

First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0823.01 Christy Chase

SENATE BILL 11-194

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SENATE SPONSORSHIP

Boyd,

HOUSE SPONSORSHIP

(None),

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Senate Committees  
Business, Labor and Technology

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF ALCOHOL BEVERAGES.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

Current law contains a separate category of licenses for establishments selling fermented malt beverages, which is beer with an alcohol content of 3.2% or less by weight (3.2% beer), as distinguished from licenses that permit the sale of other alcohol beverages with higher alcohol content, including malt liquor (full beer), wine, and spirits.

**Sections 1 to 6** of the bill allow the sale of full beer, in addition to 3.2% beer, in convenience stores, which are defined as retail businesses

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.*

of less than 5,000 square feet that offer quick purchases of food, beverages, or gasoline but do not contain a pharmacy. Convenience stores would continue to be prohibited from selling other types of alcohol beverages such as wine or spirits and would be permitted to sell regular beer only between the hours of 8 a.m. and 12 midnight, but not on Christmas day. A convenience store licensed to sell full and 3.2% beer may employ a person under 18 years of age if the person is supervised by a person who is at least 21 years of age, but the employee under 18 cannot sell or dispense beer, check age identification, or make deliveries beyond the customary parking area for the licensed premises.

**Section 7** modifies the definition of "malt liquor" in the "Colorado Liquor Code" to include 3.2% beer, thereby allowing all persons licensed under the "Colorado Liquor Code" to manufacture, import, sell at wholesale or retail, sell for on-premise consumption, or serve full beer and 3.2% beer.

**Section 9** permits retail liquor store licensees to have an interest in multiple retail liquor store licenses as long as the licensed premises of each retail liquor store does not exceed 5,000 square feet of total retail space and does not contain a pharmacy on the premises.

The remaining sections of the bill contain conforming amendments necessitated by the substantive law changes.

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

2 **SECTION 1.** 12-46-102, Colorado Revised Statutes, is amended  
3 to read:

4 **12-46-102. Legislative declaration.** (1) The general assembly  
5 hereby declares that it is in the public interest that fermented malt  
6 beverages ~~shall~~ AND MALT LIQUORS be manufactured, imported, and sold  
7 only by persons licensed as provided in this article OR ARTICLE 47 OF THIS  
8 TITLE. The general assembly further declares that it is lawful to  
9 manufacture and sell fermented malt beverages containing not more than  
10 three and two-tenths percent alcohol by weight, AND MALT LIQUORS,  
11 subject to ~~the provisions of~~ this article and applicable provisions of  
12 articles 47 and 48 of this title.

13 (2) The general assembly FURTHER recognizes that fermented malt

1 beverages AND MALT LIQUORS are separate and distinct from, ~~malt~~ AND  
2 HAVE A UNIQUE REGULATORY HISTORY IN RELATION TO, vinous and  
3 spirituous liquors, and as such require THE RETENTION OF a separate and  
4 distinct regulatory framework under this article. To aid administrative  
5 efficiency, however, ~~the provisions in article 47 of this title shall apply~~  
6 APPLIES to the regulation of fermented malt beverages, except when  
7 otherwise expressly provided for in this article.

8 **SECTION 2.** 12-46-103, Colorado Revised Statutes, is amended  
9 to read:

10 **12-46-103. Definitions.** Definitions applicable to this article also  
11 appear in article 47 of this title. As used in this article, unless the context  
12 otherwise requires:

13 (1) "CONVENIENCE STORE" MEANS A RETAIL BUSINESS WITH A  
14 TOTAL SQUARE FOOTAGE OF LESS THAN FIVE THOUSAND SQUARE FEET  
15 WHOSE PRIMARY BUSINESS CONSISTS OF PROVIDING THE PUBLIC WITH A  
16 CONVENIENT LOCATION TO QUICKLY PURCHASE FOOD ITEMS, BEVERAGES,  
17 GASOLINE, OR A COMBINATION THEREOF AND THAT DOES NOT HAVE A  
18 PHARMACY OR EMPLOY PHARMACISTS.

