

(3) Subsection (1) of this section shall not limit any action for fraud instituted in a court of competent jurisdiction.

(4) A motor vehicle dealer may request a determination from the executive director, within thirty days, that a charge back, reimbursement, or credit required violates subsection (1) of this section. If a determination is requested within the thirty-day period, then the charge back, reimbursement, or credit shall be stayed pending the decision of the executive director. If the executive director determines after a hearing that the charge back, reimbursement, or credit violates subsection (1) of this section, the charge back, reimbursement, or credit shall be void.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 87, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-126 as it existed prior to 2018.

44-20-136. Reimbursement for right of first refusal. A manufacturer or distributor shall pay reasonable attorney fees, not to exceed the usual and customary fees charged for the transfer of a franchise, and reasonable expenses that are incurred by the proposed owner or transferee before the manufacturer or distributor exercised its right of first refusal in negotiating and implementing the contract for the proposed change of ownership or the transfer of assets. Payment of attorney fees and expenses is not required if the claimant has failed to submit an accounting of attorney fees and expenses within twenty days after the receipt of the manufacturer's or dealer's written request for an accounting. An expense accounting may be requested by the manufacturer or distributor before exercising its right of first refusal.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 87, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-127 as it existed prior to 2018.

44-20-137. Payout exemption to execution. A motor vehicle dealer's right to receive payments from a manufacturer or distributor required by section 44-20-124 (1)(l) and (1)(r) is not liable to attachment or execution and may not otherwise be seized, taken, appropriated, or applied in a legal or equitable process or by operation of law to pay the debts or liabilities of the manufacturer or distributor. This section shall not prohibit a secured creditor from exercising rights accrued pursuant to a security agreement if the right arose as a result of the manufacturer or distributor voluntarily creating a security interest before paying existing debts or liabilities of the manufacturer or distributor. This section shall not prohibit a manufacturer or distributor from withholding a portion of the payments necessary to cover an amount of money owed to the manufacturer or distributor as an offset to the payments if the manufacturer or distributor provides the motor vehicle dealer written notice thereof.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 87, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-128 as it existed prior to 2018.

44-20-138. Site control extinguishes. If a manufacturer, distributor, or manufacturer representative has terminated, eliminated, or not renewed a franchise agreement containing a site control provision, the motor vehicle dealer may void a site control provision of a franchise agreement by returning any money the dealer has accepted in exchange for site control prorated by the time remaining before the agreement expires over the time period between the agreement being signed and the agreement expiring. This section does not apply if the termination, elimination, or nonrenewal is for just cause in accordance with section 44-20-124 (1)(d).

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 88, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-129 as it existed prior to 2018.

44-20-139. Modification voidable. If a manufacturer, distributor, or manufacturer representative fails to comply with section 44-20-124 (1)(w)(II), the motor vehicle dealer may void the modification or replacement of the franchise agreement.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 88, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-130 as it existed prior to 2018.

44-20-140. Termination appeal. (1) A motor vehicle dealer who has reason to believe that a manufacturer, distributor, or manufacturer representative has violated section 44-20-124 (1)(d) or (1)(w) may appeal to the board by filing a complaint with:

(a) The executive director; or

(b) A district court if neither the executive director nor the administrative law judge, appointed in accordance with this section, holds a hearing concerning the complaint within sixty days after the complaint was filed.

(2) Upon filing of a verified complaint alleging with specific facts that a violation has occurred under this section, the termination, elimination, modification, or nonrenewal of the franchise agreement is automatically stayed, without the motor vehicle dealer posting a bond, until a final determination is made on each issue raised in the complaint; except that the executive director, administrative law judge, or court may cancel the stay upon finding that the cancellation, termination, or nonrenewal of the franchise agreement was for any of the reasons specified in section 44-20-124 (1)(d)(III). The automatic stay maintains all rights under the franchise agreement until the final determination of the issues raised in the verified complaint. The manufacturer, distributor, or manufacturer representative shall not name a replacement motor vehicle dealer for the market or location until a final order is entered.

(3) If a verified complaint is filed with the executive director, the executive director shall refer the complaint to an administrative law judge with the office of administrative courts for final agency action.

(4) In resolving a termination complaint, the manufacturer, distributor, or manufacturer representative has the burden of proving any claim made that the factors listed in section 44-20-124 (1)(d)(II) apply to the termination, cancellation, or nonrenewal.

(5) The prevailing party in a claim that a termination, cancellation, or nonrenewal violates section 44-20-124 (1)(d) or (1)(w) is entitled to recover attorney fees and costs, including expert witness fees, incurred in the termination protest.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 88, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-131 as it existed prior to 2018.

44-20-141. Stop-sale directives - used motor vehicles - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Average trade-in value" means the value of a used motor vehicle as established by a generally accepted, published, third-party used vehicle resource.

(b) "Stop-sale directive" means an unconditional directive from a manufacturer or distributor to a motor vehicle dealer to stop selling a type of motor vehicle manufactured by the manufacturer or distributed by the distributor because of a safety defect.

(2) A manufacturer or distributor shall reimburse a motor vehicle dealer in accordance with subsection (3) of this section if:

(a) The manufacturer or distributor issues a stop-sale directive for a motor vehicle manufactured or distributed by the issuer of the stop-sale directive;

(b) The motor vehicle dealer holds an active sales, service, and parts agreement with the manufacturer or distributor for the line-make of the used motor vehicle covered by the stop-sale directive;

(c) The used motor vehicle covered by the stop-sale directive is held in the inventory of the motor vehicle dealer on the date the stop-sale directive is issued or taken by the dealer as a trade-in vehicle on a consumer purchase of the same line-make; and

(d) The manufacturer or distributor has not provided a remedy procedure or made parts available to repair the used motor vehicle for more than thirty days after the stop-sale directive is issued.

(3) If the conditions in subsection (2) of this section are met, the manufacturer or distributor shall, upon application by the motor vehicle dealer, pay or credit the dealer one and one-half percent per month of the average trade-in value of the used motor vehicle's model prorated from thirty days after the stop-sale directive was issued to the earlier of:

(a) The date when the manufacturer or distributor provides the motor vehicle dealer with a remedy procedure and any necessary parts for ordering to repair the used motor vehicle; or

(b) The date the motor vehicle dealer transfers the motor vehicle.

(4) A manufacturer or distributor may determine a reasonable manner and method required for a motor vehicle dealer to demonstrate the inventory status of a used motor vehicle to determine eligibility for reimbursement.

(5) (a) This section applies only to used motor vehicles.

(b) This section is not intended to prevent a manufacturer or distributor from requiring that a motor vehicle not be subject to an open recall or stop-sale directive for the motor vehicle to be qualified or sold as a certified preowned vehicle or substantially similar designation.

(c) This section does not require a manufacturer or distributor to provide total compensation to a motor vehicle dealer that would exceed the total average trade-in valuation of the affected used motor vehicle.

(d) This section does not preclude a motor vehicle dealer and a manufacturer or distributor from agreeing to reimbursement terms that differ from those specified in this section.

(e) Compensation provided to a motor vehicle dealer under this section is exclusive and may not be combined with any other remedy under state or federal law.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 89, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-132 as it existed prior to 2018.

44-20-141.5. Fulfillment and compensation for warranty and recall obligations - definitions. (1) As used in this section:

(a) "Manufacturer" includes a manufacturer, a distributor, and a manufacturer representative.

(b) "Nonwarranty repair" means a diagnosis, repair, labor, or part for which payment was made by a person other than a manufacturer and that was not a warranty obligation. "Nonwarranty repair" also means customer-pay repairs, labor, or parts.

(c) "Part" means an accessory, a part, or a component used to repair a motor vehicle. "Part" includes engine and transmission parts and all motor vehicle assemblies.

(d) "Repair" means diagnosing, work, and labor performed by a motor vehicle dealer for which the motor vehicle dealer is making a claim for compensation.

(e) "Retail labor rate" means the rate for labor calculated by the motor vehicle dealer in accordance with subsection (4) of this section that a manufacturer is required to pay a motor vehicle dealer in accordance with subsection (2) of this section.

(f) "Retail parts markup percentage" means the percentage markup on parts calculated by the motor vehicle dealer in accordance with subsection (4) of this section that a manufacturer is required to pay a motor vehicle dealer in accordance with subsection (2) of this section.

(g) "Warranty obligation" means diagnosing and repairing a motor vehicle in accordance with any warranty, recall, or certified preowned warranty, under which a manufacturer makes a repair commitment to a consumer or motor vehicle dealer.

(2) At a motor vehicle dealer's request, a manufacturer shall timely compensate the motor vehicle dealer at the retail labor rate and the retail parts markup percentage in accordance with subsection (3) of this section for all labor performed and parts used by the motor vehicle dealer for covered repairs performed in accordance with the warranty obligation, if the retail labor rate and retail parts markup percentage are reasonably consistent with the requirements of this section that concern the retail labor rate and parts markup percentage.

(3) (a) A motor vehicle dealer may establish the retail labor rate and the retail parts markup percentage by submitting to the manufacturer either of the following as decided by the motor vehicle dealer:

(I) One hundred sequential repair orders containing nonwarranty repairs, which may include a nonwarranty repair that is included in a repair order with a warranty obligation repair, that have been paid by a consumer and closed by the time of submission; or

(II) All repair orders for nonwarranty repairs, which may include a nonwarranty repair that is included in a repair order with a warranty obligation repair, that have been paid by a consumer and closed by the time of submission for a period of ninety consecutive days.

(b) A manufacturer shall not disqualify a repair order under this subsection (3) because the repair order contains both warranty and nonwarranty repairs, but only nonwarranty repairs are used in the calculation of the retail labor rate and the retail parts markup percentage.

(c) A motor vehicle dealer may submit one set of repair orders for the purpose of calculating both its retail labor rate and the retail parts markup percentage or may submit separate sets of repair orders for purposes of calculating only its retail labor rate or for purposes of calculating only its retail parts markup percentage. If the rates from the calculation are ten percent higher or lower than the current rates, the manufacturer may request additional repair orders for the ninety days before or after the submitted repair orders for purposes of alteration.

(d) Except with regard to a request for additional repair orders as provided in subsection (3)(c) of this section, the repair orders submitted under this subsection (3) to determine the retail labor rate must contain only repair orders from the last ninety days before the date the submission is sent to the manufacturer.

(e) Except with regard to a request for additional repair orders as provided in subsection (3)(c) of this section, the repair orders submitted under this subsection (3) to determine the retail parts markup percentage must contain only repair orders from the last ninety days before the date the submission is sent to the manufacturer.

(4) (a) Except as provided in subsection (4)(c) of this section, to calculate the retail labor rate, the motor vehicle dealer must divide the motor vehicle dealer's total nonwarranty labor sales generated from the nonwarranty repairs submitted under subsection (3) of this section by the total number of labor hours that generated those total labor sales.

(b) Except as provided in subsection (4)(c) of this section, to calculate the retail parts markup percentage, the motor vehicle dealer must divide the motor vehicle dealer's total parts sales generated from nonwarranty repairs submitted under subsection (3) of this section by the

amount of the motor vehicle dealer's total cost for those parts, subtracting one from this amount, and then multiplying the amount by one hundred.

(c) The calculation of the retail labor rate in subsection (4)(a) of this section and of the retail parts markup percentage in subsection (4)(b) of this section do not include parts used or labor performed:

(I) For manufacturer or motor vehicle dealer special events, one-time specials, express service, and quoted-price promotional discounts, but this exclusion from the calculation does not include broadly applicable discounts offered by the dealer, such as percentage-off coupons, that apply to repairs and parts;

(II) For parts sold at wholesale;

(III) For routine maintenance, including replacement fluids, filters, batteries, bulbs, nuts, bolts, fasteners, tires, and belts;

(IV) That do not have individual part numbers;

(V) For the repairs of a motor vehicle owned by the motor vehicle dealer, an affiliate of the motor vehicle dealer, or an employee of either the motor vehicle dealer or the affiliate;

(VI) For motor vehicle dealer reconditioning;

(VII) For window tint, protective film, masking products, or window replacement labor;

(VIII) For manufacturer-approved and -reimbursed goodwill repairs or replacements;

(IX) For emission inspections required by law;

(X) For safety inspections required by law;

(XI) For which a volume discount was negotiated with a third-party payer, including government agencies, insurance carriers, and fleet operators, but not including third-party warranty companies or service contract companies.

(5) (a) Notwithstanding any manufacturer requirement, policy, procedure, guideline, or standard, a motor vehicle dealer may submit to the manufacturer the retail labor rate or retail parts markup percentage as each is calculated in accordance with subsection (4) of this section.

(b) A motor vehicle dealer may request in writing, not more often than once annually, an increase in compensation for labor at the retail labor rate for warranty obligations.

(c) A motor vehicle dealer may request in writing, not more often than once annually, an increase in compensation for parts at the retail parts markup percentage for warranty obligations.

(d) (I) A manufacturer may conduct a periodic review of a motor vehicle dealer's service records to verify the continuing accuracy of the retail labor rate or retail parts markup percentage proposed by or in effect for the dealer.

(II) A manufacturer shall not conduct a periodic review more than once per calendar year. This periodic review is not an audit in accordance with section 44-20-135.

(6) (a) (I) If the submitted calculation of the retail labor rate or retail parts markup percentage is materially inaccurate or is substantially different than the rate of or percentage of other similarly situated same line-make dealers within the state, a manufacturer may contest the motor vehicle dealer's submitted calculations of the retail labor rate or retail parts markup percentage by delivering a notice to the motor vehicle dealer within forty-five days after receiving the submission in accordance with subsection (3) of this section from the motor vehicle dealer. To comply with this subsection (6), the notice must:

(A) Include an explanation of the reasons that the manufacturer believes the calculation is subject to contest;

(B) Provide evidence substantiating the manufacturer's position; and

(C) Propose an adjustment of the contested retail labor rate or retail parts markup percentage.

(II) Upon the discovery of new relevant information by the manufacturer, the manufacturer may modify the grounds for contesting the retail labor rate or retail parts markup percentage after delivering the notice to the motor vehicle dealer under this subsection (6), but the modification does not change the timing requirements in this section.

(b) If the manufacturer does not timely contest the motor vehicle dealer's calculation of the retail labor rate or retail parts markup percentage in accordance with this subsection (6), the uncontested retail labor rate or retail parts markup percentage becomes effective forty-five days after the manufacturer has received the submission from the motor vehicle dealer, and thereafter, the manufacturer shall use the motor vehicle dealer's increased retail labor rate and retail parts markup percentage in calculating compensation for warranty obligations until a subsequent calculation of the motor vehicle dealer's retail labor rate or retail parts markup percentage is established in accordance with this section.

(c) (I) If the manufacturer timely contests the motor vehicle dealer's calculation of the retail labor rate or retail parts markup percentage and the manufacturer and motor vehicle dealer are unable to resolve the disagreement, the motor vehicle dealer may seek a determination by filing a complaint with a court of competent jurisdiction or the executive director no later than sixty days after the new motor vehicle dealer receives the manufacturer's challenge to the determined retail labor rate or retail parts markup percentage.

(II) In a court proceeding, the court shall determine, in accordance with this section, the proper retail labor rate or retail parts markup percentage.

(III) Any retail labor rate or retail parts markup percentage established through the proceeding applies retroactively to calculate reimbursement for any labor and part beginning thirty days after the manufacturer received the submission required by subsection (3) of this section.

(IV) If the manufacturer contests the motor vehicle dealer's calculation of the retail labor rate or retail parts markup percentage, the manufacturer shall continue to reimburse the motor vehicle dealer for warranty obligation repairs at the retail labor rate and retail parts markup percentage as both existed before the motor vehicle dealer submitted a request for an increase under subsection (5) of this section. When the manufacturer and motor vehicle dealer agree on the retail labor rate or retail parts markup percentage, the manufacturer shall pay any difference between the amount the manufacturer compensated the dealer and the amount agreed to by the motor vehicle dealer and manufacturer as of thirty days after the manufacturer received the submission required by subsection (3) of this section.

(d) In the court proceeding, the court shall award the prevailing party reasonable attorney fees and costs. If the motor vehicle dealer prevails, the court shall award as damages the full amount of reimbursement that should have been paid to the motor vehicle dealer.

(7) When calculating the retail labor rate and the retail parts markup percentage, the manufacturer:

(a) Shall not establish an unreasonable flat-rate time, nor establish unreasonable flat-rate labor times for new line-makes that are inconsistent with the existing rates;

(b) Shall, if the manufacturer furnishes a part to a motor vehicle dealer at no cost for use in performing a repair under a warranty obligation, compensate the motor vehicle dealer for the authorized repair part by paying the dealer an amount equal to the retail parts markup percentage

multiplied by the cost the dealer would have paid for the authorized part as listed in the manufacturer's price schedule;

(c) Shall not establish a different part number for repairs made in accordance with a warranty obligation than the part number established for nonwarranty repairs solely to provide a lower compensation to a motor vehicle dealer;

(d) Shall not recover or attempt to recover, directly or indirectly, in whole or in part, any of its costs from the motor vehicle dealer for compensating the motor vehicle dealer under this section;

(e) Shall not, directly or indirectly, in whole or in part, assess penalties or surcharges to the motor vehicle dealer, limit allocation of motor vehicles or parts to the motor vehicle dealer, or take any adverse action based on the motor vehicle dealer's exercise of the dealer's rights under this section;

(f) Shall not require from a motor vehicle dealer any information that is unduly burdensome or time consuming to obtain, including any part-by-part or transaction-by-transaction calculations.

(8) Nothing in this section prohibits a manufacturer from increasing the price of a motor vehicle or motor vehicle part in the normal course of business.

(9) This section does not apply to any of the following that are involved in the manufacturing of or selling of recreational vehicles:

(a) A motor vehicle dealer;

(b) A manufacturer or component manufacturer;

(c) A distributor; or

(d) A manufacturer representative.

Source: L. 2018: Entire section added, (SB 18-219), ch. 330, p. 1974, § 2, effective October 1.

Editor's note: This section was numbered as § 12-6-132.5 in SB 18-219. That section was harmonized with SB 18-030 and relocated to this section.

44-20-141.6. Fulfillment of warranty and recall obligations - recreational vehicles - definitions. (1) **Definitions.** As used in this section:

(a) "Dealer" means a person licensed or required to be licensed as a motor vehicle dealer that sells recreational vehicles.

(b) "Recreational vehicle" means the category of vehicle primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

(c) "Warrantor" means a person that gives a warranty in connection with a new recreational vehicle or parts, accessories, or components of a recreational vehicle. The term does not include a person who offers or performs service contracts, insurance, or extended warranties sold for separate consideration by a person who is not:

(I) The manufacturer, distributor, or manufacturer representative; or

(II) Controlled by a manufacturer, distributor, or manufacturer representative.

(2) **Warranty obligations of recreational vehicle warrantors.** Each warrantor shall:

(a) Compensate the dealer for warranty service, including diagnostic work;

(b) Provide the dealer a schedule of compensation to be paid that must be in a flat-rate manual or other written guide;

(c) Provide the dealer a schedule of the time allowances for warranty service that must provide adequate and reasonable time to complete service work and that must be in a flat-rate manual or other written guide;

(d) Reimburse the dealer for warranty service and warranty parts in accordance with the schedule of compensation that is required in subsection (2)(b) of this section;

(e) If the schedule of compensation required in subsection (2)(b) of this section does not include a particular repair, reimburse the dealer for warranty service for the actual time expended if reasonable, and the manufacturer bears the burden to prove that the actual time expended was unreasonable;

(f) Reimburse the dealer for warranty service at not less than the lowest retail labor rate actually charged by the dealer for comparable nonwarranty labor if the rate is reasonable; and

(g) Reimburse the dealer for warranty parts at wholesale price plus:

(I) A minimum thirty percent handling charge; and

(II) Any cost of freight to return warranty parts to the warrantor.

(3) The warrantor shall not deny a dealer's claims for warranty compensation without cause, which may include performance of nonwarranty repairs, material noncompliance with the warrantor's published policies and procedures, lack of material documentation, fraud, or misrepresentation.

(4) A warrantor shall not:

(a) Fail to compensate a dealer for warranty repairs made to a recreational vehicle or component of a recreational vehicle made by the dealer of merchandise:

(I) Damaged during delivery to the dealer or during manufacturing; or

(II) Defectively built or designed;

(b) Send replacement parts to a dealer at no charge without paying the parts markup required by subsection (2)(g) of this section times the dealer cost of the part;

(c) Fail to fulfill parts orders when parts are available;

(d) Retaliate against a dealer for exercising the dealer's rights under this section; or

(e) Attempt to coerce a dealer to not exercise its rights under this section.

(5) The dealer may submit warranty claims involving any component used in the manufacturing of a recreational vehicle to the manufacturer that:

(a) Completes the manufacturing of the recreational vehicle; and

(b) Issues the manufacturer's certificate of origin.

(6) Notwithstanding the terms of any manufacturer and dealer agreement:

(a) A warrantor shall indemnify and defend a dealer against any claim for or lawsuit for losses, liability, or damages, including defense costs and attorney fees, to the extent the loss, liability, or damage is caused by the negligence or willful misconduct of the warrantor or any component warrantor whose product is incorporated in the warrantor's product. The warrantor shall not deny the dealer indemnification or defense for failing to discover, disclose, or remedy a defect in the design or manufacturing of a recreational vehicle. To be indemnified or defended, the dealer must provide to the warrantor a copy of any claim in which allegations are made that fall under this subsection (6)(a) within ten days after receiving the claim or suit.

(b) A dealer shall indemnify and defend its warrantor against any claim for or lawsuit for losses, liability, or damages to the extent the loss, liability, or damage is caused by the

negligence or willful misconduct of the dealer independent of any manufacturing or design defect. To be indemnified or defended, the warrantor must provide to the dealer a copy of any claim in which allegations are made that fall under this subsection (6)(b) within ten days after receiving the claim or suit.

(7) **Dispute resolution for recreational dealers and manufacturers.** (a) A dealer or warrantor injured by another party's violation of this section may bring a civil action in state court to recover actual damages. The court shall award attorney fees and costs to the prevailing party in the action. Venue for a civil action authorized by this section must exclusively be in the county where the dealer is located. In an action involving more than one dealer, venue may be in any county where a dealer who is party to the action is located.

(b) (I) To bring an action under this subsection (7):

(A) A person must serve a written demand for mediation upon the alleged violator;

(B) The demand for mediation must be served upon the alleged violator by certified mail at the address stated within the sales, service, and parts agreement between the parties unless subsection (7)(b)(I)(C) of this section applies to the action;

(C) If a civil action is between two dealers, the demand must be mailed to the address on the dealer's license filed with the director;

(D) The demand for mediation must contain a brief statement of the dispute and the relief sought by the party filing the demand.

(II) Within twenty days after the demand for mediation is served, the parties shall mutually select an independent certified mediator and meet with the mediator for the purpose of attempting to resolve the dispute. The meeting place must be in this state in a location selected by the mediator. The mediator may extend the date of the meeting for good cause shown by either party or upon stipulation of both parties.

(III) The service of a demand for mediation under this subsection (7) stays the time for the filing of an action under this subsection (7) until representatives of both parties have met with a mutually selected mediator to attempt to resolve the dispute. If an action is filed before that meeting, the court shall enter an order suspending the proceedings until the meeting has occurred and may, upon written stipulation of all parties to the proceeding that they wish to continue to mediate under this subsection (7), enter an order suspending the proceeding or action for as long a period as the court considers appropriate. A suspension order issued under this subsection (7)(b)(III) may be revoked by the court.

(IV) In mediation, the parties to the mediation bear their own costs for attorney fees and divide equally the cost of the mediator.

(c) In addition to the remedies provided in this subsection (7) and notwithstanding the existence of any additional remedy at law, a dealer or manufacturer may apply to a state court for the grant, upon a hearing and for cause shown, of a temporary or permanent injunction restraining a person from violating or continuing to violate this section. The moving party need not post a bond for the injunction to be issued. Mediation is not required prior to seeking injunctive relief. A single act in violation of this section is sufficient to authorize the issuance of an injunction.

Source: L. 2018: Entire section added, (SB 18-219), ch. 330, p. 1980, § 3, effective October 1.

Editor's note: This section was numbered as § 12-6-132.6 in SB 18-219. That section was harmonized with SB 18-030 and relocated to this section.

44-20-142. Repeal of part. This part 1 is repealed, effective September 1, 2027. Before its repeal, this part 1 is scheduled for review in accordance with section 24-34-104.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 90, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-133 as it existed prior to 2018.

PART 2

ANTIMONOPOLY FINANCING LAW

44-20-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Person" means any individual, firm, corporation, partnership, association, trustee, receiver, or assignee for the benefit of creditors.

(2) "Sell", "sold", "buy", and "purchase" include exchange, barter, gift, and offer or contract to sell or buy.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 90, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-201 as it existed prior to 2018.

44-20-202. Exclusive finance agreements void - when. It is unlawful for any person who is engaged, either directly or indirectly, in the manufacture or distribution of motor vehicles, to sell or enter into a contract to sell motor vehicles, whether patented or unpatented, to any person who is engaged or intends to engage in the business of selling the motor vehicles at retail in this state, on the condition or with an agreement or understanding, either express or implied, that the person so engaged in selling motor vehicles at retail in any manner shall finance the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons or shall sell and assign the conditional sales contracts, chattel mortgages, or leases arising from the sale of motor vehicles or any one or number thereof only to a designated person or class of persons, when the effect of the condition, agreement, or understanding so entered into may be to lessen or eliminate competition, or create or tend to create a monopoly in the person or class of persons who are designated, by virtue of the condition, agreement, or understanding to finance the purchase or sale of motor vehicles or to purchase conditional sales contracts, chattel mortgages, or leases. Any such condition, agreement, or understanding is declared to be void and against the public policy of this state.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 90, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-202 as it existed prior to 2018.

44-20-203. Threat prima facie evidence of violation. Any threat, expressed or implied, made directly or indirectly to any person engaged in the business of selling motor vehicles at retail in this state by any person engaged, either directly or indirectly, in the manufacture or distribution of motor vehicles, that the person will discontinue or cease to sell, or refuse to enter into a contract to sell, or will terminate a contract to sell motor vehicles, whether patented or unpatented, to the person who is so engaged in the business of selling motor vehicles at retail, unless the person finances the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from his or her retail sales of motor vehicles or any one or number thereof only to a designated person or class of persons shall be prima facie evidence of the fact that the person so engaged in the manufacture or distribution of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in section 44-20-202.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 91, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-203 as it existed prior to 2018.

44-20-204. Threat by agent as evidence of violation. Any threat, expressed or implied, made directly or indirectly to any person engaged in the business of selling motor vehicles at retail in this state by any person, or any agent of the person, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles in this state and is affiliated with or controlled by any person engaged, directly or indirectly, in the manufacture or distribution of motor vehicles, that the person so engaged in the manufacture or distribution shall terminate his or her contract with or cease to sell motor vehicles to the person engaged in the sale of motor vehicles at retail in this state unless the person finances the purchase or sale of any one or number of motor vehicles only or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from his or her retail sale of motor vehicles or any one or number thereof only to the person so engaged in financing the purchase or sale of motor vehicles or in buying conditional sales contracts, chattel mortgages, or leases on motor vehicles, shall be presumed to be made at the direction of and with the authority of the person so engaged in the manufacture or distribution of motor vehicles, and shall be prima facie evidence of the fact that the person so engaged in the manufacture or distribution of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in section 44-20-202.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 91, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-204 as it existed prior to 2018.

44-20-205. Offering consideration to eliminate competition. It is unlawful for any person who is engaged, directly or indirectly, in the manufacture or wholesale distribution only of motor vehicles, whether patented or unpatented, to pay or give, or contract to pay or give, any thing or service of value to any person who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail within this state if the effect of any such payment or the giving of any such thing or service of value may be to lessen or eliminate competition, or tend to create or create a monopoly in the person or class of persons who receive or accept the thing or service of value.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 91, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-205 as it existed prior to 2018.

44-20-206. Accepting consideration to eliminate competition. It is unlawful for any person who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail within this state to accept or receive, or contract or agree to accept or receive, either directly or indirectly, any payment, thing, or service of value from any person who is engaged, either directly or indirectly, in the manufacture of or wholesale distribution only of motor vehicles, whether patented or unpatented, if the effect of the acceptance or receipt of any such payment, thing, or service of value may be to lessen or eliminate competition, or to create or tend to create a monopoly in the person who accepts or receives such payment, thing, or service of value or contracts or agrees to accept or receive the same.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 92, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-206 as it existed prior to 2018.

44-20-207. Recipient of consideration shall not buy mortgages. It is unlawful for any person who hereafter so accepts or receives, either directly or indirectly, any payment, thing, or service of value, as set forth in section 44-20-206, or contracts, either directly or indirectly, to receive any such payment, or thing, or service of value to thereafter finance or attempt to finance the purchase or sale of any motor vehicle or buy or attempt to buy any conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail in this state.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 92, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-207 as it existed prior to 2018.

44-20-208. Quo warranto action. For a violation of any of the provisions of this part 2 by any corporation or association mentioned in this part 2, it is the duty of the attorney general or

the district attorney of the proper county to institute proper suits or an action in the nature of quo warranto in any court of competent jurisdiction for the forfeiture of its charter rights, franchises, or privileges and powers exercised by such corporation or association, and for the dissolution of the same under the general statutes of the state.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 92, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-208 as it existed prior to 2018.

44-20-209. Violation by foreign corporation - penalty. Every foreign corporation and every foreign association exercising any of the powers, franchises, or functions of a corporation in this state violating any of the provisions of this part 2 is denied the right and prohibited from doing any business in this state, and it is the duty of the attorney general to enforce this provision by bringing proper proceedings by injunction or otherwise. The secretary of state is authorized to revoke the license of any such corporation or association heretofore authorized to do business in this state.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 92, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-209 as it existed prior to 2018.

44-20-210. Penalty. Any person who violates any of the provisions of this part 2, any person who is a party to any agreement or understanding, or to any contract prescribing any condition, prohibited by this part 2, and any employee, agent, or officer of any such person who participates, in any manner, in making, executing, enforcing, or performing, or in urging, aiding, or abetting in the performance of, any such contract, condition, agreement, or understanding and any person who pays or gives or contracts to pay or give any thing or service of value prohibited by this part 2, and any person who receives or accepts or contracts to receive or accept any thing or service of value prohibited by this part 2 commits a class 6 felony and shall be punished as provided in section 18-1.3-401. Each day's violation of this provision shall constitute a separate offense.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 92, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-210 as it existed prior to 2018.

44-20-211. Contract void. Any contract or agreement in violation of the provisions of this part 2 shall be absolutely void and shall not be enforceable either in law or equity.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 93, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-211 as it existed prior to 2018.

44-20-212. Provisions cumulative. The provisions of this part 2 shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 93, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-212 as it existed prior to 2018.

44-20-213. Damages. In addition to the criminal and civil penalties provided in this part 2, any person who is injured in his or her business or property by any other person or corporation or association or partnership, by reason of any thing forbidden or declared to be unlawful by this part 2, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount of controversy, and to recover twofold the damages sustained by him or her, and the costs of suit. When it appears to the court before which any proceedings under this part 2 are pending that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending or not.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 93, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-213 as it existed prior to 2018.

44-20-214. Repeal of part. This part 2 is repealed, effective September 1, 2027. Before its repeal, this part 2 is scheduled for review in accordance with section 24-34-104.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 93, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-214 as it existed prior to 2018.

PART 3

SUNDAY CLOSING LAW

44-20-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Motor vehicle" means every self-propelled vehicle intended primarily for use and operation on the public highways and every vehicle intended primarily for operation on the public highways that is not driven or propelled by its own power, but which is designed either to be attached to or become a part of a self-propelled vehicle; it does not include farm tractors and other machines and tools used in the production, harvesting, and care of farm products.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 93, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-301 as it existed prior to 2018.

44-20-302. Sunday closing. No person, firm, or corporation, whether owner, proprietor, agent, or employee, shall keep open, operate, or assist in keeping open or operating any place or premises or residences, whether open or closed, for the purpose of selling, bartering, or exchanging or offering for sale, barter, or exchange any motor vehicle, whether new, used, or secondhand, on the first day of the week commonly called Sunday. This part 3 shall not apply to the opening of an establishment or place of business on the first day of the week for other purposes, such as the sale of petroleum products, tires, or automobile accessories, or for the purpose of operating and conducting a motor vehicle repair shop, or for the purpose of supplying such services as towing or wrecking. The provisions of this part 3 shall not apply to the opening of an establishment or place of business on the first day of the week for the purpose of selling, bartering, or exchanging or offering for sale, barter, or exchange any boat, boat trailer, snowmobile, or snowmobile trailer.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 93, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-302 as it existed prior to 2018.

44-20-303. Penalties. Any person, firm, partnership, or corporation who violates any of the provisions of this part 3 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than seventy-five dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or the court, in its discretion, may suspend or revoke the Colorado motor vehicle dealer's license issued under the provisions of part 1 of this article 20, or by such fine and imprisonment and suspension or revocation.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 94, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-303 as it existed prior to 2018.

44-20-304. Repeal of part. This part 3 is repealed, effective September 1, 2027. Before its repeal, this part 3 is scheduled for review in accordance with section 24-34-104.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 94, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-304 as it existed prior to 2018.

PART 4

44-20-401. Legislative declaration. (1) The general assembly hereby declares that:

(a) The sale and distribution of powersports vehicles affects the public interest, and a significant factor of inducement in making a sale of a powersports vehicle is the trust and confidence of the purchaser in the dealer from whom the purchase is made and the expectancy that the dealer will remain in business to provide service for the vehicle;

(b) The proper sale and service of a powersports vehicle are important to consumer safety, and the manufacturers and distributors of powersports vehicles have an obligation to the public not to terminate or refuse to continue their franchise agreements with retail powersports vehicle dealers unless the powersports vehicle manufacturer or distributor has first established good cause for termination of any such agreement, to the end that there shall be no diminution of locally available service;

(c) The licensing and supervision of powersports vehicle dealers by the motor vehicle dealer board are necessary for the protection of consumers, and therefore, the sale of powersports vehicles by unlicensed dealers or salespersons, or by licensed dealers or salespersons who have demonstrated unfitness, should be prevented; and

(d) Consumer education concerning the rules of the powersports vehicle industry, the considerations when purchasing a powersports vehicle, and the role, functions, and actions of the motor vehicle dealer board are necessary for the protection of the public and for maintaining the trust and confidence of the public in the motor vehicle dealer board.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 94, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-501 as it existed prior to 2018.

44-20-402. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "ANSI/SVIA-1-2001" means the American national standards institute's, or its successor organization's, provisions for four-wheel all-terrain vehicles, equipment configuration, and performance requirements, developed by the specialty vehicle institute of America, or its successor organization.

(2) "Board" means the motor vehicle dealer board.

(3) "Consumer" means a purchaser, renter, or lessee of a powersports vehicle that is primarily used for business, personal, family, or household purposes. "Consumer" does not include a purchaser of powersports vehicles primarily for resale.

(4) "Custom trailer" means a vehicle that is not driven or propelled by its own power and is designed to be attached to, become a part of, or be drawn by a motor vehicle and that is uniquely designed and manufactured for a specific purpose or customer. "Custom trailer" does not include manufactured housing, farm tractors, and other machines and tools used in the production, harvest, and care of farm products.

(5) "Director" means the director of the auto industry division created in section 44-20-105.

(6) "Franchise" means the authority to sell or service and repair powersports vehicles of a designated line-make granted through a sales, service, and parts agreement with a manufacturer, distributor, or manufacturer representative.

(7) "Line-make" means a group or series of powersports vehicles that have the same brand identification or brand name, based upon the powersports vehicle manufacturer's trademark, trade name, or logo.

(8) "New powersports vehicle" mean a powersports vehicle that has been transferred on a manufacturer's statement of origin and for which an ownership registration card has been submitted by the original owner to the powersports vehicle manufacturer.

(9) "Off-highway vehicle" means any self-propelled vehicle that is designed to travel on wheels or tracks in contact with the ground, designed primarily for use off of the public highways, and generally and commonly used to transport persons for recreational purposes. "Off-highway vehicle" does not include the following:

(a) Military vehicles;

(b) Golf carts;

(c) Vehicles designed and used to carry persons with disabilities; and

(d) Vehicles designed and used specifically for agricultural, logging, or mining purposes.

(10) "Personal watercraft" means a motorboat that is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel, and that is designed primarily for use off of the public highways, and that uses either of the following as the primary source of motive power:

(a) An inboard motor powering a water jet pump; or

(b) An outboard motor-driven propeller.

(11) "Powersports vehicle" means any of the following:

(a) An off-highway vehicle;

(b) A personal watercraft; or

(c) A snowmobile.

(12) "Powersports vehicle dealer" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, leases, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used powersports vehicles or who is engaged wholly or in part in the business of selling or leasing new or new and used powersports vehicles, whether or not the powersports vehicles are owned by the person. The sale or lease of ten or more new or new and used powersports vehicles or the offering for sale or lease of more than ten new or new and used powersports vehicles at the same address or telephone number in any one calendar year shall be prima facie evidence that a person is engaged in the business of selling or leasing new or new and used powersports vehicles. "Powersports vehicle dealer" includes an owner of real property who allows more than ten new or new and used powersports vehicles to be offered for sale or lease on the property during one calendar year unless the property is leased to a licensed powersports vehicle dealer. "Powersports vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(b) Public officers while performing their official duties;

(c) Employees of persons enumerated in the definition of "powersports vehicle dealer" when engaged in the specific performance of their duties as employees;

(d) A wholesaler or anyone selling powersports vehicles solely to wholesalers; or

(e) A wholesale motor vehicle auctioneer.

(13) "Powersports vehicle distributor" means a person, resident or nonresident, who, in whole or in part, sells or distributes new powersports vehicles to powersports vehicle dealers or who maintains powersports vehicle distributor representatives.

(14) "Powersports vehicle manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new powersports vehicles.

(15) "Powersports vehicle manufacturer representative" means a representative employed by a person who manufactures or assembles powersports vehicles for the purpose of making or promoting the sale of the person's powersports vehicles or for supervising or contacting its dealers or prospective dealers.

(16) "Powersports vehicle salesperson" means a natural person who, for a salary, commission, or compensation of any kind, is employed either directly or indirectly, regularly or occasionally, by a powersports vehicle dealer to sell, lease, purchase, or exchange or to negotiate for the sale, lease, purchase, or exchange of powersports vehicles.

(17) "Principal place of business" means a site or location for which the powersports vehicle dealer is licensed, sufficiently designated to admit of definite description, with space thereon or contiguous thereto adequate to permit the display of one or more new or used powersports vehicles, and including a permanent enclosed building or structure to accommodate the office of the dealer and to provide a safe place to keep the books and other records of the business of the dealer, at which site or location the principal portion of the dealer's business shall be conducted and the books and records thereof kept and maintained; except that a dealer may keep its books and records at an off-site location in Colorado after notifying the board in writing of the location at least thirty days in advance. Motor vehicle and used motor vehicle dealers shall be authorized to offer both motor vehicles and powersports vehicles from the same principal place of business. In the case of motor vehicle dealers, the principal place of business shall be at the address set forth in the dealer's sales agreement.

(18) "Snowmobile" means a self-propelled vehicle primarily designed or altered for travel on snow or ice when supported in part by skis, belts, or cleats and designed primarily for use off of the public highways. "Snowmobile" shall not include machinery used strictly for the grooming of snowmobile trails or ski slopes.

(19) "Used powersports vehicle" means a powersports vehicle that is not a new powersports vehicle.

(20) "Used powersports vehicle dealer" means any person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, leases, or offers an interest in used powersports vehicles, or attempts to negotiate a sale or lease of new and used powersports vehicles or who is engaged wholly or in part in the business of selling used powersports vehicles, whether or not the used powersports vehicles are owned by the person. The sale of ten or more used powersports vehicles or the offering for sale of more than ten used powersports vehicles at the same address or telephone number in any one calendar year shall be prima facie evidence that a person is engaged in the business of selling used powersports vehicles. "Used powersports vehicle dealer" includes an owner of real property who allows more than ten used powersports vehicles to be offered for sale on the property during one calendar

year unless the property is leased to a licensed used powersports vehicle dealer. "Used powersports vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(b) Public officers while performing their official duties;

(c) Employees of used powersports vehicle dealers when engaged in the specific performance of their duties;

(d) Anyone selling powersports vehicles solely to wholesalers;

(e) Mortgagees or secured parties as to powersports vehicles constituting collateral on a mortgage or security agreement, if the mortgagees or secured parties shall not realize for their own account from the sales any money in excess of the outstanding balance secured by the mortgage or security agreement, plus costs of collection; or

(f) A motor vehicle auctioneer.

(21) "Wholesaler" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale, lease, or exchange of an interest in a new or new and used powersports vehicle solely to powersports vehicle dealers or used powersports vehicle dealers.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 95, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-502 as it existed prior to 2018.

Cross references: For additional definitions applicable to this part 4, see § 44-20-102.

44-20-403. Motor vehicle dealer board. Powersports vehicle dealers, used powersports vehicle dealers, powersports vehicle manufacturers, distributors, and manufacturer representatives, and powersports vehicle salespersons shall be subject to the jurisdiction of the board.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 98, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-503 as it existed prior to 2018.

44-20-404. Board - powers and duties - rules. (1) In addition to the duties and powers of the board under section 44-20-104, the board may:

(a) Promulgate, amend, and repeal rules reasonably necessary to implement this part 4, including, without limitation, the administration, enforcement, issuance, and denial of licenses to wholesalers, powersports vehicle dealers, powersports vehicle salespersons, and used powersports vehicle dealers;

(b) Delegate to the board's executive secretary, employed pursuant to section 44-20-405 (1)(b), the authority to execute all actions within the power of the board, carry out the directives of the board, and make recommendations to the board on all matters within the authority of the board;

(c) Issue through the department a temporary license to an applicant seeking a license issued by the board, which temporary license shall permit the applicant to operate for not more than one hundred twenty days, during which time the board may complete its investigation and determination of all facts relative to the qualifications of the applicant for the license;

(d) (I) Issue through the department and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under this part 4, refuse to issue to any applicant any license the board is authorized to issue by this part 4;

(II) Permit the director to issue licenses pursuant to rules adopted by the board under subsection (1)(a) of this section;

(e) (I) After due notice and a hearing:

(A) Review the findings of an administrative law judge or hearing officer from a hearing conducted pursuant to this part 4; or

(B) Revoke and suspend or order the director to issue or to reinstate, on such terms and conditions and for such period of time as the board deems fair and just, any license issued pursuant to this part 4;

(II) Issue a letter of admonition for a minor violation of this part 4 that does not become a part of the licensee's record with the board;

(III) Issue a letter of reprimand and a notice of the right to request formal disciplinary proceedings, in writing within twenty days, to a licensee for a violation of this part 4, which letter is a part of the licensee's record with the board for a period of two years after issuance and may be considered in aggravation of any subsequent violation by the licensee; except that the letter shall be vacated and a formal disciplinary proceeding shall be instituted upon a written request within twenty days after the letter is issued;

(f) (I) Investigate, with the assistance of the director, on its own motion or upon a written and signed complaint from any person, a suspected or alleged violation by a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, or powersports vehicle salesperson of this part 4 or a rule promulgated by the board;

(II) Issue subpoenas or delegate the authority to issue subpoenas to the director;

(III) Require the director to investigate complaints transmitted by the board pursuant to section 44-20-405 (3)(b) and (3)(c);

(IV) Seek to resolve disputes before beginning an investigation or hearing through its own action or by direction of the director;

(V) If the board determines that there is probable cause to believe a violation of this article 20 has occurred after an investigation by the director, order an administrative hearing be held pursuant to section 24-4-105.

(g) Summarily issue to any person who is licensed by the board pursuant to this part 4 cease-and-desist orders on such terms and conditions and for such time as the board deems fair and just, if the orders are followed by notice and a hearing pursuant to this section;

(h) (I) Prescribe the forms to be used for applications for persons licensed under this part 4;

(II) Require of an applicant, as a requisite to the issuance of a license, information concerning the applicant's fitness to be licensed under this part 4 as the board considers necessary;

(i) Adopt a seal with the words "motor vehicle dealer board" and such other devices as the board may desire engraved thereon by which it shall authenticate the acts of its office;

(j) Require that a powersports vehicle dealer's or used powersports vehicle dealer's principal place of business and such other sites or locations operated by the dealer have signs or devices giving notice of the dealer's name, the location and address of the dealer's principal place of business, and the type and number of licenses held by the dealer, as the board considers necessary to notify any person doing business with the dealer to identify the dealer, and for this purpose to promulgate rules determining the size, shape, lettering, and location of the signs or devices;

(k) Cause to be conducted written examinations, as prescribed by the board, to test the competency of all first-time applicants for a wholesaler's license, powersports vehicle dealer's license, used powersports vehicle dealer's license, or powersports vehicle salesperson's license;

(l) Promulgate rules requiring off-highway vehicles sold by persons licensed under this part 4 to comply with ANSI/SVIA-1-2001 or a successor standard promulgated by the American national standards institute or its successor organization if the rules do not conflict with the ANSI standards or set standards more stringent than those set by ANSI;

(m) (I) Prescribe forms to be used as a part of a contract for the sale of a powersports vehicle by a powersports vehicle dealer or powersports vehicle salesperson, other than a retail installment sales contract subject to the provisions of the "Uniform Consumer Credit Code", articles 1 to 9 of title 5, that shall include the following information in addition to any other disclosures or information required by state or federal law:

(A) In twelve-point, bold-faced type, or at least three points larger than the smallest type appearing in the contract, an instruction that the form is a legal instrument and that, if the purchaser of the powersports vehicle does not understand the form, the purchaser should seek legal assistance;

(B) In the type and size specified in subsection (1)(m)(I)(A) of this section, an instruction that only those terms in written form embody the contract for sale of a powersports vehicle and that any conflicting oral representations made to the purchaser are void;

(C) In the type and size specified in subsection (1)(m)(I)(A) of this section, a notice that fraud or misrepresentation in the sale of a powersports vehicle is punishable under the laws of this state;

(D) In the type and size specified in subsection (1)(m)(I)(A) of this section, if the contract for the sale of a powersports vehicle requires a single, lump sum payment of the purchase price, a clear disclosure to the purchaser of this fact or, if the contract is contingent upon the approval of credit financing for the purchaser arranged by or through the powersports vehicle dealer, a statement that the purchaser shall agree to purchase the powersports vehicle that is the subject of the sale from the powersports vehicle dealer at not greater than a certain annual percentage rate of financing that shall be agreed upon by the parties and entered in writing on the contract;

(E) Except as otherwise provided under this part 4, if the purchase price of the powersports vehicle is not paid to the powersports vehicle dealer in full at the time of consummation of the sale and the vehicle dealer delivers and the purchaser takes possession of the vehicle at such time, a statement in bold-faced type that, if financing cannot be arranged in accordance with the contract and the sale is not consummated, the purchaser shall agree to pay a daily rate for use of the vehicle until financing of the purchase price of the vehicle is arranged for the obligor by or through the authorized powersports vehicle dealer or until the purchase

price is paid in full by or through the obligor, which daily rate shall be agreed upon in writing on the contract.

(II) The information required by subsection (1)(m)(I) of this section shall be read and initialed by both parties at the time of the sale of a powersports vehicle.

(III) The use of the contract form required by subsection (1)(m)(I) of this section shall be mandatory for the sale of a powersports vehicle.

(n) After final action is taken on a hearing held before an administrative law judge or a hearing officer designated by the board from within the board's membership, review the findings of law and fact and the fairness of any fine imposed and uphold the fine, impose an administrative fine upon its own initiative that shall not exceed ten thousand dollars for each separate offense by any licensee, or vacate the fine imposed by the judge or hearing officer; except that, for powersports vehicle dealers who sell primarily vehicles that weigh under one thousand five hundred pounds, the fine for each separate offense shall not exceed one thousand dollars; and

(o) Impose a fine of up to one thousand dollars per day per violation for any person found, after notice and hearing pursuant to section 24-4-105, to have violated the provisions of section 44-20-423 (2).

(2) The board shall:

(a) Order an investigation of all written and signed complaints;

(b) Require an application for a powersports vehicle dealer's license or used powersports vehicle dealer's license to contain, in addition to such information as the board may require, a statement of the following facts:

(I) The name and residence address of the applicant and any trade name under which the applicant intends to conduct business;

(II) If the applicant is a partnership, the name and residence address of each member, whether a limited or general partner, and the name under which the partnership business is to be conducted;

(III) If the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors;

(IV) A complete description, including the municipality, street, and number, if any, of the principal place of business, and any other additional places of business as shall be operated and maintained by the applicant;

(V) If the application is for a powersports vehicle dealer's license, the names of the new powersports vehicles that the applicant has been enfranchised to sell or exchange and the name and address of the powersports manufacturer or distributor who has enfranchised the applicant; and

(VI) The name and address of any person who will act as a salesperson under the authority of the license, if issued.

(3) The findings of the board under subsection (1) of this section shall be final.

(4) (a) For the purposes of subsections (1)(e) and (1)(g) of this section, the address for the notice to be given under section 24-4-105 is the last-known address for the person as indicated in the state motor vehicle records; the last-known address for the owner of the real property upon which powersports vehicles are displayed in violation of section 44-20-423 (2), as indicated in the records of the county assessor's office; or any address for service of process in accordance with rule 4 of the Colorado rules of civil procedure.

(b) A person who fails to pay a fine ordered by the board for a violation of section 44-20-423 (2) under subsection (1)(o) of this section shall be subject to enforcement proceedings, by the board through the attorney general, in the county or district court pursuant to the Colorado rules of civil procedure. Fines collected under this subsection (4) shall be disposed of pursuant to section 44-20-430.

(5) (a) If a hearing is conducted by an administrative law judge, the maximum fine that may be imposed is ten thousand dollars for each separate offense by any person licensed by the board pursuant to this part 4; except that, for a powersports vehicle dealer who sells primarily vehicles that weigh under one thousand five hundred pounds, the fine for each separate offense may not exceed one thousand dollars.

(b) (I) If a licensing hearing is conducted by a hearing officer, the sanctions that may be recommended by the hearing officer are limited to the denial or grant of an unrestricted license or a restricted license under such terms as the hearing officer deems appropriate.

(II) If a disciplinary hearing is conducted by a hearing officer, the hearing officer may only recommend a probationary period of no more than twelve months, a fine of no more than five hundred dollars, or both such probationary period and fine for each separate violation committed by a person licensed by the board.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 98, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-504 as it existed prior to 2018.

44-20-405. Powers and duties of executive director and director. (1) The executive director is hereby charged with the administration, enforcement, and issuance or denial of the licensing of powersports vehicle distributors, powersports vehicle manufacturer representatives, and powersports vehicle manufacturers, and has the following powers and duties:

(a) To promulgate, amend, and repeal rules reasonably necessary to undertake the functions the executive director is mandated to carry out pursuant to this part 4 and to administer the laws of this state that the executive director deems necessary to carry out the duties of the office of the executive director pursuant to this part 4;

(b) To employ, subject to the laws of this state and after consultation with the board, an executive secretary for the board, who shall be accountable to the board and shall, pursuant to delegation by the board, discharge the responsibilities of the board under this part 4;

(c) To issue and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under this part 4, to refuse to issue to an applicant any license the executive director is authorized to issue by this part 4;

(d) To prescribe the forms to be used for applications for licenses to be issued by the executive director under this part 4 and to require of applicants, as a condition precedent to the issuance of a license, such information concerning the applicant's fitness to be licensed under this part 4 as the executive director considers necessary;

(e) (I) To summarily issue cease-and-desist orders on such terms and conditions, and for such period of time as the executive director deems fair and just, to any person who is licensed by the executive director pursuant to this part 4 if the orders are followed by notice and a hearing pursuant to section 44-20-421;

(II) To issue cease-and-desist orders to persons acting as powersports vehicle manufacturers without the powersports vehicle manufacturer's license required by this part 4; and

(III) To impose a fine, not to exceed one thousand dollars per day, for each violation of section 44-20-423 (1), after a notice and hearing subject to section 24-4-105.

(2) If a person fails to comply with a cease-and-desist order issued pursuant to this section, the executive director may bring a suit for injunction to prevent any further violation of the order. In any such suit, the final proceedings of the executive director, based upon evidence in record, shall be prima facie evidence of the facts found therein.

(3) The director may:

(a) Employ such clerks, deputies, and assistants as the director considers necessary to discharge the duties imposed upon the director or executive director by this part 4 and to designate the duties of the clerks, deputies, and assistants;

(b) Investigate, upon the director's own initiative, upon the written and signed complaint of any person, or upon request by the board under section 44-20-404 (1)(f)(I), any suspected or alleged violation of this part 4 or of any rule promulgated under this article 20;

(c) Delegate authority to persons for the purpose of investigating alleged or suspected violations of this part 4. The investigators and their supervisors utilized by the director, while actually engaged in performing their duties, have the authority as delegated by the director:

(I) To issue subpoenas, in accordance with the performance of their duties, to licensees who are under the jurisdiction of the executive director or the board;

(II) To issue summonses for violations of section 44-20-423 (2);

(III) To issue misdemeanor summonses for violations of section 44-20-422 (1)(a); and

(IV) To procure criminal records during an investigation.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 103, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-505 as it existed prior to 2018.

44-20-406. Records as evidence. Copies of all records and papers in the office of the board, director, or executive director, duly authenticated under the hand and seal of the board, director, or executive director, shall be received in evidence in all cases equally and with like effect as the original.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 104, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-506 as it existed prior to 2018.

44-20-407. Attorney general to advise and represent. (1) The attorney general shall represent the board, director, and executive director and shall give opinions on questions of law relating to the interpretation of this part 4 or arising out of the administration thereof and shall appear for and on behalf of the board, director, and executive director in all actions brought by or against them, whether under this part 4 or otherwise.

(2) The board may request the attorney general to make civil investigations and enforce rules of the board in cases of civil violations and to bring and defend civil suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the board.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 104, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-507 as it existed prior to 2018.

44-20-408. Classes of licenses. (1) The following classes of licenses are issued under this part 4:

(a) A powersports vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering new and used powersports vehicles, which license shall not permit more than two persons named therein as owners of the business of the licensee to act as powersports vehicle salespersons.

(b) A used powersports vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering used powersports vehicles only. The license shall also permit a licensee to negotiate for a consumer the sale, exchange, or lease of used and new powersports vehicles not owned by the licensee. Prior to completion of a sale, exchange, or lease of a powersports vehicle not owned by the licensee, the licensee shall disclose in writing to the consumer whether the licensee will receive compensation from the consumer or the owner of the powersports vehicle as a result of the transaction. If the licensee receives compensation from the owner of the powersports vehicle as a result of the transaction, the licensee shall include in the written disclosure the name of the owner from whom the licensee will receive compensation. This license shall not permit more than two persons named therein who shall be owners of the business of the licensee to act as powersports vehicle salespersons.

(c) A powersports vehicle salesperson's license permits the licensee to engage in the activities of a powersports vehicle salesperson while employed by a licensed powersports vehicle dealer or used powersports vehicle dealer.

(d) A powersports vehicle manufacturer's or distributor's license shall permit the licensee to engage in the activities of a powersports manufacturer or distributor.

(e) A powersports vehicle manufacturer representative's license shall permit the licensee to engage in the activities of a powersports vehicle manufacturer representative.

(f) A wholesaler's license permits the licensee to engage in the activities of a wholesaler, but does not permit more than two individuals, who must be named in the license and who must be owners or part owners of the business of the licensee, to perform the activities of a wholesaler.

(2) (a) A person who is licensed as a motor vehicle salesperson pursuant to part 1 of this article 20 shall be deemed to be licensed as a powersports vehicle salesperson under this part 4.

(b) A person who is licensed as a motor vehicle manufacturer or distributor pursuant to part 1 of this article 20 shall be deemed to be licensed as a powersports vehicle manufacturer or distributor under this part 4.

(c) A person who is licensed as a motor vehicle manufacturer pursuant to part 1 of this article 20 shall be deemed to be licensed as a powersports vehicle manufacturer under this part 4.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 105, § 2, effective October 1. **L. 2019:** (1)(f) amended, (HB 19-1286), ch. 425, p. 3715, § 2, effective August 2.

Editor's note: This section is similar to former § 12-6-508 as it existed prior to 2018.

44-20-409. Temporary powersports vehicle dealer license. (1) (a) If a licensed powersports vehicle dealer has entered into a written agreement to sell a dealership to a purchaser and the purchaser has been awarded a new franchise, the board may issue a temporary powersports vehicle dealer's license to the purchaser or prospective purchaser. The director shall issue the temporary license only after the board has received the applications for both a temporary powersports vehicle dealer's license and a powersports vehicle dealer's license, the appropriate application fee for the powersports vehicle dealer's application, evidence of a passing score of the written examination described in section 44-20-415, and evidence that the franchise has been awarded to the applicant by the powersports vehicle manufacturer.

(b) A temporary powersports vehicle dealer's license authorizes the licensee to act as a powersports vehicle dealer and subjects the licensee to this article 20 and to all rules adopted by the executive director or the board. A temporary powersports vehicle dealer's license is effective for up to sixty days or until the board acts on the licensee's application for a powersports vehicle dealer's license, whichever is sooner.

(2) For the purpose of enabling an out-of-state dealer to sell powersports vehicles on a temporary basis during specifically identified events, the director may issue, upon direction by the board, a temporary powersports vehicle dealer's license that is effective for thirty days. The temporary licensee is subject to the rules adopted by the executive director or the board.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 106, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-509 as it existed prior to 2018.

44-20-410. Display, form, custody, and use of licenses. (1) The board and the executive director shall prescribe the form of the license to be issued by the executive director, and shall imprint on each license the seal of their offices. The executive director shall mail the license to the business address where the powersports vehicle salesperson is licensed. Each powersports vehicle salesperson shall keep a copy of the license at the salesperson's place of employment for inspection by employers, consumers, the director, the executive director, or the board. A powersports vehicle dealer or wholesaler shall display conspicuously the person's license in the person's place of business.

(2) Each license issued under this part 4 is separate and distinct. It is a violation of this part 4 for a person to exercise any of the privileges granted under a license that the person does not hold, or for a licensee to knowingly allow such an exercise of privileges.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 106, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-510 as it existed prior to 2018.

44-20-411. Fees - disposition - expenses - expiration of licenses. (1) The fee established pursuant to subsection (5) of this section shall be collected with each application for each of the following:

(a) (I) Powersports vehicle dealer's license or used powersports vehicle dealer's license;

(II) Powersports vehicle dealer's or used powersports vehicle dealer's license for each place of business in addition to the principal place of business;

(III) Renewal or reissue of powersports vehicle dealer's license or used powersports vehicle dealer's license after change in location or lapse in principal place of business;

(b) Powersports vehicle manufacturer's license;

(c) Powersports vehicle distributor's license;

(d) Powersports vehicle manufacturer representative's license;

(e) Powersports vehicle salesperson's license including, without limitation, reissuing a license;

(f) Wholesaler's license.

(2) Fees shall be paid to the state treasurer who shall credit the same to the auto dealers license fund created in section 44-20-133.

(3) If an application for a wholesaler's, powersports vehicle dealer's, used powersports vehicle dealer's, or powersports salesperson's license is withdrawn by the applicant prior to issuance of the license, one-half of the license fee shall be refunded.

(4) (a) Licenses issued under this part 4, if not suspended or revoked, shall be valid until one year following the month of issuance thereof and shall then expire; except that any license issued under this part 4 shall expire upon the voluntary surrender thereof or upon the abandonment of the licensee's place of business for a period of more than thirty days.

(b) Thirty days before the expiration of a license, the director shall mail to the licensee's business address of record a notice stating when the person's license is due to expire and the fee necessary to renew the license. For a powersports vehicle salesperson or powersports vehicle manufacturer representative, the notice shall be mailed to the address of the powersports vehicle dealer, used powersports vehicle dealer, or powersports vehicle manufacturer where the person is licensed.

(c) Upon the expiration of a license, unless suspended or revoked, it may be renewed upon the payment of the application fees specified in this section and renewal shall be made from year to year as a matter of right; except that, if a wholesaler or powersports vehicle dealer voluntarily surrenders its license or abandons its place of business for a period of more than thirty days, the licensee is required to file a new application to renew its license.

(d) Notwithstanding subsection (4)(a) of this section, a person has a thirty-day grace period after the license expires in which the license may be renewed pursuant to subsection (4)(c) of this section, so long as the person has a bond in full force and effect that complies with the applicable bonding requirements of section 44-20-412 or 44-20-413 during the thirty-day period. A person applying during the thirty-day grace period shall pay a late fee established pursuant to subsection (5) of this section.

(5) (a) The board shall propose, as part of its annual budget request, an adjustment in the amount of each fee that the board is authorized by law to collect. The budget request and the adjusted fees for the board shall reflect direct and indirect costs.

(b) Based upon any appropriation made and subject to the approval of the executive director, the board shall adjust the fees collected by the executive director so that the revenue generated from fees covers the direct and indirect costs of administering this part 4. The fees shall remain in effect for the fiscal year for which the appropriation is made.

