

**HOUSE JOURNAL**  
**SIXTY-FOURTH GENERAL ASSEMBLY**  
**STATE OF COLORADO**  
**Second Regular Session**

Seventeenth Legislative Day

Friday, January 23, 2004

1 Prayer by Father Michael Suchnicki, Samaritan House, Denver.

2

3 The Speaker called the House to order at 9:00 a.m.

4

5 Pledge of Allegiance led by Representative Clapp.

6

7 The roll was called with the following result:

8

9 Present--60.

10 Excused--Representatives Garcia, Madden, Pommer, Stafford--4.

11 Absent--Representative McFadyen--1.

12 Present after roll call--Representatives Garcia, Madden,  
13 McFadyen, Pommer, Stafford.

14

15 The Speaker declared a quorum present.

16

17

18 On motion of Representative Frangas, the reading of the journal of  
19 January 22, 2004, was declared dispensed with and approved as corrected  
20 by the Chief Clerk.

21

22

23

24 On motion of Representative Rhodes, the House resolved itself into  
25 Committee of the Whole for consideration of General Orders, and she  
26 was called to the Chair to act as Chairman.

27

28

29

30

**GENERAL ORDERS--SECOND READING OF BILLS**

31

32 The Committee of the Whole having risen, the Chairman reported the  
33 titles of the following bills had been read (reading at length had been  
34 dispensed with by unanimous consent), the bills considered and action  
35 taken thereon as follows:

36

37 (Amendments to the committee amendment are to the printed committee  
38 report which was printed and placed in the members' bill file.)

39

40

41 **HB04-1053** by Representative(s) Hall; also Senator(s) Groff--  
42 Concerning allowing the loss of a license if a person  
43 licensed to sell motor vehicles does not timely notify a

1 consumer regarding the outcome of an attempt to secure  
2 financing for the purchase of a motor vehicle.

3  
4 Ordered engrossed and placed on the Calendar for Third Reading and  
5 Final Passage.

6  
7 **HB04-1078** by Representative(s) Harvey, Lundberg, Rhodes; also  
8 Senator(s) Lamborn--Concerning regulation of sexually  
9 explicit representations that are harmful to minors.

10  
11 Amendment No. 1, by Representative Harvey.

12  
13 Amend printed bill, page 4, line 21, strike "AN AVERAGE" and substitute  
14 "A REASONABLE" and strike "APPLYING CONTEMPORARY";

15  
16 strike line 22 and substitute the following:

17  
18 "WOULD";

19  
20 line 25, strike "AN AVERAGE" and substitute "A REASONABLE" and strike  
21 "APPLYING CONTEMPORARY";

22  
23 line 26, strike "COMMUNITY STANDARDS".

24  
25 Page 6, line 12, after "WITHOUT", insert "FINANCIAL OR OTHER";

26  
27 line 19, after "WITHOUT", insert "FINANCIAL OR OTHER".

28  
29 Amendment No. 2, by Representative Cloer.

30  
31 Amend printed bill, page 7, line 11, strike "MINOR." and substitute  
32 "MINOR; OR";

33  
34 after line 11, insert the following:

35  
36 "(d) THE DEFENDANT WAS A SUBSTITUTE TEACHER ACTING IN THE  
37 COURSE OF HIS OR HER DUTY TEACHING THE MATERIAL PROVIDED TO THE  
38 SUBSTITUTE TEACHER; OR

39  
40 (e) THE DEFENDANT WAS A TEACHER ACTING IN THE COURSE OF HIS  
41 OR HER DUTY TEACHING SCHOOL OR SCHOOL DISTRICT REQUIRED  
42 MATERIAL."

43  
44 As amended, ordered engrossed and placed on the Calendar for Third  
45 Reading and Final Passage.

46 (For change in action, see Amendments to Report, page 138.)

47  
48 **HB04-1057** by Representative(s) Miller; also Senator(s) Taylor--  
49 Concerning newspaper theft.

50  
51 Amendment No. 1, by Representative Miller.

52  
53 Amend printed bill, page 2, after line 1, insert the following:

54  
55 "SECTION 1. Legislative intent. (1) The general assembly  
56 hereby finds and declares that:

1 (a) The freedom of the press is a crucial part of our democratic  
2 society as reflected in the First Amendment of United States Constitution;  
3

4 (b) An attempt to chill the press' important constitutional role by  
5 stealing newspapers is a serious affront to the First Amendment;  
6

7 (c) In order to protect the freedom of the press as expressed in the  
8 First Amendment of the United States Constitution, there must be  
9 criminal sanctions for newspaper theft.  
10

11 (2) Therefore, although a district attorney can prosecute the theft  
12 of a compensatory newspaper, it is the intent of the general assembly to  
13 provide a criminal penalty in the case of the theft of a complimentary  
14 newspaper.".  
15

16 Renumber succeeding sections accordingly.  
17

18 Page 2, line 24, strike "OR COMPENSATORY".  
19

20 Page 3, line 18, after "18-4-419, C.R.S.", insert "OR WHO HAD  
21 COMPENSATORY NEWSPAPERS STOLEN,";  
22

23 line 20, strike "THEFT," and substitute "THEFT OR A COMPENSATORY  
24 NEWSPAPER THAT WAS STOLEN," and strike "THE" and substitute "A";  
25

26 line 21, after "THEFT", insert "OR A COMPENSATORY NEWSPAPER THAT  
27 WAS STOLEN".  
28

29 As amended, ordered engrossed and placed on the Calendar for Third  
30 Reading and Final Passage.  
31

32 **HB04-1012** by Representative(s) Rose; also Senator Jones--  
33 Concerning clarifications to the requirement of obtaining  
34 a criminal background check prior to the transfer of a  
35 firearm at a gun show.  
36

37 Laid over until January 26, retaining place on Calendar.  
38

39 **HB04-1043** by Representative(s) Fairbank--Concerning mandatory  
40 criteria to be used by courts in determining congressional  
41 district boundaries.  
42

43 Ordered engrossed and placed on the Calendar for Third Reading and  
44 Final Passage.  
45

46 **HB04-1027** by Representative(s) Vigil, Coleman, Rhodes, Williams  
47 T.; also Senator(s) Takis, Anderson, Taylor, Tupa--  
48 Concerning the role of the comprehensive primary and  
49 preventive care grant program's advisory council.  
50

51 Ordered engrossed and placed on the Calendar for Third Reading and  
52 Final Passage.  
53

54  
55 **HB04-1047** by Representative(s) Rose; also Senator(s) Hagedorn--  
56 Concerning the authority of a county to require certain

persons who receive child care assistance to cooperate with child support enforcement efforts.

