

**First Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 03-0678.01 Jerry Barry

HOUSE BILL 03-1343

HOUSE SPONSORSHIP

Briggs

SENATE SPONSORSHIP

(None)

House Committees

Transportation & Energy
Appropriations

Senate Committees

HOUSE
3rd Reading Unamended
May 2, 2003

A BILL FOR AN ACT

101 **CONCERNING THE CONSUMPTION OF ALCOHOL, AND MAKING AN**
102 **APPROPRIATION IN CONNECTION THEREWITH.**

Bill Summary

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

Changes to 0.08 the level of alcohol for driving under the influence of alcohol. Eliminates the crime of driving while ability impaired and the prohibition against accepting a plea agreement to a non-alcohol-related offense for the first time a person is charged with an alcohol-related offense. Makes conforming amendments.

Provides that the change to 0.08, the repeal of driving while ability impaired, the provision relating to plea agreements, and the conforming amendments are not effective or are repealed if the federal government repeals its requirement that states enact 0.08 as the level of alcohol for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
May 1, 2003

driving under the influence of alcohol.

Authorizes a retail liquor store licensee or liquor-licensed drugstore licensee to allow the tasting or sampling of alcoholic beverages on its premises. Establishes requirements and limits for the tasting.

Authorizes a holder of a hotel or restaurant license to permit each customer who has purchased food to reseal and take away from the premises one open bottle of vinous liquor holding not more than 750 milliliters.

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

2 **SECTION 1.** Part 13 of article 4 of title 42, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **42-4-1300.5. Requirement for federal highway funds -**
6 **legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND
7 DECLARES THAT:

8 (a) AT THE TIME OF THE ENACTMENT OF HOUSE BILL 03-1343, THE
9 FEDERAL GOVERNMENT THREATENED TO WITHHOLD FROM THE STATE OF
10 COLORADO FEDERAL HIGHWAY FUNDS IF THE STATE DID NOT ENACT A
11 PROVISION ESTABLISHING THE BAC LEVEL FOR DUI AT 0.08;

12 (b) AT THE TIME OF THE ENACTMENT OF HOUSE BILL 03-1343, THE
13 STATE OF COLORADO HAD AN OFFENSE OF DWAI WITH A BAC OF OVER
14 0.05, BUT THIS OFFENSE WAS NOT RECOGNIZED BY THE FEDERAL
15 GOVERNMENT; AND

16 (c) BUT FOR THE THREATENED LOSS OF FEDERAL HIGHWAY
17 MONEYS, THE LAWS RELATED TO ALCOHOL-RELATED TRAFFIC OFFENSES IN
18 EFFECT AT THE TIME OF THE ENACTMENT OF HOUSE BILL 03-1343 WOULD
19 BE RETAINED.

20 (2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT IF AND
21 WHEN THE FEDERAL GOVERNMENT NO LONGER THREATENS THE LOSS OF
22 FEDERAL HIGHWAY FUNDS, THE LANGUAGE PERTAINING TO

1 ALCOHOL-RELATED OFFENSES SHALL RETURN TO THE LANGUAGE AS IT
2 EXISTED PRIOR TO THE ENACTMENT OF HOUSE BILL 03-1343.

3 (3) IN THE EVENT THAT THE WITHHOLDING AND LAPSE PROVISIONS
4 PERTAINING TO APPORTIONMENTS TO STATES FOR FEDERAL-AID HIGHWAYS
5 CONTAINED IN SECTION 351 OF PUBLIC LAW 106-346, 23 U.S.C. SEC. 163,
6 ARE NULLIFIED OR ALTERED BY A SUBSEQUENT ACT OF CONGRESS OR BY A
7 FEDERAL REGULATION AUTHORIZED BY ACT OF CONGRESS, THE EXECUTIVE
8 DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION SHALL CERTIFY SUCH
9 FACT TO THE REVISOR OF STATUTES AND TO THE EXECUTIVE DIRECTOR OF
10 THE DEPARTMENT OF REVENUE.

11 **SECTION 2.** 42-4-1300.3 (3), Colorado Revised Statutes, is
12 amended to read:

13 **42-4-1300.3. Definitions.** As used in this part 13, unless the
14 context otherwise requires:

15 (3) "DUI per se" means driving with a BAC of ~~0.10~~ 0.08 or more,
16 and use of the term shall incorporate by reference the offense described
17 in section 42-4-1301 (2) (a).