19 ~~(1)~~ (2) "Fermented malt beverage" means any beverage obtained  
20 by the fermentation of any infusion or decoction of barley, malt, hops, or  
21 any similar product or any combination thereof in water containing not  
22 less than one-half of one percent alcohol by volume and not more than  
23 three and two-tenths percent alcohol by weight or four percent alcohol by  
24 volume; except that "fermented malt beverage" ~~shall~~ DOES not include  
25 confectionery containing alcohol within the limits prescribed by section  
26 25-5-410 (1) (i) (II), C.R.S.

27 ~~(2)~~ (3) "License" means a grant to a licensee to manufacture or

1 sell fermented malt beverages OR MALT LIQUORS as provided by this  
2 article.

3 ~~(3)~~ (4) "Licensed premises" means the premises specified in an  
4 application for a license under this article ~~which~~ THAT are owned or in  
5 possession of the licensee and within which such licensee is authorized  
6 to sell, dispense, or serve fermented malt beverages OR MALT LIQUORS in  
7 accordance with ~~the provisions of~~ this article.

8 ~~(4)~~ (5) "Local licensing authority" means the governing body of  
9 a municipality or city and county, the board of county commissioners of  
10 a county, or any authority designated by municipal or county charter,  
11 municipal ordinance, or county resolution.

12 (6) "MALT LIQUORS" HAS THE SAME MEANING AS SET FORTH IN  
13 SECTION 12-47-103.

14 ~~(5)~~ (7) "Sell at wholesale" means selling to ~~any~~ ANYONE other  
15 than the intended consumer of fermented malt beverages. "Sell at  
16 wholesale" ~~shall not be construed to~~ DOES NOT prevent a brewer or  
17 wholesale beer dealer from selling fermented malt beverages to the  
18 intended consumer thereof or ~~to~~ prevent a licensed manufacturer or  
19 importer from selling such beverages to a licensed wholesaler.

20 ~~(6)~~ (8) "State licensing authority" means the executive director of  
21 the department of revenue or the deputy director of the department of  
22 revenue if the executive director so designates.

23 **SECTION 3.** The introductory portion to 12-46-104 (1) and  
24 12-46-104 (1) (c), Colorado Revised Statutes, are amended to read:

25 **12-46-104. Licenses - state license fees - requirements - repeal.**

26 (1) The licenses to be granted and issued by the state licensing authority  
27 pursuant to this article for the manufacture, importation, and sale of

1 fermented malt beverages ~~shall be~~ OR MALT LIQUORS, AS APPLICABLE, ARE  
2 as follows:

3 (c) (I) A FERMENTED MALT BEVERAGE retailer's license, ~~shall be~~  
4 ~~granted and issued~~ WHICH THE STATE LICENSING AUTHORITY SHALL  
5 GRANT AND ISSUE to any person, partnership, association, organization,  
6 or corporation qualifying under section 12-47-301 and not prohibited  
7 from licensure under section 12-47-307 to sell at retail ~~the said~~ fermented  
8 malt beverages upon paying an annual license fee of seventy-five dollars  
9 to the state licensing authority.

10 (II) A MALT LIQUOR RETAILER'S LICENSE, WHICH THE STATE  
11 LICENSING AUTHORITY SHALL GRANT AND ISSUE TO ANY PERSON,  
12 PARTNERSHIP, ASSOCIATION, ORGANIZATION, OR CORPORATION  
13 QUALIFYING UNDER SECTION 12-47-301 AND NOT PROHIBITED FROM  
14 LICENSURE UNDER SECTION 12-47-307 TO SELL MALT LIQUORS IN SEALED  
15 CONTAINERS AT RETAIL, IN A CONVENIENCE STORE, FOR CONSUMPTION OFF  
16 THE LICENSED PREMISES, BETWEEN THE HOURS OF 8 A.M. UNTIL 12  
17 MIDNIGHT EACH DAY EXCEPT CHRISTMAS DAY. THE STATE LICENSING  
18 AUTHORITY SHALL ISSUE THE LICENSE TO THE PERSON, PARTNERSHIP,  
19 ASSOCIATION, ORGANIZATION, OR CORPORATION UPON RECEIPT OF AN  
20 ANNUAL LICENSE FEE OF SEVENTY-FIVE DOLLARS.