Ordered engrossed and placed on the Calendar for Third Reading and Final Passage.

**HB04-1060** by Representative(s) Lundberg--Concerning modifications to the "Colorado Children's Code" to comply with the federal "Keeping Children and Families Safe Act of 2003".

Referred to the Committee on Appropriations.

On motion of Representative King, the remainder of the General Orders Calendar (**HB04-1061, 1127, 1050, 1074, 1084, 1118, 1150**) was laid over until January 26, retaining place on Calendar.

#### AMENDMENTS TO THE COMMITTEE OF THE WHOLE REPORT

Representatives Boyd, McGihon, Larson moved to amend the Report of the Committee of the Whole to show that Amendment No.1 by Representative Harvey (printed in House Journal, page 136), to HB04-1078, did not pass and the following Boyd, McGihon amendment to **HB04-1078** did pass:

Amend printed bill, page 3, line 1, strike "THE PURPOSE";

strike lines 2 through 6.

Page 4, line 21, strike "AN AVERAGE" and substitute "A REASONABLE" and strike "APPLYING CONTEMPORARY";

strike line 22 and substitute the following:

"WOULD";

line 25, strike "AN AVERAGE" and substitute "A REASONABLE" and strike "APPLYING CONTEMPORARY";

line 26, strike "COMMUNITY STANDARDS".

Page 5, strike lines 6 through 27.

Page 6, strike lines 1 through 8;

line 9, strike "**18-7-505.**" and substitute "**18-7-504.**";

line 12, after "WITHOUT", insert "FINANCIAL OR OTHER";

line 19, after "WITHOUT", insert "FINANCIAL OR OTHER".

Page 7, line 17, strike "**18-7-506.**" and substitute "**18-7-505.**".

The amendment was declared **passed** by the following roll call vote:

1	YES	33	NO	32	EXCUSED	00	ABSENT	00
2	Berry	N	Garcia	Y	McCluskey	N	Sinclair	N
3	Borodkin	Y	Hall	N	McFadyen	Y	Smith	N
4	Boyd	Y	Harvey	N	McGihon	Y	Spence	N
5	Briggs	N	Hefley	N	Merrifield	Y	Stafford	N
6	Brophy	N	Hodge	Y	Miller	N	Stengel	Y
7	Butcher	Y	Hoppe	N	Mitchell	N	Tochtrop	Y
8	Cadman	N	Jahn	Y	Paccione	Y	Vigil	Y
9	Carroll	Y	Johnson	Y	Plant	Y	Weddig	Y
10	Cerbo	Y	Judd	Y	Pommer	Y	Weissmann	Y
11	Clapp	N	King	N	Ragsdale	Y	Welker	N
12	Cloer	N	Larson	Y	Rhodes	N	White	N
13	Coleman	Y	Lee	N	Rippy	Y	Wiens	N
14	Crane	N	Lundberg	N	Romanoff	Y	Williams S.	Y
15	Decker	N	Madden	Y	Rose	N	Williams T.	N
16	Fairbank	Y	Marshall	Y	Salazar	Y	Witwer	N
17	Frangas	Y	May	N	Schultheis	N	Young	Y
18							Speaker	N

## ADOPTION OF COMMITTEE OF THE WHOLE REPORT

**Passed Second Reading: HB04-1053, 1078 amended, 1057 amended, 1043, 1027, 1047.**

Laid over until date indicated retaining place on Calendar: **HB04-1012, 1061, 1127, 1050, 1074, 1084, 1118, 1150**--January 26, 2004.

Referred to Committee indicated: **HB04-1060**--Committee on Appropriations.

The Chairman moved the adoption of the Committee of the Whole Report. As shown by the following roll call vote, a majority of those elected to the House voted in the affirmative, and the Report was **adopted**.

YES	65	NO	00	EXCUSED	00	ABSENT	00
Berry	Y	Garcia	Y	McCluskey	Y	Sinclair	Y
Borodkin	Y	Hall	Y	McFadyen	Y	Smith	Y
Boyd	Y	Harvey	Y	McGihon	Y	Spence	Y
Briggs	Y	Hefley	Y	Merrifield	Y	Stafford	Y
Brophy	Y	Hodge	Y	Miller	Y	Stengel	Y
Butcher	Y	Hoppe	Y	Mitchell	Y	Tochtrop	Y
Cadman	Y	Jahn	Y	Paccione	Y	Vigil	Y
Carroll	Y	Johnson	Y	Plant	Y	Weddig	Y
Cerbo	Y	Judd	Y	Pommer	Y	Weissmann	Y
Clapp	Y	King	Y	Ragsdale	Y	Welker	Y
Cloer	Y	Larson	Y	Rhodes	Y	White	Y
Coleman	Y	Lee	Y	Rippy	Y	Wiens	Y
Crane	Y	Lundberg	Y	Romanoff	Y	Williams S.	Y
Decker	Y	Madden	Y	Rose	Y	Williams T.	Y
Fairbank	Y	Marshall	Y	Salazar	Y	Witwer	Y
Frangas	Y	May	Y	Schultheis	Y	Young	Y
						Speaker	Y

**REPORTS OF COMMITTEES OF REFERENCE****AGRICULTURE, LIVESTOCK, & NATURAL RESOURCES**

After consideration on the merits, the Committee recommends the following:

**HB04-1059** be referred to the Committee of the Whole with favorable recommendation.

**BUSINESS AFFAIRS & LABOR**

After consideration on the merits, the Committee recommends the following:

**HB04-1117** be referred to the Committee of the Whole with favorable recommendation.

**HB04-1126** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

Amend printed bill, page 3, line 4, after "to", insert "THE PRINCIPAL OFFICE OF";

strike line 5 and substitute the following:

"credit union, savings and loan association, bank, or industrial bank within";

strike line 8 and substitute the following:

"unions, savings and loan associations, banks, or industrial banks as the".

