

2021-2022 #123 - Final

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

SECTION 1: Declaration

The People of the State of Colorado hereby find and declare that Article 3 of Title 44, Colorado Revised Statutes, known as the “Colorado Liquor Code,” shall be amended to permit, beginning March 1, 2023, the home delivery of alcohol sales made by licensed retailers through third-party home delivery service providers.

**SECTION 2: In Colorado Revised Statutes, add 44-3-911.5 as follows:
44-3-911.5 Third-party delivery of alcohol beverages.**

(1) NOTWITHSTANDING ANY LAW OR RULE TO THE CONTRARY, A DELIVERY SERVICE PERMITTEE, OR AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF A DELIVERY SERVICE PERMITTEE IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE 3 OR ARTICLE 4 OF THIS TITLE 44, MAY TRANSPORT AND DELIVER ALCOHOL BEVERAGES FROM AN OFF-PREMISES RETAILER LICENSED PURSUANT TO THIS ARTICLE 3 OR ARTICLE 4 OF THIS TITLE 44, OR FROM A RETAILER LICENSEE LICENSED FOR ON PREMISES CONSUMPTION PURSUANT TO THIS ARTICLE 3, TO A PERSON IN THE STATE WHO IS AT LEAST TWENTY-ONE YEARS OF AGE. THE HOLDER OF A LICENSE LISTED IN THIS SUBSECTION (1) MUST APPLY FOR AND TO HOLD A DELIVERY SERVICE PERMIT AS A PRIVILEGE SEPARATE FROM ITS EXISTING LICENSE IN ORDER TO USE INDEPENDENT CONTRACTORS FOR DELIVERY. AN OFF-PREMISES RETAILER LICENSED PURSUANT TO THIS ARTICLE 3 OR ARTICLE 4 OF THIS TITLE 44 IS NOT REQUIRED TO OBTAIN A DELIVERY SERVICE PERMIT IF THE DELIVERY IS MADE BY AN EMPLOYEE OF THE LICENSEE WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND WHO IS USING A VEHICLE OWNED OR LEASED BY THE LICENSEE TO MAKE THE DELIVERY. A RETAILER LICENSEE LICENSED FOR ON PREMISES CONSUMPTION PURSUANT TO THIS ARTICLE 3 IS NOT REQUIRED TO OBTAIN A DELIVERY SERVICE PERMIT IF THE DELIVERY IS MADE BY AN EMPLOYEE OF THE LICENSEE WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 44-3-911.

(2) ANY INDIVIDUAL, LIMITED LIABILITY COMPANY, CORPORATION, OR PARTNERSHIP THAT IS REGISTERED TO DO BUSINESS IN THIS STATE, REGARDLESS OF THE RESIDENCY OR DOMICILE OF THE INDIVIDUAL, ENTITY, OR OWNERS OF THE ENTITY, MAY APPLY TO THE STATE LICENSING AUTHORITY FOR AND BE ISSUED A DELIVERY SERVICE PERMIT THAT AUTHORIZES THE PERMITTEE TO DELIVER ALCOHOL BEVERAGES FROM A LICENSEE PERMITTED FOR DELIVERY BY SECTION (1) OF THIS SECTION, TO A PERSON IN THE STATE WHO IS AT LEAST TWENTY-ONE YEARS OF AGE.

(3) IN ORDER TO RECEIVE A DELIVERY SERVICE PERMIT, AN APPLICANT SHALL:

(a) PROVIDE TO THE STATE LICENSING AUTHORITY A SAMPLE CONTRACT THAT THE APPLICANT INTENDS TO ENTER INTO WITH A LICENSEE LISTED IN SUBSECTION (1) OF THIS SECTION FOR THE DELIVERY OF ALCOHOL BEVERAGES. COMPLIANCE WITH THIS SUBSECTION (3)(a) SHALL NOT BE REQUIRED IN THE EVENT A LICENSEE LISTED IN SUBSECTION (1) OF THIS SECTION, OR AN ENTITY UNDER COMMON OWNERSHIP WITH SUCH LICENSEE, IS THE APPLICANT FOR THE DELIVERY SERVICE PERMIT.

(b) SUBMIT TO THE STATE LICENSING AUTHORITY AN OUTLINE OF AN INTERNAL OR EXTERNAL CERTIFICATION PROGRAM FOR DELIVERY SERVICE PERSONNEL OR CONTRACTORS THAT ADDRESSES TOPICS SUCH AS IDENTIFYING UNDERAGE PERSONS, INTOXICATED PERSONS, AND FAKE OR ALTERED IDENTIFICATION; AND

(c) SUBMIT PROOF OF A GENERAL LIABILITY INSURANCE POLICY IN AN AMOUNT NO LESS THAN ONE MILLION DOLLARS (\$1,000,000) PER OCCURRENCE.

