

Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0159.01 Pam Cybyske

HOUSE BILL 00-1196

STATE OF COLORADO

BY REPRESENTATIVE McElhany

A BILL FOR AN ACT

101 CONCERNING GRANTING A LIQUOR LICENSING AUTHORITY THE POWER TO
102 SUSPEND A PORTION OF CERTAIN LIQUOR LICENSES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires that state and local liquor licensing authorities suspend only a portion of a resort complex or optional premises liquor license at the location where the violation occurred unless the authority determines that certain defined facts and circumstances of the violation warrant the suspension of the entire licensed premises.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 12-47-601 (1), (2), and (3), Colorado Revised
3 Statutes, are amended to read:

4 **12-47-601. Suspension - revocation - fines.** (1) (a) In addition
5 to any other penalties prescribed by this article or article 46 or 48 of this
6 title, the state or any local licensing authority has the power, on its own
7 motion or on complaint, after investigation and public hearing at which
8 the licensee shall be afforded an opportunity to be heard, to suspend or
9 revoke any license issued by such authority for any violation by the

1 licensee or by any of the agents, servants, or employees of such licensee
2 of the provisions of this article, or any of the rules or regulations
3 authorized pursuant to this article or of any of the terms, conditions, or
4 provisions of the license issued by such authority.

5 (b) DISCIPLINE IMPOSED BY ANY STATE OR LOCAL LICENSING
6 AUTHORITY, WHETHER BY SUSPENSION OR REVOCATION OF A LICENSE, FOR
7 ANY VIOLATION OF THIS ARTICLE OR ARTICLE 46 OR 48 OF THIS TITLE UPON
8 A RESORT COMPLEX, AS DEFINED IN SECTION 12-47-103 (28), OR OPTIONAL
9 PREMISES, AS DEFINED IN SECTION 12-47-103 (22), THAT HOLDS A HOTEL
10 AND RESTAURANT LICENSE WITH MORE THAN ONE LOCATION UNDER THE
11 LICENSE SHALL ONLY APPLY TO THE SEPARATE AND DISTINCT LOCATION
12 WHERE THE VIOLATION OCCURRED AND NOT THE ENTIRE HOTEL AND
13 RESTAURANT LICENSE. SUCH SPECIFIC AND DISTINCT LOCATIONS SHALL BE
14 IDENTIFIED WITHIN THE SPECIFIC GEOGRAPHIC LOCATION OF THE RESORT
15 COMPLEX OR OPTIONAL PREMISES HOTEL AND RESTAURANT'S LICENSED
16 PREMISES AT THE TIME OF LICENSING OR ANY RENEWAL OF ANY EXISTING
17 LICENSE.

18 (c) THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (1)
19 SHALL NOT APPLY IF THE STATE OR LOCAL LICENSING AUTHORITY, AFTER
20 NOTICE AND HEARING, FINDS THAT THE VIOLATION OF THIS ARTICLE OR
21 ARTICLE 46 OR 48 OF THIS TITLE, OR ANY LIQUOR CODE OF THE LOCAL
22 LICENSING AUTHORITY WAS INTENTIONALLY AUTHORIZED BY THE
23 MANAGEMENT OF THE RESORT COMPLEX OR OPTIONAL PREMISES AND WAS
24 SO GRIEVOUS THAT THE PUBLIC MORALS AND WELFARE WERE IMPAIRED.
25 IN THE EVENT OF SUCH A FINDING, THE ENTIRE HOTEL AND RESTAURANT
26 LICENSE OF THE RESORT COMPLEX OR OPTIONAL PREMISES MAY BE

1 SUSPENDED OR REVOKED.

2 (d) Any licensing authority has the power to administer oaths and
3 issue subpoenas to require the presence of persons and the production of
4 papers, books, and records necessary to the determination of any hearing
5 that the licensing authority is authorized to conduct.

6 (2) Notice of suspension or revocation, as well as any required
7 notice of such hearing, shall be given by mailing the same in writing to
8 the licensee at the address contained in such license. No such suspension
9 shall be for a longer period than six months. If any license is suspended
10 or revoked, OR IF A PORTION OF THE LICENSE OF A RESORT COMPLEX OR
11 OPTIONAL PREMISES IS SUSPENDED, no part of the fees paid therefor shall
12 be returned to the licensee. Any license, OR A PORTION OF THE LICENSE
13 OF A RESORT COMPLEX OR OPTIONAL PREMISES, may be summarily
14 suspended by the issuing licensing authority without notice pending any
15 prosecution, investigation, or public hearing. Nothing in this section shall
16 prevent the summary suspension of such license, OR A PORTION OF SUCH
17 LICENSE OF A RESORT COMPLEX OR OPTIONAL PREMISES, for a temporary
18 period of not more than fifteen days.

19 (3) (a) Whenever a decision of the state or any local licensing
20 authority suspending a license, OR A PORTION OF THE LICENSE OF A
21 RESORT COMPLEX OR OPTIONAL PREMISES, for fourteen days or less
22 becomes final, whether by failure of the licensee to appeal the decision
23 or by exhaustion of all appeals and judicial review, the licensee may,
24 before the operative date of the suspension, petition for permission to pay
25 a fine in lieu of having the license, OR A PORTION OF THE LICENSE OF A
26 RESORT COMPLEX OR OPTIONAL PREMISES, suspended for all or part of the

1 suspension period. Upon the receipt of the petition, the state or the local
2 licensing authority may, in its sole discretion, stay the proposed
3 suspension and cause any investigation to be made ~~which~~ THAT it deems
4 desirable and may, in its sole discretion, grant the petition if it is satisfied:

5 (I) That the public welfare and morals would not be impaired by
6 permitting the licensee to operate during the period set for suspension and
7 that the payment of the fine will achieve the desired disciplinary
8 purposes;

9 (II) That the books and records of the licensee are kept in such a
10 manner that the loss of sales of alcohol beverages that the licensee would
11 have suffered had the suspension gone into effect can be determined with
12 reasonable accuracy therefrom; and

13 (III) That the licensee has not had his or her license, OR A PORTION
14 OF THE LICENSE OF A RESORT COMPLEX OR OPTIONAL PREMISES, suspended
15 or revoked, nor had any suspension stayed by payment of a fine, during
16 the two years immediately preceding the date of the motion or complaint
17 ~~which~~ THAT has resulted in a final decision to suspend the license OR
18 PORTION OF THE LICENSE.

19 (b) The fine accepted shall be the equivalent to twenty percent of
20 the licensee's estimated gross revenues from sales of alcohol beverages
21 during the period of the proposed suspension; except that the fine shall
22 be not less than two hundred dollars nor more than five thousand dollars.

23 (c) Payment of any fine pursuant to the provisions of this
24 subsection (3) shall be in the form of cash or in the form of a certified
25 check or cashier's check made payable to the state or local licensing
26 authority, whichever is appropriate.

1 **SECTION 2. Effective date.** This act shall take effect September
2 15, 2000, unless a referendum petition is filed during the ninety-day
3 period after final adjournment of the general assembly that is allowed for
4 submitting a referendum petition pursuant to article V, section 1 (3) of the
5 state constitution. If such a referendum petition is filed against this act
6 or an item, section, or part of this act within such period, then the act,
7 item, section, or part, if approved by the people, shall take effect on the
8 date of the official declaration of the vote thereon by proclamation of the
9 governor.