Page 5, after line 11, insert the following:

**"SECTION 5.** 11-30-108, Colorado Revised Statutes, is amended to read:

**11-30-108. Elections.** At the annual meeting, or by other proper balloting within thirty days before and twenty days after the annual meeting, the credit union members shall elect from the membership a board of directors of not less than five members. ~~elect a supervisory committee of not less than three members or authorize the board of directors to appoint~~ A supervisory committee of not less than three members and ~~elect a credit committee of not less than three members or authorize the board of directors to appoint a credit officer or a credit committee of not less than three members~~ A CREDIT OFFICER SHALL BE ELECTED BY THE CREDIT UNION MEMBERS OR APPOINTED BY THE BOARD OF DIRECTORS AS PROVIDED IN THE BYLAWS OF THE CREDIT UNION. All such persons shall hold office for such terms respectively as the bylaws provide and until successors are elected or appointed and qualify. In addition, one or more alternate members of the credit committee may be elected by the credit union members or appointed by the board of

1 directors to serve in the absence of members of the credit committee. No  
2 member shall hold more than one elected office simultaneously. A record  
3 of the names and addresses of the members of the board and such  
4 committees, such alternates, and the officers shall be filed with the  
5 commissioner within twenty days after their election or appointment.".

6  
7 Renumber succeeding sections accordingly.

8  
9 Page 9, after line 8, insert the following:

10  
11 "SECTION 10. 11-30-122 (1), (2), (3), (4), and (6), Colorado  
12 Revised Statutes, are amended to read:

13  
14 **11-30-122. Merger.** (1) The method of merger of two or more  
15 credit unions shall be as follows:

16  
17 (a) (I) THE BOARD OF DIRECTORS OF EACH CONTINUING AND  
18 MERGING CREDIT UNIONS SHALL:

19  
20 (A) APPROVE A PLAN FOR THE PROPOSED MERGER; AND

21  
22 (B) AUTHORIZE REPRESENTATIVES OF EACH CREDIT UNION TO ACT  
23 ON EACH CREDIT UNION'S BEHALF TO BRING ABOUT THE MERGER.

24  
25 (II) THE PLAN SHALL INCLUDE SUCH INFORMATION AS THE BOARD  
26 DEEMS APPROPRIATE.

27  
28 (b) UPON APPROVAL OF THE MERGER PLAN BY EACH BOARD OF  
29 DIRECTORS FOR EACH CREDIT UNION INVOLVED IN THE TRANSACTION, THE  
30 MERGER PLAN, TOGETHER WITH THE RESOLUTIONS OF EACH BOARD OF  
31 DIRECTORS, SHALL BE SUBMITTED TO THE BOARD. IF THE BOARD  
32 DETERMINES THAT THE MERGER PLAN COMPLIES WITH THE PROVISIONS OF  
33 THIS ARTICLE AND ANY APPLICABLE RULES THERETO, THE BOARD MAY  
34 APPROVE THE MERGER PLAN, SUBJECT TO SUCH OTHER SPECIFIC  
35 REQUIREMENTS AS MAY BE PRESCRIBED TO FULFILL THE INTENDED  
36 PURPOSES OF THE PROPOSED MERGER.

37  
38 (c) A meeting of the members of ~~each~~ THE MERGING credit union  
39 ~~involved~~ UNIONS shall be called for the purpose of considering a merger.  
40 Notice of the meeting, including purpose, date, time, and place, AND  
41 BALLOT OF THE MERGER PLAN shall be given to the entire membership. At  
42 such meeting, at least two-thirds of the members present and voting must  
43 approve the proposed merger. ~~and authorize a committee composed of~~  
44 ~~four or more representatives of their credit union to act in their behalf to~~  
45 ~~bring about such merger.~~ If any member approves or disapproves the  
46 merger ~~and authorizes or refuses to authorize such committee in writing~~  
47 BY RETURNING A BALLOT, signed by such member, ~~and delivered~~ to the  
48 secretary of the credit union at or before the meeting, such ~~writing~~  
49 BALLOT for all purposes of this section shall be deemed equivalent to the  
50 vote of such member at such meeting, notwithstanding the member is not  
51 then present.

52  
53 (2) The merger shall thereupon be consummated in the following  
54 manner:

55  
56 (a) The duly authorized representatives of each credit union shall

1 execute, in duplicate, a certificate OF MERGER stating that:

2  
3 (I) THE BOARD OF DIRECTORS OF EACH CREDIT UNION HAVE  
4 APPROVED THE MERGER;

5  
6 (II) More than two-thirds of the members of ~~each~~ THE MERGING  
7 credit ~~union~~ UNIONS have approved the terms and conditions of the  
8 proposed merger, at a meeting of the members called for that purpose;  
9 and ~~have authorized such representatives to take proper action to~~  
10 ~~complete the merger; and~~

11  
12 (III) The name and location of the ~~new~~ CONTINUING credit union.

13  
14 (b) ~~They~~ THE CONTINUING CREDIT UNION shall prepare and adopt  
15 ~~bylaws~~ ANY BYLAW AMENDMENTS REQUIRED BY THE BOARD, consistent  
16 with the provisions of this article, and execute the same in duplicate.

17  
18 (c) The certificate above provided for and ~~the bylaws~~ ANY  
19 REQUIRED BYLAW AMENDMENTS, both executed in duplicate, shall be  
20 forwarded to the board.

