

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

**TO:** Steven Ward and Levi Mendyk  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** April 6, 2022  
**SUBJECT:** Proposed initiative measure 2021-2022 #119, concerning Sales and Delivery of Alcohol Beverages

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado Constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of the Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

This initiative was submitted with a series of initiatives including proposed initiatives 2021-2022 #112 to #129. The comments and questions raised in this memoranda address the entire series of initiatives, to the extent applicable, and will not include comments and questions that are addressed in the memorandum for proposed initiatives 2021-2022 #112 to 118 and #120 to 125, except as necessary to fully understand the issues raised by proposed initiative #119. Comments and questions

addressed in the other memorandum may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

Earlier versions of these proposed initiatives, proposed initiatives 2021-2022 #66 and 2021-2022 #67, were the subject of memoranda dated February 28, 2022, which were discussed at a public meeting on March 3, 2022. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meetings, except as necessary to fully understand the issues raised by the revised proposed initiative. However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference in this memorandum.

## **Purposes**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. On and after March 1, 2023, to allow a person licensed under the "Colorado Beer Code," currently referred to as a "fermented malt beverage retailer," to sell wine, in addition to beer, for consumption off the licensed premises, subject to most requirements applicable to fermented malt beverage retailer licensees under current law, and to change the name of the license to "fermented malt beverage and wine retailer" license;
2. To repeal:
  - a. The prohibition against the state licensing authority issuing a new or renewal fermented malt beverage retailer's license for the sale of fermented malt beverages for consumption on and off the licensed premises;
  - b. The requirement that a fermented malt beverage retailer licensed before June 4, 2018, to sell fermented malt beverages for consumption on and off the licensed premises, that applies to renew the license on or after June 4, 2018, and whose premises are located in a county with a population of thirty-five thousand or more people or not in an underserved area, to simultaneously apply to convert the license to a fermented malt beverage retailer's license either to a license to sell for off-premises consumption or to a license to sell for off-premises consumption;

- c. The authority of the state licensing authority to issue a new or to 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 are located in a county with a population of fewer than thirty-five thousand people or in an underserved area; and
  - d. The automatic conversion of, and the prohibition against issuing, manufacturer's, wholesaler's, nonresident manufacturer's, and importer's licenses under the "Colorado Beer Code";
3. To provide for the automatic conversion, on March 1, 2023, of existing fermented malt beverage retailer licenses that authorize the sale of beer for off-premises consumption to the new fermented malt beverage and wine retailer licenses without further action by the state or any local licensing authority;
4. To allow a licensed fermented malt beverage and wine retailer to conduct tastings of beer and wine on the licensed premises if the local government in which the licensed premises is located has adopted an ordinance or resolution allowing tastings in licensed premises within the jurisdiction and the local licensing authority grants the retailer's application to conduct tastings on its licensed premises;
5. On and after March 1, 2023, to prohibit fermented malt beverage and wine retailers licensed to sell beer and wine for consumption off the licensed premises from:
  - a. Selling beer or wine to customers at a price that is below the licensee's cost to purchase the beer or wine;
  - b. Permitting customers to purchase beer or wine using a self-checkout mechanism without assistance from and completion of the transaction by an employee of the retailer; or
  - c. Commingling the retailers' alcohol beverage purchases among multiple locations if the licensee operates as a single or consolidated corporate entity that holds multiple beer and wine off-premises retailer licenses for multiple licensed premises;
6. To prohibit a fermented malt beverage and wine retailer licensed to sell beer and wine for off-premises consumption from moving its permanent location to a new location that is within specified distances of an existing licensed retail liquor store;

