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ELECTIONS
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Capital letters indicate new material to be added to existing statute.
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A VOTER INITIATIVE FOR AN ACT ALLOWING THE REFORMATION OF ALCOHOL BEVERAGE SALES

Be it enacted by the people of the state of Colorado

SECTION ~~1~~1. Declaration.

This voter approved change seeks the reformation of alcohol beverage sales in Colorado. On or after January 1, 2011, the initiative amends Colorado Liquor and Fermented Beverages Codes to remove arcane and protectionist provisions and to increase choice, increase, competition, increase convenience, and lower prices for Colorado's consumers.

SECTION 2. 12-46-103 (1), Colorado Revised Statutes, is amended to read:

12-46-103. Definitions. Definitions applicable to this article also appear in article 47 of this title. As used in this article, unless the context otherwise requires:

(1) (a) "Fermented malt beverage" means BEER AND any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water containing not less than one-half of one percent alcohol by volume. ~~and not more than three and two-tenths percent alcohol by weight or four percent alcohol by volume; except that~~

(b) "Fermented malt beverage" shall not include confectionery containing alcohol within the limits prescribed by section 25-5-410(1)(i) (II), C.R.S.

SECTION ~~2~~3. 12-46-106, Colorado Revised Statutes, is amended to read:

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

(2) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE OR ARTICLE 47 OF THIS TITLE TO THE CONTRARY, AN EMPLOYEE WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND UNDER TWENTY-ONE YEARS OF AGE MAY SELL OR DISPENSE FERMENTED MALT BEVERAGES, CHECK AGE IDENTIFICATION, OR

MAKE DELIVERIES BEYOND THE CUSTOMARY PARKING AREA FOR THE CUSTOMERS OF THE LICENSED RETAILER EMPLOYING THE PERSON ONLY IF THE LICENSEE CAN DOCUMENT THAT THE EMPLOYEE:

(a) IS COMPLYING WITH THE SERVER AND SELLER TRAINING PROGRAM REQUIREMENTS ESTABLISHED BY THE DIRECTOR OF THE LIQUOR ENFORCEMENT DIVISION IN THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 12-47-1002; OR

(b) IS SUPERVISED BY ANOTHER PERSON WHO IS ON THE PREMISES AND WHO IS AT LEAST TWENTY-ONE YEARS OF AGE.

SECTION 3-4. 12-47-103 (19), Colorado Revised Statutes, is amended to read:

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

(19) "Malt liquors" includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof, in water containing ~~more than three and two-tenths percent of alcohol by weight or four~~ NOT LESS THAN ONE-HALF OF ONE percent alcohol by volume.

~~SECTION 4. Repeal. 12-47-901 (8), Colorado Revised Statutes, is repealed as follows:~~

~~12-47-901. Unlawful acts - exceptions. (8) It is unlawful for any manufacturer or wholesaler licensed pursuant to article 46 of this title to sell, deliver, or cause to be delivered to any retail licensee any beverage containing alcohol in excess of three and two-tenths percent by weight or four percent by volume, or for any fermented malt beverage retailer to sell, possess, or permit the consumption on the premises of any of the beverages containing alcohol in excess of three and two-tenths percent by weight or four percent by volume, or for any fermented malt beverage retail licensee to hold or operate under any license for the sale of any beverages containing alcohol in excess of three and two-tenths percent by weight or four percent by volume for the same premises. Any violation by any fermented malt beverage licensee of the provisions of this subsection (8) shall immediately cause the cancellation of the license granted under this article.~~

SECTION 5. 12-47-407, 407 (4), Colorado Revised Statutes, ~~IS AMENDED TO READ~~ is amended to read:

~~12-47-407~~ 407. **Retail liquor store license.**

~~(1) A retail liquor store license shall be issued to persons selling only malt, vinous, and spirituous liquors in sealed containers not to be consumed at the place where sold. Malt, vinous, and spirituous liquors in sealed containers shall not be sold at retail other than in~~

~~retail liquor stores except as provided in section 12-47-408. In addition, retail liquor stores may sell nonfood items related to the consumption of such liquors, liquor filled candy, and food items approved by the state licensing authority that are prepackaged, labeled, directly related to the consumption of such liquors, and sold solely for the purpose of cocktail garnish in containers up to sixteen ounces. Nothing in this section shall be construed to authorize the sale of food items that could constitute a snack, a meal, or portion of a meal. Nothing in this section or in section 12-47-103 (30) shall be construed to prohibit the sale of items by a retail liquor store on behalf of or to benefit a charitable organization, as defined in section 39-26-102, C.R.S., or a nonprofit corporation subject to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., 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 any such sale. Nothing in this section shall prohibit a retail liquor store licensee, at the option of the licensee, from displaying promotional material furnished by a manufacturer or wholesaler, which material permits a customer to purchase other items from a third person if the retail liquor store licensee does not receive payment from the third person and if the ordering of the additional merchandise is done by the customer directly from the third person. Nothing in this subsection (1) shall prohibit a retail liquor store licensee from allowing tastings to be conducted on his or her licensed premises if an authorization for the tastings has been granted pursuant to section 12-47-301.~~