21  
22 (3) ~~The board, within thirty days of receipt of said certificate and~~  
23 ~~bylaws, shall determine whether they comply with the provisions of this~~  
24 ~~article and whether or not the merger of the credit unions involved would~~  
25 ~~benefit the members and be consistent with the purposes of this article.~~

26  
27 (4) If the board approves the ~~merger~~ CERTIFICATE AND BYLAW  
28 AMENDMENTS, it shall so notify the representatives and shall issue a  
29 certificate of approval, attach it to the duplicate certificate OF MERGER,  
30 and return the same to the representatives of the participating credit  
31 unions together with the duplicate of the ~~bylaws~~ BYLAW AMENDMENTS.

32  
33 (6) Thereupon the participating credit unions shall be merged ~~and~~  
34 ~~be a new credit union incorporated~~ in accordance with the provisions of  
35 this article. ~~Such new~~ SECTION. THE CONTINUING credit union shall take  
36 over the assets and assume all the liabilities of the merged credit unions."

37  
38 Renumber succeeding sections accordingly.

39  
40 Page 36, strike lines 1 through 15.

41  
42 Renumber succeeding sections accordingly.

43  
44 Page 37, strike lines 23 through 27 and substitute the following:

45  
46 "(A) ~~On and after January 1, 1991, but prior to January 1, 1992,~~  
47 ~~the foreign association shall have a ratio of total capital to total assets of~~  
48 ~~not less than four percent or the prevailing regulatory capital requirement~~  
49 ~~established by the federal savings and loan insurance corporation,~~  
50 ~~whichever is greater;".~~

51  
52 Page 38, strike lines 1 through 5 and substitute the following:

53  
54 "(B) ~~On and after January 1, 1992, but prior to January 1, 1993,~~  
55 ~~the foreign association shall have a ratio of total capital to total assets of~~  
56 ~~not less than five percent or the prevailing regulatory capital requirements~~



1 ~~established by the federal savings and loan insurance corporation,~~  
2 ~~whichever is greater;".~~

3

4 Page 39, strike lines 5 through 14, and substitute the following:

5

6 "(A) ~~On and after January 1, 1991, but prior to January 1, 1992,~~  
7 ~~the foreign association shall have a ratio of total capital to total assets of~~  
8 ~~not less than four percent or the prevailing regulatory capital requirement~~  
9 ~~established by the federal savings and loan insurance corporation,~~  
10 ~~whichever is greater;~~

11

12 "(B) ~~On and after January 1, 1992, but prior to January 1, 1993, the~~  
13 ~~foreign association shall have a ratio of total capital to total assets of not~~  
14 ~~less than five percent or the prevailing regulatory capital requirements~~  
15 ~~established by the federal savings and loan insurance corporation,~~  
16 ~~whichever is greater;";~~

17

18 line 20, strike "(2) and (14)," and substitute "(2),";

19

20 line 21, strike "are" and substitute "is";

21

22 strike lines 22 through 27.

23

24 Page 40, strike lines 1 through 10 and substitute the following:

25

26 "**11-42-111. Reserves and distribution of earnings.** (2) ~~Each~~  
27 ~~savings and loan association whose accounts are insured by the federal~~  
28 ~~savings and loan insurance corporation shall set up and maintain a federal~~  
29 ~~insurance reserve as provided in the rules and regulations for insurance~~  
30 ~~of accounts. In the event of termination of the status of an association as~~  
31 ~~an insured institution, the federal insurance reserve shall be transferred~~  
32 ~~to and become a part of the contingent reserve of the association."~~

33

34 Page 42, strike lines 25 through 27.

35

36 Strike page 43.

37

38 Page 44, strike lines 1 through 6.

39

40 Renumber succeeding sections accordingly.

41

42 Page 44, line 7, strike "(1) and (6) (a)," and substitute "(1),";

43

44 line 8, strike "are" and substitute "is";

45 strike lines 18 through 27.

46

47 Strike pages 45 and 46.

48

49 Page 47, strike lines 1 through 3 and substitute the following:

50

51 "**SECTION 69.** 12-12-109 (1), Colorado Revised Statutes, is  
52 amended to read:

53

54 **12-12-109. Endowment care fund.** (1) A cemetery authority of  
55 an endowment care cemetery shall establish an irrevocable endowment  
56 care fund for each endowment care cemetery owned, maintained, or

operated by it in a state bank or trust company authorized to act as fiduciary and under the supervision of the banking board or in a national banking association authorized to act as fiduciary OR IN A STATE OR FEDERALLY CHARTERED SAVINGS AND LOAN ASSOCIATION AUTHORIZED TO ACT AS A FIDUCIARY. Such endowment care fund shall be invested in investments lawful for trustees, which shall not include investments in nor mortgages on property owned or contracted for by the cemetery authority or any owned or affiliated company."

Renumber succeeding sections accordingly.

Page 49, line 18, strike "corporation," and substitute "corporations OR ITS SUCCESSOR,".

Page 51, line 15, strike "corporation;" and substitute "corporation OR ITS SUCCESSOR;".

Page 53, line 18, strike "building or" and substitute "~~building or~~".

## **JUDICIARY**

After consideration on the merits, the Committee recommends the following:

**HB04-1148** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

Amend printed bill, page 2, line 3, after "ANOTHER," insert "INTENTIONALLY".

Page 3, line 8, strike "18-4-509 (2) (b) and (2) (c)," and substitute "18-4-509 (2),";

line 9, strike "are" and substitute "is";

after line 9, insert the following:

**"18-4-509. Defacing property.** (2) (a) Defacing property is a class 2 misdemeanor; except that a second or subsequent conviction for the offense of defacing property is a class 1 misdemeanor and the court shall impose a mandatory minimum fine of seven hundred fifty dollars upon conviction. Fifty percent of the fines collected pursuant to this paragraph (a) shall be credited to the highway user's tax fund, created in section 43-4-201, C.R.S., and fifty percent of the fines collected pursuant to this paragraph (a) shall be credited to the juvenile diversion cash fund created in section 19-2-303.5, C.R.S., AND THE FINES COLLECTED PURSUANT TO SECTION 18-5-509 (1) (c), C.R.S., SHALL BE CREDITED TO THE COLORADO TRAVEL AND TOURISM PROMOTION FUND CREATED IN SECTION 24-49.7-106, C.R.S.";

line 10, strike "**18-4-509. Defacing property.** (2) (b)" and substitute "(b)".

