

Youth Alcohol Responsibility Initiative

DRAFT 2

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

Section 12-47-901 of the Colorado Revised Statutes is hereby amended to read:

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

(a) To sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any alcohol beverage to or for any person under the age of ~~twenty-one years~~ EIGHTEEN YEARS, to a visibly intoxicated person, or to a known habitual drunkard;

(b) To obtain or attempt to obtain any alcohol beverage by misrepresentation of age or by any other method in any place where alcohol beverages are sold when such person is under ~~twenty-one years of age~~ EIGHTEEN YEARS OF AGE;

(c) To possess alcohol beverages in any store, in any public place, including public streets, alleys, roads, or highways, or upon property owned by the state of Colorado or any subdivision thereof, or inside vehicles while upon the public streets, alleys, roads, or highways when such person is under ~~twenty-one years of age~~ EIGHTEEN YEARS OF AGE;

(d) To knowingly, or under conditions that an average parent or guardian should have knowledge of, suffer or permit any person under ~~twenty-one years of age~~ EIGHTEEN YEARS OF AGE, of whom such person may be a parent or guardian, to violate the provisions of paragraph (b) or (c) of this subsection (1);

(e) To buy any vinous or spirituous liquor from any person not licensed to sell at retail as provided by this article except as otherwise provided in this article;

(f) To sell at retail any malt, vinous, or spirituous liquors in sealed containers without holding a retail liquor store or liquor-licensed drugstore license;

(g) To manufacture, sell, or possess for sale any alcohol beverage unless licensed to do so as provided by this article or article 46 or 48 of this title and unless all licenses required are in full force and effect;

(h) (l) To consume malt, vinous, or spirituous liquor in any public place except on any licensed premises permitted under this article to sell such liquor by the drink for consumption thereon; to consume any alcohol beverage upon any premises licensed to sell liquor for consumption on the licensed premises, the sale of which is not authorized by the state licensing authority; to consume alcohol beverages at any time on such premises other than such alcohol beverage as is purchased

from such establishment; or to consume alcohol beverages in any public room on such premises during such hours as the sale of such beverage is prohibited under this article.

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

(III) TO CONSUME MALT, VINOUS OR SPIRITUOUS LIQUOR IN ANY PLACE THAT IS NOT ZONED RESIDENTIALLY IF BETWEEN EIGHTEEN AND TWENTY-ONE YEARS OF AGE.

(IV) TO CONSUME MALT, VINOUS OR SPIRITUOUS LIQUOR IN ANY PLACE THAT IS ZONED RESIDENTIALLY WITH MORE THAN EIGHT PERSONS ON THAT PROPERTY IF BETWEEN EIGHTEEN AND TWENTY-ONE YEARS OF AGE.

(i) To regularly provide premises, or any portion thereof, together with soft drinks or other mix, ice, glasses, or containers at a direct or indirect cost or charge to any person who brings alcohol beverages upon such premises for the purpose of consuming such beverages on said premises during the hours in which the sale of such beverages is prohibited or to consume such beverages upon premises operated in the manner described in this paragraph (i);

(j) To possess any package, parcel, or container on which the excise tax has not been paid;

(k) With knowledge, to permit or fail to prevent the use of his or her identification, including a driver's license, by a person who is under ~~twenty-one years of age~~ EIGHTEEN YEARS OF AGE, for the unlawful purchase of any alcohol beverage;

(l) Who is a common carrier regulated under article 10 or 11 of title 40, C.R.S., or is an agent or employee of such common carrier, to deliver alcohol beverages for any person who has not been issued a license or permit pursuant to this article.

(m) To remove an alcohol beverage from a licensed retail gaming facility where the liquor license for such facility allows only on-premises consumption of alcohol beverages.

(2) It is unlawful for any person licensed as a manufacturer or as a limited winery licensee pursuant to this article or article 46 of this title to manufacture alcohol beverages except in the permanent location specifically designated in the license for such manufacture.

(3) (a) It is unlawful for any person to import or sell any imported alcohol beverage in this state unless such person is the primary source of supply in the United States for the brand of such liquor to be imported into or sold within this state and unless such person holds a valid importer's license issued under the provisions of this article.

(b) If it is determined by the state licensing authority, in its discretion, as not constituting unfair competition or unfair practice, any importer may be authorized by said state licensing authority to import and sell under and subject to the provisions of such importer's license any brand of alcohol beverage for which he or she is not the primary source of supply in the United States if such

licensee is the sole source of supply of that brand of alcohol beverage in the state of Colorado and such authorization is determined by the state licensing authority as not constituting a violation of section 12-47-308.

(c) Any such manufacturer or importer shall, at least thirty days before the importation or sale of any such alcohol beverage in this state, file with the state licensing authority notice of intent to import one or more specified brands of such beverage, together with a statement that such manufacturer or importer is the primary source of supply in the United States for any such brand, unless exempted pursuant to paragraph (b) of this subsection (3), in which case, a statement that such manufacturer or importer is the sole source of supply of that brand of beverage in the state of Colorado, and, upon the request of the state licensing authority, a copy of the manufacturer's federal brand label approval form as required by the federal bureau of alcohol, tobacco, and firearms. Thereafter, said licensee shall file with the state licensing authority a copy of each sales invoice with a monthly sales report as required by section 12-47-503 (4) and (5).