7. To preclude issuance of:
  - a. A new fermented malt beverage and wine retailer license authorizing the sale of beer and wine in sealed containers for off-premises consumption if the licensed premises is located within 500 feet of a licensed retail liquor store; and
  - b. A new retail liquor store license authorizing the sale of malt, vinous, or spirituous liquors in sealed containers for off-premises consumption if the licensed premises is located within 500 feet of a licensed fermented malt beverage and wine retailer;
8. To specify that any requirements pertaining to the location of a fermented malt beverage and wine retailer in proximity to a retail liquor store and vice versa do not apply to the conversion of fermented malt beverage retailer licenses to fermented malt beverage and wine retailer licenses on March 1, 2023;
9. To prohibit receipt or action upon an application submitted on or after March 1, 2023, for a new fermented malt beverage and wine retailer license authorizing the sale of beer and wine for off-premises consumption or to change the permanent location of the licensed premises if the building in which the beer and wine sales will occur is located within 500 feet of a public or parochial school or the principal campus of a college, university, or seminary, with limited exceptions;
10. To authorize the state licensing authority to establish application fees for a fermented malt beverage and wine retailer license;
11. To allow retailers licensed under the "Colorado Liquor Code" or the "Colorado Beer Code" for the sale of alcohol beverages for off-premises consumption and retailers licensed under the "Colorado Liquor Code" for the sale of alcohol beverages for on-premises consumption to deliver alcohol beverages to their customers, either through their own employees, through an independent contractor, or through a third-party home delivery service provider that holds a delivery service permit;
12. To specify that if a licensed retailer is using an independent contractor to deliver alcohol beverages to its customers, the retailer must obtain a delivery service permit, but if the retailer is using its own employees who are at least twenty-one years of age to make deliveries, the retailer need not obtain a delivery service permit;

13. To specify the requirements for obtaining a delivery service permit and the requirements for providing delivery services;
14. To authorize the state licensing authority to enforce the delivery service requirements against licensees and delivery service permittees, and employees and independent contractors of licensees and permittees;
15. To specify that a licensee must also be the delivery service permittee for the licensee's license to be subject to disciplinary action for a violation of alcohol law during delivery;
16. To set a minimum wage rate for:
  - a. Employees performing alcohol delivery services based on the minimum wage rate generally applicable for all employees; and
  - b. Independent contractors performing alcohol delivery services based on any generally applicable minimum wage rate for all independent contractors and not any other minimum wage rate; and
17. To repeal the requirements that, to deliver alcohol beverages to customers, licensed retail liquor stores, liquor-licensed drugstores, fermented malt beverage retailers licensed to sell beer for off-premises consumption, and certain businesses licensed to sell alcohol beverages for consumption on the licensed premises must:
  - a. Derive no more than 50% of annual gross sales revenues from sales of alcohol beverages for delivery; and
  - b. Use an employee of the licensee who is at least twenty-one years of age and who uses a vehicle owned or leased by the licensee to make the alcohol beverage delivery.

## **Substantive Comments and Questions**

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (5.5) of the Colorado Constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?

2. In section 5 of the measure, in the amendment to 44-3-901 (1)(i)(III), it appears that, in response to a comment in the memoranda regarding initiative 2021-2022 #67, proponents have added a new (1)(i)(III)(B) to separately address the ability of adult patrons to participate in tastings of beer and wine at a fermented malt beverage and wine retailer's licensed premises and to avoid confusion about whether a fermented malt beverage and wine retailer could allow tastings of spirituous liquors. However, since the reference to "fermented malt beverage and wine retailer" is still being added in subsection (1)(i)(III)(A), the confusion is not eliminated.
3. In section 9 of the measure, which repeals and reenacts subsections (1), (1)(c)(I)(A), and (1)(c)(I)(B) of section 44-4-104:
  - a. When a section of law is "repealed and reenacted," the entire provision that is referenced is actually removed from the law, and only what appears in the measure will actually be added to the law. Accordingly, by repealing and reenacting 44-4-104 (1), the measure will have the effect of repealing all subdivisions within subsection (1), including the introductory portion to (1), (1)(c)(I)(A), (1)(c)(I)(B), the introductory portion to (1)(c)(II), (1)(c)(II)(A), (1)(c)(II)(B), (1)(c)(III), (1)(c)(IV), (1)(c)(V), (1)(e), and the subparagraphs and sub-subparagraphs under (1)(e). Do the proponents intend to repeal all of subsection (1) and only restore, as amended, the introductory portion of subsection (1), (1)(c)(I)(A), and (1)(c)(I)(B)?
    - i. If so, the amending clause should read: "**repeal and reenact, with amendments,** (1) introductory portion, (1)(c)(I)(A), and (1)(c)(I)(B); or
    - ii. If that is not the intent, the proponents should consider changing the amending clause to simply "**amend**" (1) introductory portion, (1)(c)(I)(A), and (1)(c)(I)(B) instead of "**repeal and reenact, with amendments**" those provisions. Should the proponents choose to simply "**amend**" these provisions, they should include all of the language currently in law and show changes to those provisions in stricken type and small capital letters.
  - b. If, by repealing and reenacting section 44-4-104 (1), the intent is to repeal the license to sell fermented malt beverages for consumption on and off the premises, proponents should include conforming amendments in the measure to repeal references to that license in