1 **STATE, VETERANS, & MILITARY AFFAIRS**

2 After consideration on the merits, the Committee recommends the  
3 following:

4  
5 **HB04-1023** be referred to the Committee of the Whole with favorable  
6 recommendation.  
7

8  
9 **HB04-1121** be referred favorably to the Committee on Appropriations.  
10

11  
12  
13  
14 **TRANSPORTATION & ENERGY**

15 After consideration on the merits, the Committee recommends the  
16 following:

17  
18 **HB04-1017** be amended as follows, and as so amended, be referred to  
19 the Committee on Appropriations with favorable  
20 recommendation:  
21

22 Amend printed bill, strike everything below the enacting clause and  
23 substitute the following:  
24

25 **"SECTION 1. Legislative declaration.** The general assembly  
26 hereby finds that driving a motor vehicle safely is a skill that requires  
27 significant technical ability and sound judgment, based upon significant  
28 education and experience. The accident rate for sixteen-year-old drivers  
29 is over two and one-half times as high as for eighteen-year-old drivers,  
30 and for sixteen-year-olds the rate is almost twice as high at night as  
31 during the day. Over thirty percent of teenagers are involved in at least  
32 one accident during their first year of driving. Motor vehicle crashes are  
33 the leading cause of death for persons who are fifteen to twenty years old.  
34 Therefore, the general assembly hereby declares that educating aspiring  
35 young drivers will promote the development of the judgment and skills  
36 necessary for safe driving, helping to ensure the safety of Colorado's  
37 youth.  
38

39 **SECTION 2.** The introductory portion to 42-2-104 (4) (a) and  
40 42-2-104 (4) (a) (I), Colorado Revised Statutes, are amended to read:  
41

42 **42-2-104. Licenses issued - denied - repeal.** (4) (a) Before the  
43 department may issue any type of driver's license, including a temporary  
44 driver's license pursuant to section 42-2-106 (2), to ~~any~~ A person under  
45 the age of eighteen years, such person shall have:  
46

47 (I) Applied for, been issued, and possessed an appropriate  
48 instruction permit for at least ~~six~~ TWELVE months;  
49

50 **SECTION 3.** 42-2-106 (1) (a) and (1) (b), Colorado Revised  
51 Statutes, are amended, and the said 42-2-106 (1) is further amended BY  
52 THE ADDITION OF A NEW PARAGRAPH, to read:  
53

54 **42-2-106. Instruction permits and temporary licenses.**  
55 (1) (a) ~~Any minor of the age of fifteen years, within six months prior to~~  
56 ~~such minor's sixteenth birthday, or any~~ A person who IS AT LEAST

1 SIXTEEN YEARS OF AGE AND WHO, except for such person's lack of  
2 instruction in operating a motor vehicle, a motorcycle, or a motor-driven  
3 cycle, would otherwise be qualified to obtain a license under this article  
4 may apply for a temporary instruction permit, in accordance with sections  
5 42-2-107 and 42-2-108. The department shall issue such permit entitling  
6 the applicant, while having such permit in such applicant's immediate  
7 possession, to drive a motor vehicle, a motorcycle, or a motor-driven  
8 cycle upon the highways ~~for a period of six months~~ when accompanied  
9 by a licensed driver, twenty-one years of age or over, who is actually  
10 occupying the front seat in close proximity to the driver, or in the case of  
11 a motorcycle or a motor-driven cycle, under the immediate proximate  
12 supervision of a licensed driver, twenty-one years of age or over,  
13 authorized under this article to drive a motorcycle or a motor-driven  
14 cycle. ~~Any such instruction permit may be extended for an additional~~  
15 ~~period of ninety days.~~ SUCH PERMIT SHALL EXPIRE THREE YEARS AFTER  
16 ISSUANCE.

17  
18 (b) Any minor of the age of fifteen years who is enrolled in a  
19 driver education course approved by the department may apply for a  
20 minor's instruction permit, pursuant to ~~the provisions of~~ sections 42-2-107  
21 and 42-2-108. Upon the presentation of a written or printed statement  
22 signed by the parent or guardian and the instructor of the driver education  
23 course that such minor is enrolled in an approved driver education course,  
24 the department shall issue such permit entitling the applicant, while  
25 having such permit in such applicant's immediate possession, to drive ~~any~~  
26 A motor vehicle, excluding a motorcycle or motor-driven cycle, under the  
27 supervision of the parent or guardian who cosigned the application for the  
28 minor's instruction permit ~~providing~~ IF such parent or guardian holds a  
29 valid driver's license. Such permit shall also entitle the applicant to drive  
30 ~~any~~ A motor vehicle, including a motorcycle or motor-driven cycle, which  
31 is marked so as to indicate that it is a motor vehicle used for instruction  
32 and which is properly equipped for such instruction upon the highways  
33 when accompanied by or under the supervision of an approved driver  
34 education instructor who holds a valid driver's license. Driver education  
35 instructors giving instruction in motorcycle safety must have a valid  
36 motorcycle driver's license and must have successfully completed an  
37 instruction program in motorcycle safety approved by the department.  
38 Such permit shall expire ~~twenty days after the applicant's sixteenth~~  
39 ~~birthday~~ THREE YEARS AFTER ISSUANCE.

