

Proposition ? : Allow Grocery and Convenience Stores to Sell Wine

Placed on the ballot by citizen initiative • Passes with a majority vote

1 **Proposition ? proposes amending the Colorado statutes to:**

- 2 • allow grocery stores and convenience stores that sell beer to also sell wine, by
3 automatically converting beer retail licenses to beer and wine retail licenses,
4 beginning March 2023.

5 **What Your Vote Means**

YES

6 A “yes” vote on
7 Proposition ? allows

8 licensed grocery and convenience stores
9 that currently sell beer to also sell wine.

NO

A “no” vote on Proposition ?
means that licensed grocery and
convenience stores may continue selling
beer, but not wine.

Legislative Council Draft

1 Summary and Analysis for Proposition ?

2 What does the measure do?

3 Under the measure, all fermented malt beverage retailer licenses will be
4 automatically converted to allow licensees to also sell wine and other vinous
5 liquors (such as wine coolers, sake, cider, and mead), and to conduct alcohol
6 tastings, beginning March 1, 2023. These licensees include grocery and
7 convenience stores that currently sell fermented malt beverages (such as beer,
8 hard seltzer, and hard lemonade) for off-premises consumption. This measure
9 does not impact the types of alcohol that may be sold by restaurants, bars, and
10 other establishments.

11 What are the current types of retail alcohol stores and what are the key 12 differences in laws governing them?

13 In 2016, the legislature made significant changes to the laws governing retail
14 alcohol sales for the first time since the end of Prohibition. As a result, retail
15 liquor stores and liquor-licensed drugstores (grocery stores with a pharmacy that
16 sell beer, wine, and spirits), which had been limited to one location per licensee,
17 were allowed additional locations on a phased-in schedule, shown in Table 1.
18 Additionally, grocery and convenience stores licensed to sell 3.2 beer (fermented
19 malt beverage retailers) were permitted to automatically begin selling full-strength
20 beer.

21 **Table 1**
22 **Current Retail Alcohol Licenses**

License Type	Current Licensees*	Current Allowable Locations Per Licensee	Additional Phase-In of Allowable Locations
Fermented Malt Beverage Retailer	1,819	Unlimited	N/A
Grocery and convenience stores licensed to sell beer and other fermented malt beverages (e.g., hard seltzer and hard lemonade). New licensees must be located 500 feet from another retail store.			
Liquor-Licensed Drugstore	26	8	13 beginning in 2027; 20 beginning in 2032; unlimited beginning in 2037
Grocery stores with pharmacies licensed to sell all types of alcohol, including fermented malt beverages, wine and other vinous liquors (e.g., wine coolers, sake, cider, and mead), and spirits. New licensees must buy out two retail liquor stores, including all stores within a 1,500 feet radius (approximately three or four city blocks), or 3,000 feet in smaller communities.			
Retail Liquor Store	1,592	3	4 beginning in 2027
Liquor stores licensed to sell all types of alcohol. New licensees must be located at least 1,500 feet away from other retail stores.			

Source: Liquor Enforcement Division, Department of Revenue.
*Licensees as of December 31, 2021.

23 **Operational requirements.** All of the stores discussed above:

- 24 • may not sell alcohol to individuals under the age of 21 or to those who appear
25 intoxicated;

Legislative Council Draft

- 1 • may not sell alcohol between midnight and 8:00 a.m.;
- 2 • may not sell alcohol below cost, must purchase alcohol from licensed
- 3 wholesalers, and may not have a vested interest in any manufacturer or
- 4 wholesaler license;
- 5 • must require employees handling alcohol to be at least 18 years of age;
- 6 • may deliver alcohol using their own employees who are at least 21 years of
- 7 age and using a store-owned vehicle;
- 8 • have to be located at least 500 feet away from any school; and
- 9 • must be licensed by both the state and local government.

10 Only liquor stores and liquor-licensed drugstores may conduct alcohol tastings,
11 once approved by the local government. Fermented malt beverage retailers and
12 liquor-licensed drugstores must receive approval from the state and local
13 government before significantly expanding or modifying where alcohol is sold in
14 the store.

15 For more information about retail alcohol sales, please refer to this legislative
16 memo about Off-Premises Retail Liquor Licensing:

17 <http://leg.colorado.gov/publications/premises-retail-liquor-licensing>.

For information on those issue committees that support or oppose the measures on the ballot at the November 8, 2022, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

18 **Argument For Proposition ?**

- 19 1) Consumers want the convenience of buying wine with groceries. This
20 measure builds on the existing system to allow adults to buy wine in grocery
21 and convenience stores, just as they do now with beer and other fermented
22 malt beverages. These stores provide a safe and well-regulated environment
23 to ensure responsible alcohol sales.

24 **Argument Against Proposition ?**

- 25 1) The measure creates a disadvantage for small, locally owned liquor stores,
26 and instead benefits large national grocery and convenience store chains.
27 The automatic license conversion will more than double the number of stores
28 where wine can be sold, without any community input or state or local
29 government review.

30 **Fiscal Impact for Proposition ?**

31 **State spending.** Costs and workload in the Department of Revenue will
32 increase to process automatic license conversions for approximately
33 1,820 fermented malt beverage retailers. Costs include \$5,000 in one-time
34 computer programming.

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- 1 **Local government.** Similar to the state, local liquor licensing authorities will
- 2 have an increase in workload to process automatic license conversions.