18 **SECTION 3.** 42-4-1301 (2) (a), (2) (a.5), (4), (6) (a) (II), and
19 (6) (a) (III), Colorado Revised Statutes, are amended to read:

20 **42-4-1301. Driving under the influence - driving with excessive**
21 **alcoholic content - penalties.** (2) (a) It is a misdemeanor for any
22 person to drive any vehicle in this state when the person's BAC is ~~0.10~~
23 0.08 or more at the time of driving or within two hours after driving.
24 During a trial, if the state's evidence raises the issue, or if a defendant
25 presents some credible evidence, that the defendant consumed alcohol
26 between the time that the defendant stopped driving and the time that
27 testing occurred, such issue shall be an affirmative defense, and the

1 prosecution must establish beyond a reasonable doubt that the minimum
2 ~~0.10~~ 0.08 blood or breath alcohol content required in this paragraph (a)
3 was reached as a result of alcohol consumed by the defendant before the
4 defendant stopped driving.

5 (a.5) It is a class A traffic infraction for any person under
6 twenty-one years of age to drive any vehicle in this state when the
7 person's BAC, as shown by analysis of the person's breath, is at least 0.02
8 but ~~not more~~ LESS than ~~0.05~~ 0.08 at the time of driving or within two
9 hours after driving.

10 (4) No court shall accept a plea of guilty to a non-alcohol-related
11 or non-drug-related traffic offense or guilty to the offense of UDD from
12 a person charged with DUI, DUI per se, DWAI, or habitual user; except
13 that the court may accept a plea of guilty to a non-alcohol-related or
14 non-drug-related traffic offense or to UDD upon a good faith
15 representation by the prosecuting attorney that the attorney could not
16 establish a prima facie case if the defendant were brought to trial on the
17 original alcohol-related or drug-related offense.

18
19 (6) (a) In any prosecution for DUI or DWAI, the defendant's BAC
20 at the time of the commission of the alleged offense or within a
21 reasonable time thereafter gives rise to the following presumptions or
22 inferences:

23 (II) If at such time the defendant's BAC was in excess of 0.05 but
24 less than ~~0.10~~ 0.08, such fact gives rise to the permissible inference that
25 the defendant's ability to operate a vehicle was impaired by the
26 consumption of alcohol, and such fact may also be considered with other
27 competent evidence in determining whether or not the defendant was

1 under the influence of alcohol.

2 (III) If at such time the defendant's BAC was ~~0.10~~ 0.08 or more,
3 such fact gives rise to the permissible inference that the defendant was
4 under the influence of alcohol.

5 [REDACTED]

6 **SECTION 4.** 18-3-106 (2) (b) and (2) (c), Colorado Revised
7 Statutes, are amended to read:

8 **18-3-106. Vehicular homicide.** (2) In any prosecution for a
9 violation of subsection (1) of this section, the amount of alcohol in the
10 defendant's blood or breath at the time of the commission of the alleged
11 offense, or within a reasonable time thereafter, as shown by analysis of
12 the defendant's blood or breath, shall give rise to the following
13 presumptions:

14 (b) If there was at such time in excess of 0.05 but less than ~~0.10~~
15 0.08 grams of alcohol per one hundred milliliters of blood, or if there was
16 at such time in excess of 0.05 but less than ~~0.10~~ 0.08 grams of alcohol per
17 two hundred ten liters of breath, such fact may be considered with other
18 competent evidence in determining whether or not the defendant was
19 under the influence of alcohol.

20 (c) If there was at such time ~~0.10~~ 0.08 or more grams of alcohol
21 per one hundred milliliters of blood, or if there was at such time ~~0.10~~ 0.08
22 or more grams of alcohol per two hundred ten liters of breath, it shall be
23 presumed that the defendant was under the influence of alcohol.

24 **SECTION 5.** 18-3-205 (2) (b) and (2) (c), Colorado Revised
25 Statutes, are amended to read:

26 **18-3-205. Vehicular assault.** (2) In any prosecution for a
27 violation of subsection (1) of this section, the amount of alcohol in the

1 defendant's blood or breath at the time of the commission of the alleged
2 offense, or within a reasonable time thereafter, as shown by analysis of
3 the defendant's blood or breath, shall give rise to the following
4 presumptions: [REDACTED]

5 (b) If there was at such time in excess of 0.05 but less than ~~0.10~~
6 0.08 grams of alcohol per one hundred milliliters of blood, or if there was
7 at such time in excess of 0.05 but less than ~~0.10~~ 0.08 grams of alcohol per
8 two hundred ten liters of breath, such fact may be considered with other
9 competent evidence in determining whether or not the defendant was
10 under the influence of alcohol.