(4) A DELIVERY SERVICE PERMITTEE:

(a) MAY, THROUGH ITS EMPLOYEES OR INDEPENDENT CONTRACTORS, DELIVER ALCOHOL BEVERAGES FOR ANY OFF-PREMISES RETAILER PERMITTED FOR DELIVERY BY SUBSECTION (1) OF THIS SECTION, FOR THE PURPOSE OF DELIVERING ALCOHOL BEVERAGES.

(b) MAY, THROUGH ITS EMPLOYEES OR INDEPENDENT CONTRACTORS, DELIVER ALCOHOL BEVERAGES FOR ANY LICENSEE LICENSED FOR ON PREMISES CONSUMPTION PURSUANT TO THIS ARTICLE 3, WHICH MAY INCLUDE ALCOHOL BEVERAGES BY THE DRINK. SUCH DELIVERIES SHALL BE MADE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 44-3-911, EXCEPT FOR SUBSECTION 44-3-911(3)(d).

(c) MAY USE ITS OWN EMPLOYEES OR INDEPENDENT CONTRACTORS WHO ARE AT LEAST TWENTY-ONE YEARS OF AGE TO DELIVER SUCH ALCOHOL BEVERAGES, IF ALL DELIVERY AGENTS COMPLETE A CERTIFICATION PROGRAM THAT MEETS THE STANDARDS ESTABLISHED BY THE STATE LICENSING AUTHORITY.

(d) MAY FACILITATE ORDERS BY TELEPHONE, INTERNET, OR BY OTHER ELECTRONIC MEANS FOR THE SALE AND DELIVERY OF ALCOHOL BEVERAGES UNDER THIS SECTION. THE FULL AMOUNT OF EACH ORDER SHALL BE HANDLED IN A MANNER THAT GIVES THE LICENSEE CONTROL OVER THE ULTIMATE RECEIPT OF THE PAYMENT FROM THE CONSUMER.

(e) MAY DELIVER ALCOHOL BEVERAGES ANY TIME DURING WHICH THE LICENSEE IS LAWFULLY ALLOWED TO SELL ALCOHOL BEVERAGES.

(f) SHALL VERIFY, AT THE TIME OF DELIVERY, IN ACCORDANCE WITH SUBSECTION 44-3-901(11), THAT THE PERSON RECEIVING THE DELIVERY OF MALT, VINOUS, OR SPIRITUOUS LIQUORS IS AT LEAST TWENTY-ONE YEARS OF AGE.

(g) SHALL REFUSE TO DELIVER ALCOHOL BEVERAGES IF THE RECIPIENT IS UNDER TWENTY-ONE YEARS OF AGE, APPEARS INTOXICATED, OR FAILS TO PROVIDE PROOF OF IDENTIFICATION.

(h) MAY NOT DELIVER TO ANY LOCATION LICENSED PURSUANT TO THIS ARTICLE 3, OR ARTICLE 4 OR ARTICLE 5 OF THIS TITLE 44.

(i) SHALL BE DEEMED TO HAVE CONSENTED TO THE JURISDICTION OF THE STATE LICENSING AUTHORITY OR ANY LAW ENFORCEMENT AGENCY AND THE COLORADO COURTS CONCERNING ENFORCEMENT OF THIS SECTION AND ANY RELATED LAWS OR RULES.

(5) A DELIVERY SERVICE PERMITTEE MAY RENEW ITS PERMIT WITH THE STATE LICENSING AUTHORITY BY MAINTAINING ALL QUALIFICATIONS AND PAYING ANNUALLY A RENEWAL FEE ESTABLISHED BY THE STATE LICENSING AUTHORITY.

(6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE A TECHNOLOGY SERVICES COMPANY TO OBTAIN A DELIVERY SERVICE PERMIT FOR PROVIDING SOFTWARE OR A DIGITAL NETWORK APPLICATION THAT CONNECTS CONSUMERS AND LICENSED RETAILERS FOR THE DELIVERY OF ALCOHOL BEVERAGES FROM THE LICENSED RETAILER BY EMPLOYEES OR OTHER DELIVERY SERVICE PROVIDERS OF THE LICENSED RETAILER. HOWEVER, THE ACT OF CONNECTING CONSUMERS TO LICENSED RETAILERS SHALL SERVE TO GRANT JURISDICTION TO THE STATE OF COLORADO.

(7) THERE SHALL BE NO LIMIT TO THE PERCENTAGE OF A LICENSEE'S GROSS ANNUAL REVENUES FROM TOTAL SALES OF ALCOHOL BEVERAGES THAT THE LICENSEE MAY DERIVE FROM ALCOHOL BEVERAGE DELIVERIES.