current law and delete references to it that are added by the measure, e.g., in section 7, in the amendment to section 44-4-102 (1); in section 9, in the new language in section 44-4-104 (1)(c)(I)(A); and in section 12, in the amendment to section 44-4-107 (1)(c).

4. In section 12 of the measure, in the proposed amendments to section 44-4-107:
  - a. When a statute contains an introductory provision that is followed by a list, all the items in the list need to relate back to the introductory language. So, in the introductory portion to subsection (1), which states "The local licensing authority shall issue only the following classes of ~~fermented malt beverage~~ licenses:" each of the lettered paragraphs under that language needs to grammatically follow and complete the sentence. The new paragraph (a.5) does not relate back to the introductory language and does not complete the sentence. The new (a.5) seems instead to relate directly to paragraph (a) and the conversion of those licenses. A more appropriate and grammatically correct format would be to change (a.5) to a subparagraph attached to (a), so that (a) would become (a)(I), and (a.5) would become (II) under (a) and would not need to follow the introductory portion"

(1) The local licensing authority shall issue only the following ... ::  
(a) (I) Sales OF FERMENTED ...  
(II) LICENSES ISSUED BY ...

Alternatively, consider creating a separate, new subsection in section 44-4-107 that addresses the conversion of licenses issued under subsection (1)(a).

- b. In subsection (1)(a.5), it seems that some words are missing that could create confusion. Presumably, the intent of this provision is to state that licenses issued under subsection (1)(a) that are in effect on March 1, 2023, immediately convert from licenses to sell fermented malt beverages for consumption off the licensed premises to licenses to sell fermented malt beverages and wine for consumption off the licensed premises . The reference to what the license authorizes, as well as using the word "license" when detailing what is converting, will provide clarity as to the meaning and intent of this provision. It might also be clearer to use the singular form of the words, i.e., "a license issued ... that is in effect ... immediately converts from a ...."

- c. Subsection (6) appears to allow all licensees under the "Colorado Beer Code," rather than just persons licensed under subsection (1)(a) for the sale of fermented malt beverages and wine for off-premises consumption, to deliver pursuant to section 44-3-911.5. Is that the proponents' intent?
- 5. In section 13 of the measure, subsection (1) of the new section 44-3-911.5 appears to allow a delivery service permittee or employee or independent contractor of a permittee to deliver alcohol beverages for licensed retailers. The provision also appears to require a person licensed to sell at retail for on- or off-premises consumption to obtain a delivery service permit if the licensee uses an independent contractor to deliver alcohol beverages sold by the licensee to its customers, but if the licensee uses its own employees to deliver alcohol beverages to customers, the licensee need not obtain a delivery service permit.
  - a. It appears that amendments to section 44-4-107 (6) authorize a retailer licensed under the "Colorado Beer Code" to deliver beer and wine pursuant to this section, but the first sentence of subsection (1) states that "a delivery service permittee, or an employee or independent contractor of a delivery service permittee . . ." may deliver alcohol for licensed retailers. Does this mean that a licensed fermented malt beverage and wine retailer must also be a "delivery service permittee," even if the retailer uses its own employees to make deliveries? How does this provision work with section 44-4-107 (6) as amended in the measure? Most of the new section 44-3-911.5 seems to address delivery and requirements for a third-party home delivery service provider, and it is not clear how and whether references to a "permittee" include a licensee that is performing delivery with its own employees or independent contractors.
  - b. The sentence regarding the use of an independent contractor states that the licensee "shall be authorized to apply for and hold a delivery service permit . . . in order to use independent contractors for delivery." However, that language does not appear to require the licensee to obtain the permit in order to use an independent contractor; rather the language requires that the licensee be authorized to apply for and hold a permit in order to use an independent contractor. If the intent is to require the permit in order to use an independent contractor, would the proponents consider making that intent clearer?