11 (c) If there was at such time ~~0.10~~ 0.08 or more grams of alcohol
12 per one hundred milliliters of blood, or if there was at such time ~~0.10~~ 0.08
13 or more grams of alcohol per two hundred ten liters of breath, it shall be
14 presumed that the defendant was under the influence of alcohol.

15 [REDACTED]
16 **SECTION 6.** 42-2-126 (2) (a) (I), (2) (a) (I.5), and (5) (a) (I), the
17 introductory portion to 42-2-126 (6) (b) (II.5), and 42-2-126 (9) (c) (II),
18 Colorado Revised Statutes, are amended to read:

19 **42-2-126. Revocation of license based on administrative**
20 **determination.** (2) (a) The department shall revoke the license of any
21 person upon its determination that the person:

22 (I) Drove a vehicle in this state when the amount of alcohol, as
23 shown by analysis of the person's blood or breath, in such person's blood
24 was ~~0.10~~ 0.08 or more grams of alcohol per one hundred milliliters of
25 blood or ~~0.10~~ 0.08 or more grams of alcohol per two hundred ten liters of
26 breath at the time of driving or within two hours after driving. If the
27 preponderance of the evidence establishes that such person consumed

1 alcohol between the time that the person stopped driving and the time of
2 testing, the preponderance of the evidence must also establish that the
3 minimum ~~0.10~~ 0.08 blood or breath alcohol content was reached as a
4 result of alcohol consumed before the person stopped driving.

5 (I.5) Drove a vehicle in this state when such person was under
6 twenty-one years of age and when the amount of alcohol, as shown by
7 analysis of the person's blood or breath, in such person's blood was in
8 excess of 0.05 but less than ~~0.10~~ 0.08 grams of alcohol per one hundred
9 milliliters of blood or in excess of 0.05 but less than ~~0.10~~ 0.08 grams of
10 alcohol per two hundred ten liters of breath at the time of driving or
11 within two hours after driving. If the preponderance of the evidence
12 establishes that such person consumed alcohol between the time that the
13 person stopped driving and the time of testing, the preponderance of the
14 evidence must also establish that the minimum required blood or breath
15 alcohol content was reached as a result of alcohol consumed before the
16 person stopped driving.

17 (5) (a) (I) Whenever a law enforcement officer requests a person
18 to take any test or tests as required by section 42-4-1301.1 and such
19 person refuses to take or to complete or to cooperate in the completing of
20 such test or tests or whenever such test results are available to the law
21 enforcement officer and such tests show an alcohol concentration of ~~0.10~~
22 0.08 or more grams of alcohol per one hundred milliliters of blood as
23 shown by analysis of such person's blood or ~~0.10~~ 0.08 or more grams of
24 alcohol per two hundred ten liters of breath as shown by analysis of such
25 person's breath ~~if the person is twenty-one years of age or older~~ or,
26 subject to section 42-4-1301.1, at least 0.02 but not in excess of 0.05
27 grams of alcohol per two hundred ten liters of breath as shown by

1 analysis of such person's breath if the person is under twenty-one years
2 of age and when the person who is tested or who refuses to take or to
3 complete or to cooperate in the completing of any test or tests is still
4 available to the law enforcement officer, the officer, acting on behalf of
5 the department, shall serve the notice of revocation personally on such
6 person. [REDACTED]

7 (6) (b) (II.5) The period of license revocation under subparagraph
8 (I.5) OR (I.7) of paragraph (a) of subsection (2) of this section shall be:

9 [REDACTED]
10 [REDACTED]

11 (9) (c) (II) When the determination of the issue pursuant to this
12 paragraph (c) is based upon an analysis of the respondent's blood or
13 breath and evidence is offered by the respondent to show a disparity
14 between the results of the analysis done on behalf of the law enforcement
15 agency and the results of an analysis done on behalf of the respondent,
16 and when a preponderance of the evidence establishes that the blood
17 analysis conducted on behalf of the law enforcement agency was properly
18 conducted by a qualified person associated with a laboratory certified by
19 the department of public health and environment using properly working
20 testing devices or when a preponderance of the evidence establishes that
21 the law enforcement breath test was administered using a properly
22 working breath testing device certified by the department of public health
23 and environment, which device was properly operated by a qualified
24 operator, there shall be a presumption favoring the accuracy of the
25 analysis done on behalf of the law enforcement agency if such analysis
26 showed the amount of alcohol in the respondent's blood or breath to be
27 ~~0.12~~ 0.96 or more grams of alcohol per hundred milliliters of blood or

1 0.12 0.96 or more grams of alcohol per two hundred ten liters of breath.
2 If the respondent offers evidence of blood or breath analysis, the
3 respondent shall be required to state under oath the number of analyses
4 done in addition to the one offered as evidence and the names of the
5 laboratories that performed the analyses and the results of all analyses.