(c) In any year, if money appropriated by the general assembly to the board for its activities for the prior fiscal year is unexpended, the money shall be made a part of the appropriation to the board for the next fiscal year, and the amount shall not be raised from fees collected by the board or the executive director. If a supplemental appropriation is made by the general assembly to the board for its activities, the fees of the board and the executive director, when adjusted for the fiscal year next following that in which the supplemental appropriation was made, shall be adjusted by an additional amount that is sufficient to compensate for the supplemental appropriation. Money appropriated to the board in the annual general appropriation bill shall be from the fund provided in section 44-20-133.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 106, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-511 as it existed prior to 2018.

44-20-412. Bond of licensee. (1) To be issued a wholesaler's license, powersports vehicle dealer's license, or used powersports vehicle dealer's license, an applicant must procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101 or a good and sufficient bond with a corporate surety duly licensed to do business within the state, approved as to form by the attorney general, and conditioned that the applicant not practice fraud or violate any of the provisions of this part 4 related to fraud or any rule promulgated by the board under this part 4 related to fraud. A powersports vehicle dealer or used powersports vehicle dealer need not furnish an additional bond, savings account, deposit, or certificate of deposit under this section if the dealer furnishes a bond, savings account, deposit, or certificate of deposit under section 44-20-112.

(2) (a) The purpose of the bond procured by the applicant in accordance with subsection (1) of this section and section 44-20-413 is to provide for the reimbursement for any loss or damage suffered by any retail consumer caused by fraud or by a violation of this part 4 related to fraud by a wholesaler, powersports vehicle dealer, or used powersports vehicle dealer. For a wholesale transaction, the bond is available to each party to the transaction; except that, if a retail consumer is involved, the consumer has priority to recover from the bond. The amount of the bond must be fifty thousand dollars for each wholesaler applicant, powersports vehicle dealer applicant, and used powersports vehicle dealer applicant. The aggregate liability of the surety for all transactions does not exceed the amount of the bond, regardless of the number of claims or claimants.

(b) No corporate surety is required to make a payment to any person making a claim under the bond until a final determination of fraud has been made by the board or by a court of competent jurisdiction.

(3) Bonds required pursuant to this section shall be renewed annually when the bondholder's license is renewed. Bonds may be renewed through a continuation certificate issued by the surety.

(4) Nothing in this part 4 shall interfere with the authority of the courts to administer and conduct an interpleader action for claims against a licensee's bond.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 108, § 2, effective October 1. **L. 2020:** (1) and (2) amended, (SB 20-140), ch. 225, p. 1104, § 5, effective September 14.

Editor's note: This section is similar to former § 12-6-512 as it existed prior to 2018.

44-20-413. Powersports vehicle salesperson's bond. (1) To be issued a powersports vehicle salesperson's license, the applicant must procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101 or a good and sufficient bond in the amount of fifteen thousand dollars with a corporate surety duly licensed to do business within the state, approved as to form by the attorney general, and conditioned that the applicant perform in good faith as a powersports vehicle salesperson without fraud and without violating a provision of this part 4 related to fraud or any rule promulgated by the board under this part 4 related to fraud. The board shall implement a psychometrically valid and reliable salesperson exam that measures the minimum level of competence necessary to practice. A powersports vehicle salesperson need not furnish an additional bond, savings account, deposit, or certificate of deposit under this section if the salesperson furnishes a bond, savings account, deposit, or certificate of deposit under section 44-20-113.

(2) No corporate surety is required to make a payment to any person claiming under the bond until a final determination of fraud has been made by the board or by a court of competent jurisdiction.

(3) Bonds required under this section shall be renewed annually when the bondholder's license is renewed. Bonds may be renewed through a continuation certificate issued by the surety.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 109, § 2, effective October 1. **L. 2020:** (1) and (2) amended, (SB 20-140), ch. 225, p. 1105, § 6, effective September 14.

Editor's note: This section is similar to former § 12-6-513 as it existed prior to 2018.

44-20-414. Notice of claims honored against bond. (1) A corporate surety that has provided a bond to a licensee pursuant to section 44-20-412 or 44-20-413 shall provide notice to the board and director of any claim that is honored against the bond within thirty days after the claim is honored.

(2) A notice provided by a corporate surety pursuant to subsection (1) of this section must be in the form required by the director, subject to approval by the board, and must include the name of the licensee, the name and address of the claimant, the amount of the honored claim, and the nature of the claim against the licensee.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 109, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-514 as it existed prior to 2018.

44-20-415. Testing licensees. All persons applying for a wholesaler's, powersports vehicle dealer's, used powersports vehicle dealer's, or powersports vehicle salesperson's license under this part 4 shall be examined for their knowledge of the powersports vehicle laws of the state of Colorado and the rules promulgated pursuant to this part 4. If the applicant is a corporation, the managing officer shall take the examination, and, if the applicant is a partnership, all the general partners shall take the examination. No license shall be issued except upon successful passing of the examination. This section shall not apply to a motor vehicle dealer, used motor vehicle dealer, or motor vehicle salesperson licensed pursuant to part 1 of this article 20.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 109, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-515 as it existed prior to 2018.

44-20-416. Filing of written warranties. A licensed powersports vehicle manufacturer shall file with the director all written warranties and changes in written warranties the manufacturer makes on powersports vehicles or parts thereof. A licensed powersports vehicle manufacturer shall file with the director a copy of the delivery and preparation obligations of a powersports vehicle manufacturer's dealer, and these warranties and obligations constitute the powersports vehicle dealer's only responsibility for product liability as between the powersports vehicle dealer and the powersports vehicle manufacturer. Any mechanical, body, or parts defects arising from express or implied warranties of the powersports vehicle manufacturer constitute the powersports vehicle manufacturer's product or warranty liability, and the powersports vehicle manufacturer shall reasonably compensate any authorized powersports vehicle dealer who performs work to rectify a powersports vehicle manufacturer's product or warranty defects.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 110, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-516 as it existed prior to 2018.

44-20-417. Application - fingerprint-based criminal history record check - rules. (1) An application for a wholesaler's license, powersports vehicle dealer's license, used powersports vehicle dealer's license, or powersports vehicle salesperson's license shall be submitted to the board.

(2) An application for a powersports vehicle distributor, powersports vehicle manufacturer representative, or powersports vehicle manufacturer license shall be submitted to the director.

(3) Fees for licenses shall be paid at the time of the filing of the application for a license.

(4) Persons applying for a powersports vehicle dealer's license shall file with the board a certified copy of a certificate of appointment as a powersports vehicle dealer from a powersports vehicle manufacturer.

(5) (a) A person applying for a powersports vehicle manufacturer's or distributor's license must:

(I) File with the director a certified copy of a typical sales, service, and parts agreement with all powersports vehicle dealers; and

(II) File evidence of the appointment of an agent for process in the state of Colorado.

(b) Within sixty days after amending or modifying or adding an addendum to the sales, service, or parts agreement of more than one powersports dealer, a licensed manufacturer or distributor shall file a certified copy of the new sales, service, and parts agreement, including the changes, with the director if the amendment, modification, or addendum materially alters the rights and obligations of the contracting parties.

(6) Persons applying for a wholesaler's, powersports vehicle dealer's, used powersports vehicle dealer's, or a powersports vehicle salesperson's license shall file with the board a written instrument in which the applicant shall appoint the secretary of the board as the agent of the applicant upon whom all process may be served in any action against the applicant arising out of a claim for damages suffered by a violation of this part 4, rules promulgated under this part 4, or any condition of the applicant's bond.

(7) (a) A person applying for a wholesaler's license or used powersports vehicle dealer's license shall file with the board a certification that the applicant has met the educational requirements for licensure under this subsection (7), unless the applicant is licensed as a motor vehicle dealer or a used motor vehicle dealer. This subsection (7) shall not apply to a person who has held a license, within the last three years, as a motor vehicle dealer, used motor vehicle dealer, wholesaler, wholesale motor vehicle auction dealer, powersports vehicle dealer, or used powersports vehicle dealer under this part 4 or part 1 of this article 20.

(b) An applicant for a wholesaler's license or used powersports vehicle dealer's license shall not be licensed unless one of the following persons has completed an eight-hour prelicensing education program:

(I) The managing officer if the applicant is a corporation or limited liability company;

(II) All of the general partners if the applicant is any form of partnership; or

(III) The owner or managing officer if the applicant is a sole proprietorship.

(c) The prelicensing education program shall include, without limitation, state and federal statutes and rules governing the sale of powersports vehicles.

(d) A prelicensing education program shall not fulfill the requirements of this section unless approved by the board. The board shall approve any program with a curriculum that reasonably covers the material required by this section within eight hours.

(e) The board may adopt rules establishing reasonable fees to be charged for the prelicensing education program.

(f) The board may adopt reasonable rules to implement this section, including, without limitation, rules that govern:

(I) The content and subject matter of education;

(II) The criteria, standards, and procedures for the approval of courses and course instructors;

(III) The training facility requirements; and

(IV) The methods of instruction.

(g) An approved prelicensing program provider shall issue a certificate to a person who successfully completes the approved prelicensing education program. The current certificate of

completion, or a copy of the certificate, shall be posted conspicuously at the dealership's principal place of business.

(h) An approved prelicensing program provider shall submit a certificate to the director for each person who successfully completes the prelicensing education program. The certificate may be transmitted electronically.

(8) (a) With the submission of an application for any license issued under this part 4, each applicant shall submit a complete set of fingerprints to the Colorado bureau of investigation or the auto industry division for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The board or the executive director shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to be licensed. The board or the executive director may verify the information an applicant is required to submit. The applicant shall pay the costs associated with the fingerprint-based criminal history record check to the Colorado bureau of investigation.

(a.5) When the results of a fingerprint-based criminal history record check of an applicant performed pursuant to this subsection (8) reveal a record of arrest without a disposition, the department shall require that applicant to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

(b) This subsection (8) does not apply to a publicly traded company or the company's subsidiary.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 110, § 2, effective October 1. **L. 2019:** (8)(a.5) added, (HB 19-1166), ch. 125, p. 563, § 63, effective April 18.

Editor's note: This section is similar to former § 12-6-517 as it existed prior to 2018.

44-20-418. Notice of change of address or status. (1) The board, through the executive director, shall not issue a powersports vehicle dealer's license or used powersports vehicle dealer's license to an applicant who has no principal place of business. If a powersports vehicle dealer or used powersports vehicle dealer changes the site or location of the dealer's principal place of business, the dealer shall immediately notify the board in writing, and thereupon, a new license shall be granted for the unexpired portion of the term of the existing license at a fee established pursuant to section 44-20-411. If a powersports vehicle dealer or used powersports vehicle dealer ceases to possess a principal place of business where the dealer conducts the business for which the dealer is licensed, the dealer shall immediately notify the board in writing and, upon demand by the board, shall deliver the dealer's license, which shall be held and retained until it appears to the board that the licensee possesses a principal place of business; whereupon, the dealer's license shall be reissued. Nothing in this part 4 shall be construed to prevent a powersports vehicle dealer or used powersports vehicle dealer from conducting the business for which the dealer is licensed at one or more sites or locations not contiguous to the dealer's principal place of business but operated and maintained in conjunction therewith.

(2) (a) If a powersports vehicle dealer changes to a new line-make of powersports vehicles, adds another franchise for the sale of new powersports vehicles, or cancels or otherwise

loses a franchise for the sale of new powersports vehicles, the dealer shall immediately notify the board. If a franchise is canceled or lost, the board shall determine whether the dealer should be licensed as a used powersports vehicle dealer.

(b) If the powersports vehicle dealer no longer possesses a franchise to sell new powersports vehicles, the board shall cancel and the powersports vehicle dealer shall deliver to it the dealer's license, and the board shall direct the director to issue to the dealer a used powersports vehicle dealer's license.

(c) Upon the cancellation or loss of a franchise to sell new powersports vehicles and the relicensing of the dealer as a used powersports vehicle dealer, the dealer may continue in the business of a powersports vehicle dealer for a time, not exceeding six months after the relicensing of the dealer, to enable the dealer to dispose of the stock of new powersports vehicles on hand at the time of relicensing, but not otherwise.

(3) If a powersports vehicle salesperson is discharged, leaves an employer, or changes a place of employment, the powersports vehicle dealer who last employed the salesperson shall confiscate and return the salesperson's license to the board. Upon being reemployed as a powersports vehicle salesperson, the powersports vehicle salesperson shall notify the board. Upon receiving the notification, the board shall issue a new license for the unexpired portion of the returned license after collecting a fee set pursuant to section 44-20-411 (5). It shall be unlawful for the salesperson to act as a powersports vehicle salesperson until a new license is procured.

(4) Upon a change of place of business or business address, a wholesaler shall immediately notify the board of the change.

(5) (a) Except as specified in subsection (5)(d) of this section:

(I) A person holding an ownership interest in a licensed corporation, limited liability company, limited liability partnership, or other business entity shall not sell the interest to a person who does not already own an interest in the business entity until the owner applies to the board to be approved to hold an ownership interest in the business entity and the board approves the person to hold the interest.

(II) A licensed corporation, limited liability company, limited liability partnership, or other business entity shall notify the board within ten days after a transfer, other than a sale, of any ownership that results in a new person holding an interest in the business entity. To continue to hold ownership in the business, the transferee shall apply to the board for approval to continue holding an ownership interest in the business entity.

(b) To be approved by the board to hold an ownership interest in a licensed business entity, the new owner must demonstrate the qualifications necessary for licensing, including a fingerprint-based criminal history record check, in accordance with this part 4.

(c) (I) If the board does not approve a person to hold an ownership interest in a licensed business entity, the person shall transfer the interest within six months after acquiring the ownership interest.

(II) This subsection (5)(c) does not authorize a person to hold an interest in a licensed business entity when the person acquired the interest as the result of a sale that violates subsection (5)(a)(I) of this section.

(d) (I) This subsection (5) does not apply to the sale or transfer of an interest in a publicly traded company.

(II) This subsection (5) does not apply to the sale of an interest to an institutional investor of a business entity that is subject to the reporting requirements of the "Securities Exchange Act of 1934", 15 U.S.C. sec. 78a et seq., as amended. For the purposes of this subsection (5)(d)(II), "institutional investor" means an entity, such as a pension fund, endowment fund, insurance company, commercial bank, or mutual fund, that invests money on behalf of its members or clients and that is required by the United States securities and exchange commission to file a form 13F, or its successor form, to report quarterly holdings.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 112, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-518 as it existed prior to 2018.

44-20-419. Principal place of business - requirements. (1) The building or structure required to be located on a principal place of business shall have electrical service and adequate sanitary facilities.

(2) A room in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house shall not be used as a principal place of business unless the entire ground floor of the hotel, apartment house, or rooming house building or the dwelling house is devoted principally to and occupied for commercial purposes and the office of the dealer is located on the ground floor thereof.

(3) Nothing in this section shall be construed to exempt a powersports vehicle dealer or used powersports vehicle dealer from local zoning ordinances.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 114, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-519 as it existed prior to 2018.

44-20-420. Licenses - grounds for denial, suspension, or revocation. (1) A powersports vehicle manufacturer's or distributor's license may be denied, suspended, or revoked on the following grounds:

(a) Material misstatement in an application for a license;

(b) Willful failure to comply with this part 4 or any rule promulgated by the executive director under this part 4;

(c) Engaging, in the past or present, in any illegal business practice.

(2) A powersports vehicle manufacturer representative's license may be denied, suspended, or revoked on the following grounds:

(a) Material misstatement in an application for a license;

(b) Willful failure to comply with this part 4 or any rules promulgated by the executive director under this part 4;

(c) Committing any unconscionable business practice under title 4;

(d) Having coerced or attempted to coerce a powersports vehicle dealer to accept delivery of any powersports vehicle, parts or accessories therefore, or any other commodities or services that have not been ordered by the dealer;

(e) Having coerced or attempted to coerce a powersports vehicle dealer to enter into any agreement to do an act unfair to the dealer by threatening to cause the cancellation of the dealer's franchise;

(f) Having withheld, threatened to withhold, reduced, or delayed without just cause an order for powersports vehicles, parts or accessories therefore, or any other commodities or services that have been ordered by a powersports vehicle dealer; or

(g) Engaging, in the past or present, in any illegal business practice.

(3) A wholesaler's license, powersports vehicle dealer's license, or a used powersports vehicle dealer's license may be denied, suspended, or revoked on the following grounds:

(a) Material misstatement in an application for a license;

(b) Willful failure to comply with this part 4 or any rule promulgated by the executive director under this part 4;

(c) Having been convicted of or pleaded nolo contendere to any felony or crime pursuant to article 3, 4, or 5 of title 18 or any like crime pursuant to federal law or the law of another state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of the conviction in a hearing held pursuant to this article 20.

(d) Defrauding any buyer, seller, powersports vehicle salesperson, or financial institution to the person's damage;

(e) Intentionally or negligently failing to perform any written agreement with any buyer or seller;

(f) Failing or refusing to furnish and keep in force a bond required under this part 4;

(g) Making a fraudulent or illegal sale, transaction, or repossession;

(h) Willfully misrepresenting, circumventing, concealing, or failing to disclose, through subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to the buyer;

(i) Intentionally publishing or circulating advertising that is misleading or inaccurate in any material particular or that misrepresents a product sold or furnished by a licensed dealer;

(j) Knowingly purchasing, selling, or otherwise acquiring or disposing of a stolen powersports vehicle;

(k) Engaging in the business for which the dealer is licensed without at all times maintaining a principal place of business as required by this part 4 during reasonable business hours;

(l) Engaging in the business through employment of an unlicensed powersports vehicle salesperson;

(m) Willfully violating any state or federal law respecting commerce or powersports vehicles, or any lawful rule respecting commerce or powersports vehicles promulgated by any licensing or regulating authority pertaining to powersports vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or powersports vehicles;

(n) Representing or selling as a new and unused powersports vehicle any powersports vehicle that the dealer or salesperson knows is otherwise a used powersports vehicle;

(o) Committing a fraudulent insurance act pursuant to section 10-1-128;

(p) Failing to give notice to a prospective buyer of the acceptance or rejection of a powersports vehicle purchase order agreement within a reasonable time period, as determined by

the board, when the licensee is working with the prospective buyer on a finance sale or a consignment sale.

(4) A wholesaler's license may be denied, suspended, or revoked for the selling, leasing, or offering or attempting to negotiate the sale, lease, or exchange of an interest in motor vehicles to persons other than powersports vehicle dealers, used powersports vehicle dealers, or other wholesalers.

(5) The license of a powersports vehicle salesperson may be denied, revoked, or suspended on the following grounds:

(a) Material misstatement in an application for a license;

(b) Failure to comply with any provision of this part 4 or any rule promulgated by the board or executive director under this part 4;

(c) Engaging in the business for which the licensee is licensed without having in force and effect a good and sufficient bond with corporate surety as provided in this part 4;

(d) Intentionally publishing or circulating an advertisement that is misleading or inaccurate in any material particular or that misrepresents a powersports vehicle product sold or attempted to be sold by the salesperson;

(e) Having indulged in any fraudulent business practice;

(f) Selling, offering, or attempting to negotiate the sale, exchange, or lease of powersports vehicles for a powersports vehicle dealer or used powersports vehicle dealer for which the salesperson is not licensed; except that negotiation with a powersports vehicle dealer or used powersports vehicle dealer for the sale, exchange, or lease of new and used powersports vehicles, by a salesperson compensated for the negotiation by a powersports vehicle dealer or used powersports vehicle dealer for which the salesperson is licensed shall not be grounds for denial, revocation, or suspension;

(g) Representing oneself as a salesperson for a powersports vehicle dealer when the salesperson is not so employed and licensed;

(h) Having been convicted of or pleaded nolo contendere to any felony or any crime pursuant to article 3, 4, or 5 of title 18 or any like crime pursuant to federal law or the law of another state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of the conviction in a hearing held pursuant to this article 20.

(i) Having knowingly purchased, sold, or otherwise acquired or disposed of a stolen powersports vehicle;

(j) Employing an unlicensed powersports vehicle salesperson;

(k) Defrauding any retail buyer to the person's damage;

(l) Representing or selling as a new and unused powersports vehicle a powersports vehicle that the salesperson knows is otherwise a used powersports vehicle;

(m) Willfully violating any state or federal law respecting commerce or powersports vehicles, or any lawful rule respecting commerce or powersports vehicles promulgated by any licensing or regulating authority pertaining to powersports vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or powersports vehicles;

(n) Improperly withholding, misappropriating, or converting to the salesperson's own use any money belonging to customers or other persons received in the course of employment as a powersports vehicle salesperson.

(6) A license issued pursuant to this part 4 may be denied, revoked, or suspended if unfitness of the licensee or licensee applicant is shown in the following:

(a) The licensing character or record of the licensee or licensee applicant;

(b) The criminal character or record of the licensee or licensee applicant;

(c) The financial character or record of the licensee or licensee applicant;

(d) A violation of any lawful order of the board.

(7) The license of a powersports vehicle dealer may be denied, revoked, suspended, or otherwise subject to discipline imposed under this part 4 if an owner is acting as a salesperson without a motor vehicle salesperson license and the owner commits any of the acts or omissions that subject a salesperson's license to denial, revocation, or suspension under subsection (6) of this section.

(8) (a) A license issued or applied for pursuant to this part 4 shall be revoked or denied if the licensee or applicant has been convicted of or pleaded no contest to any of the following offenses in this state or another jurisdiction during the previous ten years:

(I) A felony in violation of article 3, 4, or 5 of title 18 or any similar crime under federal law or the law of another state; or

(II) A crime involving salvage fraud or the defrauding of a retail consumer in a powersports vehicle sale or lease transaction.

(b) A certified copy of a judgment of conviction by a court of competent jurisdiction of an offense under subsection (8)(a)(I) of this section is conclusive evidence of the conviction in any hearing held pursuant to this article 20.

(9) A person whose license issued under this part 4 is revoked or who surrenders a license to avoid discipline is ineligible to apply for a new license under this part 4 for one year after the date of revocation or surrender of the license.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 114, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-520 as it existed prior to 2018.

44-20-421. Procedure for denial, suspension, or revocation of license - judicial review. (1) The denial, suspension, or revocation of licenses issued under this part 4 shall be in accordance with the provisions of sections 24-4-104 and 24-4-105; except that the discovery available under rule 26 (b)(2) of the Colorado rules of civil procedure is available in any proceeding.

(2) The board shall appoint an administrative law judge pursuant to part 10 of article 30 of title 24 to conduct any hearing concerning the licensing or discipline of a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, powersports vehicle manufacturer, powersports vehicle manufacturer representative, or powersports vehicle distributor; except that the board may, upon a unanimous vote of the members present when the vote is taken, conduct the hearing in lieu of appointing an administrative law judge.

(3) (a) The board shall assign a hearing concerning the licensing or discipline of a powersports vehicle salesperson to the executive director, who shall appoint an officer to conduct a hearing.

(b) Hearings conducted before an administrative law judge shall be in accordance with the rules of procedure of the office of administrative courts. Hearings conducted before an officer appointed by the executive director shall be in accordance with the rules of procedure established by the executive director.

(4) The board may summarily suspend a licensee required to post a bond under this article 20 if the licensee does not have a bond in full force and effect as required by this article 20. The suspension shall become effective upon the earlier of the licensee receiving notice of the suspension or within three days after the notice of suspension is mailed to a licensee's last-known address on file with the board. The notice may be effected by certified mail or personal delivery.

(5) The court of appeals shall have initial jurisdiction to review all final actions and orders that are subject to judicial review of the board. The proceedings shall be conducted in accordance with section 24-4-106 (11).

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 118, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-521 as it existed prior to 2018.

44-20-422. Sales activity following license denial, suspension, or revocation - unlawful act - penalty. (1) (a) It shall be unlawful and a violation of this part 4 for any person whose wholesaler's, powersports vehicle dealer's, used powersports vehicle dealer's, or powersports vehicle salesperson's license has been denied, suspended, or revoked to exercise the privileges of the license that was denied, suspended, or revoked.

(b) A violation of subsection (1)(a) of this section shall be punishable in accordance with section 44-20-429; except that a second or subsequent violation of subsection (1)(a) of this section shall be a class 6 felony.

(c) In any trial for a violation of subsection (1)(a) of this section:

(I) A duly authenticated copy of the board's order of denial, suspension, or revocation shall constitute prima facie evidence of the denial, suspension, or revocation;

(II) A duly authenticated invoice, buyer's order, or other customary, written sales or purchase document or instrument proven to be signed by the defendant and indicating the defendant's role in the purchase or sale of a powersports vehicle at a retail or wholesale powersports vehicle sales location shall constitute prima facie evidence of the defendant's exercise of a privilege of licensure;

(III) It shall be an affirmative defense that the defendant bought or sold a powersports vehicle that was, at all relevant times, intended for the defendant's own use and not bought or sold for the purpose of profit or gain; and

(IV) The fact that the defendant has a powersports vehicle dealer's, used powersports vehicle dealer's, or powersports vehicle salesperson's license, or another license to buy and sell powersports vehicles, that is issued by a state or jurisdiction other than Colorado, shall not constitute a defense.

(2) Upon the defendant's conviction by entry of a plea of guilty or nolo contendere or judgment or verdict of guilt in connection with a violation of subsection (1)(a) of this section or of section 44-20-423 (2) or 42-6-142 (1), the court shall immediately give the executive director written notice of the conviction. In addition, the court shall forward to the executive director

copies of documentation of any conviction on a lesser included offense and any amended charge, plea bargain, deferred prosecution, deferred sentence, or deferred judgment in connection with the original charge.

(3) Upon receiving notice of a conviction or other disposition pursuant to subsection (2) of this section, the executive director or his or her designee shall forward the notice to the board, which shall immediately examine its files to determine whether the defendant's license was denied, suspended, or revoked at the time of the offense. If in fact the defendant's license was denied, suspended, or revoked at the time of the offense, the board shall:

(a) Not issue or reinstate any license to the defendant until one year after the time the defendant would otherwise have been eligible to receive a new or reinstated license; and

(b) Revoke or suspend any other licenses held by the defendant until at least one year after the date of the conviction or other disposition.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 119, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-522 as it existed prior to 2018.

44-20-423. Unlawful acts. (1) It is unlawful and a violation of this part 4 for any powersports vehicle manufacturer, distributor, or manufacturer representative:

(a) To willfully fail to perform or cause to be performed any written warranties made with respect to a powersports vehicle or parts thereof;

(b) To coerce or attempt to coerce any powersports vehicle dealer to perform or allow to be performed an act that could be financially detrimental to the dealer or that would impair the dealer's goodwill or to enter into an agreement with a powersports vehicle manufacturer or distributor that would be financially detrimental to the dealer or impair the dealer's goodwill, by threatening to cancel or not renew a franchise between a powersports vehicle manufacturer or distributor and the dealer;

(c) To coerce or attempt to coerce any powersports vehicle dealer to accept delivery of a powersports vehicle, parts or accessories thereof, or any commodities or services that have not been ordered by the dealer;

(d) (I) To cancel or cause to be canceled, directly or indirectly, without just cause, the franchise of a powersports vehicle dealer, and the nonrenewal of a franchise or selling agreement without just cause is a violation of this subsection (1)(d) and shall constitute an unfair cancellation.

(II) As used in this subsection (1)(d), "just cause" shall be determined in the context of all circumstances surrounding the cancellation or nonrenewal, including but not limited to:

(A) The amount of business transacted by the powersports vehicle dealer;

(B) The investments necessarily made and obligations incurred by the powersports vehicle dealer, including but not limited to goodwill, in the performance of its duties under the franchise agreement, together with the duration and permanency of the investments and obligations;

(C) The potential for harm to consumers as a result of disruption of the business of the powersports vehicle dealer;

(D) The powersports vehicle dealer's failure to provide adequate service of facilities, equipment, parts, and qualified service personnel;

(E) The powersports vehicle dealer's failure to perform warranty work on behalf of the powersports vehicle manufacturer, subject to reimbursement by the powersports vehicle manufacturer; and

(F) The powersports vehicle dealer's failure to substantially comply, in good faith, with requirements of the franchise that are determined to be reasonable and material.

(III) The following conduct by a powersports vehicle dealer shall constitute just cause for termination without consideration of other factors:

(A) Conviction of, or a plea of guilty or nolo contendere to, a felony;

(B) A continuing pattern of fraudulent conduct against the powersports vehicle manufacturer or consumers; or

(C) Continuing failure to operate for ten days or longer.

(e) To withhold, reduce, or delay unreasonably or without just cause delivery of powersports vehicles, powersports vehicle parts and accessories, commodities, or money due powersports vehicle dealers for warranty work done by any powersports vehicle dealer;

(f) To withhold, reduce, or delay unreasonably or without just cause services contracted for by powersports vehicle dealers;

(g) To coerce any powersports vehicle dealer to provide installment financing with a specified financial institution;

(h) To violate any duty imposed by, or fail to comply with, any provision of section 44-20-424, 44-20-425, or 44-20-426;

(i) (I) To fail to provide to the powersports vehicle dealer, within twenty days after receipt of a notice of intent from a powersports vehicle dealer, the list of documents and information necessary to approve the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer or the change in executive management of the dealership;

(II) To fail to confirm within twenty days after receipt of all documents and information listed in subsection (1)(i)(I) of this section that the documentation and information has been received;

(III) To refuse to approve, unreasonably, the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer within sixty days after the manufacturer has received all documents and information necessary to approve the sale or transfer of ownership, or to refuse to approve, unreasonably, the change in executive management of the dealership within sixty days after the manufacturer has received all information necessary to approve the change in management; except that nothing in this part 4 shall authorize the sale, transfer, or assignment of a franchise or a change of the principal operator without the approval of the powersports vehicle manufacturer or distributor unless the manufacturer or distributor fails to send notice of the disapproval within sixty days after receiving all documents and information necessary to approve the sale or transfer of ownership; or

(IV) To condition the sale, transfer, relocation, or renewal of a franchise agreement or to condition sales, services, parts, or finance incentives upon site control or an agreement to renovate or make improvements to a facility; except that voluntary acceptance of the conditions by the dealer shall not constitute a violation;

(j) (I) To fail or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make except as a result of a strike or labor difficulty, lack of

manufacturing capacity, shortage of materials, freight embargo, or other cause over which the powersports vehicle manufacturer has no control; or

(II) To require a dealer to pay an unreasonable fee, purchase unreasonable advertising displays or other materials, or comply with unreasonable training or facilities requirements as a prerequisite to receiving any particular model of that same line-make, which shall be judged based on the circumstances of the individual dealer and the conditions of the market served by the dealer;

(k) To require, coerce, or attempt to coerce any powersports vehicle dealer to refrain from participation in the management of, investment in, or acquisition of another line-make of new powersports vehicles or related products; except that this subsection (1)(k) shall not apply unless the powersports vehicle dealer:

(I) Maintains a reasonable line of credit for each make or line of new powersports vehicle;

(II) Remains in compliance with reasonable capital standards and reasonable facilities requirements specified by the powersports vehicle manufacturer; but "reasonable facilities requirements" shall not include a requirement that a powersports vehicle dealer establish or maintain exclusive facilities, personnel, or display space; and

(III) Provides written notice to the manufacturer, distributor, or manufacturer's representative, no less than ninety days prior to the dealer's intent to participate in the management of, investment in, or acquisition of another line-make of new powersports vehicles or related products;

(l) To fail to pay to a powersports vehicle dealer, within ninety days after the termination, cancellation, or nonrenewal of a franchise, all of the following:

(I) The dealer cost, plus any charges made by the powersports vehicle manufacturer for distribution, delivery, and taxes, less all allowances paid or credited to the powersports vehicle dealer by the powersports vehicle manufacturer, of unused, undamaged, and unsold powersports vehicles in the powersports vehicle dealer's inventory that were acquired from the powersports vehicle manufacturer or from another powersports vehicle dealer of the same line-make in the ordinary course of business within the previous twelve months;

(II) The dealer cost, less all allowances paid or credited to the powersports vehicle dealer by the powersports vehicle manufacturer, for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging and listed in the powersports vehicle manufacturer's current parts catalog;

(III) The fair market value of each undamaged sign owned by the powersports vehicle dealer and bearing a common name, trade name, or trademark of the powersports vehicle manufacturer if acquisition of the sign was required by the powersports vehicle manufacturer;

(IV) The fair market value of all special tools and equipment that were acquired from the powersports vehicle manufacturer or from sources approved and required by the powersports vehicle manufacturer and that are in good and usable condition, excluding normal wear and tear; and

(V) The cost of transporting, handling, packing, and loading the powersports vehicles, supplies, parts, accessories, signs, special tools, equipment, and furnishings described in this subsection (1)(l);

(m) To require, coerce, or attempt to coerce a powersports vehicle dealer to close or change the location of the powersports vehicle dealer, or to make any substantial alterations to

the dealer premises or facilities when doing so would be unreasonable or without written assurance of a sufficient supply of powersports vehicles so as to justify the changes, in light of the current market and economic conditions;

(n) To authorize or permit a person to perform warranty service repairs on powersports vehicles unless the person is:

(I) A powersports vehicle dealer with whom the powersports vehicle manufacturer has entered into a franchise agreement for the sale and service of the manufacturer's powersports vehicles; or

(II) A person or government entity that has purchased new powersports vehicles pursuant to a powersports vehicle manufacturer's fleet discount program and is performing the warranty service repairs only on vehicles owned by the person or entity;

(o) To require, coerce, or attempt to coerce a powersports vehicle dealer to prospectively agree to a release, assignment, novation, waiver, or estoppel that would relieve any person of a duty or liability imposed under this article 20 except in settlement of a bona fide dispute;

(p) To discriminate between or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make based upon unreasonable sales and service standards;

(q) To fail to make practically available an incentive, rebate, bonus, or other similar benefit to a powersports vehicle dealer that is offered to another powersports vehicle dealer of the same line-make within this state;

(r) To fail to pay to a powersports vehicle dealer:

(I) Within ninety days after the termination, cancellation, or nonrenewal of a franchise for the failure of a dealer to meet performance sales and service obligations or after the termination, elimination, or cessation of a line-make, the cost of the lease for the facilities used for the franchise or line-make for the unexpired term of the lease, not to exceed one year; except that:

(A) If the powersports vehicle dealer owns the facilities, the value of renting the facilities for one year, prorated for each line-make based upon total sales volume for the previous twelve months before the involuntary termination;

(B) Nothing in this subsection (1)(r)(I) shall be construed to limit the application of subsection (1)(d) of this section;

(II) Within ninety days after the termination, elimination, or cessation of a line-make or the termination of a franchise due to the insolvency of the manufacturer or distributor, the fair market value of the powersports vehicle dealer's goodwill for the line-make as of the date the manufacturer or distributor announces the action that results in the termination, elimination, or cessation, not including any amounts paid under subsections (1)(l)(I) to (1)(l)(V) of this section;

(s) To condition a franchise agreement on improvements to a facility unless reasonably required by the technology of a powersports vehicle being sold at the facility;

(t) To charge back, deny powersports vehicle allocation, withhold payments, or take other actions against a powersports vehicle dealer if a powersports vehicle sold by the powersports vehicle dealer is exported from Colorado unless the manufacturer, distributor, or manufacturer representative proves that the powersports vehicle dealer knew or reasonably should have known a powersports vehicle was intended to be exported, which shall operate as a rebuttable presumption that the powersports vehicle dealer did not have this knowledge;

(u) Within ninety days after the termination, elimination, or cessation of a line-make or the termination, cancellation, or nonrenewal of a franchise by the manufacturer, distributor, or

manufacturer representative, for any reason other than that the powersports vehicle dealer commits fraud, makes a misrepresentation, or commits any other crime within the scope of the franchise agreement or in the operation of the dealership, to fail to reimburse a powersports vehicle dealer for the cost depreciated by five percent per year of any upgrades or alterations to the powersports vehicle dealer's facilities required by the manufacturer, distributor, or manufacturer representative within the previous five years;

(v) To fail to notify a powersports vehicle dealer at least ninety days before the following and to provide the specific reasons for the following:

(I) Directly or indirectly terminating, canceling, or not renewing a franchise agreement; or

(II) Modifying, replacing, or attempting to modify or replace the franchise or selling agreement of a powersports dealer, including a change in the dealer's geographic area upon which sales or service performance is measured, if the modification would substantially and adversely alter the rights or obligations of the dealer under the current franchise or selling agreement or would substantially impair the sales or service obligations or the dealer's investment;

(w) To require, coerce, or attempt to coerce a powersports dealer to substantially alter a facility or premises if the facility or premises has been altered within the last ten years at a cost of more than twenty-five thousand dollars, and the alteration was required and approved by the manufacturer, distributor, or manufacturer representative; except that this subsection (1)(w) does not apply to improvements made to comply with health or safety laws or to accommodate the technology requirements necessary to sell or service a line-make;

(x) (I) To sell or offer to sell new powersports vehicles to a franchised powersports vehicle dealer with whom the manufacturer has a franchise agreement at a lower actual price than the actual price offered to any other powersports vehicle dealer with whom the manufacturer has a franchise agreement for the same powersports vehicle similarly equipped; except that this subsection (1)(x) does not apply to:

(A) Resale to any government;

(B) Donation or use by the dealer in a driver education course; or

(C) A price change made in the ordinary course of business if made available to all powersports vehicle dealers when the price changes.

(II) This subsection (1)(x) does not prohibit a manufacturer, distributor, or manufacturer representative from offering incentive programs, sales-promotion plans, or other discounts if the incentives or discounts are reasonably available to all powersports vehicle dealers with whom the manufacturer has a franchise agreement.

(y) To require a powersports vehicle dealer to grant a manufacturer, distributor, or manufacturer representative the following or to enforce the following if the exercise of the contractual right would stop the transfer of the powersports vehicle dealer ownership from an owner to an immediate family member of the owner:

(I) A right of first refusal to purchase the powersports vehicle dealer; or

(II) An option to purchase the powersports vehicle dealer; and

(z) (I) To use an unreasonable, arbitrary, or unfair performance standard in determining a powersports vehicle dealer's compliance with a franchise agreement; or

(II) To fail to communicate, upon the request of the dealer, any performance standard in a clear and concise writing to a powersports vehicle dealer before applying the standard to the powersports vehicle dealer.

(2) It is unlawful for a person to act as a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, powersports vehicle manufacturer, powersports vehicle distributor, powersports vehicle manufacturer representative, or powersports vehicle salesperson unless the person has been duly licensed under this part 4; except that this subsection (2) does not apply to a business owner selling a powersports vehicle if the vehicle has been owned for more than one year, the vehicle has been used exclusively for business purposes, the vehicle is titled in the name of the business, all taxes for the vehicle have been paid, and the total number of vehicles sold by the business owner over a two-year period does not exceed twenty vehicles.

Source: L. 2018: (2) amended, (HB 18-1105), ch. 28, p. 328, § 2, effective August 8; entire article added with relocations, (SB 18-030), ch. 7, p. 120, § 2, effective October 1; (1)(a) and IP(1)(x)(I) amended, (HB 18-1354), ch. 349, p. 2073, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-6-523 as it existed prior to 2018.

(2) (a) Subsections (1)(a) and IP(1)(x)(I) of this section were numbered as § 12-6-523 (1)(a) and IP(1)(x)(I), respectively, in HB 18-1354. Those provisions were harmonized with and relocated to this section as this section appears in SB 18-030.

(b) Subsection (2) of this section was numbered as § 12-6-523 (2) in HB 18-1105. That provision was harmonized with and relocated to this section as this section appears in SB 18-030.

Cross references: For the legislative declaration in HB 18-1354, see section 1 of chapter 349, Session Laws of Colorado 2018.

44-20-424. New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules. (1) No powersports vehicle manufacturer or distributor shall establish an additional powersports vehicle dealer, reopen a previously existing powersports vehicle dealer, or authorize an existing powersports vehicle dealer without first providing at least sixty days' notice to all of its franchised dealers within whose relevant market area the new, reopened, or relocated dealer would be located. The notice must state:

(a) The specific location at which the additional, reopened, or relocated powersports vehicle dealer will be established;

(b) The date on or after which the powersports vehicle manufacturer intends to be engaged in business with the additional, reopened, or relocated powersports vehicle dealer at the proposed location; and

(c) The identity of all powersports vehicle dealers who are franchised to sell the same line-make of vehicles with licensed locations in the relevant market area where the additional, reopened, or relocated powersports vehicle dealer is proposed to be located.

(2) A powersports vehicle manufacturer shall approve or disapprove of a powersports vehicle dealer facility initial site location, relocation, or reopening request within sixty days after

the request or after sending the notice required by subsection (1) of this section to all of its franchised powersports vehicle dealers, whichever is later.

(3) Subsection (1) of this section shall not apply to:

(a) The relocation of an existing dealer within two miles of its current location; or

(b) The establishment of a replacement dealer, within two years, either at the former location or within two miles of the former location.

(4) As used in this section:

(a) "Powersports manufacturer" means a powersports vehicle manufacturer, distributor, or manufacturer representative.

(b) "Relevant market area" means the greater of the following:

(I) The geographic area of responsibility defined in the franchise agreement of an existing dealer; or

(II) The geographic area within a radius of ten miles of any existing dealer of the same line-make of powersports vehicle as the proposed additional motor vehicle dealer.

(5) (a) An existing powersports vehicle dealer adversely affected by the reopening or relocation of an existing same line-make powersports vehicle dealer or the addition of a same line-make powersports vehicle dealer may, within ninety days after receipt of the notice required in subsection (1) of this section, file a legal action in a district court of competent jurisdiction or file an administrative complaint with the executive director to prevent or enjoin the relocation, reopening, or addition of the proposed powersports vehicle dealer. An existing powersports vehicle dealer is adversely affected if:

(I) The dealer is located within the relevant market area of the proposed relocated, reopened, or additional dealership described in the notice required in subsection (1) of this section; or

(II) The existing dealer or dealers of the same line-make show that, during any twelve-month period within the thirty-six months preceding the receipt of the notice required in subsection (1) of this section, the dealer or dealers, or a dealer's predecessor, made at least twenty-five percent of the dealer's retail sales of new powersports vehicles to persons whose addresses are located within ten miles of the location of the proposed relocated, reopened, or additional dealership.

(b) The executive director shall refer a complaint filed under this section to an administrative law judge in the office of administrative courts for final agency action.

(c) In any court or administrative action, the manufacturer has the burden of proof on each of the following issues:

(I) The change in population;

(II) The relevant vehicle buyer profiles;

(III) The relevant historical new powersports vehicle registrations for the line-make of vehicles versus the manufacturer's actual competitors in the relevant market area;

(IV) Whether the opening of the proposed reopened, relocated, or additional powersports vehicle dealer is materially beneficial to the public interest or the consumers in the relevant market area;

(V) Whether the powersports vehicle dealers of the same line-make in the relevant market area are providing adequate representation and convenient customer care, including the adequacy of sales and service facilities, equipment, parts, and qualified service personnel, for powersports vehicles of the same line-make in the relevant market area;

(VI) The reasonably expected market penetration of the line-make, given the factors affecting penetration; and

(VII) Whether the reopened, relocated, or additional dealership is reasonable and justifiable based on expected economic and market conditions within the relevant market area.

(d) In any court or administrative action, the powersports vehicle dealer has the burden of proof on each of the following issues:

(I) Whether the manufacturer engaged in any action or omission that, directly or indirectly, denied the existing powersports vehicle dealer of the same line-make the opportunity for reasonable growth or market expansion;

(II) Whether the manufacturer has coerced or attempted to coerce any existing powersports vehicle dealer into consenting to additional or relocated franchises of the same line-make in the community or territory or relevant market area; and

(III) The size and permanency of the investment of, and the obligations incurred by, the existing powersports vehicle dealers of the same line-make located in the relevant market area.

(e) (I) In a legal or administrative action challenging the relocation, reopening, or addition of a powersports vehicle dealer, the district court or administrative law judge shall make a determination, based on the factors identified in subsections (5)(c) and (5)(d) of this section, of whether the relocation, reopening, or addition of a powersports vehicle dealer is:

(A) In the public interest; and

(B) Fair and equitable to the existing powersports vehicle dealers.

(II) The district court or the executive director shall deny any proposed relocation, reopening, or addition of a powersports vehicle dealer unless the manufacturer shows by a preponderance of the evidence that the existing powersports vehicle dealer or dealers of the same line-make in the relevant market area of the proposed dealership are not providing adequate representation of the line-make powersports vehicles. A determination to deny, prevent, or enjoin the relocation, reopening, or addition of a powersports vehicle dealer is effective for at least eighteen months.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 126, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-524 as it existed prior to 2018.

44-20-425. Independent control of dealer - definitions. (1) Except as otherwise provided in this section, no powersports vehicle manufacturer shall own, operate, or control any powersports vehicle dealer or used powersports vehicle dealer in Colorado.

(2) Notwithstanding subsection (1) of this section, the following activities are not prohibited:

(a) Operation of a powersports vehicle dealer for a temporary period, not to exceed twelve months, during the transition from one owner or operator to another independent owner or operator; except that the executive director may extend the period, not to exceed twenty-four months, upon a showing by the manufacturer or distributor of the need to operate the dealership for such time to achieve a transition from an owner or operator to another independent third-party owner or operator;

(b) Ownership or control of a powersports vehicle dealer while the dealer is being sold under a bona fide contract or purchase option to the operator of the dealer;

(c) Participation in the ownership of the powersports vehicle dealer solely for the purpose of providing financing or a capital loan that will enable the dealer to become the majority owner of the dealer in less than seven years; and

(d) Operation of a powersports vehicle dealer if the powersports vehicle manufacturer has no other franchised dealers of the same line-make in this state.

(3) As used in this section:

(a) "Control" means to possess, directly, the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise; except that "control" does not include the relationship between a powersports vehicle manufacturer and a powersports vehicle dealer under a franchise agreement.

(b) "Operate" means to directly or indirectly manage a powersports vehicle dealer.

(c) "Own" means to hold any beneficial ownership interest of one percent or more class of equity interest in a powersports vehicle dealer, whether as a shareholder, partner, limited liability company member, or otherwise. To "hold" an ownership interest means to have possession of, title to, or control of the ownership interest, either directly or through a fiduciary or agent.

(d) "Powersports vehicle manufacturer" means a powersports vehicle manufacturer, distributor, or manufacturer representative.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 128, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-525 as it existed prior to 2018.

44-20-426. Successor under existing franchise agreement - duties of powersports vehicle manufacturer. (1) If a licensed powersports vehicle dealer under franchise by a powersports vehicle manufacturer dies or becomes incapacitated, the powersports vehicle manufacturer shall act in good faith to allow a successor, which may include a family member, designated by the deceased or incapacitated powersports vehicle dealer to succeed to ownership and operation of the dealer under the existing franchise agreement if:

(a) Within ninety days after the powersports vehicle dealer's death or incapacity, the designated successor gives the powersports vehicle manufacturer written notice of an intent to succeed to the rights of the deceased or incapacitated powersports vehicle dealer in the franchise agreement;

(b) The designated successor agrees to be bound by all of the terms and conditions of the existing franchise agreement; and

(c) The designated successor meets the criteria generally applied by the powersports vehicle manufacturer in qualifying powersports vehicle dealers.

(2) A powersports vehicle manufacturer may refuse to honor the existing franchise agreement with the designated successor only for good cause. The powersports vehicle manufacturer may request in writing from a designated successor the personal and financial data that is reasonably necessary to determine whether the existing franchise agreement should be honored, and the designated successor shall supply the data promptly upon request.

(3) (a) If a powersports vehicle manufacturer believes that good cause exists for refusing to honor the requested succession, the powersports vehicle manufacturer shall send the designated successor, by certified or overnight mail, notice of its refusal to approve the succession within sixty days after the later of:

(I) Receipt of the notice of the designated successor's intent to succeed the powersports vehicle dealer in the ownership and operation of the dealer; or

(II) The receipt of the requested personal and financial data.

(b) Failure to serve the notice pursuant to subsection (3)(a) of this section shall be considered approval of the designated successor, and the franchise agreement is considered amended to reflect the approval of the succession the day following the last day of the notice period specified in subsection (3)(a) of this section.

(c) If the powersports vehicle manufacturer gives notice of refusal to approve the succession, the notice shall state the specific grounds for the refusal and shall state that the franchise agreement shall be discontinued not less than ninety days after the date the notice of refusal is served unless the proposed successor files an action in the district court to enjoin the action.

(4) This section shall not be construed to prohibit a powersports vehicle dealer from designating a person as the successor in advance, by written instrument filed with the powersports vehicle manufacturer. If the powersports vehicle dealer files the instrument, that instrument governs the succession rights to the management and operation of the dealer subject to the designated successor satisfying the powersports vehicle manufacturer's qualification requirements as described in this section.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 129, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-526 as it existed prior to 2018.

44-20-427. Audit reimbursement limitations - dealer claims. (1) (a) A manufacturer, distributor, or manufacturer representative shall have the right to audit warranty, sales, or incentive claims of a powersports vehicle dealer for nine months after the date the claim was submitted.

(b) A manufacturer, distributor, or manufacturer representative shall not require documentation for warranty, sales, or incentive claims or audit warranty, sales, or incentive claims of a powersports vehicle dealer more than fifteen months after the date the claim was submitted, nor shall the manufacturer require a charge back, reimbursement, or credit against a future transaction arising out of an audit or request for documentation arising more than nine months after the date the claim was submitted.

(2) The powersports vehicle dealer shall have nine months after making a sale or providing service to submit warranty, sales, or incentive claims to the manufacturer, distributor, or manufacturer representative.

(3) Subsection (1) of this section shall not limit any action for fraud instituted in a court of competent jurisdiction.

(4) A powersports vehicle dealer may request a determination from the executive director, within thirty days, that a charge back, reimbursement, or credit required violates

subsection (1) of this section. If a determination is requested within the thirty-day period, then the charge back, reimbursement, or credit shall be stayed pending the decision of the executive director. If the executive director determines after a hearing that the charge back, reimbursement, or credit violates subsection (1) of this section, the charge back, reimbursement, or credit shall be void.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 130, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-526.5 as it existed prior to 2018.

44-20-428. Reimbursement for disapproving sale. A manufacturer or distributor shall pay reasonable attorney fees, not to exceed the usual and customary fees charged for the transfer of a franchise, and reasonable expenses that are incurred by the proposed owner or transferee before the manufacturer or distributor exercised its right of first refusal in negotiating and implementing the contract for the proposed change of ownership or the transfer of assets. Payment of attorney fees and expenses is not required if the claimant has failed to submit an accounting of attorney fees and expenses within twenty days after the receipt of the manufacturer's or dealer's written request for an accounting. An expense accounting may be requested by the manufacturer or distributor before exercising its right of first refusal.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 131, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-526.7 as it existed prior to 2018.

44-20-429. Penalty. [*Editor's note: This version of this section is effective until March 1, 2022.*] (1) Except as provided in subsection (2) of this section, a person who willfully violates this part 4 commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2) (a) A person who willfully violates section 44-20-423 (2) by acting as a powersports vehicle manufacturer, powersports vehicle distributor, or powersports vehicle manufacturer representative without proper authorization commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars for each separate offense, or if the violator is a corporation, the fine shall be not less than five hundred dollars nor more than two thousand five hundred dollars for each separate offense. A second conviction shall be punished by a fine of two thousand five hundred dollars.

(b) A person who willfully violates section 44-20-423 (2) by acting as a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, or powersports vehicle salesperson without proper authorization commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one thousand dollars and a penalty of twenty-five hours of useful public service, neither of which the court may suspend, for each separate offense; except that, if the violator is a corporation, the corporation shall be punished by a fine of not less than five thousand dollars nor more than twenty-five thousand dollars for each separate offense. A

second conviction for an individual shall be punished by a fine of not less than five thousand dollars nor more than twenty-five thousand dollars for each separate offense, which the court may not suspend.

44-20-429. Penalty. [*Editor's note: This version of this section is effective March 1, 2022.*] (1) Except as provided in subsection (2) of this section, a person who willfully violates this part 4 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2) (a) A person who willfully violates section 44-20-423 (2) by acting as a powersports vehicle manufacturer, powersports vehicle distributor, or powersports vehicle manufacturer representative without proper authorization commits a petty offense.

(b) A person who willfully violates section 44-20-423 (2) by acting as a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, or powersports vehicle salesperson without proper authorization commits a petty offense.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 131, § 2, effective October 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3328, § 788, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-6-527 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-20-430. Fines - disposition - unlicensed sales. Of any fine collected for a violation of section 44-20-423 (2), half is awarded to the law enforcement agency that investigated and issued the citation for the violation and half is credited to the auto dealers license fund created in section 44-20-133.

Source: L. 2018: Entire section amended, (HB 18-1105), ch. 28, p. 329, § 3, effective August 8; entire article added with relocations, (SB 18-030), ch. 7, p. 132, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-6-528 as it existed prior to 2018.

(2) This section was numbered as § 12-6-528 in HB 18-1105. That section was harmonized with and relocated to this section as this section appears in SB 18-030.

44-20-431. Drafts or checks not honored for payment - penalties. (1) If a wholesaler, powersports vehicle dealer, or used powersports vehicle dealer issues a draft or check to a wholesaler, powersports vehicle dealer, or used powersports vehicle dealer and fails to honor the draft or check, then the license of the licensee shall be subject to suspension pursuant to section 44-20-420. The license suspension shall be effective upon the date of a final decision against the licensee. A licensee whose license has been suspended pursuant to this subsection (1) shall not

be eligible for reinstatement of the license and shall not be eligible to apply for another license issued under this part 4 unless it is demonstrated to the board that the unpaid draft or check has been paid in full and that any fine imposed on the licensee pursuant to subsection (2) of this section has been paid in full.

(2) A wholesaler, powersports vehicle dealer, or used powersports vehicle dealer that issues a draft or check to a wholesaler, powersports vehicle dealer, or used powersports vehicle dealer and who fails to honor the draft or check, causing loss to a third party, commits a misdemeanor and shall be punished by a fine of two thousand five hundred dollars. Any fine collected for a violation of this subsection (2) shall be awarded to the law enforcement agency that investigated and issued the citation for the violation.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 132, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-529 as it existed prior to 2018.

44-20-432. Right of action for loss. (1) A person has a right of action against the licensed powersports vehicle dealer, used powersports vehicle dealer, or the dealer's powersports salespersons if the person suffers loss or damage by reason of fraud practiced on the person by a dealer or one of the dealer's salespersons acting on the dealer's behalf or within the scope of the employment or suffers loss or damage by reason of the violation by the dealer or salesperson of any provision of this part 4 related to fraud that is designated by the board by rule, whether or not the violation is the basis for denial, suspension, or revocation of a license. The right of a person to recover for loss or damage as provided in this subsection (1) against the dealer or salesperson is not limited to the amount of their respective bonds.

(2) If a person suffers any loss or damage by reason of any unlawful act under section 44-20-423 (1)(a), the person shall have a right of action against the powersports vehicle manufacturer, distributor, or manufacturer representative. In a court action wherein a powersports vehicle manufacturer, distributor, or manufacturer representative has been found liable in damages to any person under this part 4, the amount of damages so determined shall be trebled and shall be recoverable by the person so damaged. Any person so damaged shall also be entitled to recover reasonable attorney fees.

(3) If a licensee suffers loss or damage by reason of an unlawful act under section 44-20-423 (1), the licensee shall have a right of action against the powersports vehicle manufacturer, distributor, or manufacturer representative. In a court action wherein a powersports vehicle manufacturer, distributor, or manufacturer representative has been found liable in damages to a licensee under this part 4, the licensee so damaged shall also be entitled to recover reasonable attorney fees.

(4) A person who suffers loss or damages resulting from fraud may bring a separate action against, and recover from the surety on the bond of, the licensed powersports vehicle dealer, used powersports vehicle dealer, or powersports salesperson if:

(a) The licensed dealer or salesperson has not reimbursed the person for the loss or damages; and

(b) After either:

(I) The board issued a final agency order with a finding of fraud by a licensed dealer or salesperson; or

(II) A court entered judgment upon a claim of fraud by a licensed dealer or salesperson.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 132, § 2, effective October 1. **L. 2020:** (1) amended and (4) added, (SB 20-140), ch. 225, p. 1106, § 7, effective September 14.

Editor's note: This section is similar to former § 12-6-530 as it existed prior to 2018.

44-20-433. Contract disputes - venue - choice of law. (1) In the event of a dispute between a powersports vehicle dealer and a powersports vehicle manufacturer under a franchise agreement, notwithstanding any provision of the agreement to the contrary:

(a) At the option of the powersports vehicle dealer, venue shall be proper in the county or judicial district where the dealer resides or has its principal place of business; and

(b) Colorado law shall govern, both substantively and procedurally.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 133, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-531 as it existed prior to 2018.

44-20-434. Advertisement - inclusion of dealer name. No powersports vehicle dealer or used powersports vehicle dealer or an agent of a dealer shall advertise an offer for the sale, lease, or purchase of a powersports vehicle that creates the false impression that the vehicle is being offered by a private party or that does not contain the name of the dealer or the word "dealer" or, if the name is contained in the offer and does not clearly reflect that the business is a dealer, both the name of the dealer and the word "dealer".

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 133, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-532 as it existed prior to 2018.

44-20-435. Payout exemption to execution. A powersports vehicle dealer's right to receive payments from a manufacturer or distributor required by section 44-20-423 (1)(l) and (1)(r) is not liable to attachment or execution and may not otherwise be seized, taken, appropriated, or applied in a legal or equitable process or by operation of law to pay the debts or liabilities of the manufacturer or distributor. This section shall not prohibit a secured creditor from exercising rights accrued pursuant to a security agreement if the right arose as a result of the manufacturer or distributor voluntarily creating a security interest before paying existing debts or liabilities of the manufacturer or distributor. This section shall not prohibit a manufacturer or distributor from withholding a portion of the payments necessary to cover an amount of money owed to the manufacturer or distributor as an offset to the payments if the manufacturer or distributor provides the motor vehicle dealer written notice thereof.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 133, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-534 as it existed prior to 2018.

44-20-436. Site control extinguishes. If a manufacturer, distributor, or manufacturer representative has terminated, eliminated, or not renewed a franchise agreement containing a site control provision, the powersports vehicle dealer may void a site control provision of a franchise agreement by returning any money the dealer has accepted in exchange for site control prorated by the time remaining before the agreement expires over the time period between the agreement being signed and the agreement expiring. This section does not apply if the termination, elimination, or nonrenewal is for just cause in accordance with section 44-20-423 (1)(d).

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 133, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-535 as it existed prior to 2018.

44-20-437. Modification voidable. If a manufacturer, distributor, or manufacturer representative fails to comply with section 44-20-423 (1)(v)(II), the powersports dealer may void the modification or replacement of the franchise agreement.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 134, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-536 as it existed prior to 2018.

44-20-438. Termination appeal. (1) A powersports vehicle dealer who has reason to believe that a manufacturer, distributor, or manufacturer representative has violated section 44-20-423 (1)(d) or (1)(v) may appeal to the board by filing a complaint with:

(a) The executive director; or

(b) A district court if neither the executive director nor the administrative law judge, appointed in accordance with this section, holds a hearing concerning the complaint within sixty days after the complaint was filed.

(2) Upon filing a verified complaint alleging with specific facts that a violation has occurred under this section, the termination, elimination, modification, or nonrenewal of the franchise agreement is automatically stayed, without the motor vehicle dealer posting a bond, until a final determination is made on each issue raised in the complaint; except that the executive director, administrative law judge, or court may cancel the stay upon finding that the cancellation, termination, or nonrenewal of the franchise agreement was for any of the reasons specified in section 44-20-423 (1)(d)(III). The automatic stay maintains all rights under the franchise agreement until the final determination of the issues raised in the verified complaint. The manufacturer, distributor, or manufacturer representative shall not name a replacement motor vehicle dealer for the market or location until a final order is entered.

(3) If a verified complaint is filed with the executive director, the executive director shall refer the complaint to an administrative law judge with the office of administrative courts for final agency action.

(4) In resolving a termination complaint, the manufacturer, distributor, or manufacturer representative has the burden of proving any claim made that the factors listed in section 44-20-423 (1)(d)(II) apply to the termination, cancellation, or nonrenewal.

(5) The prevailing party in a claim that a termination, cancellation, or nonrenewal violates section 44-20-423 (1)(d) or (1)(v) is entitled to recover attorney fees and costs, including expert witness fees, incurred in the termination protest.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 134, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-537 as it existed prior to 2018.

44-20-439. Stop-sale directives - used powersports vehicles - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Average trade-in value" means the value of a used powersports vehicle as established by a generally accepted, published, third-party used vehicle resource.

(b) "Stop-sale directive" means an unconditional directive from a manufacturer or distributor to a powersports vehicle dealer to stop selling a type of powersports vehicle manufactured by the manufacturer or distributed by the distributor because of a safety defect.

(2) The manufacturer or distributor shall reimburse a powersports vehicle dealer in accordance with subsection (3) of this section if:

(a) The manufacturer or distributor issues a stop-sale directive for a powersports vehicle manufactured or distributed by the issuer of the stop-sale directive;

(b) The powersports vehicle dealer holds an active sales, service, and parts agreement with the manufacturer or distributor for the line-make of the used powersports vehicle covered by the stop-sale directive;

(c) The used powersports vehicle covered by the stop-sale directive is held in the inventory of the powersports vehicle dealer on the date the stop-sale directive is issued or taken by the dealer as a trade-in vehicle on a consumer purchase of the same line-make; and

(d) The manufacturer or distributor has not provided a remedy procedure or made parts available to repair the used powersports vehicle for more than thirty days after the stop-sale directive was issued.