(8) THE STATE LICENSING AUTHORITY MAY ENFORCE THE REQUIREMENTS OF THIS SECTION BY THE SAME ADMINISTRATIVE PROCEEDINGS THAT APPLY TO ALCOHOL BEVERAGE LICENSES OR PERMITS, INCLUDING WITHOUT LIMITATION ANY DISCIPLINARY ACTION APPLICABLE TO THE SELLING LICENSEE, OR THE DELIVERY SERVICE PERMITTEE RESULTING FROM ANY UNLAWFUL SALE TO A MINOR.

(9) THE STATE LICENSING AUTHORITY MAY ENFORCE THE REQUIREMENTS OF THIS SECTION AGAINST THE SELLING LICENSEE, DELIVERY SERVICE PERMITTEE, AND ANY EMPLOYEE OR INDEPENDENT CONTRACTOR OF SUCH, IRRESPECTIVE OF THE STATUS OF ANY DELIVERY SERVICE PERSONNEL AS AN INDEPENDENT CONTRACTOR OR EMPLOYEE.

(a) IF A LICENSEE IS ALSO A DELIVERY PERMITTEE, A VIOLATION OF THIS ARTICLE 3 OR ARTICLE 4 OR 5 OF THIS TITLE 44 BY ITS EMPLOYEE OR INDEPENDENT CONTRACTOR DURING DELIVERY WILL SUBJECT BOTH THE RETAILER'S LICENSE AND DELIVERY SERVICE PERMIT TO DISCIPLINARY ACTION FOR THE VIOLATION. DELIVERY TO A MINOR SHALL BE TREATED AS SELLING TO A MINOR AND SHALL RESULT IN ANY APPLICABLE DISCIPLINARY ACTION.

(10) THE STATE LICENSING AUTHORITY SHALL PROMULGATE RULES AS NECESSARY FOR THE PROPER DELIVERY OF ALCOHOL BEVERAGES AS PERMITTED BY THIS SECTION.

SECTION 3: In Colorado Revised Statutes, 44-3-409, **repeal** (3)(a)(II) and (3)(a)(IV) as follows:

44-3-409. Retail liquor store license - rules.

(3)(a) A person licensed to sell at retail who complies with this subsection (3) and rules promulgated pursuant to this subsection (3) may deliver malt, vinous, and spirituous

liquors to a person of legal age if:

~~(3)(a)(II) The delivery is made by an employee of the licensed retail liquor store who is at least twenty one years of age and who is using a vehicle owned or leased by the licensee to make the delivery;~~

~~(3)(a)(IV) The retail liquor store derives no more than fifty percent of its gross annual revenues from total sales of malt, vinous, and spirituous liquors from the sale of malt, vinous, and spirituous liquors that the retail liquor store delivers.~~

SECTION 4: In Colorado Revised Statutes, 44-3-410, **repeal** (3)(a)(II) and (3)(a)(IV) as follows:

44-3-410. Liquor-licensed drugstore license - multiple licenses permitted -requirements - rules.

(3)(a) A liquor-licensed drugstore licensee who complies with this subsection (3) and rules promulgated pursuant to this subsection (3) may deliver malt, vinous, and spirituous liquors to a person of legal age if:

~~(3)(a)(II) The delivery is made by an employee of the liquor licensed drugstore who is at least twenty one years of age and who is using a vehicle owned or leased by the licensee to make the delivery;~~

~~(3)(a)(IV) The liquor licensed drugstore derives no more than fifty percent of its gross annual revenues from total sales of malt, vinous, and spirituous liquors from the sale of malt, vinous, and spirituous liquors that the liquor licensed drugstore delivers.~~

SECTION 5: In Colorado Revised Statutes, 44-3-911, **repeal** (2)(c), (3)(b), and (7) as follows:

44-3-911. Takeout and delivery of alcohol beverages - permit - on-premises consumption licenses - requirements and limitations - rules - definition - repeal.

(2) To sell and deliver an alcohol beverage or to allow a customer to remove an alcohol beverage from the licensed premises as either is authorized under subsection (1) of this section, the licensee must:

~~(c) Derive no more than fifty percent of its gross annual revenues from total sales of food and alcohol beverages from the sale of alcohol beverages through takeout orders and that the licensee delivers; except that:~~

~~(I) This subsection (2)(c) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24; or~~

~~(II) This subsection (2)(c) does not apply to a sales room at a premises licensed under section 44-3-402 or 44-3-407; and~~

~~(3)(b) Be an employee of the licensee who is twenty one years of age or older;~~

~~(7) This section is repealed, effective July 1, 2025.~~

SECTION 6: In Colorado Revised Statutes, 44-4-107 **repeal** (6)(a)(II) and (IV) as follows:
44-4-107. Local licensing authority - application - fees - definitions - rules.

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

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

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

SECTION 7. Effective date. This act takes effect March 1, 2023.