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 15 liquor stores and liquor-licensed drugstores (grocery stores with a pharmacy that
 16 sell beer, wine, and spirits), which had been limited to one location per licensee,
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- 7 age and using a store-owned vehicle; and
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32 have an increase in workload to process automatic license conversions.

Last Draft Comments from Interested Parties

Initiative 121 Allow Grocery and Convenience Stores to Sell Wine

Grier Bailey, representing the Colorado/Wyoming Petroleum Marketers Association:

In The Argument Against the Proposition- line 24: without any community input or state or local government review. (should be revised)

There should be additional clarifying information given for example: "Colorado is a dual licensing system with both state and local oversight. That measure has conversion at the state level without state review - Local authorities retain the option and authority to review any change in the existing license, should this measure pass - at their option."

Initiative #121
Allow Grocery and Convenience Stores to Sell Wine
Contact List

Interested Party	Organization Name	Email Address
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Natasha Berwick	New Era Colorado	natasha@neweracolorado.org
Melissa Blake	Brownstein Hyatt Farber Schreck	mkblake@bhfs.com
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Rich Mauro	DRCOG	rmauro@drcog.org

Initiative #121
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Contact List (Cont.)

Interested Party	Organization Name	Email Address
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Anthony Ryerson	Fios Capital	tryerson@fioscapital.net
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Martha Tierney		mtierney@tierneylawrence.com
Cameron Vigil	Young Invincibles	Cameron.Vigil@younginvincibles.org
Steven Ward	Maven	sward@mavenlawgroup.com
Kachina Weaver	Weaver Strategies	kachina@weaverstrategies.com
Kent Wilson	Target	kent.wilson@target.com

Initiative 121
Allow Grocery and Convenience Stores to Sell Wine

1 Ballot Title:

2 Shall there be a change to the Colorado Revised Statutes concerning the expansion of retail
3 sale of alcohol beverages, and, in connection therewith, establishing a new fermented malt
4 beverage and wine retailer license for off-site consumption to allow grocery stores, convenience
5 stores, and other business establishments licensed to sell fermented malt beverages, such as
6 beer, for off-site consumption to also sell wine; automatically converting such a fermented malt
7 beverage retailer license to the new license; and allowing fermented malt beverage and wine
8 retailer licensees to conduct tastings if approved by the local licensing authority?

9 Text of Measure:

10 *Be it enacted by the People of the State of Colorado:*

11 SECTION 1: Declaration

12 The People of the State of Colorado hereby find and declare that Article 4 of Title 44, Colorado
13 Revised Statutes, known as the “Colorado Beer Code”, shall be amended to allow, beginning
14 March 1, 2023, the sale of wine in grocery and convenience stores that are licensed to sell beer.

15 SECTION 2. In Colorado Revised Statutes, 44-3-103, **add** (18.5), (32.5), and (60.5) as follows:

16 44-3-103. Definitions.

17 As used in this article 3 and article 4 of this title 44, unless the context otherwise requires:

18 (18.5) “FERMENTED MALT BEVERAGE AND WINE RETAILER” MEANS A RETAILER LICENSED UNDER
19 ARTICLE 4 OF THIS TITLE 44 TO SELL FERMENTED MALT BEVERAGES AND WINE, BUT NOT SPIRITUOUS
20 LIQUORS, IN ORIGINAL SEALED CONTAINERS FOR CONSUMPTION OFF THE LICENSED PREMISES.

21 (32.5) “OFF-PREMISES RETAILER” MEANS ANY RETAILER LICENSED UNDER THIS ARTICLE 3 OR ARTICLE
22 4 OF THIS TITLE 44 THAT IS ALLOWED TO SELL ALCOHOL BEVERAGES AT RETAIL FOR CONSUMPTION
23 OFF THE LICENSED PREMISES.

24 (60.5) “WINE” MEANS VINOUS LIQUORS.

25 SECTION 3. In Colorado Revised Statutes, 44-3-301, **amend** 9(a)(I)(B), (10)(b), 10(c)(I)(A),
26 10(c)(XII), 10(d), 10(e); and **repeal and reenact, with amendments**, (12) as follows:

27 44-3-301. Licensing in general.

28 (9)(a)(I)(B) The state and local licensing authorities shall not grant permission under this
29 subsection (9)(a)(I) to a fermented malt beverage AND WINE retailer licensed under section 44-4-
30 107 (1)(a) to move its permanent location if the new location is: Within one thousand five
31 hundred feet of a retail liquor store licensed under section 44-3-409; for a premises located in a

1 municipality with a population of ten thousand or fewer, within three thousand feet of a retail
2 liquor store licensed under section 44-3-409; or, for a premises located in a municipality with a
3 population of ten thousand or fewer that is contiguous to the city and county of Denver, within
4 one thousand five hundred feet of a retail liquor store licensed under section 44-3-409.

5 (10)(b) A retail liquor store, or liquor-licensed drugstore, OR FERMENTED MALT BEVERAGE
6 AND WINE RETAILER licensee who wishes to conduct tastings may submit an application
7 or application renewal to the local licensing authority. The local licensing authority may
8 reject the application if the applicant fails to establish that he or she is able to conduct
9 tastings without violating the provisions of this section or creating a public safety risk to
10 the neighborhood. A local licensing authority may establish its own application
11 procedure and may charge a reasonable application fee.