6 [REDACTED]

7 **SECTION 7.** 12-47-103, Colorado Revised Statutes, is amended
8 BY THE ADDITION OF A NEW SUBSECTION to read:

9 **12-47-103. Definitions.** As used in this article and article 46 of
10 this title, unless the context otherwise requires:

11 (37.5) "TASTINGS" MEANS THE SAMPLING OF MALT, VINOUS, OR
12 SPIRITOUS LIQUORS THAT MAY OCCUR ON THE PREMISES OF A RETAIL
13 LIQUOR STORE LICENSEE OR LIQUOR-LICENSED DRUGSTORE LICENSEE BY
14 ADULT PATRONS OF THE LICENSEE PURSUANT TO THE PROVISIONS OF
15 SECTION 12-47-301 (10).

16 **SECTION 8.** 12-47-301, Colorado Revised Statutes, is amended
17 BY THE ADDITION OF A NEW SUBSECTION to read:

18 **12-47-301. Licensing in general.** (10) (a) THE PROVISIONS OF
19 THIS SUBSECTION (10) SHALL ONLY APPLY WITHIN A COUNTY, CITY AND
20 COUNTY, OR MUNICIPALITY IF THE GOVERNING BODY OF THE COUNTY, CITY
21 AND COUNTY, OR MUNICIPALITY ADOPTS AN ORDINANCE OR RESOLUTION
22 AUTHORIZING TASTINGS PURSUANT TO THIS SUBSECTION (10). THE
23 ORDINANCE OR RESOLUTION MAY PROVIDE FOR STRICTER LIMITS THAN
24 THIS SUBSECTION (10) ON THE NUMBER OF TASTINGS PER YEAR PER
25 LICENSEE, THE DAYS ON WHICH TASTINGS MAY OCCUR, OR THE NUMBER OF
26 HOURS EACH TASTING MAY LAST.

27 (b) A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE

1 LICENSEE WHO WISHES TO CONDUCT TASTINGS MAY SUBMIT AN
2 APPLICATION OR APPLICATION RENEWAL TO THE LOCAL LICENSING
3 AUTHORITY. THE LOCAL LICENSING AUTHORITY MAY REJECT THE
4 APPLICATION IF THE APPLICANT FAILS TO ESTABLISH THAT HE OR SHE IS
5 ABLE TO CONDUCT TASTINGS WITHOUT VIOLATING THE PROVISIONS OF THIS
6 SECTION OR CREATING A PUBLIC SAFETY RISK TO THE NEIGHBORHOOD. A
7 LOCAL LICENSING AUTHORITY MAY ESTABLISH ITS OWN APPLICATION
8 PROCEDURE AND MAY CHARGE A REASONABLE APPLICATION FEE.

9 (c) TASTINGS SHALL BE SUBJECT TO THE FOLLOWING LIMITATIONS:

10 (I) TASTINGS SHALL BE CONDUCTED ONLY BY A PERSON WHO HAS
11 COMPLETED A SERVER TRAINING PROGRAM THAT MEETS THE STANDARDS
12 ESTABLISHED BY THE LIQUOR ENFORCEMENT DIVISION IN THE DEPARTMENT
13 OF REVENUE AND WHO IS EITHER A RETAIL LIQUOR STORE LICENSEE OR A
14 LIQUOR-LICENSED DRUGSTORE LICENSEE, OR AN EMPLOYEE OF A LICENSEE,
15 AND ONLY ON A LICENSEE'S LICENSED PREMISES.

16 (II) THE ALCOHOL USED IN TASTINGS SHALL BE PURCHASED
17 THROUGH A LICENSED WHOLESALER, LICENSED BREW PUB, OR WINERY
18 LICENSED PURSUANT TO SECTION 12-47-403.

19 (III) THE SIZE OF AN INDIVIDUAL ALCOHOL SAMPLE SHALL NOT
20 EXCEED ONE OUNCE OF MALT OR VINOUS LIQUOR OR ONE-HALF OF ONE
21 OUNCE OF SPIRITUOUS LIQUOR.