- c. What is meant by the phrase "as a privilege separate from its existing license"? What are the intended legal effects of that phrase?
  - d. Regarding the language that purports to exempt retailers that use their employees for delivery from the permit requirement, the language in the measure states that a "retailer . . . shall not require a delivery service permit . . ." If the intent is to exempt retailers who use their employees from the permit requirement, would the proponents consider rephrasing the last two sentences in subsection (1) to make that intent clear. For example, "An off-premises retailer licensed pursuant to . . . is not required to obtain a delivery service permit if . . ."
6. In section 13 of the measure, in subsection (2) of the new section 44-3-911.5, to whom does an individual or entity apply for a delivery service permit? And are there any standards for obtaining a permit, other than the requirements listed in subsection (3)? Does section 44-3-307 apply to applicants for a delivery service permit?
7. In section 13 of the measure, in subsection (4) of the new section 44-3-911.5:
- a. Does the term "delivery service permittee" include a licensed retailer that obtains a delivery service permit? If so, is it the proponents' intent to allow, for example, a licensed retail liquor store that has a delivery service permit to deliver alcohol beverages, either through its employees or an independent contractor, *for another retail liquor store*, pursuant to subsection (4)(a), or *for a restaurant* pursuant to subsection (4)(b)? The measure appears to allow that practice if "delivery service permittee" includes a licensed retailer that obtains a delivery service permit. If that is not the proponents' intent, would the proponents consider modifying the measure to make the intent clear?
  - b. Because the word "provided" has more than one meaning and can mean opposite things, it is standard drafting practice to avoid the use of "provided," "provided that," and similar phrases. The more specific words "except that," when specifying an exception to the preceding language, or "if" or "so long as," when specifying a qualifier to the preceding language, is preferred. In section 44-3-911.5 (4)(c), consider changing "provided" to "if" if the proponents' intent is to specify a qualifier for employees who deliver alcohol beverages.
  - c. With regard to the requirement in subsection (4)(c) that delivery agents complete a certification program, does that program need to meet the

requirements of section 44-3-911(3)(d), Colorado Revised Statutes? How does the requirement in subsection (4)(c) relate to the language in subsection (4)(b), that a certification program under subsection (3)(b) of the section satisfies the requirements in section 44-3-911 (3)(d), Colorado Revised Statutes? Are these all the same certification program?