21 **SECTION 4.** 12-46-105 (1) (a), Colorado Revised Statutes, is  
22 amended to read:

23 **12-46-105. Fees and taxes - allocation.** (1) (a) (I) The state  
24 licensing authority shall establish fees for processing the following types  
25 of applications, notices, or reports required to be submitted to the state  
26 licensing authority:

27 (A) Applications for new fermented malt beverage OR MALT

1 LIQUOR licenses pursuant to section 12-47-301 and ~~regulations thereunder~~  
2 RULES ADOPTED PURSUANT TO THAT SECTION;

3 (B) Applications for change of location pursuant to section  
4 12-47-301 and ~~regulations thereunder~~ RULES ADOPTED PURSUANT TO  
5 THAT SECTION;

6 (C) Applications for changing, altering, or modifying licensed  
7 premises pursuant to section 12-47-301 and ~~regulations thereunder~~ RULES  
8 ADOPTED PURSUANT TO THAT SECTION;

9 (D) Applications for warehouse or branch house permits pursuant  
10 to section 12-46-104 and ~~regulations thereunder~~ RULES ADOPTED  
11 PURSUANT TO THAT SECTION; AND

12 (E) Applications for duplicate licenses and notices of change of  
13 name or trade name pursuant to section 12-47-301 and ~~regulations~~  
14 ~~thereunder~~ RULES ADOPTED PURSUANT TO THAT SECTION.

15 (II) The amounts of such fees, when added to the other fees and  
16 taxes transferred to the liquor enforcement division and state licensing  
17 authority cash fund pursuant to subsection (2) of this section and section  
18 12-47-502 (1), ~~shall~~ MUST reflect the direct and indirect costs of the liquor  
19 enforcement division and the state licensing authority in the  
20 administration and enforcement of this article and articles 47 and 48 of  
21 this title. At least annually, the STATE LICENSING AUTHORITY SHALL  
22 REVIEW THE amounts of the fees ~~shall be reviewed~~ and, if necessary,  
23 ~~adjusted~~ SHALL ADJUST THE FEE AMOUNTS to reflect ~~such~~ THE direct and  
24 indirect costs.

25 **SECTION 5.** 12-46-106, Colorado Revised Statutes, is amended  
26 to read:

27 **12-46-106. Lawful acts.** It is lawful for a person under eighteen

1 years of age who is under the supervision of a person on the premises  
2 ~~over eighteen~~ AT LEAST TWENTY-ONE years of age to be employed in a  
3 place of business where fermented malt beverages OR MALT LIQUORS are  
4 sold at retail in containers for off-premises consumption. During the  
5 normal course of such employment, any person under eighteen years of  
6 age may handle and otherwise act with respect to fermented malt  
7 beverages OR MALT LIQUORS in the same manner as that person does with  
8 other items sold at retail; except that no person under eighteen years of  
9 age shall sell or dispense fermented malt beverages OR MALT LIQUORS,  
10 check age identification, or make deliveries beyond the customary  
11 parking area for the customers of the retail outlet. This section ~~shall not~~  
12 ~~be construed to~~ DOES NOT permit the violation of any other provisions of  
13 this section under circumstances not specified in this section.

