

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

INTRODUCED

LLS NO. 09-0737.01 Christy Chase

HOUSE BILL 09-1192

HOUSE SPONSORSHIP

McFadyen, Balmer, Casso

SENATE SPONSORSHIP

Veiga,

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ELIMINATION OF THE ALCOHOL PERCENTAGE**
102 **LIMITATIONS ON BEER PRODUCTS SOLD IN COLORADO.**

Bill Summary

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

Eliminates the limitation on the percentage of alcohol contained in fermented malt beverages, thereby allowing fermented malt beverage licensees to manufacture, sell at wholesale or retail, or distribute full beer. Requires employees who are 18 to 20 years of age to either comply with the server and seller training program requirements established by the director of the liquor enforcement division in the department of revenue or be supervised by a person on the licensed premises who is at least 21

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.

years of age in order to:

- ! Sell or dispense fermented malt beverages;
- ! Check age identification on sales of fermented malt beverages; or
- ! Make deliveries of fermented malt beverages beyond the customary parking area of the licensed retailer.

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) (a) The general
5 assembly hereby declares that it is in the public interest that fermented
6 malt beverages shall be manufactured, imported, and sold only by persons
7 licensed as provided in this article. The general assembly further declares
8 that it is lawful to manufacture and sell fermented malt beverages
9 ~~containing not more than three and two-tenths percent alcohol by weight~~
10 subject to the provisions of this article and applicable provisions of
11 articles 47 and 48 of this title.

12 (b) THE GENERAL ASSEMBLY RECOGNIZES THAT SINCE THE
13 FEDERAL GOVERNMENT REQUIRED THE STATE TO RAISE ITS MINIMUM AGE
14 FOR THE CONSUMPTION OF FERMENTED MALT BEVERAGES TO TWENTY-ONE
15 YEARS OF AGE, THE SPECIAL LABELING FOR, AND ALCOHOL CONTENT
16 LIMITATIONS OF, FERMENTED MALT BEVERAGES ARE NO LONGER
17 NECESSARY.

18 (c) THE GENERAL ASSEMBLY FURTHER RECOGNIZES THAT THOSE
19 RETAILERS THAT HAVE SOLD FERMENTED MALT BEVERAGES UNDER AN
20 ALCOHOL PERCENTAGE LIMITATION HAVE SUFFERED REDUCED SALES AND
21 ECONOMIC HARDSHIP, IN PART DUE TO PRIOR LEGISLATION AND FEDERAL
22 MANDATES. THE GENERAL ASSEMBLY HEREBY ACKNOWLEDGES THAT THE

1 ECONOMIC VIABILITY OF A BUSINESS SELLING ONLY
2 LOW-ALCOHOL-CONTENT BEER NO LONGER EXISTS IN COLORADO.
3 THEREFORE, TO ENSURE ECONOMIC EQUITY, THE GENERAL ASSEMBLY
4 HEREBY DECLARES THAT THERE IS NO LONGER A NEED TO HAVE ALCOHOL
5 PERCENTAGE LIMITATIONS ON BEER PRODUCTS KNOWN AS FERMENTED
6 MALT BEVERAGES AND MALT LIQUORS.

7 (2) The general assembly recognizes that fermented malt
8 beverages ~~are~~ AND BEER HAVE A separate and distinct ~~from malt,~~
9 REGULATORY HISTORY FROM vinous and spirituous liquors, and as such
10 require THE RETENTION OF a separate and distinct regulatory framework
11 under this article. To aid administrative efficiency, however, the
12 provisions in article 47 of this title shall apply to the regulation of
13 fermented malt beverages, except when otherwise expressly provided for
14 in this article.

15 **SECTION 2.** 12-46-103 (1), Colorado Revised Statutes, is
16 amended to read:

17 **12-46-103. Definitions.** Definitions applicable to this article also
18 appear in article 47 of this title. As used in this article, unless the context
19 otherwise requires:

20 (1) (a) "Fermented malt beverage" means BEER AND any beverage
21 obtained by the fermentation of any infusion or decoction of barley, malt,
22 hops, or any similar product or any combination thereof in water
23 containing not less than one-half of one percent alcohol by volume. ~~and~~
24 ~~not more than three and two-tenths percent alcohol by weight or four~~
25 ~~percent alcohol by volume; except that~~

26 (b) "Fermented malt beverage" shall not include confectionery
27 containing alcohol within the limits prescribed by section 25-5-410 (1) (i)

1 (II), C.R.S.