- d. The term "delivery agents" is used in subsection (4)(c) but is not otherwise used or defined in the measure. What is meant by this term? Would proponents consider defining it?
8. In section 13 of the measure, in subsection (9) of section 44-3-911.5:
- a. In the phrase, "The state licensing authority may enforce the requirements of this section against the ... licensee, ... permittee, and any employee or independent contract of such ...", the use of "of such" creates ambiguity, as it is unclear if "of such" refers back to the permittee, the licensee, or both. Would the proponents consider removing this ambiguity by specifying if the employee or independent contractor is of the licensee or of the permittee, or of either the licensee or permittee?
  - b. The last sentence states that a licensee is not subject to disciplinary action for violating alcohol law during delivery if the licensee is not also the delivery permittee. If a licensee uses an employee to make deliveries and does not, pursuant to subsection (1) of the new section 44-3-911.5, obtain a delivery service permit, and then commits a violation of alcohol law during the delivery, it appears that this language would shield the licensee from discipline for the violation. Is that the proponents' intent?
9. In section 13 of the measure, in subsection (10) of the new section 44-3-911.5:
- a. What is meant by the phrase "generally applicable minimum wage rate for all employees"? Is there a minimum wage rate that is applicable to all employees in the state? Are proponents referring to the state minimum wage rate that is established annually in accordance with section 15 of article XVIII of the Colorado Constitution? What if a local government has established a different minimum wage than the state minimum wage? Which rate applies in that situation? Would the employees performing delivery service be considered a "tipped employee"? The minimum wage rate applicable to an employee depends on factors such as whether the employee is a "tipped" employee. Would proponents consider clarifying this provision?

- b. What is the "generally applicable minimum wage rate for all independent contractors"? Who determines or defines that rate? What is the basis for determining the rate for independent contractors?

10. Section 17 of the measure proposes to repeal subsections (6)(a)(II) and (6)(a)(IV) in section 44-4-107. However, those subsections are repealed in section 12 of the measure so do not need to be repeated in section 17.

## Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising this proposed initiative, and the other initiatives submitted alongside this initiative, as suggested below.

1. **Amending clauses:** Each statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed:
  - a. If the proposed initiative modifies an existing statute, the amending clause needs to use one of these forms:
    - i. In Colorado Revised Statutes, **amend/add/repeal** 44-3-911.5 as follows: *(to amend an entire section) Please make this technical correction to the amending clause of section 13.*
    - ii. In Colorado Revised Statutes, 1-40-105, **amend** (1) and (2); and **repeal** (3) as follows: *(to amend and add an entire subsection) Please make this technical correction and add semicolons to separate the amend, add, and repeal directions in the amending clauses of sections 3, 8, and 12.*
    - iii. In Colorado Revised Statutes, 1-40-105, **amend** (1) introductory portion and (1)(a) as follows: *(to amend selected subdivisions within a subsection)*
  - b. Each subdivision of a section listed in an amending clause should be enclosed in parentheses. *(See the examples in (1)(a)(i) and (1)(a)(iii) above)* If one or more subdivisions of a section are being amended, the complete subsection number should be shown for each subdivision listed in the amending clause, so that it is clear what is

being amended. For example, the amending clauses in sections 15 and 17 of the measure should read, respectively: "... **repeal** (3)(a)(II) and (3)(a)(IV) ..." and "**repeal** (6)(a)(II) and (6)(a)(IV) ..." *Please make these technical corrections.*

- c. When a provision consists of introductory language that leads into smaller subdivisions in order to form a complete sentence, that language is called an introductory portion. If an introductory portion is being amended, it should be listed in the amending clause. *(See the example in (1)(a)(iii) above) Please review the amending clauses in the following sections and, if applicable, add the words "introductory portion" after the subsection number in parentheses: Sections 9, 11, and 13.*
- d. When amending a subsection in its entirety, there is no need to include all the subdivisions within that provision in the amending clause. For example, in section 13, the following provisions are included in the amending clause: (4) [introductory portion], (4)(a)(I), (4)(a)(II), and (4)(b). However, the listed subdivisions comprise the entirety of subsection (4), so the amending clause should simply state, among the other provisions being amended, that subsection (4) is being amended. *Please make this technical correction in section 13.*

## 2. **Organization and subdivision of statutory sections:**

- a. Each section in the Colorado Revised Statutes has a three-part section number. The first number specifies the title, the second number indicates the article within that title, and the third number is the number of the section itself.
  - i. The entire three-part section number should always be used in headnotes, in amending clauses, and in cross-references to sections in the Colorado Revised Statutes *outside* of the current provision. *Please make this technical correction to the reference to section 44-3-911.5 in subsection (6) of section 12.*
- b. It is standard drafting practice to include the introductory portion in an amended section, so that the reader can see the full sentence and context of the amended provision, even if the introductory portion itself is not being amended. *Please include the introductory portions that are missing in the following sections:*
  - i. *Subsection (10)(c) introductory portion in section 3;*