14 **SECTION 6.** The introductory portion to 12-46-107 (1) and  
15 12-46-107 (1) (c), Colorado Revised Statutes, are amended to read:

16 **12-46-107. Local licensing authority - application - fees - rules.**

17 (1) The local licensing authority shall issue only the following classes of  
18 ~~fermented malt beverage~~ licenses FOR FERMENTED MALT BEVERAGES OR  
19 MALT LIQUORS, AS APPLICABLE:

20 (c) Sales for consumption both on and off the premises of the  
21 licensee. A person licensed pursuant to this paragraph (c) may deliver at  
22 retail fermented malt beverages OR MALT LIQUORS, AS APPLICABLE, in  
23 factory-sealed containers in conjunction with the delivery of food  
24 products if ~~such~~ THE person has obtained a permit for the delivery of  
25 fermented malt beverages OR MALT LIQUORS, AS APPLICABLE, from the  
26 state licensing authority. The state licensing authority shall promulgate  
27 rules as are necessary for the proper delivery of ~~fermented malt~~ beverages

1 pursuant to this paragraph (c) and ~~shall have~~ HAS the authority to issue a  
2 permit to any person who is licensed pursuant to and delivers ~~fermented~~  
3 ~~malt~~ beverages under this paragraph (c).

4 **SECTION 7.** 12-47-103 (8) and (19), Colorado Revised Statutes,  
5 are amended to read:

6 **12-47-103. Definitions.** As used in this article and article 46 of  
7 this title, unless the context otherwise requires:

8 (8) "Fermented malt beverage" has the same meaning as provided  
9 in section 12-46-103. ~~(†)~~.

10 (19) "Malt liquors" includes beer and ~~shall be construed to mean~~  
11 MEANS any beverage obtained by the alcoholic fermentation of any  
12 infusion or decoction of barley, malt, hops, or any other similar product,  
13 or any combination thereof, in water containing ~~more than three and~~  
14 ~~two-tenths percent of alcohol by weight or four percent alcohol by~~  
15 ~~volume~~ NOT LESS THAN ONE-HALF OF ONE PERCENT ALCOHOL BY VOLUME.

16 **SECTION 8.** 12-47-301 (6) (a), Colorado Revised Statutes, is  
17 amended to read:

18 **12-47-301. Licensing in general.** (6) (a) Licensees at facilities  
19 owned by a municipality, county, or special district or at publicly or  
20 privately owned sports and entertainment venues with a minimum seating  
21 capacity of one thousand five hundred seats may possess and serve for  
22 on-premises consumption any type of malt, vinous, and spirituous liquor  
23 ~~or fermented malt beverage~~ as may be permitted pursuant to guidelines  
24 established by the local and state licensing authorities, and THE LICENSEES  
25 need not have meals available for consumption. ~~However, fermented~~  
26 ~~malt beverages and malt, vinous, and spirituous liquors may not be served~~  
27 ~~on the same premises at the same time.~~



1           **SECTION 9.** 12-47-407 (4), Colorado Revised Statutes, is  
2 amended to read:

3           **12-47-407. Retail liquor store license.** (4) (a) EXCEPT AS  
4 SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (4), it is unlawful for  
5 any owner, part owner, shareholder, or person interested directly or  
6 indirectly in a retail liquor store to conduct, own either in whole or in  
7 part, or be directly or indirectly interested in any other business licensed  
8 pursuant to this article. ~~except that such a person~~

9           (b) AN OWNER, PART OWNER, SHAREHOLDER, OR PERSON  
10 INTERESTED DIRECTLY OR INDIRECTLY IN A RETAIL LIQUOR STORE may  
11 have ~~an interest~~ INTERESTS in:

12           (I) ADDITIONAL RETAIL LIQUOR STORE LICENSES, IF THE LICENSED  
13 RETAIL LIQUOR STORE AND ANY ADDITIONAL RETAIL LIQUOR STORES IN  
14 WHICH THE OWNER, PART OWNER, SHAREHOLDER, OR PERSON OBTAINS AN  
15 INTEREST DO NOT CONTAIN MORE THAN FIVE THOUSAND SQUARE FEET OF  
16 TOTAL RETAIL SPACE AND DO NOT HAVE A PHARMACY ON THE LICENSED  
17 PREMISES;

18           (II) ~~An Arts license or~~ LICENSES;

19           (III) ~~An Airline public transportation system license~~ LICENSES  
20 granted under this article; or ~~in~~

21           (IV) ~~A Financial institution~~ INSTITUTIONS referred to in section  
22 12-47-308 (4).