12 (c) Tastings are subject to the following limitations:

13 (I) Tastings shall be conducted only:

14 (A) By a person who: Has completed a server training program that meets the standards
15 established by the liquor enforcement division in the department and is a retail liquor store, or
16 liquor-licensed drugstore, OR FERMENTED MALT BEVERAGE AND WINE RETAILER licensee, an
17 employee of a retail liquor store, ~~or~~ liquor-licensed drugstore, OR FERMENTED MALT
18 BEVERAGE AND WINE RETAILER licensee, or a representative, employee, or agent of the licensed
19 wholesaler, brew pub, distillery pub, manufacturer, limited winery, importer, or vintner's
20 restaurant promoting the alcohol beverages for the tasting; and

21 (XII) No manufacturer of spirituous or vinous liquors shall induce a licensee through free goods
22 or financial or in-kind assistance to favor the manufacturer's products being sampled at a
23 tasting. The retail liquor store, or liquor-licensed drugstore, OR FERMENTED MALT BEVERAGE
24 AND WINE RETAILER licensee bears the financial and all other responsibility for a tasting
25 conducted on its licensed premises.

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

33 (e) A retail liquor store, or liquor-licensed drugstore, OR FERMENTED MALT BEVERAGE AND WINE
34 RETAILER licensee conducting a tasting shall be subject to the same revocation, suspension, and
35 enforcement provisions as otherwise apply to the licensee.

36 (12)(a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 3, ON AND AFTER JULY 1,
37 2016, THE STATE AND LOCAL LICENSING AUTHORITIES SHALL NOT ISSUE A NEW LICENSE UNDER
38 THIS ARTICLE 3 AUTHORIZING THE SALE AT RETAIL OF MALT, VINOUS, OR SPIRITUOUS LIQUORS IN
39 SEALED CONTAINERS FOR CONSUMPTION OFF THE LICENSED PREMISES IF THE PREMISES FOR
40 WHICH THE RETAIL LICENSE IS SOUGHT IS LOCATED:

1 (I) WITHIN ONE THOUSAND FIVE HUNDRED FEET OF ANOTHER LICENSED PREMISES LICENSED TO
2 SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS AT RETAIL FOR OFF-PREMISES CONSUMPTION;

3 (II) FOR A PREMISES LOCATED IN A MUNICIPALITY WITH A POPULATION OF TEN THOUSAND OR
4 FEWER, WITHIN THREE THOUSAND FEET OF ANOTHER LICENSED PREMISES LICENSED TO SELL
5 MALT, VINOUS, OR SPIRITUOUS LIQUORS AT RETAIL FOR OFF-PREMISES CONSUMPTION; OR

6 (III) FOR A PREMISES LOCATED IN A MUNICIPALITY WITH A POPULATION OF TEN THOUSAND OR
7 FEWER THAT IS CONTIGUOUS TO THE CITY AND COUNTY OF DENVER, WITHIN ONE THOUSAND
8 FIVE HUNDRED FEET OF ANOTHER LICENSED PREMISES LICENSED TO SELL MALT, VINOUS, OR
9 SPIRITUOUS LIQUORS AT RETAIL FOR OFF-PREMISES CONSUMPTION.

10 (a.5)(I) NOTWITHSTANDING ANY OTHER PROVISION OF SUBSECTION 12(a) OF THIS SECTION, ON
11 AND AFTER MARCH 1, 2023, THE STATE AND LOCAL LICENSING AUTHORITIES SHALL NOT ISSUE A
12 NEW FERMENTED MALT BEVERAGE AND WINE RETAILER'S LICENSE UNDER ARTICLE 4 OF THIS TITLE
13 44 AUTHORIZING THE SALE AT RETAIL OF FERMENTED MALT BEVERAGES AND WINE IN SEALED
14 CONTAINERS FOR CONSUMPTION OFF THE LICENSED PREMISES IF THE PREMISES FOR WHICH THE
15 RETAIL LICENSE IS SOUGHT IS LOCATED WITHIN FIVE HUNDRED FEET OF A RETAIL LIQUOR STORE
16 LICENSED UNDER SECTION 44-3-409.

17 (II) THIS SUBSECTION (12)(a.5) DOES NOT APPLY TO A PERSON THAT OWNS OR LEASES A
18 PROPOSED FERMENTED MALT BEVERAGE RETAILER LICENSED PREMISES AND, AS OF JANUARY
19 1, 2019, HAS APPLIED FOR OR RECEIVED FROM THE MUNICIPALITY, CITY AND COUNTY, OR
20 COUNTY IN WHICH THE PREMISES ARE LOCATED:

21 (A) A BUILDING PERMIT FOR THE STRUCTURE TO BE USED FOR THE FERMENTED MALT
22 BEVERAGE RETAILER LICENSED PREMISES, WHICH PERMIT IS CURRENTLY ACTIVE AND WILL NOT
23 EXPIRE BEFORE THE COMPLETION OF THE LIQUOR LICENSING PROCESS; OR

24 (B) A CERTIFICATE OF OCCUPANCY FOR THE STRUCTURE TO BE USED FOR THE FERMENTED
25 MALT BEVERAGE RETAILER LICENSED PREMISES.

