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Proposed Initiative #51 (amended)

Colorado Secretary of State

2015-16 Proposed Initiative \_\_\_\_\_

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

*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 ~~SHALL~~ 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) FOR THE PURPOSES OF THIS SECTION, A FOOD STORE SHALL MEAN AN ESTABLISHMENT, OTHER THAN A RESTAURANT AS DEFINED AT SECTION 12-47-103(30), THAT OFFERS FOR SALE FOOD ITEMS AT A RETAIL PREMISES, PROVIDED THAT A MINIMUM OF 25% OF THE GROSS ANNUAL INCOME FROM ITS TOTAL SALES, EXCLUDING PETROLEUM PRODUCTS AND LOTTERY TICKETS SALES FROM SUCH TOTAL, IS DERIVED FROM THE SALE OF FOOD ITEMS. FOR THE PURPOSES OF THIS SECTION, FOOD ITEMS 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.~~

~~(32)~~ EVERY FOOD STORE SELLING MALT AND VINOUS LIQUORS SHALL PURCHASE SUCH MALT AND VINOUS LIQUORS ONLY FROM A WHOLESALER LICENSED PURSUANT TO THIS ARTICLE.

~~(53)~~ 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 FROM BEING DIRECTLY OR INDIRECTLY INTERESTED IN ONE OR MORE RETAIL BUSINESSES LICENSED PURSUANT TO THIS SECTION.

~~(64)~~ A LICENSEE UNDER ~~THE PROVISIONS OF~~ SECTION 12-46-104(1)(c) WITH A VALID FERMENTED MALT BEVERAGE LICENSE IN EFFECT ON ~~THE EFFECTIVE DATE OF THIS SECTION~~ 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, AND, IF APPROVED FOR SUCH LICENSE, MAY CONTINUE TO OPERATE AS A FOOD STORE LICENSEE NOTWITHSTANDING THE LIMITATIONS WITH RESPECT TO LOCATION PURSUANT TO THE PROVISIONS OF SECTION 12-47-313(1)(d)(I). 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

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CRIMINAL PROSECUTION IS PENDING AGAINST THE APPLICANT. IN CONSIDERING ANY ~~SUCH APPLICATION UNDER THIS SUBSECTION (4)~~, THE LOCAL LICENSING AUTHORITY MAY ~~, BUT SHALL NOT BE REQUIRED TO,~~ 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.

~~(75) WITHIN NO LATER THAN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, THE STATE LIQUOR LICENSING AUTHORITY SHALL MAKE SUCH GENERAL RULES AND REGULATIONS AND SUCH SPECIAL RULINGS AND FINDINGS AS NECESSARY FOR THE PROPER REGULATION AND IMPLEMENTATION OF THE PROVISIONS OF THIS SECTION.~~

~~(8) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE THE SALE OR POSSESSION OF SPIRITUOUS LIQUOR BY A PERSON HOLDING A VALID FOOD STORE LICENSE.~~

**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 AT SECTION 12-47-103(30), THAT OFFERS FOR SALE FOOD ITEMS AT A RETAIL PREMISES, PROVIDED THAT A MINIMUM OF 25% OF THE GROSS ANNUAL INCOME FROM ITS TOTAL SALES, EXCLUDING FUEL PRODUCTS AS DEFINED AT SECTION 8-20-201(2) AND LOTTERY TICKET SALES FROM 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 43.** 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 54.** 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:

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

**SECTION 36.** In Colorado Revised Statutes, 12-47-505~~(1)~~, add (1), ~~(b.5)(I)~~ and ~~(b.5)(II)~~ 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:

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

~~(b.5)~~(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 4. In Colorado Revised Statutes, 12-47-309(1), add (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 5. In Colorado Revised Statutes, 12-47-401(1), add (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 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~~

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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 (1) 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 68. Effective date.** This act takes effect July 1, 2017.