Second Regular Session

Sixty-second General Assembly
LLS NO. 00-1111.01 Thomas Morris SENATE BILL 00-232

STATE OF COLORADO

BY SENATOR Lacy.

A BILL FOR AN ACT

CONCERNING LIMITATIONS ON PENALTIES IMPOSED FOR THE ALLEGED SALE OF ALCOHOL BEVERAGES TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE.

Bill Summary

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

Limits the disciplinary action that may be taken by a local licensing authority or the state licensing authority when a licensee has provided alcohol beverages to a person under 21 years of age during a compliance check operation to:

- For a 1st violation committed within a 12-month period, a penalty of a license suspension of not more than 5 days;
- For a 2nd violation within a 12-month period, a penalty of a license suspension of not more than 30 days;
- For a 3rd violation within a 12-month period, a penalty of a license suspension of not more than 45 days; and
- For a 4th violation within a 2-year period, a penalty within the full limits of the law.

Creates an affirmative defense that can be used only once in any 12-month period at the same location by a licensee who can prove that the sale was made by an employee who is not the owner or manager of the licensee and that, before the date of the violation, the licensee:

- Had adopted and enforced a written policy against selling alcohol beverages to persons under 21 years of age;
- Had informed its employees of the applicable laws regarding the sale of alcohol beverages to persons under 21 years of age;
- Required employees to verify the age of alcohol beverage

product customers by way of photographic identification;

- Had established and imposed disciplinary sanctions for noncompliance; and
- Had provided its employees with a server training program that meets the standards established by the liquor enforcement division.

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

SECTION 1. 12-47-601 (1), Colorado Revised Statutes, is amended, and the said 12-47-601 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-47-601. Suspension - revocation - fines. (1) In addition to any other penalties prescribed by this article or article 46 or 48 of this title, BUT SUBJECT TO THE LIMITATIONS IN SUBSECTION (2.5) OF THIS SECTION, the state or any local licensing authority has the power, on its own motion or on complaint, after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend or revoke any license issued by such authority for any violation by the licensee or by any of the agents, servants, or employees of such licensee of the provisions of this article, or any of the rules or regulations authorized pursuant to this article or of any of the terms, conditions, or provisions of the license issued by such authority. Any licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing that the licensing authority is authorized to conduct.

(2.5) (a) FOR A VIOLATION OF SECTION 12-47-901 (1) (a), (5) (a) (I), OR (5) (c), BY PROVIDING AN ALCOHOL BEVERAGE TO A PERSON UNDER

TWENTY-ONE YEARS OF AGE DURING A COMPLIANCE CHECK OPERATION, THE DISCIPLINARY ACTION SHALL BE LIMITED AS FOLLOWS:

(I) FOR A FIRST VIOLATION COMMITTED WITHIN A TWELVE-MONTH PERIOD, A PENALTY OF A LICENSE SUSPENSION OF NOT MORE THAN FIVE DAYS;

(II) FOR A SECOND VIOLATION WITHIN A TWELVE-MONTH PERIOD, A PENALTY OF A LICENSE SUSPENSION OF NOT MORE THAN THIRTY DAYS;

(III) FOR A THIRD VIOLATION WITHIN A TWELVE-MONTH PERIOD, A PENALTY OF A LICENSE SUSPENSION OF NOT MORE THAN FORTY-FIVE DAYS; AND

(IV) FOR A FOURTH VIOLATION WITHIN A TWO-YEAR PERIOD, A PENALTY WITHIN THE FULL LIMITS OF THIS SECTION MAY BE IMPOSED.

(b) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (2.5), IF A SALE SUBJECT TO SAID SUBPARAGRAPH (I) WAS MADE BY AN EMPLOYEE WHO WAS NEITHER THE OWNER NOR MANAGER OF THE LICENSEE, NO PENALTY SHALL BE IMPOSED IF THE LICENSEE ESTABLISHES AS AN AFFIRMATIVE DEFENSE, TO THE SATISFACTION OF THE LIQUOR ENFORCEMENT DIVISION IN THE DEPARTMENT OF REVENUE OR OF A LOCAL LICENSING AUTHORITY THAT, PRIOR TO THE DATE OF THE VIOLATION, THE LICENSEE:

(I) HAD ADOPTED AND ENFORCED A WRITTEN POLICY AGAINST SELLING ALCOHOL BEVERAGES TO PERSONS UNDER TWENTY-ONE YEARS OF AGE;

(II) HAD INFORMED ITS EMPLOYEES OF THE APPLICABLE LAWS REGARDING THE SALE OF ALCOHOL BEVERAGES TO PERSONS UNDER TWENTY-ONE YEARS OF AGE;

(III) REQUIRED EMPLOYEES TO VERIFY THE AGE OF ALCOHOL BEVERAGE PRODUCT CUSTOMERS BY WAY OF PHOTOGRAPHIC IDENTIFICATION;

(IV) HAD ESTABLISHED AND IMPOSED DISCIPLINARY SANCTIONS FOR NONCOMPLIANCE; AND

(V) HAD PROVIDED ITS EMPLOYEES WITH A SERVER TRAINING PROGRAM THAT MEETS THE STANDARDS ESTABLISHED BY THE LIQUOR ENFORCEMENT DIVISION.

SECTION 2. 12-47-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-47-103. Definitions. As used in this article and article 46 of this title, unless the context otherwise requires:

(6.5) "COMPLIANCE CHECK OPERATION" MEANS A CHECK OF A LICENSED PREMISES FOR COMPLIANCE WITH PROHIBITIONS AGAINST SALES TO MINORS, IN WHICH A LAW ENFORCEMENT OFFICER UTILIZES A PERSON UNDER TWENTY-ONE YEARS OF AGE TO PURCHASE, OR ATTEMPT TO PURCHASE, ALCOHOL BEVERAGES FROM A PERSON WHO IS LICENSED OR PERMITTED TO SELL ALCOHOL BEVERAGES PURSUANT TO THIS ARTICLE OR ARTICLE 46 OR 48 OF THIS TITLE.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.