26 (b) FOR PURPOSES OF SUBSECTION (12)(a) OF THIS SECTION, A LICENSE UNDER THIS ARTICLE
27 3 AUTHORIZING THE SALE AT RETAIL OF MALT, VINOUS, OR SPIRITUOUS LIQUORS IN SEALED
28 CONTAINERS FOR CONSUMPTION OFF THE LICENSED PREMISES INCLUDES A LICENSE UNDER THIS
29 ARTICLE 3 AUTHORIZING THE SALE OF MALT AND VINOUS LIQUORS IN SEALED CONTAINERS NOT
30 TO BE CONSUMED AT THE PLACE WHERE THE MALT AND VINOUS LIQUORS ARE SOLD.

31 (c)(I) FOR PURPOSES OF DETERMINING WHETHER THE DISTANCE REQUIREMENTS SPECIFIED IN
32 SUBSECTIONS (12)(a) AND (12)(a.5) OF THIS SECTION ARE SATISFIED, THE DISTANCE SHALL BE
33 DETERMINED BY A RADIUS MEASUREMENT THAT BEGINS AT THE PRINCIPAL DOORWAY OF THE
34 PREMISES FOR WHICH THE APPLICATION IS MADE AND ENDS AT THE PRINCIPAL DOORWAY OF THE
35 OTHER RETAIL LICENSED PREMISES.

36 (II) THIS SUBSECTION (12) DOES NOT APPLY TO THE CONVERSION OF A LICENSE UNDER
37 SECTION 44-4-107(1)(a)(II).

38 (III) NOTWITHSTANDING ANY OTHER PROVISION OF SUBSECTION (12)(a) OF THIS SECTION, THE
39 STATE AND LOCAL LICENSING AUTHORITIES SHALL NOT ISSUE A NEW RETAIL LIQUOR STORE

1 LICENSE UNDER ARTICLE 3 OF THIS TITLE 44 AUTHORIZING THE SALE AT RETAIL OF MALT,
2 VINOUS, OR SPIRITUOUS LIQUORS IN SEALED CONTAINERS FOR CONSUMPTION OFF THE
3 LICENSED PREMISES IF THE PREMISES FOR WHICH THE RETAIL LICENSE IS SOUGHT IS LOCATED
4 WITHIN FIVE HUNDRED FEET OF A FERMENTED MALT BEVERAGE AND WINE RETAILER LICENSED
5 UNDER SECTION 44-4-107.

6 **SECTION 4.** In Colorado Revised Statutes, 44-3-313, **amend** (1)(e)(I), (1)(e)(II), (1)(e)(IV), and
7 (1)(e)(V) as follows:

8 **44-3-313. Restrictions for applications for new license.**

9 (1) An application for the issuance of any license specified in section 44-3-309 (1) or 444-107
10 (1) shall not be received or acted upon:

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

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

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

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

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

21 (E) A campus liquor complex.

22 (II) The distances referred to in subsection (1)(e)(I) of this section are to be computed by direct
23 measurement from the nearest property line of the land used for school purposes to the nearest
24 portion of the building in which fermented malt beverages AND WINE are to be sold, using a route
25 of direct pedestrian access.

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

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

32 (A) Applications for new fermented malt beverage AND WINE retailer's licenses under section 44-
33 4-107 (1)(a) submitted on or after ~~June 4, 2018~~ MARCH 1, 2023; and

34 (B) Applications submitted on or after ~~June 4, 2018~~ MARCH 1, 2023, under section 44-3-301 (9)
35 by fermented malt beverage AND WINE retailers licensed under section 44-4-107 (1)(a) to

1 change the permanent location of the fermented malt beverage AND WINE retailer's licensed
2 premises.

3 **SECTION 5.** In Colorado Revised Statutes, 44-3-901, **amend** (1)(g), (1)(i)(III), (6)(i)(II), (6)(k)(I),
4 (6)(k)(II)(B), (6)(k)(IV), (6)(k)(V), and (6)(p)(III), and (8)(b) as follows:

5 **44-3-901. Unlawful acts - exceptions - definitions.**

6 (1) Except as provided in section 18-13-122, it is unlawful for any person:

7 (g) To sell at retail any malt, vinous, or spirituous liquors in sealed containers without holding a
8 retail liquor store or liquor-licensed drugstore license, except as permitted by section 44-3-107
9 (2) or 44-3-301 (6)(b) or any other provision of this article 3, or to sell at retail any fermented malt
10 beverages in sealed containers without holding a fermented malt beverage retailer's license
11 under section 44-4-104 (1)(c) OR TO SELL AT RETAIL ANY FERMENTED MALT BEVERAGES AND
12 WINE IN SEALED CONTAINERS WITHOUT HOLDING A FERMENTED MALT BEVERAGE AND WINE
13 RETAILER'S LICENSE UNDER SECTION 44-4-107 (1)(a).

14 (i)(III)(A) Notwithstanding subsection (1)(i)(I) of this section, it shall not be unlawful for adult
15 patrons of a retail liquor store or liquor-licensed drugstore licensee to consume malt, vinous, or
16 spirituous liquors on the licensed premises when the consumption is conducted within the
17 limitations of the licensee's license and is part of a tasting if authorization for the tasting has
18 been granted pursuant to section 44-3-301.