40  
41 (d) A MINOR OF THE AGE OF FIFTEEN YEARS AND SIX MONTHS WHO  
42 HAS COMPLETED A DRIVER AWARENESS PROGRAM THAT MEETS THE  
43 STANDARDS AND CONTAINS THE CURRICULUM OF THE NATIONAL SAFETY  
44 COUNCIL, OR ANY OTHER PROGRAM THAT THE DEPARTMENT DETERMINES  
45 IS EQUIVALENT OR SUPERIOR, MAY APPLY FOR A MINOR'S INSTRUCTION  
46 PERMIT PURSUANT TO SECTIONS 42-2-107 AND 42-2-108. UPON  
47 PRESENTING A WRITTEN OR PRINTED STATEMENT SIGNED BY THE PARENT  
48 OR GUARDIAN OF THE APPLICANT AND DOCUMENTATION THAT THE MINOR  
49 COMPLETED SUCH DRIVER AWARENESS PROGRAM, THE DEPARTMENT SHALL  
50 ISSUE A PERMIT ENTITLING THE APPLICANT, WHILE HAVING THE PERMIT IN  
51 THE APPLICANT'S IMMEDIATE POSSESSION, TO DRIVE A MOTOR VEHICLE,  
52 EXCLUDING A MOTORCYCLE OR MOTOR-DRIVEN CYCLE, UNDER THE  
53 SUPERVISION OF THE PARENT OR GUARDIAN WHO COSIGNED THE  
54 APPLICATION FOR THE MINOR'S INSTRUCTION PERMIT IF SUCH PARENT OR  
55 GUARDIAN HOLDS A VALID DRIVER'S LICENSE. SUCH PERMIT SHALL EXPIRE  
56 THREE YEARS AFTER ISSUANCE.

1       **SECTION 4. Effective date - applicability.** This act shall take  
2 effect July 1, 2004, and shall apply to licenses and instruction permits  
3 issued on or after said date.  
4

5       **SECTION 5. Safety clause.** The general assembly hereby finds,  
6 determines, and declares that this act is necessary for the immediate  
7 preservation of the public peace, health, and safety."  
8  
9

10  
11    **HB04-1021** be amended as follows, and as so amended, be referred to  
12 the Committee on Appropriations with favorable  
13 recommendation:  
14

15 Amend printed bill, page 8, after line 26, insert the following:  
16

17       **"SECTION 6.** 12-47-103, Colorado Revised Statutes, is amended  
18 BY THE ADDITION OF A NEW SUBSECTION to read:  
19

20       **12-47-103. Definitions.** As used in this article and article 46 of  
21 this title, unless the context otherwise requires:  
22

23       (37.5) "TASTINGS" MEANS THE SAMPLING OF MALT, VINOUS, OR  
24 SPIRITOUS LIQUORS THAT MAY OCCUR ON THE PREMISES OF A RETAIL  
25 LIQUOR STORE LICENSEE OR LIQUOR-LICENSED DRUGSTORE LICENSEE BY  
26 ADULT PATRONS OF THE LICENSEE PURSUANT TO THE PROVISIONS OF  
27 SECTION 12-47-301 (10).  
28

29       **SECTION 7.** 12-47-301, Colorado Revised Statutes, is amended  
30 BY THE ADDITION OF A NEW SUBSECTION to read:  
31

32       **12-47-301. Licensing in general.** (10) (a) THE PROVISIONS OF  
33 THIS SUBSECTION (10) SHALL ONLY APPLY WITHIN A COUNTY, CITY AND  
34 COUNTY, OR MUNICIPALITY IF THE GOVERNING BODY OF THE COUNTY, CITY  
35 AND COUNTY, OR MUNICIPALITY ADOPTS AN ORDINANCE OR RESOLUTION  
36 AUTHORIZING TASTINGS PURSUANT TO THIS SUBSECTION (10). THE  
37 ORDINANCE OR RESOLUTION MAY PROVIDE FOR STRICTER LIMITS THAN  
38 THIS SUBSECTION (10) ON THE NUMBER OF TASTINGS PER YEAR PER  
39 LICENSEE, THE DAYS ON WHICH TASTINGS MAY OCCUR, OR THE NUMBER OF  
40 HOURS EACH TASTING MAY LAST.  
41

42       (b) A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE  
43 LICENSEE WHO WISHES TO CONDUCT TASTINGS MAY SUBMIT AN  
44 APPLICATION OR APPLICATION RENEWAL TO THE LOCAL LICENSING  
45 AUTHORITY. THE LOCAL LICENSING AUTHORITY MAY REJECT THE  
46 APPLICATION IF THE APPLICANT FAILS TO ESTABLISH THAT HE OR SHE IS  
47 ABLE TO CONDUCT TASTINGS WITHOUT VIOLATING THE PROVISIONS OF THIS  
48 SECTION OR CREATING A PUBLIC SAFETY RISK TO THE NEIGHBORHOOD. A  
49 LOCAL LICENSING AUTHORITY MAY ESTABLISH ITS OWN APPLICATION  
50 PROCEDURE AND MAY CHARGE A REASONABLE APPLICATION FEE.  
51

52       (c) TASTINGS SHALL BE SUBJECT TO THE FOLLOWING LIMITATIONS:  
53

54       (I) TASTINGS SHALL BE CONDUCTED ONLY BY A PERSON WHO HAS  
55 COMPLETED A SERVER TRAINING PROGRAM THAT MEETS THE STANDARDS  
56 ESTABLISHED BY THE LIQUOR ENFORCEMENT DIVISION IN THE DEPARTMENT

1 OF REVENUE AND WHO IS EITHER A RETAIL LIQUOR STORE LICENSEE OR A  
2 LIQUOR-LICENSED DRUGSTORE LICENSEE, OR AN EMPLOYEE OF A LICENSEE,  
3 AND ONLY ON A LICENSEE'S LICENSED PREMISES.  
4

5 (II) THE ALCOHOL USED IN TASTINGS SHALL BE PURCHASED  
6 THROUGH A LICENSED WHOLESALER, LICENSED BREW PUB, OR WINERY  
7 LICENSED PURSUANT TO SECTION 12-47-403 AT A COST THAT IS NOT LESS  
8 THAN THE LAID-IN COST OF SUCH ALCOHOL.  
9

10 (III) THE SIZE OF AN INDIVIDUAL ALCOHOL SAMPLE SHALL NOT  
11 EXCEED ONE OUNCE OF MALT OR VINOUS LIQUOR OR ONE-HALF OF ONE  
12 OUNCE OF SPIRITUOUS LIQUOR.  
13