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

~~(3) A person licensed to sell at retail who complies with this subsection (3) and rules promulgated pursuant thereto may deliver malt, vinous, and spirituous liquors to a person of legal age if such person is at a place that is not licensed pursuant to this section. The state licensing authority shall promulgate rules as are necessary for the proper delivery of malt, vinous, and spirituous liquors and shall have the authority to issue a permit to any person who is licensed to sell at retail and delivers such liquors pursuant to this subsection (3). Such permits shall be subject to the same suspension and revocation provisions as are set forth in section 12-47-601 for other licenses granted pursuant to this article.~~

~~(4) It is unlawful LAWFUL for any owner, part owner, shareholder, or person interested directly or indirectly in a retail liquor store to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article; ~~except that such a person may have an interest in an arts license or an airline public transportation system license granted under this article, or in a financial institution referred to in section 12-47-308 (4).~~~~

~~(5) A licensee under the provisions of section 12-47-408 with a valid license in effect on July 1, 2000, may apply to a local licensing authority to convert or transfer such license to a retail liquor store license issued under the provisions of this section and may continue to operate as a retail liquor store licensee notwithstanding the limitations with respect to location within five hundred feet from any public or parochial school or the principal campus~~

of any college, university, or seminary pursuant to the provisions of section 12-47-313 (1) (d) (I). The local licensing authority may, but shall not be required to, consider the reasonable requirements of the neighborhood pursuant to section 12-47-312 in making a determination on the conversion or transfer to a retail liquor store license.

SECTION 6. 12-47-408 COLORADO REVISED STATUTES, IS AMENDED TO READ(4). Colorado Revised Statutes, is amended to read:

12-47-408, Liquor Licensed Drugstore License. 408. Liquor-licensed drugstore license.

~~(1) A liquor licensed drugstore license shall be issued to persons selling malt, vinous, and spirituous liquors in sealed containers not to be consumed at the place where sold. Nothing in this subsection (1) shall prohibit a liquor licensed drugstore licensee from allowing tastings to be conducted on his or her licensed premises if an authorization for the tastings has been granted pursuant to section 12-47-301.~~

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

~~(3) A liquor licensed drugstore licensee who complies with this subsection (3) and rules promulgated pursuant thereto may deliver malt, vinous, and spirituous liquors to a person of legal age if such person is at a place that is not licensed pursuant to this section. The state licensing authority shall promulgate rules as are necessary for the proper delivery of malt, vinous, and spirituous liquors and shall have the authority to issue a permit to any liquor-licensed drugstore licensee that will allow such licensee to deliver such liquors pursuant to such rules and this subsection (3). Such permits shall be subject to the same suspension and revocation provisions as are set forth in sections 12-47-306 and 12-47-601 for other licenses granted pursuant to this article.~~

(4) It is ~~unlawful~~ LAWFUL for any owner, part owner, shareholder, or person interested directly or indirectly in a liquor-licensed drugstore to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article; ~~except that such a person may have an interest in an arts license or an airline public transportation system license granted under this article, or in a financial institution referred to in section 12-47-308 (4).~~

~~(5) (4) A licensee under the provisions of this section with a valid license in effect on July 1, 2000, may apply to a local licensing authority to convert or transfer such license to a retail liquor store license issued under the provisions of section 12-47-407 and may continue to operate as a retail liquor store licensee notwithstanding the limitations with respect to location within five hundred feet from any public or parochial school or the principal campus of any college, university, or seminary pursuant to the provisions of section 12-47-313 (1) (d) (I). The local licensing authority may, but shall not be required to, consider the reasonable~~

requirements of the neighborhood pursuant to section 12-47-312 in making a determination on the conversion or transfer to a retail liquor store license.

SECTION 7. Repeal. 12-47-901 (8), Colorado Revised Statutes, is repealed as follows:

12-47-901. Unlawful acts -exceptions. (8) It is unlawful for any manufacturer or wholesaler licensed pursuant to article 46 of this title to sell, deliver, or cause to be delivered to any retail licensee any beverage containing alcohol in excess of three and two tenths percent by weight or four percent by volume, or for any fermented malt beverage retailer to sell, possess, or permit the consumption on the premises of any of the beverages containing alcohol in excess of three and two tenths percent by weight or four percent by volume, or for any fermented malt beverage retail licensee to hold or operate under any license for the sale of any beverages containing alcohol in excess of three and two tenths percent by weight or four percent by volume for the same premises. Any violation by any fermented malt beverage licensee of the provisions of this subsection (8) shall immediately cause the cancellation of the license granted under this article.

SECTION 8. Effective date—applicability. (1) This act shall take effect January 1, 2011.

Proponents: J. Blake Harrison
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