19 (i)(III)(B) NOTWITHSTANDING SUBSECTION (1)(i)(I) OF THIS SECTION, IT SHALL NOT BE UNLAWFUL
20 FOR ADULT PATRONS OF A FERMENTED MALT BEVERAGE AND WINE RETAILER LICENSEE TO
21 CONSUME MALT OR VINOUS LIQUORS ON THE LICENSED PREMISES WHEN THE CONSUMPTION IS
22 CONDUCTED WITHIN THE LIMITATIONS OF THE LICENSEE'S LICENSE AND IS PART OF A TASTING IF
23 AUTHORIZATION FOR THE TASTING HAS BEEN GRANTED PURSUANT TO SECTION 44-3-301.

24 (6) It is unlawful for any person licensed to sell at retail pursuant to this article 3 or article 4 of
25 this title 44:

26 (i)(II) Notwithstanding subsection (6)(i)(I) of this section, it shall not be unlawful for a retail liquor
27 store, liquor-licensed drugstore, or FERMENTED MALT BEVERAGE AND WINE RETAILER licensee to
28 allow tastings to be conducted on his or her licensed premises if authorization for the tastings
29 has been granted pursuant to section 44-3-301.

30 (k)(I) Except as provided in subsections (6)(k)(II), (6)(k)(IV), and (6)(k)(V) of this section, to have
31 on the licensed premises, if licensed as a retail liquor store, liquor licensed drugstore, fermented
32 malt beverage retailer, OR FERMENTED MALT BEVERAGE AND WINE RETAILER, any container that
33 shows evidence of having once been opened or that contains a volume of liquor less than that
34 specified on the label of the container;

35 (II)(B) A person holding a fermented malt beverage AND WINE retailer's license under section
36 444-107 (1)(a) may have upon the licensed premises fermented malt beverages AND WINE in
37 open containers when the open containers were brought onto the licensed premises by and
38 remain solely in the possession of the sales personnel of a person licensed to sell at wholesale

1 pursuant to article 4 of this title 44 for the purpose of sampling fermented malt beverages AND
2 WINE by the fermented malt beverage AND WINE retailer licensee only.

3 (IV) It is not unlawful for a retail liquor store, liquor-licensed drugstore, OR FERMENTED MALT
4 BEVERAGE AND WINE RETAILER licensee to allow tastings to be conducted on the licensed
5 premises if authorized for the tastings has been granted pursuant to section 44-3-301.

6 (V) A person holding a retail liquor store or liquor-licensed drugstore license under this article 3
7 or a fermented malt beverage AND WINE retailer's license under section 44-4-107 (1)(a) may have
8 upon the licensed premises an open container of an alcohol beverage product that the licensee
9 discovers to be damaged or defective so long as the licensee marks the product as damaged or
10 for return and stores the open container outside the sales area of the licensed premises until the
11 licensee is able to return the product to the wholesaler from whom the product was purchased.

12 (p)(III) If licensed as a retail liquor store under section 44-3-409, a liquor-licensed drugstore
13 under section 44-3-410, or a fermented malt beverage AND WINE retailer under section 44-4-107
14 (1)(a), to permit an employee OR ANY OTHER PERSON who is under twenty-one years of age to
15 deliver malt, vinous, or spirituous liquors or fermented malt beverages offered for sale on, or
16 sold and removed from, the licensed premises of the retail liquor store, liquor-licensed
17 drugstore, or fermented malt beverage AND WINE retailer.

18 (8)(b) Notwithstanding subsection (8)(a) of this section, it shall not be unlawful for a retail liquor
19 store, liquor-licensed drugstore, or FERMENTED MALT BEVERAGE AND WINE RETAILER licensee to
20 allow tasting to be conducted on his or her licensed premises if authorization for the tastings has
21 been granted pursuant to section 44-3-301.

22 **SECTION 6.** In Colorado Revised Statutes, **amend** 44-4-101 as follows:

23 **44-4-101. Short title.**

24 The short title of this article 4 is the "Colorado Beer AND WINE Code".

25 **SECTION 7.** In Colorado Revised Statutes, **amend** 44-4-102 as follows:

26 **44-4-102. Legislative declaration.**

27 (1) The general assembly hereby declares that it is in the public interest that fermented malt
28 beverages AND WINE FOR CONSUMPTION OFF THE PREMISES OF THE LICENSEE, FERMENTED MALT
29 BEVERAGES FOR CONSUMPTION ON THE PREMISES OF THE LICENSEE, AND FERMENTED MALT
30 BEVERAGES FOR CONSUMPTION BOTH ON AND OFF THE PREMISES OF THE LICENSEE shall be sold at
31 retail only by persons licensed as provided in this ~~article 4~~ TITLE 44. The general assembly
32 further declares that it is lawful to sell fermented malt beverages AND WINE at retail subject to
33 this article 4 and applicable provisions of articles 3 and 5 of this title 44.

34 (2) The general assembly further recognizes that fermented malt beverages and malt liquors are
35 separate and distinct from, and have a unique regulatory history in relation to, vinous and
36 spirituous liquors; however, maintaining a separate regulatory framework and licensing structure
37 for fermented malt beverages AND FERMENTED MALT BEVERAGES AND WINE under this article 4 is
38 no longer necessary except at the retail level. Furthermore, to aid administrative efficiency,

1 article 3 of this title 44 applies to the regulation of fermented malt beverages AND FERMENTED
2 MALT BEVERAGES AND WINE, except when otherwise expressly provided for in this article 4.