22 (IV) TASTINGS SHALL NOT EXCEED A TOTAL OF FIVE HOURS IN
23 DURATION PER DAY, WHICH NEED NOT BE CONSECUTIVE.

24 (V) TASTINGS SHALL BE CONDUCTED ONLY DURING THE
25 OPERATING HOURS IN WHICH THE LICENSEE ON WHOSE PREMISES THE
26 TASTINGS OCCUR IS PERMITTED TO SELL ALCOHOL BEVERAGES, AND IN NO
27 CASE EARLIER THAN 11 A.M. OR LATER THAN 7 P.M.

1 (VI) THE LICENSEE SHALL PROHIBIT PATRONS FROM LEAVING THE
2 LICENSED PREMISES WITH AN UNCONSUMED SAMPLE.

3 (VII) THE LICENSEE SHALL PROMPTLY REMOVE ALL OPEN AND
4 UNCONSUMED ALCOHOL BEVERAGE SAMPLES FROM THE LICENSED
5 PREMISES OR SHALL DESTROY THE SAMPLES IMMEDIATELY FOLLOWING THE
6 COMPLETION OF THE TASTING.

7 (VIII) THE LICENSEE SHALL NOT SERVE A PERSON WHO IS UNDER
8 TWENTY-ONE YEARS OF AGE OR WHO IS VISIBLY INTOXICATED.

9 (IX) THE LICENSEE SHALL NOT SERVE MORE THAN FOUR
10 INDIVIDUAL SAMPLES TO A PATRON DURING A TASTING.

11 (X) ALCOHOL SAMPLES SHALL BE IN OPEN CONTAINERS AND SHALL
12 BE PROVIDED TO A PATRON FREE OF CHARGE.

13 (XI) TASTINGS MAY OCCUR ON NO MORE THAN FOUR OF THE SIX
14 DAYS FROM A MONDAY TO THE FOLLOWING SATURDAY, NOT TO EXCEED
15 ONE HUNDRED FOUR DAYS PER YEAR.

16 (XII) A LICENSEE MAY PROVIDE A TASTING OF ONLY ONE
17 MANUFACTURER AT A TIME.

18 (d) A VIOLATION OF A LIMITATION SPECIFIED IN THIS SUBSECTION
19 (10) OR OF SECTION 12-47-801 BY A RETAIL LIQUOR STORE OR
20 LIQUOR-LICENSED DRUGSTORE LICENSEE, WHETHER BY HIS OR HER
21 EMPLOYEES, AGENTS, OR OTHERWISE, SHALL BE THE RESPONSIBILITY OF
22 THE RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE
23 WHO IS CONDUCTING THE TASTING.

24 (e) A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE
25 LICENSEE CONDUCTING A TASTING SHALL BE SUBJECT TO THE SAME
26 REVOCATION, SUSPENSION, AND ENFORCEMENT PROVISIONS AS OTHERWISE
27 APPLY TO THE LICENSEE.

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(f) NOTHING IN THIS SUBSECTION (10) SHALL AFFECT THE ABILITY OF A COLORADO WINERY LICENSED PURSUANT TO SECTION 12-47-402 OR 12-47-403 TO CONDUCT A TASTING PURSUANT TO THE AUTHORITY OF SECTION 12-47-402 (2) OR 12-47-403 (2) (e).

SECTION 9. 12-47-407 (1), Colorado Revised Statutes, is amended to read:

12-47-407. Retail liquor store license. (1) A retail liquor store license shall be issued to persons selling only malt, vinous, and spirituous liquors in sealed containers not to be consumed at the place where sold. Malt, vinous, and spirituous liquors in sealed containers shall not be sold at retail other than in retail liquor stores except as provided in section 12-47-408. In addition, retail liquor stores may sell nonfood items related to the consumption of such liquors, liquor-filled candy, and food items approved by the state licensing authority that are prepackaged, labeled, directly related to the consumption of such liquors, and are sold solely for the purpose of cocktail garnish in containers up to sixteen ounces. Nothing in this section shall be construed to authorize the sale of food items that could constitute a snack, a meal, or portion of a meal. Nothing in this section or in section 12-47-103 (~~30~~) (31) shall be construed to prohibit the sale of items by a retail liquor store on behalf of or to benefit a charitable organization, as defined in section 39-26-102, C.R.S., or a nonprofit corporation subject to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., and determined to be exempt from federal income tax by the federal internal revenue service, if the retail liquor store does not receive compensation for any such sale. Nothing in this section shall prohibit a retail liquor store