- ii. Subsection (1) introductory portion in section 5;
  - iii. Subsection (6) introductory portion in section 5;
  - iv. Subsection (3)(a) introductory portion in section 14;
  - v. Subsection (3)(a) introductory portion in section 15;
  - vi. Subsection (2) introductory portion in section 16; and
  - vii. Subsection (6)(a) introductory portion in section 17.
- c. In subsection (12)(c) of section 3,
- i. The new subparagraphs (III) and (IV) are numbered incorrectly, beginning with (III) instead of (I). They should be renumbered. *Please make this technical correction.*
  - ii. As written, subsection (12)(c) is not an introductory portion. In order to have subparagraphs (III) and (IV) "below" paragraph (c), the language in paragraph (c) would need to be an incomplete sentence that ends in a colon. If your intention is to include subparagraphs (III) and (IV) in paragraph (c) because the content is closely related, you can do so as follows:
    - (c) (I) For purposes of determining ...
    - (II) This subsection (12)(a.5) does not apply to ...
    - (III) Notwithstanding any other provision ....

*If the above reflects the proponents' intent, please make the technical correction to subsection (12)(c) in section 3.*

3. **Headnotes:** Each section in the Colorado Revised Statutes and the Colorado Constitution has a headnote. Headnotes include the section number and briefly describe the content of the section. Headnotes should appear in lowercase, bold-faced type and end with a period. It is not necessary to show a new headnote in small capital letters. . *Please make the following technical corrections:*

- a. *Write out the entire section number, 44-3-911.5, in section 1; and*
- b. *Include the section numbers in the headnotes in sections 15 and 16.*

4. **Amending a statutory section:**

- a. The provisions of the statutory section in current law that are being modified in the measure should be copied into the measure *exactly* as they appear in the Colorado Revised Statutes. *Language from current*

*law is missing in subsection (1)(b) in section 11. Please add the missing language.*

- b. Within each section, a subsection number, paragraph letter, subparagraph number, or sub-subparagraph letter appears only once at the beginning of each subsection.
    - i. In section 3, multiple subdivisions of subsection (10) are being amended. The subsection number, "(10)", should only be inserted before the first paragraph within subsection (10) that is being amended. Likewise, paragraph (c) should only appear before the introductory portion for paragraph (c), not before each subdivision of paragraph (c) that is being amended. *Please make these same technical corrections in section 9.*
    - ii. In section 16, subsection (2)(c) is being repealed in its entirety, but there is no (2) in front of the (c). *Please make the same technical corrections in sections 14, 15, and 17.*
  - c. It is standard drafting practice to use SMALL CAPITAL LETTERS [rather than ALL CAPS] to show the language being added to and stricken type, which appears as stricken type, to show language being removed from the Colorado constitution or the Colorado Revised Statutes. Current law should not be dropped or relocated, it should be shown in stricken type the intent is the repeal the language. New language should not be added unless it is shown in small capital letters.
5. **Guidelines for statutory citations:** The following guidelines for statutory citations should be used within the Colorado Revised Statutes:
- a. When referencing the section you are currently in, the section number does not need to be referenced. In subsection (3)(a) of section 13, the reference to "subsection (1) of this section 911.5" is incorrect, because we are in section 44-3-911.5. Similarly, the reference to "section 44-3-911.5 (1)" in section 44-3-911.5 (2) is incorrect, because, again, we are still in section 44-3-911.5 These reference should read "subsection (1) of this section." *Please make these changes in subsections (2), (3)(a), and (11) of section 13.*
  - b. When referencing a section within a different section, the entire section number should be referenced, but the article and title are not

needed. *Please change the reference in subsection (6) of section 12 from "section 911.5 of article 3 of title 44" to "section 44-3-911.5."*