3 **SECTION 8.** In Colorado Revised Statutes, 44-4-103, **amend** (2) and (3); and **add** (7) as
4 follows:

5 **44-4-103. Definitions.**

6 Definitions applicable to this article 4 also appear in article 3 of this title 44. As used in this
7 article 4, unless the context otherwise requires:

8 (2) "License" means a grant to a licensee to sell fermented malt beverages OR FERMENTED MALT
9 BEVERAGES AND WINE at retail as provided by this article 4.

10 (3) "Licensed premises" means the premises specified in an application for a license under this
11 article 4 that are owned or in possession of the licensee and within which the licensee is
12 authorized to sell, dispense, or serve fermented malt beverages OR FERMENTED MALT
13 BEVERAGES AND WINE in accordance with the provisions of this article 4.

14 (7) "WINE" MEANS VINOUS LIQUORS, AS DEFINED IN SECTION 44-3-103(59), WHEN PURCHASED BY A
15 FERMENTED MALT BEVERAGE AND WINE RETAILER FROM A WHOLESALER LICENSED PURSUANT TO
16 ARTICLE 3 OF THIS TITLE 44.

17 **SECTION 9.** In Colorado Revised Statutes, 44-4-104, **repeal and reenact, with amendments,**
18 (1) as follows:

19 **44-4-104. Licenses - state license fees – requirements – definition.**

20 (1) THE LICENSES TO BE GRANTED AND ISSUED BY THE STATE LICENSING AUTHORITY PURSUANT TO
21 THIS ARTICLE 4 FOR THE RETAIL SALE OF FERMENTED MALT BEVERAGES OR FERMENTED MALT
22 BEVERAGES AND WINE ARE AS FOLLOWS:

23 (a) AND (b) REPEALED.

24 (c)(I)(A) A RETAILER'S LICENSE SHALL BE GRANTED AND ISSUED TO ANY PERSON, PARTNERSHIP,
25 ASSOCIATION, ORGANIZATION, OR CORPORATION QUALIFYING UNDER SECTION 44-3-301 AND NOT
26 PROHIBITED FROM LICENSURE UNDER SECTION 44-3-307 TO SELL AT RETAIL FERMENTED MALT
27 BEVERAGES AND WINE EITHER FOR CONSUMPTION OFF THE LICENSED PREMISES, OR FERMENTED
28 MALT BEVERAGES FOR CONSUMPTION ON THE LICENSED PREMISES OR, SUBJECT TO SUBSECTION
29 (1)(C)(III) OF THIS SECTION, FERMENTED MALT BEVERAGES FOR CONSUMPTION ON AND OFF THE
30 LICENSED PREMISES, UPON PAYING AN ANNUAL LICENSE FEE OF SEVENTY-FIVE DOLLARS TO THE
31 STATE LICENSING AUTHORITY.

32 (B) A PERSON LICENSED PURSUANT TO THIS SUBSECTION (1)(C) TO SELL FERMENTED MALT
33 BEVERAGES OR FERMENTED MALT BEVERAGES AND WINE AT RETAIL SHALL PURCHASE THE
34 FERMENTED MALT BEVERAGES OR FERMENTED MALT BEVERAGES AND WINE ONLY FROM A
35 WHOLESALER LICENSED PURSUANT TO ARTICLE 3 OF THIS TITLE 44.

36 (II) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(C)(III) OF THIS SECTION:

1 (A) THE STATE LICENSING AUTHORITY SHALL NOT ISSUE A NEW OR RENEW A FERMENTED MALT
2 BEVERAGE RETAILER'S LICENSE FOR THE SALE OF FERMENTED MALT BEVERAGES FOR
3 CONSUMPTION ON AND OFF THE LICENSED PREMISES; AND

4 (B) ANY LICENSEE HOLDING A FERMENTED MALT BEVERAGE LICENSE AUTHORIZING THE SALE OF
5 FERMENTED MALT BEVERAGES FOR CONSUMPTION ON AND OFF THE LICENSED PREMISES THAT
6 WAS ISSUED BY THE STATE LICENSING AUTHORITY UNDER THIS SUBSECTION (1)(c) BEFORE
7 JUNE 4, 2018, THAT APPLIES TO RENEW THE LICENSE ON OR AFTER JUNE 4, 2018, AND WHOSE
8 LICENSED PREMISES IS LOCATED IN A COUNTY WITH A POPULATION OF THIRTY-FIVE THOUSAND
9 OR MORE AND NOT IN AN UNDERSERVED AREA MUST SIMULTANEOUSLY APPLY TO CONVERT THE
10 LICENSE EITHER TO A LICENSE FOR THE SALE OF FERMENTED MALT BEVERAGES AT RETAIL FOR
11 CONSUMPTION OFF THE LICENSED PREMISES OR TO A LICENSE FOR THE SALE OF FERMENTED
12 MALT BEVERAGES AT RETAIL FOR CONSUMPTION ON THE LICENSED PREMISES.

13 (III) (A) THE STATE LICENSING AUTHORITY MAY ISSUE A NEW OR RENEW A FERMENTED MALT
14 BEVERAGE RETAILER'S LICENSE FOR THE SALE OF FERMENTED MALT BEVERAGES FOR
15 CONSUMPTION ON AND OFF THE LICENSED PREMISES IF THE LICENSED PREMISES IS LOCATED IN
16 A COUNTY WITH A POPULATION OF LESS THAN THIRTY-FIVE THOUSAND OR IN AN UNDERSERVED
17 AREA.

18 (B) REPEALED.