2 **SECTION 3.** 12-46-106, Colorado Revised Statutes, is amended
3 to read:

4 **12-46-106. Lawful acts.** (1) It is lawful for a person under
5 eighteen years of age who is under the supervision of a person on the
6 premises over eighteen years of age to be employed in a place of business
7 where fermented malt beverages are sold at retail in containers for
8 off-premises consumption. During the normal course of such
9 employment, any person under eighteen years of age may handle and
10 otherwise act with respect to fermented malt beverages in the same
11 manner as that person does with other items sold at retail; except that no
12 person under eighteen years of age shall sell or dispense fermented malt
13 beverages, check age identification, or make deliveries beyond the
14 customary parking area for the customers of the retail outlet. This section
15 shall not be construed to permit the violation of any other provisions of
16 this section under circumstances not specified in this section.

17 (2) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE OR
18 ARTICLE 47 OF THIS TITLE TO THE CONTRARY, AN EMPLOYEE WHO IS AT
19 LEAST EIGHTEEN YEARS OF AGE AND UNDER TWENTY-ONE YEARS OF AGE
20 MAY SELL OR DISPENSE FERMENTED MALT BEVERAGES, CHECK AGE
21 IDENTIFICATION, OR MAKE DELIVERIES BEYOND THE CUSTOMARY PARKING
22 AREA FOR THE CUSTOMERS OF THE LICENSED RETAILER EMPLOYING THE
23 PERSON ONLY IF THE LICENSEE CAN DOCUMENT THAT THE EMPLOYEE:

24 (a) IS COMPLYING WITH THE SERVER AND SELLER TRAINING
25 PROGRAM REQUIREMENTS ESTABLISHED BY THE DIRECTOR OF THE LIQUOR
26 ENFORCEMENT DIVISION IN THE DEPARTMENT OF REVENUE PURSUANT TO
27 SECTION 12-47-1002; OR

1 (b) IS SUPERVISED BY ANOTHER PERSON WHO IS ON THE PREMISES
2 AND WHO IS AT LEAST TWENTY-ONE YEARS OF AGE.

3 **SECTION 4.** 12-47-103 (19), Colorado Revised Statutes, is
4 amended to read:

5 **12-47-103. Definitions.** As used in this article and article 46 of
6 this title, unless the context otherwise requires:

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

13 **SECTION 5. Repeal.** 12-47-901 (8), Colorado Revised Statutes,
14 is repealed as follows:

15 **12-47-901. Unlawful acts - exceptions.** (8) ~~It is unlawful for any~~
16 ~~manufacturer or wholesaler licensed pursuant to article 46 of this title to~~
17 ~~sell, deliver, or cause to be delivered to any retail licensee any beverage~~
18 ~~containing alcohol in excess of three and two-tenths percent by weight or~~
19 ~~four percent by volume, or for any fermented malt beverage retailer to~~
20 ~~sell, possess, or permit the consumption on the premises of any of the~~
21 ~~beverages containing alcohol in excess of three and two-tenths percent by~~
22 ~~weight or four percent by volume, or for any fermented malt beverage~~
23 ~~retail licensee to hold or operate under any license for the sale of any~~
24 ~~beverages containing alcohol in excess of three and two-tenths percent by~~
25 ~~weight or four percent by volume for the same premises. Any violation~~
26 ~~by any fermented malt beverage licensee of the provisions of this~~
27 ~~subsection (8) shall immediately cause the cancellation of the license~~

1 ~~granted under this article.~~

2 **SECTION 6. Act subject to petition - effective date.** This act
3 shall take effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly that is
5 allowed for submitting a referendum petition pursuant to article V,
6 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
7 sine die is on May 6, 2009); except that, if a referendum petition is filed
8 against this act or an item, section, or part of this act within such period,
9 then the act, item, section, or part, if approved by the people, shall take
10 effect on the date of the official declaration of the vote thereon by
11 proclamation of the governor.