(d) As used in this subsection (3), the term "primary source of supply in the United States" means the manufacturer, the producer, the owner of such alcohol beverage at the time it becomes a marketable product, the bottler in the United States, or the exclusive agent within the United States, or any of the states, of any such manufacturer, producer, owner, or bottler outside the United States. To be the "primary source of supply in the United States", the said manufacturer or importer must be the first source, such as the manufacturer or the source closest to the manufacturer, in the channel of commerce from which the product can be secured by Colorado alcohol beverage wholesalers.

(e) It is unlawful for any person licensed as an importer of alcohol beverages pursuant to this article to deliver any such beverages to any person not in possession of a valid wholesaler's license.

(4) It is unlawful for any person licensed to sell at wholesale pursuant to this article or article 46 of this title:

(a) To peddle malt, vinous, or spirituous liquor at wholesale or by means of a truck or other vehicle if the sale is consummated and delivery made concurrently, but nothing in this paragraph (a) shall prevent delivery from a truck or other vehicle of orders previously taken;

(b) To deliver fermented malt beverages or malt liquors to any retail licensee located outside the geographic territory designated on the license application filed with the state licensing authority if such person holds a wholesaler's beer license;

(c) To purchase or receive any alcohol beverage from any person not licensed pursuant to this article or article 46 of this title, unless otherwise provided in this article;

(d) To sell or serve any alcohol beverage to consumers for consumption on or off the licensed premises during any hours retailers are prohibited from selling or serving such liquors pursuant to subsection (5) of this section.

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

(a) (l) To sell an alcohol beverage to any person under the age of ~~twenty-one years~~ EIGHTEEN YEARS, to a habitual drunkard, or to a visibly intoxicated person, or to permit any alcohol beverage

to be sold or dispensed by a person under eighteen years of age, or to permit any such person to participate in the sale or dispensing thereof. If a person who, in fact, is not ~~twenty-one years of age~~ EIGHTEEN YEARS OF AGE exhibits a fraudulent proof of age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this article or article 46 of this title. Notwithstanding any provision in this subparagraph (I) to the contrary, no person under twenty-one years of age shall be employed to sell or dispense malt, vinous, or spirituous liquors unless he or she is supervised by another person who is on premise and has attained twenty-one years of age. No employee of a tavern licensed pursuant to section 12-47-412, that does not regularly serve meals as defined in section 12-47-103 (20), or a retail liquor store shall sell malt, vinous, or spirituous liquors unless such person is at least twenty-one years of age.

(II) (A) If a licensee or a licensee's employee has reasonable cause to believe that a person is under ~~twenty-one years of age~~ EIGHTEEN YEARS OF AGE and is exhibiting fraudulent proof of age in an attempt to obtain any alcohol beverage, the licensee or employee shall be authorized to confiscate such fraudulent proof of age, if possible, and shall, within seventy-two hours after the confiscation, turn it over to a state or local law enforcement agency. The failure to confiscate such fraudulent proof of age or to turn it over to a state or local law enforcement agency within seventy-two hours after the confiscation shall not constitute a criminal offense, notwithstanding section 12-47-903 (1) (a).

(B) If a licensee or a licensee's employee believes that a person is under ~~twenty-one years of age~~ EIGHTEEN YEARS OF AGE and is exhibiting fraudulent proof of age in an attempt to obtain any alcohol beverage, the licensee or the licensee's employee or any peace or police officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of any unlawful act under this section. Such questioning of a person by a licensee or a licensee's employee or a peace or police officer does not render the licensee, the licensee's employee, or a peace or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

(III) Each licensee shall display a printed card that contains notice of the provisions of this paragraph (a).

(IV) Any licensee or licensee's employee acting in good faith in accordance with the provisions of subparagraph (II) of this paragraph (a) shall be immune from any liability, civil or criminal; except that a licensee or employee acting willfully or wantonly shall not be immune from liability pursuant to subparagraph (II) of this paragraph (a).

(b) To sell, serve, or distribute any malt, vinous, or spirituous liquors at any time other than the following:

(I) For consumption on the premises on any day of the week, except between the hours of 2 a.m. and 7 a.m.

(II) In sealed containers, on Monday through Saturday, beginning at 8 a.m. until 12 midnight each day; except that, for a limited winery licensee, sales of vinous liquors in sealed containers or by the glass shall be permitted on Sunday beginning at 8 a.m. until 12 midnight. No malt, vinous, or

spirituous liquors shall be sold, served, or distributed in a sealed container on Christmas day.

(c) Except as provided in section 18-13-122, C.R.S., it is unlawful for any person to sell fermented malt beverages to any person under the age of ~~twenty-one years~~ EIGHTEEN YEARS or to any person between the hours of 12 midnight and 5 a.m.