19 (IV) AS USED IN THIS SUBSECTION (1)(c), "UNDERSERVED AREA" MEANS AN AREA THAT IS
20 WITHIN A COUNTY WITH A POPULATION OF THIRTY-FIVE THOUSAND OR MORE BUT LIES OUTSIDE
21 OF MUNICIPAL BOUNDARIES OR IS A CITY OR TOWN WITH A POPULATION OF LESS THAN SEVEN
22 THOUSAND FIVE HUNDRED.

23 (V) FOR PURPOSES OF THIS SUBSECTION (1)(c), POPULATION IS DETERMINED ACCORDING TO
24 THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES CENSUS
25 BUREAU.

26 (d) REPEALED.

27 (I) NOTWITHSTANDING ANY LAW TO THE CONTRARY, BEGINNING ON JANUARY 31, 2019, THE
28 STATE LICENSING AUTHORITY SHALL NOT ISSUE OR RENEW ANY LICENSES UNDER THIS SECTION
29 EXCEPT FOR LICENSES AUTHORIZED UNDER SUBSECTION (1)(c) OF THIS SECTION.

30 (II) LICENSES ISSUED BY THE STATE LICENSING AUTHORITY UNDER SUBSECTION (1)(a), (1)(b),
31 OR (1)(d) OF THIS SECTION IN EFFECT ON JANUARY 31, 2019, IMMEDIATELY CONVERT, ON
32 JANUARY 31, 2019, WITHOUT ANY FURTHER ACT BY THE STATE LICENSING AUTHORITY OR THE
33 LICENSEE, AS FOLLOWS:

34 (A) A MANUFACTURER'S LICENSE THAT WAS ISSUED UNDER SUBSECTION (1)(a) OF THIS
35 SECTION, AS IT EXISTED BEFORE JANUARY 31, 2019, CONVERTS TO A MANUFACTURER'S
36 LICENSE ISSUED PURSUANT TO SECTION 44-3-402 FOR THE MANUFACTURE OF MALT LIQUORS;

37 (B) A WHOLESALER'S LICENSE THAT WAS ISSUED UNDER SUBSECTION (1)(b) OF THIS SECTION,
38 AS IT EXISTED BEFORE JANUARY 31, 2019, CONVERTS TO A WHOLESALER'S BEER LICENSE
39 ISSUED PURSUANT TO SECTION 44-3-407 (1)(b);

1 (C) A NONRESIDENT MANUFACTURER'S LICENSE THAT WAS ISSUED UNDER SUBSECTION
2 (1)(d)(I) OF THIS SECTION, AS IT EXISTED BEFORE JANUARY 31, 2019, CONVERTS TO A
3 NONRESIDENT MANUFACTURER'S LICENSE ISSUED PURSUANT TO SECTION 44-3-406 (1); AND

4 (D) AN IMPORTER'S LICENSE THAT WAS ISSUED UNDER SUBSECTION (1)(d)(II) OF THIS SECTION,
5 AS IT EXISTED BEFORE JANUARY 31, 2019, CONVERTS TO A MALT LIQUOR IMPORTER'S LICENSE
6 ISSUED PURSUANT TO SECTION 44-3-406 (2).

7 (III) THE CONVERSION OF A LICENSE ISSUED UNDER SUBSECTION (1)(a), (1)(b), OR (1)(d) OF
8 THIS SECTION TO A LICENSE ISSUED UNDER ARTICLE 3 OF THIS TITLE 44 PURSUANT TO
9 SUBSECTION (1)(e)(II) OF THIS SECTION IS A CONTINUATION OF THE PRIOR LICENSE ISSUED
10 PURSUANT TO THIS ARTICLE 4 AND DOES NOT AFFECT:

11 (A) ANY PRIOR DISCIPLINE, LIMITATION, OR CONDITION IMPOSED BY THE STATE LICENSING
12 AUTHORITY ON A LICENSEE;

13 (B) THE DEADLINE FOR RENEWAL OF A LICENSE; OR

14 (C) ANY PENDING OR FUTURE INVESTIGATION OR ADMINISTRATIVE PROCEEDING.

15 **SECTION 10.** In Colorado Revised Statutes, 44-4-105, **amend** (1)(a)(I)(A) as follows:

16 **44-4-105. Fees and taxes - allocation.**

17 (1)(a)(I)(A) Applications for new fermented malt beverage AND NEW FERMENTED MALT BEVERAGE
18 AND WINE RETAILER licenses pursuant to section 44-3-301 and rules thereunder;

19 **SECTION 11.** In Colorado Revised Statutes, 44-4-106, **amend** (1) introductory portion, (1)(a),
20 and (1)(b) as follows:

21 **44-4-106. Lawful acts.**

22 (1) It is lawful for a person under eighteen years of age who is under the supervision of a person
23 on the premises eighteen years of age or older to be employed in a place of business where
24 fermented malt beverages OR WINE are sold at retail in containers for off-premises consumption.
25 During the normal course of such employment, any person under twenty-one years of age may
26 handle and otherwise act with respect to fermented malt beverages OR WINE in the same
27 manner as that person does with other items sold at retail; except that:

28 (a) A person under eighteen years of age shall not sell or dispense fermented malt beverages
29 OR WINE, check age identification, or make deliveries beyond the customary parking area for the
30 customers of the retail outlet; and