(3) If the conditions in subsection (2) of this section are met, the manufacturer or distributor shall, upon application by the powersports vehicle dealer, pay or credit the dealer one and one-half percent per month of the average trade-in value of each used powersports vehicle's model affected by the stop-sale directive prorated from thirty days after the stop-sale directive was issued to the earlier of:

(a) The date when the manufacturer or distributor provides the powersports vehicle dealer with a remedy procedure and any necessary parts for ordering to repair the used powersports vehicle; or

(b) The date the powersports vehicle dealer transfers the powersports vehicle.

(4) A manufacturer or distributor may determine the reasonable manner and method required for a powersports vehicle dealer to demonstrate the inventory status of a used powersports vehicle to determine eligibility for reimbursement.

(5) (a) This section applies only to used powersports vehicles.

(b) This section is not intended to prevent a manufacturer or distributor from requiring that a powersports vehicle not be subject to an open recall or stop-sale directive as a condition for the powersports vehicle to be qualified or sold as a certified preowned vehicle or substantially similar designation.

(c) This section does not require a manufacturer or distributor to provide total compensation to a powersports vehicle dealer that would exceed the total average trade-in valuation of the affected used powersports vehicle.

(d) This section does not preclude a powersports vehicle dealer and a manufacturer or distributor from agreeing to reimbursement terms that differ from those specified in this section.

(e) Compensation provided to a powersports vehicle dealer under this section is exclusive and may not be combined with any other remedy under state or federal law.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 134, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-538 as it existed prior to 2018.

44-20-439.5. Fulfillment and compensation for warranty and recall obligations - definitions. (1) As used in this section:

(a) "Manufacturer" means a powersports vehicle manufacturer, a powersports vehicle distributor, and a powersports vehicle manufacturer representative.

(b) "Nonwarranty repair" means a diagnosis, repair, labor, or part for which payment was made by a person other than a manufacturer and that was not a warranty obligation. "Nonwarranty repair" also means customer-pay repairs, labor, or parts.

(c) "Part" means an accessory, a part, or a component used to repair a powersports vehicle. "Part" includes engine and transmission parts and all powersports vehicle assemblies.

(d) "Repair" means diagnosing, work, and labor performed by a powersports vehicle dealer for which the powersports vehicle dealer is making a claim for compensation.

(e) "Retail labor rate" means the rate for labor calculated by the powersports vehicle dealer in accordance with subsection (4) of this section that a manufacturer is required to pay a powersports vehicle dealer in accordance with subsection (2) of this section.

(f) "Retail parts markup percentage" means the percentage markup on parts calculated by the powersports vehicle dealer in accordance with subsection (4) of this section that a manufacturer is required to pay a powersports vehicle dealer in accordance with subsection (2) of this section.

(g) "Warranty obligation" means diagnosing and repairing a powersports vehicle in accordance with any warranty, recall, or certified preowned warranty, under which a manufacturer makes a repair commitment to a consumer or powersports vehicle dealer.

(2) At a powersports vehicle dealer's request, a manufacturer shall timely compensate the powersports vehicle dealer at the retail labor rate and the retail parts markup percentage in accordance with subsection (3) of this section for all labor performed and parts used by the

powersports vehicle dealer for covered repairs performed in accordance with the warranty obligation, if the retail labor rate and retail parts markup percentage are reasonable and consistent with the requirements of this section that concern the retail labor rate and parts markup percentage.

(3) (a) A powersports vehicle dealer may establish the retail labor rate and the retail parts markup percentage by submitting to the manufacturer either of the following as decided by the powersports vehicle dealer:

(I) One hundred sequential repair orders containing nonwarranty repairs, which may include a nonwarranty repair that is included in a repair order with a warranty obligation repair, that have been paid by a consumer and closed by the time of submission; or

(II) All repair orders for nonwarranty repairs, which may include a nonwarranty repair that is included in a repair order with warranty obligation repair, that have been paid by a consumer and closed by the time of submission for a period of ninety consecutive days.

(b) A manufacturer shall not disqualify a repair order under this subsection (3) because the repair order contains both warranty and nonwarranty repairs, but only nonwarranty repairs are used in the calculation of the retail labor rate and the retail parts markup percentage.

(c) A powersports vehicle dealer may submit one set of repair orders for the purpose of calculating both its retail labor rate and the retail parts markup percentage or may submit separate sets of repair orders for purposes of calculating only its retail labor rate or for purposes of calculating only its retail parts markup percentage. If the rates from the calculation are ten percent higher or lower than the current rates, the manufacturer may request additional repair orders for the ninety days before or after the submitted repair orders for purposes of alteration.

(d) Except with regard to a request for additional repair orders as provided in subsection (3)(c) of this section, the repair orders submitted under this subsection (3) to determine the retail labor rate must contain only repair orders from the last ninety days before the date the submission is sent to the manufacturer.

(e) Except with regard to a request for additional repair orders as provided in subsection (3)(c) of this section, the repair orders submitted under this subsection (3) to determine the retail parts markup percentage must contain only repair orders from the last ninety days before the date the submission is sent to the manufacturer.

(4) (a) Except as provided in subsection (4)(c) of this section, to calculate the retail labor rate, the powersports vehicle dealer must divide the powersports vehicle dealer's total nonwarranty labor sales generated from the nonwarranty repairs submitted under subsection (3) of this section by the total number of labor hours that generated those total labor sales.

(b) Except as provided in subsection (4)(c) of this section, to calculate the retail parts markup percentage, the powersports vehicle dealer must divide the powersports vehicle dealer's total parts sales generated from nonwarranty repairs submitted under subsection (3) of this section by the amount of the powersports vehicle dealer's total cost for those parts, subtracting one from this amount, and then multiplying the amount by one hundred.

(c) The calculation of the retail labor rate in subsection (4)(a) of this section and of the retail parts markup percentage in subsection (4)(b) of this section do not include parts used or labor performed:

(I) For manufacturer or powersports vehicle dealer special events, one-time specials, express service, and quoted-price promotional discounts, but this exclusion from the calculation

does not include broadly applicable discounts offered by the dealer, such as percentage-off coupons, that apply to repairs and parts;

(II) For parts sold at wholesale;

(III) For routine maintenance, including replacement fluids, filters, batteries, bulbs, nuts, bolts, fasteners, tires, and belts;

(IV) That do not have individual part numbers;

(V) For the repairs of a powersports vehicle owned by the powersports vehicle dealer, an affiliate of the powersports vehicle dealer, or an employee of either the powersports vehicle dealer or the affiliate;

(VI) For powersports vehicle dealer reconditioning;

(VII) For window tint, protective film, masking products, or window replacement labor;

(VIII) For manufacturer-approved and -reimbursed goodwill repairs or replacements;

(IX) For emission inspections required by law;

(X) For safety inspections required by law;

(XI) For which a volume discount was negotiated with a third-party payer, including government agencies, insurance carriers, and fleet operators, but not including third-party warranty companies or service contract companies.

(5) (a) Notwithstanding any manufacturer requirement, policy, procedure, guideline, or standard, a powersports vehicle dealer may submit to the manufacturer the retail labor rate or retail parts markup percentage as each is calculated in accordance with subsection (4) of this section.

(b) A powersports vehicle dealer may request in writing, not more often than once annually, an increase in compensation for labor at the retail labor rate for warranty obligations.

(c) A powersports vehicle dealer may request in writing, not more often than once annually, an increase in compensation for parts at the retail parts markup percentage for warranty obligations.

(d) (I) A manufacturer may conduct a periodic review of a powersports vehicle dealer's service records to verify the continuing accuracy of the retail labor rate or retail parts markup percentage proposed by or in effect for the dealer.

(II) A manufacturer shall not conduct a periodic review more than once per calendar year. This periodic review is not an audit in accordance with section 44-20-135.

(6) (a) (I) If the submitted calculation of the retail labor rate or retail parts markup percentage is materially inaccurate or is substantially different than the rate of or percentage of other similarly situated same line-make dealers within the state, a manufacturer may contest the powersports vehicle dealer's submitted calculations of the retail labor rate or retail parts markup percentage by delivering a notice to the powersports vehicle dealer within forty-five days after receiving the submission in accordance with subsection (3) of this section from the powersports vehicle dealer. To comply with this subsection (6), the notice must:

(A) Include an explanation of the reasons that the manufacturer believes the calculation is subject to contest;

(B) Provide evidence substantiating the manufacturer's position; and

(C) Propose an adjustment of the contested retail labor rate or retail parts markup percentage.

(II) Upon the discovery of new relevant information by the manufacturer, the manufacturer may modify the grounds for contesting the retail labor rate or retail parts markup

percentage after delivering the notice to the powersports vehicle dealer under this subsection (6), but the modification does not change the timing requirements in this section.

(b) If the manufacturer does not timely contest the powersports vehicle dealer's calculation of the retail labor rate or retail parts markup percentage in accordance with this subsection (6), the uncontested retail labor rate or retail parts markup percentage becomes effective forty-five days after the manufacturer has received the submission from the powersports vehicle dealer, and thereafter, the manufacturer shall use the powersports vehicle dealer's increased retail labor rate and retail parts markup percentage in calculating compensation for warranty obligations until a subsequent calculation of the powersports vehicle dealer's retail labor rate or retail parts markup percentage is established in accordance with this section.

(c) (I) If the manufacturer timely contests the powersports vehicle dealer's calculation of the retail labor rate or retail parts markup percentage and the manufacturer and powersports vehicle dealer are unable to resolve the disagreement, the powersports vehicle dealer may seek a determination by filing a complaint with a court of competent jurisdiction or the executive director no later than sixty days after the new powersports vehicle dealer receives the manufacturer's challenge to the determined retail labor rate or retail parts markup percentage.

(II) In a court proceeding, the court shall determine, in accordance with this section, the proper retail labor rate or retail parts markup percentage.

(III) Any retail labor rate or retail parts markup percentage established through the proceeding applies retroactively to calculate reimbursement for any labor and part beginning thirty days after the manufacturer received the submission required by subsection (3) of this section.

(IV) If the manufacturer contests the powersports vehicle dealer's calculation of the retail labor rate or retail parts markup percentage, the manufacturer shall continue to reimburse the powersports vehicle dealer for warranty obligation repairs at the retail labor rate and retail parts markup percentage as both existed before the powersports vehicle dealer submitted a request for an increase under subsection (5) of this section. When the manufacturer and powersports vehicle dealer agree on the retail labor rate or retail parts markup percentage, the manufacturer shall pay any difference between the amount the manufacturer compensated the dealer and the amount agreed to by the powersports vehicle dealer and manufacturer as of thirty days after the manufacturer received the submission required by subsection (3) of this section.

(d) In the court proceeding, the court shall award the prevailing party reasonable attorney fees and costs. If the powersports vehicle dealer prevails, the court shall award as damages the full amount of reimbursement that should have been paid to the powersports vehicle dealer.

(7) When calculating the retail labor rate and the retail parts markup percentage, the manufacturer:

(a) Shall not establish an unreasonable flat-rate time, nor establish unreasonable flat-rate labor times for new line-makes that are inconsistent with the existing rates;

(b) Shall, if the manufacturer furnishes a part to a powersports vehicle dealer at no cost for use in performing a repair under a warranty obligation, compensate the powersports vehicle dealer for the authorized repair part by paying the dealer an amount equal to the retail parts markup percentage multiplied by the cost the dealer would have paid for the authorized part as listed in the manufacturer's price schedule;

(c) Shall not establish a different part number for repairs made in accordance with a warranty obligation than the part number established for nonwarranty repairs solely to provide a lower compensation to a powersports vehicle dealer;

(d) Shall not recover or attempt to recover, directly or indirectly, in whole or in part, any of its costs from the powersports vehicle dealer for compensating the powersports vehicle dealer under this section;

(e) Shall not, directly or indirectly, in whole or in part, assess penalties or surcharges to the powersports vehicle dealer, limit allocation of powersports vehicles or parts to the powersports vehicle dealer, or take any adverse action based on the powersports vehicle dealer's exercise of the dealer's rights under this section;

(f) Shall not require from a powersports vehicle dealer any information that is unduly burdensome or time consuming to obtain, including any part-by-part or transaction-by-transaction calculations.

(8) Nothing in this section prohibits a manufacturer from increasing the price of a powersports vehicle or powersports vehicle part in the normal course of business.

Source: L. 2018: Entire section added, (SB 18-219), ch. 330, p. 1983, § 4, effective October 1.

Editor's note: This section was numbered as § 12-6-538.5 in SB 18-219. That section was harmonized with SB 18-030 and relocated to this section.

44-20-440. Repeal of part. This part 4 is repealed, effective September 1, 2027. Before its repeal, this part 4 is scheduled for review in accordance with section 24-34-104.

Source: L. 2018: Entire article added with relocations, (SB 18-030), ch. 7, p. 136, § 2, effective October 1.

Editor's note: This section is similar to former § 12-6-539 as it existed prior to 2018.

GAMING AND RACING

ARTICLE 30

Colorado Limited Gaming Act

Editor's note: This article 30 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 30, see the comparative tables located in the back of the index.

Law reviews: For article, "Limited Gaming is Now a Reality", 20 Colo. Law. 2239 (1991).

PART 1

GENERAL PROVISIONS

44-30-101. Short title. The short title of this article 30 is the "Limited Gaming Act of 1991".

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 168, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-101 as it existed prior to 2018.

44-30-102. Legislative declaration. (1) The general assembly hereby finds, determines, and declares it to be the public policy of this state that:

(a) The success of limited gaming is dependent upon public confidence and trust that licensed limited gaming is conducted honestly and competitively; that the rights of the creditors of licensees are protected; and that gaming is free from criminal and corruptive elements;

(b) Public confidence and trust can be maintained only by strict regulation of all persons, locations, practices, associations, and activities related to the operation of licensed gaming establishments and the manufacture or distribution of gaming devices and equipment;

(c) All establishments where limited gaming is conducted and where gambling devices are operated and all manufacturers, sellers, and distributors of certain gambling devices and equipment must therefore be licensed, controlled, and assisted to protect the public health, safety, good order, and the general welfare of the inhabitants of the state to foster the stability and success of limited gaming and to preserve the economy and policies of free competition of the state of Colorado;

(d) No applicant for a license or other affirmative commission approval has any right to a license or to the granting of the approval sought. Any license issued or other commission approval granted pursuant to the provisions of this article 30 is a revocable privilege, and no holder acquires any vested right therein or thereunder.

(2) It is the intent of the general assembly that, to achieve the goals set forth in subsection (1) of this section, the commission should place great weight upon the policies expressed in said subsection (1) in construing the provisions of this article 30.

(3) The general assembly further finds, determines, and declares that:

(a) When, in 2018, the United States supreme court held in *Murphy v. National Collegiate Athletic Association,* 138 S. Ct. 1461, that there existed no current federal impediment to an individual state's authority to legalize sports betting, but that such an effort was subject only to that state's own constitutional limits on that authority, Colorado had the option to expand the responsibilities of the limited gaming control commission created in this article 30 to include sports betting;

(b) Expansion of the commission's role in this way is appropriate, given the commission's experience in regulating limited gaming since 1991 and its track record of competent, evenhanded, and efficient discharge of the duties entrusted to it by Colorado's voters under section 9 of article XVIII of the state constitution;

(c) The general assembly intends, through passage of House Bill 19-1327, enacted in 2019, to incorporate sports betting seamlessly into the regulatory and taxing system established for limited gaming under this article 30 in a manner that honors the voters' intent in adopting

section 9 of article XVIII of the state constitution and has done so through enactment of a referred measure requiring statewide approval;

(d) It is appropriate, and the general assembly intends, that after the incorporation of sports betting into this article 30 on May 1, 2020, no further expansion of sports betting nor authorization of any new or expanded class of licensees be made except with the approval of Colorado voters through legislation or constitutional amendments that are submitted to a statewide vote; and

(e) The success of sports betting is dependent upon public confidence and trust that activities related to sports betting are conducted honestly and competitively; that the rights of the creditors of licensees are protected; and that sports betting is free from criminal and corruptive elements. Public confidence and trust can be maintained only by strict regulation of sports betting.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 169, § 2, effective October 1. **L. 2019:** (3) added, (HB 19-1327), ch. 347, p. 3209, § 1, effective May 1, 2020.

Editor's note: (1) This section is similar to former § 12-47.1-102 as it existed prior to 2018.

(2) Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that changes to this section take effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-103. Definitions. As used in this article 30, unless the context otherwise requires:

(1) "Adjusted gross proceeds", except with respect to games of poker, means the total amount of all wagers made by players on limited gaming less all payments to players; and payment to players shall include all payments of cash premiums, merchandise, tokens, redeemable game credits, or any other thing of value. With respect to games of poker, "adjusted gross proceeds" means any sums wagered in a poker hand that may be retained by the licensee as compensation and are consistent with the minimum and maximum amounts established by the Colorado limited gaming control commission.

(2) "Applicant" means any person who has applied for a license or registration under this article 30 or who has applied for permission to engage in any act or activity that is regulated by this article 30.

(3) (a) "Associated equipment" means a device, piece of equipment, or system used remotely or directly in connection with gaming or any game. The term includes a device, piece of equipment, or system used to monitor, collect, or report gaming transactions data or to calculate adjusted gross proceeds and gaming taxes.

(b) "Associated equipment" does not include equipment that meets the definition of a "gaming device" or "gaming equipment" in subsection (13) of this section.

(4) "Associated equipment supplier" means a person who imports, manufactures, distributes, or otherwise provides associated equipment for use in Colorado. The term does not include a person licensed as a slot machine manufacturer or distributor under part 5 of this article 30.

(5) "Bet" means an amount placed as a wager in a game of chance or on a sports event, as defined in section 44-30-1501 (12).

(6) "Blackjack" means a banking card game commonly known as "21" or "blackjack" in which each player bets against the dealer. The object is to draw cards whose value will equal or approach twenty-one without exceeding that amount and win amounts bet, payable by the dealer, if the player holds cards more valuable than the dealer's cards.

(7) "Certified local government" means any local government certified by the state historic preservation officer pursuant to the provisions of 54 U.S.C. sec. 302503.

(8) "Commission" means the Colorado limited gaming control commission.

(9) "Crane game" means an amusement machine that, upon insertion of a coin, bill, token, or similar object, allows the player to use one or more buttons, joysticks, or other controls to maneuver a crane or claw over a nonmonetary prize, toy, or novelty, none of which shall have a cost of more than twenty-five dollars, and then, using the crane or claw, to attempt to retrieve the prize, toy, or novelty for the player.

(10) "Craps" means a game played by one or more players against a casino using two dice, in which players bet upon the occurrence of specific combinations of numbers shown by the dice on each throw.

(11) "Director" means the director of the division of gaming.

(12) "Division" means the division of gaming.

(13) "Gaming device" or "gaming equipment" means any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used remotely or directly in connection with gaming or any game. The term includes a system for processing information that can alter the normal criteria of random selection affecting the operation, or determining the outcome, of a game. The term includes a physical or electronic version of a slot machine, poker table, blackjack table, craps table, roulette table, dice, and the cards used to play poker and blackjack.

(14) "Gaming employee" means any person employed by an operator or retailer hosting gaming to work directly with the gaming portion of the operator's or retailer's business, who shall be twenty-one years of age or older and hold a support license. Persons deemed to be gaming employees shall include, but shall not be limited to:

(a) Dealers;

(b) Change and counting room personnel;

(c) Cashiers;

(d) Floormen;

(e) Cage personnel;

(f) Slot machine repairmen or mechanics;

(g) Persons who accept or transport gaming revenues;

(h) Security personnel;

(i) Shift or pit bosses;

(j) Floor managers;

(k) Supervisors;

(l) Slot machine and slot booth personnel;

(m) Any person involved in the handling, counting, collecting, or exchanging of money, property, checks, credit, or any representative of value, including, without limitation:

(I) Any coin, token, chip, cash premium, merchandise, redeemable game credits, or any other thing of value; or

(II) The payoff from any game, gaming, or gaming device;

(n) Craps table personnel and roulette table personnel; and

(o) Any other persons that the commission shall by rule determine.

(15) "Gaming license" means any license issued by the commission pursuant to this article 30 that authorizes any person to engage in gaming within the cities of Central, Black Hawk, or Cripple Creek.

(16) "Immediate family" means a person's spouse and any children actually living with the person.

(17) "Key employee" means any executive, employee, or agent of a gaming licensee or sports betting licensee having the power to exercise a significant influence over decisions concerning any part of the operation of the gaming licensee or sports betting licensee.

(18) "Licensed gaming establishment" means any premises licensed pursuant to this article 30 for the conduct of gaming.

(19) "Licensed premises" means that portion of any premises licensed for the conduct of limited gaming. Nothing pursuant to this subsection (19) shall be construed to prohibit the affected local governing authority from otherwise determining the size of any building. In no event shall the licensed premises exceed thirty-five percent of the square footage of any building and no more than fifty percent of any one floor of the building.

(20) "Licensee" means any person licensed under this article 30.

(21) "Licensing authority" means the Colorado limited gaming control commission.

(22) "Limited card games and slot machines", "limited gaming", or "gaming" means physical and electronic versions of slot machines, craps, roulette, and the card games of poker and blackjack authorized by this article 30, as well as such other games as are approved by the voters of Central, Black Hawk, or Cripple Creek at a local election held in each city to control the conduct of gaming in that jurisdiction, and defined and regulated by the commission, each game having a maximum single bet as approved by the voters of Central, Black Hawk, or Cripple Creek at a local election held in each city to control the conduct of gaming in that jurisdiction.

(23) "Operator" means any person who places slot machines upon the person's business premises or any person who, individually or jointly, pursuant to an agreement whereby consideration is paid for the right to place slot machines on another's business premises, engages in the business of placing and operating slot machines on retail premises within the cities of Central, Black Hawk, or Cripple Creek.

(24) "Person" means an individual, partnership, business trust, government or governmental subdivision or agency, estate, association, trust, for profit corporation, nonprofit corporation, organization, or any other legal entity or a manager, agent, servant, officer, or employee thereof.

(25) (a) "Poker" means a card game played by a player or players who are dealt cards by a dealer. The object of the game is:

(I) For each player to bet the superiority of such player's hand and win the other players' bets by either making a bet no other player is willing to match or proving to hold the most valuable cards after all the betting is over; or

(II) For each player, whether by reason of the skill of the player or application of the element of chance, or both, to hold a poker hand entitled to a monetary or premium return based upon a publicly available pay schedule.

(b) In a variation of poker in which there can be more than one winning hand and the dealer's participation is necessary or desirable to improve the game for players other than the dealer, the dealer may play, but under no circumstances may the dealer place a wager in any game in which he or she is dealing. A game in which the player holding the highest-scoring hand splits his or her winnings with the player holding the lowest-scoring hand does not qualify as a "variation of poker in which there can be more than one winning hand" for purposes of this subsection (25)(b).

(26) "Repeating gambling offender" shall have the same meaning as set forth in section 18-10-102 (9).

(27) "Retailer" means any licensee who maintains gaming at his or her place of business within the cities of Central, Black Hawk, or Cripple Creek for use and operation by the public.

(28) "Retail space" means the area where a retailer's business is principally conducted.

(29) "Roulette" means a game in which a ball is spun on a rotating wheel and drops into a numbered slot on the wheel, and bets are placed on which slot the ball will come to rest in.

(30) (a) "Slot machine" means any mechanical, electrical, video, electronic, or other device, contrivance, or machine which, after insertion of a coin, token, or similar object, or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and that, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens, or redeemable game credits, or any other thing of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner.

(b) "Slot machine" does not include:

(I) A vintage slot machine model that:

(A) Was introduced on the market before 1984;

(B) Does not contain component parts manufactured in 1984 or thereafter; and

(C) Is not used for gambling purposes or in connection with limited gaming; or

(II) Crane games.

(31) "Slot machine distributor" means any person who imports into this state, or first receives in this state, slot machines, or who sells, leases, for a fixed or flat fee, or distributes slot machines in this state; except that "slot machine distributor" does not include operators licensed in this state.

(32) "Slot machine manufacturer" means any person who designs, assembles, fabricates, produces, constructs, or otherwise prepares a complete or component part of a slot machine, other than tables or cabinetry; except that "slot machine manufacturer" does not include licensed operators performing incidental repairs on their own slot machines or slot machines leased or distributed by them. A licensed slot machine manufacturer may sell slot machines, or components of slot machines, of its own manufacture to licensed slot machine distributors or

operators. A licensed manufacturer may also import those slot machine parts or components necessary for its manufacturing operations.

(32.5) "Sports betting" means placing one or more bets in a sports betting operation, as defined in section 44-30-1501 (10).

(33) "Suitability" or "suitable" means, in relation to a person, the ability to be licensed by the commission and, in relation to acts or practices, lawful acts or practices.

(34) "Unsuitability or unsuitable" means, in relation to a person, the inability to be licensed by the commission because of prior acts, associations, or financial conditions, and, in relation to acts or practices, those that violate or would violate the statutes or rules or are or would be contrary to the declared legislative purposes of this article 30.

(35) "Within the cities of Central, Black Hawk, or Cripple Creek" means within the commercial district of any of those cities as specified in section 44-30-105.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 169, § 2, effective October 1. **L. 2019:** (5) and (17) amended and (32.5) added, (HB 19-1327), ch. 347, p. 3210, § 2, effective May 1, 2020. **Initiated 2020:** (22) amended, Amendment 77, effective May 1, 2021. See L. 2021, p. 4210. **L. 2021:** (6) amended, (HB 21-1296), ch. 386, p. 2585, § 1, effective June 30.

Editor's note: (1) This section is similar to former § 12-47.1-103 as it existed prior to 2018.

(2) Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that changes to this section take effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

(3) Subsection (22) was amended by Amendment 77, effective May 1, 2021. The proclamation of the governor was December 31, 2020. The vote count for the measure at the general election held November 3, 2020, was as follows:

FOR: 1,854,153
AGAINST: 1,208,414

44-30-104. Limited gaming - sports betting - authorization - regulation. Limited gaming and sports betting are hereby authorized and may be operated and maintained subject to this article 30. All limited gaming and sports betting authorized by this article 30 is subject to regulation by the commission.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 174, § 2, effective October 1. **L. 2019:** Entire section amended, (HB 19-1327), ch. 347, p. 3210, § 3, effective May 1, 2020.

Editor's note: (1) This section is similar to former § 12-47.1-104 as it existed prior to 2018.

(2) Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that changes to this section take effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-105. Limited gaming - cities - commercial districts. Limited gaming shall take place only in the following existing Colorado cities: The city of Central, county of Gilpin; the city of Black Hawk, county of Gilpin; and the city of Cripple Creek, county of Teller. Limited gaming shall be further confined to the commercial districts of said cities as said districts are respectively defined in the city ordinances adopted by the city of Central on October 7, 1981; the city of Black Hawk on May 4, 1978; and the city of Cripple Creek on December 3, 1973.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 174, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-105 as it existed prior to 2018.

44-30-106. Exceptions. (1) Nothing in this article 30 shall be construed in any way to affect or interfere with the regulation of bingo and raffles by the office of the secretary of state.

(2) Nothing contained in this article 30 shall be construed to modify, amend, or otherwise affect the validity of any provisions contained in article 10 of title 18.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 174, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-106 as it existed prior to 2018.

PART 2

DIVISION OF GAMING

44-30-201. Division of gaming - creation. (1) There is hereby created, within the department, the division of gaming, the head of which is the director of the division of gaming. The director is appointed by, and is subject to removal by, the executive director. The division of gaming, the Colorado limited gaming control commission created in section 44-30-301, and the director of the division of gaming shall exercise their respective powers and perform their respective duties and functions as specified in this article 30 under the department as if they were transferred to the department by a **type 2** transfer, as the transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24; except that the commission has

full and exclusive authority to promulgate rules related to limited gaming and sports betting without any approval by, or delegation of authority from, the department. Notwithstanding any provision of this subsection (1) to the contrary, sports betting is not authorized unless the voters at the November 2019 statewide election approve the ballot question submitted pursuant to section 44-30-1514, enacted in 2019 in House Bill 19-1327.

(2) Repealed.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 174, § 2, effective October 1. **L. 2019:** Entire section amended, (HB 19-1327), ch. 347, p. 3210, § 4, effective August 2.

Editor's note: (1) This section is similar to former § 12-47.1-201 as it existed prior to 2018.

(2) Subsection (2)(b) provided for the repeal of subsection (2), effective July 1, 2020. (See L. 2019, p. 3211.)

44-30-202. Functions of division - repeal. (1) The functions of the division are to license, implement, regulate, and supervise the conduct in this state of:

(a) Limited gaming as authorized by section 9 of article XVIII of the state constitution; and

(b) (I) Sports betting as authorized by part 15 of this article 30.

(II) This subsection (1)(b) is repealed, effective September 1, 2020, if the voters at the November 2019 statewide election do not approve the question described in section 44-30-1514 and the governor issues an official declaration of the vote thereon.

(2) Notwithstanding any provision of this section to the contrary, sports betting is not authorized unless the voters at the November 2019 statewide election approve the ballot question submitted pursuant to section 44-30-1514, enacted in 2019 in House Bill 19-1327.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 175, § 2, effective October 1. **L. 2019:** Entire section amended, (HB 19-1327), ch. 347, p. 3211, § 5, effective August 2.

Editor's note: (1) This section is similar to former § 12-47.1-202 as it existed prior to 2018.

(2) The ballot question referred to in subsection (2) was approved by the voters on November 5, 2019, and the vote was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-203. Director - qualification - powers and duties. (1) The director shall:

(a) Be qualified by training and experience to direct the work of the division;

(b) Be of good character and shall not have been convicted of any felony or gambling-related offense, notwithstanding the provisions of section 24-5-101;

(c) Not be engaged in any other profession or occupation that could present a conflict of interest to the director's duties as director of the division; and

(d) Direct and supervise the administrative and technical activities of the division.

(2) In addition to the duties imposed upon the director elsewhere in this part 2 and in parts 15 and 16 of this article 30, the director shall:

(a) Supervise and administer the operation of the division, limited gaming, and sports betting in accordance with this article 30 and the rules of the commission;

(a.5) Supervise and administer the regulation of fantasy contest operators in accordance with part 16 of this article 30, including the establishment of fees for registration of small fantasy contest operators under section 44-30-1605 and fees for licensing, renewal, and reinstatement of licenses of fantasy contest operators under section 44-30-1606;

(b) Attend meetings of the commission or appoint a designee to attend in the director's place;

(c) (I) Employ and direct any personnel as may be necessary to carry out the purposes of this article 30, but no person shall be employed who has been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101.

(II) The director, with the approval of the commission, may enter into agreements with any department, agency, or unit of state government to secure services that the director deems necessary and to provide for the payment for the services and may employ and compensate the consultants and technical assistants as may be required and as otherwise permitted by law.

(d) Confer with the commission as necessary or desirable, but not less than once each month, with regard to the operation of the division;

(e) Make available for inspection by the commission or any member of the commission, upon request, all books, records, files, and other information and documents in the director's office;

(f) Advise the commission and recommend to the commission any rules and other procedures as the director deems necessary and advisable to improve the operation of the division and the conduct of limited gaming or sports betting;

(g) With the concurrence of the commission or pursuant to commission requirements and procedures, enter into contracts for materials, equipment, and supplies to be used in the operation of the division;

(h) Make a continuous study and investigation of the operation and the administration of similar laws that may be in effect in other states or countries; of any literature on gaming or sports betting that from time to time may be published or available; and of any federal laws that may affect the operation of the division, the conduct of limited gaming or sports betting, or the reaction of Colorado citizens to limited gaming or sports betting with a view to recommending or effecting changes that would serve the purposes of this article 30;

(i) (I) Furnish to the commission a monthly report that contains a full and complete statement of the division's revenue and expenses for each month.

(II) All reports required by this subsection (2)(i) shall be public, and copies of all the reports shall be sent to the governor, the speaker of the house of representatives, the president of the senate, the minority leaders of both houses, and the executive director.

(j) Annually prepare and submit to the commission, for its approval, a proposed budget for the next succeeding fiscal year, setting forth a complete financial plan for all proposed expenditures and anticipated revenues of the division;

(k) Take any action as may be determined by the commission to be necessary to protect the security and integrity of limited gaming or sports betting; and

(l) Perform any other lawful acts that the commission may consider necessary or desirable in order to carry out the purposes and provisions of this article 30.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 175, § 2, effective October 1. **L. 2019:** IP(2), (2)(a), (2)(f), (2)(h), and (2)(k) amended, (HB 19-1327), ch. 347, p. 3211, § 6, effective May 1, 2020. **L. 2020:** IP(2) amended and (2)(a.5) added, (HB 20-1286), ch. 269, p. 1313, § 12, effective July 10.

Editor's note: (1) This section is similar to former § 12-47.1-203 as it existed prior to 2018.

(2) Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that changes to this section take effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-204. Investigator - peace officers. (1) All investigators of the division and their supervisors, including the director and the executive director, have all the powers of any peace officer to:

(a) Make arrests, with or without warrant, for any violation of this article 30, article 20 of title 18, or the rules promulgated pursuant to this article 30, any other laws or rules pertaining to the conduct of limited gaming or sports betting in this state, or any criminal law of this state, if, during an officer's exercise of powers or performance of duties under this section, probable cause is established that a violation of any said law or rule has occurred;

(b) Inspect, examine, investigate, hold, or impound any premises where limited gaming or sports betting is conducted, any devices or equipment designed for or used in limited gaming or sports betting, and any books and records in any way connected with any limited gaming or sports betting activity;

(c) Require any person licensed pursuant to this article 30, upon demand, to permit an inspection of his or her licensed premises, gaming equipment and devices, or books or records; and to permit the testing and the seizure for testing or examination purposes of all devices, equipment, and books and records;

(d) Serve all warrants, notices, summonses, or other processes relating to the enforcement of laws regulating limited gaming or sports betting;

(e) Serve distraint warrants issued by the department pertaining to limited gaming or sports betting;

(f) Conduct investigations into the character, record, and reputation of all applicants for limited gaming or sports betting licenses, all licensees, and any other persons as the commission may determine pertaining to limited gaming or sports betting;

(g) Investigate violations of all the laws pertaining to limited gaming, sports betting, and activities related to both;

(h) Assist or aid any sheriff or other peace officer in the performance of his or her duties upon the sheriff's or peace officer's request or the request of other local officials having jurisdiction.

(2) Criminal violations of this article 30 discovered during an authorized investigation or discovered by the commission shall be referred to the appropriate district attorney.

(3) The investigators of the division, including the director of the division, shall be considered peace officers, as described in sections 16-2.5-101 and 16-2.5-123. The executive director shall be considered a peace officer as described in sections 16-2.5-101 and 16-2.5-121.

(4) Nothing in this section shall be construed to prohibit local sheriffs, police departments, and other local law enforcement agencies from enforcing the provisions of this article 30, and the rules promulgated pursuant to this article 30, or from performing their other duties to the full extent permitted by law. All sheriffs, police officers, district attorneys, and other local law enforcement agencies shall have all the powers set forth in subsection (1) of this section.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 176, § 2, effective October 1. **L. 2019:** IP(1), (1)(a), (1)(b), and (1)(d) to (1)(g) amended, (HB 19-1327), ch. 347, p. 3212, § 7, effective May 1, 2020.

Editor's note: (1) This section is similar to former § 12-47.1-204 as it existed prior to 2018.

(2) Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that changes to this section take effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-205. Division of gaming - access to records. The division of gaming, for purposes of this article 30, shall have full authority to procure, at the expense of the division, any records furnished to or maintained by any law enforcement agency in the United States, including state and local law enforcement agencies in Colorado and other states for the purposes of carrying out its responsibilities pursuant to this article 30. Upon request from the Colorado bureau of investigation, the division shall provide copies of any and all information obtained pursuant to this article 30.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 178, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-205 as it existed prior to 2018.

44-30-206. Repeal of division - review of functions. Unless continued by the general assembly, this part 2 is repealed, effective September 1, 2022, and those powers, duties, and functions of the director specified in this part 2 are abolished. The provisions of section 24-34-104 (2) to (8) concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency apply to the powers, duties, and functions of the director of the division.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 178, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-206 as it existed prior to 2018.

PART 3

COLORADO LIMITED GAMING CONTROL COMMISSION

44-30-301. Colorado limited gaming control commission - creation. (1) There is hereby created, within the division of gaming, the Colorado limited gaming control commission. The commission shall consist of five members, all of whom shall be citizens of the United States and residents of this state who have been residents of the state for the past five years. The members shall be appointed by the governor, with the consent and approval of the senate. No member shall have been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101. No more than three of the five members shall be members of the same political party and no more than one member shall be from any one congressional district; except that a member who is serving pursuant to subsection (1)(a) of this section as a registered elector of Teller or Gilpin county may reside in the same congressional district as one of the other members. At the first meeting of each fiscal year, a chair and vice-chair of the commission shall be chosen from the membership by a majority of the members. Membership and operation of the commission shall additionally meet the following requirements:

(a) One member of the commission shall have had at least five years' law enforcement experience as a peace officer certified pursuant to section 24-31-305; one member shall be an attorney admitted to the practice of law in Colorado for not less than five years and who has experience in regulatory law; one member shall be a certified public accountant or public accountant who has been practicing in Colorado for at least five years and who has a comprehensive knowledge of the principles and practices of corporate finance; one member shall have been engaged in business in a management-level capacity for at least five years; and one member shall be a registered elector of any county in the state who is not employed in a profession or industry otherwise described in this subsection (1)(a). To the extent that applications have been submitted for consideration for membership on the commission, the governor shall prioritize appointing members who are registered electors of Gilpin county or Teller county. The registered elector members of the commission from Gilpin and Teller counties may be employed in a profession or industry otherwise described in this subsection (1)(a).

(b) Initial members shall be appointed to the commission by the governor as follows: One member to serve until July 1, 1992, one member to serve until July 1, 1993, one member to

serve until July 1, 1994, and two members to serve until July 1, 1995. All subsequent appointments shall be for terms of four years. No member of the commission shall be eligible to serve more than two consecutive terms.

(c) Any vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment. The member appointed to fill the vacancy shall be from the same category described in subsection (1)(a) of this section as the member vacating the position.

(d) Any member of the commission may be removed by the governor at any time.

(e) The term of any member of the commission who misses more than two consecutive regular commission meetings without good cause shall be terminated and the member's successor shall be appointed in the manner provided for appointments under this section.

(f) Commission members shall receive as compensation for their services one hundred dollars for each day spent in the conduct of commission business and shall be reimbursed for necessary travel and other reasonable expenses incurred in the performance of their official duties. The maximum annual compensation for each member of the commission, including reimbursement for necessary travel and other reasonable expenses incurred in the performance of their official duties, shall not exceed ten thousand dollars per year.

(g) Prior to confirmation by the senate, each member shall file with the secretary of state a financial disclosure statement in the form required and prescribed by the executive director. The statement shall be renewed as of each January 1 during the member's term of office.

(h) The commission shall hold at least one meeting each month and any additional meetings as may be prescribed by rules of the commission. In addition, special meetings may be called by the chairman, any two commission members, or the director, if written notification of the meeting is delivered to each member at least seventy-two hours prior to the meeting. Notwithstanding the provisions of section 24-6-402, in emergency situations in which a majority of the commission certifies that exigencies of time require that the commission meet without delay, the requirements of public notice and of seventy-two hours' actual advance written notice to members may be dispensed with, and commission members as well as the public shall receive the notice as is reasonable under the circumstances.

(i) A majority of the commission shall constitute a quorum, but the concurrence of a majority of the members appointed to the commission shall be required for any final determination by the commission.

(j) The commission shall keep a complete and accurate record of all its meetings.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 178, § 2, effective October 1. **L. 2021:** IP(1) and (1)(a) amended, (SB 21-155), ch. 169, p. 936, § 1, effective September 7.

Editor's note: This section is similar to former § 12-47.1-301 as it existed prior to 2018.

44-30-302. Commission - powers and duties - rules. (1) In addition to any other powers and duties set forth in this part 3, and notwithstanding the designation of the Colorado limited gaming control commission under section 44-30-201 as a **type 2** transfer, the commission shall nonetheless have the following powers and duties:

(a) To promulgate the rules governing the licensing, conducting, and operating of limited gaming and sports betting as it deems necessary to carry out the purposes of this article 30. The

director shall prepare and submit to the commission written recommendations concerning proposed rules for this purpose.

(b) To conduct hearings upon complaints charging violations of this article 30 or rules promulgated pursuant to this article 30, and to conduct any other hearings as may be required by rules of the commission;

(c) To enter into agreements with the Colorado bureau of investigation and state and local law enforcement agencies for the conduct of investigation, identification, or registration, or any combination thereof, of licensed operators and employees in licensed premises or in premises containing licensed premises in accordance with the provisions of this article 30, which conduct shall include, but not be limited to, performing background investigations and criminal records checks on an applicant applying for licensure pursuant to the provisions of this article 30 and investigating violations of any provision of this article 30 or of any rule promulgated by the commission pursuant to subsection (1)(a) of this section discovered as a result of the investigatory process or discovered by the department or the commission in the course of conducting its business. Nothing in this section shall prevent or impair the Colorado bureau of investigation or state or local law enforcement agencies from engaging in the activities set forth in this subsection (1)(c) on their own initiative.

(d) To conduct a continuous study and investigation of limited gaming and sports betting throughout the state for the purpose of ascertaining any defects in this article 30 or in the rules promulgated pursuant to this article 30 in order to discover any abuses in the administration and operation of the division or any violation of this article 30 or any rule promulgated pursuant to this article 30;

(e) To formulate and recommend changes to this article 30 or any rule promulgated pursuant to this article 30 for the purpose of preventing abuses and violations of this article 30 or any of the rules promulgated pursuant to this article 30; to guard against the use of this article 30 and the rules as a cloak for the conducting of illegal activities; and to ensure that this article 30 and the rules shall be in such form and be so administered as to serve the true purpose and intent of this article 30;

(f) To report immediately to the governor, the attorney general, the speaker of the house of representatives, the president of the senate, the minority leaders of both houses, and any other state officers as the commission deems appropriate concerning any laws that it determines require immediate amendment to prevent abuses and violations of this article 30 or any rule promulgated pursuant to this article 30 or to remedy undesirable conditions in connection with the administration or the operation of the division, limited gaming, or sports betting;

(g) To require any special reports from the director that it considers necessary;

(h) To issue temporary or permanent licenses to those involved in the ownership, participation, or conduct of limited gaming or sports betting;

(i) Upon complaint, or upon its own motion, to levy fines and to suspend or revoke, licenses that the commission has issued;

(j) To establish and collect fees and taxes upon persons, licenses, and gaming devices used in, or participating in, limited gaming or sports betting;

(k) To obtain all information from licensees and other persons and agencies that the commission deems necessary or desirable in the conduct of its business;

(l) To issue subpoenas for the appearance or production of persons, records, and things in connection with applications before the commission or in connection with disciplinary or contested cases considered by the commission;

(m) To apply for injunctive or declaratory relief to enforce the provisions of this article 30 and any rules promulgated pursuant to this article 30;

(n) (I) Except as otherwise provided in subsection (1)(n)(II) of this section, to inspect and examine without notice all premises in which limited gaming or sports betting is conducted or where devices or equipment used in those activities are located, manufactured, sold, or distributed, and to summarily seize, remove, and impound, without notice or hearing, from the premises any equipment, devices, supplies, books, or records for the purpose of examination or inspection.

(II) Subsection (1)(n)(I) of this section does not apply to an owner, operator, employee, or customer of a simulated gambling device, or of a business offering simulated gambling devices, who:

(A) Ceased participating in such activity on or before July 1, 2018; and

(B) Provides clear documentation to the district attorney that a lawful contract has been entered into for the sale or transfer of all simulated gambling devices connected with the activity to a person by whom, or into a jurisdiction where, the activity is lawful; and consummates the contract by actually selling or transferring the simulated gambling devices within one hundred eighty days after the contract was entered into or after any simulated gambling devices that were seized, confiscated, or forfeited by law enforcement authorities have been returned, whichever occurs later.

(o) To enter into contracts with any governmental entity to carry out its duties without compliance with the provisions of the "Procurement Code", articles 101 to 112 of title 24. The contracts or formal agreements, or both, are to be based on preestablished commission criteria specifying minimum levels of cooperation and conditions for payment.

(p) To exercise any other incidental powers as may be necessary to ensure the safe and orderly regulation of limited gaming and sports betting and the secure collection of all revenues, taxes, and license fees;

(q) To establish internal control procedures for licensees, including accounting procedures, reporting procedures, and personnel policies;

(r) To establish and collect fees for performing background checks on all applicants for licenses and on all persons with whom the commission or division may agree with or contract with for the providing of goods or services, as the commission deems appropriate;

(s) To establish and collect fees for performing, or having performed, tests on equipment and devices to be used in limited gaming or sports betting;

(t) To establish a field office in Black Hawk, Central City, or Cripple Creek, as deemed necessary by the commission;

(u) To demand, at any time when business is being conducted, access to and inspection, examination, photocopying, and auditing of all papers, books, and records of applicants and licensees, on their premises or elsewhere as practicable and in the presence of the licensee or the licensee's agent, pertaining to the gross income produced by any establishment or activity licensed under this article 30; to require verification of income, and all other matters affecting the enforcement of the policies of the commission or any provision of this article 30; and to

impound or remove all papers, books, and records of applicants and licensees, without hearing, for inspection or examination; and

(v) To prescribe voluntary alternative methods for the making, filing, signing, subscribing, verifying, transmitting, receiving, or storing of returns or other documents.

(2) Rules promulgated pursuant to subsection (1) of this section must include, at a minimum, the following:

(a) The types of limited gaming and sports betting activities to be conducted and the rules for those activities;

(b) The requirements, qualifications, and grounds for the issuance, revocation, suspension, and summary suspension of all types of permanent and temporary licenses required for the conduct of limited gaming or sports betting;

(c) Qualifications of persons to hold limited gaming or sports betting licenses;

(d) Restrictions upon the times, places, and structures where limited gaming or sports betting are authorized;

(e) The ongoing operation of limited gaming or sports betting activities, including the testing and approval of software or accounting systems used in connection with limited gaming or sports betting;

(f) The scope and conditions for investigations and inspections into the conduct of limited gaming or sports betting, the background of licensees and applicants for licenses, the premises where limited gaming or sports betting are authorized, all premises where gaming devices are located, the books and records of licensees, and the sources and maintenance of limited gaming or sports betting devices and equipment;

(g) Activities that constitute fraud, cheating, or illegal or criminal activities;

(h) The percentage of the adjusted gross proceeds to be paid by each licensee to the commission, in addition to license fees and taxes;

(i) The seizure without notice or hearing of gaming equipment, supplies, or books and records for the purpose of examination and inspection;

(j) The disclosure of the complete financial interests of applicants for licenses or of licensees;

(k) The issuance or denial of support licenses by the director;

(l) The granting of certain licenses with special conditions or for limited periods, or both;

(m) The establishment of procedures for determining suitability or unsuitability of persons, acts, or practices;

(n) The payment of costs incurred in the operation and administration of the division, and the costs resulting from any contract entered into for consulting or operational services;

(o) The payment of costs incurred by the Colorado bureau of investigation and any other agencies for investigations or background checks, which shall be paid by applicants for licenses or by licensees;

(p) The levying of fines for violations of this article 30 or any rule promulgated pursuant to this article 30;

(q) The amount of license fees for all types of licenses issued by the commission and the division;

(r) The conditions and circumstances that constitute suitability of persons, locations, and equipment for gaming or sports betting;

(s) The types and specifications of all equipment and devices used in or with limited gaming or sports betting; and

(t) All other provisions necessary to accomplish the purposes of this article 30.

(3) Notwithstanding any provision of this section to the contrary, sports betting is not authorized unless the voters at the November 2019 statewide election approve the ballot question submitted pursuant to section 44-30-1514, enacted in 2019 in House Bill 19-1327.

Source: L. 2018: (1)(n) amended, (HB 18-1234), ch. 381, p. 2297, § 1, effective June 6; entire article added with relocations, (SB 18-034), ch. 14, p. 179, § 2, effective October 1. **L. 2019:** (1)(a), (1)(d), (1)(f), (1)(h), (1)(j), (1)(n)(I), (1)(p), (1)(s), (1)(u), IP(2), (2)(a) to (2)(f), (2)(r), and (2)(s) amended and (3) added, (HB 19-1327), ch. 347, p. 3212, § 8, effective August 2.

Editor's note: (1) This section is similar to former § 12-47.1-302 as it existed prior to 2018.

(2) Subsection (1)(n) of this section was numbered as § 12-47.1-302 (1)(n) in HB 18-1234. That provision was harmonized with and relocated to this section as this section appears in SB 18-034.

PART 4

CONFLICT OF INTEREST

44-30-401. Conflict of interest. (1) Members of the commission and employees of the division are declared to be in positions of public trust. In order to ensure the confidence of the people of the state in the integrity of the division, its employees, and the commission, the following restrictions shall apply:

(a) Except as otherwise provided in subsection (1)(b) of this section, no member of the commission, an ancestor or descendant of a member, including a natural child, child by adoption, or stepchild, or a brother or sister of the whole or half blood of a member, or an uncle, aunt, nephew, or niece of the whole blood of a member, shall have any interest of any kind in a license issued pursuant to this article 30 or own or have any interest in property in any county where limited gaming is permitted. The provisions of this subsection (1)(a) shall apply to spouses of commission members in like fashion as to members.

(b) No member of the commission or employee of the division, including the director, and no member of the immediate family of a member or employee of the division, shall have any interest, direct or indirect, in any licensee, licensed premises, establishment, or business involved in or with limited gaming. Further, the person shall not own, in whole or in part, property in the cities of Central, Black Hawk, or Cripple Creek; except that:

(I) A member of the commission serving pursuant to subsection (1)(a) of this section as a registered elector of Gilpin or Teller county may live with his or her family in the city of Central, Black Hawk, or Cripple Creek or in Gilpin or Teller county, and may own private property in those areas for residential purposes; and

(II) Employees of the division assigned to work regularly in Gilpin or Teller county may live with their families in those counties, and may own private property in those counties for residential purposes, with commission approval.

(c) No member of the commission or employee of the division, including the director, and no member of the immediate family of a member of the commission or employee of the division, shall receive any gift, gratuity, employment, or other thing of value from any person, corporation, association, or firm that contracts with or that offers services, supplies, materials, or equipment used by the division in the normal course of its operations, or that is licensed by the division or the commission; except that such persons may accept on an infrequent basis in the normal course of business any nonpecuniary items of insignificant value as shall be allowed by the director and as shall be specified by the commission by rule.

(d) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall participate in limited gaming or sports betting.

(e) No member of the commission or employee of the division, including the director, shall have been convicted of a felony or any gambling-related offense, notwithstanding the provisions of section 24-5-101.

(2) Notwithstanding the provisions of subsection (1) of this section, the commission may, by rule, determine that an ownership interest of no more than five percent held by or through an institutional investor fund does not constitute an interest under subsections (1)(a) and (1)(b) of this section.

(3) For purposes of investigating violations of this article 30, the provisions of subsections (1)(c) and (1)(d) of this section shall not apply to an employee of the division acting in his or her official capacity while on duty.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 183, § 2, effective October 1. **L. 2019:** (1)(d) amended, (HB 19-1327), ch. 347, p. 3214, § 9, effective August 2. **L. 2021:** (1)(a) and (1)(b) amended, (SB 21-155), ch. 169, p. 937, § 2, effective September 7.

Editor's note: This section is similar to former § 12-47.1-401 as it existed prior to 2018.

PART 5

LICENSING

44-30-501. Licenses - types - rules. (1) The commission may issue six types of licenses as follows:

(a) **Slot machine manufacturer or distributor.** A slot machine manufacturer or distributor license is required for all persons who import, manufacture, or distribute slot machines in this state, or who otherwise act as a slot machine manufacturer or distributor. Each license issued pursuant to this subsection (1)(a) shall expire two years from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule.

(b) **Operator license.** (I) An operator license is required for all persons who permit slot machines on their premises or who engage in the business of placing and operating slot machines on the premises of a retailer. Each license issued pursuant to this subsection (1)(b) shall expire two years from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule. A licensed operator shall obtain slot machines only from, and shall return or sell slot machines only to, a licensed manufacturer or distributor.

(II) This subsection (1)(b) shall not apply to persons holding retail gaming licenses issued pursuant to subsection (1)(c) of this section.

(c) **Retail gaming license.** A retail gaming license is required for all persons permitting or conducting limited gaming on their premises. A retail gaming license may only be granted to a retailer. Each person licensed as a retailer shall have and maintain sole and exclusive legal possession of the entire premises for which the retail license is issued. Each license issued pursuant to this subsection (1)(c) shall expire two years from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule. A licensed retailer shall obtain slot machines only from, and shall return or sell slot machines only to, a licensed manufacturer or distributor. Slot machine transfers between licensed retailers directly and completely owned by the same person are allowed, if proper notification is given to the division.

(d) **Support license.** A support license is required for all persons employed in the field of limited gaming and by all gaming employees. No person required to hold a support license shall be an employee of, or assist, any licensee until the person obtains a valid support license. Persons licensed as key employees need not obtain support licenses. The commission may deny a support license to any person discharged for cause from employment by any licensed gaming establishment in this or any other country. Each license issued pursuant to this subsection (1)(d) shall expire two years from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule.

(e) **Key employee license.** Every retail gaming licensee shall have a person in charge of all limited gaming activities available at all times when limited gaming is being conducted. The person in charge shall hold a key employee license. Each license issued pursuant to this subsection (1)(e) shall expire two years from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule.

(f) **Associated equipment supplier license.** An associated equipment supplier license is required for a person who imports, manufactures, or distributes associated equipment in this state, or who otherwise acts as an associated equipment supplier. Slot machine manufacturers or distributors who are licensed in this state and who import, manufacture, or distribute associated equipment need not obtain a separate associated equipment supplier license. Each license issued under this subsection (1)(f) expires two years after the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The commission shall promulgate rules to establish the fees for an initial license and renewal licenses.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 184, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-501 as it existed prior to 2018.

44-30-502. Key employee - determination of status. If, in the determination of the commission, an employee of a licensee for limited gaming is a key employee and as such is subject to licensure, the commission shall serve notice of the determination upon the licensee who employed the key employee. In determining whether or not an employee is a key employee, the commission is not restricted by the title of the job performed by the employee but may consider the functions and responsibilities of the employee in making its decision. The licensee shall, within thirty days following receipt of the notice of the commission's determination, present the application for licensing of the employee to the commission or provide documentary evidence that the employee is no longer employed by the licensee. Failure of the licensee to respond as required by this section is grounds for disciplinary action. A person subject to application for licensing as a key employee may make written request to the commission to review its determination of the person's status within the gaming organization. If the commission determines that the person is not a key employee, the person shall be allowed to withdraw his or her application and continue in his or her employment. The request by an employee for review of his or her employment status does not stay the obligation of the licensee to present the employee's application to the commission within the thirty-day period prescribed by this section.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 186, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-503 as it existed prior to 2018.

44-30-503. Licenses - revocable - nontransferable. Every license issued pursuant to this article 30 is revocable and nontransferable. No licensee acquires any vested interest or property right in a license. The gaming licenses issued pursuant to this article 30 are only for the particular location initially authorized. The revocable privilege for any license issued or other approval granted is conditioned upon the proper and continuing qualification of the licensee or registrant and upon the discharge of the affirmative responsibility of each licensee or registrant to provide to the regulatory, investigatory, and law enforcement authorities any assistance and information necessary to assure that the policies and requirements of this article 30 are achieved.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 186, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-504 as it existed prior to 2018.

44-30-504. Operator, slot machine manufacturer or distributor, associated equipment supplier, key employee, support licensee, or retailer - qualifications for licensure. Before obtaining a license as an operator, slot machine manufacturer or distributor, associated equipment supplier, key employee, support licensee, or retailer, in addition to meeting

other requirements of this article 30 or rules of the commission, an applicant must show that he or she is of good moral character. An applicant has the burden of proving his or her qualifications to the satisfaction of the commission. The applicant must submit to and pay for background investigations the commission may order. All payments shall be deposited into the limited gaming fund created in section 44-30-701.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 186, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-505 as it existed prior to 2018.

44-30-505. Considerations for licensure. In considering whether a person is of good moral character for purposes of issuing any license pursuant to this article 30, or for any other purposes, the commission may, in addition to all other information, consider whether that person has been denied a gaming license by this or any other jurisdiction, city, state, or country, or whether the person has ever had a gaming license in this or any other jurisdiction, city, state, or country suspended or revoked. The commission may also consider whether a person has ever withdrawn an application for any type of gaming license anywhere and the reasons for the withdrawal.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 187, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-506 as it existed prior to 2018.

44-30-506. Temporary or conditional licenses. The commission may issue temporary or conditional licenses with respect to all licenses authorized under this article 30.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 187, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-507 as it existed prior to 2018.

44-30-507. Delegation of authority to issue certain licenses. The commission may delegate to the division the authority to issue permanent and temporary support and key employee licenses, but the commission shall review and approve the issuance of all other licenses issued pursuant to this article 30.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 187, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-508 as it existed prior to 2018.

44-30-508. Licensed premises - retail floor plan - definition. (1) For purposes of this section, "retail floor plan" means a physical layout of the inside of the building in which limited gaming will take place that shows the location of the licensed premises within the building.

(2) The retail floor plan shall be submitted to the commission with an applicant's application for a retail gaming license. Approval of the retail floor plan is subject to commission rules and those rules pertaining to the public health, safety, good order, and general welfare of the cities of Central, Black Hawk, and Cripple Creek. All gaming devices shall be located within the licensed premises of a business.

(3) A licensed retailer may change the physical location of the licensed premises with the approval of the commission, the director, or the director's designee. Failure of the commission, the director, or the director's designee to deny an application to relocate the licensed premises in a building, within thirty days of the application, shall be deemed an approval thereof.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 187, § 2, effective October 1. **L. 2021:** (3) amended, (HB 21-1296), ch. 386, p. 2585, § 2, effective June 30.

Editor's note: This section is similar to former § 12-47.1-509 as it existed prior to 2018.

44-30-509. License - disqualification - criteria. (1) The commission shall deny a license to any applicant who is disqualified for licensure on the basis of any of the following criteria:

(a) Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article 30;

(b) Failure of the applicant to provide information, documentation, and assurances required by this article 30 or requested by the commission, failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria;

(c) Conviction of the applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant, of any of the following:

(I) Service of a sentence upon conviction of a felony in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department within ten years prior to the date of the application, notwithstanding the provisions of section 24-5-101;

(II) Service of a sentence upon conviction of any misdemeanor gambling-related offense or misdemeanor theft by deception in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department within ten years prior to the date of the application, notwithstanding section 24-5-101;

(III) Service of a sentence upon conviction of any misdemeanor involving fraud or misrepresentation in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department within ten years prior to the date of the application, notwithstanding the provisions of section 24-5-101;

(IV) Service of a sentence upon conviction of any gambling-related felony or felony involving theft by deception in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department, notwithstanding the provisions of section 24-5-101;

(V) Service of a sentence upon conviction of any felony involving fraud or misrepresentation in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department, notwithstanding the provisions of section 24-5-101;

(d) Current prosecution or pending charges in any jurisdiction against the applicant, or against any person listed in subsection (1)(c) of this section, for any of the offenses enumerated in subsection (1)(c) of this section; except that, at the request of the applicant or the person charged, the commission shall defer decision upon the application during the pendency of the charge;

(e) The identification of the applicant or any person listed in subsection (1)(c) of this section as a career offender or a member of a career offender cartel or an associate of a career offender or a career offender cartel in a manner that creates a reasonable belief that the association is of such a nature as to be inimical to the policy of this article 30 and to gaming operations. For purposes of this section, "career offender" means any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this state. For purposes of this section, "career offender cartel" means any group of persons who operate together as career offenders.

(f) Refusal to cooperate by the applicant or any person who is required to be qualified under this article 30 with any legislative investigatory body or other official investigatory body of any state or of the United States when the body is engaged in the investigation of crimes relating to gaming, official corruption, or organized crime activity;

(g) The applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant is or has been a professional gambler as that term is defined in article 10 of title 18.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 187, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-510 as it existed prior to 2018.

44-30-510. Applicants and licensees - providing information - criminal history record check. (1) All applicants for licenses issued by the commission, and all persons holding licenses, including all persons interested, directly or indirectly, in the gaming business or license held by an applicant or licensee, shall upon request by the commission or division provide handwriting exemplars, and each person shall allow himself or herself to be photographed in accordance with procedures established by the commission.

(2) Upon issuance of a formal request or subpoena by the commission to answer or produce information, evidence, or testimony, each applicant and licensee shall comply with the request or subpoena. Where an applicant or licensee, or any employee or person interested,

directly or indirectly, in either refuses or fails to comply with a commission request or subpoena, then that person's license or application may be suspended, revoked, or denied, based solely upon such failure or refusal.

(3) (a) With or as a supplement to an application for a license or an application for a finding of suitability pursuant to this article 30, each applicant shall submit a set of fingerprints to the commission. The commission shall forward the fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. The commission shall not take final action on the application before receiving the results of the fingerprint-based criminal history record check.