1 licensee, at the option of the licensee, from displaying promotional
2 material furnished by a manufacturer or wholesaler, which material
3 permits a customer to purchase other items from a third person if the
4 retail liquor store licensee does not receive payment from the third person
5 and if the ordering of the additional merchandise is done by the customer
6 directly from the third person. NOTHING IN THIS SUBSECTION (1) SHALL
7 PROHIBIT A RETAIL LIQUOR STORE LICENSEE FROM ALLOWING TASTINGS TO
8 BE CONDUCTED ON HIS OR HER LICENSED PREMISES IF AN AUTHORIZATION
9 FOR THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

10 **SECTION 10.** 12-47-408 (1), Colorado Revised Statutes, is
11 amended to read:

12 **12-47-408. Liquor-licensed drugstore license.** (1) A
13 liquor-licensed drugstore license shall be issued to persons selling malt,
14 vinous, and spirituous liquors in sealed containers not to be consumed at
15 the place where sold. NOTHING IN THIS SUBSECTION (1) SHALL PROHIBIT
16 A LIQUOR-LICENSED DRUGSTORE LICENSEE FROM ALLOWING TASTINGS TO
17 BE CONDUCTED ON HIS OR HER LICENSED PREMISES IF AN AUTHORIZATION
18 FOR THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

19 **SECTION 11.** 12-47-901 (1) (h), (5) (i), (5) (k), and (7),
20 Colorado Revised Statutes, are amended to read:

21 **12-47-901. Unlawful acts - exceptions.** (1) Except as provided
22 in section 18-13-122, C.R.S., it is unlawful for any person:

23 (h) (I) To consume malt, vinous, or spirituous liquor in any public
24 place except on any licensed premises permitted under this article to sell
25 such liquor by the drink for consumption thereon; to consume any alcohol
26 beverage upon any premises licensed to sell liquor for consumption on
27 the licensed premises, the sale of which is not authorized by the state

1 licensing authority; to consume alcohol beverages at any time on such
2 premises other than such alcohol beverage as is purchased from such
3 establishment; or to consume alcohol beverages in any public room on
4 such premises during such hours as the sale of such beverage is
5 prohibited under this article.

6 (II) Notwithstanding subparagraph (I) of this paragraph (h), it
7 shall not be unlawful for a person who is at least twenty-one years of age
8 to consume malt, vinous, or spirituous liquors while such person is a
9 passenger aboard a luxury limousine, as defined in section 40-16-101 (3),
10 C.R.S., or a charter or scenic bus, as defined in section 40-16-101 (1.3),
11 C.R.S. Nothing in this subparagraph (II) shall be construed to authorize
12 an owner or operator of a luxury limousine or charter or scenic bus to sell
13 or distribute malt, vinous, or spirituous liquors without obtaining a public
14 transportation system license pursuant to section 12-47-419.

15 (III) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH
16 (h), IT SHALL NOT BE UNLAWFUL FOR ADULT PATRONS OF A RETAIL LIQUOR
17 STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE TO CONSUME MALT,
18 VINOUS, OR SPIRITUOUS LIQUORS ON THE LICENSED PREMISES WHEN THE
19 CONSUMPTION IS CONDUCTED WITHIN THE LIMITATIONS OF THE LICENSEE'S
20 LICENSE AND IS PART OF A TASTING IF AUTHORIZATION FOR THE TASTING
21 HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

22 (5) It is unlawful for any person licensed to sell at retail pursuant
23 to this article:

24 (i) (I) To sell malt, vinous, or spirituous liquors in a place where
25 the same are to be consumed, unless such place is a hotel, restaurant,
26 tavern, racetrack, club, retail gaming tavern, or arts licensed premises or
27 unless such place is a dining, club, or parlor car; plane; bus; or other

1 conveyance or facility of a public transportation system.

2 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH
3 (i), IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR
4 LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS TO BE
5 CONDUCTED ON HIS OR HER LICENSED PREMISES IF AUTHORIZATION FOR
6 THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

7 (k) (I) To have on the licensed premises, if licensed as a retail
8 liquor store or liquor-licensed drugstore, any container that shows
9 evidence of having once been opened or that contains a volume of liquor
10 less than that specified on the label of such container; except that a
11 person holding a retail liquor store or liquor-licensed drugstore license
12 may have upon the licensed premises malt, vinous, or spirituous liquors
13 in open containers, when the open containers were brought on the
14 licensed premises by and remain solely in the possession of the sales
15 personnel of a person licensed to sell at wholesale pursuant to this article
16 for the purpose of sampling malt, vinous, or spirituous liquors by the
17 retail licensee only. Nothing in this paragraph (k) shall apply to any
18 liquor-licensed drugstore where the contents, or a portion thereof, have
19 been used in compounding prescriptions.