14 (IV) TASTINGS SHALL NOT EXCEED A TOTAL OF FIVE HOURS IN  
15 DURATION PER DAY, WHICH NEED NOT BE CONSECUTIVE.  
16

17 (V) TASTINGS SHALL BE CONDUCTED ONLY DURING THE  
18 OPERATING HOURS IN WHICH THE LICENSEE ON WHOSE PREMISES THE  
19 TASTINGS OCCUR IS PERMITTED TO SELL ALCOHOL BEVERAGES, AND IN NO  
20 CASE EARLIER THAN 11 A.M. OR LATER THAN 7 P.M.  
21

22 (VI) THE LICENSEE SHALL PROHIBIT PATRONS FROM LEAVING THE  
23 LICENSED PREMISES WITH AN UNCONSUMED SAMPLE.  
24

25 (VII) THE LICENSEE SHALL PROMPTLY REMOVE ALL OPEN AND  
26 UNCONSUMED ALCOHOL BEVERAGE SAMPLES FROM THE LICENSED  
27 PREMISES OR SHALL DESTROY THE SAMPLES IMMEDIATELY FOLLOWING THE  
28 COMPLETION OF THE TASTING.  
29

30 (VIII) THE LICENSEE SHALL NOT SERVE A PERSON WHO IS UNDER  
31 TWENTY-ONE YEARS OF AGE OR WHO IS VISIBLY INTOXICATED.  
32

33 (IX) THE LICENSEE SHALL NOT SERVE MORE THAN FOUR  
34 INDIVIDUAL SAMPLES TO A PATRON DURING A TASTING.  
35

36 (X) ALCOHOL SAMPLES SHALL BE IN OPEN CONTAINERS AND SHALL  
37 BE PROVIDED TO A PATRON FREE OF CHARGE.  
38

39 (XI) TASTINGS MAY OCCUR ON NO MORE THAN FOUR OF THE SIX  
40 DAYS FROM A MONDAY TO THE FOLLOWING SATURDAY, NOT TO EXCEED  
41 ONE HUNDRED FOUR DAYS PER YEAR.  
42

43 (XII) NO MANUFACTURER OF SPIRITUOUS OR VINOUS LIQUORS  
44 SHALL INDUCE A LICENSEE THROUGH FREE GOODS OR FINANCIAL OR  
45 IN-KIND ASSISTANCE TO FAVOR THE MANUFACTURER'S PRODUCTS BEING  
46 SAMPLED AT A TASTING. THE LICENSEE SHALL BEAR THE FINANCIAL AND  
47 ALL OTHER RESPONSIBILITY FOR A TASTING.  
48

49 (d) A VIOLATION OF A LIMITATION SPECIFIED IN THIS SUBSECTION  
50 (10) OR OF SECTION 12-47-801 BY A RETAIL LIQUOR STORE OR  
51 LIQUOR-LICENSED DRUGSTORE LICENSEE, WHETHER BY HIS OR HER  
52 EMPLOYEES, AGENTS, OR OTHERWISE, SHALL BE THE RESPONSIBILITY OF  
53 THE RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE  
54 WHO IS CONDUCTING THE TASTING.  
55

56 (e) A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE

1 LICENSEE CONDUCTING A TASTING SHALL BE SUBJECT TO THE SAME  
2 REVOCATION, SUSPENSION, AND ENFORCEMENT PROVISIONS AS OTHERWISE  
3 APPLY TO THE LICENSEE.  
4

5 (f) NOTHING IN THIS SUBSECTION (10) SHALL AFFECT THE ABILITY  
6 OF A COLORADO WINERY LICENSED PURSUANT TO SECTION 12-47-402 OR  
7 12-47-403 TO CONDUCT A TASTING PURSUANT TO THE AUTHORITY OF  
8 SECTION 12-47-402 (2) OR 12-47-403 (2) (e).  
9

10 **SECTION 8.** 12-47-407 (1), Colorado Revised Statutes, is  
11 amended to read:  
12

13 **12-47-407. Retail liquor store license.** (1) A retail liquor store  
14 license shall be issued to persons selling only malt, vinous, and spirituous  
15 liquors in sealed containers not to be consumed at the place where sold.  
16 Malt, vinous, and spirituous liquors in sealed containers shall not be sold  
17 at retail other than in retail liquor stores except as provided in section  
18 12-47-408. In addition, retail liquor stores may sell nonfood items related  
19 to the consumption of such liquors, liquor-filled candy, and food items  
20 approved by the state licensing authority that are prepackaged, labeled,  
21 directly related to the consumption of such liquors, and are sold solely for  
22 the purpose of cocktail garnish in containers up to sixteen ounces.  
23 Nothing in this section shall be construed to authorize the sale of food  
24 items that could constitute a snack, a meal, or portion of a meal. Nothing  
25 in this section or in section 12-47-103 (31) shall be construed to prohibit  
26 the sale of items by a retail liquor store on behalf of or to benefit a  
27 charitable organization, as defined in section 39-26-102, C.R.S., or a  
28 nonprofit corporation subject to the "Colorado Revised Nonprofit  
29 Corporation Act", articles 121 to 137 of title 7, C.R.S., and determined  
30 to be exempt from federal income tax by the federal internal revenue  
31 service, if the retail liquor store does not receive compensation for any  
32 such sale. Nothing in this section shall prohibit a retail liquor store  
33 licensee, at the option of the licensee, from displaying promotional  
34 material furnished by a manufacturer or wholesaler, which material  
35 permits a customer to purchase other items from a third person if the  
36 retail liquor store licensee does not receive payment from the third person  
37 and if the ordering of the additional merchandise is done by the customer  
38 directly from the third person. NOTHING IN THIS SUBSECTION (1) SHALL  
39 PROHIBIT A RETAIL LIQUOR STORE LICENSEE FROM ALLOWING TASTINGS TO  
40 BE CONDUCTED ON HIS OR HER LICENSED PREMISES IF AN AUTHORIZATION  
41 FOR THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.  
42