(b) When the results of a fingerprint-based criminal history record check of an applicant performed pursuant to this subsection (3) reveal a record of arrest without a disposition, the commission shall require that applicant to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

(c) Nothing in this subsection (3) precludes the commission from making further inquiries into the background of the applicant.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 189, § 2, effective October 1. **L. 2019:** (3) amended, (HB 19-1166), ch. 125, p. 563, § 64, effective April 18. **L. 2021:** (3)(a) amended, (HB 21-1296), ch. 386, p. 2586, § 3, effective June 30.

Editor's note: This section is similar to former § 12-47.1-511 as it existed prior to 2018.

44-30-511. Application - fee - waiver of confidentiality. (1) The commission may establish investigation and application fees for the purpose of paying for the administrative costs of the commission and for paying for any background investigations of applicants and others. These fees may vary depending on the type of application, the complexity of the investigation, or the costs of the commission in reviewing the matters involved.

(2) The application form created by the commission shall include a waiver of any right of confidentiality and a provision that allows the information contained in the application to be accessible to law enforcement agents of this or any other state, the government of the United States, any foreign country, or any Indian tribe. The waiver of confidentiality shall extend to any financial or personnel record, wherever maintained.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 189, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-512 as it existed prior to 2018.

44-30-512. Supplier of licensee - licensure requirements. (1) Except as otherwise provided in subsection (2) of this section, any person supplying goods, equipment, devices, or services to any licensee in return for payment of a percentage, or calculated upon a percentage, of limited gaming activity or income must obtain an operator license or must be listed on the retailer's license where the limited gaming will take place.

(2) A licensed slot machine manufacturer or distributor need not obtain an operator's license or be listed on a retailer's license for purposes of establishing and administering a fund associated with a multiple-property, linked, progressive slot machine system as defined by the commission, so long as all of the following conditions are met:

(a) The manufacturer or distributor shall deposit in the fund and shall account, subject to supervision by the commission, for that money derived from wagering in machines linked to the system that is due to the manufacturer or distributor pursuant to its agreement with the retail licensee.

(b) The manufacturer or distributor shall maintain a separate account for the fund associated with each progressive system.

(c) The manufacturer or distributor shall retain as compensation only a flat, predetermined fee per machine. Operating costs of the system, including payment of prizes, may be disbursed from the fund.

(d) Machines linked to the system shall be placed only in premises controlled by a licensed operator or retailer.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 189, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-513 as it existed prior to 2018.

44-30-513. Application - authorization for background investigations. By signing and filing an application for a license, which is hereby made subject to the perjury laws of this state, the applicant authorizes the commission to obtain information from any source, public or private, in this or any other country, regarding the background or conduct of the applicant and, if the applicant is a partnership or corporation, any of its shareholders, officers, directors, partners, agents, or employees.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 190, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-514 as it existed prior to 2018.

44-30-514. License - grounds for approval or denial. The commission may approve or deny any application for a license, in addition to all other conditions and requirements set forth in this article 30 and the rules promulgated pursuant thereto, on the basis of whether it deems the applicant a suitable person to hold the license applied for and whether it considers the proposed location, retail floor plan, or any other conditions suitable. Refusal of an applicant to provide all information requested by the commission or to allow investigation into the applicant's background is grounds for denial of a license. Information requested from the applicant by the commission shall include the applicant's date of birth in addition to other information necessary to identify and investigate fully the record and relevant history of the applicant.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 190, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-515 as it existed prior to 2018.

44-30-515. Licensed premises - safety conditions - fire and electrical. (1) (a) The building in which limited gaming will be conducted and the areas where limited gaming will occur shall meet safety standards and conditions for the protection of life and property as determined by the local fire official and the local building official. In making the determinations, the codes adopted by the director of the division of fire prevention and control within the department of public safety pursuant to section 24-33.5-1203.5 constitute the minimum safety standards for limited gaming structures; except that, in connection with structures licensed for limited gaming and operating on or before July 1, 2011, any newly adopted building codes shall not be applied retroactively to structures that were newly constructed or remodeled to accommodate licensed limited gaming.

(b) The local building official and the local historical preservation commission shall work together to ensure that neither historical preservation of existing buildings nor the safety of life are compromised.

(2) A certificate of compliance shall be issued to an applicant for a premises license by the local fire and building officials, and approved by the division of fire prevention and control. A copy of the local inspection report shall be filed with the state division of fire prevention and control. Once the division has deemed that the minimum requirements for fire prevention and control have been met, the division shall approve the certificate of compliance within five working days from receipt of the inspection report. If not acted upon within five days, the certificate of compliance shall be considered approved. The certificate shall be current and valid and shall cover the entire building where limited gaming is conducted.

(3) In advance of any structural or significant change to the building or areas where limited gaming is conducted, the plans for the change shall be submitted by the licensee holding a premises license to the local fire official and the local building official for their review. No changes may be made to the building or areas where limited gaming is conducted until the plans are approved by the local fire official and the local building official.

(4) The division of fire prevention and control and the state historical society shall provide technical assistance to the local building officials, the local fire officials, the local historical preservation commissions, and the commission upon request.

(5) The commission shall act as an appeals board for any owner, fire official, building official, or the division of fire prevention and control who feels aggrieved by fire and life safety requirements or the lack of fire and life safety standards in buildings in which limited gaming will be conducted. If the commission fails to act upon an appeal within fourteen days after its receipt by the commission, the certificate of compliance shall be considered approved.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 190, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-516 as it existed prior to 2018.

44-30-516. Buildings - accessible to persons with disabilities. (1) All premises where limited gaming is conducted shall be accessible to and functional for persons with physical disabilities.

(2) An exception to the requirement of subsection (1) of this section may be granted in cases where the local historical preservation commission determines that compliance would result in degradation of the historical significance of the building where limited gaming is conducted.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 191, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-517 as it existed prior to 2018.

44-30-517. Waiver from liability - state of Colorado - disclosures or publications. All applicants, registrants, and licensees shall waive liability as to the state of Colorado and its instrumentalities and agents for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations, or hearings.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 192, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-518 as it existed prior to 2018.

44-30-518. Renewal of licenses. (1) Subject to the power of the commission to deny, revoke, or suspend licenses, any license in force shall be renewed by the commission for the next succeeding license period upon proper application for renewal and payment of license fees and taxes as required by law and the rules of the commission. The license period for a renewed license shall be the same period as the initial license period pursuant to section 44-30-501. In addition, the commission shall reopen licensing hearings at any time at the request of the director, the Colorado bureau of investigation, or any law enforcement authority. The commission shall act upon any application prior to the date of expiration of the current license.

(2) An application for renewal of a license may be filed with the commission up to one hundred twenty days prior to the expiration of the current license, and all license fees and taxes as required by law shall be paid to the commission on or before the date of expiration of the current license. The commission shall set the manner, time, and place at which an application is made.

(3) Upon renewal of any license, the commission shall issue an appropriate renewal certificate or validating device or sticker that shall be attached to each license.

(4) Renewal of a license may be denied by the commission for any violation of article 20 of title 18 or this article 30, or the rules promulgated pursuant thereto, for any reason that would or could have prevented its original issuance, or for any good cause shown.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 192, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-519 as it existed prior to 2018.

44-30-519. Denial of application. (1) Any person, or anyone who has an ownership interest of five percent or more in the person:

(a) Whose application has been denied by the commission may not reapply for licensure until at least one year has elapsed from the date of denial;

(b) Who has been denied a license for a second time may not reapply until at least three years have passed since the date of the second denial.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 192, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-520 as it existed prior to 2018.

44-30-520. Appeal of final action of commission. Any person aggrieved by a final action of the commission may appeal the final action to the court of appeals pursuant to section 24-4-106.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 192, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-521 as it existed prior to 2018.

44-30-521. Executive and closed meetings. (1) The commission may hold executive or closed meetings for any of the following purposes:

(a) Considering applications for licensing when discussing background investigations or personal information;

(b) Meeting with gaming officials of other jurisdictions, the attorney general, the district attorney for either Teller or Gilpin county, or law enforcement officials in connection with possible criminal violations;

(c) Consulting with the executive director, director, employees, or agents of the commission concerning possible criminal violations or any security issues;

(d) Deliberations after hearing evidence in an informal consultation or in a contested case.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 192, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-522 as it existed prior to 2018.

44-30-522. Communications - privileged and confidential. Communications among the commission, executive director, and the director relating to licensing, disciplining of licensees, or violations by licensees are privileged and confidential if made lawfully and in the course of or in furtherance of the business of the commission, except pursuant to court order after an in-camera review. The executive director, director, the commission, or any member of the commission may claim this privilege.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 193, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-523 as it existed prior to 2018.

44-30-523. Summary suspension. Every license granted pursuant to this article 30 may be summarily suspended by the commission, pending a hearing before the commission, upon any terms and conditions that the commission shall by rule mandate.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 193, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-524 as it existed prior to 2018.

44-30-524. Suspension or revocation of license - grounds - penalties. (1) (a) The commission may revoke a license granted pursuant to this article 30 for any cause that would have prevented issuance of the license, including the causes set forth in sections 44-30-509 and 44-30-801.

(b) The commission may suspend or revoke a license granted pursuant to this article 30 for a violation by the licensee or an officer, director, agent, member, or employee of the licensee, after notice to the licensee, the opportunity for a hearing, and upon proof by a preponderance of the evidence as determined by the commission. Violations that may warrant license suspension or revocation include violations of this article 30, any rule promulgated by the commission, any provision of article 33 of this title 44, or any rule promulgated by the executive director pursuant to section 44-33-108 (3), or conviction of a crime. In addition to revocation or suspension, or in lieu of revocation or suspension, the commission may impose a reprimand or a monetary penalty not to exceed the following amounts:

(I) If the licensee is a slot machine manufacturer or distributor, the amount of one hundred thousand dollars;

(II) If the licensee is an associated equipment supplier, the amount of twenty-five thousand dollars;

(III) If the licensee is an operator, the amount of twenty-five thousand dollars;

(IV) If the licensee is a retailer, the amount of twenty-five thousand dollars;

(V) If the licensee is a key employee, the amount of five thousand dollars;

(VI) If the licensee holds a support license, the sum of two thousand five hundred dollars.

(2) Any monetary penalty received by the commission pursuant to this section shall be deposited in the limited gaming fund established in section 44-30-701.

(3) The civil penalties set forth in this section shall not be a bar to any criminal prosecution or to any civil or administrative prosecution.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 193, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-525 as it existed prior to 2018.

44-30-525. Commission hearings - testimony. In any hearing held by the commission pursuant to this article 30, the commission may apply to the district attorney having jurisdiction to prosecute the underlying criminal matter for orders pursuant to section 13-90-118 to compel testimony.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 194, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-526 as it existed prior to 2018.

44-30-526. Records - confidentiality - exceptions. (1) Information and records of the commission enumerated by this section are confidential and may not be disclosed except pursuant to a court order. No person may by subpoena, discovery, or statutory authority obtain such information or records. Information and records considered confidential include:

(a) Tax returns of individual licensees;

(b) Credit reports and security reports and procedures of applicants for licenses and other persons seeking or doing business with the commission;

(c) Audit work papers, worksheets, and auditing procedures used by the commission, its agents, or employees; and

(d) Investigative reports concerning violations of law or concerning the backgrounds of licensees, applicants, or other persons prepared by division investigators or investigators from other agencies working with the commission and any work papers related to the reports; except that the commission may in its sole discretion disclose so much of the reports or work papers as it deems necessary and prudent.

(2) This section does not apply to requests for such information or records from the governor, attorney general, state auditor, any of the respective district attorneys of this state, or any federal or state law enforcement agency, or for the use of such information or records by the executive director, director, or commission for official purposes, or by employees of the division of gaming or the department in the performance of their authorized and official duties.

(3) This section may not be construed to make confidential the aggregate tax collections during any reporting period, the names and businesses of licensees, or figures showing the aggregate amount of money bet during any reporting period.

(4) (a) **[*Editor's note: This version of subsection (4)(a) is effective until March 1, 2022.*]** Any person who discloses confidential records or information in violation of the provisions of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501. Any criminal prosecution pursuant to the provisions of this section must be brought within five years from the date the violation occurred.

(a) **[*Editor's note: This version of subsection (4)(a) is effective March 1, 2022.*]** Any person who discloses confidential records or information in violation of the provisions of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. Any criminal prosecution pursuant to the provisions of this section must be brought within five years from the date the violation occurred.

(b) If the person who violates this section is an officer or employee of the state, in addition to any other penalties or sanctions, the person shall be subject to dismissal if the procedures in section 24-50-125 are followed.

(c) If the person violating the provisions is a present employee or officer of the state who obtained the confidential records or information during their employment, then in any civil action, the subject of which includes the release of such confidential records or information, the person shall be liable for treble damages to any injured party.

(d) If the person violating the provisions is a former employee or officer of the state who obtained the confidential records or information during his or her employment, and if the person executed a written statement with the state agreeing to be held to the confidentiality standards expressed in this subsection (4), then in any civil action, the subject of which includes the release of the records or information after leaving state employment, the former employee or officer shall be liable for treble damages to any injured party.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 194, § 2, effective October 1. **L. 2021:** (4)(a) amended, (SB 21-271), ch. 462, p. 3329, § 789, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-47.1-527 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-30-527. Executive director and director have access to files and records. The executive director and the director shall have access both physically and electronically to all files and records kept, or required to be maintained, and may contribute to those records.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 195, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-528 as it existed prior to 2018.

44-30-528. Licensees - duty to maintain records. Each licensee shall keep a complete set of books of account, correspondence, and all other records necessary to show fully the gaming transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination of the division or its duly authorized representatives. The division may require any licensee to furnish any information that the division considers necessary for the proper administration of this article 30 and may require an audit to be made of the books of account and records on any occasion that the division considers necessary by an auditor, selected by the commission or the director, who shall likewise have access to all the books and records of the licensee, and the licensee may be required to pay the expense thereof.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 195, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-529 as it existed prior to 2018.

44-30-529. Businesses operating in compliance with section 18-10-105 (1.5). Nothing in this article 30 shall be construed to affect a manufacturer who, prior to June 4, 1991, was operating a business in compliance with section 18-10-105 (1.5).

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 195, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-530 as it existed prior to 2018.

44-30-530. Payments of winnings - intercept. Before making a payment of cash gaming winnings for which the licensee is required to file form W-2G, or a substantially equivalent form, with the United States internal revenue service, a licensee shall comply with the requirements of article 33 of this title 44.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 195, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-531 as it existed prior to 2018.

PART 6

GAMING TAX

44-30-601. Gaming tax. (1) There is hereby imposed a gaming tax on the adjusted gross proceeds of gaming allowed by this article 30. The tax is set by rule as promulgated by the commission. The commission shall not set the tax at more than forty percent of the adjusted gross proceeds. In setting the tax rate, the commission shall consider the need to provide money to the cities of Central, Black Hawk, and Cripple Creek for historic restoration and preservation; the impact on the communities and any state agency, including infrastructure, law enforcement, environment, public health and safety, education requirements, human services, and other components due to limited gaming; the impact on licensees and the profitability of their operations; the profitability of similar forms of gambling in other states; and the expenses of the commission and the division for their administration and operation. The commission shall also consider the following:

(a) The amount shall never exceed the percentage provided in section 9 (5)(a) of article XVIII of the state constitution;

(b) The amount shall be established in conformity with the spirit and interest of this article 30 so as to encourage business growth and investment in the gaming industry and to permit licensed operations, under normal business conditions and operation procedures, to realize a fair and just profit;

(c) The amount shall take into account unreimbursed local financial burdens associated with limited gaming-related operations;

(d) In setting the amount, the commission shall take into account profit levels after expenses of similar forms of gaming in other states;

(e) The amount shall take into account capital costs required to comply with local, state, or federal requirements; financial reserves required by the commission for payments to winners; and investments necessitated by regulatory requirements of the commission;

(f) The amount shall permit the licensed operator a reasonable profit after expenses, including:

(I) Capital costs associated with the licensed premises;

(II) Capital costs associated with limited gaming equipment;

(III) Capital costs required to comply with local or state requirements;

(IV) Extraordinary operating costs, including the provision of housing or transportation, or both, for employees;

(V) Initial costs associated with commencement of limited gaming;

(VI) Financial reserves required by the commission for payment to winners;

(VII) Investments necessitated by regulatory requirements of the commission; and

(g) If local voters in one or more cities revise any limits on gaming as provided in section 9 (7)(a) of article XVIII of the state constitution:

(I) Any commission action that increases the percentage of gaming taxes from the percentages imposed as of July 1, 2008, shall be effective only if approved by voters at a statewide election held under section 20 (4)(a) of article X of the state constitution; and

(II) Gaming tax revenues attributable to the locally approved revisions shall be collected and spent as a voter-approved revenue change without regard to any limitation contained in section 20 of article X of the state constitution or any other law.

(2) When adopting or amending any rule affecting the applicable tax rate or any other attribute or policy relating to application of the gaming tax authorized by subsection (1) of this section, the commission shall consider the impact on recipients of limited gaming tax proceeds, including those from extended limited gaming.

(3) (a) The department shall collect the amount of gaming tax on adjusted gross proceeds determined pursuant to subsection (1) of this section from the licensed retailer and shall have all of the powers, rights, and duties provided in articles 20, 21, and 26 of title 39 to carry out the collection. The commission shall authorize reimbursement to the department of the costs associated with collection of gaming tax on adjusted gross proceeds from licensed operators pursuant to subsection (1) of this section, upon documentation of the costs satisfactory to the commission.

(b) All money collected pursuant to this section shall be deposited in the limited gaming fund created by section 9 (5)(a) of article XVIII of the state constitution.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 196, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-601 as it existed prior to 2018.

44-30-602. Return and remittance. Not later than fifteen days following the end of each retail month, each licensed retailer shall make a return and remittance to the director on forms prescribed and furnished by the director. The director may grant an extension of not more than five days for filing a return and remittance; except that the director shall not grant more than

two extensions during any one-year period. Unless an extension is granted, a penalty or interest under section 44-30-604 shall be paid if a return or remittance is not made on time.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 197, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-602 as it existed prior to 2018.

44-30-603. Violations of taxation provisions - penalties. (1) Any person who:

(a) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed by this article 30 commits a class 5 felony and shall be punished as provided in section 18-1.3-401;

(b) **[*Editor's note: This version of subsection (1)(b) is effective until March 1, 2022.*]** Fails to pay tax due under this article 30 within thirty days after the date the tax becomes due commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501;

(b) **[*Editor's note: This version of subsection (1)(b) is effective March 1, 2022.*]** Fails to pay tax due under this article 30 within thirty days after the date the tax becomes due commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501;

(c) **[*Editor's note: This version of subsection (1)(c) is effective until March 1, 2022.*]** Fails to file a return required by this article 30 within thirty days after the date the return is due commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501;

(c) **[*Editor's note: This version of subsection (1)(c) is effective March 1, 2022.*]** Fails to file a return required by this article 30 within thirty days after the date the return is due commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501;

(d) Violates either subsection (1)(b) or (1)(c) of this section two or more times in any twelve-month period commits a class 5 felony and shall be punished as provided in section 18-1.3-401;

(e) Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under or in connection with any matter arising under any title administered by the commission or a return, affidavit, claim, or other document that is fraudulent or is false as to any material fact, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

(2) For purposes of this section, "person" includes corporate officers having control or supervision of, or responsibility for, completing tax returns or making payments pursuant to this article 30.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 197, § 2, effective October 1. **L. 2021:** (1)(b) and (1)(c) amended, (SB 21-271), ch. 462, p. 3329, § 790, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-47.1-603 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-30-604. Returns and reports - failure to file - penalties. (1) (a) Any person who fails to file a return or report required by this article 30, which return or report includes taxable transactions, on or before the date the return or report is due as prescribed in section 44-30-602 is subject to the payment of an additional amount assessed as a penalty equal to fifteen percent of the tax or ten dollars, whichever is greater; except that, for good cause shown, the executive director may reduce or eliminate the penalty.

(b) Any person subject to taxation under this article 30 who fails to pay the tax within the time prescribed is subject to an interest charge of two percent per month or portion thereof for the period of time during which the payment is late or five dollars, whichever is greater.

(c) (I) Penalty and interest are considered the same as a tax for the purposes of collection and enforcement, including liens, distraint warrants, and criminal violations.

(II) Any payment received for taxes, penalties, or interest is applied first to the tax, beginning with the oldest delinquency, then to interest and then to penalty.

(d) The executive director may, upon application of the taxpayer, establish a maximum interest rate of twenty-four percent upon delinquent taxes if the executive director determines that the delinquent payment was caused by a mistake of law and was not caused by an intent to evade the tax.

(2) The procedures for collection of any taxes and penalties due under this article 30 and the authority of the department to collect the taxes and penalties shall be the same as those provided for the collection of sales taxes pursuant to articles 20, 21, and 26 of title 39.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 198, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-604 as it existed prior to 2018.

44-30-605. Local jurisdiction. Nothing in this article 30 shall impair or otherwise affect the power of the municipalities where limited gaming is authorized to impose a fee upon gaming devices used in limited gaming.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 199, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-605 as it existed prior to 2018.

PART 7

LIMITED GAMING FUND

44-30-701. Limited gaming fund - created - repeal. (1) There is hereby created in the office of the state treasurer the limited gaming fund. The fund shall be maintained and operated as follows:

(a) Except as specified in part 15 of this article 30, all revenues of the division shall be paid into the limited gaming fund. Except for those expenses related to sports betting as specified in part 15 of this article 30, all expenses of the division and the commission, including the expenses of investigation and prosecution relating to limited gaming, shall be paid from the fund.

(b) (I) All money paid into the limited gaming fund shall be available immediately, without further appropriation, for the purposes of the fund. From the money in the limited gaming fund, the state treasurer is hereby authorized to pay all ongoing expenses of the commission, the department, the division, and any other state agency from whom assistance related to the administration of this article 30 is requested by the commission, director, or executive director, except those expenses related to sports betting, as specified in part 15 of this article 30. The payment shall be made upon proper presentation of a voucher prepared by the commission in accordance with other statutes governing payments of liabilities incurred on behalf of the state. The payment shall not be conditioned on any appropriation by the general assembly. Receipt of the payment shall constitute spending authority by the division of gaming in the department.

(II) Except as specified in part 15 of this article 30:

(A) No claim for the payment of any expense of the commission, department, division, or other state agency shall be made unless it is against the limited gaming fund; and

(B) No other money of the state shall be used or obligated to pay the expenses of the division or commission.

(III) The division shall be operated so that it shall be self-sustaining.

(c) The state treasurer shall invest the money in the limited gaming fund so long as said money is readily available to pay the expenses of the division. Investments shall be those otherwise permitted by state law, and interest or any other return on the investments shall be paid into the limited gaming fund.

(d) Pursuant to section 9 (5)(b)(II) of article XVIII of the state constitution, except for amounts required to be transferred to the extended limited gaming fund pursuant to section 44-30-702, and except for an amount equal to all expenses of the administration of this article 30 for the preceding two-month period, at the end of each state fiscal year, the state treasurer shall distribute the balance remaining in the limited gaming fund as follows:

(I) Fifty percent shall be referred to in this section as the "state share" and shall be transferred to the state general fund or any other fund that the general assembly shall provide in subsection (2) of this section;

(II) Twenty-eight percent shall be transferred to the state historical fund created in section 9 (5)(b)(II) of article XVIII of the state constitution and distributed as specified in section 9 (5)(b)(III) of article XVIII of the state constitution and section 44-30-1201;

(III) Twelve percent shall be distributed to the governing bodies of Gilpin county and Teller county in proportion to the gaming revenues generated in each county; and

(IV) The remaining ten percent shall be distributed to the governing bodies of the cities of Central, Black Hawk, and Cripple Creek in proportion to the gaming revenues generated in each respective city.

(2) (a) Except as provided in subsection (2)(b) or (2)(c) of this section, at the end of the 2012-13 state fiscal year and at the end of each state fiscal year thereafter, the state treasurer shall transfer the state share as follows:

(I) Fifteen million dollars to the Colorado travel and tourism promotion fund created in section 24-49.7-106;

(II) For the 2014-15 state fiscal year and each state fiscal year thereafter, five million five hundred thousand dollars to the advanced industries acceleration cash fund created in section 24-48.5-117;

(III) (A) At the end of the 2017-18 state fiscal year and each state fiscal year thereafter, five million dollars as annually increased by an amount equal to the percentage increase in the state share as described in subsection (1)(d)(I) of this section from the previous fiscal year to the local government limited gaming impact fund created in section 44-30-1301, plus an amount equal to the projected direct and indirect costs to administer the local government limited gaming impact grant program set forth in section 44-30-1301 (2)(a) for the upcoming fiscal year; except that such transfer shall be made at the beginning of the state fiscal year, and any unspent money from such transfer reverts to the local government limited gaming impact fund.

(B) If the state share does not increase from the previous fiscal year, then the state treasurer shall transfer an amount equal to the previous fiscal year's transfer.

(IV) Two million one hundred thousand dollars to the innovative higher education research fund created in section 23-19.7-104;

(V) Two million dollars to the creative industries cash fund created in section 24-48.5-301 for purposes of the council on creative industries, including the administration of the council;

(VI) Five hundred thousand dollars to the Colorado office of film, television, and media operational account cash fund created in section 24-48.5-116, for the operation of the Colorado office of film, television, and media, for the performance-based incentive for film production in Colorado as specified in section 24-48.5-116, and for the Colorado office of film, television, and media loan guarantee program as specified in section 24-48.5-115; and

(VII) Any amount of the state share that exceeds the transfers specified in subsections (2)(a)(I) to (2)(a)(VI) of this section shall be transferred to the general fund.

(b) If a transfer specified in subsections (2)(a)(I) to (2)(a)(VI) of this section provides money for a purpose or program that is repealed or otherwise discontinued as of the date of the transfer, then the transfer shall not be made to that particular fund but shall instead be transferred to the state general fund.

(c) (I) Notwithstanding any provision of this section to the contrary, the state treasurer shall not make any of the transfers specified in subsections (2)(a)(I) to (2)(a)(VI) of this section at the end of the 2019-20 and 2020-21 state fiscal years.

(II) This subsection (2)(c) is repealed, effective July 1, 2023.

(3) Notwithstanding any provision of this section to the contrary, sports betting is not authorized unless the voters at the November 2019 statewide election approve the ballot question submitted pursuant to section 44-30-1514, enacted in 2019 in House Bill 19-1327.

Source: L. 2018: IP(2)(a) and (2)(a)(III) amended, (SB 18-191), ch. 291, p. 1793, § 1, effective May 29; entire article added with relocations, (SB 18-034), ch. 14, p. 199, § 2, effective October 1. **L. 2019:** (1)(a), (1)(b)(I), and (1)(b)(II) amended and (3) added, (HB 19-1327), ch.

347, p. 3215, § 10, effective August 2. **L. 2020:** IP(2)(a) amended and (2)(c) added, (HB 20-1399), ch. 214, p. 1032, § 1, effective June 30.

Editor's note: (1) This section is similar to former § 12-47.1-701 as it existed prior to 2018.

(2) Subsections IP(2)(a) and (2)(a)(III) of this section were numbered as § 12-47.1-701 IP(2)(a) and (2)(a)(III), respectively, in SB 18-191. Those provisions were harmonized with and relocated to this section as this section appears in SB 18-034.

44-30-702. Revenues attributable to local revisions to gaming limits - extended limited gaming fund - identification - separate administration - distribution - definitions - legislative declaration. (1) (a) Immediately after the limited gaming tax revenues attributable to extended limited gaming are determined, the state treasurer shall transfer the revenues, together with any associated interest, to the extended limited gaming fund, also referred to in this section as the "fund", which is hereby created in the state treasury.

(b) The commission shall annually determine the amount of gaming tax revenues generated in each city from extended limited gaming and shall report the amounts to the state treasurer.

(2) Interest earned on money in the fund shall remain in the fund, and money remaining in the fund at the end of any fiscal year shall not revert to the general fund or to any other fund. Interest earnings shall be distributed annually in accordance with subsection (3)(c) of this section.

(3) From the fund, the state treasurer shall pay:

(a) First, that portion of the ongoing expenses of the commission and other state agencies that are related to the administration of extended limited gaming, as determined in accordance with rules of the commission. When making annual lump-sum distributions from the fund as described in subsection (5) of this section, the state treasurer may withhold an amount reasonably anticipated to be sufficient to pay the expenses until the next annual distribution.

(b) Second, except as otherwise provided in subsection (7) of this section, annual adjustments, in connection with distributions to limited gaming fund recipients listed in section 9 (5)(b)(II) of article XVIII of the state constitution, to reflect the lesser of six percent, or the actual percentage, of annual growth in extended limited gaming tax revenues. As used in this subsection (3)(b), "annual adjustment" means an annual payment to limited gaming fund recipients listed in section 9 (5)(b)(II) of article XVIII of the state constitution, calculated as follows:

(I) For revenues collected in fiscal year 2009-10, the payment shall equal six percent of the first year's limited gaming revenues attributable to extended limited gaming.

(II) For each fiscal year after 2009-10, the annual payment shall be increased or decreased as follows and shall constitute the annual adjustment:

(A) For any year in which the annual growth of limited gaming revenues attributable to extended limited gaming exceeds or equals six percent, add an amount equal to six percent of said revenues;

(B) For any year in which the annual growth in limited gaming revenues attributable to extended limited gaming is between zero and six percent, add an amount equal to the actual percentage growth of said revenues;

(C) For any year in which limited gaming tax revenues experience a decline, subtract an amount equal to the actual percentage decline of said revenues.

(III) Nothing in this subsection (3)(b) shall be construed to permit compounding or accumulation of the annual adjustment.

(c) Of the remaining gaming tax revenues, distributions in the following proportions:

(I) Seventy-eight percent to the state's public community colleges, junior colleges, and local district colleges to supplement existing state funding for student financial aid programs and classroom instruction programs, including programs to improve student retention and increase credential completion, as well as workforce preparation to enhance the growth of the state economy, to prepare Colorado residents for meaningful employment, and to provide Colorado businesses with well-trained employees. The revenue shall be distributed to colleges that were operating on and after January 1, 2008, in proportion to their respective full-time equivalent student enrollments in the previous fiscal year. For purposes of the distribution, the state treasurer shall use the most recent available figures on full-time equivalent student enrollment calculated by the Colorado commission on higher education in accordance with subsection (4)(c) of this section.

(II) Ten percent to the governing bodies of the cities of Central, Black Hawk, and Cripple Creek to address local gaming impacts. The revenue shall be distributed based on the proportion of extended limited gaming tax revenues that are paid by licensees operating in each city.

(III) Twelve percent to the governing bodies of Gilpin and Teller counties to address local gaming impacts. The revenue shall be distributed based on the proportion of extended limited gaming tax revenues that are paid by licensees operating in each county.

(4) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Colleges that were operating on and after January 1, 2008" means: Aims community college, Arapahoe community college, Colorado mountain college, Colorado Northwestern community college, the community college of Aurora, the community college of Denver, Front Range community college, Lamar community college, Morgan community college, Northeastern junior college, Otero college, Pikes Peak community college, Pueblo community college, Red Rocks community college, Trinidad state college, the two-year role and mission of Colorado Mesa university, currently referred to as Western Colorado community college division of Colorado Mesa university, the two-year academic role and mission of Adams state university, and the state board for community colleges and occupational education, for so long as each such college or board continues operating.

(b) "Extended limited gaming" means the extension of hours, games, or bet limits by a local vote in accordance with section 9 (7)(a) of article XVIII of the state constitution.

(c) (I) "Full-time equivalent student enrollment" means the number of in-state, full-time equivalent students enrolled at a college, as determined in accordance with article 7 of title 23, and the eligibility parameters contained in the "Policy for Reporting Full-Time Equivalent Student Enrollment" published as of January 1, 2008, by the Colorado commission on higher education, pursuant to its authority under section 23-1-105. The Colorado commission on higher education shall determine the full-time equivalent student enrollment for each college no later than August 15 of each year. For purposes of calculating a college's in-state, full-time equivalent student enrollment for any fiscal year, the number of students enrolled in certificate, AA, AS, AGS, or AAS degree courses and programs, as well as the nondegree-seeking students who are

included as part of the community college role and mission for purposes of application to the department of higher education and enrollments in developmental courses by any students, regardless of degree intent, reported by the college to the department of higher education in its final student FTE report for that fiscal year shall be presumed correct; except that the following students shall be excluded:

(A) Students who are admitted to a college on a competitive basis and are not enrolled in certificate, AA, AS, AGS, or AAS developmental or vocational courses;

(B) Students who are admitted pursuant to the Colorado commission on higher education's undergraduate admissions standard index for a college or within the Colorado commission on higher education's admissions window for a college and are not enrolled in certificate, AA, AS, AGS, or AAS developmental or vocational courses; and

(C) Students who are enrolled in classes that are not supported by state general fund money.

(II) With respect to the two-year mission at Adams state university, full-time equivalent student enrollment shall be limited to enrollment in the associate's degree programs that existed as of November 4, 2008.

(d) Except as otherwise provided in subsection (7) of this section, "limited gaming tax revenues attributable to extended limited gaming" means all limited gaming tax revenue in excess of the amount collected during fiscal year 2008-09, adjusted as follows:

(I) For revenues collected in fiscal year 2009-2010, reduced by a three percent growth factor on the 2008-2009 base of limited gaming tax revenues, which amount shall be added to the base and shall constitute the adjusted base; and

(II) Thereafter:

(A) Reduced by a three percent per fiscal year growth factor on the previous year's adjusted base, which growth factor shall be added to the previous fiscal year's adjusted base and shall constitute the new adjusted base; or

(B) If growth in limited gaming tax revenues is between zero and three percent in any fiscal year, the growth factor on the previous fiscal year's adjusted base shall be the actual percentage growth in limited gaming tax revenues, which shall be added to the previous fiscal year's adjusted base; or

(C) If limited gaming tax revenues decline from year to year, the previous fiscal year's adjusted base shall be reduced by the actual percentage decline in limited gaming tax revenue.

(e) "Other state money appropriated or otherwise allocated for similar programs or purposes" means all money distributed from the general fund of the state by the general assembly for higher education or for the support of any institution of higher education, including without limitation the colleges listed in subsection (4)(a) of this section. If the total amount of spending described in this subsection (4)(e) is reduced from one state fiscal year to the next, the percentage of the reduction for the colleges listed in subsection (4)(a) of this section shall not exceed the percentage of reduction in total general fund operating funding, including college opportunity fund stipends and fee-for-service funds, for all institutions of higher education during the same state fiscal year.

(f) "Previous fiscal year" means, with respect to a college receiving money under this section, the fiscal year immediately preceding the fiscal year in which money is made available to the college pursuant to this section.

(5) **Method of distribution - distribution to colleges - relationship to funding from other sources.** (a) On or before September 1 of each year, the state treasurer shall distribute all money from the fund to the recipients identified in subsection (3)(c) of this section in the form of lump-sum payments. Distribution to colleges listed in subsection (4)(a) of this section shall be to the state board for community colleges and occupational education for those colleges listed in section 23-60-205, and to the respective governing boards of the colleges that are not so listed.

(b) Money distributed under this section to colleges listed in subsection (4)(a) of this section, and any interest or income earned on a college's deposit of the money, shall supplement and shall not supplant any other state money appropriated or otherwise allocated for similar programs or purposes. As used in this subsection (5), "state money" means general fund operating funding, including college opportunity fund stipends and fee-for-service funds, adjusted for inflation to the same degree as the inflation adjustment received by other institutions of higher education.

(c) Any higher education funding formula that allocates state-appropriated money shall not use money distributed under this section to supplant state money otherwise allocated by the formula.

(d) Money distributed from the fund is hereby continuously appropriated to the governing boards of the colleges listed in subsection (4)(a) of this section. The money shall be included for informational purposes in the annual general appropriation bill or in supplemental appropriation bills for the purpose of complying with any applicable constitutional and statutory limits on state fiscal year spending.

(6) **Bonding authority.** In addition to any other powers conferred by law, the governing body of each college listed in subsection (4)(a) of this section may issue bonds refundable from revenues received pursuant to this section.

(7) **Reduction in revenues due to force majeure - operation of hold-harmless provisions - continuity of funding - recovery.** (a) **Legislative declaration.** The general assembly finds, determines, and declares that:

(I) Section 9 (7) of article XVIII of the state constitution, initiated and enacted by the people of Colorado in 2008 and commonly referred to as "Amendment 50", authorized the extension of limited gaming activity for the purpose of helping fund Colorado's community colleges, junior colleges, and local district colleges through an increase in gaming tax revenues;

(II) Amendment 50 explicitly authorized the general assembly to "enact, as necessary, legislation that will facilitate the operation of this [initiative]";

(III) Pursuant to that authority, it is reasonable for the general assembly to address the effects of the global pandemic and economic recession of 2020 in a way that:

(A) Avoids long-term economic damage to any of the beneficiaries of limited gaming tax revenues; and

(B) Equitably allocates the limited gaming tax revenues in fiscal years immediately following this severe funding decline among all recipients; and

(IV) The allocation provisions of section 9 (7) of article XVIII of the state constitution do not contemplate the unprecedented significant decline in limited gaming revenues caused by the global pandemic, and the general assembly desires to address the original implementing statutory formula for the allocation of gaming revenues, consistent with the state constitution, in a manner that modifies the statutory annual adjustment provisions to retain the constitutional

allocation, thus reflecting the proportionate allocation to the beneficiaries of limited gaming tax revenues.

(b) (I) Notwithstanding any provision of subsection (3)(b) or (4)(d) of this section to the contrary, beginning in state fiscal year 2020-21 and continuing through each subsequent fiscal year until the fiscal year immediately following the fiscal year in which total limited gaming tax revenue collections have again equaled or exceeded the amount of total limited gaming tax revenues collected in state fiscal year 2018-19, any annual growth or decline in total net gaming tax distributions shall be allocated between the limited gaming fund recipients listed in section 9 (5)(b)(II) of article XVIII of the state constitution and the recipients of limited gaming tax revenues attributable to extended limited gaming under section 9 (7) of article XVIII of the state constitution based on the relative percentages in which each group of recipients shared in the decrease in total net gaming tax distributions from state fiscal year 2018-19 to state fiscal year 2019-20. The commission may make any adjustments necessary to ensure that the final distributions to all recipients comply with constitutional requirements while achieving the intent of this subsection (7). So long as this subsection (7) remains in effect, the annual adjustments required under subsections (3)(b) and (4)(d) of this section are temporarily superseded by the specific allocations to implement the constitutional annual adjustment made pursuant to this subsection (7).

(II) As used in this subsection (7)(b), "limited gaming tax revenues attributable to extended limited gaming" means that portion of total limited gaming tax revenues allocated pursuant to subsection (7)(b)(I) of this section to recipients of revenues derived from extended limited gaming under section 9 (7) of article XVIII of the state constitution.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 201, § 2, effective October 1. **L. 2020:** IP(3)(b) and IP(4)(d) amended and (7) added, (HB 20-1400), ch. 215, p. 1037, § 1, effective June 30. **Initiated 2020:** (3)(c)(I) amended, Amendment 77, effective May 1, 2021. See L. 2021, p. 4211. **L. 2021:** IP(4) and (4)(a) amended, (SB 21-008), ch. 155, p. 881, § 2, effective September 7.

Editor's note: (1) This section is similar to former § 12-47.1-701.5 as it existed prior to 2018.

(2) Subsection (3)(c)(I) was amended by Amendment 77, effective May 1, 2021. The proclamation of the governor was December 31, 2020. The vote count for the measure at the general election held November 3, 2020, was as follows:

FOR: 1,854,153

AGAINST: 1,208,414

44-30-703. Audits and annual reports. The limited gaming fund shall be audited at least annually by or under the direction of the state auditor, who shall submit a report of the audit to the legislative audit committee. The expenses of the audit shall be paid from the limited gaming fund.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 205, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-702 as it existed prior to 2018.

44-30-704. Enforcement. It is the duty of all sheriffs and police officers in this state to enforce the provisions of this article 30, or article 20 of title 18, and the rules promulgated by the commission, either on their own motion or upon complaint of any person, including any authorized agent of the commission. The sheriffs and police officers may exercise any authority of inspection and examination specified in this article 30. The district attorneys of the respective judicial districts of this state shall prosecute all violations of this article 30 in the same manner as provided for other crimes and misdemeanors.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 205, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-703 as it existed prior to 2018.

44-30-705. Attorney general - duties. (1) The attorney general shall provide legal services for the division and the commission at the request of the executive director, director, or the commission. The attorney general shall make reasonable efforts to ensure that there is continuity in the legal services provided and that the attorneys providing legal services to the division and the commission have expertise in the field.

(2) The commission, the executive director, or the director may request the attorney general to make civil investigations and enforce civil violations of rules of the commission, on behalf of and in the name of the division, and to bring and defend civil suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the division.

(3) Expenses of the attorney general incurred in the performance of the responsibilities under this section shall be paid from the limited gaming fund; except that any such expenses related to sports betting under part 15 of this article 30 shall be paid from the sports betting fund. Notwithstanding any provision of this subsection (3) to the contrary, sports betting is not authorized unless the voters at the November 2019 statewide election approve the ballot question submitted pursuant to section 44-30-1514, enacted in 2019 in House Bill 19-1327.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 205, § 2, effective October 1. **L. 2019:** (3) amended, (HB 19-1327), ch. 347, p. 3215, § 11, effective August 2.

Editor's note: This section is similar to former § 12-47.1-704 as it existed prior to 2018.

PART 8

UNLAWFUL ACTS

44-30-801. Limited gaming equipment manufacturers or distributors, operators, associated equipment suppliers, retailers, key employees, support licensees, persons contracting with the commission or division - criteria. (1) This section applies to the following persons:

(a) All persons licensed pursuant to this article 30;

(b) With respect to privately held corporations licensed pursuant to this article 30, the officers, directors, and stockholders of the corporations;

(c) With respect to publicly traded corporations licensed pursuant to this article 30, all officers, directors, and stockholders holding either five percent or greater interest or a controlling interest;

(d) With respect to partnerships licensed pursuant to this article 30, all general partners and all limited partners;

(e) With respect to any other organization licensed pursuant to this article 30, all those persons connected with the organization having a relationship to it similar to that of an officer, director, or stockholder of a corporation;

(f) All persons contracting with or supplying any goods or service to the commission or the division;

(g) All persons supplying financing or loaning money to any licensee, when the financing or loan is connected with the establishment or operation of limited gaming;

(h) All persons having a contract, lease, or other ongoing financial or business arrangement with any licensee, where the contract, lease, or arrangement relates to limited gaming operations, equipment, devices, or premises.

(2) Each of the persons described in subsection (1) of this section shall be:

(a) A person of good moral character, honesty, and integrity notwithstanding section 24-5-101;

(b) A person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interests of this state or to the control of gaming or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying-on of the business or financial arrangements incidental to the conduct of gaming;

(c) A person who has not served a sentence upon conviction of any felony, misdemeanor gambling-related offense, misdemeanor theft by deception, or misdemeanor involving fraud or misrepresentation in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department within ten years prior to the date of applying for a license pursuant to this article 30, notwithstanding section 24-5-101;

(d) A person who has not served a sentence upon conviction of any gambling-related felony, felony involving theft by deception, or felony involving fraud or misrepresentation in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department, notwithstanding section 24-5-101;

(e) A person who has not been found to have seriously or repeatedly violated this article 30 or any rule promulgated pursuant to this article 30; and has not knowingly made a false statement of material facts to the commission, its legal counsel, or any employee of the division.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 206, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-801 as it existed prior to 2018.

44-30-802. False statement on application - violations of rules or provisions of article as felony. Any person who knowingly makes a false statement in any application for a license or in any statement attached to the application, or who provides any false or misleading information to the commission or the division, or who fails to keep books and records to substantiate the receipts, expenses, or uses resulting from limited gaming conducted under this article 30 as prescribed in rules promulgated by the commission, or who falsifies any books or records that relate to any transaction connected with the holding, operating, and conducting of any limited gaming activity, or who knowingly violates any of the provisions of this article 30 or any rule adopted by the commission or any terms of any license granted under this article 30, commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 207, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-802 as it existed prior to 2018.

44-30-803. Slot machines - shipping notices. (1) (a) (I) Any slot machine manufacturer or distributor shipping or importing a slot machine into the state of Colorado shall provide to the commission at the time of shipment a copy of the shipping invoice which shall include, at a minimum, the destination, the serial number of each machine, and a description of each machine.

(II) Any person within the state of Colorado receiving a slot machine shall, upon receipt of the machine, provide to the commission upon a form available from the commission information showing at a minimum the location of each machine, its serial number, and description. The report shall be provided regardless of whether the machine is received from a manufacturer or any other person.

(III) Any machine licensed pursuant to this section shall be licensed for a specific location, and movement of the machine from that location shall be reported to the commission in accordance with rules adopted by the commission.

(b) Any person violating any provision of this section commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

(c) Any slot machine that is not in compliance with this article 30 is declared contraband and may be summarily seized and destroyed after notice and hearing.

(d) The commission shall promulgate rules setting the time and manner for reporting the movement of any slot machine.

(2) Slot machines that because of age and condition bear no manufacturer serial number shall be assigned a serial number by a remanufacturer of slot machines. The new serial number shall be duly recorded as required by federal regulations.

(3) The director may approve a change to the registration of a slot machine under circumstances constituting an emergency. If the director approves an emergency change, the registration of the slot machine shall not be suspended pending the filing of a supplemental application.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 207, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-803 as it existed prior to 2018.

44-30-804. Persons prohibited from interest in limited gaming. (1) None of the following persons shall have any interest, direct or indirect, in any license involved in or with limited gaming:

(a) Officers, reserve police officers, agents, or employees of any law enforcement agency of the state of Colorado with the authority to investigate or prosecute crime in Teller or Gilpin counties or of any local law enforcement agency or detention or correctional facility within Teller or Gilpin counties;

(b) District, county, or municipal court judges whose jurisdiction includes all or any portion of Teller or Gilpin counties;

(c) Elected municipal officials or county commissioners of the counties of Teller and Gilpin and of the cities of Central, Black Hawk, and Cripple Creek;

(d) Central, Black Hawk, or Cripple Creek city manager or planning commission member.

(2) No licensee may employ any person in any capacity while that person is in the employment of the commission or is in the employment of, or has a reserve police officer position with, a law enforcement agency of the state of Colorado with the authority to investigate or prosecute crime in Teller or Gilpin counties, any local law enforcement agency or detention or correctional facility within Teller or Gilpin counties, or any other county that may later be an authorized gaming location under section 44-30-105.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 208, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-804 as it existed prior to 2018.

44-30-805. Responsibilities of operator. Every licensed operator and retailer having slot machines on his or her premises shall provide audit and security measures relating to slot machines, as prescribed by this article 30 and by rules of the commission. Every licensed operator and retailer having slot machines on his or her premises shall ensure that the slot machines in his or her establishment comply with the specifications set forth in this article 30 and the rules promulgated pursuant to this article 30.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 208, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-805 as it existed prior to 2018.

44-30-806. Gaming equipment - security and audit specifications. All slot machines and all other equipment and devices used in limited gaming allowed by this article 30 shall have the features, security provisions, and audit specifications established in rules adopted by the commission.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 208, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-806 as it existed prior to 2018.

44-30-807. Gaming equipment - not subject to exclusive agreements. It is the public policy of this state that gaming equipment authorized and approved by the commission may not be subject to any exclusive agreement entered into prior to October 1, 1991.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 209, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-807 as it existed prior to 2018.

44-30-808. Restriction upon persons having financial interest in retail licenses. No person may have an ownership interest in more than three retail licenses. The interest of a licensed operator leasing or routing slot machines in return for a percentage of the income from limited gaming shall not by itself be considered an interest in a retail license under this section.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 209, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-808 as it existed prior to 2018.

44-30-809. Age of participants - violation as misdemeanor - applicability. (1) (a) It is unlawful for any person under twenty-one years of age to:

(I) Linger in the gaming area of a casino;

(II) Sit on a chair or be present at a gaming table, slot machine, or other area in which gaming is conducted; or

(III) Participate, play, be allowed to play, place wagers, or collect winnings, whether personally or through an agent, in or from any limited gaming game or slot machines.

(b) Subsections (1)(a)(I) and (1)(a)(II) of this section shall not apply to a person employed by the casino in which the person is present.

(c) Nothing in subsection (1)(a) of this section shall prevent any person under twenty-one years of age from passing through a casino to nongaming areas.

(2) It is unlawful for any person to engage in limited gaming with, or to share proceeds from limited gaming with, any person under twenty-one years of age.

(3) (a) It is unlawful for any licensee to permit any person who is less than twenty-one years of age to:

(I) Linger in the gaming area of a casino;

(II) Sit on a chair or be present at a gaming table, slot machine, or other area in which gaming is conducted; or

(III) Participate, play, place wagers, or collect winnings, whether personally or through an agent, in or from any limited gaming game or slot machine.

(b) Subsections (3)(a)(I) and (3)(a)(II) of this section shall not apply to a person employed by the casino in which the person is present.

(c) Nothing in subsection (3)(a) of this section shall prevent any person under twenty-one years of age from passing through a casino to nongaming areas.

(4) Any person violating any of the provisions of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(5) Any person violating any of the provisions of this section with a person under eighteen years of age may also be proceeded against pursuant to section 18-6-701 for contributing to the delinquency of a minor.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 209, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-809 as it existed prior to 2018.

44-30-810. Employee twenty-one years or older required on premises. A retail licensee shall have one employee who is at least twenty-one years of age on the premises during the hours limited gaming is conducted and within full view and control of any limited gaming activity conducted on the premises pursuant to the license obtained.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 210, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-810 as it existed prior to 2018.

44-30-811. Persons conducting limited gaming. No person under the age of twenty-one years shall be employed as a gaming employee, conduct, or assist in conducting, any limited gaming activity, and no such person shall manage or handle any of the proceeds from limited gaming.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 210, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-811 as it existed prior to 2018.

44-30-812. Employee of licensed person - good moral character. No person licensed under this article 30 shall employ or be assisted by any person who is not of good moral character.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 210, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-812 as it existed prior to 2018.

44-30-813. Minimum payback - limit to a slot machine. The minimum theoretical payback value on a slot machine shall be at least eighty but not more than one hundred percent of the value of any credit played. However, this section shall not be construed to prohibit tournament slot machines with theoretical payback values greater than one hundred percent where the machines do not accept nor pay out coins or tokens.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 210, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-813 as it existed prior to 2018.

44-30-814. Key employee - support license. (1) A licensee shall not employ any person to work in the field of limited gaming, or to handle any of the proceeds of limited gaming, unless the person holds a valid key employee or support license issued by the commission.

(2) It is unlawful for any person holding a key employee or support license to participate in limited gaming in the gaming establishment where the licensee is employed or in any other gaming establishment owned by the licensee's employer; except that the licensee may participate in limited gaming if the participation is performed as part of the licensee's employment responsibilities.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 210, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-814 as it existed prior to 2018.

44-30-815. Extension of credit prohibited. No person licensed under this article 30 may extend credit to another person for participation in limited gaming.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 210, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-815 as it existed prior to 2018.

44-30-816. Authorized amount of bets. The amount of a bet made pursuant to this article 30 shall not be more, on the initial bet or subsequent bet, than the amounts approved by the voters of Central, Black Hawk, or Cripple Creek at a local election held in each city to control the conduct of gaming in that jurisdiction, subject to rules promulgated by the commission.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 211, § 2, effective October 1. **Initiated 2020:** Entire section amended, Amendment 77, effective May 1, 2021. See L. 2021, p. 4211.

Editor's note: (1) This section is similar to former § 12-47.1-816 as it existed prior to 2018.

(2) This section was amended by Amendment 77, effective May 1, 2021. The proclamation of the governor was December 31, 2020. The vote count for the measure at the general election held November 3, 2020, was as follows:

FOR: 1,854,153

AGAINST: 1,208,414

44-30-817. Failure to pay winners. (1) It is unlawful for any licensee to willfully refuse to pay the winner of any limited gaming game, except as authorized by section 44-33-105 (2)(b)(II).

(2) **[*Editor's note: This version of subsection (2) is effective until March 1, 2022.*]** Any person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2) **[*Editor's note: This version of subsection (2) is effective March 1, 2022.*]** Any person violating any provision of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 211, § 2, effective October 1. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3329, § 791, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-47.1-817 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-30-818. Approval of rules for certain games. (1) Specific rules for blackjack, poker, craps, roulette, and such other games as are approved by the voters of Central, Black Hawk, or Cripple Creek at a local election held in each city to control the conduct of gaming in that jurisdiction shall be approved by the commission and clearly posted within plain view of the games.

(2) A licensee shall not offer poker, blackjack, craps, or roulette, or any variation game of poker, blackjack, craps, or roulette, without prior approval of the game by the commission, except as specifically authorized in the commission's rules regarding field trials of new games or technology.

(3) No licensee shall employ shills.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 211, § 2, effective October 1. **Initiated 2020:** (1) amended, Amendment 77, effective May 1, 2021. See L. 2021, p. 4211.

Editor's note: (1) This section is similar to former § 12-47.1-818 as it existed prior to 2018.

(2) Subsection (1) was amended by Amendment 77, effective May 1, 2021. The proclamation of the governor was December 31, 2020. The vote count for the measure at the general election held November 3, 2020, was as follows:

FOR: 1,854,153

AGAINST: 1,208,414

44-30-819. Exchange - redemption of chips - unlawful acts. It is unlawful for a person to exchange or redeem chips for anything whatsoever, except currency, negotiable personal checks, negotiable counter checks, or other chips. A licensee shall, upon the request of a person, redeem the licensee's gaming chips surrendered by that person pursuant to rules established by the commission.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 211, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-819 as it existed prior to 2018.

44-30-820. Persons in supervisory positions - unlawful acts - rules. It is unlawful for a dealer, floorperson, or other employee who serves in a supervisory position to solicit or accept a tip or gratuity from a player or patron at the licensed gaming establishment where he or she is employed; except that a dealer may accept tips or gratuities from a patron at the table at which the dealer is conducting play, subject to this section. Except as the commission may authorize by rule, a dealer shall immediately deposit tips or gratuities in a lockbox reserved for that purpose, accounted for and placed in a pool for distribution based upon criteria established in advance by the licensed retailer.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 211, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-820 as it existed prior to 2018.

44-30-821. Cheating - definition. (1) It is unlawful for any person, whether he or she is an owner or employee of, or a player in, an establishment, to cheat at any limited gaming activity.

(2) For purposes of this article 30, "cheating" means to alter the selection of criteria that determine:

(a) The result of a game; or

(b) The amount or frequency of payment in a game.

(3) **[*Editor's note: This version of subsection (3) is effective until March 1, 2022.*]** Any person issued a license pursuant to this article 30 violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, and any other person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

(3) **[*Editor's note: This version of subsection (3) is effective March 1, 2022.*]** Any person issued a license pursuant to this article 30 violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, and any other person violating any provision of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 211, § 2, effective October 1. **L. 2021:** (3) amended, (SB 21-271), ch. 462, p. 3329, § 792, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-47.1-822 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-30-822. Fraudulent acts. (1) It is unlawful for a person:

(a) To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(b) To place, increase, or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or that is the subject of the bet or to aid anyone in acquiring the knowledge for the purpose of placing, increasing, or decreasing a bet or determining the course of play contingent upon that event or outcome;

(c) To claim, collect, or take, or attempt to claim, collect, or take, money or anything of value in or from a limited gaming activity with intent to defraud and without having made a wager contingent thereon, or to claim, collect, or take an amount greater than the amount won;

(d) Knowingly to entice or induce another to go to any place where limited gaming is being conducted or operated in violation of the provisions of this article 30, with the intent that the other person play or participate in that limited gaming activity;

(e) To place or increase a bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including past-posting and pressing bets;

(f) To reduce the amount wagered or to cancel a bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including pinching bets;

(g) To manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation affects the outcome of the game or with knowledge of an event that affects the outcome of the game;

(h) To, by any trick or sleight of hand performance, or by fraud or fraudulent scheme, cards, or device, for himself or herself or another, win or attempt to win money or property or a representative of either or reduce a losing wager or attempt to reduce a losing wager in connection with limited gaming;

(i) To conduct any limited gaming operation without a valid license;

(j) To conduct any limited gaming operation on an unlicensed premises;

(k) To permit any limited gaming game or slot machine to be conducted, operated, dealt, or carried on in any limited gaming premises by a person other than a person licensed for the premises pursuant to this article 30;

(l) To place any limited gaming games or slot machines into play or display the games or slot machines without the authorization of the commission;

(m) To employ or continue to employ any person in a limited gaming operation who is not duly licensed or registered in a position whose duties require a license or registration pursuant to this article 30; or

(n) To, without first obtaining the requisite license or registration pursuant to this article 30, be employed, work, or otherwise act in a position whose duties would require licensing or registration pursuant to this article 30.

(2) **[*Editor's note: This version of subsection (2) is effective until March 1, 2022.*]** Any person issued a license pursuant to this article 30 violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, and any other person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

(2) **[*Editor's note: This version of subsection (2) is effective March 1, 2022.*]** Any person issued a license pursuant to this article 30 violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, and any other person violating any provision of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 212, § 2, effective October 1. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3330, § 793, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-47.1-823 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-30-823. Use of device for calculating probabilities. (1) It is unlawful for any person at a licensed gaming establishment to use, or possess with the intent to use, any device to assist:

(a) In projecting the outcome of the game;

(b) In keeping track of the cards played;

(c) In analyzing the probability of the occurrence of an event relating to the game; or

(d) In analyzing the strategy for playing or betting to be used in the game, except as permitted by the commission.

(2) **[*Editor's note: This version of subsection (2) is effective until March 1, 2022.*]** Any person issued a license pursuant to this article 30 violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, and any other person

violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

(2) **[*Editor's note: This version of subsection (2) is effective March 1, 2022.*]** Any person issued a license pursuant to this article 30 violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, and any other person violating any provision of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 213, § 2, effective October 1. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3330, § 794, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-47.1-824 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-30-824. Use of counterfeit or unapproved chips or tokens or unlawful coins or devices - possession of certain unlawful devices, equipment, products, or materials. (1) It is unlawful for any licensee, employee, or other person to use counterfeit chips in any limited gaming activity.

(2) It is unlawful for a person, in playing or using a limited gaming activity designed to be played with, to receive, or to be operated by chips, tokens, or other wagering instruments approved by the commission or by lawful coin of the United States of America:

(a) Knowingly to use anything other than chips or tokens approved by the commission or lawful coin, legal tender of the United States of America, or to use coin not of the same denomination as the coin intended to be used in that limited gaming activity; or

(b) To use any device or means to violate the provisions of this article 30.

(3) It is unlawful for any person to possess any device, equipment, or material that he or she knows has been manufactured, distributed, sold, tampered with, or serviced in violation of the provisions of this article 30.

(4) It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his or her employment within an establishment, to have on his or her person or in his or her possession any device intended to be used to violate the provisions of this article 30.

(5) It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his or her employment within an establishment, to have on his or her person or in his or her possession while on the premises of any licensed gaming establishment any key or device known to have been designed for the purpose of and suitable for opening, entering, or affecting the operation of any limited gaming activity, drop box, or electronic or mechanical device connected thereto, or for removing money or other contents therefrom.

(6) Possession of more than one of the devices, equipment, products, or materials described in this section shall give rise to a rebuttable presumption that the possessor intended to use them for cheating.

(7) It is unlawful for any person to use or possess while on the premises any cheating or thieving device, including but not limited to, tools, drills, wires, coins, or tokens attached to strings or wires or electronic or magnetic devices, to facilitate the alignment of any winning combination or to facilitate removing from any slot machine any money or contents thereof, unless the person is a duly authorized gaming employee acting in the furtherance of his or her employment.

(8) Any person violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401; except that, if the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 213, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-825 as it existed prior to 2018.

44-30-825. Cheating game and devices. (1) It is unlawful for a person playing a licensed game in licensed gaming premises to:

(a) Knowingly conduct, carry on, operate, or deal or allow to be conducted, carried on, operated, or dealt any cheating or thieving game or device; or

(b) Knowingly deal, conduct, carry on, operate, or expose for play a physical or electronic version of a game played with physical or electronic cards or a mechanical device, or any combination of games or devices, that have been marked or tampered with or placed in a condition or operated in a manner that tends to deceive the public or alter the normal random selection of characteristics or the normal chance of the game, or that could determine or alter the result of the game.

(2) Any person violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401; except that, if the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 214, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-826 as it existed prior to 2018.

44-30-826. Unlawful manufacture, sale, distribution, marking, altering, or modification of equipment and devices associated with limited gaming - unlawful instruction. (1) It is unlawful to manufacture, sell, or distribute any cards, chips, dice, game, or device that is intended to be used to violate any provision of this article 30.

(2) It is unlawful to mark, alter, or otherwise modify related equipment or a limited gaming device in a manner that:

(a) Affects the result of a wager by determining win or loss; or

(b) Alters the normal criteria of random selection, that affects the operation of a game or that determines the outcome of a game.

(3) It is unlawful for any person to instruct another in cheating or in the use of any device for that purpose, with the knowledge or intent that the information or use so conveyed may be employed to violate any provision of this article 30.