20 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH
21 (k), IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR
22 LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS TO BE
23 CONDUCTED ON HIS OR HER LICENSED PREMISES IF AUTHORIZATION FOR
24 THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

25 (7) (a) It is unlawful for any person licensed pursuant to this
26 article or article 46 of this title to give away fermented malt beverages for
27 the purpose of influencing the sale of any particular kind, make, or brand

1 of any malt beverage and to furnish or supply any commodity or article
2 at less than its market price for said purpose, except advertising material
3 and signs.

4 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (7),
5 IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR
6 LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS TO BE
7 CONDUCTED ON HIS OR HER LICENSED PREMISES IF AUTHORIZATION FOR
8 THE TASTINGS HAS BEEN GRANTED PURSUANT SECTION 12-47-301.

9 **SECTION 12.** 12-47-411, Colorado Revised Statutes, is amended
10 BY THE ADDITION OF A NEW SUBSECTION to read:

11 **12-47-411. Hotel and restaurant license.**

12 (3.5) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE
13 CONTRARY, A HOTEL OR RESTAURANT LICENSED PURSUANT TO THIS
14 SECTION MAY PERMIT A CUSTOMER OF THE HOTEL OR RESTAURANT TO
15 RESEAL AND REMOVE FROM THE LICENSED PREMISES ONE OPENED
16 CONTAINER OF PARTIALLY CONSUMED VINOUS LIQUOR PURCHASED ON THE
17 PREMISES SO LONG AS THE ORIGINAL CONTAINER DID NOT CONTAIN MORE
18 THAN 750 MILLILITERS OF VINOUS LIQUOR.

19 **SECTION 13. Appropriation.** (1) In addition to any other
20 appropriation, there is hereby appropriated, out of any moneys in the
21 driver's license administrative revocation account in the highway users
22 tax fund created in section 42-2-132, Colorado Revised Statutes, to the
23 department of revenue, for the fiscal year beginning July 1, 2003, the sum
24 of thirty thousand one hundred seventy-five dollars (\$30,175) and 0.5
25 FTE, or so much thereof as may be necessary, for the implementation of
26 this act.

27 (2) In addition to any other appropriation, there is hereby

1 appropriated, out of any moneys in the general fund not otherwise , to the
2 judicial department, for the fiscal year beginning July 1, 2003, the sum
3 of thirteen thousand six hundred thirty-two dollars (\$13,632) and 0.2
4 FTE, or so much thereof as may be necessary, for the implementation of
5 this act.

6 **SECTION 14.** Part 1 of article 1 of title 17, Colorado Revised
7 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
8 read:

9 **17-1-146. Appropriation to comply with section 2-2-703 - SB**
10 **03-125** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING
11 STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE
12 NECESSARY, ARE MADE IN ORDER TO IMPLEMENT H.B. 03-1343, ENACTED
13 AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL
14 ASSEMBLY:

15 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION
16 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM
17 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
18 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
19 SECTION 17-1-116, THE SUM OF SEVENTY-SIX THOUSAND FOUR HUNDRED
20 FOURTEEN DOLLARS (\$76,414).

21 (b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION
22 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
23 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
24 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF THIRTY-ONE THOUSAND
25 FORTY DOLLARS (\$31,040).

26 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION
27 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM

1 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
2 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
3 SECTION 17-1-116, THE SUM OF NINETY THOUSAND THREE HUNDRED SEVEN
4 DOLLARS (\$90,307).

5 (c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2006, IN ADDITION
6 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
7 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
8 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF SIXTY-SEVEN
9 THOUSAND SEVEN HUNDRED TWENTY-THREE DOLLARS (\$67,723).

10 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2006, IN ADDITION
11 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM
12 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
13 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
14 SECTION 17-1-116, THE SUM OF THIRTEEN THOUSAND EIGHT HUNDRED
15 NINETY-THREE DOLLARS (\$13,893).

16 (d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2007, IN ADDITION
17 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
18 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
19 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF SEVENTY-THREE
20 THOUSAND THREE HUNDRED SIXTY SEVEN DOLLARS (\$73,367).

