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Proposed Initiative 2015-16 #103 (final)

Colorado Secretary of State

Change to Colorado Revised Statutes Permitting Sale of Beer and Wine by Food Stores

Designated Representatives

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Text of Measure:

Be it Enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 12-47-425 as follows:

12-47-425. Food store license. (1) NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY IN THIS ARTICLE, A FOOD STORE LICENSE MAY BE ISSUED TO FOOD STORES SELLING ONLY MALT AND VINOUS LIQUORS IN SEALED CONTAINERS NOT TO BE CONSUMED AT THE PLACE WHERE THE MALT AND VINOUS LIQUORS ARE SOLD.

(2) EVERY FOOD STORE LICENSED UNDER THIS SECTION TO SELL MALT AND VINOUS LIQUORS SHALL PURCHASE SUCH MALT AND VINOUS LIQUORS ONLY FROM A WHOLESALER LICENSED PURSUANT TO THIS ARTICLE.

(3) NOTWITHSTANDING ANY PROVISIONS OF THIS ARTICLE TO THE CONTRARY, NO OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN ONE OR MORE RETAIL BUSINESSES LICENSED PURSUANT TO THIS ARTICLE SHALL BE PROHIBITED FROM CONDUCTING, OWNING EITHER IN WHOLE OR IN PART, OR BEING DIRECTLY OR INDIRECTLY INTERESTED IN ONE OR MORE RETAIL BUSINESSES LICENSED PURSUANT TO THIS SECTION.

(4) A LICENSEE UNDER SECTION 12-46-104(1)(c) WITH A VALID FERMENTED MALT BEVERAGE LICENSE IN EFFECT ON JULY 1, 2017, MAY APPLY TO A LOCAL LICENSING AUTHORITY FOR A FOOD STORE LICENSE ISSUED UNDER THE PROVISIONS OF THIS SECTION IF IT OTHERWISE COMPLIES WITH THE REQUIREMENTS OF THIS SECTION. IN MAKING A DETERMINATION ON THE APPLICATION UNDER THIS SUBSECTION (4) FOR A FOOD STORE LICENSE, THE LOCAL LICENSING AUTHORITY MAY CONSIDER AS PROVEN THE SATISFACTORY NATURE OF THE CHARACTER, RECORD, OR REPUTATION OF THE APPLICANT IF, AT THE TIME OF THE FILING OF THE APPLICATION, THE APPLICANT MAINTAINS A VALID UNEXPIRED FERMENTED MALT BEVERAGE RETAILER LICENSE, AND NO ADMINISTRATIVE OR CRIMINAL PROSECUTION IS PENDING AGAINST THE APPLICANT. IN CONSIDERING ANY APPLICATION UNDER THIS SUBSECTION (4), THE LOCAL LICENSING AUTHORITY MAY CONSIDER THE REASONABLE REQUIREMENTS OF THE NEIGHBORHOOD AND THE DESIRES OF ITS ADULT INHABITANTS PURSUANT TO SECTION 12-47-312 IN MAKING A DETERMINATION ON THE ISSUANCE OF A FOOD STORE LICENSE.

(5) THE STATE LICENSING AUTHORITY SHALL MAKE GENERAL RULES AND REGULATIONS AND SPECIAL RULINGS AND FINDINGS AS NECESSARY FOR THE PROPER REGULATION AND IMPLEMENTATION OF THE PROVISIONS OF THIS SECTION.

SECTION 2. In Colorado Revised Statutes, 12-47-103, **add (8.5)** as follows:

(8.5) "FOOD STORE" MEANS AN ESTABLISHMENT, OTHER THAN A RESTAURANT AS DEFINED IN SUBSECTION (30) OF THIS SECTION, THAT OFFERS FOR SALE FOOD ITEMS AT A RETAIL PREMISES HAVING NO LESS THAN 3000 SQUARE FEET OF INDOOR SALES AREA, PROVIDED THAT A MINIMUM OF 20% OF THE GROSS ANNUAL INCOME FROM ITS TOTAL SALES, INCLUDING FUEL PRODUCTS AS DEFINED AT SECTION 8-20-201(2) AND LOTTERY TICKET SALES IN SUCH TOTAL, IS DERIVED FROM THE SALE OF FOOD ITEMS. "FOOD ITEMS", AS USED IN THIS SUBSECTION (8.5), MEANS ANY RAW, COOKED, OR PROCESSED EDIBLE SUBSTANCE, ICE AND BEVERAGE, OTHER THAN ANY BEVERAGE CONTAINING ALCOHOL, INTENDED FOR USE OR FOR SALE IN WHOLE OR IN PART FOR HUMAN CONSUMPTION.