(4) **[*Editor's note: This version of subsection (4) is effective until March 1, 2022.*]** Any person issued a license pursuant to this article 30 violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, and any other person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

(4) **[*Editor's note: This version of subsection (4) is effective March 1, 2022.*]** Any person issued a license pursuant to this article 30 violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, and any other person violating any provision of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 215, § 2, effective October 1. **L. 2021:** (4) amended, (SB 21-271), ch. 462, p. 3330, § 795, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-47.1-827 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-30-827. Unlawful entry by excluded and ejected persons. (1) It is unlawful for any person whose name is on the list promulgated by the commission pursuant to section 44-30-1001 or 44-30-1002 to enter the licensed premises of a limited gaming licensee.

(2) It is unlawful for any person whose name is on the list promulgated by the commission pursuant to section 44-30-1001 or 44-30-1002 to have any personal pecuniary interest, direct or indirect, in any limited gaming licensee, licensed premises, establishment, or business involved in or with limited gaming or in the shares in any corporation, association, or firm licensed pursuant to this article 30.

(3) Any person violating the provisions of this section commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 215, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-828 as it existed prior to 2018.

44-30-828. Detention and questioning of person suspected of violating article - limitations on liability - posting of notice. (1) Any licensee or an officer, employee, or agent thereof may question any person in the licensee's establishment suspected of violating any of the provisions of this article 30. A licensee or any officer, employee, or agent thereof is not criminally or civilly liable:

(a) On account of any such questioning; or

(b) For reporting to the division, commission, or law enforcement authorities the person suspected of the violation.

(2) Any licensee or any officer, employee, or agent thereof who has probable cause to believe that there has been a violation of this article 30 in the licensee's establishment by any person may take that person into custody and detain him or her in the establishment in a reasonable manner and for a reasonable length of time. Such a taking into custody and detention does not render the licensee or the officer, employee, or agent thereof criminally or civilly liable unless it is established by clear and convincing evidence that the taking into custody or detention is unreasonable under all the circumstances.

(3) A licensee or any officer, employee, or agent thereof is not entitled to the immunity from liability provided for in subsection (2) of this section unless there is displayed in a conspicuous place in the licensee's establishment a notice in bold-face type clearly legible and in substantially this form:

Any gaming licensee, or any officer, employee, or agent thereof who has probable cause to believe that any person has violated any provision prohibiting cheating in limited gaming may detain that person in the establishment.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 216, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-829 as it existed prior to 2018.

44-30-829. Failure to display operator and premises licenses. (1) It is unlawful for any person to fail to permanently display in a conspicuous manner:

(a) Operator and premises licenses granted by the commission;

(b) A notice in bold-faced type that is clearly legible and in substantially the following form:

IT IS UNLAWFUL FOR ANY PERSON UNDER THE AGE OF TWENTY-ONE TO ENGAGE IN LIMITED GAMING.

(2) Any person violating this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 216, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-830 as it existed prior to 2018.

44-30-830. Authority, duties, and powers - department of revenue and department of public safety. (1) The gaming commission, the department of revenue, and the division shall regulate the gaming industry and enforce the gaming laws. Nothing in this section shall be construed to prohibit or limit the authority of local sheriffs or police officers to enforce all the provisions of this article 30 or the rules promulgated pursuant to this article 30.

(2) The Colorado bureau of investigation shall have authority for the following:

(a) Conduct criminal investigations and law enforcement oversight relating to violations of the "Colorado Organized Crime Control Act", article 17 of title 18, as these violations are reported by law enforcement officials, the gaming commission, the governor, or as discovered by the Colorado bureau of investigation.

(b) In cooperation with local law enforcement officials and the commission, the Colorado bureau of investigation shall develop and collect information with regard to organized crime in an effort to identify criminal elements or enterprises that might infiltrate and influence limited gaming and report the information to appropriate law enforcement organizations and the limited gaming commission.

(c) Prepare reports concerning any activities in, or movements into, this state of organized crime for use by the commission or the governor in their efforts to prevent and thwart criminal elements or enterprises from infiltrating or influencing limited gaming as defined in this article 30.

(d) Inspect or examine, during normal business hours, premises, equipment, books, records, or other written material maintained at gaming establishments as required by this article 30, in the course of performing the activities of the Colorado bureau of investigation as set forth in this section.

(3) The commission shall, in cooperation with the Colorado bureau of investigation, conduct background investigations of gaming license applicants, licensees, owners or tenants of property or premises upon which gaming is permitted or conducted, and key employees of the gaming establishments as defined in this article 30 or by commission rule.

(4) Criminal violations of this article 30 discovered during an authorized investigation or discovered by the limited gaming commission shall be referred to the appropriate district attorney.

(5) The director of the Colorado bureau of investigation shall employ any personnel that may be necessary to carry out the duties and responsibilities set forth in this article 30. The commission shall authorize payment to the Colorado bureau of investigation for the cost involved. Costs for activities relating to limited gaming shall be paid from the limited gaming fund pursuant to preestablished contracts or formal agreements, or both, including contracts or formal agreements on specific activities the department of public safety will complete for the commission and conditions for payment, the manner in which the commission and the department of public safety will review budgets and project resource needs in the future, and the level of cooperation established between the division, the Colorado bureau of investigation for conducting background investigations, and the Colorado state patrol for contracted services.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 216, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-831 as it existed prior to 2018.

44-30-831. Violation of article as misdemeanor. [*Editor's note: This version of this section is effective until March 1, 2022.*] Any person violating any of the provisions of this article 30, or any of the rules promulgated pursuant thereto, commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, except as may otherwise be specifically provided in this article 30.

44-30-831. Violation of article as misdemeanor. [*Editor's note: This version of this section is effective March 1, 2022.*] Any person violating any of the provisions of this article 30, or any of the rules promulgated pursuant thereto, commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, except as may otherwise be specifically provided in this article 30.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 218, § 2, effective October 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3330, § 796, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-47.1-832 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-30-832. Agreements, contracts, leases - void and unenforceable. All agreements, contracts, leases, or arrangements in violation of this article 30, or the rules promulgated pursuant to this article 30, are void and unenforceable.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 218, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-833 as it existed prior to 2018.

44-30-833. Financial interest restrictions. (1) A manufacturer or distributor of slot machines, associated equipment, or related equipment shall not knowingly, without notifying the division within ten days:

(a) Have any interest, directly or indirectly, in any operator;

(b) Allow any of its officers, or any other person with a substantial interest in the business, to have any interest in an operator;

(c) Employ any person in any capacity or allow any person to represent the business in any way if the person is also employed by an operator;

(d) Allow any operator or any person having a substantial interest therein, to have any interest, directly or indirectly, in the business.

(2) The word "interest" as used in this section does not preclude transactions in the ordinary course of business.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 218, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-835 as it existed prior to 2018.

44-30-834. Revocation or expiration of license - requirement of notification. A licensee whose license has been revoked or has expired shall notify the licensee's employer within twenty-four hours after the revocation or expiration.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 218, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-837 as it existed prior to 2018.

44-30-835. Personal pecuniary gain or conflict of interest. (1) It is unlawful for any person to issue, suspend, revoke, or renew any license pursuant to this article 30 for any personal pecuniary gain or any thing of value, as defined in section 18-1-901 (3)(r), or for any person to violate any of the provisions of section 44-30-401.

(2) Any person violating any of the provisions of this section commits a class 3 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 218, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-838 as it existed prior to 2018.

44-30-836. False or misleading information - unlawful. (1) It is unlawful for any person to provide any false or misleading information under the provisions of this article 30.

(2) Any person violating any of the provisions of this section commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 218, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-839 as it existed prior to 2018.

PART 9

CHARITABLE GAMING

44-30-901. Events sponsored by charitable organizations. (1) Any person licensed as a retailer, or as both a retailer and operator, may choose to allow a charitable organization to sponsor limited gaming at that retailer's licensed premises, if the following conditions are met:

(a) The organization is a charitable organization, that for purposes of this section means any organization, not for pecuniary profit, that is operated for the relief of poverty, distress, or

other condition of public concern within this state and that has been so engaged for five years prior to making application to sponsor limited gaming under this article 30;

(b) The licensed operator or retailer and the charitable organization agree in writing upon all the terms and conditions of the sponsorship, and a copy of the written agreement is filed with the commission at least fourteen days prior to the day of the sponsored event;

(c) All sponsored events shall take place on licensed retail premises, and all requirements of this article 30 shall apply to the events, unless specifically modified by this part 9; and

(d) Criminal violations of this article 30 discovered during an authorized investigation or discovered by the commission shall be referred to the appropriate district attorney.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 219, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-901 as it existed prior to 2018.

44-30-902. Terms of sponsorship. (1) All limited gaming events sponsored by charitable organizations pursuant to this part 9 must, in addition to all the other requirements of this article 30, meet the following conditions:

(a) The agreement between the licensed operator or retailer and the charitable organization shall provide for the payment by the charitable organization to the retailer or operator of a flat fee or no fee; in return, the charitable organization shall receive one hundred percent of the adjusted gross proceeds, less the amount of taxes due on those proceeds as determined by the commission from gaming for each day of the sponsored event, or during all the hours of a sponsored event if less than a full day. The licensed operator or retailer shall report and pay taxes on the full amount of the adjusted gross proceeds from gaming sponsored by any charitable organization.

(b) A one-day sponsored event must, for purposes of this part 9, begin at 8 a.m. and end at 8 a.m. the following day. For purposes of this section, no event is considered as less than a one-day event; except that a retailer may devote less than one full day to a charitable event.

(c) No retailer shall permit a single charitable organization to sponsor more than three days of limited gaming at that retailer's licensed premises during any calendar year; and no retailer shall permit more than thirty total days of sponsored events on its premises during any calendar year;

(d) No charitable organization shall sponsor more than three days of limited gaming during any calendar year;

(e) The charitable organization shall file notice of its intent to sponsor limited gaming at least fourteen days in advance with the commission, upon forms provided by the commission.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 219, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-902 as it existed prior to 2018.

44-30-903. Notice of sponsorship. No person licensed as a retailer, operator, key employee, or support person, and no member, agent, employee, officer, or director of a charitable organization, shall represent to any person that a limited gaming activity is being sponsored by that or another charitable organization unless the sponsoring charitable organization has filed a notice of intent with the commission pursuant to section 44-30-902 (1)(e).

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 220, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-903 as it existed prior to 2018.

PART 10

EXCLUDED PERSONS

44-30-1001. Persons excluded or ejected - factors considered - legislative declaration. (1) The general assembly hereby declares that the exclusion or ejection of certain persons from licensed gaming establishments is necessary to carry out the policies of this article 30 and to maintain effectively the strict regulation of licensed gaming.

(2) The commission may by rule provide for the establishment of a list of persons who are to be excluded or ejected from any licensed gaming establishment, including any person whose presence in the establishment is determined to pose a threat to the interest of the state of Colorado or to licensed gaming, or both. In making the determination for exclusion, the commission may consider any of the following:

(a) Prior conviction of a felony, a misdemeanor involving moral turpitude, or a violation of the gaming laws of any state, the United States, or any of its possessions or territories, including Indian tribes;

(b) A violation, attempt to violate, or conspiracy to violate the provisions of this article 30 relating to the failure to disclose an interest in a gaming establishment for which the person must obtain a license or make disclosures to the commission, or intentional evasion of fees or taxes;

(c) A reputation that would adversely affect public confidence and trust that the gaming industry is free from criminal or corruptive influences;

(d) Prior exclusion or ejection under the gaming rules of any other state, the United States, any of its possessions or territories, or an Indian tribe that regulates gaming;

(e) Career or professional offenders or associates of career or professional offenders, and any others as defined by rule of the commission.

(3) If the name and description of any person is placed on the exclusion list, the commission shall serve notice of that action upon the person by at least one of the following means:

(a) By personal service;

(b) By certified mail to the last-known address of the person; or

(c) By publication in one or more official newspapers in Teller and Gilpin Counties, Colorado. A person placed upon the exclusion list may contest that action by filing a written

protest with the commission, and the protest shall be heard by the commission as a contested case.

(4) The commission may impose sanctions upon any licensee in accordance with the provisions of this article 30 if the licensee fails to exclude or eject from the licensed premises any person placed by the commission on the list of persons to be excluded or ejected from licensed gaming establishments, which sanctions may include, but not be limited to, suspension, revocation, limitation, modification, denial, or restriction of any license.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 220, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1001 as it existed prior to 2018.

44-30-1002. Emergency listing of persons to be excluded or ejected. (1) The commission, by rule, and notwithstanding the provisions of section 44-30-1001, may list persons to be excluded or ejected from any licensed gaming establishment, effective October 1, 1991, if the commission finds that listing the persons on an emergency basis is necessary to avoid danger to the public safety and if the public confidence and trust would be maintained only if the persons were listed on such an emergency basis.

(2) Notwithstanding the provisions of section 24-4-103 (6), the listing of persons to be excluded or ejected pursuant to this section expires one year after the adoption of the list, unless the provisions of section 44-30-1001 are followed for permanent listing.

(3) With respect to the finding of danger to public safety, the commission shall consider whether the persons have been listed on the list of persons excluded or ejected under the laws and gaming rules of the states of Nevada, New Jersey, South Dakota, and any other states, the United States, its territories or possessions, or any Indian tribe regulating gaming.

(4) Any rule adopted pursuant to this section shall be followed within thirty days after the emergency listing by the procedures set forth in section 44-30-1001. A listing pursuant to this section must be vacated upon the conclusion of the rule-making proceeding initiated under section 44-30-1001 if a determination is made by the commission that a person should not have been placed on the list of persons to be excluded or ejected.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 221, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1002 as it existed prior to 2018.

PART 11

GAMING DEVICES

44-30-1101. Exemption from federal law. Pursuant to section 2 of an act of congress of the United States entitled "An Act to prohibit transportation of gambling devices in interstate and

foreign commerce", approved January 2, 1951, designated 15 U.S.C. secs. 1171 to 1177, inclusive, and in effect January 1, 1989, the state of Colorado acting by and through its elected and qualified members of its general assembly, does hereby, and in accordance with and in compliance with the provisions of section 2 of the act of congress, declare and proclaim that it is exempt from the provisions of section 2 of that act of congress of the United States, as regards gaming devices operated and used within the cities of Central, Black Hawk, and Cripple Creek, Colorado.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 221, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1101 as it existed prior to 2018.

44-30-1102. Shipments of devices and machines deemed legal. All shipments of gaming devices, including slot machines, into this state, the registering, recording, and labeling of which has been duly made by the manufacturer or dealer thereof in accordance with sections 3 and 4 of an act of congress of the United States entitled "An Act to prohibit transportation of gambling devices in interstate and foreign commerce", approved January 2, 1951, designated as 15 U.S.C. secs. 1171 to 1177, inclusive, and in effect on January 1, 1989, shall be deemed legal shipments thereof, for use only within the cities of Central, Black Hawk, and Cripple Creek, Colorado.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 222, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1102 as it existed prior to 2018.

44-30-1103. Ownership or possession of slot machines - rules. Notwithstanding any other laws of this state to the contrary, if a licensed slot machine manufacturer, slot machine distributor, operator, retailer, or a retail gaming license applicant complies with all of the provisions of this article 30 and the rules promulgated under this article 30, he or she may legally own, possess, or own and possess slot machines in this state; except that nothing in this section authorizes the use of slot machines for any purpose other than the purposes specifically authorized in this article 30 and the rules promulgated under this article 30. The commission shall promulgate rules concerning the conditions under which the division may authorize a retail gaming license applicant to own, possess, or own and possess slot machines in this state before obtaining a retail gaming license.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 222, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1103 as it existed prior to 2018.

PART 12

STATE HISTORICAL SOCIETY

Cross references: For additional information regarding the state historical society, see part 2 of article 80 of title 24.

44-30-1201. State historical fund - administration - legislative declaration - state museum cash fund - rules - definition. (1) The state treasurer shall make annual distributions, from the state historical fund created by section 9 (5)(b)(II) of article XVIII of the state constitution, in accordance with the provisions of section 9 (5)(b)(III) of article XVIII of the state constitution. As specified in section 9 (5)(b)(III) of article XVIII of the state constitution, twenty percent of the money in the state historical fund shall be used for the preservation and restoration of the cities of Central, Black Hawk, and Cripple Creek. The remaining eighty percent of the fund shall be administered by the state historical society in accordance with subsection (5) of this section. Expenditures from the fund shall be subject to the provisions of section 44-30-1202. The society shall make grants from the eighty percent portion of said fund administered by the society for the following historic preservation purposes:

(a) The identification, evaluation, documentation, study, and marking of buildings, structures, objects, sites, or areas important in the history, architecture, archaeology, or culture of this state, and the official designation of the properties;

(b) The excavation, stabilization, preservation, restoration, rehabilitation, reconstruction, or acquisition of the designated properties;

(c) Education and training for governmental entities, organizations, and private citizens on how to plan for and accommodate the preservation of historic and archaeological structures, buildings, objects, sites, and districts;

(d) Preparation, production, distribution, and presentation of educational, informational, and technical documents, guidance, and aids on historic preservation practices, standards, guidelines, techniques, economic incentives, protective mechanisms, and historic preservation planning.

(2) (a) The society shall make grants primarily to governmental entities and to nonprofit organizations; except that the society may make grants to persons in the private sector so long as the person requesting the grant makes application through a governmental entity. The selection of recipients and the amount granted to a recipient shall be determined by the society, which determination shall be based on the information provided in the applications submitted to the society.

(b) As used in this subsection (2), "governmental entity" means the state and any state agency or institution, county, city and county, incorporated city or town, school district, special improvement district, authority, and every other kind of district, instrumentality, or political subdivision of the state organized pursuant to law. "Governmental entity" shall include any county, city and county, or incorporated city or town, governed by a home rule charter.

(3) Subject to annual appropriation, the society may employ any personnel in accordance with section 13 of article XII of the state constitution that may be necessary to fulfill its duties in accordance with this section.

(4) The society shall promulgate rules for the purpose of administering the state historical fund, which rules may include criteria for consideration in awarding grants from the fund and standards for preservation that are acceptable to the society and that shall be employed by grant recipients.

(5) (a) (I) The general assembly hereby finds and declares that:

(A) The state historical society, founded in 1879, has a unique role as the state educational institution charged with collecting, preserving, and interpreting the history of Colorado and the west. The state formally recognized the state historical society as a state agency by statute in 1915, and the general assembly has continuously made appropriations for the society since that time.

(B) The state historical fund created by section 9 (5)(b)(II) of article XVIII of the state constitution has grown significantly since its inception in 1991. In accordance with section 9 (5)(b)(III) of article XVIII of the state constitution, the general assembly hereby determines that it is appropriate to provide funding for the state historical society through the state historical fund.

(C) The use of a portion of the state historical fund for the support needs of the state historical society is consistent with the preservation purposes of the fund and of the society.

(D) Grants from the state historical fund by the society pursuant to subsection (1) of this section serve the state and its people well in promoting preservation purposes and economic development throughout the state.

(II) Accordingly, it is the intent of the general assembly that the majority of the gaming revenues deposited in and available for distribution from the eighty percent portion of the state historical fund administered by the society shall continue to be used for the grants.

(III) Notwithstanding the findings in subsection (5)(a)(II) of this section, as a result of the severe losses in gaming revenues and earned revenues of the state historical society caused by the COVID-19 pandemic, the general assembly finds it of critical importance to support the needs of the society and, consistent with the preservation purposes of the state historical fund, to allow a limited amount of money normally used for grants to be transferred to the museum and preservation operations account for the fiscal years commencing July 1, 2020, and July 1, 2021, only.

(b) Subject to annual appropriation, the society may make expenditures from the museum and preservation operations account for the reasonable costs incurred by the society in connection with fulfilling the society's mission as a state educational institution to collect, preserve, and interpret the history of Colorado and the west and carrying out other activities and programs authorized by statute or rule. The reasonable costs may include capital construction and controlled maintenance expenditures relating to properties owned, managed, or used by the society.

(c) (I) All money received by the society from limited gaming revenues pursuant to section 44-30-701 (1)(d)(II) shall be transmitted to the state treasurer, who shall credit the same to the state historical fund. Eighty percent of the state historical fund administered by the society is divided into the following two accounts:

(A) The preservation grant program account, hereby created in the state historical fund, that consists of fifty and one-tenth of one percent of the money received from the society in a fiscal year. Money in the account is subject to annual appropriation by the general assembly to the society to cover the reasonable costs as may be incurred in the selection, monitoring, and

administration of grants for historic preservation purposes. Any money not appropriated for the costs is continuously appropriated to the society for the purpose of making grants pursuant to subsection (1) of this section.

(B) The museum and preservation operations account, hereby created in the state historical fund, that consists of forty-nine and nine-tenths of one percent of the money received from the society in a fiscal year. Money in the account is subject to annual appropriation by the general assembly for the purposes set forth in subsection (5)(b) of this section.

(II) All interest and income derived from the deposit and investment of money in the state historical fund, including the accounts created in subsections (5)(c)(I)(A) and (5)(c)(I)(B) of this section, shall remain in the fund. At the end of any fiscal year, all unexpended and unencumbered money in the fund remains therein and shall not be transferred or revert to the general fund or any other fund; except that, for the fiscal year commencing July 1, 2008, and for each fiscal year thereafter through the fiscal year commencing July 1, 2045, the society may direct the state treasurer to transfer any unexpended and unencumbered money in the museum and preservation operations account at the end of the fiscal year to the state museum cash fund created pursuant to section 24-80-214. The state treasurer shall be the custodian of the funds pursuant to section 24-80-209.

(III) Repealed.

(d) (I) The general assembly finds and declares that:

(A) To better preserve, study, and restore historical sites and objects throughout the state, it is in the best interest of the state to construct a new Colorado state museum and offices for the state historical society; and

(B) Construction of a new Colorado state museum and offices for the state historical society will provide improved historic preservation, education, planning, and interpretation of Colorado's heritage, including the identification, evaluation, study, and marking of buildings, structures, objects, sites, or areas important in the history, architecture, archeology, or culture of the state; the official designation of the properties as appropriate for preservation; and other activities described in subsections (1)(c) and (1)(d) of this section.

(II) The general assembly reaffirms its intent that:

(A) The majority of the eighty percent portion of the state historical fund administered by the society shall continue to be used for the statewide grants for historic preservation purposes as described in subsection (1) of this section and may also be used to pay the administrative cost of the society in administering the grant program; and

(B) Costs associated with the new Colorado state museum shall be from the portion of the state historical fund not reserved for the statewide grant program for preservation, or from other money as designated by the general assembly.

(III) On or before October 1, 2008, the state treasurer shall transfer from the state historical fund to the state museum cash fund created pursuant to section 24-80-214 the sum of three million dollars. On or before October 1, 2009, the state treasurer shall transfer from the state historical fund to the state museum cash fund the sum of two million dollars. On or before October 1, 2010, the state treasurer shall transfer from the state historical fund to the state museum cash fund the sum of two million dollars.

(IV) For the fiscal year beginning on July 1, 2011, and for each fiscal year thereafter through the fiscal year beginning on July 1, 2045, so long as there are payments due on an agreement entered into pursuant to the provisions of section 3 of Senate Bill 08-206, as enacted

at the second regular session of the sixty-sixth general assembly, the general assembly shall appropriate to the state historical society from the museum and preservation operations account of the state historical fund, the general fund, or from any other available fund an amount equal to the annual aggregate rentals or other payments due from state funds; except that the amount shall not exceed four million nine hundred ninety-eight thousand dollars in any given fiscal year.

(6) For the fiscal year commencing July 1, 2014, the state treasurer shall transfer one million dollars from the state historical fund at the beginning of the fiscal year to the capital construction fund created in section 24-75-302 for historic renovation of the state house of representatives' chambers and the state senate's chambers.

(7) For the fiscal year commencing July 1, 2015, the state treasurer shall transfer one million dollars from the preservation grant program account of the state historical fund at the beginning of the fiscal year to the capital construction fund created in section 24-75-302 for historic renovation of the state house of representatives' chambers and the state senate's chambers.

(8) For the fiscal year commencing July 1, 2016, the state treasurer shall transfer one million dollars from the preservation grant program account of the state historical fund at the beginning of the fiscal year to the capital construction fund created in section 24-75-302 for historic renovation of the state house of representatives' chambers and the state senate's chambers.

(9) For the fiscal year commencing July 1, 2017, the state treasurer shall transfer one million dollars from the preservation grant program account of the state historical fund on October 1, 2017, to the capital construction fund created in section 24-75-302 to restore the windows and granite exterior of the state capitol building.

(10) For the fiscal year commencing July 1, 2018, the state treasurer shall transfer eight hundred fifty thousand dollars from the preservation grant program account of the state historical fund on October 1, 2018, to the legislative department cash fund created in section 2-2-1601 to restore the old supreme court chamber in the state capitol building.

(11) For the fiscal year commencing July 1, 2018, the state treasurer shall transfer one hundred fifty thousand dollars from the preservation grant program account of the state historical fund on October 1, 2018, to the capital construction fund created in section 24-75-302 for historical property rehabilitation in the capitol complex.

(12) For the state fiscal year commencing July 1, 2019, the state treasurer shall transfer one million dollars from the preservation grant program account of the state historical fund on October 1, 2019, to the capital construction fund created in section 24-75-302 for repainting of the interior of the dome of the state capitol building. On July 1, 2020, the state treasurer shall transfer an amount equal to the unencumbered portion of the money provided pursuant to this subsection (12) as of such date for repainting the interior of the dome of the state capitol building from the capital construction fund created in section 24-75-302 to the museum and preservation operations account created in subsection (5)(c)(I)(B) of this section.

(13) Notwithstanding any other provision of this section to the contrary, for each of the state fiscal years commencing July 1, 2020, and July 1, 2021, the state historical society is authorized to direct the state treasurer to transfer a cumulative total of up to one million dollars from the preservation grant program account created in subsection (5)(c)(I)(A) of this section to the museum and preservation operations account created in subsection (5)(c)(I)(B) of this section.

Source: L. 2018: (10) added, (HB 18-1293), ch. 410, p. 2404, § 2, effective April 9; (11) added, (HB 18-1340), ch. 347, p. 2068, § 3, effective May 30; entire article added with relocations, (SB 18-034), ch. 14, p. 222, § 2, effective October 1. **L. 2019:** (12) added, (SB 19-214), ch. 142, p. 1747, § 3, effective May 3. **L. 2020:** (5)(a)(III) and (13) added and (5)(d)(IV) and (12) amended, (HB 20-1365), ch. 162, p. 759, § 1, effective June 29. **L. 2021:** (5)(c)(II) amended and (5)(c)(III) repealed, (HB 21-1152), ch. 47, p. 195, § 1, effective September 7.

Editor's note: (1) This section is similar to former § 12-47.1-1201 as it existed prior to 2018.

(2) (a) Subsection (10) of this section was numbered as § 12-47.1-1201 (10) in HB 18-1293. That provision was harmonized with and relocated to this section as this section appears in SB 18-034.

(b) Subsection (11) of this section was numbered as § 12-47.1-1201 (11) in HB 18-1340. That provision was harmonized with and relocated to this section as this section appears in SB 18-034.

(3) Sections 2-3-1304.3 and 2-3-1304.5, referred to in subsection (5)(c)(III), were repealed effective July 1, 2015.

44-30-1202. Expenditures from the state historical fund - legislative declaration. (1) The general assembly hereby finds and declares that when the voters approved the conduct of limited gaming in the cities of Central, Black Hawk, and Cripple Creek they believed that all money expended from the state historical fund would be used to restore and preserve the historic nature of those cities and other sites and municipalities throughout the state. Together with the limitations contained in section 44-30-1201 on the expenditure of money in the fund that is subject to administration by the state historical society, this section is intended to assure that expenditures from the fund by the society and by the cities of Central, Black Hawk, and Cripple Creek are used for historic restoration and preservation.

(2) The state historical society shall not expend money from the eighty percent portion of the state historical fund administered by the society unless they have adopted standards for distribution of grants from that portion of the fund. The standards shall allow for the appropriate use of sustainable solutions such as environmentally sensitive and energy efficient windows, window assemblies, insulating materials, and heating and cooling systems, as long as the use of the sustainable solutions does not adversely affect the appearance or integrity of a historic property. The standards shall further include requirements that assure compliance with the secretary of the interior's standards for treatment of historic properties.

(3) The governing bodies of the cities of Central, Black Hawk, and Cripple Creek shall not expend money from their twenty percent portion of the state historical fund unless they have adopted standards for distribution of grants from that portion of the fund. At a minimum, the standards shall include the following:

(a) Requirements that assure compliance with the secretary of the interior's standards for treatment of historic properties;

(b) A requirement that the city is a certified local government, as defined in section 44-30-103 (7), and that the city's historic preservation commission review and recommend grant awards to the governing body;

(c) A provision that prohibits a private individual from receiving more than one grant for the restoration or preservation of the same property within any one-year period;

(d) A provision that limits grants to property that is located within a national historic landmark district or within an area listed on the national register of historic places;

(e) A provision that limits grants for restoration or preservation to structures that have historical significance because they were originally constructed more than fifty years prior to the date of the application;

(f) A provision that prohibits issuing a grant to a private individual who does not own the residential property that is to be restored or preserved;

(g) A provision that prohibits making grants for more than one year at a time;

(h) A provision that requires a member of the governing body to disclose any personal interest in a grant before voting on the application;

(i) A provision requiring the award of any grant in excess of fifty thousand dollars for any single residential property to be conditioned upon an agreement to repay the grant upon any sale or transfer of the property within five years of the date the grant is awarded. The amount to be repaid shall equal the amount of the grant less an amount equal to one-sixtieth of the amount of the grant for each full month occurring between the date the grant is awarded and the date of the sale or transfer of the property.

(j) A provision allowing for the appropriate use of sustainable solutions such as environmentally sensitive and energy efficient windows, window assemblies, insulating materials, and heating and cooling systems, as long as the use of the sustainable solutions does not adversely affect the appearance or integrity of a historic property.

(4) The provision contained in subsection (3)(d) of this section that requires that the governing bodies of the specified cities not expend money from the state historical fund unless they adopt standards that include a provision that limits grants to property that is located within a national historic landmark district or within an area listed on the national register of historic places is not intended to affect the status of the cities as approved sites for limited gaming under section 9 of article XVIII of the state constitution in the event that the status as a historical landmark district or listing on the national register of historic places is not maintained.

(5) The governing body of a city that is not a certified local government pursuant to subsection (3)(b) of this section and that receives money from the state historical fund for historic preservation purposes shall not expend the money but instead shall create an independent restoration and preservation commission for the purpose of expending the money in accordance with part 14 of this article 30.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 228, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1202 as it existed prior to 2018.

PART 13

LOCAL GOVERNMENT LIMITED GAMING IMPACT FUND

44-30-1301. Definitions - local government limited gaming impact fund - rules - report - legislative declaration - repeal. (1) (a) There is hereby created in the state treasury the local government limited gaming impact fund, and within the fund, there is created the limited gaming impact account and the gambling addiction account. The fund consists of money transferred to the fund pursuant to section 44-30-701 (2)(a)(III) and money appropriated to the fund by the general assembly. Of the money in the fund, ninety-eight percent shall be allocated to the limited gaming impact account and two percent shall be allocated to the gambling addiction account. Money in the limited gaming impact account shall be used to provide financial assistance to eligible local government entities for documented negative gaming impacts and to award grants for the provision of gambling addiction counseling, including prevention and education, to Colorado residents.

(b) As used in this part 13, unless the context otherwise requires:

(I) "Documented negative gaming impacts" means the documented expenses, costs, and other negative impacts that are incurred directly and are explicitly identifiable as a result of limited gaming permitted in the counties of Gilpin and Teller and on Indian lands. "Documented negative gaming impacts" includes the provision of gambling addiction counseling, including prevention and education, to Colorado residents.

(II) "Eligible local governmental entity" means the following local governmental entities:

(A) The counties of Boulder, Clear Creek, Grand, Jefferson, El Paso, Fremont, Park, Douglas, Gilpin, Teller, La Plata, Montezuma, and Archuleta;

(B) Any municipality located within the boundaries of any county set forth in subsection (1)(b)(II)(A) of this section, except the city of Central, the city of Black Hawk, and the city of Cripple Creek, and except that neither the city of Woodland Park nor the city of Victor are eligible local governmental entities prior to July 1, 2002; and

(C) Any special district providing emergency services within the boundaries of any county set forth in subsection (1)(b)(II)(A) of this section.

(III) "Fund" means the local government limited gaming impact fund created in this section.

(IV) "Negative impacts" means impacts that harm, damage, hurt, interfere with, or undermine the eligible local governmental entity, and include, but are not limited to:

(A) Increased infrastructure costs to service the licensed gaming establishment; for example, road repair and utilities;

(B) Increased service costs to service the licensed gaming establishment; for example, police services, fire services, and public transportation;

(C) Decreased number of new businesses and revenue in businesses cannibalized by gaming at a licensed gaming establishment; for example, charitable gaming through bingo or scratch tickets, horse racing and associated horse breeding and training, and a wide range of other possible entertainment industries;

(D) Decreased property values in areas proximate to a licensed gaming establishment;

(E) Increased rates of gambling addiction, increased indices associated with gambling addiction, and increased costs of addressing the following issues: Increased rates of personal bankruptcy; increased rates of divorce, separation, and restraining orders; increased rates of child neglect and abuse; increased rates of mental health problems, self-harm, and suicide; increased rates of crime due to gambling addiction; decreased work productivity; increased treatment and

prevention costs to treat problem gambling; and increased prevention costs to prevent problem gambling;

(F) Increased rates of crime, policing, incarceration, and probation services facilitated by the presence of a licensed gaming establishment, including additional alcohol-related crime, money laundering, passing counterfeit, and attracting clientele with antisocial tendencies;

(G) Decreased employment in industries cannibalized by a licensed gaming establishment;

(H) Increased traffic and traffic accidents;

(I) Increased noise; and

(J) Increased socioeconomic inequality, as gambling tends to be regressive.

(V) "Property values" means the sum of the actual value of all property, including the actual value of all tax-exempt property, as of December 31 of the prior year.

(2) (a) (I) After considering the recommendations of the local government limited gaming impact advisory committee created in section 44-30-1302, the money from the limited gaming impact account shall be distributed at the authority of the executive director of the department of local affairs to eligible local governmental entities upon their application for grants to finance planning, construction, and maintenance of public facilities and the provision of public services related to the documented negative gaming impacts; except that the grants must be prioritized:

(A) For eligible local governmental entities that are counties with lower property values compared to the property values of all counties that are eligible local governmental entities; or prioritized for eligible local governmental entities located in counties with lower property values compared to the property values of all counties that are eligible local governmental entities. If an eligible local governmental entity has a jurisdictional boundary that includes more than one county, then the prioritization for that eligible local governmental entity is established based on the county in which the eligible local governmental entity's administrative offices are located.

(B) Based on a methodological approach that incorporates a weighted decision matrix which includes community and impact scoring.

(II) At the end of any fiscal year, all unexpended and unencumbered money in the limited gaming impact account shall remain available for expenditure in any subsequent fiscal year without further appropriation by the general assembly.

(b) (I) For the 2008-09 fiscal year and each fiscal year thereafter, the executive director of the department of human services shall use the money in the gambling addiction account to award grants for the purpose of providing gambling addiction counseling services to Colorado residents and to provide gambling addiction treatment training to staff at nonprofit community mental health centers or clinics as defined in section 27-66-101. The department of human services may use a portion of the money in the gambling addiction account, not to exceed ten percent in the 2008-09 fiscal year and five percent in each fiscal year thereafter, to cover the department's direct and indirect costs associated with administering the grant program authorized in this subsection (2)(b). The executive director of the department of human services shall award grants to state or local public or private entities or programs that provide gambling addiction counseling services and that have or are seeking nationally accredited gambling addiction counselors. The executive director of the department of human services shall award ten percent of the money in the gambling addiction account in grants to addiction counselors who are actively pursuing national accreditation as gambling addiction counselors. In order to qualify for

an accreditation grant, an addiction counselor applicant must provide sufficient proof that he or she has completed at least half of the counseling hours required for national accreditation. The executive director of the department of human services shall adopt rules establishing the procedure for applying for a grant from the gambling addiction account, the criteria for awarding grants and prioritizing applications, and any other provision necessary for the administration of the grant applications and awards. Neither the entity, program, or gambling addiction counselor providing the gambling addiction counseling services nor the recipients of the counseling services need to be located within the jurisdiction of an eligible local governmental entity in order to receive a grant or counseling services. At the end of a fiscal year, all unexpended and unencumbered money in the gambling addiction account remains in the account and does not revert to the general fund or any other fund or account.

(II) Notwithstanding section 24-1-136 (11)(a)(I), by January 1, 2009, and by each January 1 thereafter, the department of human services shall submit a report to the health and human services committees of the senate and house of representatives, or their successor committees, regarding the grant program. The report shall detail the following information for the fiscal year in which the report is submitted:

(A) The amount of money allocated to the gambling addiction account pursuant to subsection (1) of this section;

(B) The number of grant applications received and the total amount of grant money requested by grant applicants;

(C) The total amount of money in the gambling addiction account that was awarded as grants to applicants; and

(D) The entities or programs that received grants and the amount of grant money each grant recipient received.

(III) This subsection (2)(b) is repealed, effective September 1, 2022. The state treasurer shall transfer any money remaining in the gambling addiction account on August 31, 2022, to the limited gaming impact account.

(c) Repealed.

(3) Repealed.

(4) Notwithstanding any other provision of this section, money accruing to the fund on and after July 1, 2019, and any previously transferred unencumbered money in the fund on July 1, 2020, shall be transferred to the general fund. Transfers to the fund shall resume as otherwise provided in this section for any state fiscal year commencing on or after July 1, 2021.

(5) The general assembly hereby finds and declares that:

(a) Grants to eligible local governmental entities from the local government limited gaming impact fund provide very valuable money to those communities, particularly in times of economic distress;

(b) The grants should only be awarded for explicitly identifiable and well-documented negative impacts resulting from limited gaming permitted in the counties of Gilpin and Teller and on Indian lands;

(c) Negative impacts are those impacts that harm, damage, hurt, interfere with, or undermine the eligible local governmental entity; and

(d) The grant awards should be distributed based on the relative need of the county or town, as evidenced by the prioritization requirements set forth in subsection (2)(a)(I) of this section.

Source: L. 2018: (1) amended, (SB 18-191), ch. 291, p. 1794, § 2, effective May 29; entire article added with relocations, (SB 18-034), ch. 14, p. 229, § 2, effective October 1. **L. 2020:** (1) and (4) amended, (HB 20-1399), ch. 214, p. 1032, § 2, effective June 30. **L. 2021:** (1), (2)(a), and (2)(b)(I) amended, (2)(c) and (3) repealed, and (5) added, (HB 21-1132), ch. 176, p. 960, § 1, effective May 24.

Editor's note: (1) This section is similar to former § 12-47.1-1601 as it existed prior to 2018.

(2) Subsection (1) of this section was numbered as § 12-47.1-1601 (1)(a) in SB 18-191. That provision was harmonized with and relocated to this section as this section appears in SB 18-034, resulting in the relettering of the provisions in subsection (1) to conform to statutory format.

(3) Section 4 of chapter 176 (HB 21-1132), Session Laws of Colorado 2021, provides that the act changing this section applies to grants awarded from the local government limited gaming impact fund on or after May 24, 2021.

44-30-1302. Local government limited gaming impact advisory committee - creation - duties. (1) There is hereby created within the department of local affairs a local government limited gaming impact advisory committee, referred to in this section as the "committee". The committee shall be composed of the following thirteen members:

(a) The executive director of the department of local affairs;

(b) Two members, one of whom shall be appointed by and serve at the pleasure of the executive director of the department of public safety and one who shall be appointed by and serve at the pleasure of the executive director of the department of revenue;

(c) Three members representing the counties eligible to receive money from the fund pursuant to section 44-30-1301 (2) who shall serve at the pleasure of the boards and who shall be appointed as follows:

(I) One member shall be appointed by the chairs of the boards of county commissioners from the counties impacted by gaming in the city of Cripple Creek who shall serve a term of four years, except the initial appointee who shall serve a term of two years;

(II) One member shall be appointed by the chairs of the boards of county commissioners from the counties impacted by gaming in the city of Central and the city of Black Hawk who shall serve a term of four years; and

(III) One member shall be appointed by the chairs of the boards of county commissioners from the counties impacted by tribal gaming who shall serve a term of four years.

(d) Two members representing the municipalities eligible to receive money from the fund pursuant to section 44-30-1301 (2) to be appointed by the mayors of the municipalities and who shall serve at the pleasure of the mayors for terms of four years; except that one of the initial appointees shall serve a term of two years. Not more than one member shall be selected pursuant to this subsection (1)(d) from each of the groups of counties described in subsections (1)(c)(I) to (1)(c)(III) of this section.

(e) One member representing the special districts providing emergency services that are eligible to receive money from the fund pursuant to section 44-30-1301 (2) to be appointed by and who shall serve at the pleasure of the director of the division in the department of public

health and environment responsible for statewide emergency medical and trauma services management;

(f) One member of the Colorado house of representatives to be appointed by the speaker of the house of representatives and who shall serve at the pleasure of the speaker;

(g) One member of the Colorado senate to be appointed by the president of the senate and who shall serve at the pleasure of the president; and

(h) Two members representing the governor, to be appointed by the governor and who shall serve at the pleasure of the governor.

(2) The terms of the members appointed by the speaker of the house of representatives and the president of the senate who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after the convening date, the speaker and the president shall each appoint or reappoint one member in the same manner as provided in subsections (1)(f) and (1)(g) of this section. Thereafter, the terms of the members appointed or reappointed by the speaker and the president shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the speaker and the president shall be made as soon as practicable after the convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the speaker and the president shall serve at the pleasure of the appointing authority and shall continue in office until the member's successor is appointed.

(3) The executive director of the department of local affairs shall convene the first meeting of the committee. The committee shall select a chair of the committee, from among the committee members, who shall convene the committee from time to time as the committee deems necessary.

(4) The committee shall have the following duties:

(a) To establish a standardized methodology and criteria for documenting, measuring, assessing, identifying, and reporting the documented negative gaming impacts upon eligible local governmental entities;

(b) To review the documented negative gaming impacts upon eligible local governmental entities on a continuing basis;

(c) To ascertain the property values for each county that is an eligible local governmental entity and compare that to the property values for all counties that are eligible local governmental entities;

(d) To review grant applications from eligible local governmental entities, individually or in cooperation with other eligible local governmental entities, based upon the needs of the entities, the documented negative gaming impacts on the entities, and the prioritization requirements set forth in section 44-30-1301 (2)(a)(I); and

(e) To make funding recommendations on a continuing basis to be considered by the executive director of the department of local affairs in making funding decisions for grant applications submitted by eligible local governmental entities pursuant to section 44-30-1301 (2)(a).

(5) The members of the committee appointed pursuant to subsections (1)(f) and (1)(g) of this section are entitled to receive compensation and reimbursement of expenses as provided in section 2-2-326.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 232, § 2, effective October 1. **L. 2019:** (1)(b) amended, (SB 19-241), ch. 390, p. 3480, § 67, effective August 2. **L. 2021:** (4) amended, (HB 21-1132), ch. 176, p. 964, § 2, effective May 24.

Editor's note: (1) This section is similar to former § 12-47.1-1602 as it existed prior to 2018.

(2) Section 4 of chapter 176 (HB 21-1132), Session Laws of Colorado 2021, provides that the act changing this section applies to grants awarded from the local government limited gaming impact fund on or after May 24, 2021.

PART 14

INDEPENDENT RESTORATION AND
PRESERVATION COMMISSION

44-30-1401. Definitions. As used in this part 14, unless the context otherwise requires:

(1) "City" means a city that is not a certified local government as defined in section 44-30-103 (7) and that receives money from the state historical fund for historic preservation purposes.

(2) "Commission" means an independent restoration and preservation commission created pursuant to section 44-30-1202 (5).

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 234, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1701 as it existed prior to 2018.

44-30-1402. Independent restoration and preservation commission - appointments - qualifications - new appointments - appointments without nominations. (1) Pursuant to section 44-30-1202 (5), the governing body of a city shall create an independent restoration and preservation commission. The governing body shall appoint seven members to the commission as follows:

(a) Two persons who are architects shall be appointed from nominees submitted by the Colorado chapter of the American institute of architects or any successor organization.

(b) Two persons who are experts in historic preservation shall be appointed from nominees submitted by the Colorado historical society.

(c) Two persons who shall each have a degree in either urban planning or landscape architecture shall be appointed from nominees submitted by the Colorado chapter of the American planning association or any successor organization.

(d) One person who is a member of the community shall be appointed directly by the governing body of the city.

(2) In making appointments to the commission, the governing body of the city shall give due consideration to maintaining a balance of interests and skills in the composition of the commission and to the individual qualifications of the candidates, including their training,

experience, and knowledge in the areas of architecture, landscape architecture, the history of the community, real estate, law, and urban planning.

(3) At any time that the term of office of a member of the commission is due to expire or when a member resigns, the governing body of the city shall request at least two nominees for each opening from the appropriate entity listed in subsection (1) of this section; except that this requirement shall not apply to the member of the community appointed directly by the governing body. The governing body shall make the appointments from the appropriate list of nominations.

(4) If the nominations required to make appointments or to fill vacancies have not been received by the governing body of the city within forty-five days after a written request for the required list has been sent to the nominating entity, the governing body may appoint members of the commission without nominations. However, the governing body shall give consideration to the qualifications of the appointee as if the appointee were nominated by the designated nominating entity.

(5) Members of the commission shall be appointed by and shall serve at the pleasure of the governing body of the city. Each member shall continue to serve until the member's successor has been duly appointed pursuant to subsection (1) of this section and is acting, but the period shall not extend more than ninety days past the expiration of the first member's term. The governing body shall determine the length of terms and whether the terms are staggered.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 234, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1702 as it existed prior to 2018.

44-30-1403. Funding - compensation. (1) Costs associated with the operation of the commission shall be paid from the city's share of preservation and restoration money from the state historical fund.

(2) Members of the commission shall serve without compensation. To the extent authorized by the governing body of the city, members of the commission may be reimbursed for actual and necessary expenses incurred in the discharge of their official duties, including an allowance for mileage.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 235, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1703 as it existed prior to 2018.

44-30-1404. Officers - bylaws - rules. (1) The commission shall elect a chairperson and any officers that it may require.

(2) The commission shall make and adopt bylaws governing its work.

(3) The commission may adopt rules for the administration and enforcement of part 12 of this article 30 and this part 14.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 235, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1704 as it existed prior to 2018.

44-30-1405. Meetings. The commission shall act only at regularly scheduled semi-monthly meetings, that shall be held at a time determined by the governing body of the city, or at meetings of which not less than five days' notice has been given. Absent the objection of any member, the chairperson may cancel or postpone a regularly scheduled meeting of the commission.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 235, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1705 as it existed prior to 2018.

44-30-1406. Quorum - action. No official business of the commission shall be conducted unless a quorum of not less than four members is present. The concurring vote of at least four members of the commission is necessary to constitute an official act of the commission.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 235, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1706 as it existed prior to 2018.

44-30-1407. Final agency action - judicial review. Any official decision of the commission shall be considered final agency action and subject to judicial review in a court of competent jurisdiction. No official decision of the commission shall be appealable to or reviewable by the governing body of the city.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 236, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47.1-1707 as it existed prior to 2018.

PART 15

SPORTS BETTING

44-30-1501. Definitions - rules. Definitions applicable to this part 15 also appear in section 44-30-103 and article 1 of this title 44. As used in this part 15, unless the context otherwise requires:

(1) "Casino" means a licensed gaming establishment as defined in section 44-30-103 (18).

(2) "Collegiate sports event" means a sports event offered or sponsored by or played in connection with a public or private institution that offers educational services beyond the secondary level.

(3) "Fantasy sports activity" means the conduct of, or participation in, a fantasy contest as defined in section 44-30-1603 (4).

(4) "Internet sports betting operation" means a sports betting operation in which wagers on sports events are made through a computer or mobile or interactive device and accepted by an internet sports betting operator.

(5) "Internet sports betting operator" means a person licensed by the commission to operate an internet sports betting operation.

(6) "Master license" means a sports betting license, issued by the commission pursuant to section 44-30-1505 (1)(a), that authorizes the licensee to either conduct sports betting and internet sports betting itself or contract with a sports betting operator, an internet sports betting operator, or both, to conduct sports betting.

(7) "Net sports betting proceeds" means the total amount of all bets placed by players in a sports betting operation or internet sports betting operation, excluding free bets, less all payments to players and less all excise taxes paid pursuant to federal law. Payments to players include all payments of cash premiums, merchandise, or any other thing of value.

(8) "Prohibited sports event" means:

(a) A high school sports event;

(b) A video game that is not sanctioned by a sports governing body as an electronic competition; and

(c) Only with respect to proposition bets, a collegiate sports event.

(9) "Sports betting license" means any of the licenses specified in section 44-30-1505 (1).

(10) "Sports betting operation" means a licensed wagering operation in which bets are placed on sports events through any system or method of wagering, including single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets other than those relating to collegiate sports events, or straight bets.

(11) "Sports betting operator" means a person that is licensed to operate a sports betting operation in which customers place bets in person at a designated physical location.

(12) (a) "Sports event" means:

(I) Any individual or team sport or athletic event in which the outcome is not determined solely by chance, whether amateur or professional, including an Olympic or international sport or athletic event and any collegiate sports event;

(II) Any portion of a sport or athletic event listed in subsection (12)(a)(I) of this section, including the individual performance statistics of athletes in a sports event or combination of sports events;

(III) A sanctioned motor sport, as authorized by the commission by rule; and

(IV) Any other sports event or combination of sports events as authorized by the commission by rule.

(b) "Sports event" does not include a prohibited sports event or a fantasy sports activity.

(13) "Sports governing body" means an organization that performs a regulatory or sanctioning function over the conduct of a sports event.

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3216, § 12, effective May 1, 2020. **L. 2020:** (3) amended, (HB 20-1286), ch. 269, p. 1311, § 3, effective July 10.

Editor's note: Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that this section takes effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-1502. Conflict of interest - participants in sports or athletic events. (1) The following persons shall not have any ownership interest in, control of, or otherwise be employed by a sports betting operator, a licensee, or a facility in which sports betting takes place or place a wager on a sports event that is overseen by that person's sports governing body based on publicly available information:

(a) An athlete, coach, referee, employee, or director of:

(I) A sports governing body that sanctions or governs a sports event on which bets are placed; or

(II) Any team that is a member team in a sports governing body described in subsection (1)(a)(I) of this section.

(b) A sports governing body or any of its member teams;

(c) An agent, union, or union representative that advocates for players, referees, or other personnel involved with the conduct of a sports event;

(d) A person who holds a position of authority or influence sufficient to exert influence over the participants in a sports event, including coaches, managers, and athletic trainers;

(e) A person with access to nonpublic information on any sports event overseen by that person's sports governing body, which information pertains to or could affect or influence the performance of any team, coach, or participant in the sports event; or

(f) A person identified by the sports governing body to the division or the commission for purposes of establishing actual or potential conflicts of interest.

(2) The direct or indirect legal or beneficial owner of ten percent or more of a sports governing body or any of its member teams shall not place or accept any wager on a sports event in which any member team of that sports governing body participates.

(3) The prohibitions set forth in this section do not apply to a sports governing body, a member team of a sports governing body, or a person who is a director or a direct or indirect owner of a sports governing body or member team of a sports governing body:

(a) Who holds less than ten percent direct or indirect ownership interest in a casino or sports betting operation; or

(b) Whose sports betting operation prohibits any wagering on the owner's team or players or the sports governing body's sports events.

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3217, § 12, effective May 1, 2020.

Editor's note: Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that this section takes effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-1503. Licenses - rules. (1) (a) The commission shall issue, deny, suspend, revoke, and renew sports betting licenses pursuant to subsection (3) of this section and rules adopted by the commission and may assess fines and penalties for violations of this part 15. The commission's licensing rules must include requirements relating to the financial responsibility of the licensee, the licensee's source of revenue for its sports betting operations, the character of the licensee, the trustworthy operation of the sports betting activity sought to be licensed, and other matters necessary to protect the public interest and trust in sports betting. Suspension is limited to circumstances in which the licensee's actions appear contrary to the public interest or tend to undermine public trust in the integrity of sports betting.

(b) The commission's rules must require that licenses be prominently displayed in areas visible to the public.

(2) (a) A license shall be revoked upon a finding that the licensee has:

(I) Provided misleading information to the division or commission;

(II) Been convicted of a felony or any gambling-related offense;

(III) Become a person whose character is no longer consistent with the protection of the public interest and trust in sports betting; or

(IV) Intentionally refused to pay a prize in the licensee's possession to a person entitled to receive the prize under this part 15.

(b) A license may be suspended, revoked, or not renewed for any of the following causes:

(I) A delinquency in remitting money rightfully owed to players, contractors, or others involved in sports betting;

(II) Failure to ensure the trustworthy operation of sports betting; or

(III) Any intentional violation of this part 15 or any rule adopted pursuant to this part 15.

(3) Licensees may include individuals, firms, associations, or corporations, whether for profit or nonprofit, but the following are ineligible for a license under this part 15:

(a) A person who has been convicted of a gambling-related offense, notwithstanding section 24-5-101;

(b) A person who is or has been a professional gambler or gambling promoter;

(c) A person who has engaged in bookmaking or any other form of illegal gambling, including any sports betting operation whose wagering activities did not result in prosecution but that the commission finds violated state or federal law;

(d) A person who is not of good character and reputation, notwithstanding section 24-5-101;

(e) A person who has been convicted of a crime involving misrepresentation, notwithstanding section 24-5-101;

(f) A firm or corporation in which a person described in subsections (3)(b) to (3)(e) of this section has a proprietary, equitable, or credit interest of ten percent or more;

(g) An organization in which a person described in subsections (3)(b) to (3)(e) of this section is an officer, director, or managing agent, whether compensated or not; or

(h) An organization in which a person described in subsections (3)(b) to (3)(e) of this section is to participate in the management or promotion of sports betting.

(4) In addition to the persons specified in subsection (3) of this section as ineligible for a license, the commission may determine the following to be ineligible for a license under this part 15:

(a) A person who has been convicted of a felony or a crime involving fraud, notwithstanding section 24-5-101;

(b) A firm or corporation in which a person described in subsection (4)(a) of this section has a proprietary, equitable, or credit interest of ten percent or more;

(c) An organization in which a person described in subsection (4)(a) of this section is an officer, director, or managing agent, whether compensated or not; or

(d) An organization in which a person described in subsection (4)(a) of this section is to participate in the management or promotion of sports betting.

(5) Notwithstanding any provision of this section to the contrary, sports betting is not authorized unless the voters at the November 2019 statewide election approve the ballot question submitted pursuant to section 44-30-1514, enacted in 2019 in House Bill 19-1327.

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3218, § 12, effective August 2.

44-30-1504. Disclosure of information by corporate applicants - license required - investigation - criminal history record check - rules - definition. (1) Corporate applicants for a sports betting license and licensees shall disclose to the commission, in a form and manner determined by the commission, the identity of:

(a) Each board-appointed officer of the applicant or licensee;

(b) Each director of the applicant or licensee;

(c) Each person who directly holds any voting or controlling interest of ten percent or more, in the case of a sports betting operator license or internet sports betting operator license, or of any percentage, in the case of a master license, of the securities issued by the applicant or licensee;

(d) Each person who directly holds any nonvoting or passive ownership interest of twenty-five percent or more of the securities issued by the applicant or licensee;

(e) Each holding, intermediary, or subsidiary company of the applicant or licensee; and

(f) Each lender from which the applicant or licensee currently has an outstanding loan.

(2) As to each holding, intermediary, or subsidiary company of an applicant for a sports betting license or a licensee, the applicant or licensee shall establish and maintain the qualifications of:

(a) Each board-appointed officer of the holding, intermediary, or subsidiary company;

(b) Each director of the holding, intermediary, or subsidiary company;

(c) Each person who directly holds any voting or controlling interest of ten percent or more, in the case of a sports betting operator license or internet sports betting operator license, or of any percentage, in the case of a master license, of the securities issued by the holding, intermediary, or subsidiary company;

(d) Each person who directly holds any nonvoting or passive ownership interest of twenty-five percent or more in the holding, intermediary, or subsidiary company; and

(e) Each lender from which the holding, intermediary, or subsidiary company currently has an outstanding loan.

(3) The commission or the division may waive any or all of the qualification requirements for any person listed in subsection (1) or (2) of this section.

(4) All persons employed directly in gambling-related activities conducted by a licensee or applicant for a sports betting license, whether in a casino, in a sports betting operation or internet sports betting operation, or in any other capacity, must be licensed under this part 15. Other employees of a licensee may be required to hold support licenses, if appropriate, in accordance with rules of the commission promulgated in consultation with the division.

(5) A master licensee shall designate one or more key employees to be responsible for the operation of the sports betting operation. At least one such key employee shall be on the premises whenever sports betting is conducted.

(6) The applicant for a sports betting license must submit to and pay the costs of any investigation into the background of an applicant. The division may conduct the investigation pursuant to section 44-30-204.

(7) (a) Each applicant for a sports betting license, with or as a supplement to the application, shall submit a set of fingerprints to the division. The division shall forward the fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Only the actual costs of the record check shall be borne by the applicant. Nothing in this subsection (7) precludes the division from making further inquiries into the background of the applicant.

(b) For purposes of this subsection (7), "applicant" means an individual or each officer or director of a firm, association, or corporation that is applying for a sports betting license pursuant to this section.

(8) Notwithstanding any provision of this section to the contrary, sports betting is not authorized unless the voters at the November 2019 statewide election approve the ballot question submitted pursuant to section 44-30-1514, enacted in 2019 in House Bill 19-1327.

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3220, § 12, effective August 2. **L. 2021:** (7)(a) amended, (HB 21-1296), ch. 386, p. 2586, § 4, effective June 30.

44-30-1505. License classifications - number of licenses - designated sports betting operators - qualifications - rules. (1) The commission shall issue the following three classifications of sports betting licenses in addition to any license classifications the commission chooses to authorize in accordance with section 44-30-1504 (4):

(a) Master license;

(b) Sports betting operator; and

(c) Internet sports betting operator.

(2) (a) (I) The commission may issue a master license, upon the applicant's payment of any required fees and compliance with all other requirements of this part 15, to a person that holds a retail gaming license as described in section 44-30-501 (1)(c). A person holding more than one retail gaming license may be issued one master license for each retail gaming license it holds.

(II) The purchase of an existing ownership interest in a casino requiring the issuance of a new retail gaming license does not prohibit the transfer of an existing master license with the ownership interest, subject to approval by the commission.

(III) A master licensee shall conduct sports betting on its premises in accordance with this part 15 and shall not transfer its licensed sports betting operation to be conducted at any facility located outside the city of Central, the city of Black Hawk, or the city of Cripple Creek, regardless of whether that facility is licensed to manufacture or sell alcohol beverages under this title 44; licensed as a class B track or simulcast facility under article 32 of this title 44; licensed as a lottery sales agent under section 44-40-107; or licensed to conduct bingo or raffles under part 6 of article 21 of title 24. This subsection (2)(a)(III) does not prohibit sports betting through a licensed internet sports betting operator by a customer using his or her own computer or mobile or interactive device anywhere in the state.

(IV) A master license expires two years after the date of issuance but may be renewed upon the filing and approval of an application for renewal.

(b) (I) A sports betting operator license or internet sports betting operator license entitles the licensee to contract with a master licensee for the purpose of operating a sports betting operation or internet sports betting operation, as applicable. Each master licensee shall contract with no more than one sports betting operator and one internet sports betting operator at the same time. A master licensee may contract with the same entity to provide the services of a sports betting operator and an internet sports betting operator.

(II) An internet sports betting operator may provide only one individually branded website, which may have an accompanying mobile application that must bear the same unique brand as the website for an internet sports betting operation. An internet sports betting operation shall not be opened to the public, and, except for test purposes, sports betting shall not be conducted in the internet sports betting operation until the internet sports betting operator receives its license and the commission approves its contract with the master licensee in accordance with subsection (3) of this section.

(c) A person may hold both a sports betting operator license and an internet sports betting operator license. The commission shall determine by rule the distinctions and specific qualifications applicable to these licenses, including qualifications as to the time, place, and manner of accepting wagers and of verifying the identity of persons seeking to place wagers.

(3) A contract between two or more licensees listed in subsection (1) of this section must be submitted in advance to, and is subject to approval by, the division in accordance with rules of the commission.

(4) Each license issued pursuant to this section expires two years after issuance but may be renewed upon the filing and approval of an application for renewal. The fee for issuance or renewal of a license listed in subsection (1) of this section is as specified by the commission by rule in an amount sufficient to recover the commission's direct and indirect costs of processing the application and conducting background investigations, not to exceed one hundred twenty-five thousand dollars.

(5) (a) A sports betting operation other than an internet sports betting operation must be operated in a designated area within a casino, subject to all requirements concerning design, equipment, security measures, and related matters established by the commission by rule, and may offer sports betting on any sports event authorized under rules of the commission.