- c. It is standard drafting practice, when referencing subdivisions of a section, to show each individual subdivision enclosed within parentheses. *(See example in (5)(b) above) Please make this technical correction in subsection (12)(c)(IV) of section 3.*
- d. In the Declaration in section 1, the reference to article 4 of title 44 should read "article 4 of title 44, Colorado Revised Statutes." When referencing statutes in nonstatutory sections, the phrase C.R.S. should be spelled out rather than abbreviated and should be set off with commas. *Please make this technical correction.*
- e. In subsection (12)(c) of section 3, the internal reference in subparagraph (III) says "This subsection (12)(a.5)..." but the reference is not in subsection (12)(a.5), it is in subsection (12)(c). Depending on your intent, the reference should either say "This subsection (12)(c),", "subsection (12)(a.5) of this section, " or "this subsection (12)". *Please correct the internal reference..*

**6. Grammatical, punctuation, and capitalization errors:**

- a. In the last line of the Declaration, the word "a" should be inserted before "third-party" to make the sentence grammatically correct. *Please make this correction or, if the proponents prefer, please make the word "provider" plural.*
- b. In the definition of "off-premises retailer" in subsection (32.5) of section 2, the hyphen is missing between "off" and "premises." *Please make this correction.*
- c. It appears that the word "licensee" in subsection (32.5) of section 2 should be "licensed." *If the proponents intended to use the word "licensed," please make this technical correction.*
- d. When a phrase is defined, such as "fermented malt beverage and wine retailer," it should be used consistently throughout the measure. In subsection (12)(c)(IV) of section 3, the word "beverages" is plural. *If the proponents intended to use the word "beverage," and not "beverages," please make this technical correction.*

- e. In section 44-3-901 (1)(i)(III)(B), there is an unnecessary comma following the word "MALT". Since there are only two items listed: "TO CONSUME MALT, OR VINOUS LIQUOR," the comma is unnecessary and creates confusion. *Please make this technical correction.*
- f. A comma appears be missing after the word "liquors" in subsection (7) of section 8 – so that the phrase "as defined in section 44-3-103 (59)," is correctly set off by commas. *Please make this technical correction.*
- g. The standard language and format for a short title is: The short title of this [section/part #/article #] is the "[Name of Act]". *Please update the language in section 6 to read: "The short title of this article 4 is the "Colorado Beer AND WINE Code".*
- h. Section 44-4-107 (1)(a.5) in section 12 states that licenses issued by the licensing authorities "... shall immediately convert from a fermented malt beverage ...without any further *act* by the state ...." Did the proponents intend to say "without any further *action* by the state"? *If it is the proponents' intent to use the word "action" instead of "act," please make this correction.*
- i. The word "wine" should be capitalized in subsection (60.5) of section 2 and subsection (7) of section 8, and the word "March" should be capitalized in subsections (1)(e)(V)(A) and (1)(e)(V)(B) of section 4. *Please make these technical corrections.*
- j. There is a comma missing from the list of licenses in subsection (1)(i)(III)(A) of section 5. The list should read "retail liquor store, liquor-licensed drugstore, or fermented malt beverage and wine retailer." *Please make this technical correction in subsection (1)(i)(III)(A) and the same correction in subsections (6)(i)(III), (6)(k)(IV), and (8)(b of section 5.)*
- k. The stricken language in subsection (2) of section 7 should be removed from the measure, as it simply duplicates and strikes the language that is in current law and that is shown earlier in the sentence. *Please remove this stricken language if it was left in unintentionally from a previous version of the measure.*
- l. It appears that there is a word missing in subsection (2)(c) of section 13. Subsections (2)(a) and (2)(b) start out with the words "Provide"



and "Submit," respectively. Subsection (3)(c) should start out with a similar verb that reads off (3) introductory portion: "In order to receive a permit ..., an applicant shall:". *Please make this correction by adding a verb, like "submit," to the beginning of subsection (3)(c).*