21 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2007, IN ADDITION
22 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM
23 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
24 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
25 SECTION 17-1-116, THE SUM OF SIXTY-NINE THOUSAND FOUR HUNDRED
26 SIXTY-SEVEN DOLLARS (\$69,467).

27 **SECTION 15.** 24-75-302 (2), (2) (q), (2) (r), and (2) (s),

1 Colorado Revised Statutes, are amended, and the said 24-75-302 (2) is
2 further amended BY THE ADDITION OF A NEW PARAGRAPH, to
3 read:

4 **24-75-302. Capital construction fund - capital assessment fees**
5 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
6 through July 1, ~~2006~~, 2007, a sum as specified in this subsection (2) shall
7 accrue to the capital construction fund. The state treasurer and the
8 controller shall transfer such sum out of the general fund and into the
9 capital construction fund as moneys become available in the general fund
10 during the fiscal year beginning on said July 1. Transfers between funds
11 pursuant to this subsection (2) shall not be deemed to be appropriations
12 subject to the limitations of section 24-75-201.1. The amount which shall
13 accrue pursuant to this subsection (2) shall be as follows:

14 (q) On July 1, 2004, one hundred million dollars, plus two
15 hundred thirty-three thousand eight hundred seventy-two dollars pursuant
16 to H.B. 00-1201, enacted at the second regular session of the sixty-second
17 general assembly; plus seventy-nine thousand eight hundred eighty-seven
18 dollars pursuant to H.B.01-1242, enacted at the first regular session of the
19 sixty-third general assembly; plus four hundred eighty-six thousand two
20 hundred sixty-nine dollars pursuant to S.B. 02-050, enacted at the second
21 regular session of the sixty-third general assembly; plus nine hundred
22 seventy-two thousand five hundred thirty-eight dollars pursuant to H.B.
23 02-1038, enacted at the second regular session of the sixty-third general
24 assembly; plus four thousand twelve dollars pursuant to section 3 of H.B.
25 02S-1006 enacted at the third extraordinary session of the sixty-third
26 general assembly, PLUS SEVENTY-SIX THOUSAND FOUR HUNDRED
27 FOURTEEN DOLLARS PURSUANT TO H.B. 03-1343, ENACTED AT THE FIRST

1 REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY;

2 (r) On July 1, 2005, one hundred million dollars; plus four
3 hundred forty-nine thousand seven hundred ninety-nine dollars pursuant
4 to S.B.02-050, enacted at the second regular session of the sixty-third
5 general assembly, PLUS NINETY THOUSAND THREE HUNDRED SEVEN
6 DOLLARS PURSUANT TO H.B. 03-1343, ENACTED AT THE FIRST REGULAR
7 SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY;

8 (s) On July 1, 2006, twenty-two thousand nine hundred
9 twenty-four dollars pursuant to section 3 of H.B. 02S-1006, enacted at the
10 third extraordinary session of the sixty-third general assembly, PLUS
11 THIRTEEN THOUSAND EIGHT HUNDRED NINETY-THREE DOLLARS PURSUANT
12 TO H.B. 03-1343, ENACTED AT THE FIRST REGULAR SESSION OF THE
13 SIXTY-FOURTH GENERAL ASSEMBLY;

14 (t) ON JULY 1, 2007, SIXTY-NINE THOUSAND FOUR HUNDRED
15 SIXTY-SEVEN DOLLARS PURSUANT TO H.B. 03-1343, ENACTED AT THE
16 FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY.

17 **SECTION 16. Effective date - applicability.** (1) This act shall
18 take effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly that is
20 allowed for submitting a referendum petition pursuant to article V,
21 section 1 (3) of the state constitution; except that:

22 (a) If a referendum petition is filed against this act or an item,
23 section, or part of this act within such period, then the act, item, section,
24 or part, if approved by the people, shall take effect on the date of the
25 official declaration of the vote thereon by proclamation of the governor;
26 and

27 (b) Unless a referendum petition is filed against these sections,

1 Sections 2 through 6 of this act shall take effect September 30, 2003,
2 except that sections 2 through 6 of the act shall not take effect if the
3 executive director of the department of transportation has issued the
4 certificate required by section 42-4-1300.5 (3), Colorado Revised
5 Statutes; and

6 (c) If sections 2 through 6 of this act become effective, such
7 sections are repealed effective January 1 of the year following the year
8 in which the executive director of the department of transportation issues
9 the certificate required by section 42-4-1300.5 (3), Colorado Revised
10 Statutes.