(b) All sports betting licenses must specify the portion of the licensee's premises located within the city of Central, the city of Black Hawk, or the city of Cripple Creek where sports betting will take place. The commission shall not require sports betting to be conducted within a casino's designated gaming area as authorized by the commission by rule, but any sports betting conducted outside of a casino's designated gaming area must be conducted only by a licensed internet sports betting operator, and bets must be placed only through a customer's own computer or mobile or interactive device.

(c) A casino's support services for sports betting, including data aggregation, risk management, computer services, setting of odds, and banking may be sited outside of a casino's designated gaming area.

(d) Notwithstanding any other provision of this article 30, sports betting, other than by a customer using his or her own computer or mobile or interactive device through an internet sports betting operation, shall not be conducted anywhere in the city of Central, the city of Black Hawk, or the city of Cripple Creek unless sports betting is authorized by the local voters of the respective city in a municipal or coordinated election held in November 2019, concurrently with the statewide election described in section 44-30-1514.

(6) Each licensee shall keep a complete set of books of account, correspondence, and all other records necessary to fully show the sports betting transactions of the licensee, all of which must be open at all times during business hours for inspection and examination by the division or its duly authorized representatives. The division may require any licensee to furnish the information that the division considers necessary for the proper administration of this part 15 and may require an audit to be made of the books of account and records when the division considers it necessary by an auditor, selected by the director, who shall likewise have access to all the books and records of the licensee, and the licensee may be required to pay the expense of the audit.

(7) A sports governing body may petition the commission to restrict, limit, or exclude a type of wager the outcome of which is solely determined by the actions of a single player. Upon receiving such a petition, the commission shall review the request in good faith, seek input from the sports betting operators on the petition, and, if the commission deems it appropriate, adopt rules to restrict, limit, or exclude that type of wager.

(8) Notwithstanding any provision of this section to the contrary, sports betting is not authorized unless the voters at the November 2019 statewide election approve the ballot question submitted pursuant to section 44-30-1514, enacted in 2019 in House Bill 19-1327.

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3222, § 12, effective August 2.

44-30-1506. Operations - eligibility to place bets - record-keeping - information sharing. (1) A person must be at least twenty-one years of age to place a bet.

(2) (a) A sports betting operator shall adopt procedures to prevent persons who are prohibited from wagering on sports events from doing so. In the event of a wager placed by a person later determined to be ineligible, the sports betting operator shall refund the wager if possible or, if a refund is not possible, shall remit the amount of the wager to the commission for transfer to the sports betting fund.

(b) A sports betting operator shall not accept a bet from any person whose identity is known to the sports betting operator and:

(I) Whose name appears on the exclusion list maintained by the master licensee with whom the sports betting operator has a contractual relationship; except that a person may not invalidate or retract a bet already placed at the time the person's name is placed on the exclusion list;

(II) Who is the sports betting operator, a director, officer, owner, or employee of the sports betting operator, or any relative of the sports betting operator living in the same household as the sports betting operator;

(III) Who has access to nonpublic, confidential information held by the sports betting operator; or

(IV) Who is an agent or proxy for any other person for the purpose of placing the bet.

(3) A sports betting operator shall establish or display the odds at which wagers may be placed on sports events.

(4) A sports betting operator shall adopt procedures to obtain personally identifiable information from any individual who places any single bet in an amount of ten thousand dollars or more on a sports event while physically present in a casino, and all disclosure and reporting requirements otherwise applicable to wagers under this article 30 apply to the conduct of sports betting under this part 15.

(5) (a) A sports betting operator shall promptly report to the division:

(I) Any criminal or disciplinary proceedings commenced against the sports betting operator or its employees in connection with the operations of the sports betting operation or internet sports betting operation;

(II) Any abnormal betting activity or discernible patterns that may indicate a concern about the integrity of a sports event or events;

(III) Any other conduct with the potential to corrupt a betting outcome of a sports event for purposes of financial gain, including match fixing or the use of material, nonpublic information to place bets or facilitate another person's sports betting activity; and

(IV) Suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place bets, or use of false identification.

(b) In addition to reporting to the division as required by subsection (5)(a) of this section, a sports betting operator shall maintain records of all bets placed, including personally identifiable information of the bettor when available, amount and type of bet, time the bet was placed, location of the bet, including internet protocol address if applicable, the outcome of the bet, and records of abnormal betting activity. A sports betting operator shall maintain these records for at least three years after the sports event occurs and shall make the records available for inspection upon request of the division or as required by court order.

(c) The division shall, given good and sufficient reason, cooperate with a sports governing body and sports betting operators to ensure the timely, efficient, and accurate sharing of information for the sole purpose of ensuring the integrity of their sport.

(d) The division and sports betting operators shall, given good and sufficient reason, cooperate with investigations conducted by sports governing bodies and shall cooperate with law enforcement agencies, including providing or facilitating the provision of account-level betting information and any available audio or video files relating to persons placing bets.

(e) The division may share any information obtained under this section with any law enforcement entity, team, sports governing body, or regulatory agency that requests information from the division in connection with an investigation conducted by that entity, team, sports governing body, or regulatory agency. The division may redact or aggregate information to protect the privacy of persons who are not subjects or targets of the investigation.

(6) All bets authorized under this part 15 must be initiated, received, and otherwise made within Colorado unless otherwise determined by the division in accordance with applicable federal and state laws. Consistent with the intent of the United States congress as articulated in the federal "Unlawful Internet Gambling Enforcement Act of 2006", 31 U.S.C. secs. 5361 to 5367, the intermediate routing of electronic data relating to a lawful intrastate wager authorized under this provision does not determine the location or locations in which the wager is initiated, received, or otherwise made.

(7) Each sports betting operator may set such bet limits as it sees fit, in its sole discretion, and may make those limits specific to a form or class of sports betting, a specific sports event, or a person placing a bet, based on individual or aggregate data concerning bets to be placed or that have been placed historically by that individual or on that form or class of sports betting or on that sports event.

(8) An internet sports betting operator shall accept bets only from persons physically located within the state of Colorado. An internet sports betting operator may establish and fund sports wagering accounts electronically through commission-approved mobile applications and digital platforms.

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3224, § 12, effective May 1, 2020.

Editor's note: Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that this section takes effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-1507. Records - confidentiality - exceptions. (1) Except as specified in subsections (2) and (3) of this section, information and records of the commission enumerated by this section are confidential and may not be disclosed except pursuant to a court order. No person may by subpoena or statutory authority obtain such information or records. Information and records considered confidential include:

(a) Tax returns of individual licensees;

(b) Credit reports and security reports and procedures of applicants and other persons seeking to do business or doing business with the commission;

(c) Audit work papers, worksheets, and auditing procedures used by the commission, its agents, or employees; and

(d) Investigative reports concerning violations of law or concerning the backgrounds of licensees, applicants, or other persons prepared by division investigators or investigators from other agencies working with the commission and any work papers related to the reports; except that the commission may, in its sole discretion, disclose so much of the reports or work papers as it deems necessary and prudent.

(2) Subsection (1) of this section does not apply to requests for information or records described in subsection (1) of this section from the governor, attorney general, state auditor, any of the respective district attorneys of this state, or any federal or state law enforcement agency, or for the use of the information or records by the executive director, director, or commission for official purposes, or by employees of the division or the department in the performance of their authorized and official duties.

(3) **[*Editor's note: This version of subsection (3) is effective until January 1, 2022.*]** This section does not make confidential the aggregate tax collections during any reporting period, the names and businesses of licensees, or figures showing the aggregate amount of money bet during any reporting period.

(3) **[*Editor's note: This version of subsection (3) is effective January 1, 2022.*]** (a) This section does not make confidential the aggregate tax collections during any reporting period, the names and businesses of licensees, or figures showing the aggregate amount of money bet during any reporting period. The division shall publicly report this information on a monthly basis in statements of net sports betting proceeds and sports betting taxes. Public reporting shall be made electronically and posted on the division's website.

(b) (I) The division shall publicly report monthly and annual net sports betting proceeds, aggregated on a city-by-city basis for the city of Cripple Creek, the city of Central, and the city of Black Hawk, based on the physical location of master licensees' casinos. The data must also contain subtotals for proceeds derived from on-site and internet sports betting operations, respectively. To the extent partial-year data are available for any reporting period that preceded January 1, 2022, the division shall report any available monthly figures and shall note that annual figures do not reflect activity during the entire reporting period.

(II) If there are fewer than three holders of active and valid sports betting licenses in any of the cities listed in subsection (3)(b)(I) of this section, then, to protect the licensees' privacy, the division shall aggregate that city's sports betting proceeds with the sports betting proceeds of the city that has the next lowest number of active and valid sports betting licensees.

(III) If the Gilpin county assessor or Teller county assessor uses information aggregated pursuant to subsection (3)(b)(II) of this section to establish the actual value of a casino, whether sports betting is offered on the premises of the casino or online by the casino or by a contractor, and the use of the aggregated information results in an increase in the actual value of the casino's real property, the county assessor or an authorized agent of the assessor shall:

(A) Present the county assessor's estimate of the increase in the casino's valuation, based on the aggregated data, to the taxpayer on or before March 1 of each revaluation year;

(B) Consider any information that the taxpayer, in its discretion, chooses to disclose and provides to the county assessor or authorized agent of the assessor on or before March 15 of the revaluation year tending to show that the value attributed to the casino based on the aggregated data is incorrect;

(C) Treat any such disclosure by the taxpayer as the proprietary and confidential information of the taxpayer and shall not reveal the information to any other person, notwithstanding any provision of the "Colorado Open Records Act", part 2 of article 72 of title 24, or any other law. The confidentiality created by this subsection (3)(b)(III)(C) applies at all times during the real property assessment process, beginning when the information is first provided to the county assessor or authorized agent of the assessor and continuing through county board of equalization proceedings, any protest process, any board of assessment appeal proceedings, and any court proceedings. To the extent this information is the subject of administrative or court proceedings, the discussion of the information shall not be public and shall be restricted to in camera proceedings under seal.

(D) Only use such aggregated information or information provided by the taxpayer that establishes income actually received by the casino because the casino conducts sports betting on its licensed premises, either directly or by contracting with a licensed sports betting operator; or contracts with a third party so that the third party may conduct a licensed online sports betting operation in conjunction with the casino's master license.

(IV) Nothing in this subsection (3)(b) authorizes the division to produce any document or information that directly discloses, or would indirectly result in the disclosure of, taxpayer information that is confidential under this article 30 or any other provision of law.

(4) (a) **[*Editor's note: This version of subsection (4)(a) is effective until March 1, 2022.*]** A person who discloses confidential records or information in violation of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501. A criminal prosecution pursuant to this section must be brought within five years after the date the violation occurred.

(a) **[*Editor's note: This version of subsection (4)(a) is effective March 1, 2022.*]** A person who discloses confidential records or information in violation of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. A criminal prosecution pursuant to this section must be brought within five years after the date the violation occurred.

(b) If a person violating this section is an officer or employee of the state, in addition to any other penalties or sanctions, the person is subject to dismissal if the procedures in section 24-50-125 are followed.

(c) A person is liable for treble damages to an injured party in a civil action the subject of which includes the release of confidential records or information, if the person violating this

section is a current employee or officer of the state who obtained the confidential records or information specified in subsection (1) of this section during his or her employment.

(d) A former employee or officer is liable for treble damages to an injured party in a civil action the subject of which includes the release of records or information after leaving state employment if the person violating this section is a former employee or officer of the state who obtained the confidential records or information during his or her employment and the person executed a written statement with the state agreeing to be held to the confidentiality standards expressed in this subsection (4).

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3227, § 12, effective May 1, 2020. **L. 2021:** (3) amended, (HB 21-1292), ch. 466, p. 3357, § 2, effective January 1, 2022; (4)(a) amended, (SB 21-271), ch. 462, p. 3330, § 797, effective March 1, 2022.

Editor's note: (1) Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that this section takes effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

Cross references: For the legislative declaration in HB 21-1292, see section 1 of chapter 466, Session Laws of Colorado 2021.

44-30-1508. Sports betting tax - rules. (1) There is hereby imposed a tax on sports betting activity, at the rate of ten percent of net sports betting proceeds. The commission shall establish by rule the form and manner in which the tax is collected.

(2) All proceeds of the sports betting tax shall be forwarded to the state treasurer, who shall credit them to the sports betting fund created in section 44-30-1509.

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3228, § 12, effective May 1, 2020.

Editor's note: Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that this section takes effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-1509. Sports betting fund - creation - rules - definitions. (1) (a) There is hereby created, in the state treasury, the sports betting fund, referred to in this section as the "fund". The initial appropriation to the division for sports betting regulation and all subsequent revenues of the division derived from sports betting activity and the regulation of fantasy contest operators under part 16 of this article 30, including license fees, fines and penalties, and collection of the sports betting tax, shall be deposited into the fund. All expenses of the division related to sports betting and fantasy contest regulation, including the expenses of investigation and prosecution relating to sports betting and the regulation of fantasy contest operators, shall be paid from the fund.

(b) All money paid into the fund is continuously appropriated for the purposes of implementing this part 15 and part 16 of this article 30. Payment shall be made upon proper presentation of a voucher prepared by the commission in accordance with other statutes governing payments of liabilities incurred on behalf of the state and shall not be conditioned on any appropriation by the general assembly. Receipt of the payment constitutes spending authority by the division.

(2) From the money in the sports betting fund, to the extent the unexpended and unencumbered balance in the fund so permits, the state treasurer shall:

(a) First, transfer an amount to the general fund to repay any appropriation made from the general fund for the commission's and division's startup costs, including initial licensing and rule-making, related to sports betting;

(b) Second, pay all ongoing expenses related to administering this part 15 incurred by the commission, the department, the division, and any other state agency from whom assistance related to the administration of this part 15 is requested by the commission or the director, as determined in accordance with rules of the commission. When making distributions from the fund as described in this subsection (2), the state treasurer may withhold an amount reasonably anticipated to be sufficient to pay the expenses until the next annual distribution.

(c) Third, transfer an amount equal to six percent of the full fiscal year sports betting tax revenues to the wagering revenue recipients hold-harmless fund, referred to in this section as the "hold-harmless fund", which is hereby created in the state treasury, from which the state treasurer shall make disbursements as directed by the commission as follows:

(I) The commission shall accept applications from the following persons and entities for annual, lump-sum payments to offset any loss of revenue that they can demonstrate, to the commission's satisfaction, is attributable to sports betting:

(A) The state historical fund created by section 9 (5)(b)(II) of article XVIII of the state constitution;

(B) The colleges described in section 44-30-702 (4)(a);

(C) The cities of Central, Black Hawk, and Cripple Creek;

(D) The counties of Gilpin and Teller; and

(E) Any persons or entities who benefit from purse funds collected pursuant to section 44-32-702 (1)(c) or 44-32-705.

(II) The commission shall establish, by rule, an annual schedule for the acceptance of applications; the form and manner in which applications must be made; its criteria for verifying the amount of each applicant's revenue loss attributable to sports betting; and the date on which distributions from the hold-harmless fund are to be made.

(III) If, on the annual date of distribution, there is not sufficient money in the hold-harmless fund to pay all verified losses, the commission shall direct the state treasurer to reduce the amount of all claims by a uniform percentage so that applicants receive a share of the money proportionate to their verified losses.

(d) Fourth, transfer one hundred thirty thousand dollars annually to the office of behavioral health in the department of human services, to be used as follows:

(I) Thirty thousand dollars for the operation of a crisis hotline for gamblers by Rocky Mountain Crisis Partners or its successor organization; and

(II) One hundred thousand dollars for prevention, education, treatment, and workforce development by, and including the payment of salaries of, counselors certified in the treatment of gambling disorders.

(e) Fifth, transfer all remaining unexpended and unencumbered money in the fund to the water plan implementation cash fund created in section 37-60-123.3.

(3) Nothing in this section permits compounding or accumulation of the annual adjustment.

(4) Upon request, the state treasurer shall report to the director or the commission the amount of money available in the fund. The director shall certify all accounts and expenditures from the fund. The state treasurer shall pay upon warrants drawn by the controller. The controller is authorized as directed to draw warrants payable out of the fund upon vouchers properly certified.

(5) The state treasurer shall invest the money in the fund so long as the money is timely available to pay the expenses of the division. Investments must be those otherwise permitted by state law, and interest or any other return on the investments shall be paid into the fund.

(6) The division shall be operated so that, after the initial state appropriation, its administration of this part 15 and part 16 of this article 30 is financially self-sustaining.

(7) No claim for the payment of any expense of the division relating to administering this part 15 or part 16 of this article 30 can be made unless it is against the fund. No other money of the state shall be used or obligated to pay the expenses of the division or commission related to sports betting or fantasy sports activity.

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3228, § 12, effective May 1, 2020. **L. 2020:** (1), (6), and (7) amended, (HB 20-1286), ch. 269, p. 1311, § 4, effective July 10.

Editor's note: Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that this section takes effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-1510. Audits. The sports betting fund shall be audited at least once before May 1, 2022, and at least once every five years thereafter, by or under the direction of the state auditor,

who, notwithstanding section 24-1-136 (11)(a)(I), shall submit a report of the audit to the legislative audit committee. The expenses of the audit shall be paid from the sports betting fund.

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3230, § 12, effective May 1, 2020.

Editor's note: Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that this section takes effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-1511. Unlawful acts. (1) In addition to the prohibitions in section 44-30-801, it is unlawful for any person:

(a) To charge, in connection with the placement or acceptance of a bet, a commission or fee greater than or less than that fixed by the commission;

(b) To accept a bet by any person under twenty-one years of age; or

(c) To accept a bet at any place or in any manner other than a place or manner authorized and specified in a sports betting license.

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3230, § 12, effective May 1, 2020.

Editor's note: Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that this section takes effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-1512. Penalties. (1) In addition to any other penalties that may apply, a person violating section 44-30-1511 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2) A person violating the acceptance of bets restrictions of section 44-30-1511 (1)(b) may also be prosecuted pursuant to section 18-6-701 for contributing to the delinquency of a minor.

(3) A person purporting to issue, suspend, revoke, or renew licenses pursuant to this part 15 or to procure or influence the issuance, suspension, revocation, or renewal of a license for any personal pecuniary gain or any thing of value, as defined in section 18-1-901 (3)(r), or a person

violating section 44-30-1502 commits a class 3 felony and shall be punished as provided in section 18-1.3-401.

(4) A person violating any provision of this part 15 relating to disclosure by providing false or misleading information commits a class 6 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3231, § 12, effective May 1, 2020.

Editor's note: Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that this section takes effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-1513. Other laws inapplicable. Any other state or local law in conflict with this part 15 is inapplicable, but this section does not supersede or affect part 6 of article 21 of title 24.

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3231, § 12, effective May 1, 2020.

Editor's note: Section 16(2) of chapter 347 (HB 19-1327), Session Laws of Colorado 2019, provides that this section takes effect May 1, 2020, only if, at the November 2019 statewide election, a majority of voters approve the ballot question submitted pursuant to § 44-30-1514. That ballot question, referred to the registered electors as proposition DD, was approved on November 5, 2019, and was proclaimed by the Governor on December 20, 2019. The vote count for the measure was as follows:

FOR: 800,745
AGAINST: 756,712

44-30-1514. Approval by electors - repeal. (Repealed)

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3231, § 12, effective May 1, 2020.

Editor's note: Subsection (2) provided for the repeal of this section, effective September 1, 2020. (See L. 2019, p. 3231.)

44-30-1515. Repeal of part. (Repealed)

Source: L. 2019: Entire part added, (HB 19-1327), ch. 347, p. 3231, § 12, effective August 2.

Editor's note: Subsection (2) provided for the repeal of this section, effective May 1, 2020. (See L. 2019, p. 3231.)

PART 16

FANTASY CONTESTS

Editor's note: This part 16 was added with relocations in 2020. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 16, see the comparative tables located in the back of the index.

44-30-1601. Short title. The short title of this part 16 is the "Fantasy Contests Act".

Source: L. 2020: Entire part added with relocations, (HB 20-1286), ch. 269, p. 1304, § 2, effective July 10.

Editor's note: This section is similar to former § 12-125-101 as it existed prior to 2020.

44-30-1602. Applicability of common provisions. Parts 1 and 3 of this article 30 apply, according to their terms, to this part 16 unless the context otherwise requires.

Source: L. 2020: Entire part added with relocations, (HB 20-1286), ch. 269, p. 1305, § 2, effective July 10.

Editor's note: This section is similar to former § 12-125-102 as it existed prior to 2020.

44-30-1603. Definitions. As used in this part 16, unless the context otherwise requires:

(1) "Confidential information" means information related to the play of a fantasy contest by fantasy contest players obtained as a result of or by virtue of a person's employment.

(2) "Director" means the director of the division of gaming or the director's designee.

(3) "Entry fee" means cash or cash equivalents that are required to be paid by a fantasy contest player to a fantasy contest operator in order to participate in a fantasy contest.

(4) "Fantasy contest" means a fantasy or simulated game or contest in which:

(a) The value of all prizes and awards offered to winning participants is established and made known to the participants in advance of the contest;

(b) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of athletes in sporting events; and

(c) Winning outcomes are not based on randomized or historical events or on the score, point spread, or any performance of any single actual sports team or combination of the teams or solely on any single performance of an individual athlete in any single actual sporting event.

(5) "Fantasy contest operator" means a person or entity that offers fantasy contests with an entry fee for a cash prize to members of the public.

(6) "Fantasy contest player" means a person who participates in a fantasy contest with an entry fee offered by a fantasy contest operator.

(7) "Small fantasy contest operator" means a fantasy contest operator that has no more than seven thousand five hundred fantasy contest players in Colorado with active accounts who participate in fantasy contests with an entry fee.

Source: L. 2020: Entire part added with relocations, (HB 20-1286), ch. 269, p. 1305, § 2, effective July 10.

Editor's note: This section is similar to former § 12-125-103 as it existed prior to 2020.

44-30-1604. Rules. (1) (a) The director of the division of gaming shall promulgate reasonable rules for the administration and enforcement of this part 16, including rules governing the identification, licensing, and fingerprinting of applicants for licensure.

(b) Repealed.

(2) Repealed.

Source: L. 2020: Entire part added with relocations, (HB 20-1286), ch. 269, p. 1305, § 2, effective July 10.

Editor's note: (1) This section is similar to former § 12-125-104 as it existed prior to 2020.

(2) (a) Subsection (1)(b)(II) provided for the repeal of subsection (1)(b), effective December 15, 2020. On March 26, 2021, the revisor of statutes received the notice referred to in subsection (1)(b) related to the repeal. For more information about the repeal and notice, see HB 20-1286. (L. 2020, p. 1305.)

(b) Subsection (2)(b) provided for the repeal of subsection (2), effective September 1, 2020. On March 26, 2021, the revisor of statutes received the notice referred to in subsection (2) related to the repeal. For more information about the repeal and notice, see HB 20-1286. (L. 2020, p. 1305.)

44-30-1605. Registration. (1) On and after September 1, 2020, an entity shall not operate as a small fantasy contest operator unless the entity is registered with the director. On and after September 1, 2020, an individual who is not operating through an entity shall not operate as a small fantasy contest operator unless the individual is registered with the director.

(2) A small fantasy contest operator is subject to all of the provisions of this part 16; except that:

(a) A small fantasy contest operator need only be registered, not licensed, in order to offer fantasy contests for a fee, and a small fantasy operator is subject to section 44-30-1606 (3); and

(b) The director shall:

(I) Establish a registration process for small fantasy contest operators; and

(II) Not initiate an investigation of a potential violation of this part 16 by a small fantasy contest operator except upon the filing of a complaint with the director that the director reasonably believes warrants investigation.

Source: L. 2020: Entire part added with relocations, (HB 20-1286), ch. 269, p. 1306, § 2, effective July 10.

Editor's note: This section is similar to former § 12-125-105 as it existed prior to 2020.

44-30-1606. Licensing - rules. (1) (a) On and after September 1, 2020, an entity shall not operate as a fantasy contest operator unless the entity is licensed by the director. On and after September 1, 2020, an individual who is not operating through an entity shall not operate as a fantasy contest operator unless the individual is licensed as a fantasy contest operator by the director. Notwithstanding any provision of this part 16 to the contrary, the director shall issue a license to operate as a fantasy contest operator to any entity or individual that, as of August 30, 2020, held a valid license issued by the department of regulatory agencies to operate as a fantasy contest operator.

(b) An applicant for licensure must pay license, renewal, and reinstatement fees established by the director consistent with section 44-30-203 and other authorities. The director may promulgate reasonable rules pertaining to the renewal, expiration, and reinstatement of licenses. The director shall transmit all fees collected to the state treasurer, who shall credit them to the sports betting fund created in section 44-30-1509.

(2) Applications for licensure as a fantasy contest operator must:

(a) Be verified by the oath or affirmation of the person or persons as the director may prescribe;

(b) Be made to the director on forms prepared and furnished by the director; and

(c) Set forth such information as the director may require to enable the director to determine whether an applicant meets the requirements for licensure under this part 16. The information must include:

(I) The name and address of the applicant;

(II) If a partnership, the names and addresses of all of the partners, and if a corporation, association, or other organization, the names and addresses of the president, vice president, secretary, and managing officer, together with all other information deemed necessary by the director; and

(III) A designation of the responsible party who is the agent for the licensee for all communications with the director.

(3) (a) An applicant may not be eligible for licensure or registration as a fantasy contest operator or licensure renewal if the applicant or any of its officers, directors, or general partners has been convicted of or has entered a plea of nolo contendere or guilty to a felony.

(b) The director is governed by section 24-5-101 in considering the conviction or plea of nolo contendere to a felony for any individual subject to a criminal history record check pursuant to subsection (4) of this section.

(4) With the submission of an application for a license granted pursuant to this section, each applicant and its officers, directors, and general partners shall submit a complete set of his or her fingerprints to the Colorado bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. A person who has previously submitted fingerprints for state or local licensing purposes may request the use of the fingerprints on file.

The director shall require a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d), for a person who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable or when the results of a fingerprint-based criminal history record check of a person performed pursuant to this subsection (4) reveal a record of arrest without a disposition. The director shall use the information resulting from the fingerprint-based or name-based criminal history record check to investigate and determine whether an applicant is qualified to hold a license pursuant to this section. The director may verify the information an applicant is required to submit. The applicant shall pay the costs associated with the fingerprint-based criminal history record check to the Colorado bureau of investigation. The applicant is responsible for the costs associated with a name-based criminal history record check.

(5) A fantasy contest operator shall not conduct, operate, or offer a fantasy contest that:

(a) Utilizes:

(I) Video or mechanical reels or symbols or any other depictions of slot machines, poker, blackjack, craps, or roulette; or

(II) Any device that qualifies as or replicates games that constitute limited gaming under section 9 of article XVIII of the Colorado constitution; or

(b) Includes a high school or youth sporting event.

Source: L. 2020: Entire part added with relocations, (HB 20-1286), ch. 269, p. 1307, § 2, effective July 10.

Editor's note: This section is similar to former § 12-125-106 as it existed prior to 2020.

44-30-1607. Consumer protections. (1) A fantasy contest operator, including a small fantasy contest operator, shall implement commercially reasonable procedures for fantasy contests with an entry fee, which procedures are designed to:

(a) Prevent employees of the fantasy contest operator, including a small fantasy contest operator, and relatives living in the same household as the employees, from competing in any fantasy contests offered by any fantasy contest operator in which the operator offers a cash prize; except that any of such individuals may play in a private contest on a fantasy contest platform in which the individual's relevant affiliation to the fantasy contest operator is disclosed to all other players;

(b) Prevent sharing of confidential information that could affect the fantasy contest play with third parties until the information is made publicly available;

(c) Verify that a fantasy contest player in such a fantasy contest is eighteen years of age or older;

(d) Ensure that individuals who participate or officiate in a game or contest that is the subject of such a fantasy contest will be restricted from entering such a fantasy contest that is determined, in whole or in part, on the accumulated statistical results of a team of individuals in the game or contest in which they are a player or official;

(e) Allow individuals to restrict themselves from entering such a fantasy contest upon request and provide reasonable steps to prevent the person from entering the fantasy contests offered by the fantasy contest operator, including a small fantasy contest operator;

(f) Disclose the number of entries that a fantasy contest player may submit to each such fantasy contest, provide reasonable steps to prevent players from submitting more than the allowable number, and, in any contest involving at least one hundred one entries, not allow a player to submit more than the lesser of three percent of all entries or one hundred fifty entries;

(g) Segregate fantasy contest player funds from operational funds and maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination thereof, in the amount of the deposits made to the accounts of fantasy contest players for the benefit and protection of the funds held in the accounts;

(h) Distinguish highly experienced players and beginner players and ensure that highly experienced players are conspicuously identified as such to all players;

(i) Prohibit the use of scripts in fantasy contests that give a player an unfair advantage over other players and make all authorized scripts readily available to all fantasy contest players;

(j) Clearly and conspicuously disclose all rules that govern its contests, including the material terms of each promotional offer at the time the offer is advertised; and

(k) Use technologically reasonable measures to limit each fantasy contest player to one active account with that operator.

(2) A fantasy contest operator, including a small fantasy contest operator, offering fantasy contests in this state shall:

(a) Contract with a third party to annually perform an independent audit, consistent with the standards established by the Public Company Accounting Oversight Board, to ensure compliance with this part 16; and

(b) Submit the results of the audit to the director.

Source: L. 2020: Entire part added with relocations, (HB 20-1286), ch. 269, p. 1308, § 2, effective July 10.

Editor's note: This section is similar to former § 12-125-107 as it existed prior to 2020.

44-30-1608. Duty to maintain records. Each fantasy contest operator shall keep daily records of its operations and shall maintain the records for at least three years. The records must sufficiently detail all financial transactions to determine compliance with the requirements of this part 16 and must be available for audit and inspection by the director during the fantasy contest operator's regular business hours.

Source: L. 2020: Entire part added with relocations, (HB 20-1286), ch. 269, p. 1310, § 2, effective July 10.

Editor's note: This section is similar to former § 12-125-108 as it existed prior to 2020.

44-30-1609. Authorization to conduct fantasy contests. (1) Fantasy contests are authorized and may be conducted by a fantasy contest operator at a licensed gaming establishment. A gaming retailer may conduct fantasy contests if the gaming retailer is licensed as a fantasy contest operator.

(2) Fantasy contests are authorized and may be conducted by a fantasy contest operator at a licensed facility at which pari-mutuel wagering, as defined in section 44-32-102 (18), may

occur. An operator of a class B track, as defined in section 44-32-102 (3), may conduct fantasy contests if the operator is licensed as a fantasy contest operator.

(3) A fantasy contest conducted in compliance with this part 16 does not violate article 10 or 10.5 of title 18.

Source: L. 2020: Entire part added with relocations, (HB 20-1286), ch. 269, p. 1310, § 2, effective July 10.

Editor's note: This section is similar to former § 12-125-109 as it existed prior to 2020.

44-30-1610. Grounds for discipline. (1) The director may suspend, revoke, or refuse to renew the license or registration of or impose an administrative fine against a licensee or registrant if the fantasy contest operator, including a small fantasy contest operator:

(a) Violates any order of the director, any provision of this part 16, or the rules established under this part 16;

(b) Fails to meet the requirements for licensure under this part 16; or

(c) Uses fraud, misrepresentation, or deceit in applying for or attempting to apply for licensure or registration or otherwise in operating or offering to operate a fantasy contest.

(2) If it appears to the director, based upon credible evidence as presented in a written complaint, that a person is operating or offering to operate a fantasy contest without having obtained a registration or license, the director may issue an order to cease and desist the activity. The director shall set forth in the order the statutes and rules alleged to have been violated, the facts alleged to have constituted the violation, and the requirement that all unauthorized practices immediately cease. Within ten days after service of the order to cease and desist pursuant to this subsection (2), the person may request a hearing on the question of whether acts or practices in violation of this part 16 have occurred. The hearing shall be conducted pursuant to section 24-4-105.

Source: L. 2020: Entire part added with relocations, (HB 20-1286), ch. 269, p. 1310, § 2, effective July 10.

Editor's note: This section is similar to former § 12-125-110 as it existed prior to 2020.

44-30-1611. Civil fines. In addition to any other remedy provided by law, a fantasy contest operator, or an employee or agent thereof, who violates this part 16 is subject to a civil fine of not more than one thousand dollars for each such violation, which the state treasurer shall credit to the sports betting fund created in section 44-30-1509. The director may file a civil action to collect the fine.

Source: L. 2020: Entire part added with relocations, (HB 20-1286), ch. 269, p. 1311, § 2, effective July 10.

Editor's note: This section is similar to former § 12-125-111 as it existed prior to 2020.

44-30-1612. Applicability. This part 16 applies to conduct occurring on or after September 1, 2020.

Source: L. 2020: Entire part added with relocations, (HB 20-1286), ch. 269, p. 1311, § 2, effective July 10.

Editor's note: This section is similar to former § 12-125-112 as it existed prior to 2020.

ARTICLE 31

Tribal-state Gaming Compact

Editor's note: This article 31 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 31, see the comparative tables located in the back of the index.

44-31-101. Tribal-state gaming compact. In accordance with federal Indian gaming regulations in 25 U.S.C. sec. 2710 (d)(3)(C), any Indian tribe having jurisdiction over the Indian lands upon which class III gaming activity is being conducted or is to be conducted shall request the governor of Colorado on behalf of this state to enter into negotiations for the purpose of entering into a tribal-state compact governing the conduct of gaming activities. Upon receiving a request, the governor shall negotiate, after consultation with the Colorado limited gaming control commission created in section 44-30-301, with the Indian tribe in good faith to enter a compact.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 236, § 3, effective October 1.

Editor's note: This section is similar to former § 12-47.2-101 as it existed prior to 2018.

44-31-102. Effective date of compact. The tribal-state compact entered into between the governor and an Indian tribe governing gaming activities on the Indian lands of the Indian tribe shall take effect when notice of approval of the compact by the secretary of the federal department of the interior has been published by said secretary in the federal register.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 236, § 3, effective October 1.

Editor's note: This section is similar to former § 12-47.2-102 as it existed prior to 2018.

44-31-103. Provisions of compact. (1) Any tribal-state compact entered into pursuant to section 44-31-101 may include, but shall not be limited to, the following provisions:

(a) The application of the criminal and civil laws and regulations of the Indian tribe or of this state that are directly related to, and necessary for, the licensing and regulation of the activity;

(b) The allocation of criminal and civil jurisdiction between this state and the Indian tribe necessary for the enforcement of the laws and regulations;

(c) The assessment by this state of such activities in such amounts as are necessary to defray the costs of regulating such activity;

(d) Taxation by the Indian tribe of the activity in amounts comparable to amounts assessed by this state for comparable activities;

(e) Remedies for breach of contract;

(f) Standards for the operation of the activity and maintenance of the gaming facility, including licensing; and

(g) Any other subjects that are directly related to the operation of gaming activities.

(2) It is the intent of the general assembly that the restrictions set forth in section 9 of article XVIII of the state constitution shall apply to limited gaming activities on tribal lands.

Source: L. 2018: Entire article added with relocations, (SB 18-034), ch. 14, p. 236, § 3, effective October 1.

Editor's note: This section is similar to former § 12-47.2-103 as it existed prior to 2018.

ARTICLE 32

Racing

Editor's note: This article 32 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 32, see the comparative tables located in the back of the index.

PART 1

GENERAL PROVISIONS

44-32-101. Legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) The provisions of this article 32 are enacted through the exercise of the police powers of this state for the protection of the health, peace, safety, and general welfare of the people of this state;

(b) Horse racing is an inherently dangerous sport. Race horses weigh in excess of one thousand pounds, are almost six feet in height at the withers, and can run faster than thirty miles per hour. Horse racing brings significant physical risks to humans and horses. Jockeys and other persons working with horses have been injured before, during, and after horse races, occasionally resulting in death. As a result of these risks, it is crucial that persons working with horses in racing must at all times be free of any substances that might impair their judgement, reflexes, or ability to control a horse. Recent drug testing of horse racing licensees has shown instances of illegal drug use and consumption of alcohol in excess of statutory limitations, which could, therefore, endanger both human and equine participants. The most effective method of

preventing alcohol and drug abuse and ensuring the safety of all persons and animals included in the sport of horse racing is to establish a program of alcohol and drug testing.

(c) The purposes of this article 32 include:

(I) Promoting racing and the recreational, entertainment, and commercial benefits to be derived therefrom;

(II) Raising revenue for the general fund;

(III) Establishing high standards of sport and fair play;

(IV) Protecting the health and safety of all participants, human and animal, involved in racing events both on and off the racetrack; and

(V) Fostering honesty and fair dealing in the racing industry.

(2) This article 32 shall be liberally construed for all the stated purposes in this section.

Source: L. 2018: Entire section amended, (SB 18-172), ch. 129, p. 850, § 1, effective April 12; entire article added with relocations, (HB 18-1024), ch. 26, p. 286, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-101 as it existed prior to 2018.

(2) This section was numbered as § 12-60-101 in SB 18-172. That section was harmonized with and relocated to this section as this section appears in HB 18-1024.

44-32-102. Definitions - rules. As used in this article 32, unless the context otherwise requires:

(1) "Breakage" means the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of ten cents.

(2) (a) "Class A track" means a track, located within the state of Colorado, at which a race meet of horses is conducted and that is not a class B track.

(b) "Class A track" includes a reopening class A track that has not run a meet within the past three years. Such class A track may begin to operate as a simulcast facility after the commission has approved its application for simulcasting and its application for race dates to hold a race meet within the following twelve months. Applications submitted to the commission shall include a provision for the establishment of a purse fund that complies with this article 32 and the rules of the commission.

(3) "Class B track" means a track, located within the state of Colorado, at which a race meet of horses, consisting of thirty or more race days, is being conducted or was being conducted during the immediately preceding twelve months.

(4) "Commission" means the Colorado racing commission created in part 3 of this article 32.

(5) "Cross simulcasting" means the receipt of a simulcast race of greyhounds at an out-of-state host track by a simulcast facility that is located on the premises of a track that is licensed to race horses.

(6) "Director" means the director of the division of racing events.

(7) "Division" means the division of racing events created in part 2 of this article 32.

(8) "Horse track" means either a class A track or a class B track.

(9) "Host track" means either an in-state host track or an out-of-state host track.

(10) "In-state host track" means a track, located within the state of Colorado, at which a race meet of horses is conducted.

(11) (a) "In-state simulcast facility" means:

(I) A class A or class B horse track at which a licensee has held within the preceding twelve months or is licensed and scheduled to hold within the following twelve months a race meet of at least the duration required of a class A or class B track;

(II) An additional facility that is operated by and is the responsibility of the licensee of a class B horse track, located in Colorado, and used for the handling of wagers placed on simulcast races received by the track or facility. The number of additional facilities cannot exceed the total number of facilities licensed to hold a race meet in 2003 plus one additional facility per licensee as authorized under this article 32. The additional facilities must be licensed in accordance with section 44-32-504 and must not be located within fifty miles of any class B horse track operated by another licensee without the written consent of the other licensee. The commission shall establish by rule the means of obtaining the consent.

(b) If an additional facility is jointly owned or operated as a simulcast facility by two or more licensees, the additional facility shall be deemed to be one of the additional simulcast facilities of only one of the licensees, as designated in writing to the commission.

(c) The commission, for good cause, may grant a licensed class A horse track permission to receive simulcast races at an alternate location within five miles of its track during the times when the track is not in operation.

(12) "Interstate common pool" means a pari-mutuel pool established at one location, usually but not necessarily at a host track, within which pool are combined comparable pari-mutuel pools of one or more simulcast facilities upon a race run at the host track for purposes of establishing payoff prices in the various states. There may be simulcast facilities in more than one state simultaneously combining pari-mutuel pools into the common pool of the host track. Where permitted by the laws and rules of the states in which the host track and the simulcast facilities are located and with the concurrence of the host track, the combined pari-mutuel pool may be established on a regional or other basis between two or more simulcast facilities and need not involve a merger into the host track's pari-mutuel pool. In such instances, one of the simulcast facilities shall serve as if it were the host track for the purposes of holding the common pool and calculating payoffs. The interstate common pool shall be as specified in the written simulcast racing agreement between the host track and the person operating the simulcast facility receiving the simulcast races.

(13) "Intrastate common pool" means a pari-mutuel pool, established for an in-state host track, that includes wagers made at the in-state host track as well as wagers made at in-state simulcast facilities on simulcast races of live races run at the in-state host track.

(14) "Licensee" means any person holding a current, valid race meet license issued pursuant to section 44-32-505 and any person holding a current, valid license or registration issued by the commission pursuant to sections 44-32-503 and 44-32-504. The commission, by rule, shall determine which occupational categories shall be licensed and which shall be registered. Except in connection with the licensing of race meets, the term "license" includes a registration and "applicant" includes an applicant for a registration.

(15) "Out-of-state host track" means a track, located within a state other than Colorado, that is licensed or otherwise properly authorized under the laws of the state to conduct live races

of horses or greyhounds and to broadcast the races as simulcast races and that broadcasts the simulcast races to an in-state simulcast facility.

(16) "Out-of-state simulcast facility" means a track or other facility, located within a jurisdiction other than Colorado, at which pari-mutuel wagers are placed or accepted, either in person or electronically, on simulcast races pursuant to proper authorization under the laws of the jurisdiction.

(17) "Pari-mutuel pool" means a wagering pool into which pari-mutuel wagers on a live race or on a simulcast race are taken.

(18) "Pari-mutuel wagering" means a form of wagering on the outcome of horse and greyhound races in which those who wager purchase tickets of various denominations on one or more horses or greyhounds from one or more pools and all like wagers from each race are pooled and the winning ticket holders are paid prizes from the pool in amounts proportional to the total receipts in the pool minus deductions authorized by statute.

(19) "Person" means any individual, partnership, firm, corporation, or association.

(20) "Race meet" means any live exhibition of racing involving horses registered within their breed, conducted at a track located within the state of Colorado and operated by a licensee under a license granted pursuant to section 44-32-505, where the pari-mutuel system of wagering is used.

(21) "Simulcast facility" means either an in-state simulcast facility or an out-of-state simulcast facility.

(22) "Simulcast race" means a live, audio-visual broadcast, transmitted simultaneously with either the performance of a live race of horses or greyhounds by an out-of-state host track or the performance of a live race of horses by an in-state host track, that is received by a simulcast facility.

(23) "Source market fee" means a licensing fee, assessed by the director pursuant to section 44-32-202 (3)(h), in lieu of taxes and fees otherwise payable under this article 32, payable by persons outside of Colorado who conduct pari-mutuel wagering on simulcast races and who accept wagers from Colorado residents at out-of-state simulcast facilities.

(24) "Track" or "racetrack" means a track that is located within the state of Colorado and at which a race meet of horses is conducted under a license granted pursuant to section 44-32-505.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 287, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-102 as it existed prior to 2018.

44-32-103. Division and commission subject to termination. The provisions of section 24-34-104 concerning the termination schedule for regulatory bodies of the state, unless extended as provided in that section, are applicable to the division of racing events created by section 44-32-201 and the Colorado racing commission created by section 44-32-301.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 290, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-103 as it existed prior to 2018.

Cross references: For the repeal date of this article 32, see § 44-32-901.

PART 2

DIVISION OF RACING EVENTS

44-32-201. Division of racing events - creation - representation - rules. (1) There is hereby created, within the department, the division of racing events, the head of which shall be the director of the division of racing events. The director shall be appointed by, and shall be subject to removal by, the executive director. The division of racing events, the Colorado racing commission created in section 44-32-301, and the director of the division of racing events shall exercise their respective powers and perform their respective duties and functions as specified in this article 32 under the department as if the same were transferred to the department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24; except that the commission shall have full and exclusive authority to promulgate rules related to racing without any approval by, or delegation of authority from, the department.

(2) The division shall make investigations and shall request the commission or the district attorney of any district, as appropriate, to prosecute, on behalf of and in the name of the division, suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the division.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 290, § 2, effective October 1. **L. 2019:** (1) amended, (SB 19-241), ch. 390, p. 3481, § 68, effective August 2.

Editor's note: This section is similar to former § 12-60-201 as it existed prior to 2018.

44-32-202. Director - qualifications - powers and duties - rules. (1) The director shall be qualified by training and experience to direct the work of the division; and, notwithstanding the provisions of section 24-5-101, shall be of good character and shall not have been convicted of any felony or gambling-related offense.

(2) The director shall not engage in any other profession or occupation that could present a conflict of interest with the director's duties as director of the division.

(3) The director, as administrative head of the division, shall direct and supervise all administrative and technical activities of the division. In addition to the duties imposed upon the director elsewhere in this article 32, it shall be the director's duty:

(a) To investigate, supervise, and administer the conduct of racing in accordance with the provisions of this article 32 and the rules of the commission;

(b) To attend meetings of the commission or to appoint a designee to attend in the director's place;

(c) To employ and direct personnel as may be necessary to carry out the purposes of this article 32, but no person shall be employed who has been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101. The director by agreement

may secure and provide payment for such services as the director may deem necessary from any department, agency, or unit of the state government and may employ and compensate such consultants and technical assistants as may be required and as otherwise permitted by law. Personnel employed by the director shall include but shall not be limited to a sufficient number of veterinarians, as defined in the "Colorado Veterinary Practice Act", article 315 of title 12, so that at least one veterinarian employed by the director, or by the operator, as provided in section 44-32-706 (1), shall be present at every racetrack during weighing in of animals and at all times that racing is being conducted; and the director shall by rule authorize any such veterinarian to conduct physical examinations of animals, including without limitation blood and urine tests and other tests for the presence of prohibited drugs or medications, to ensure that the animals are in proper physical condition to race, to prohibit any animal from racing if it is not in proper physical condition to race, and to take other necessary and proper action to ensure the health and safety of racing animals and the fairness of races.

(d) To confer, as necessary or desirable and not less than once each quarter, with the commission on the conduct of racing;

(e) To make available for inspection by the commission or any member of the commission, upon request, all books, records, files, and other information and documents of the director's office;

(f) To advise the commission and recommend such rules and such other matters as the director deems necessary and advisable to improve the conduct of racing;

(g) To make a continuous study and investigation of the operation and the administration of similar laws that may be in effect in other states or countries, any literature on the subject that from time to time may be published or available, any federal laws that may affect the conduct of racing, and the reaction of Colorado citizens to existing and potential features of racing events in Colorado with a view to recommending or effecting changes that will tend to serve the purposes of this article 32;

(h) (I) To establish and adjust fees for all licenses and registrations issued pursuant to this article 32 in an amount sufficient to generate revenue that approximates the direct and indirect cost of administering this article 32; except that an increase of more than ten percent in the fee for an occupational license or registration shall be subject to ratification by the commission. Except as provided in subsection (3)(h)(II) of this section, the fees shall be credited to the racing cash fund created in section 44-32-205.

(II) In establishing and adjusting the source market fee defined in section 44-32-102 (23), the director may allocate a portion of the fee to be credited to any horse purse trust account established in accordance with section 44-32-702 (1)(f) if the director determines that such an allocation is necessary to maintain a sufficient and competitive purse structure. The total fee paid under this section must not exceed the limit set forth in section 44-32-501 (2)(d).

(i) To perform any other lawful acts that the director and the commission may consider necessary or desirable to carry out the purposes and provisions of this article 32.

(4) If so directed by the commission, the director may, on behalf of this state:

(a) Negotiate, enter into, and participate in one or more interstate compacts that enable party states to act jointly and cooperatively to create more uniform, effective, and efficient practices, programs, and rules relating to:

(I) Live horse and greyhound racing; and

(II) Pari-mutuel wagering activities, both on-track and off-track, that occur in or affect a party state;

(b) Serve as this state's authorized representative on a commission to negotiate one or more interstate compacts as described in subsection (4)(a) of this section. If the compact commission undertakes to promulgate rules to be adopted by party states, the director shall endeavor to ensure that the process by which the rules are promulgated conforms substantially to the model state administrative procedure act of 1981, as amended, insofar as the terms of the model act are appropriate to the actions and operations of the compact commission.

Source: L. 2018: IP(3) and (3)(h) amended, (SB 18-182), ch. 115, p. 811, § 1, effective April 12; entire article added with relocations, (HB 18-1024), ch. 26, p. 290, § 2, effective October 1. **L. 2019:** (3)(c) amended, (HB 19-1172), ch. 136, p. 264, § 1734, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-202 as it existed prior to 2018.

(2) Subsection IP(3) was amended in SB 18-182. Those amendments were superseded by the amendment of subsection IP(3) in HB 18-1024.

(3) Subsection (3)(h) of this section was numbered as § 12-60-202 (3)(h) in SB 18-182. That provision was harmonized with and relocated to this section as this section appears in HB 18-1024.

44-32-203. Investigators - peace officers. (1) All investigators of the division of racing events, including the director and the executive director, shall for purposes of enforcement of this article 32 be considered peace officers as described in sections 16-2.5-101 and 16-2.5-126.

(2) Nothing in this section shall be construed to prohibit local sheriffs, police departments, and other local law enforcement agencies or the Colorado bureau of investigation from enforcing the provisions of this article 32 or rules promulgated pursuant to this article 32, or from performing their other duties to the full extent permitted by law. All such sheriffs, police officers, district attorneys, other local law enforcement agencies, or the Colorado bureau of investigation shall have all the powers set forth in subsection (1) of this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 292, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-203 as it existed prior to 2018.

44-32-204. Board of stewards or judges. The division shall establish a board of three stewards or judges to assist in supervising the conduct of any race meet. Two members of the board of stewards or judges shall be employees of the division. The remaining member shall be an employee of the track at which the race meet is held, shall be subject to the approval of the commission, and may be removed by the commission at any time for any reason that the commission deems good and sufficient.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 293, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-204 as it existed prior to 2018.

44-32-205. Racing cash fund. (1) The racing cash fund is hereby established in the state treasury. Subject to appropriation by the general assembly, the division shall use the money in the racing cash fund for the direct and indirect costs of administering this article 32.

(2) Money in the racing cash fund at the end of any fiscal year shall remain in the racing cash fund and shall not revert to the general fund or any other fund. The racing cash fund shall be maintained in accordance with section 24-75-402.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 293, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-205 as it existed prior to 2018.

PART 3

COLORADO RACING COMMISSION

44-32-301. Racing commission - creation. (1) There is hereby created, within the division of racing events, the Colorado racing commission. The commission shall consist of five members, all of whom shall be citizens of the United States and shall have been residents of this state for the past five years. The members shall be appointed by the governor, with the consent and approval of the senate. No member shall have been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101. No more than three of the five members shall be members of the same political party. At the first meeting of each fiscal year, a chair and vice-chair of the commission shall be chosen from the membership by a majority of the members. Membership and operation of the commission shall additionally meet the following requirements:

(a) Two members of the commission shall have been previously engaged in the racing industry for at least five years; one member shall be a practicing veterinarian who is currently licensed in Colorado and has been so licensed for not less than five years; one member shall have been engaged in business in a management-level capacity for at least five years; and one member shall be a registered elector of the state who is not employed in any profession or industry otherwise described in this subsection (1)(a); however, no more than two members of the commission shall be from the same congressional district, and one member of the commission shall be from west of the continental divide.

(b) Initial members shall be appointed to the commission by the governor as follows: One member to serve until July 1, 1993, one member to serve until July 1, 1994, one member to serve until July 1, 1995, and two members to serve until July 1, 1996. All subsequent appointments shall be for terms of four years. No member of the commission shall be eligible to serve more than two consecutive terms.

(c) Any vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment. The member appointed to fill the vacancy shall be from the same category described in subsection (1)(a) of this section as the member vacating the position.

(d) Any member of the commission may be removed by the governor at any time.

(e) The term of any member of the commission who misses more than two consecutive regular commission meetings without good cause shall be terminated and the member's successor shall be appointed in the manner provided for appointments under this section.

(f) Commission members shall be reimbursed for necessary travel and other reasonable expenses incurred in the performance of their official duties.

(g) Prior to confirmation by the senate, each member shall file with the secretary of state a financial disclosure statement in the form required and prescribed by the executive director. The statement shall be renewed as of each January 1 during the member's term of office.

(h) The commission shall hold at least one meeting each quarter and such additional meetings as may be prescribed by rules of the commission. In addition, special meetings may be called by the chair, any two commission members, or the director, if written notification of the meeting is delivered to each member at least seventy-two hours prior to the meeting. Notwithstanding section 24-6-402, in emergency situations in which a majority of the commission certifies that exigencies of time require that the commission meet without delay, the requirements of public notice and of seventy-two hours' actual advance written notice to members may be dispensed with, and commission members as well as the public shall receive such notice as is reasonable under the circumstances. Any action by the commission during such emergency meetings shall be limited to those issues relating to the emergency situation for which the meeting was called.

(i) A majority of the commission shall constitute a quorum, but the concurrence of a majority of the members appointed to the commission shall be required for any final determination by the commission.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 293, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-301 as it existed prior to 2018.

44-32-302. Organization and officers - duties - representation. (1) All money payable to and collected by the department through the division shall be transmitted to the state treasurer. The state treasurer shall credit the same to the general fund except for the money required by this article 32 to be deposited in the racing cash fund.

(2) The commission shall maintain an office within the state and shall keep detailed records of all its meetings and of all the business transacted and of all the collections and disbursements. Publications of the commission circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

(3) The attorney general shall provide legal services for the division and the commission at the request of the executive director, the director, or the commission. The attorney general shall make reasonable efforts to ensure that there is continuity in the legal services provided and that the attorneys providing legal services to the division and the commission have expertise in the field.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 294, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-302 as it existed prior to 2018.

PART 4

CONFLICT OF INTEREST

44-32-401. Director and commission members - position of trust - conflicts of interest - definition. (1) Appointment to the commission or to the position of director or employment in the division of racing events is a position of public trust, and therefore, in order to ensure the confidence of the people of the state in the integrity of the division and the commission, the director and members of the commission and the employees of the division are subject to this section. While serving as director or as a member of the commission or while employed by the division, no person nor any member of the person's immediate family shall:

(a) Hold any pecuniary interest in any racetrack operating within the state of Colorado nor in any stable, compound, or farm that houses animals licensed or registered to race within the state of Colorado;

(b) Wager money or any other chattel of value on the result of any race or race meet or sweepstakes conducted within the state of Colorado or conducted outside the state and simulcast into the state;

(c) Hold any pecuniary interest in any out-of-state host track or derive any pecuniary benefit from the racing of any animal at the track;

(d) Hold more than a five percent interest in any entity doing business with a track; or

(e) Have any interest of any kind in a license issued pursuant to this article 32, nor have any interest, direct or indirect, including employment, in any licensee, licensed premises, establishment, or business involved in or with pari-mutuel wagering.

(2) Failure to comply with the provisions of this section shall be grounds for removal from office.

(3) For purposes of this section, "immediate family" means a person's spouse and any children actually living with the person.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 295, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-401 as it existed prior to 2018.

PART 5

LICENSING AND REGISTRATION

44-32-501. Regulation of race meets and racing-related businesses. (1) (a) The commission shall license and regulate all race meets with pari-mutuel wagering held in this state at which horses participate, and shall cause the places where the race meets are held to be visited and inspected at least once a year by its members or employees, and shall require all places to be constructed, maintained, and operated in accordance with the laws of this state and the rules of the commission.

(b) The commission shall license and regulate all kennels and stables housing racing animals both in connection with a race meet and to protect the general health and welfare of horses. The commission shall cause the kennels and stables to be visited and inspected at least once a year by its members or employees and shall require all such places to be constructed, maintained, and operated in accordance with the laws of this state and the rules of the commission.

(2) (a) (I) The commission shall, at its own expense, regulate the operations of pari-mutuel machines and equipment, the operations of all money rooms, accounting rooms, and sellers' and cashiers' windows, and the weighing of jockeys.

(II) The commission shall at its own expense take or cause to be taken saliva, urine, blood, hair, or other body fluid samples or biopsy or necropsy specimens from horses selected by the commission or its employees at race meets provided for under this article 32 or when concerns are raised as to a particular animal, including the winner of a race, and shall test and determine the samples or specimens or cause the samples or specimens to be tested and determined.

(III) To protect the health and safety of licensees, racing employees, and the general public, and to ensure the orderly conduct of race meets, the commission may at its own expense take or cause to be taken, for cause or by random selection, saliva, urine, blood, hair, or other body fluid samples from licensees. The commission shall promulgate reasonable rules identifying the license categories subject to testing. The commission shall designate license categories subject to testing based on the nature of the work performed or proximity to dangerous conditions in the sport of horse racing. Samples may be collected by division employees or by certified contractors in connection with race meets. The rules must include a listing of prohibited substances. The commission shall test and determine the samples or specimens, or cause the samples or specimens to be tested, to determine the presence of any prohibited substance that may cause impairment, or mask or dilute the presence of a prohibited substance.

(IV) The commission, at its own expense and in addition to other employees, shall employ or contract with competent doctors, accountants, chemists, and other persons necessary to supervise the conduct of race meets and to ascertain that this article 32 and the rules of the commission are strictly complied with. The commission shall also seek innovative and efficient methods of testing humans and horses for prohibited substances to ensure the safety of humans and horses and maintain the integrity of racing. Through its bidding process, the commission shall invite laboratories to include proposals for testing procedures and methods that would maintain or improve the effectiveness of test results and minimize testing cost incurred by the state or the racing industry.

(b) The commission shall establish and require compliance with internal control procedures for licensees, including accounting and reporting procedures.

(c) The commission shall license and regulate persons who manufacture or operate totalizators and shall require all totalizators to be manufactured, maintained, and operated in accordance with the laws of this state and rules of the commission.

(d) The commission may license and regulate persons outside of Colorado who conduct pari-mutuel wagering on simulcast races and who accept wagers from Colorado residents at out-of-state simulcast facilities, and shall require out-of-state simulcast facilities to be maintained and operated in accordance with the laws of this state and rules of the commission. Source

market fees imposed on persons licensed under this subsection (2)(d) shall not exceed ten percent of the gross receipts of all pari-mutuel wagering by Colorado residents conducted by the persons at out-of-state simulcast facilities.

(3) The commission shall license and regulate all in-state simulcast facilities conducting pari-mutuel wagering and shall require all such in-state simulcast facilities to be maintained and operated in accordance with the laws of this state and rules of the commission.

(4) The commission shall, at its own expense, specifically regulate the operation by in-state simulcast facilities of pari-mutuel machines and equipment, the operation of all money and accounting facilities, and the operation of sellers' and cashiers' windows and ensure that the in-state simulcast facility is handling wagering as part of the pari-mutuel system of the appropriate track or simulcast facility and as part of the appropriate pari-mutuel pool, as designated in section 44-32-703. For such purposes, the commission, at its own expense, and in addition to other employees, shall employ the competent personnel necessary to supervise the wagering through in-state simulcast facilities and to ascertain that this article 32 and the rules of the commission are strictly complied with.

(5) A licensed track or its additional facility may be used for nonracing events upon advance notice to the commission, subject to the authority of the commission and the division to take all measures reasonably necessary to ensure that the nonracing events do not interfere with the safe and proper conduct of racing or the suitability of the track for racing.

Source: L. 2018: (1)(b) and (2)(a) amended, (SB 18-172), ch. 129, p. 851, § 2, effective April 12; entire article added with relocations, (HB 18-1024), ch. 26, p. 295, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-501 as it existed prior to 2018.

(2) Subsections (1)(b) and (2)(a) of this section were numbered as § 12-60-501 (1)(b) and (2)(a), respectively, in SB 18-172. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1024.

44-32-502. Delegation of authority to issue certain licenses and registrations - rules. The commission shall delegate to the division the authority to issue all business and occupational licenses and registrations contemplated in this article 32, and shall promulgate rules containing standards for the delegation. The commission shall not delegate its duty to issue or renew race meet licenses.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 297, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-502 as it existed prior to 2018.

44-32-503. Rules of commission - licensing - criminal history record check. (1) (a) The commission shall make reasonable rules for licensees to ensure:

(I) Fair play;

(II) The proper and safe conduct of the sport of horse racing;

(III) The health, safety, and welfare of persons and horses involved in a racing meet; and

(IV) The high standards and integrity of the sport of horse racing.

(a.5) The commission rules shall also provide for the control, safety, supervision, fingerprinting, identification, and direction of applicants, registrants, and licensees. Commission rules shall provide for:

(I) The supervising, disciplining, suspending, fining, and barring from racing of all persons required to be licensed or registered by this article 32;

(II) A program for testing designated licensees for cause or by random selection to detect prohibited substances; and

(III) The holding, conducting, and operating of all races, race meets, racetracks, in-state simulcast facilities, and out-of-state wagering on simulcast races conducted pursuant to this article 32. The commission shall announce the place, time, number of races per day, duration of race meets, as provided in section 44-32-603, and types of race meets.

(b) The commission may issue a temporary license or registration for up to a maximum of ninety days for any license or registration authorized under this article 32.