43 **SECTION 9.** 12-47-408 (1), Colorado Revised Statutes, is  
44 amended to read:  
45

46 **12-47-408. Liquor-licensed drugstore license.** (1) A  
47 liquor-licensed drugstore license shall be issued to persons selling malt,  
48 vinous, and spirituous liquors in sealed containers not to be consumed at  
49 the place where sold. NOTHING IN THIS SUBSECTION (1) SHALL PROHIBIT  
50 A LIQUOR-LICENSED DRUGSTORE LICENSEE FROM ALLOWING TASTINGS TO  
51 BE CONDUCTED ON HIS OR HER LICENSED PREMISES IF AN AUTHORIZATION  
52 FOR THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.  
53

54 **SECTION 10.** 12-47-901 (1) (h), (5) (i), (5) (k), and (7),  
55 Colorado Revised Statutes, are amended to read:  
56

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

3  
4       (h) (I) To consume malt, vinous, or spirituous liquor in any public  
5 place except on any licensed premises permitted under this article to sell  
6 such liquor by the drink for consumption thereon; to consume any alcohol  
7 beverage upon any premises licensed to sell liquor for consumption on  
8 the licensed premises, the sale of which is not authorized by the state  
9 licensing authority; to consume alcohol beverages at any time on such  
10 premises other than such alcohol beverage as is purchased from such  
11 establishment; or to consume alcohol beverages in any public room on  
12 such premises during such hours as the sale of such beverage is  
13 prohibited under this article.

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

24  
25       (III) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH  
26 (h), IT SHALL NOT BE UNLAWFUL FOR ADULT PATRONS OF A RETAIL LIQUOR  
27 STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE TO CONSUME MALT,  
28 VINOUS, OR SPIRITUOUS LIQUORS ON THE LICENSED PREMISES WHEN THE  
29 CONSUMPTION IS CONDUCTED WITHIN THE LIMITATIONS OF THE LICENSEE'S  
30 LICENSE AND IS PART OF A TASTING IF AUTHORIZATION FOR THE TASTING  
31 HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

32  
33       (5) It is unlawful for any person licensed to sell at retail pursuant  
34 to this article:

35  
36       (i) (I) To sell malt, vinous, or spirituous liquors in a place where  
37 the same are to be consumed, unless such place is a hotel, restaurant,  
38 tavern, racetrack, club, retail gaming tavern, or arts licensed premises or  
39 unless such place is a dining, club, or parlor car; plane; bus; or other  
40 conveyance or facility of a public transportation system.

41  
42       (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH  
43 (i), IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR  
44 LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS TO BE  
45 CONDUCTED ON HIS OR HER LICENSED PREMISES IF AUTHORIZATION FOR  
46 THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

47  
48       (k) (I) To have on the licensed premises, if licensed as a retail  
49 liquor store or liquor-licensed drugstore, any container that shows  
50 evidence of having once been opened or that contains a volume of liquor  
51 less than that specified on the label of such container; except that a  
52 person holding a retail liquor store or liquor-licensed drugstore license  
53 may have upon the licensed premises malt, vinous, or spirituous liquors  
54 in open containers, when the open containers were brought on the  
55 licensed premises by and remain solely in the possession of the sales  
56 personnel of a person licensed to sell at wholesale pursuant to this article



1 for the purpose of sampling malt, vinous, or spirituous liquors by the  
2 retail licensee only. Nothing in this paragraph (k) shall apply to any  
3 liquor-licensed drugstore where the contents, or a portion thereof, have  
4 been used in compounding prescriptions.  
5

6 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH  
7 (k), IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR  
8 LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS TO BE  
9 CONDUCTED ON HIS OR HER LICENSED PREMISES IF AUTHORIZATION FOR  
10 THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.  
11

12 (7) (a) It is unlawful for any person licensed pursuant to this  
13 article or article 46 of this title to give away fermented malt beverages for  
14 the purpose of influencing the sale of any particular kind, make, or brand  
15 of any malt beverage and to furnish or supply any commodity or article  
16 at less than its market price for said purpose, except advertising material  
17 and signs.  
18

19 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (7),  
20 IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR  
21 LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS TO BE  
22 CONDUCTED ON HIS OR HER LICENSED PREMISES IF AUTHORIZATION FOR  
23 THE TASTINGS HAS BEEN GRANTED PURSUANT SECTION 12-47-301."  
24

25 Renumber succeeding sections accordingly.  
26  
27  
28

29 **HB04-1054** be referred to the Committee of the Whole with favorable  
30 recommendation.  
31  
32  
33

### 34 **PRINTING REPORT**

35  
36 The Chief Clerk reports the following bills have been correctly printed:  
37 **HB04-1215, 1216, 1217, 1218.**  
38  
39

### 40 **MESSAGES FROM THE SENATE**

41  
42 Madam Speaker:  
43

44 The Senate has adopted and transmits herewith: SJR04-005.  
45

46 The Senate has adopted and returns herewith: HJR04-1002.  
47

48 The Senate voted to concur in House amendments to SJR04-006, and  
49 readopted the resolution as amended.  
50  
51

52 The Senate has passed on Third Reading and transmitted to the Revisor  
53 of Statutes: SB04-008,  
54

55 SB04-020, amended as printed in Senate Journal, January 22, page 103.  
56

**MESSAGE FROM THE REVISOR**

We herewith transmit:  
 Without comment, SB04-008.  
 Without comment, as amended, SB04-020.

---

**LAY OVER OF CALENDAR ITEM**

On motion of Representative King, the following item on the Calendar  
 was laid over until January 26, retaining place on Calendar:

Consideration of Resolution--**HJR04-1004**.

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On motion of Representative King, the House adjourned until 10:00 a.m.,  
 January 26, 2004.

Approved:

LOLA SPRADLEY,  
 Speaker

Attest:

JUDITH RODRIGUE,  
 Chief Clerk