(d) To offer for sale or solicit any order for vinous or spirituous liquors in person at retail except within the licensed premises;

(e) To have in possession or upon the licensed premises any alcohol beverage, the sale of which is not permitted by said license;

(f) To buy any alcohol beverages from any person not licensed to sell at wholesale as provided by this article except as otherwise provided in this article;

(g) To sell at retail alcohol beverages except in the permanent location specifically designated in the license for such sale;

(h) To fail to display at all times in a prominent place a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter to be a minimum of one-half inch in height, which shall read as follows:

WARNING

IT IS ILLEGAL TO SELL WHISKEY, WINE, OR BEER TO ANY PERSON UNDER ~~TWENTY-ONE YEARS OF AGE~~ EIGHTEEN YEARS OF AGE AND IT IS ILLEGAL FOR ANY PERSON UNDER ~~TWENTY-ONE YEARS OF AGE~~ EIGHTEEN YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

IT IS ILLEGAL IF YOU ARE ~~TWENTY-ONE YEARS OF AGE~~ EIGHTEEN YEARS OF AGE OR OLDER FOR YOU TO PURCHASE WHISKEY, WINE, OR BEER FOR A PERSON UNDER ~~TWENTY-ONE YEARS OF AGE~~ EIGHTEEN YEARS OF AGE.

FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.

(i) To sell malt, vinous, or spirituous liquors in a place where the same are to be consumed, unless such place is a hotel, restaurant, tavern, racetrack, club, retail gaming tavern, or arts licensed premises or unless such place is a dining, club, or parlor car; plane; bus; or other conveyance or facility of a public transportation system;

(j) To display or cause to be displayed, on the licensed premises, any exterior sign advertising any particular brand of malt liquors unless the particular brand so designated in the sign is dispensed on draft or in sealed containers within the licensed premises wherein the sign is displayed;

(k) To have on the licensed premises, if licensed as a retail liquor store or liquor-licensed

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

(l) To employ or permit, if such person is licensed to sell alcohol beverages for on-premises consumption or is the agent or manager of said licensee, any employee, waiter, waitress, entertainer, host, hostess, or agent of said licensee to solicit from patrons in any manner, for himself or herself or for any other employee, the purchase of any food, beverage, or any other thing of value;

(m) To require a wholesaler to make delivery to any premises other than the specific hotel and restaurant premises where the malt, vinous, or spirituous liquor is to be sold and consumed if such person is a hotel and restaurant licensee or the registered manager of a hotel and restaurant license requires such delivery;

(n) (l) To authorize or permit any gambling, or the use of any gambling machine or device, except as provided by the "Bingo and Raffles Law", article 9 of this title. The provisions of this paragraph (n) shall not apply to those activities, equipment, and devices authorized and legally operated pursuant to articles 47.1 and 60 of this title.

(ll) Any person who violates any provision of this paragraph (n) is guilty of a class 5 felony and, upon conviction thereof, shall be punished as provided in section 18-1-105, C.R.S.

(6) It is unlawful for any importer, manufacturer, or brewer to sell or to bring into this state for purposes of sale any fermented malt beverage or any malt liquor without causing the same to be unloaded and placed in the physical possession of a licensed wholesaler at the wholesaler's licensed premises in this state and to be inventoried for purposes of tax collection prior to delivery to a retailer or consumer.

(7) It is unlawful for any person licensed pursuant to this article or article 46 of this title to give away fermented malt beverages for the purpose of influencing the sale of any particular kind, make, or brand of any malt beverage and to furnish or supply any commodity or article at less than its market price for said purpose, except advertising material and signs.

(8) It is unlawful for any manufacturer or wholesaler licensed pursuant to article 46 of this title to sell, deliver, or cause to be delivered to any retail licensee any beverage containing alcohol in excess of three and two-tenths percent by weight or four percent by volume, or for any fermented malt beverage retailer to sell, possess, or permit the consumption on the premises of any of the beverages containing alcohol in excess of three and two-tenths percent by weight or four percent by volume, or for any fermented malt beverage retail licensee to hold or operate under any license for the sale of any beverages containing alcohol in excess of three and two-tenths percent by weight or four percent by volume for the same premises. Any violation by any fermented malt

beverage licensee of the provisions of this subsection (8) shall immediately cause the cancellation of the license granted under this article.

(9) It is unlawful for a retail gaming tavern licensee who holds a license issued by the Limited Gaming Commission to knowingly permit the removal of an alcohol beverage from a licensed premises that is licensed only for on-premises consumption of alcohol beverages. A retail gaming licensee who holds a license issued by the Limited Gaming Commission shall not be charged with permitting the removal of an alcohol beverage from the licensed premises when the licensee has either:

(a) Stationed personnel at each exit used by the public in order to prevent the removal of an alcohol beverage from the premises; or

(b) Posted a sign at least twelve inches wide and eighteen inches high by each exit used by the public that contains the following notice in type that is at least one-half inch in height:

"WARNING

DO NOT LEAVE THE PREMISES OF THIS ESTABLISHMENT WITH AN ALCOHOL BEVERAGE.

IT IS ILLEGAL TO CONSUME AN ALCOHOL BEVERAGE IN A PUBLIC PLACE.

A FINE OF UP TO \$250 MAY BE IMPOSED BY THE COURTS FOR A VIOLATION OF THIS PROVISION."

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