(2) Every person holding a license or registration under this article 32, every person operating an in-state simulcast facility, and every owner or trainer of any horse entered in a racing contest under this article 32 shall comply with the commission's rules and orders. It is unlawful for a person to work upon the premises of a racetrack without first obtaining from the commission a license or registration under this article 32; except that the commission may waive this licensing or registration requirement for occupational categories that the commission, in its discretion, deems unnecessary to be licensed or registered. This licensing or registration requirement does not apply to the members of the commission or its employees or to persons whose only participation is individually as spectator or bettor. It is unlawful for a person who owns or leases a racing animal to allow the animal to race in this state without first obtaining an owner's license or registration from the commission, as prescribed by the rules of the commission. The commission may extend the validity of a license issued for a period not to exceed three years, and the fee for the license shall be increased proportionately; except that no temporary license or registration may be issued for a period longer than ninety days. It is unlawful for a person to hold a race meet with pari-mutuel wagering without obtaining a license for pari-mutuel wagering. It is unlawful for a person to operate an in-state simulcast facility unless that person is a licensee that has been licensed within the year to hold a race meet or is a licensee that has a written simulcast racing agreement with the in-state host track or out-of-state host track from which the simulcast race is broadcast and has filed a copy of the written simulcast racing agreement with the commission before operating as an in-state simulcast facility.

(3) No person holding a license under this article 32 shall extend credit to another person for participation in pari-mutuel wagering.

(4) (a) With the submission of an application for a license granted pursuant to this article 32, each applicant shall submit a set of fingerprints to the commission. The commission shall forward the fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Only the actual costs of the record check must be borne by the applicant. Nothing in this subsection (4) precludes the commission from making further inquiries into the background of the applicant.

(b) When the results of a fingerprint-based criminal history record check of an applicant performed pursuant to this subsection (4) reveal a record of arrest without a disposition, the commission shall require that applicant to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

Source: L. 2018: (1) amended, (SB 18-172), ch. 129, p. 852, § 3, effective April 12; entire article added with relocations, (HB 18-1024), ch. 26, p. 297, § 2, effective October 1. **L. 2019:** (4) amended, (HB 19-1166), ch. 125, p. 563, § 65, effective April 18.

Editor's note: (1) This section is similar to former § 12-60-503 as it existed prior to 2018.

(2) Subsection (1) of this section was numbered as § 12-60-503 (1) in SB 18-172. That provision was harmonized with and relocated to this section as this section appears in HB 18-1024.

44-32-504. Business licenses. (1) Every application for a business license, excluding applications for initial or renewal race meet licenses pursuant to sections 44-32-505 and 44-32-512, shall be made under oath and filed with the commission and shall set forth the information as the rules of the commission may require in connection with the application.

(2) To determine whether a license shall be granted, the commission shall have the right to examine the financial and other records of the applicant and to compel the production of records and documents.

(3) The commission has discretion to grant or deny a business license if it finds that any applicant or any of the directors, officers, or original stockholders of a corporate applicant have violated any of the provisions of this article 32 or any rules of the commission, or failed to pay any of the sums required under this article 32, or as it determines, from the application, the character, financial ability, and experience of each individual applicant or the officers and director of each corporate applicant to be for the best interests of the state and the racing industry.

(4) When conducting investigations pursuant to this section, to the extent possible, the commission shall utilize investigative information of other state racing jurisdictions. The commission may investigate an existing licensee who is seeking to acquire ownership of another existing license.

(5) Any unexpired license held by any person who has been convicted by the commission of violating any of the provisions of this article 32 or any rule of the commission, or who has willfully or fraudulently made any false statement in any application for a license, or who fails to pay to the commission any and all sums required under the provisions of this article 32 is subject to cancellation or revocation by the commission.

(6) The commission shall have the power to issue subpoenas for the appearance of persons and the production of documents and other things in connection with applications before the commission or in the conduct of investigations.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 298, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-504 as it existed prior to 2018.

44-32-505. Meet licenses. (1) Every initial application for a license to hold race meets under this article 32 shall be made under oath and shall be filed with the commission on or before a day fixed by the commission and shall set forth the time, the place, and the number of days the meet shall continue; the kind of racing proposed to be conducted; the full name and address of the applicant and, if a corporation, the names and addresses of all of its officers and directors and all of the holders of each class of its stock and the amount of stock of each class so owned by each stockholder; the location of the racetrack and whether the racetrack is owned or leased; the names and residences of the owners of all property leased by the applicant; a statement of the assets and liabilities of the applicant; a description of the qualifications and experience of the applicant if an individual or of its officers and directors if a corporation; a full disclosure of all holding or intermediary companies associated with the applicant, as well as their shareholders, all contracts that relate to the race meet, audited balance sheets of corporate applicants, excluding nonprofit associations, and the terms and conditions of all contracts by which the applicant has received credit; a description of the land uses within a radius of two miles of the establishment in which the race meet is proposed to be conducted; and the incidental information as the rules of the commission may require in connection with the application.

(2) Upon the filing of the application, the commission shall fix a date for a hearing on the application, and the applicant shall give public notice of the time and place of the hearing by publication in one issue of a daily or weekly newspaper of general circulation in the area in which it is proposed to conduct the race meet and by posting on the site of the proposed race meet a notice, in form and size to be determined by the commission, that the application has been filed and the date and place of the hearing thereon. At the time and place mentioned in the notice, the commission shall conduct a public hearing at which evidence for and against the granting of the application may be presented.

(3) Except as otherwise limited by the provisions of this article 32, in considering an application for a license under this section, the commission may give consideration to the number of licenses already granted, and to the location of tracks previously licensed, and to the sentiments and character of the community in which the proposed race meets are to be conducted, and to the ability, character, and experience of each individual applicant or the officers and directors of each corporate applicant. The commission may require of every applicant for a license to hold a race meet, except a public nonprofit association, nonprofit corporation, or nonprofit fair, including the Colorado state fair and all county fairs, who has not, within five years prior to making an application for a license to hold a race meet, operated a race meet in the county, city, or city and county in which it is proposed to hold the race meet, a recommendation in writing of the board of county commissioners of the county in the event the race meet is to be held in unincorporated areas of the county or of the governing board of a city or city and county if the proposed race meet is to be held within a city or city and county. The commission may take the recommendation into consideration before granting or refusing the license. The commission may deny a license to operate a new racetrack to a person who is already licensed to operate a racetrack within this or any other state if, in the opinion of the commission, the granting of the license would discourage legitimate competition from other qualified applicants. The commission shall investigate any applicant and shall require the applicant to pay the actual cost of investigating the application as part of the fees and costs

imposed pursuant to section 44-32-506. The applicant shall advance the money necessary for the investigation to the commission, and the commission shall return any unused portion of the money to the applicant at the conclusion of the commission's investigation. The advance of the money may either be made directly to the commission or the money may be deposited into escrow in a manner approved by the commission.

(4) The commission may grant or refuse licenses to conduct race meets under this article 32 as it determines, from the application, the character, financial ability, and experience of each individual applicant or the officers and directors of each corporate applicant, the sentiments of the community and the character of the area wherein it is proposed to conduct the race meets, and the evidence presented at the hearing, to be for the best interests of the state, the racing industry, and the area in which it is proposed to conduct the race meets.

(5) The commission has discretion to grant or deny a race meet license if it finds that any applicant has, or any of the directors, officers, or original stockholders of a corporate applicant have, violated any of the provisions of this article 32 or any rules of the commission or failed to pay any of the sums required under this article 32.

(6) Every license issued under this article 32 shall specify the number of days the licensed race meet shall continue and the number of races per day. No license shall be granted to any individual who is not a bona fide resident of Colorado nor to any foreign corporation. Every applicant shall agree that, if granted a license under this article 32, the applicant will not thereafter sell, mortgage, or otherwise pledge or dispose of any of the assets listed and described on the application for a license or a renewal license without thirty days' prior notice to the commission, which may approve or disapprove the disposition of assets upon good cause shown. The charter of all corporate applicants shall contain a provision that, when a cumulative ten percent or more of the voting stock of the corporation is to be sold, mortgaged, or otherwise pledged or transferred, thirty days' prior notice shall be given to the commission. The corporation shall pay an investigation fee to the commission as part of the fees and costs imposed pursuant to section 44-32-506. The commission shall approve or disapprove of the disposition of the stock, upon good cause shown, within ninety days of the filing of a completed application for transfer. The commission has the power to ascertain if any capital stock of any corporate applicant or licensee is held with the intent to mislead or deceive the commission for an undisclosed principal. The involvement of an undisclosed principal shall be grounds for the denial, suspension, or revocation of a license.

(7) Upon petition by the licensee and a finding by the commission that it is impossible or impractical for a licensee, because of fire or act of God or other unforeseeable emergency not caused or participated in by the licensee, to conduct a race meet upon the dates allocated or upon a racetrack designated by the commission to the licensee, other dates and locations may be substituted and granted to the licensee. A licensee so petitioning may be granted the right to lease and utilize any other licensee's facilities for the term of the petitioning licensee's annual permit or any portion thereof, but the grant shall not be construed to allow any licensee more days of racing in any year than are prescribed by this article 32.

(8) When conducting investigations pursuant to subsections (3) and (6) of this section, to the extent possible, the commission shall utilize investigative information of other state racing jurisdictions. The commission may investigate an existing licensee who is seeking to acquire ownership of another existing license to conduct race meets.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 299, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-505 as it existed prior to 2018.

Cross references: For the authority of the executive director of the department of regulatory agencies to change the period of validity and renewal date of any license or certificate issued by any examining or licensing board or commission in the division of professions and occupations, see § 12-20-202 (1)(b) to (1)(e), (2), and (3). For race meets at the Colorado state fair and industrial exposition, see § 35-65-116.

44-32-506. Application - fee - waiver of confidentiality. (1) In connection with the issuance of licenses or registrations, the commission shall establish investigation and application fees, which fees shall be credited to the racing cash fund created in section 44-32-205.

(2) The application form created by the commission shall include a waiver of any right of confidentiality and a provision that allows the information contained in the application to be accessible to law enforcement agents of this or any other state or the government of the United States. The waiver of confidentiality shall extend to any financial or personnel record, wherever maintained.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 301, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-506 as it existed prior to 2018.

44-32-507. Investigation - denial, suspension, and revocation actions against licensees - unlawful acts. (1) The commission upon its own motion may, and upon complaint in writing of any person shall, investigate the activities of any licensee or applicant within the state or any person upon the premises of any facility licensed pursuant to this article 32. In addition to its authority under any other provision of this article 32, the commission may issue a letter of admonition to a licensee, fine a licensee, suspend a license, deny an application for a license, or revoke a license, if the person has committed any of the following violations:

(a) Disregarding or violating any provision of this article 32 or any rule promulgated by the commission in the interests of the public and in conformance with the provisions of this article 32;

(b) Been convicted of, or entered a plea of guilty or nolo contendere to, a criminal charge under the laws of this or any other state or of the United States, or entered into a plea bargain for acts or omissions that, if committed in Colorado, would have been grounds for discipline in this state. A certified copy of the judgment of the court in which any such conviction occurred shall be presumptive evidence of the conviction in any hearing under this article 32. This subsection (1)(b) shall be applied in accordance with section 24-5-101.

(c) Current prosecution or pending charges in any jurisdiction, against the applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the

applicant, for any felony; except that, at the request of the applicant or the person charged, the commission shall defer decision upon the application during the pendency of the charge;

(d) Fraud, willful misrepresentation, or deceit in racing;

(e) Failure to disclose to the commission complete ownership or beneficial interest in a racing animal entered to be raced;

(f) Misrepresentation or attempted misrepresentation in connection with the sale of a racing animal or other matter pertaining to racing or registration of racing animals;

(g) Failure to comply with any order or rulings of the commission, the stewards, the judges, or a racing official pertaining to a racing matter;

(h) Ownership of any interest in or participation by any manner in any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise;

(i) Employing or harboring unlicensed persons on the premises of a racetrack;

(j) Being a person, employing a person, or being assisted by a person who is not of good record or good moral character;

(k) Discontinuance of or ineligibility for the activity for which the license was issued;

(l) Being currently under suspension or revocation of a racing license in another racing jurisdiction, or having been subject to disciplinary action by the commission or equivalent agency of another jurisdiction for acts or omissions that, if committed in Colorado, would have been grounds for discipline in this state; except that this subsection (1)(l) shall not furnish the basis for the imposition of fines;

(m) Possession on the premises of a racetrack of:

(I) Firearms; or

(II) A battery, buzzer, electrical device, or other appliance other than a whip that could be used to alter the speed of a racing animal in a race or while working out or schooling;

(n) Possession, on the premises of a racetrack, by a person other than a licensed veterinarian, of:

(I) A hypodermic needle, hypodermic syringe, or other similar device;

(II) Any substance, compound items, or combination thereof of any medicine, narcotic, stimulant, depressant, or anesthetic that could alter the normal performance of a racing animal unless specifically authorized by the commission veterinarian;

(o) Cruelty to or neglect of a racing animal;

(p) Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of the act immediately to the stewards, the judges, or the commission;

(q) Causing, attempting to cause, or participating in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of the act immediately to the stewards, the judges, or the commission;

(r) Entering, or aiding and abetting the entry of, a racing animal ineligible or unqualified for the race entered;

(s) Willfully or unjustifiably entering or racing of any animal in any race under any name or designation other than the name or designation assigned to the animal by and registered with the official recognized registry for that breed of animal, or willfully soliciting, instigating, engaging in or in any way furthering any act by which any racing animal is entered or raced in any race under any name or designation other than the name or designation duly assigned by and registered with the official recognized registry for that breed of animal;

(t) Aiding or abetting any person in the violation of any rule of the commission;

(u) Racing at a racetrack without having a racing animal registered to race at that racetrack;

(v) Being on the premises of a racetrack for which the licensee is required to be licensed without being able to show proof of gainful employment at that racetrack;

(w) Failing to comply with the requirements of article 33 of this title 44 or any rule promulgated by the executive director pursuant to section 44-33-108 (3).

(2) The director may summarily suspend the license of any person pending a hearing concerning violation of subsection (1)(o) of this section.

(3) Any person who fails to pay within the time period established by rule a fine imposed pursuant to this article 32 shall pay, in addition to the fine due, a penalty amount equal to the fine. Any person who submits to the department through the division a check in payment of a fine or license fee requirement imposed pursuant to this article 32, which check is not honored by the financial institution upon which it is drawn, shall pay, in addition to the fine or fee due, a penalty amount equal to the fine or fee. All money received pursuant to a penalty amount imposed by this subsection (3) shall be credited to the general fund of the state.

(4) Any person aggrieved by a final action or order of the commission may appeal the action to the Colorado court of appeals.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 301, § 2, effective October 1; IP(1) and (1)(w) amended, (SB 18-035), ch. 15, p. 258, § 5, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-507 as it existed prior to 2018.

(2) Subsection IP(1) was amended in SB 18-035. Those amendments were superseded by the amendment of subsection IP(1) in HB 18-1024.

(3) Subsection (1)(w) of this section was numbered as § 12-60-507 (1)(w)(I) in SB 18-035. That provision was harmonized with and relocated to this section as this section appears in HB 18-1024.

44-32-508. License - mandatory disqualification - criteria. (1) The commission shall deny a license to any applicant on the basis of any of the following criteria:

(a) Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article 32;

(b) Failure of the applicant to provide information, documentation, and assurances required by this article 32 or requested by the commission, failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria;

(c) Conviction of the applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant, of any of the following:

(I) Any gambling-related offense or theft by deception;

(II) Any crime involving fraud or misrepresentation committed within ten years prior to the date of the application, notwithstanding the provisions of section 24-5-101;

(d) Current prosecution or pending charges in any jurisdiction against the applicant, or against any person listed in subsection (1)(c) of this section, for any of the offenses enumerated in subsection (1)(c) of this section; except that, at the request of the applicant or the person charged, the commission shall defer decision upon the application during the pendency of the charge.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 304, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-507.5 as it existed prior to 2018.

44-32-509. Hearings - review - rules. (1) Except as otherwise provided in this section, all proceedings before the commission with respect to the denial, suspension, or revocation of licenses or the imposition of fines shall be conducted pursuant to the provisions of sections 24-4-104 and 24-4-105.

(2) The proceedings shall be held in the county where the commission has its office or in such other place as the commission may designate. The commission shall notify the applicant or licensee by mailing by first-class mail a copy of the written notice required to the last address furnished by the applicant or licensee to the commission.

(3) (a) The commission may delegate its authority to conduct hearings and impose discipline with respect to the denial or suspension of licenses or the imposition of a fine to the division, through its board of stewards or judges, or a hearing officer. Proceedings before the division, through its board of stewards or judges, or a hearing officer shall not be governed by the procedural or other requirements of sections 24-4-104 and 24-4-105, but rather shall be conducted in accordance with rules adopted by the commission.

(b) The commission may direct that any hearing be conducted before an administrative law judge appointed pursuant to part 10 of article 30 of title 24.

(4) The commission, the division, through its board of stewards or judges, and any hearing officer shall have the authority to administer oaths and affirmations, sign and issue subpoenas and order the production of documents and other evidence, and regulate the course of the hearing, pursuant to rules adopted by the commission.

(5) Any party aggrieved by a final order or ruling issued by the division, through its board of stewards or judges, or a hearing officer shall have a right to appeal the order or ruling to the commission, pursuant to procedural rules that shall be adopted by the commission. The aggrieved party may petition the commission for a stay of execution pending appeal to the commission.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 304, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-508 as it existed prior to 2018.

44-32-510. Liability insurance - bond for race meets. (1) For the protection of the public and the exhibitors, contestants, and visitors, every person licensed to conduct a race meet

under the provisions of this article 32 shall carry public liability insurance in the form of a contract and with a company to be approved by the commission.

(2) An organization representing the majority of the owners of racing animals participating in any race meet may require the licensee conducting the race meet to provide and deliver to the commission evidence of a bond signed by a surety company authorized to do business in this state, in an amount sufficient to cover all awards and purses due to the contestants at the race meet and conditioned that the licensee will pay and discharge all obligations to the contestants in connection with the race meet.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 305, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-509 as it existed prior to 2018.

44-32-511. Racing of standardbred harness horses. (1) Notwithstanding any other provision of this article 32 to the contrary, the commission shall grant licenses to conduct the racing of standardbred harness horses pursuant to the provisions of this article 32 and in accordance with subsections (2) and (3) of this section.

(2) The licenses granted may be issued to conduct not more than three race meets in any one year at a racetrack specifically designed and used for the racing of no animals other than standardbred harness horses, but the race meets may not be held on the same dates as race meets authorized by the commission for animals other than standardbred harness horses that are held within forty miles of the track licensed for the racing of standardbred harness horses. In addition, licenses may be issued by the commission to conduct three race meets for the racing of standardbred harness horses in any one year at any racetrack at which horse race meets are held and that is not within forty miles of any other racetrack licensed for the racing of horses or the racing of standardbred harness horses.

(3) No tracks licensed for the racing of standardbred harness horses may be located within forty miles of one another, but the tracks may be located within forty miles of any track licensed for the racing of animals other than standardbred harness horses subject to the limitations in subsection (2) of this section.

(4) The provisions of subsection (3) of this section shall not restrict the right of a county to conduct extended standardbred harness horse race meets, upon being licensed by the commission, at a county fairground if the race meets are not within fifteen miles of any racetrack licensed in Colorado for the racing of horses.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 305, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-510 as it existed prior to 2018.

44-32-512. Eligibility to operate race meets - renewal or revocation. (1) (a) No person shall be eligible to operate a race meet under a license issued under the provisions of this article 32 unless the person is the owner or controls the possession of a properly constructed racetrack suitable for the conduct of racing and improved with safe and suitable grandstands;

equipped with reasonably sanitary accommodations and also such accommodations, including track conditions, as the commission may require for the care and control of the animals racing at the meet; and also such other improvements as, in the opinion of the commission, may be required for the protection of the public, human and animal participants, and others likely to be present at the race meet. In consideration of the location of the track and other structures and erections and the probable capacity requirements to accommodate the crowd and the number of people that will reasonably be expected to occupy the grandstands and attend the race meets, a major racing operation license shall not be issued for the racing of horses at a class A track that is within forty miles of any other major racing operation licensed under this article 32 for the racing of horses at a class A track; nor shall a major racing operation license be issued for the racing of horses at a class B track that is within forty miles of any other major racing operation licensed under this article 32 for the racing of horses at a class B track. In no event shall any racing operation licensed under this article 32 for the racing of horses at a horse track located within forty miles of the Colorado state fair and industrial exposition conduct race meets of horses on the same dates as the race meets of horses at the state fair.

(b) As used in subsection (1)(a) of this section, "major racing operation" means nonprofit corporations and commercial tracks conducting race meets that exceed fifteen racing days.

(2) Applications for renewal of a license shall be filed with the commission on or before a day fixed by the commission and shall set forth the name of the applicant and if a corporation the names and addresses of its officers and directors with a list attached thereto of the names and addresses of all the holders of its stock, as of a date not more than thirty days prior to the filing of the application, and the amount of voting stock held by each stockholder. If any of its voting stock is known by any applicant to be registered in the name of a person not the actual owner thereof, the list shall also show the name and address of the actual owner.

(3) The application shall set forth the proposed dates of race meets, the dates within the race meets on which the applicant intends to conduct racing at the meet and the number of races intended to be run on the dates, and the address of the establishment where the meets are to be held and shall have attached thereto the most recent financial statement of the applicant as of a date not more than twelve months prior to the date of the application for renewal of the license. The application shall also contain such other information as the rules of the commission may provide to ensure that the licensee is conducting race meets in accordance with the provisions of this article 32 and the rules of the commission. To determine whether an application for renewal of the license to conduct race meets shall be granted, the commission shall have the right to examine the financial and other records of the licensee, to compel the production of records and documents, to conduct hearings, to summon witnesses, and to administer oaths.

(4) (a) As soon as is practicable after the date fixed for the filing of applications for renewal, the commission shall meet and determine the granting or denial thereof. If the commission finds that the applicant has fully complied with the requirements and conditions for renewal, the application for renewal shall be granted, and the commission shall allot and assign to the respective applicants, in the manner stated in this subsection (4), dates for race meets and dates for racing within the race meet and the number of races on the dates.

(b) Except as otherwise provided in this article 32, the commission may allot different dates for race meets, different dates for racing within a race meet, and a different number of races on the dates from those requested in the application for renewal. In making its allotment of

dates, the commission shall endeavor to allot to each applicant the dates requested by the applicant in the application, after giving due consideration to all factors involved, including the interests of the applicant and the public and the best interests of racing. In its allotment of dates, the commission shall also endeavor, whenever possible, to avoid a conflict in live horse race dates between class A tracks or between class B tracks located within fifty miles of each other; except that the commission may allot dates to a state, county, or other fair commission or association holding not more than one race meet annually for a period not exceeding six days, despite the fact that the dates conflict with the dates allotted to another applicant conducting live horse racing. When the granting of requested initial or renewal race dates would result in a conflict, the commission may grant race dates so as to avoid conflict to the extent possible, giving preference to requests for race dates from license applicants whose licensed race meet in the previous year included the same dates.

(5) In the event the commission finds that any applicant for a renewal of a license to conduct race meets under this article 32 has violated any of the provisions of this article 32 or any rule of the commission, or has willfully or fraudulently made any false statement in an original application for a license to hold race meets or for the renewal of the license, or has failed to pay the commission any sums required by this article 32, or lacks the ability, experience, or finances to conduct race meets, the commission may refuse to grant a renewal of the license.

(6) Any unexpired license held by any person who has been convicted by the commission of violating any of the provisions of this article 32 or any rule of the commission, or who has willfully or fraudulently made any false statement in any application for a license to hold a race meet or for the renewal of the license, or who fails to pay to the commission any and all sums required under the provisions of this article 32 is subject to cancellation or revocation by the commission. The cancellation shall be made only after a summary hearing before the commission, of which three days' notice in writing shall be given the licensee specifying the grounds for the proposed cancellation and at which hearing the licensee shall be given an opportunity to be heard in person and by counsel in opposition to the proposed cancellation. No license shall be granted or continued to any licensee for any race meet licensed under this article 32 who has made default in any payment of any premium or prizes on any race meets held under this article 32 or who has failed to meet any monetary obligations in connection with any race meet held in this state.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 306, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-511 as it existed prior to 2018.

44-32-513. Division of racing events - access to records. The division, for purposes of this article 32, shall have full authority to procure, at the expense of the division, any records furnished to or maintained by any law enforcement agency in the United States, including state and local law enforcement agencies in Colorado and other states for the purposes of carrying out its responsibilities. Upon request from the Colorado bureau of investigation, the division shall provide copies of any and all information obtained pursuant to this part 5.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 308, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-512 as it existed prior to 2018.

44-32-514. Payments of winnings - intercept. Before making a payment of cash winnings from pari-mutuel wagering on horse or greyhound racing for which the licensee is required to file form W-2G, or a substantially equivalent form, with the United States internal revenue service, the licensee shall comply with the requirements of article 33 of this title 44.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 308, § 2, effective October 1; entire section amended, (SB 18-035), ch. 15, p. 259, § 6, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-513 as it existed prior to 2018.

(2) This section was numbered as § 12-60-513 (1) in SB 18-035. That provision was harmonized with and relocated to this section as this section appears in HB 18-1024.

PART 6

UNLAWFUL ACTS

44-32-601. Underage wagering. (1) No person under the age of eighteen years shall purchase, redeem, or attempt to purchase or redeem any pari-mutuel ticket.

(2) No person shall sell any pari-mutuel ticket to a person under the age of eighteen years.

(3) **[*Editor's note: This version of subsection (3) is effective until March 1, 2022.*]** Any person who violates this section commits a class 2 petty offense, and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

(3) **[*Editor's note: This version of subsection (3) is effective March 1, 2022.*]** Any person who violates this section commits a civil infraction.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 308, § 2, effective October 1. **L. 2021:** (3) amended, (SB 21-271), ch. 462, p. 3331, § 798, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-60-601 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-32-602. Simulcast facilities and simulcast races - unlawful act - repeal. (1) It is unlawful for any person to accept or place wagers on any simulcast race within the state of

Colorado except under the provisions of this article 32. It is lawful to conduct pari-mutuel wagering on simulcast races of horses or greyhounds that are received by an in-state simulcast facility authorized and operated pursuant to this article 32.

(2) Cross simulcasting between an in-state host track or an out-of-state host track and an in-state simulcast facility, or between an in-state host track and an out-of-state simulcast facility, is permissible.

(3) A race meet of horses that is conducted at an in-state host track may be received as a simulcast race by any simulcast facility; except that, notwithstanding any consent granted pursuant to section 44-32-102 (11), an in-state simulcast facility that is located within fifty miles of a horse track that has held, within the previous twelve months, or is licensed and scheduled to hold within the next twelve months, a horse race meet of no less than thirty race days, may not receive simulcast races of horses on any day on which the horse track is running live horse races unless the licensee of the horse track consents thereto.

(4) (a) (I) An in-state simulcast facility may, subject to the commission's approval, receive the broadcast signal of greyhounds from an out-of-state host track and conduct pari-mutuel wagering on the signal through an in-state simulcast facility located on the premises of a class B track that has conducted, or is scheduled to conduct during the next twelve months, a live race meet of horses of at least the duration required for a class B track.

(II) The specified portions of the gross receipts from pari-mutuel wagers placed at an in-state simulcast facility on simulcast greyhound races being held on out-of-state host tracks from signals received through a class B track shall be distributed in accordance with section 44-32-701 (2).

(b) (I) (A) An in-state simulcast facility that is located on the premises of a class B track may receive simulcast horse races from an out-of-state host track as authorized by the commission. The total includes, and is not in addition to, the days on which live racing is held.

(B) A facility that is reopening as a track may receive three days of simulcast horse races from an out-of-state host track for each day of live horse racing for which the commission has granted it a race date for the subsequent year. A day of simulcast horse races, for the purposes of this subsection (4)(b), shall not include a day on which live horse races are conducted at the horse track at which the simulcast facility is located or a day on which the simulcast facility receives only simulcast races of horses from a race meet conducted at an in-state host track.

(II) An in-state simulcast facility that is not located on the premises of a horse track that runs a horse race meet of at least thirty live race days may receive a broadcast signal of a simulcast horse race conducted at an out-of-state host track only through an in-state simulcast facility that is located on the premises of a horse track that runs a horse race meet of at least thirty live race days.

(III) On any day on which an in-state simulcast facility receives simulcast horse races, either directly from an out-of-state host track or through another in-state simulcast facility or facility that is reopening as a track, and on which one or more in-state host tracks are running live horse races, the in-state simulcast facility shall receive and conduct pari-mutuel wagering on the broadcast signal of simulcast horse races from at least one such in-state host track, if the broadcast signal is made available to it on usual and customary terms and conditions, including price, as determined by the commission.

(IV) All simulcasting of horse races shall comply with the federal "Interstate Horseracing Act of 1978", 15 U.S.C. secs. 3001-3007, as amended.

(V) For purposes of administering this subsection (4)(b), each operating year of an in-state simulcast facility located on the premises of a class B track shall be deemed to begin on April 21 and end on the following April 20. Simulcast days allotted to such a facility pursuant to this subsection (4)(b) may be used at any time during the operating year, but unused days remaining as of the end of one operating year may not be carried forward to the next operating year.

(5) An in-state simulcast facility having a written simulcast racing agreement with an in-state or out-of-state host track pursuant to section 44-32-503 (2) may receive simulcast races, as specified in subsections (2) to (4) of this section, on any day, including a day not within the race meet of the in-state simulcast facility that is also a track and a day on which no live race is conducted within the race meet of the in-state simulcast facility that is also a track.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 309, § 2, effective October 1. **L. 2019:** (4)(b)(I)(B) amended, (SB 19-241), ch. 390, p. 3481, § 69, effective August 2.

Editor's note: This section is similar to former § 12-60-602 as it existed prior to 2018.

44-32-603. Duration of meets. (1) It is unlawful to conduct any race meet at which wagering is permitted except under the provisions of this article 32. It is lawful to conduct pari-mutuel wagering on live horse races that are part of a race meet licensed and conducted under this article 32. The duration of a horse race meet at a class B track is as specified in section 44-32-102 (3); except that the commission may prescribe a lesser number of race days in the event of unforeseen circumstances or acts of God.

(2) A race day is any period of twenty-four hours beginning at 12 midnight Colorado time and included in the period of a race meet and upon which day live racing is held. Dark days within a race meet are not counted as race days. Days on which an in-state simulcast facility that is a track receives simulcast races but does not conduct live races are not counted as race days. Subject to this article 32, the commission shall determine the number and kind of race meets to be held at any one track; however, race meet days are permitted on Sundays.

(3) In order to promote live racing of horses throughout the state of Colorado, the commission, when determining the number and kind of race meets held and the dates and times of races held at race meets, may take into consideration the interests of the racing industry as a whole throughout the state but shall give particular consideration to the racing dates and times requested by or assigned to the following:

(a) In the case of class A tracks, other class A tracks; and

(b) In the case of class B tracks, other class B tracks.

(4) The commission shall determine, consistent with all other provisions of this article 32, the total number of races conducted and performances held during a race meet.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 311, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-603 as it existed prior to 2018.

44-32-604. Greyhound racing prohibited. No live greyhound racing involving the betting or wagering on the speed or ability of the greyhounds racing shall be conducted in Colorado. The commission shall not accept or approve an application or request for race dates for live greyhound racing in Colorado.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 311, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-604 as it existed prior to 2018.

44-32-605. Wagering on historic races - definitions. (1) The state, a municipality, city and county, county, or any state or local agency, board, commission, or official thereof, shall not approve or permit the use of a racing replay and wagering device.

(2) A licensee shall not operate, offer to operate, or use a racing replay and wagering device or allow any person to use a racing replay and wagering device to place a wager on any previously run sporting event.

(3) This section does not apply to a simulcast race.

(4) As used in this section, unless the context otherwise requires:

(a) "Racing replay and wagering device" means a mechanical, electronic, or computerized piece of equipment that:

(I) Can display a previously run sporting event, regardless of how the sporting event is displayed, rebroadcast, or replayed; and

(II) Gives a player who places a wager on the outcome of the previously run sporting event an opportunity to win a thing of value, whether due to the skill of the player, chance, or both.

(b) "Sporting event" means a contest in which animals, people, or machines compete individually or as teams for the purpose of winning a race, game, contest, or other competition.

(c) "Wager" means to place at risk of loss any valuable consideration, including coin, currency, or the electronic equivalent of any coin or currency.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 312, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-605 as it existed prior to 2018.

PART 7

TAXES AND FEES

44-32-701. License fees and Colorado-bred horse race requirement. (1) Subject to section 44-32-702 (1), for the privilege of conducting racing under a license issued under and of operating an in-state simulcast facility pursuant to this article 32, a licensee for the racing of greyhounds and an operator of an in-state simulcast facility that receives simulcast races of greyhounds shall pay to the department through the division four and one-half percent of the

gross receipts derived from pari-mutuel wagering during any such race meet or placed on the simulcast races that are received through a live greyhound track.

(2) (a) (I) For the privilege of conducting racing under a license issued under and of operating an in-state simulcast facility pursuant to this article 32, a licensee for the racing of horses and an operator of an in-state simulcast facility that receives simulcast races of horses or greyhounds pursuant to section 44-32-602 (4)(a)(I) shall pay to the department through the division three-fourths of one percent of the gross receipts of the pari-mutuel wagering at any race meet or placed on the simulcast races; except that a licensee for the racing of horses at a class B track race meet shall pay to the department through the division three-fourths of one percent of the gross receipts of the pari-mutuel wagering at any such race meet.

(II) (A) Except as otherwise provided in subsection (2)(a)(II)(B) of this section, in addition to the amount paid to the department through the division in subsection (2)(a)(I) of this section, a licensee for the racing of horses and an operator of an in-state simulcast facility that receives simulcast races of horses or greyhounds pursuant to section 44-32-602 (4)(a)(I) shall pay to Colorado state university for allocation to its school of veterinary medicine one-fourth of one percent of the gross receipts of all pari-mutuel wagering, except on win, place, or show, at the horse race meet or placed on the simulcast races, to be used for racing-related equine research. To receive research funding under this subsection (2)(a)(II), an institution or individual must describe and report to the commission on all projects upon completion.

(B) In the case of pari-mutuel wagers on greyhound simulcast signals received by a class B track, in lieu of the amounts otherwise payable to Colorado state university pursuant to subsection (2)(a)(II)(A) of this section, the licensee shall instead pay an equivalent amount into a trust account for distribution in accordance with rules of the commission under section 44-32-702 (1)(e)(I).

(b) In addition to any money to be paid pursuant to subsection (2)(a) of this section, a licensee for the racing of horses and an operator of an in-state simulcast facility that receives simulcast races of horses or greyhounds pursuant to section 44-32-602 (4)(a)(I) shall pay to a trust account one-half of one percent of the gross receipts of pari-mutuel wagering on win, place, and show and one and one-half percent of the gross receipts from all other pari-mutuel wagering at any such race meet or placed on the simulcast races for the horse breeders' and owners' awards and supplemental purse fund established in section 44-32-705.

(c) (I) The operator of a simulcast facility that receives simulcast races of horses or greyhounds pursuant to section 44-32-602 (4)(a)(I) shall retain five percent of the gross receipts of pari-mutuel wagering placed on the simulcast races at that facility, to be used to cover the particular expenses incurred in operating a simulcast facility.

(II) Of the five percent of gross receipts retained pursuant to subsection (2)(c)(I) of this section, the operator of a simulcast facility that is not located at a class B track and that receives simulcast races of horses shall remit to the operator of the class B track from which the simulcast races were received one-fifth, representing one percent of the gross receipts of pari-mutuel wagering placed on the simulcast races at the simulcast facility.

(3) For the purpose of encouraging the breeding, within the state, of race horses registered within their breeds, at least one race of each day's live horse race meet shall consist exclusively of Colorado-bred horses, if Colorado-bred horses are available. This requirement shall not apply to an in-state simulcast facility that is a horse track and that receives simulcast races of horses on any given race meet day but does not conduct a live horse race on such day.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 312, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-701 as it existed prior to 2018.

44-32-702. Unlawful to wager - exception - excess - taxes - special provisions for simulcast races - rules. (1) (a) It is unlawful to conduct pool selling or bookmaking, or to circulate handbooks, or to bet or wager on any race meet licensed under the provisions of this article 32 other than by the pari-mutuel method.

(b) (I) Except as otherwise provided in subsection (4) of this section, it is unlawful for a racing or simulcast facility licensee for the racing of greyhounds or horses to take more than the percentage of the gross receipts authorized by the commission pursuant to subsection (1)(b)(II) of this section of any pari-mutuel wagering on the races or simulcast races.

(II) The commission may annually determine the authorized take-out under subsection (1)(b)(I) of this section by rule, but the take-out shall not exceed thirty percent of the gross receipts of any pari-mutuel wagering on races originating within Colorado.

(c) Each licensee for the racing of horses shall pay as purses for the races in any horse race meet conducted at its in-state host track fifty percent of the breakage attributable thereto, and fifty percent of the track's commission. For purposes of this subsection (1)(c), "track's commission" means the maximum allowable percentage that may be taken, pursuant to subsection (1)(b) of this section, by a licensee for the racing of horses from the gross receipts from all pari-mutuel wagering placed on the races at the in-state host track, after deduction of the amounts specified in sections 44-32-701 (2)(a) and (2)(b) and 44-32-705 (2).

(d) For each horse race meet it conducts, a licensee shall file with its license application with the commission an agreement between the licensee and the organization that represents the majority of the owners of horses participating at the race meet. The agreement shall specify the purse structure that shall apply to the races conducted at the horse race meet, including minimum purses per race and any conditions relating to overpayments or underpayments.

(e) (I) Each operator of an in-state simulcast facility that receives simulcast races of horses from either an in-state host track or an out-of-state host track, or of greyhounds from an out-of-state host track, shall pay to purse funds for the racing of horses and to the in-state or out-of-state tracks and simulcast facilities described in the simulcast agreement filed with the commission, the percentages of the gross pari-mutuel wagering on the simulcast races, after deduction of a signal fee required by an out-of-state host track or an in-state host track, paid during the current year or a previous year, and the applicable amounts specified in subsection (2)(b) of this section and in sections 44-32-701 (1) and (2) and 44-32-705 (2), as specified in the simulcast agreement. In the case of pari-mutuel wagers on greyhound simulcast signals received by a class B track from an out-of-state host track, the operator shall deposit the amounts payable pursuant to section 44-32-701 (2)(a)(II)(B) into a trust account for distribution, in accordance with rules of the commission, to greyhound welfare and adoption organizations.

(II) To defray operating expenses, the operator of a simulcast facility located at a class B track may retain up to twenty percent of the net purses earned and payable to the horse purse fund as provided in subsection (1)(e)(I) of this section.

(f) A licensee or operator shall retain horse purse funds, including funds established in section 44-32-705, payable by the licensee or operator under this section in a trust account in a

commercial bank located in Colorado until the purse funds are paid to the horse owners or to the host track for payment to the horse owners; except that:

(I) The money deposited in any such trust account shall be invested in a fund that invests in obligations of the United States government with maturities of less than one year or that is an account insured in full by an agency of the federal government; and

(II) Money credited to a horse purse trust account from the source market fee in accordance with section 44-32-202 (3)(h)(II) shall be paid as authorized by the director as purses for races held at live race meets in Colorado or as otherwise authorized by rules of the commission.

(g) Except as otherwise provided in subsection (4) of this section:

(I) It is unlawful for any licensee to compute breaks in the pari-mutuel system in excess of ten cents; and

(II) If, during any race meet conducted under this article 32, there are underpayments of the amount actually due to the wagerers, the amount of the excess of the underpayments over and above overpayments to wagerers, at the expiration of thirty days from the end of the meet, shall revert and belong to the state of Colorado and be paid to the department through the division and become a part of its funds, and it shall not be retained by the licensee under whose license the race meet was held.

(h) (I) Fifty percent of the breakage at any horse race meet shall be retained by the licensee under whose license the horse race meet was held and the remainder shall be paid as purses for the races conducted at the race meet.

(II) The breakage at any greyhound race meet shall be retained by the licensee under whose license the greyhound race meet was held.

(III) Except as otherwise provided in subsection (1)(h)(IV) or (4) of this section, the breakage on any simulcast race of horses or greyhounds received by an in-state simulcast facility shall be retained by the operator of the in-state simulcast facility.

(IV) In the case of simulcast races of horses received from an in-state host track, fifty percent of the breakage shall be paid to the licensee of the in-state host track within sixty days after the end of the race meet from which the simulcast race was broadcast and the remainder shall be paid as purses for the races conducted at the in-state host track.

(i) An operator of an in-state simulcast facility shall retain the proceeds derived from all unclaimed pari-mutuel tickets for each simulcast race of greyhounds received for a race held at an out-of-state host track and, after a period of one year following the simulcast race, the proceeds revert and belong to the operator.

(2) (a) In the event the federal government or any federal governmental agency imposes a levy on the licensee by a tax on the money so wagered and upon and against its receipts, the licensee may collect, in addition to the percentage and breaks allowed in this section, the amount of the tax so levied.

(b) The tax and breaks and license fee provided for in this article 32 shall be in lieu of all other license fees and privilege taxes or charges by the state of Colorado or any county, city, town, or other municipality or taxing body for the privilege of conducting any race meet provided for in this article 32 and licensed by the authority of this article 32; except that any county, city, town, or other municipality or taxing body that imposed any fee, tax, or charge prior to July 1, 1982, on the money so wagered, or upon and against the licensee's receipts, or for the privilege of conducting any race meet provided for and licensed by authority of this article

32 shall have the authority to amend, repeal and reenact, or repeal any such fee, tax, or charge and impose a new or different fee or tax on the money so wagered, or upon and against the licensee's receipts, or for the privilege of conducting any race meet provided for and licensed by authority of this article 32, and no provision of this article 32 shall affect the authority of the county, city, town, or other municipality or taxing body with respect to such fees or taxes unless the provision specifically refers to this subsection (2)(b). Notwithstanding subsection (1) of this section, it is lawful for the licensee to take such fee or tax from the gross receipts on pari-mutuel wagering; and in such cases the licensee shall pay the fee or tax directly to the county, city, town, or other municipality or taxing body.

(3) Unless expressly authorized by this article 32, no person may act for consideration as an agent or courier for another person for the purpose of placing wagers or cashing or redeeming winning pari-mutuel tickets. In addition to the remedies otherwise provided for violations of this article 32, the commission may petition any court of competent jurisdiction for an order enjoining a violation of this subsection (3).

(4) Pursuant to a valid simulcasting agreement, an operator of an in-state simulcast facility that receives simulcast signals of horse or greyhound races held in another state may:

(a) Take the percentage of the gross receipts of any pari-mutuel wagering on the simulcast races as is allowable under the laws and rules of the other state; and

(b) Adopt the procedures for computation and distribution of breakage as are allowable under the laws and rules of the other state.

Source: L. 2018: (1)(f)(II) added, (SB 18-182), ch. 115, p. 812, § 2, effective April 12; entire article added with relocations, (HB 18-1024), ch. 26, p. 314, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-60-702 as it existed prior to 2018.

(2) Subsection (1)(f)(II) of this section was numbered as § 12-60-702 (1)(f)(III) in SB 18-182. That provision was harmonized with and relocated to this section as this section appears in HB 18-1024.

44-32-703. Pari-mutuel pools for race meets and simulcast races. (1) The pari-mutuel pool for a horse race meet and for simulcast races of the race meet shall be an intrastate common pool; except that, if the simulcast races are received by an out-of-state simulcast facility, the pari-mutuel pool may be an interstate common pool, and, in that case, it shall be operated by the in-state host track conducting the horse race meet.

(2) An in-state simulcast facility receiving simulcast races from an out-of-state host track may participate either in a pari-mutuel pool into which only the pari-mutuel wagers on the simulcast races that are placed at the in-state simulcast facility are taken or in an interstate common pool. The commission shall permit an operator of an in-state simulcast facility participating in an interstate common pool to adopt the takeout percentage of the out-of-state host track for the interstate common pool.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 317, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-703 as it existed prior to 2018.

44-32-704. Limitations on pari-mutuel wagering. (1) Wagers on pari-mutuel horse or greyhound races conducted in or out of this state may only be placed upon the premises of a racetrack or an in-state simulcast facility licensed by the commission or the out-of-state racetrack or simulcast facility as authorized by the commission. No wagering or betting on the results of any of the races licensed under this article 32 shall be conducted outside a licensed or approved racetrack or simulcast facility.

(2) (a) No person or agent or employee of any person shall place, receive, offer, or agree to place or receive a wager on a pari-mutuel horse or greyhound race, conducted in or broadcast in this state, by messenger, telephone, telegraph, facsimile machine, or other electronic device; except that this subsection (2) shall not apply to associations or simulcast facilities licensed by the commission. Nothing in this section shall be construed to prohibit gambling as provided in section 18-10-102 (2)(d).

(b) Any person who violates subsection (2)(a) of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 317, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-703.5 as it existed prior to 2018.

44-32-705. Horse breeders' and owners' awards and supplemental purse fund - awards - advisory committee - rules. (1) There is hereby created a fund, to be known as the horse breeders' and owners' awards and supplemental purse fund, referred to in this section as the "fund", that shall consist of money deposited thereto by the licensee for the racing of horses and by an operator of an in-state simulcast facility that receives simulcast races of horses for the purposes of this section, to be held in a trust account, which money shall be paid out to owners and breeders of Colorado-bred horses as provided in this section and by rules of the commission. The rules shall provide for an administrative fee to be paid to the Colorado horse breeder associations for registering and maintaining breeding records for the administration of the fund. The fees shall not exceed ten percent of the total money generated by the unclaimed pari-mutuel tickets and the money provided by section 44-32-701 (2)(b).

(2) The money derived pursuant to section 44-32-701 (2)(b) shall be paid to a trust account for the fund on the fifteenth day of the calendar month immediately following the month in which the sum was received. In addition, the proceeds derived from all unclaimed pari-mutuel tickets for each horse race meet and for each simulcast race of horses received by an in-state simulcast facility shall be paid to a trust account for the fund after a period of one year following the end of the race meet.

(3) After money from the fund has been distributed to the respective breeder associations, further distribution shall be governed by the bylaws of the associations. Nothing in this section shall be construed to prohibit the distribution of money from the fund to owners and breeders of Colorado-bred horses that are otherwise eligible under the bylaws of the associations and that run in races outside Colorado.

(4) Notwithstanding section 24-30-204, the commission may establish by rule a period for distribution of money in the fund that is not consistent with the state's general fiscal-year period.

(5) Any money credited to the fund and not distributed within three years shall be paid, as authorized by the commission, either:

(a) As purses for races held at live race meets in Colorado; or

(b) As fees required for participation in an interstate compact to which Colorado is a party pursuant to section 44-32-202 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 318, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-704 as it existed prior to 2018.

44-32-706. Payments to state - disposition. (1) (a) Except as otherwise provided in subsection (1)(b) of this section and in sections 44-32-701, 44-32-702 (1), and 44-32-705, all sums referred to in sections 44-32-701, 44-32-702 (1), and 44-32-705, including all sums collected for license fees and fines pursuant to the provisions of this article 32, shall be paid to the department through the division on the tenth business day of the month immediately following the month in which each performance took place, and the licensee shall make a return as required by rules of the commission.

(b) In temporary or emergency situations, a licensed operator for the racing of animals, with the approval of and under the direction of the director or the director's designee, may provide for veterinary services as described in section 44-32-202 (3), at the licensed operator's expense, and the expense thus incurred may be deducted from the payment made to the department in accordance with subsection (1)(a) of this section; except that the amount deducted shall not exceed the amount set by the commission for those veterinary services.

(2) All money collected by the department through the division shall, on the next business day following the receipt thereof, be transmitted to the state treasurer, who shall credit the same to the general fund of the state; except that license fees established and collected by the director pursuant to section 44-32-202 (3)(h) shall be credited to the racing cash fund created in section 44-32-205. The department shall have all the powers, rights, and duties provided in article 21 of title 39 to carry out the collection.

(3) The general assembly shall annually appropriate from the racing cash fund created in section 44-32-205 the direct and indirect costs of administering this article 32.

(4) Any person who fails to make a return or pay any tax required under this article 32 shall be liable for penalties and interest as follows:

(a) A penalty of the greater of fifteen dollars for each failure to make a return and for each failure to pay a tax when due, or ten percent thereof plus one-half percent per month from the date when due, not exceeding eighteen percent, in the aggregate; and

(b) Interest on any tax due, from the date due, at the rate specified in section 39-21-110.5.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 318, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-705 as it existed prior to 2018.

44-32-707. Agreement of this state. In the event any county or municipality development revenue bonds are issued in reliance on the provisions of this article 32, the state of Colorado does hereby covenant and agree with the holders of any such bonds that the state will not limit or alter the rights or powers of the owners of the bonds or to repeal, amend, or otherwise directly or indirectly modify this article 32 or the effect thereof as to the assessments, fees, charges, pledged revenues, or any combination thereof in such a manner as to impair adversely any such outstanding bonds, until all such bonds have been paid and discharged in full or provision for their payment and redemption has been fully made. The covenant and agreement may be included in any agreement with the holders of the bonds.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 319, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-706 as it existed prior to 2018.

PART 8

ENFORCEMENT AND PENALTIES

44-32-801. Criminal and civil penalties. (1) Except as provided in section 44-32-601, any person who commits any of the acts enumerated in section 44-32-507 (1), other than those that also constitute crimes under the "Colorado Criminal Code", title 18, commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2) **[*Editor's note: This version of subsection (2) is effective until March 1, 2022.*]** Any person who violates any rule of the commission promulgated under the authority granted in this article 32, other than those that also constitute crimes under the "Colorado Criminal Code", title 18, commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

(2) **[*Editor's note: This version of subsection (2) is effective March 1, 2022.*]** Any person who violates any rule of the commission promulgated under the authority granted in this article 32, other than those that also constitute crimes under the "Colorado Criminal Code", title 18, commits a civil infraction.

(3) The penalties set forth in this section are cumulative and do not preclude the imposition of civil or administrative penalties, sanctions, actions against licenses or registrations, or any other penalties otherwise authorized.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 320, § 2, effective October 1. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3331, § 799, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-60-801 as it existed prior to 2018.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

44-32-802. Cancellation of license. In case of a willful violation of this article 32 by a person holding a license, the commission, upon conviction of the offender, may cancel the offender's license, and the cancellation shall operate as a forfeiture of all rights and privileges granted by the commission and of all sums of money paid to the department through the division by the offender, and the action of the commission in this respect shall be final.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 320, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-802 as it existed prior to 2018.

44-32-803. Exclusion from licensed premises. The commission or the division may exclude from any and all licensed premises any person who has been convicted of a felony under the laws of this or any other state or of the United States, subject to the provisions of section 24-5-101. Any person so excluded by the commission or the division has a right to a hearing before the commission as to the basis of the exclusion, subject to the provisions of section 24-4-104. No such person shall enter or remain upon premises owned by any licensee conducting a race meet or operating a simulcast facility under the jurisdiction of the commission, and all such persons, upon discovery or recognition, shall be forthwith excluded or ejected from the premises. Any person so ejected or excluded from the premises of any licensee shall be denied admission to its premises and the premises of all other licensees of the commission until permission for entering has thereafter been obtained from the commission. The commission may also exclude any person from the licensed premises who willfully violates any of the provisions of this article 32 or any rule issued by the commission.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 320, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-803 as it existed prior to 2018.

PART 9

REVIEW AND TERMINATION PROVISIONS

44-32-901. Repeal of article - review of functions. This article 32 is repealed, effective September 1, 2023. Before its repeal, the division and its functions are scheduled for review in accordance with section 24-34-104.

Source: L. 2018: Entire article added with relocations, (HB 18-1024), ch. 26, p. 320, § 2, effective October 1.

Editor's note: This section is similar to former § 12-60-901 as it existed prior to 2018.

Cross references: Pursuant to § 44-32-103, the division and the commission are subject to the termination schedule in § 24-34-104.

ARTICLE 33

Gambling Payment Intercept Act

Editor's note: This article 33 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 33, see the comparative tables located in the back of the index.

44-33-101. Short title. The short title of this article 33 is the "Gambling Payment Intercept Act".

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 252, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-601 as it existed prior to 2018.

44-33-102. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Parents should provide financial support to their minor children who cannot care for themselves;

(b) The state should intervene when parents fail to meet their support obligations;

(c) Children are adversely affected when parents divert their financial support to limited gaming and pari-mutuel wagering;

(d) A parent's winnings from money diverted from a child's support should be applied to the parent's outstanding support obligations;

(e) Section 44-30-102 (1)(c) of the "Limited Gaming Act of 1991" recognizes that the limited gaming industry must be assisted in protecting the general welfare of the people of the state;

(f) Victims of crime and all the people of the state are adversely affected when criminal offenders divert restitution to limited gaming and pari-mutuel wagering;

(g) A criminal offender's winnings from money diverted from restitution should be applied to the offender's outstanding criminal court obligations;

(h) An uncollected debt to the state should be deducted from a person's winnings.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 252, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-602 as it existed prior to 2018.

44-33-103. Definitions. As used in this article 33, unless the context otherwise requires:

(1) "Licensee" means a licensee as defined in section 44-32-102 (14) or an operator or retail gaming licensee under section 44-30-501 (1)(b) or (1)(c).

(2) (a) "Outstanding debt" means:

(I) Unpaid child support debt or child support costs to the state pursuant to section 14-14-104, and arrearages of child support requested as part of an enforcement action pursuant to article 5 of title 14, or arrearages of child support that are the subject of enforcement services provided pursuant to section 26-13-106;

(II) Restitution that a person has been ordered to pay pursuant to section 18-1.3-603 or 19-2.5-1104, regardless of the date that the restitution was ordered; and

(III) Any unpaid debt due to the state that is certified by a state agency pursuant to section 24-30-202.4 (2.5), including the collection fee and any allowable fees and costs pursuant to section 24-30-202.4 (8).

(b) Notwithstanding any provision of subsection (2)(a) of this section, an outstanding debt shall not be less than three hundred dollars.

(3) "Payment" means cash winnings from limited gaming or from pari-mutuel wagering on horse or greyhound racing payable by a licensee for which the licensee is required to file form W-2G, or a substantially equivalent form, with the United States internal revenue service.

(4) "Registry" means the registry created and maintained by or for the department of revenue pursuant to section 44-33-104.

(5) "Registry operator" means the department of revenue or the private entity that maintains the registry under the direction and control of the department.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 253, § 2, effective October 1; (1) amended, (HB 18-1024), ch. 26, p. 323, § 16, effective October 1. **L. 2019:** (4) and (5) amended, (SB 19-241), ch. 390, p. 3481, § 70, effective August 2. **L. 2021:** (2)(a)(III) amended, (SB 21-055), ch. 12, p. 80, § 17, effective March 21; (2)(a)(II) amended, (SB 21-059), ch. 136, p. 753, § 142, effective October 1.

Editor's note: (1) This section is similar to former § 24-35-603 as it existed prior to 2018.

(2) Subsection (1) of this section was numbered as § 24-35-603 (1) in HB 18-1024. That provision was harmonized with and relocated to this section as this section appears in SB 18-035.

44-33-104. Registry - creation - information. (1) The department of revenue shall create and maintain, or contract with a private entity pursuant to section 44-33-108 to create and maintain, the registry in accordance with this section.

(2) On and after the date that the judicial department receives notice from the department of revenue pursuant to section 44-33-106 (2)(b)(I), the judicial department shall certify to the registry operator the information indicated in subsection (6) of this section regarding persons with an outstanding debt as specified in section 44-33-103 (2)(a)(II).

(3) The department of human services shall certify to the registry operator the information indicated in subsection (6) of this section regarding each child support obligor with an outstanding debt as specified in section 44-33-103 (2)(a)(I).

(4) On and after January 1, 2021, the state agencies shall certify to the registry operator the information indicated in subsection (6) of this section regarding each person with an outstanding debt as specified in section 44-33-103 (2)(a)(III).

(5) The registry operator shall enter in the registry the information certified to the registry operator by the judicial department, the department of human services, and a state agency pursuant to subsections (2), (3), and (4) of this section.

(6) The registry shall contain the following information:

(a) The name of each person with an outstanding debt;

(b) The social security number of each person with an outstanding debt;

(c) The account or case identifier assigned to the outstanding debt by the department of revenue that certified the information to the registry operator;

(d) The name, telephone number, and address of the department of revenue that certified the information to the registry operator regarding each person with an outstanding debt; and

(e) The amount of the outstanding debt.

(7) On and after the date that the judicial department receives notice from the department of revenue pursuant to section 44-33-106 (2)(b)(I), the registry operator shall add a fee of twenty-five dollars to each outstanding debt certified by a department of revenue pursuant to this section.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 254, § 2, effective October 1. **L. 2019:** (1), (2), (6)(c), (6)(d), and (7) amended, (SB 19-241), ch. 390, p. 3481, § 71, effective August 2. **L. 2021:** (4) and (5) amended, (SB 21-055), ch. 12, p. 81, § 18, effective March 21.

Editor's note: This section is similar to former § 24-35-604 as it existed prior to 2018.

44-33-105. Payments - limited gaming and pari-mutuel wagering licensees - procedures. (1) On and after July 1, 2008:

(a) A licensee shall have the means to communicate with the registry operator.

(b) Before making a payment to a winner, the licensee shall obtain the name, address, and social security number of the winner from form W-2G, or a substantially equivalent form, to be filed with the United States internal revenue service and submit the required information to the registry operator. The registry operator shall inform the licensee whether the winner is listed in the registry. The licensee shall comply with subsection (2) of this section.

(2) (a) If the registry operator replies that the winner is not listed in the registry or if the licensee is unable to receive information from the registry operator after attempting in good faith to do so, the licensee may make the payment to the winner.

(b) If the registry operator replies that the winner is listed in the registry:

(I) The reply from the registry operator to the licensee shall indicate the name, telephone number, and address of the department that certified the information to the registry and the amount of the winner's outstanding debt.

(II) The licensee shall withhold from the amount of the payment an amount equal to the amount certified pursuant to section 44-33-104. If the amount of the payment is less than or equal to the amount certified, the licensee shall withhold the entire amount of the payment. The

licensee shall refer the winner to the department that reported the outstanding debt to the registry.

(III) Within twenty-four hours after withholding a payment pursuant to subsection (2)(b)(II) of this section, the licensee shall send the amount withheld to the registry operator and report to the registry operator the full name, address, and social security number of the winner, the account or case identifier assigned by the department that reported the outstanding debt to the registry, the date and amount of the payment, and the name and location of the licensee.

(IV) The registry operator shall send to the certifying department the money and information received from a licensee pursuant to subsection (2)(b)(III) of this section. If more than one department certified a winner, the registry operator shall send the information to each certifying department and distribute the money among the departments as follows:

(A) The registry operator shall send to the department of human services any amount certified by the department of human services.

(B) Of any money remaining after the distribution, if any, to the department of human services pursuant to subsection (2)(b)(IV)(A) of this section, the registry operator shall send to the judicial department any amount certified by the judicial department.

(C) Of any money remaining after the distribution, if any, to the judicial department pursuant to subsection (2)(b)(IV)(B) of this section, the registry operator shall send to the department of revenue any amount certified by a state agency in accordance with section 24-30-204.2 (2.5).

(V) The department of human services shall process money received from the registry operator pursuant to subsection (2)(b)(IV) of this section in accordance with section 26-13-118.7. The judicial department shall process money received from the registry operator pursuant to subsection (2)(b)(IV) of this section in accordance with the rules of the department of revenue. The department of revenue shall process money received from the registry operator pursuant to subsection (2)(b)(IV) of this section in accordance with the rules of the department of revenue.

(3) The registry operator shall deduct an amount equal to the fee added to the outstanding debt pursuant to section 44-33-104 (7) from each payment received from a licensee and forward the amount to the state treasurer for deposit in the gambling payment intercept cash fund created in section 44-33-106.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 255, § 2, effective October 1. **L. 2021:** (2)(b)(IV)(C) and (2)(b)(V) amended, (SB 21-055), ch. 12, p. 81, § 19, effective March 21.

Editor's note: This section is similar to former § 24-35-605 as it existed prior to 2018.

44-33-106. Gambling payment intercept cash fund - creation - gifts, grants, or donations - intercepts for restitution. (1) There is hereby created in the state treasury the gambling payment intercept cash fund, referred to in this section as the "fund". The fund shall consist of any money deposited in the fund pursuant to section 44-33-105 (3), any other money appropriated to the fund by the general assembly, and any gifts, grants, or donations from private or public sources, that the department is hereby authorized to seek and accept for the purposes

set forth in this section. All private and public funds received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the fund.

(2) (a) The money in the fund is continuously appropriated to the department of revenue for the purpose of expanding the program established by this article 33 to include intercepts of restitution that a person has been ordered to pay pursuant to section 18-1.3-603 or 19-2.5-1104, as certified by the judicial department. As soon as there is sufficient money in the fund, the department of revenue shall expand the program for that purpose.

(b) Once the intercept program has been expanded as described in subsection (2)(a) of this section:

(I) The department of revenue shall notify the judicial department and the registry operator that the judicial department may begin certifying outstanding debt pursuant to section 44-33-104 (2); and

(II) Money in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the administration of this article 33.

(c) Any money in the fund not expended for the purposes set forth in subsections (2)(a) and (2)(b) of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of money in the fund shall be credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred or revert to the general fund or any other fund.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 256, § 2, effective October 1. **L. 2020:** (1) amended, (HB 20-1402), ch. 216, p. 1060, § 75, effective June 30. **L. 2021:** (2)(a) amended, (SB 21-059), ch. 136, p. 753, § 143, effective October 1.

Editor's note: This section is similar to former § 24-35-605.5 as it existed prior to 2018.