31 (b) A person who is under twenty-one years of age shall not deliver fermented malt beverages
32 OR WINE in sealed containers to customers ~~under section 44-4-107 (6).~~

33 **SECTION 12.** In Colorado Revised Statutes, 44-4-107, **amend** (1) introductory portion, (1)(a),
34 (1)(b), (1)(c)(I), (4), (5), and (6); and **add** (1)(a)(II), and (7) as follows:

1 **44-4-107. Local licensing authority - application - fees - definition - rules.**

2 (1) The local licensing authority shall issue only the following classes of ~~fermented malt~~
3 ~~beverage~~ licenses:

4 (a)(I) Sales OF FERMENTED MALT BEVERAGES AND WINE for consumption off the premises of the
5 licensee;

6 (II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A LICENSE ISSUED BY THE LOCAL AND
7 STATE LICENSING AUTHORITIES UNDER THIS SUBSECTION (1)(a) OF THIS SECTION IN EFFECT ON
8 MARCH 1, 2023, SHALL IMMEDIATELY CONVERT FROM A LICENSE TO SELL FERMENTED MALT
9 BEVERAGE FOR CONSUMPTION OFF THE PREMISES TO A FERMENTED MALT BEVERAGES AND
10 WINE RETAILER LICENSE, ON MARCH 1, 2023, WITHOUT ANY FURTHER ACTION BY THE STATE OR
11 LOCAL LICENSING AUTHORITY OR THE LICENSEE.

12 (b) Sales OF FERMENTED MALT BEVERAGES for consumption on the premises of the licensee;

13 (c)(I) Subject to subsections (1)(c)(II) and (1)(c)(III) of this section, sales OF FERMENTED
14 MALT BEVERAGES for consumption both on and off the premises of the licensee.

15 (4) On or after ~~January 1, 2019~~ MARCH 1, 2023, a fermented malt beverage AND WINE retailer
16 licensed under subsection (1)(a) of this section:

17 (a)(I) Shall not sell fermented malt beverages OR WINE to consumers at a price that is below the
18 retailer's cost, as listed on the invoice, to purchase the fermented malt beverages OR WINE,
19 unless the sale is of discontinued or close-out fermented malt beverages OR WINE.

20 (II) This subsection (4)(a) does not prohibit a fermented malt beverage AND WINE retailer from
21 operating a bona fide loyalty or rewards program for fermented malt beverages OR WINE so long
22 as the price for the product is not below the retailer's costs as listed on the invoice. The state
23 licensing authority may adopt rules to implement this subsection (4)(a).

24 (b) Shall not allow consumers to purchase fermented malt beverages OR WINE at a self-
25 checkout or other mechanism that allows the consumer to complete the fermented malt
26 beverages OR WINE purchase without assistance from and completion of the entire transaction
27 by an employee of the fermented malt beverage AND WINE retailer.

28 (5) A person licensed under subsection (1)(a) of this section that holds multiple fermented malt
29 beverage AND WINE retailer's licenses for multiple licensed premises may operate under a single
30 or consolidated corporate entity but shall not commingle purchases of or credit extensions for
31 purchases of alcohol beverage product from a wholesaler licensed under article 3 of this title 44
32 for more than one licensed premises. A wholesaler licensed under article 3 of this title 44 shall
33 not base the price for the alcohol beverage product it sells to a fermented malt beverage AND
34 WINE retailer licensed under subsection (1)(a) of this section on the total volume of alcohol
35 beverage product that the retailer purchases for multiple licensed premises.

36 (6)(a) A person licensed under subsection (1)(a) of this section who complies with this
37 subsection (6) and rules promulgated under this subsection (6) may deliver fermented malt
38 beverages AND WINE in sealed containers to a person of legal age if:

1 (I) The person receiving the delivery of fermented malt beverages OR WINE is located at a place
2 that is not licensed pursuant to this section;

3 (II) The delivery is made by an employee of the fermented malt beverage AND WINE retailer who
4 is at least twenty-one years of age and who is using a vehicle owned or leased by the licensee
5 to make the delivery;

6 (III) The person making the delivery verifies, in accordance with section 44-3-901 (11), that the
7 person receiving the delivery of fermented malt beverages OR WINE is at least twenty-one years
8 of age; and

9 (IV) The fermented malt beverage AND WINE retailer derives no more than fifty percent of its
10 gross annual revenues from total sales of fermented malt beverages from the sale of fermented
11 malt beverages AND WINE that the fermented malt beverage AND WINE retailer delivers.

12 (b) The state licensing authority shall promulgate rules as necessary for the proper delivery of
13 fermented malt beverages pursuant to this subsection (6) and may issue a permit to any person
14 who is licensed pursuant to and delivers fermented malt beverages OR WINE under subsection
15 (1)(a) of this section. A permit issued under this subsection (6) is subject to the same
16 suspension and revocation provisions as are set forth in section 44-3-601 for other licenses
17 granted pursuant to article 3 of this title 44.

18 (7) A FERMENTED MALT BEVERAGE AND WINE RETAILER MAY ALLOW TASTINGS OF FERMENTED MALT
19 BEVERAGES OR WINE TO BE CONDUCTED ON THE LICENSED PREMISES IF THE LICENSEE HAS RECEIVED
20 AUTHORIZATION TO CONDUCT TASTINGS PURSUANT TO SECTION 44-3-301.

21 **SECTION 13.** Effective date:

22 This act takes effect on March 1, 2023.