SECTION 3. In Colorado Revised Statutes, 12-47-309, **add (1) (n)** as follows:

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

(n) FOOD STORE LICENSE.

SECTION 4. In Colorado Revised Statutes, 12-47-401, **add (1) (w)** as follows:

12-47-401. Classes of licenses. (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:

(w) FOOD STORE LICENSE.

SECTION 5. In Colorado Revised Statutes, 12-47-501, **add (1) (f.5)** as follows:

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

(f.5) FOR EACH FOOD STORE LICENSE, ONE HUNDRED DOLLARS.

SECTION 6. In Colorado Revised Statutes, 12-47-505, **add (1) (b.5)** as follows:

12-47-505. Local license fees. The following license fees shall be paid to the treasurer of the municipality, city and county, or county where the licensed premises is located annually in advance:

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(b.5)(I) FOR EACH FOOD STORE LICENSE FOR PREMISES LOCATED WITHIN ANY MUNICIPALITY OR CITY AND COUNTY, ONE HUNDRED FIFTY DOLLARS;

(II) FOR EACH FOOD STORE LICENSE FOR PREMISES LOCATED OUTSIDE THE MUNICIPAL LIMITS OF ANY MUNICIPALITY OR CITY AND COUNTY, TWO HUNDRED FIFTY DOLLARS.

SECTION 7. In Colorado Revised Statutes, 12-47-901, **amend** (1) (f) and (5) (a) (I) as follows:

12-47-901. Unlawful acts – exceptions. (1) Except as provided in section 18-13-122, C.R.S., it is unlawful for any person:

(f) To sell at retail any malt, vinous, or spirituous liquors in sealed containers without holding a retail liquor store or liquor-licensed drugstore license, OR TO SELL MALT AND VINOUS LIQUORS IN SEALED CONTAINERS WITHOUT HOLDING A FOOD STORE LICENSE, except as permitted by section 12-47-301(6)(b) or any other provision of this article;

(5) It is unlawful for any person licensed to sell at retail pursuant to this article:

(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, or to permit any alcohol beverage to be sold or dispensed by a person under eighteen years of age, or to permit any such person to participate in the sale or dispensing thereof. 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 or article 46 of this title. Notwithstanding any provision in this subparagraph (I) to the contrary, no person under twenty-one years of age shall be employed to sell or dispense malt, vinous, or spirituous liquors unless he or she is supervised by another person who is on premise and has attained twenty-one years of age. No employee of a tavern licensed pursuant to section 12-47-412, that does not regularly serve meals as defined in section 12-47-103(20), or a retail liquor store shall sell malt, vinous, or spirituous liquors unless such person is at least twenty-one years of age. AN EMPLOYEE OF A FOOD STORE LICENSED PURSUANT TO SECTION 12-47-425 SHALL NOT SELL MALT OR VINOUS LIQUORS UNLESS THE EMPLOYEE IS AT LEAST TWENTY-ONE YEARS OF AGE.

SECTION 8. In Colorado Revised Statutes, 12-46-107, **amend** (1) (a) and (1) (c) as follows:

12-46-107. Local licensing authority – application – fees. (1) The local licensing authority shall issue only the following classes of fermented malt beverage licenses:

(a)(I) Sales for consumption off the premises of the licensee;

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JANUARY 1, 2019.

(c)(I) Sales for consumption both on and off the premises of the licensee. A person licensed pursuant to this paragraph (c) may deliver at retail fermented malt beverages in factory-sealed containers in conjunction with the delivery of food products if such person has obtained a permit for the delivery of fermented malt beverages from the state licensing authority. The state

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licensing authority shall promulgate rules as are necessary for the proper delivery of fermented malt beverages pursuant to this paragraph (c) and shall have the authority to issue a permit to any person who is licensed pursuant to and delivers fermented malt beverages under this paragraph (c).

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JANUARY 1, 2019.

SECTION 9. Effective date. This act takes effect July 1, 2017.