44-33-107. Liability - immunity. (1) A licensee that fails to comply with the provisions of section 44-33-105 shall be subject to sanctions by its licensing authority pursuant to sections 44-30-524 (1) and 44-32-507 (1).

(2) A licensee that makes a payment to a winner in violation of section 44-33-105 shall not be liable to the person to whom the winner owes an outstanding debt.

(3) Except as provided in this section, a licensee shall be immune from civil and criminal liability for acting in compliance with the provisions of this article 33.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 257, § 2, effective October 1; (1) amended, (HB 18-1024), ch. 26, p. 323, § 17, effective October 1.

Editor's note: (1) This section is similar to former § 24-35-606 as it existed prior to 2018.

(2) Subsection (1) of this section was numbered as § 24-35-606 (1) in HB 18-1024. That provision was harmonized with and relocated to this section as this section appears in SB 18-035.

44-33-108. Contracting authority - memoranda of understanding - rules. (1) The executive director may enter into a contract with a private entity, in accordance with the "Procurement Code", articles 101 to 112 of title 24, to create and maintain the registry.

(2) The department of revenue may enter into memoranda of understanding with the judicial department, the department of human services, and the department of personnel to implement this article 33. If the registry is operated by a private entity pursuant to this section, the registry operator may enter into memoranda of understanding with the judicial department, the department of human services, and the department of personnel to implement this article 33.

(3) The executive director shall promulgate rules in accordance with article 4 of title 24 to implement this article 33. The rules shall include, but need not be limited to, rules regarding:

(a) The removal from the registry of information regarding persons who satisfy their outstanding debts;

(b) The manner in which a licensee shall communicate with the registry, including the information a licensee shall submit to the registry and the procedures to be followed if the registry is inaccessible due to technical or other problems;

(c) The protection of the confidentiality of information in the registry; and

(d) The circumstances and means by which an outstanding debt may be collected from a licensee pursuant to section 44-33-105 (2)(b)(IV).

(4) The executive director shall promulgate a rule in accordance with article 4 of title 24 allowing a licensee to retain at least thirty dollars of each payment withheld pursuant to this article 33 to cover the licensee's costs of compliance with this article 33, which amount shall be added to the debtor's outstanding debt.

Source: L. 2018: Entire article added with relocations, (SB 18-035), ch. 15, p. 257, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-607 as it existed prior to 2018.

LOTTERY

ARTICLE 40

State Lottery Division

Editor's note: This article 40 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 40, see the comparative tables located in the back of the index.

44-40-101. Definitions. As used in this article 40, unless the context otherwise requires:

(1) "Cash prize" means any prize paid in cash in its entirety, including any expenditures made to fund Colorado or multistate prize reserves.

(2) "Commission" means the Colorado lottery commission.

(3) "Director" means the director of the state lottery division.

(4) "Division" means the state lottery division.

(5) "Lottery" means any and all lotteries created and operated pursuant to this article 40, including, without limitation, the game commonly known as lotto, in which prizes are awarded on the basis of designated numbers conforming to numbers selected at random, electronically or otherwise, by or at the direction of the commission, and any multistate lottery or game that is authorized by a multistate agreement to which the division is party. All references in this article 40 to "the lottery" shall be construed to include any or all lotteries within the meaning of this subsection (5). "Lottery" shall not include a promotional drawing as defined in subsection (8) of this section.

(6) "Multistate agreement" means an agreement entered into by the division and at least one other state's lottery authority that authorizes the division to allow Colorado residents to participate in one or more multistate lotteries pursuant to rules promulgated by the commission.

(7) "Noncash prize" means any prize paid in merchandise or a combination of cash and merchandise.

(8) "Promotional drawing" means a prize promotion involving the conduct of giveaways through the use of free chances, including the use of nonwinning tickets from existing or prior games, for purposes of commercial advertisement of the lottery, the creation of goodwill, the promotion of new lottery products, or the collection of names.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 334, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-201 as it existed prior to 2018.

44-40-102. State lottery division - creation - location - enterprise status. (1) (a) There is hereby created, within the department, the state lottery division, the head of which is the director of the state lottery division, who shall be appointed and subject to removal by the executive director in accordance with section 13 of article XII of the state constitution. The state lottery division shall be headquartered in the city of Pueblo in facilities provided at the expense of the lottery division.

(b) The state lottery division and the Colorado lottery commission, created in section 44-40-108, shall constitute an enterprise for the purposes of section 20 of article X of the state constitution, so long as the commission retains the authority to issue revenue bonds and the division receives less than ten percent of its total annual revenues in grants, as defined in section 24-77-102 (7), from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this section, the state lottery division and the Colorado lottery commission shall not be subject to any of the provisions of section 20 of article X of the state constitution.

(2) The state lottery division, including the Colorado lottery commission created in section 44-40-108, and the director of the state lottery division shall exercise their powers and perform their duties and functions specified in this article 40 under the department as if the same were transferred to the department by a **type 2** transfer, as that transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24; except that the commission shall have full and exclusive authority to promulgate rules related to the lottery without any approval by, or delegation of authority from, the department.

(3) For purposes of part 2 of article 72 of title 24, the records of the division and the commission shall be public records, as defined in section 24-72-202 (6), regardless of whether the state lottery division and the Colorado lottery commission constitute an enterprise pursuant to subsection (1) of this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 335, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-202 as it existed prior to 2018.

44-40-103. Function of division. The function of the division is to establish, operate, and supervise the lottery authorized by section 2 of article XVIII of the state constitution, as approved by the electors.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 336, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-203 as it existed prior to 2018.

44-40-104. Director - qualifications - powers and duties. (1) The director shall be qualified by training and experience to direct a lottery and the work of the division; and, notwithstanding the provisions of section 24-5-101, shall be of good character and shall not have been convicted of any felony or gambling-related offense.

(2) The director shall devote his or her entire time and attention to the duties of his or her office and shall not be engaged in any other profession or occupation.

(3) The director may promote the lottery by:

(a) Establishing promotional drawings. The general assembly hereby finds and declares that promotional drawings shall not be subject to regulation under this article 40. No award of prizes through a promotional drawing shall be deemed a lottery or game of chance.

(b) Selling memorabilia or other promotional items. Any revenue generated from the sale of the items shall be transmitted to the state treasurer to be credited to the lottery fund created in section 44-40-111 (1).

(4) The director, as administrative head of the division, shall direct and supervise all its administrative and technical activities. In addition to the duties imposed upon the director elsewhere in this article 40, it shall be the director's duty:

(a) To supervise and administer the operation of the lottery in accordance with the provisions of this article 40 and the rules of the commission, state fiscal rules, state personnel rules, and state procurement rules, to perform all duties and obligations pursuant to and administer any multistate agreements, and to provide for all expenses incurred in connection with any multistate agreements unless the expenses are otherwise provided for in the multistate agreements;

(b) To attend meetings of the commission or to appoint a designee to attend in his or her place;

(c) To employ and direct the personnel as may be necessary to carry out the purposes of this article 40, but no person shall be employed who has been convicted of a felony or gambling-

related offense, notwithstanding the provisions of section 24-5-101. The director by agreement may secure and, pursuant to section 44-40-111 (2), provide payment for any services that the director may deem necessary from any department, agency, or unit of the state government and may employ and compensate consultants and technical assistants as may be required and as otherwise permitted by law. The director shall ensure that the division conducts full criminal background investigations of vendors, officers of licensed sales agents, members of the commission, and division employees as are necessary to ensure the security and integrity of the operation of the state lottery. The executive director may request the division of gaming to perform the investigations on members of the commission, division employees, and vendors.

(d) To license, in accordance with the provisions of section 44-40-107 and the rules of the commission, as agents to sell lottery tickets persons that in his or her opinion will best serve the public convenience and promote the sale of tickets or shares;

(e) To deny, suspend, or revoke any lottery license subject to the provisions of section 24-4-104. The director may designate an administrative law judge, pursuant to part 10 of article 30 of title 24, to take evidence and to make findings and report them to the director.

(f) To confer, as necessary or desirable and not less than once each month, with the commission on the operation of the lottery;

(g) To make available for inspection by the commission or any member of the commission, upon request, all books, records, files, and other information and documents of his or her office;

(h) To advise the commission and recommend rules and other matters as he or she deems necessary and advisable to improve the operation of the lottery;

(i) To make a continuous study and investigation of the operation and the administration of similar laws that may be in effect in other states or countries, any literature on the subject that from time to time may be published or available, and any federal laws that may affect the operation of the lottery, and the reaction of Colorado citizens to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to serve the purposes of this article 40;

(j) To take any action that may be necessary to protect the security and integrity of the lottery games;

(k) To determine the manner of payment of prizes to the holders of winning tickets or shares, which determination shall include consideration of whether a prize should be awarded as a lump sum or as an amortized annuity in light of the "Internal Revenue Code of 1986", as amended, and the rules promulgated pursuant thereto;

(l) To determine any other matters that are necessary or desirable for the efficient and economical operation and administration of the lottery; and

(m) To perform any other lawful acts that he or she and the commission may consider necessary or desirable to carry out the purposes and provisions of this article 40.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 336, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-204 as it existed prior to 2018.

44-40-105. Executive director - duties. (1) It shall be the executive director's duty:

(a) To enter into contracts for materials, equipment, and supplies to be used in the operation of the lottery, for the design and installation of games or lotteries, and for promotion of the lottery. No contract shall be legal or enforceable that provides for the management of the lottery or for the entire operation of its games by any private person, firm, or corporation, because management of the lottery and control over the operation of its games shall remain with the state; except that management of and control over the operation of a multistate lottery shall be determined by the terms of a multistate agreement. Except for advertising and promotional contracts, when a contract other than a multistate agreement is awarded, a performance bond satisfactory to the executive director, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the state, in an amount set annually by the executive director shall be delivered to the state and shall become binding on the parties upon execution of the contract.

(b) To annually prepare and submit to the commission a proposed budget for the ensuing fiscal year, which budget shall present a complete financial plan setting forth all proposed expenditures and anticipated revenues of the division. The fiscal year of the division shall commence on July 1 and end on June 30 of each year.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 338, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-204.5 as it existed prior to 2018.

44-40-106. Contractors supplying services, equipment, or materials - gaming equipment - disclosures - criminal history record check - definitions. (1) Any person, firm, association, or corporation, referred to in this section as "supplier", that enters into a contract to supply services, equipment, or materials or gaming materials or equipment for use in the operation of the state lottery shall first disclose to the division:

(a) In addition to the supplier's business name and address, the names and addresses of the following:

(I) If the supplier is a partnership, all of the general and limited partners;

(II) If the supplier is a limited liability company, all of the members;

(III) If the supplier is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

(IV) If the supplier is an association, the members, officers, and directors;

(V) If the supplier is a corporation, the officers, directors, and each owner or holder, directly or indirectly, of any equity security or other evidence of ownership of any interest in the corporation; except that, in the case of owners or holders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those owning or holding five percent or more of the publicly held securities need be disclosed;

(VI) If the supplier is a subsidiary or intermediary company, the intermediary company, holding company, or parent company involved therewith, and the officers, directors, and stockholders of each; except that, in the case of owners or holders of publicly held securities of an intermediary company or holding company that is a publicly traded corporation, only the names and addresses of those owning or holding five percent or more of the publicly held securities need be disclosed;

(b) If the supplier is a corporation, all the states in which the supplier is incorporated to do business, and the nature of that business;

(c) Other jurisdictions in which the supplier has contracts to supply gaming materials or equipment;

(d) The details of any criminal conviction, state or federal, of the supplier or any person whose name and address are required by subsection (1)(a) of this section. This subsection (1)(d) applies irrespective of any of the laws of the state to the contrary regarding expungement or sealed records.

(e) The details of any disciplinary action taken by any state against the supplier or any person whose name and address are required by subsection (1)(a) of this section regarding any matter related to the selling, leasing, offering for sale or lease, buying, or servicing of gaming materials or equipment;

(f) A statement of the gross receipts realized in the preceding year from the sale, lease, or distribution of gaming materials or equipment to states operating lotteries and to private persons licensed to conduct gambling, which statement shall differentiate that portion of the gross receipts attributable to transactions with states operating lotteries from that portion of the gross receipts attributable to transactions with private persons licensed to conduct gambling;

(g) The name and address of any source of gaming materials or equipment for the supplier;

(h) The number of years the supplier has been in the business of supplying gaming materials or equipment;

(i) Any other information, accompanied by any documents, that the commission, by rule, may require as being necessary or appropriate in the public interest to accomplish the purposes of this article 40.

(2) If the supplier is a subsidiary or intermediary company, the intermediary company, holding company, or parent company involved therewith shall supply the same information required by this section of the supplier.

(3) The costs of any investigation into the background of the apparent successful bidder shall be assessed against the bidder and shall be paid by the bidder at the time of billing by the state. The investigation may be conducted by the department or the attorney general, and no contract may be signed until the investigation is completed. Investigators shall have peace officer authority during the period of investigation.

(4) No person, firm, association, or corporation contracting to supply services, equipment, or materials or gaming equipment or materials to the state for use in the operation of the state lottery shall be directly or indirectly connected with any person, firm, association, or corporation licensed as a sales agent under this article 40, any employee of the department, the director, or the members of the commission.

(5) No contract shall be formed with any supplier if:

(a) A person disclosed pursuant to subsection (1)(a) or (1)(g) of this section is a person who has been convicted of a felony or gambling-related offense, who has engaged in any form of illegal gambling, who is not of good character and reputation relevant to the secure and efficient operation of the lottery, or who has been convicted of a crime involving fraud or misrepresentation. However, when a felony conviction, other than a gambling-related offense, is an issue in the formation of a contract with a supplier, the director may determine that the supplier is otherwise of good character and reputation. The director's determination shall be

submitted to a three-member panel who shall approve or reject the determination. The panel's decision shall constitute final agency action for purposes of section 24-4-106. The panel shall be composed of the chairman of the lottery commission, the executive director, and the secretary of state. Upon the determination and approval, the director may enter into a contract with the supplier.

(b) A disciplinary action disclosed pursuant to subsection (1)(e) of this section was resolved adversely to the supplier.

(6) No contract for the supply of services, equipment, or materials or gaming materials or equipment for use in the operation of the state lottery shall be enforceable against the state if the provisions of this section are not complied with.

(7) In the case of any procurement for a contract for lottery tickets, lottery consulting services, or lottery terminals or equipment having a value of one hundred thousand dollars or more, or in the case of procurement for a contract for drawing equipment regardless of value, each prospective corporate supplier shall, prior to entering into a contract, provide a verified affidavit as to ownership, if any, of any interest, direct or indirect, in any operator of a casino, jai alai fronton, racetrack, or other gaming establishment, a current personal financial statement, and individual federal and state income tax returns from the past three years for each of its officers and each of the directors. The executive director shall determine, depending upon the organization of each company, by rule, which officers of any parent, intermediary, and holding companies, and which directors of the supplier or of a parent, intermediary, or holding company, are affiliated with the lottery and are required to file a current personal financial statement and individual federal and state income tax returns from the past three years. The provision of said affidavit, financial statement, and tax returns shall not be required at the time of submission of the prospective corporate supplier's bid or proposal.

(8) (a) Any contractor that has entered into a contract to supply gaming materials or equipment to the lottery shall report to the division any change in, addition to, or deletion from the information disclosed to the division in accordance with the provisions of subsections (1)(a), (1)(d), (1)(e), (2), and (7) of this section. The report shall be written and addressed to the division and shall be mailed or delivered to the division within thirty days of the date the change in, addition to, or deletion from the information takes place or becomes effective.

(b) Any costs associated with an investigation regarding the information disclosed in the report shall be paid by the contractor who shall remit the costs within thirty days of billing by the division.

(c) (I) If the report contains any information, or if the division receives any information from any source other than the contractor, which information would have prohibited the director from awarding the contract to the contractor if the information had been provided or had been effective before the director awarded the contract, the director may terminate the contract following an investigation.

(II) If the report contains any information, or if any information is discovered by the division from any source other than the contractor, which information would have given the director discretion to refuse to enter the contract had the information been provided or been effective before the director awarded the contract, the director, following an investigation, may terminate the contract.

(III) Any termination shall be accomplished in accordance with the termination provisions of the contract.

(9) Every contract for the supply of gaming equipment or material shall provide the following:

(a) The director shall exclude from lottery facilities an employee of a contractor who has been convicted of a felony.

(b) The director shall also exclude employees of a contractor from participating in activities involving the gaming materials or equipment supplied pursuant to the contract.

(10) (a) Each supplier, prior to entering into a contract to supply gaming materials or equipment, shall submit a set of fingerprints to the division. The division shall forward the fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Only the actual costs of the record check shall be borne by the supplier. Nothing in this subsection (10) shall preclude the division from making further inquiries into the background of the supplier.

(a.5) When the results of a fingerprint-based criminal history record check of a supplier performed pursuant to this subsection (10) reveal a record of arrest without a disposition, the division shall require the supplier to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

(b) Notwithstanding any other provision of this section to the contrary, for purposes of this subsection (10), "supplier" means an individual or any person described in subsection (1)(a) or (1)(g) of this section.

(11) The requirements of the "Procurement Code", articles 101 to 112 of title 24, shall apply to all contracts entered into by the lottery. The executive director shall ensure that any competitive solicitation process conducted by the lottery is designed to encourage broad vendor competition.

(12) The evaluation team for any bid for a contract for services, equipment, or materials or for the purchase or lease of gaming equipment and materials, the amount of which bid is in excess of one million dollars, shall include an individual who is neither employed by nor affiliated with the division and who possesses specific expertise in the procurement of the services, equipment, or materials or in the purchase or lease of the gaming equipment or materials that are the subject of the bid. The individual shall be selected by the executive director in accordance with the requirements of this subsection (12).

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 338, § 2, effective October 1. **L. 2019:** (10)(a.5) added, (HB 19-1166), ch. 125, p. 564, § 66, effective April 18.

Editor's note: This section is similar to former § 24-35-205 as it existed prior to 2018.

Cross references: For those who serve as peace officers within the criminal code when enforcing laws and rules regarding the lottery, see § 16-2.5-121.

44-40-107. Licenses. (1) The director shall issue, suspend, revoke, and renew licenses for lottery sales agents pursuant to subsection (3) of this section and rules adopted by the commission. Licensing rules shall include requirements relating to the financial responsibility of the licensee, the accessibility of the licensee's place of business or activity to the public, the

sufficiency of existing licenses to serve the public interest, the volume of expected sales, the character of the licensee, the security and efficient operation of the lottery, the licensed agent recovery reserve authorized in section 44-40-121, and other matters necessary to protect the public interest and trust in the lottery and to further the sales of lottery tickets or shares. Rules shall also require that licenses be prominently displayed in areas visible to the public.

(2) (a) A license shall be revoked upon a finding that the licensee:

(I) Has provided false or misleading information to the division;

(II) Has been convicted of any gambling-related offense;

(III) Has endangered the security of the lottery;

(IV) Has become a person whose character is no longer consistent with the protection of the public interest and trust in the lottery; or

(V) Has intentionally refused to pay a prize in his or her possession to a person entitled to receive the prize under this article 40.

(b) A license may be suspended, revoked, or not renewed for any of the following causes:

(I) A change of business location;

(II) An insufficient sales volume;

(III) A delinquency in remitting money owed to the lottery;

(IV) The endangering of the efficient operation of the lottery;

(V) Any violation of this article 40 or any rule adopted pursuant to this article 40; or

(VI) Conviction of any felony.

(3) Procedures for issuance, suspension, revocation, and renewal of licenses shall be in accordance with article 4 of title 24, and the director shall have all the powers and shall be subject to all the requirements of article 4 of title 24 in conducting any hearings relating to the granting, suspension, revocation, or renewal of licenses. When a felony conviction or a conviction involving fraud is an issue in the issuance, suspension, revocation, or renewal of a lottery sales agent's license, the director's determination shall be submitted to a three-member panel who shall approve or reject the determination. The panel's decision shall constitute final agency action for the purposes of section 24-4-106. The panel shall be composed of the chairman of the lottery commission, the executive director, and the secretary of state.

(4) Licensed sales agents may include persons, firms, associations, or corporations, profit or nonprofit, but the following are ineligible for any license as a sales agent:

(a) Any person who will engage in business exclusively as a lottery sales agent;

(b) Any person who has been convicted of a gambling-related offense, notwithstanding the provisions of section 24-5-101;

(c) Any person who is or has been a professional gambler or gambling promoter;

(d) Any person who has engaged in bookmaking or any other form of illegal gambling;

(e) Any person who is not of good character and reputation, notwithstanding the provisions of section 24-5-101, in the community where he or she resides;

(f) Any person who has been convicted of a crime involving misrepresentation, notwithstanding the provisions of section 24-5-101;

(g) Any firm or corporation in which a person defined in subsections (4)(b) to (4)(f) of this section has a proprietary, equitable, or credit interest;

(h) Any organization in which a person defined in subsections (4)(b) to (4)(f) of this section is an officer, director, or managing agent, whether compensated or not; or

(i) Any organization in which a person defined in subsections (4)(b) to (4)(f) of this section is to participate in the management or sales of lottery tickets or shares.

(5) Licensed sales agents may include persons, firms, associations, or corporations, profit or nonprofit, but the following may be determined to be ineligible for any license as a sales agent:

(a) Any person who has been convicted of a felony or a crime involving fraud, notwithstanding the provisions of section 24-5-101;

(b) Any firm or corporation in which a person defined in subsection (5)(a) of this section has a proprietary, equitable, or credit interest;

(c) Any organization in which a person defined in subsection (5)(a) of this section is an officer, director, or managing agent, whether compensated or not; or

(d) Any organization in which a person defined in subsection (5)(a) of this section is to participate in the management or sales of lottery tickets or shares.

(6) Each licensed sales agent shall keep a complete set of books of account, correspondence, and all other records necessary to show fully the lottery transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination of the division or its duly authorized representatives. The division may require any licensed sales agent to furnish the information that the division considers necessary for the proper administration of this article 40 and may require an audit to be made of the books of account and records when the division considers necessary by an auditor, selected by the director, who shall likewise have access to all the books and records of the licensee, and the licensee may be required to pay the expense thereof.

(7) All licenses for lottery sales agents shall specify the place that sales shall take place, and no license shall be effective upon residential premises.

(8) The costs of any investigation into the background of an applicant seeking a license for a lottery sales agent shall be assessed against the applicant and shall be paid by the applicant at the time of billing by the state. The investigation may be conducted by the division or the attorney general. Investigators shall have peace officer authority during the period of investigation.

(9) If there are more applications to operate lotto than there are outlets available, then at least one hundred locations will be decided by a drawing by lot with the balance of all lotto outlets to be located at the direction of the division. Any person licensed as a lottery sales agent pursuant to the provision of this section shall be eligible to enter into this drawing by lot to determine if the person will be allowed to operate a lotto game at the same location.

(10) If the rental payments for the business premises of any lottery sales agent are based in whole or in part on a percentage of retail sales, and the computation of retail sales in the rental agreement does not specifically include the sale of tickets or shares in the lottery, the compensation received by the sales agent, as determined by the commission pursuant to section 44-40-109 (2)(h), and not the gross revenues from the sale of lottery tickets or shares shall be the amount of the retail sale for the purpose of computing the rental payment.

(11) (a) Each applicant for a lottery sales agent license, with the submission of the application, shall submit a set of fingerprints to the division. The division shall forward the fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Only the actual costs of the record check

shall be borne by the applicant. Nothing in this subsection (11) shall preclude the division from making further inquiries into the background of the applicant.

(a.5) When the results of a fingerprint-based criminal history record check of an applicant performed pursuant to this subsection (11) reveal a record of arrest without a disposition, the division shall require the applicant to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

(b) For purposes of this subsection (11), "applicant" means an individual or each officer or director of a firm, association, or corporation that is applying for a license pursuant to this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 342, § 2, effective October 1. **L. 2019:** (11)(a.5) added, (HB 19-1166), ch. 125, p. 564, § 67, effective April 18.

Editor's note: This section is similar to former § 24-35-206 as it existed prior to 2018.

Cross references: For those who serve as peace officers within the criminal code when enforcing laws and rules regarding the lottery, see § 16-2.5-121.

44-40-108. Colorado lottery commission - creation. (1) There is hereby created, within the state lottery division, the Colorado lottery commission, consisting of five members, all of whom shall be citizens of the United States and residents of this state, appointed by the governor, with the consent of the senate. No member shall have been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101. No more than three of the five members shall be members of the same political party. A chairman and a vice-chairman of the commission shall be chosen from the membership by a majority of the members at the first meeting of each fiscal year.

(2) At least one member of the commission shall have been a law enforcement officer for not less than five years; at least one member shall be an attorney admitted to the practice of law in Colorado for not less than five years; and at least one member shall be a certified public accountant who has practiced accountancy in Colorado for at least five years.

(3) Initial members shall be appointed to the commission by the governor as follows: One member to serve until July 1, 1983, one member to serve until July 1, 1984, one member to serve until July 1, 1985, and two members to serve until July 1, 1986. All subsequent appointments shall be for terms of four years. No member of the commission shall be eligible to serve more than two terms.

(4) Any vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment.

(5) Any member of the commission may be removed by the governor at any time and for any reason.

(6) Commission members shall receive as compensation for their services up to one hundred dollars per month for each month in which there is an official commission meeting and shall be reimbursed for necessary traveling and other reasonable expenses incurred in the performance of their official duties. Upon appointment, and prior to confirmation by the senate, each member shall file with the secretary of state a financial disclosure statement in the form

required to be filed by elected state officials. The statement shall be renewed as of each January 1 during the member's term of office. The chairperson of the lottery commission shall also be reimbursed for necessary traveling and other reasonable expenses incurred in the performance of his or her duties related to his or her participation on the three-member panel established in sections 44-40-106 (5)(a) and 44-40-107 (3).

(7) (a) The commission shall hold at least one meeting each month and any additional meetings that may be prescribed by rules of the commission. In addition, special meetings may be called by the chairman, any two commission members, or the director, upon delivery of seventy-two hours' written notice to each member. Notwithstanding the provisions of section 24-6-402, in emergency situations in which a majority of the commission certifies that exigencies of time require that the commission meet without delay, the requirements of public notice and of seventy-two hours' written notice to members may be dispensed with, and commission members as well as the public shall receive the notice as is reasonable under the circumstances.

(b) For purposes of part 4 of article 6 of title 24, the commission shall be a state public body, as defined in section 24-6-402 (1)(d), regardless of whether the state lottery division and the Colorado lottery commission constitute an enterprise pursuant to section 44-40-102 (1).

(8) A majority of the commission shall constitute a quorum, and the concurrence of a majority of the commission shall be required for any final determination by the commission. The commission shall keep a complete and accurate audio record of all its meetings for a period of at least three years.

Source: L. 2018: (3) amended, (SB 18-066), ch. 172, p. 1203, § 2, effective August 8; entire article added with relocations, (HB 18-1027), ch. 31, p. 345, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 24-35-207 as it existed prior to 2018.

(2) Subsection (3) of this section was numbered as § 24-35-207 (3) in SB 18-066. That provision was harmonized with and relocated to this section as this section appears in HB 18-1027.

44-40-109. Commission - powers and duties - rules. (1) In addition to any other powers and duties set forth in this article 40, the commission shall have the following powers and duties:

(a) To promulgate rules governing the establishment and operation of the lottery as it deems necessary to carry out the purposes of this article 40. The director shall prepare and submit to the commission written recommendations concerning proposed rules for this purpose.

(b) To conduct hearings upon complaints charging violations of this article 40 or rules promulgated pursuant to this article 40, other than any hearings relating to the granting, suspension, revocation, or renewal of licenses for lottery sales agents, and to conduct other hearings as may be provided by rules of the commission;

(c) To carry on a continuous study and investigation of the lottery throughout the state for the purpose of ascertaining any defects in this article 40 or in the rules issued under this article 40 whereby any abuses in the administration and operation of the lottery or any evasion of this article 40 or the rules may arise or be practiced, for the purpose of formulating recommendations for changes in this article 40 and the rules to prevent any abuses and evasions,

to guard against the use of this article 40 and the rules as a cloak for the carrying on of organized gambling and crime, and to ensure that the law and rules shall be in the form and be so administered as to serve the true purposes of this article 40;

(d) To report immediately to the governor, the attorney general, the speaker of the house of representatives, the president of the senate, the minority leaders of both houses, and any other state officers, as from time to time the commission deems appropriate, any matters that it deems to require an immediate change in the laws of this state in order to prevent abuses and evasions of this article 40 or rules promulgated thereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery;

(e) To require any special reports from the director that it may consider desirable;

(f) To authorize and issue revenue bonds pursuant to the provisions of section 44-40-122;

(g) To annually set the amount of the performance bond required of persons entering into contracts to provide materials, equipment, or supplies used in the operation of the lottery or to design or install games or lotteries; and

(h) To investigate and participate in multistate agreements and to regulate multistate lotteries. The director shall act as the commission's agent in the investigations if the commission so directs.

(2) Except as provided in subsection (3) of this section, rules promulgated pursuant to subsection (1) of this section shall include, but shall not be limited to, the following:

(a) The types of lotteries to be conducted, but no lottery conducted under this article 40 other than instant scratch games shall be based upon the game of chance commonly known as bingo, nor shall any lottery be conducted that depends upon the outcome of any athletic contest except races at state-licensed dog or horse tracks if approved by the Colorado racing commission;

(b) The price of tickets or shares in the lottery;

(c) The numbers, sizes, and payment of the prizes on the winning tickets or shares;

(d) The manner of selecting the winning tickets or shares. All drawings shall be held in public and witnessed by an independent auditor employed by a certified public accountant firm, and all drawing equipment used in the public drawings must be examined prior to and after each public drawing by an independent auditor employed by a certified public accountant firm.

(e) The frequency of the drawing or selection of winning tickets or shares, without limitation;

(f) Without limit to number, the types of locations where tickets or shares may be sold; except that the commission shall not promulgate any rule, issue any order, or adopt any policy or interpretation before July 1, 2017, that authorizes or permits the purchase of tickets, including instant scratch tickets, or shares by means of the internet, telephone, computer, or any other electronic device or equipment that the purchaser can access or use to purchase lottery tickets other than by doing so personally at a licensed lottery sales agent's physical place of business;

(g) The method to be used in selling tickets or shares, but all sales shall be on a cash-only basis;

(h) The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public;

(i) The manner in which lottery sales revenues are to be collected.

(3) (a) The commission shall promulgate rules pursuant to subsection (1) of this section for the general administration of all instant scratch games. The rules shall include, but shall not be limited to:

(I) The method to be used in selling instant scratch game tickets, but all sales shall be on a cash-only basis;

(II) The method of paying prizes on winning instant scratch game tickets; and

(III) The manner and amount of compensation, if any, to be paid to licensed sales agents necessary to provide for the adequate availability of instant scratch game tickets to prospective buyers and for the convenience of the public.

(b) (I) The commission shall establish and approve all instructions governing instant scratch games. The instructions shall include, but shall not be limited to:

(A) The method for determining instant scratch game winners;

(B) The establishment of claim periods;

(C) The price of instant scratch game tickets;

(D) The numbers and sizes of prizes; and

(E) The method for selecting and validating winning instant scratch game tickets.

(II) The commission shall publish all approved instructions governing instant scratch games in a clearly identifiable section on the official website of the state lottery. The published instructions shall be binding on purchasers and claimants of instant scratch game tickets.

(III) The procedural rule-making requirements of section 24-4-103 shall not apply to the commission's duties specified in this subsection (3)(b).

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 346, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-208 as it existed prior to 2018.

44-40-110. Conflict of interest. (1) Members of the commission and employees of the division are declared to be positions of public trust and, therefore, in order to insure the confidence of the people of the state in the integrity of the division, its employees, and the commission, the following restrictions shall apply:

(a) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall have any personal pecuniary interest in any lottery or in the sale of any lottery tickets or shares or in any corporation, association, or firm contracting with the state to supply gaming equipment or materials for use in the operation of the lottery or in any corporation, association, or firm licensed as a sales agent under this article 40. Employment by any political subdivision, or service on the governing body or on any board, agency, or commission of any political subdivision that is entitled to receive a portion of the proceeds of the lottery shall not constitute an interest prohibited by this section, except for the purposes of appointment to or service on the commission.

(b) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall receive any gift, gratuity, employment, or other thing of value from any person, corporation, association, or firm that contracts with or that offers services, supplies, materials, or equipment used by the division in the normal course of its operations.

(c) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall purchase any ticket for any lottery conducted under this article 40; except that lottery investigators may purchase lottery tickets when authorized to do so by the director for investigative purposes. No person described in this subsection (1)(c) shall be eligible to receive any prize awarded in such a lottery.

(d) No person, corporation, or firm that contracts with the division or that offers services, supplies, materials, or equipment used by the division in the normal course of its operations shall offer any gift, gratuity, employment, or other thing of value to any commission member, employee of the division, or members of their immediate families except as authorized by rules promulgated pursuant to subsection (1)(b) of this section.

(e) No member of the commission or employee of the division who terminates his or her relationship with the commission or the division shall, for a period of one year from the date of termination of membership on the commission or employment with the division, as applicable, accept employment with any lottery vendor or represent any lottery vendor before the division or the commission.

(f) The commission shall adopt by rule a code of ethics that shall be binding upon all of its members. Each member of the commission shall complete training at least once each year on the code and shall further certify on an annual basis that he or she is knowledgeable about the code and has no conflicts of interest proscribed by this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 349, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-209 as it existed prior to 2018.

44-40-111. Lottery fund - creation - definitions. (1) There is hereby created, in the office of the state treasurer, the lottery fund. The initial appropriation to the division, and all subsequent revenues of the division not earlier paid as prizes, shall be paid into the lottery fund. All expenses of the division, including the expenses of organized crime investigation and prosecution relating to the lottery, shall be paid from the lottery fund. For the purposes of this section and section 44-40-109, "expenses" do not include amounts expended for lottery prizes. Prizes for the lottery shall be paid only from the lottery fund or from money collected from the sale of lottery tickets or shares. Amounts for prizes and expenses are hereby appropriated to the division, except as provided in subsection (3) of this section.

(2) The division shall deposit all liquidated damages into the lottery fund, and any revenues received from liquidated damages shall not be expended by the division unless appropriated by the general assembly. The division shall not receive any goods or services in lieu of an assessment of liquidated damages, nor shall the division require a vendor to purchase goods and services in lieu of an assessment of liquidated damages.

(3) Expenses of the division shall be paid from the lottery fund only as appropriated by the general assembly.

(4) Upon request, it is the duty of the state treasurer to report to the director or the commission the amount of money on hand in the lottery fund. All accounts and expenditures from the lottery fund shall be certified by the director and paid by the state treasurer upon

warrants drawn by the controller. The controller is authorized as directed to draw warrants payable out of the lottery fund upon vouchers therefor properly certified.

(5) (a) The amount to be transferred from the lottery fund to the conservation trust fund shall be forty percent of the net proceeds of the lottery for the preceding fiscal quarter after payment of the expenses of the division and any prizes for the lottery and after reserving sufficient money, as of the end of the fiscal year, to ensure the operation of the lottery for the ensuing fiscal year. The money reserved by the lottery shall be held in cash and investments. Beginning with the fourth quarter of fiscal year 1998-99, and each fiscal year thereafter, distributions of net lottery proceeds to the conservation trust fund shall be made in accordance with the provisions of section 33-60-104 (1)(a).

(b) (I) Beginning with the first quarter of fiscal year 1998-99 and each fiscal year thereafter, distributions of net lottery proceeds to the division of parks and wildlife shall be made in accordance with the provisions of section 33-60-104 (1)(b).

(II) The appropriation of money from the state lottery for capital construction shall be consistent with part 13 of article 3 of title 2 until part 13 is repealed.

(c) The lottery money available for appropriation to the division of parks and wildlife pursuant to subsection (5)(b) of this section shall be appropriated and expended for the acquisition and development of new state parks, new state recreation areas, or new recreational trails, for the expansion of existing state parks, state recreation areas, or recreational trails, or for capital improvements of both new and existing state parks, state recreation areas, or recreational trails. Except as provided in section 33-60-105, in addition to appropriation for the division's capital construction budget, said lottery money may be appropriated for the division's operating budget for expenditures attributable to the maintenance and operation of state parks, state recreation areas, or recreational trails, or any portions thereof, that have been acquired or developed with lottery money.

(d) This subsection (5) becomes effective on September 1, 1998.

(6) The state treasurer shall invest the money in the lottery fund so long as said money is timely available to pay the expenses of the division, to pay the prizes to the lottery winners, to make authorized transfers to the conservation trust fund, and to fund the annual appropriations authorized by subsection (5) of this section. Investments shall be those otherwise permitted by state law, and interest or any other return on the investments shall be paid into the lottery fund.

(7) The division shall be operated so that, after the initial state appropriation, it shall be self-sustaining.

(8) No claim for the payment of any expense of the division or the payment of any lottery prize can be made unless it is against the lottery fund or against money collected from the sale of lottery tickets or shares. No other money of the state of Colorado shall be used or obligated to pay the expenses of the division or prizes of the lottery.

(9) The total disbursements for lottery prizes shall be no less than fifty percent of the total revenue accruing from the sale of lottery tickets or shares.

(10) (a) Net lottery proceeds to be distributed to the conservation trust fund, as computed pursuant to this section, shall be transferred to the conservation trust subaccount of the lottery fund, which subaccount is hereby created, once each month. Transfers shall be made from net lottery proceeds reflected in the monthly statement for the period ending sixty days prior to each monthly distribution. The state treasurer shall invest all money in the conservation trust subaccount in investments permitted by state law. Notwithstanding subsection (6) of this section,

interest or any other return on the investments of the conservation trust subaccount must be distributed to the conservation trust fund.

(b) Beginning with the first quarter of fiscal year 1998-99, distributions shall be made on a quarterly basis in accordance with the provisions of section 33-60-104, with the distribution of net lottery proceeds for the first quarter occurring on December 1 of the fiscal year, distribution of net lottery proceeds for the second quarter occurring on March 1 of the fiscal year, distribution of net lottery proceeds for the third quarter occurring on June 1 of the fiscal year, and distribution of net lottery proceeds for the fourth quarter occurring on September 1 following the close of the fiscal year.

(11) The general assembly may establish priorities in the general appropriation act for expenditures for projects to be financed from net lottery proceeds appropriated for capital construction. The priorities shall govern the use of quarterly distributions from the lottery fund in order to assure that available revenues are used to fund higher priority projects before they are used to fund lower priority projects.

(12) (a) As used in this subsection (12), unless the context otherwise requires:

(I) "Outdoor equity fund" means the outdoor equity fund created in section 33-9-206.

(II) "Parks and outdoor recreation cash fund" means the parks and outdoor recreation cash fund created in section 33-10-111 (1).

(III) "Public school capital construction assistance fund" means the public school capital construction assistance fund created in section 22-43.7-104.

(IV) "Wildlife cash fund" means the wildlife cash fund created in section 33-1-112 (1)(a).

(b) Pursuant to subsection (10)(b) of this section, the state treasurer shall transfer money that would otherwise be allocated to the general fund pursuant to section 3 (1)(b)(III) of article XXVII of the state constitution, and as described in section 33-60-104 (1)(c), as follows:

(I) For the 2020-21 state fiscal year, to the extent available, the first seven hundred fifty thousand dollars to the outdoor equity fund; the next three million dollars to the public school capital construction assistance fund; and any remaining money as follows: Twenty-five percent to the wildlife cash fund, twenty-five percent to the parks and outdoor recreation cash fund, and fifty percent to the public school capital construction assistance fund;

(II) For the 2021-22 state fiscal year, to the extent available, the first one million five hundred thousand dollars to the outdoor equity fund; the next three million dollars to the public school capital construction assistance fund; and any remaining money as follows: Twenty-five percent to the wildlife cash fund, twenty-five percent to the parks and outdoor recreation cash fund, and fifty percent to the public school capital construction assistance fund;

(III) For the 2022-23 state fiscal year, to the extent available, the first two million two hundred fifty thousand dollars to the outdoor equity fund; the next three million dollars to the public school capital construction assistance fund; and any remaining money as follows: Twenty-five percent to the wildlife cash fund, twenty-five percent to the parks and outdoor recreation cash fund, and fifty percent to the public school capital construction assistance fund; and

(IV) For the 2023-24 state fiscal year and each state fiscal year thereafter, to the extent available, the first three million dollars to the outdoor equity fund; the next three million dollars to the public school capital construction assistance fund; and any remaining money as follows:

Twenty-five percent to the wildlife cash fund, twenty-five percent to the parks and outdoor recreation cash fund, and fifty percent to the public school capital construction assistance fund.

(c) The money transferred under this subsection (12) and any income and interest derived from the deposit and investment of such money is exempt from any restriction on spending, revenue, or appropriations, including, without limitation, the restrictions of section 20 of article X of the state constitution.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 350, § 2, effective October 1. **L. 2019:** (10)(a) amended, (SB 19-241), ch. 390, p. 3482, § 72, effective August 2. **L. 2021:** (12) added, (HB 21-1318), ch. 272, p. 1578, § 2, effective June 21.

Editor's note: This section is similar to former § 24-35-210 as it existed prior to 2018.

Cross references: For the creation of the conservation trust fund, see § 29-21-101 (2).

44-40-112. Audits and annual reports. (1) The lottery fund shall be audited at least annually by or under the direction of the state auditor, who shall submit a report of the audit to the legislative audit committee. The annual audit shall include compliance with section 3 of article XXVII of the state constitution. The expenses of the audit shall be paid from the lottery fund.

(2) The director shall evaluate the lottery's expenditures to determine areas where the expenditures may be reduced with the goal of increasing net proceeds as a percentage of sales paid to the beneficiaries. Not later than July 1, 2005, the director shall report to the governor, the legislative audit committee, and the joint budget committee on any recommendations he or she desires to make based upon the evaluation.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 352, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-211 as it existed prior to 2018.

44-40-113. Prizes. (1) The right of any person to a prize is not assignable; except that payment of any prize may be paid to:

(a) The estate of a deceased prizewinner; or

(b) Any person pursuant to a voluntary assignment of the right to receive future annual prize payments, in whole or in part, if the assignment is made pursuant to an appropriate judicial order of the district court located in the city and county of Denver or the judicial district where the assignor resides or where the commission's headquarters are located.

(2) (a) A copy of the petition for an order described in subsection (1)(b) of this section and of all notices of any hearing in the matter shall be served on the executive director no later than ten days prior to any hearing or entry of any order.

(b) The commission may intervene as of right in any proceeding solely to protect the interests of the commission but shall not be deemed an indispensable or necessary party.

(c) The court receiving the petition is authorized to issue an order approving the assignment and directing the executive director to pay to the assignee all future prize payments so assigned upon finding that all of the following conditions have been met:

(I) The assignment has been memorialized in writing and executed by the assignor and is subject to Colorado law;

(II) The assignor provides a sworn declaration to the court attesting to the facts that the assignor has had the opportunity to be represented by independent legal counsel in connection with the assignment, has received independent financial and tax advice concerning the effects of the assignment, and is of sound mind and not acting under duress; and

(III) The proposed assignment does not and will not include or cover payments or portions of payments subject to offsets pursuant to subsection (6) of this section, unless appropriate provision is made in the order to satisfy the obligations giving rise to the offset.

(d) Within ten days of receipt of a certified copy of a court order granted pursuant to this subsection (2), the executive director shall acknowledge in writing to both the assignor and the assignee the executive director's agreement to make the payments in accordance with the provisions of the order. The executive director shall make the payments pursuant to said order.

(e) The commission shall not adopt rules for the implementation of this subsection (2) that are more restrictive than the provisions of this subsection (2), that impose requirements in addition to those set forth in this subsection (2), or that are inconsistent with the expressed intent of the general assembly.

(f) The executive director is authorized to establish a reasonable fee to defray any administrative expenses of the executive director associated with assignments made pursuant to this section. The fee amounts shall reflect the direct and indirect costs associated with processing the assignments.

(3) Notwithstanding any provision of this article 40 to the contrary, the commission may authorize licensed sales agents to retain all prizes pursuant to the rules of the commission for the persons entitled to the prizes for one hundred eighty days after the termination dates of the lottery games for which the prizes were won. The prizes shall be held in trust on behalf of the division for payment to the persons so entitled. No separate accounting of the prizes needs to be made by the licensed sales agent unless requested by the director. Any person who fails to claim a prize during the one-hundred-eighty-day period shall forfeit all rights to the prize, and the amount of the prize shall become the property of the licensee. All other unclaimed prizes shall be retained by the division for the persons entitled to the prizes for the one-hundred-eighty-day period. Any person who fails to claim a prize that is held by the division or its designee during that time shall forfeit all rights to the prize, and the amount of the prize shall remain in the lottery fund.

(4) The division shall be discharged of all liability upon the payment of any prize pursuant to this article 40.

(5) Any prize won by a person under eighteen years of age who purchased a winning ticket in violation of section 44-40-116 (1)(c) shall be forfeited. If a person otherwise entitled to a prize or a winning ticket is under eighteen years of age, the director may direct payment of the prize by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of the minor.

(6) (a) Prior to the payment of any lottery cash prize or noncash prize required by rule of the commission to be paid only at the lottery offices and subject to state and federal tax

reporting, the department of revenue shall require the winner to submit the winner's social security number and federal employer identification number, if applicable, and shall check the social security number of the winner with those certified by the department of human services for the purpose of the state lottery winnings offset as provided in section 26-13-118. For a lottery cash prize, beginning January 1, 2012, the department of revenue shall also check the social security number of the winner with those certified by the department of personnel for the purpose of the state lottery winnings offset as provided in section 24-30-202.7. The social security number and the federal employer identification number shall not become part of the public record of the department of revenue. If the social security number of a lottery winner appears among those certified by the department of human services, the department of revenue shall obtain the current address of the winner, notify the department of human services, and suspend the payment of the cash prize or noncash prize until the requirements of section 26-13-118 are met. If, after consulting with the department of human services, the department of revenue determines that the lottery winner owes a child support debt or child support costs pursuant to section 14-14-104, or owes child support arrearages as part of an enforcement action pursuant to article 5 of title 14, or owes child support arrearages or child support costs that are the subject of enforcement services provided pursuant to section 26-13-106, then the department of revenue shall withhold from the amount of the cash prize paid to the lottery winner an amount equal to the amount of child support debt, child support arrearages, and child support costs that are due or, if the amount of the cash prize is less than or equal to the amount of child support debt, arrearages, and costs due, shall withhold the entire amount of the lottery cash prize. Any cash prize so withheld for the department of human services shall be transmitted to the state treasurer for disbursement by the department of human services as directed in section 26-13-118. If the social security number of a lottery cash prize winner appears among those certified by the department of personnel, the department of revenue shall obtain the current address of the winner, notify the department of personnel, and suspend the payment of the cash prize until the requirements of section 24-30-202.7 are met. If, after consulting with the department of personnel, the department of revenue determines that the lottery winner owes an outstanding debt that has been certified pursuant to section 24-30-202.7, then the department of revenue shall withhold from the amount of the cash prize paid to the lottery winner an amount equal to the amount of the outstanding debt or, if the amount of the cash prize is less than or equal to the amount of the outstanding debt, shall withhold the entire amount of the lottery cash prize. Any cash prize so withheld for the department of personnel shall be transmitted to the state treasurer for disbursement in accordance with section 24-30-202.7 (4).

(b) A lottery winner of a noncash prize who owes child support debt, child support arrearages, or child support costs shall forfeit the prize, unless:

(I) (A) All of the child support debt, child support arrearages, and child support costs are paid by the lottery winner within ten working days after claiming the suspended noncash prize; and

(B) The department of human services has notified the department of revenue that payment has been received; or

(II) An administrative review is requested pursuant to section 26-13-118 (2), and the requirements set forth in subsection (6)(c) of this section are met.

(c) If an administrative review is requested pursuant to section 26-13-118 (2), the noncash prize shall remain suspended until the department of human services notifies the

department of revenue that the administrative review process has been completed pursuant to rules of the state board of human services. If at the administrative review it is determined that the winner owes child support debt, child support arrearages, or child support costs, the winner shall forfeit the noncash prize unless:

(I) The winner pays the child support debt, child support arrearages, and child support costs in full within ten days after the date of the letter informing the lottery winner of the results of the administrative review; and

(II) The department of human services notifies the department of revenue that payment has been received.

(d) If forfeited by the lottery winner, the noncash prize shall be sold at fair market value. The proceeds of the sale shall be transmitted to the state treasurer for disbursement in accordance with the requirements of section 26-13-118 (3).

(e) (I) Notwithstanding any provision of this subsection (6) to the contrary, if, in addition to owing an outstanding debt, a lottery winner owes restitution, fines, fees, costs, or surcharges, as described in section 44-40-114 or a child support debt or arrearages or child support costs as described in this subsection (6), any lottery winnings offset against the restitution, fines, fees, costs, or surcharges, or child support debt or arrearages or child support costs shall take priority and be applied first. If, in such instance, the lottery winner owes these types of debts, these offsets shall take priority and the provisions of section 44-40-114 (3) shall apply.

(II) The remaining lottery winning money, if any, after the offsets described in subsection (6)(e)(I) of this section shall be applied toward the payment of outstanding debt and processed in accordance with this section.

(7) Notwithstanding any provision of this section to the contrary, all or any part of a prize won by a person may be pledged as collateral for a loan; however, the pledging of all or any part of the prize creates no liability to the state of Colorado.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 353, § 2, effective October 1. **L. 2019:** (6)(a), (6)(b)(I)(B), IP(6)(c), and (6)(c)(II) amended, (SB 19-241), ch. 390, p. 3482, § 73, effective August 2; (6)(e)(I) amended, (HB 19-1128), ch. 238, p. 2359, § 3, effective August 2.

Editor's note: This section is similar to former § 24-35-212 as it existed prior to 2018.

44-40-114. Prizes - lottery winnings offset for restitution, fines, fees, costs, or surcharges. (1) Prior to the payment of any lottery winnings required by rule of the commission to be paid only at the lottery offices, the department of revenue shall require the winner to submit the winner's social security number and federal employer identification number, if applicable, and shall check the social security number of the winner with those certified by the judicial department for the purpose of the state lottery winnings offset as provided in sections 16-11-101.8 and 16-18.5-106.5. The social security number and the federal employer identification number shall not become part of the public record of the department of revenue.

(2) If the social security number of a lottery winner appears among those certified by the judicial department, the department of revenue shall suspend the payment of the winnings until the requirements of sections 16-11-101.8 and 16-18.5-106.5 are met. If, after consulting with the judicial department, the department of revenue determines that the lottery winner is obligated to

pay the amounts certified under sections 16-11-101.8 and 16-18.5-106.5, then the department of revenue shall withhold from the amount of winnings paid to the lottery winner an amount equal to the amount that is due or, if the amount of winnings is less than or equal to the amount due, shall withhold the entire amount of the lottery winnings. Any money so withheld shall be transmitted to the state treasurer for disbursement as directed in sections 16-11-101.8 (2) and 16-18.5-106.5 (3).

(3) If a lottery winner owes a child support debt or arrearages or child support costs as described in section 44-40-113 (6), and also owes restitution, fines, fees, costs, or surcharges as described in sections 16-11-101.8 and 16-18.5-106.5, the lottery winnings offset against the child support debt or arrearages or costs shall take priority and be applied first. The remaining lottery winning money, if any, shall be applied second toward the payment of outstanding restitution, and then toward fines, fees, costs, or surcharges and processed in accordance with this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 356, § 2, effective October 1. **L. 2019:** Entire section amended, (HB 19-1128), ch. 238, p. 2359, § 4, effective August 2.

Editor's note: This section is similar to former § 24-35-212.5 as it existed prior to 2018.

44-40-115. Legal services. (1) The attorney general shall provide legal services for the division and the commission at the request of the director or the commission. The attorney general shall make reasonable efforts to ensure that there is continuity in the legal services provided and that the attorneys providing legal services to the division and the commission have expertise in the field.

(2) The director shall cause the attorney general to make investigations and to prosecute and defend, on behalf of and in the name of the division, suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the division.

(3) Expenses of the attorney general incurred in the performance of his or her responsibilities under this section shall be paid from the lottery fund.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 357, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-213 as it existed prior to 2018.

44-40-116. Unlawful acts. (1) It is unlawful for any person:

(a) To sell a lottery ticket or share at a price greater than or less than that fixed by the commission; however, a lottery ticket or share that is offered at no additional charge in conjunction with the sale of a product or service shall not be deemed to violate this section unless the offer is made to a person under eighteen years of age;

(b) To sell a lottery ticket or share unless authorized or licensed by the director to do so, but this shall not prevent lottery tickets or shares from being given as gifts;

(c) To sell a lottery ticket or share to any person under eighteen years of age or for any person under eighteen years of age to purchase a lottery ticket or share, but this shall not prevent receipt of a lottery ticket or share given as a gift to a person under eighteen years of age;

(d) To sell a lottery ticket or share at any place other than that place authorized and specified on the license.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 357, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-214 as it existed prior to 2018.

44-40-117. Penalties. (1) In addition to any other penalties that may apply, any person violating any of the provisions of section 44-40-116 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2) Any person violating the sale restrictions of section 44-40-116 (1)(c) may also be proceeded against pursuant to section 18-6-701 for contributing to the delinquency of a minor.

(3) Any person issuing, suspending, revoking, or renewing contracts pursuant to section 44-40-106 or licenses pursuant to section 44-40-107 for any personal pecuniary gain or any thing of value as defined in section 18-1-901 (3)(r), or any person violating any of the provisions of section 44-40-110, commits a class 3 felony and shall be punished as provided in section 18-1.3-401.

(4) Any person violating any of the provisions of this article 40 relating to disclosure by providing any false or misleading information commits a class 6 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 358, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-215 as it existed prior to 2018.

44-40-118. Advertising. Any promotional advertising regarding the lottery shall set forth the odds of winning and the average return on the dollar in prize money to the public. All promotional advertising expenses shall be paid from the lottery fund.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 358, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-216 as it existed prior to 2018.

44-40-119. Other laws inapplicable. Any other state or local law in conflict with this article 40 is inapplicable, but this section does not supersede or affect part 6 of article 21 of title 24.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 358, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-217 as it existed prior to 2018.

44-40-120. Division subject to termination - annual financial audits of the division. (1) (a) Unless continued or reestablished by the general assembly acting by bill, the division shall terminate on July 1, 2049.

(b) (I) The state auditor shall conduct annual financial audits of the division.

(II) At least once every five years, and more frequently in the state auditor's discretion, the state auditor shall conduct an analysis and evaluation of the performance of the division and shall submit a written report, together with any supporting materials as may be requested, to the general assembly. The first report shall be completed by January 1, 2004.

(c) In conducting the analysis and evaluation required by subsection (1)(b)(II) of this section, the state auditor shall take into consideration, but not be limited to considering, the following factors:

(I) The amount of revenue generated by the lottery for its beneficiaries as specified in article XXVII of the state constitution;

(II) The administrative and other expense of lottery dollar collections as compared to revenue derived;

(III) An evaluation of the contracts, and compliance with the contracts, of lottery equipment contractors and licensed sales agents;

(IV) Whether there has been an increase in organized crime related to gambling within the state;

(V) A report on the results of the analysis prepared by the division on the socioeconomic profile of persons who play the lottery, including information comparing the results of past analyses to assess the movement of persons from various categories;

(VI) Whether the commission encourages public participation in its decisions rather than participation only by the people whom it regulates;

(VII) An evaluation of the effectiveness and efficiency of the division's complaint, investigation, and disciplinary procedures;

(VIII) Whether the division performs its statutory duties efficiently and effectively;

(IX) Whether administrative or statutory changes are necessary to improve the operation of the lottery in the best interests of the state's citizens;

(X) Any other matters of concern about the operation and functioning of the lottery; and

(XI) A report on any gifts and gratuities received by members of the commission and employees of the division.

(2) Prior to any revision of the division's functions, a committee of reference in each house of the general assembly shall hold a public hearing thereon to consider the report provided by the state auditor, as required by subsection (1)(b)(II) of this section. The hearing shall include the factors set forth in subsection (1)(c) of this section.

Source: L. 2018: (1)(a) amended, (SB 18-066), ch. 172, p. 1203, § 1, effective August 8; entire article added with relocations, (HB 18-1027), ch. 31, p. 358, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 24-35-218 as it existed prior to 2018.

(2) Subsection (1)(a) of this section was numbered as § 24-35-218 (1)(a) in SB 18-066. That provision was harmonized with and relocated to this section as this section appears in HB 18-1027.

44-40-121. Licensed agent recovery reserve - payments from reserve - revocation of license. (1) There is hereby created in the lottery fund the licensed agent recovery reserve, which shall be used under the direction of the division in the manner prescribed in this section.

(2) (a) Beginning January 1, 1988, each licensed sales agent shall pay to the division a fee.

(b) The amount of the fee and the frequency with which it shall be collected shall be established by the commission pursuant to rule.

(c) All fees collected by the division pursuant to subsection (2)(b) of this section shall be transmitted to the state treasurer, who shall credit the same to the lottery fund, and the fees shall be maintained administratively as part of the licensed agent recovery reserve. Any interest earned on the investment of the fees in the fund shall be credited at least annually to said reserve.

(d) No money shall be appropriated from the general fund for the payment of any expenses incurred under this section, and no expenses shall be charged against the state.

(3) When a licensed sales agent has failed to remit any money owed to the lottery under rule, the division shall transfer money in the amount equivalent to the unpaid amount from the licensed agent recovery reserve to the lottery fund.

(4) If the division is required to make a transfer pursuant to subsection (3) of this section, the director shall revoke the sales agent's license in accordance with the provisions of section 44-40-107 (3). If the license is revoked, the sales agent shall not be eligible to be licensed again until he or she has repaid in full the amount paid from the licensed agent recovery reserve.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 359, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-219 as it existed prior to 2018.

44-40-122. Revenue bonds - authority - issuance - requirements - covenants. (1) (a) The commission may, by resolution that meets the requirements of subsection (2) of this section, authorize and issue revenue bonds in an amount not to exceed ten million dollars in the aggregate for expenses of the division. The bonds may be issued only after approval by both houses of the general assembly either by act or joint resolution and after approval by the governor in accordance with section 39 of article V of the state constitution. The bonds shall be payable only from money allocated to the division for expenses of the division pursuant to section 44-40-111 (1).

(b) All bonds issued by the commission shall provide that:

(I) No holder of any such bond may compel the state or any subdivision thereof to exercise its appropriation or taxing power; and

(II) The bond does not constitute a debt of the state and is payable only from the net revenues allocated to the division for expenses as designated in the bond.

(2) (a) Any resolution authorizing the issuance of bonds under the terms of this section shall:

(I) State the date of issuance of the bonds;

(II) State a maturity date or dates during a period not to exceed thirty years from the date of issuance of the bonds;

(III) State the interest rate or rates on, and the denomination or denominations of, the bonds;

(IV) State the medium of payment of the bonds and the place where the bonds will be paid.

(b) Any resolution authorizing the issuance of bonds under the terms of this section may:

(I) State that the bonds are to be issued in one or more series;

(II) State a rank or priority of the bonds;

(III) Provide for redemption of the bonds prior to maturity, with or without premium.

(3) Any bonds issued pursuant to the terms of this section may be sold at public or private sale. If bonds are to be sold at a public sale, the commission shall advertise the sale in any manner that the commission deems appropriate. All bonds issued pursuant to the terms of this section shall be sold at a price not less than the par value thereof, together with all accrued interest to the date of delivery.

(4) Notwithstanding any provisions of the law to the contrary, all bonds issued pursuant to this section are negotiable.

(5) (a) A resolution pertaining to issuance of bonds under this section may contain covenants as to:

(I) The purpose to which the proceeds of sale of the bonds may be applied and to the use and disposition thereof;

(II) Any matters that are customary in the issuance of revenue bonds including, without limitation, the issuance and lien position of other or additional bonds; and

(III) Books of account and the inspection and audit thereof.

(b) Any resolution made pursuant to the terms of this section shall be deemed a contract with the holders of the bonds, and the duties of the commission under the resolution shall be enforceable by any appropriate action in a court of competent jurisdiction.

(6) Bonds issued under this section and bearing the signatures of members of the commission in office on the date of the signing thereof shall be valid and binding obligations, regardless of whether, prior to the delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon have ceased to be members of the commission.

(7) (a) Except as otherwise provided in the resolution authorizing the bonds, all bonds of the same issue under this section shall have a prior and paramount lien on the net revenues pledged therefor. The commission may provide for preferential security for any bonds, both principal and interest, to be issued under this section to the extent deemed feasible and desirable by the commission over any bonds that may be issued thereafter.

(b) Bonds of the same issue or series issued under this section shall be equally and ratably secured, without priority by reason of number, date, sale, execution, or delivery, by a lien on the net revenue pledged in accordance with the terms of the resolution authorizing the bonds.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 360, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-221 as it existed prior to 2018.

44-40-123. Immunity. A lottery sales agent licensed pursuant to section 44-40-107 shall not be liable for monetary damages or otherwise for the sale of a lottery ticket that complies with this article 40, rules promulgated pursuant to this article 40, or orders issued by the director.

Source: L. 2018: Entire article added with relocations, (HB 18-1027), ch. 31, p. 362, § 2, effective October 1.

Editor's note: This section is similar to former § 24-35-222 as it existed prior to 2018.