23           **SECTION 10.** 12-47-901 (8), Colorado Revised Statutes, is  
24 amended to read:

25           **12-47-901. Unlawful acts - exceptions.** (8) It is unlawful for any  
26 manufacturer or wholesaler licensed pursuant to article 46 of this title to  
27 sell, deliver, or cause to be delivered to any ~~retail licensee~~ PERSON

1 LICENSED PURSUANT TO SECTION 12-47-407 OR 12-47-408 any beverage  
2 containing alcohol in excess of three and two-tenths percent by weight or  
3 four percent by volume, or for any fermented malt beverage retailer  
4 LICENSED PURSUANT TO SECTION 12-46-104 (1) (c) (I) to sell, possess, or  
5 permit the consumption on the premises of any of the beverages  
6 containing alcohol in excess of three and two-tenths percent by weight or  
7 four percent by volume, or for any fermented malt beverage retail licensee  
8 LICENSED PURSUANT TO SECTION 12-46-104 (1) (c) (I) to hold or operate  
9 under any license for the sale of any beverages containing alcohol in  
10 excess of three and two-tenths percent by weight or four percent by  
11 volume for the same premises. Any violation OF THIS SUBSECTION (8) by  
12 any fermented malt beverage licensee ~~of the provisions of this subsection~~  
13 ~~(8) shall~~ LICENSED PURSUANT TO ARTICLE 46 OF THIS TITLE immediately  
14 ~~cause the cancellation of~~ INVALIDATES the license granted under this  
15 article 46 OF THIS TITLE.

16 **SECTION 11.** 12-47-902 (1) and (2), Colorado Revised Statutes,  
17 are amended to read:

18 **12-47-902. Testing for intoxication by law enforcement**  
19 **officers - when prohibited.** (1) No person who is patronizing a licensed  
20 premises as defined in sections 12-47-103 ~~(14)~~ and 12-46-103 ~~(3)~~ shall  
21 be required or solicited by any law enforcement officer to submit to any  
22 mechanical test for the purpose of determining the alcohol content of ~~such~~  
23 ~~THE~~ person's blood or breath while ~~such~~ ~~THE~~ person is upon ~~such~~ ~~THE~~  
24 licensed premises except to determine if there is a violation of section  
25 42-4-1301, C.R.S., by a driver of a motor vehicle unless the law  
26 enforcement officer is acting pursuant to a court order obtained in the  
27 manner described in subsection (2) of this section. No such test may be

1 performed upon any licensed premises to obtain evidence of alleged  
2 intoxication, except pursuant to a court order as provided in this section  
3 or in case of a medical emergency, regardless of whether such alleged  
4 intoxication is a violation of any provision of this article.

5 (2) An ex parte order to permit any law enforcement officer to  
6 solicit any person who is patronizing a licensed premises as defined in  
7 sections 12-47-103 (~~14~~) and 12-46-103 (~~3~~) to submit to any mechanical  
8 test for the purpose of determining the alcohol content of ~~such~~ THE  
9 person's blood or breath while ~~such~~ THE person is upon ~~such~~ THE licensed  
10 premises may be issued by any judge of competent jurisdiction in the state  
11 of Colorado, including a district, county, or municipal court judge, upon  
12 application of a district attorney or a law enforcement agency showing  
13 probable cause to believe that evidence will be obtained of the  
14 commission of the crime of providing any alcohol beverage to a visibly  
15 intoxicated person or minor in violation of section 12-47-901 (1) (a) or  
16 (5) (a) (I).

17 **SECTION 12. Safety clause.** The general assembly hereby finds,  
18 determines, and declares that this act is necessary for the immediate  
19 preservation of the public peace, health, and safety.