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An Act

SENATE BILL 11-273

BY SENATOR(S) Steadman, Giron;
also REPRESENTATIVE(S) Massey, Fischer, Holbert, Kerr J., Murray,
Pace, Schafer S., Todd, Wilson.

CONCERNING AUTHORIZATION TO CONSUME ALCOHOL BEVERAGES WITHIN
A COMMON CONSUMPTION AREA.

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

SECTION 1. 12-47-103, Colorado Revised Statutes, is amended
BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
read:

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

(6.6) "COMMON CONSUMPTION AREA" MEANS AN AREA DESIGNED AS
A COMMON AREA IN AN ENTERTAINMENT DISTRICT APPROVED BY THE LOCAL
LICENSING AUTHORITY THAT USES PHYSICAL BARRIERS TO CLOSE THE AREA
TO MOTOR VEHICLE TRAFFIC AND LIMIT PEDESTRIAN ACCESS.

(7.5) "ENTERTAINMENT DISTRICT" MEANS AN AREA LOCATED WITHIN
A MUNICIPALITY THAT IS DESIGNATED AS ITS ENTERTAINMENT DISTRICT OF

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

NO MORE THAN ONE HUNDRED ACRES CONTAINING AT LEAST TWENTY THOUSAND SQUARE FEET OF PREMISES LICENSED AS A TAVERN, HOTEL AND RESTAURANT, BREW PUB, RETAIL GAMING TAVERN, OR VINTNER'S RESTAURANT WHEN THE DISTRICT IS CREATED.

(24.5) "PROMOTIONAL ASSOCIATION" MEANS AN ASSOCIATION THAT IS INCORPORATED WITHIN COLORADO, ORGANIZES AND PROMOTES ENTERTAINMENT ACTIVITIES WITHIN A COMMON CONSUMPTION AREA, AND IS ORGANIZED OR AUTHORIZED BY TWO OR MORE PEOPLE WHO OWN OR LEASE PROPERTY WITHIN AN ENTERTAINMENT DISTRICT.

SECTION 2. 12-47-301, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-47-301. Licensing in general. (11) (a) THIS SUBSECTION (11) APPLIES ONLY WITHIN AN ENTERTAINMENT DISTRICT THAT A GOVERNING BODY OF A LOCAL LICENSING AUTHORITY HAS CREATED BY ORDINANCE OR RESOLUTION. THIS SUBSECTION (11) DOES NOT APPLY TO A SPECIAL EVENT PERMIT ISSUED UNDER ARTICLE 48 OF THIS TITLE OR THE HOLDER THEREOF UNLESS THE PERMIT HOLDER DESIRES TO USE AN EXISTING COMMON CONSUMPTION AREA AND AGREES IN WRITING TO THE REQUIREMENTS OF THIS ARTICLE AND THE LOCAL LICENSING AUTHORITY CONCERNING THE COMMON CONSUMPTION AREA.

(b) A GOVERNING BODY OF A LOCAL LICENSING AUTHORITY MAY CREATE AN ENTERTAINMENT DISTRICT BY ADOPTING AN ORDINANCE OR RESOLUTION. AN ENTERTAINMENT DISTRICT SHALL NOT EXCEED ONE HUNDRED ACRES. THE ORDINANCE OR RESOLUTION MAY IMPOSE STRICTER LIMITS THAN REQUIRED BY THIS SUBSECTION (11) ON THE SIZE, SECURITY, OR HOURS OF OPERATION OF ANY COMMON CONSUMPTION AREA CREATED WITHIN THE ENTERTAINMENT DISTRICT.

(c) (I) A CERTIFIED PROMOTIONAL ASSOCIATION MAY OPERATE A COMMON CONSUMPTION AREA WITHIN AN ENTERTAINMENT DISTRICT AND AUTHORIZE THE ATTACHMENT OF A LICENSED PREMISES TO THE COMMON CONSUMPTION AREA.

(II) AN ASSOCIATION OR TAVERN, HOTEL AND RESTAURANT, BREW PUB, RETAIL GAMING TAVERN, OR VINTNER'S RESTAURANT LICENSEE WHO WISHES TO CREATE A PROMOTIONAL ASSOCIATION MAY SUBMIT AN

APPLICATION TO THE LOCAL LICENSING AUTHORITY. TO QUALIFY FOR CERTIFICATION, THE PROMOTIONAL ASSOCIATION MUST:

(A) HAVE A BOARD OF DIRECTORS;

(B) HAVE AT LEAST ONE DIRECTOR FROM EACH LICENSED PREMISES ATTACHED TO THE COMMON CONSUMPTION AREA ON THE BOARD OF DIRECTORS; AND

(C) AGREE TO SUBMIT ANNUAL REPORTS BY JANUARY 31 OF EACH YEAR TO THE LOCAL LICENSING AUTHORITY SHOWING A DETAILED MAP OF THE BOUNDARIES OF THE COMMON CONSUMPTION AREA, THE COMMON CONSUMPTION AREA'S HOURS OF OPERATION, A LIST OF ATTACHED LICENSED PREMISES, A LIST OF THE DIRECTORS AND OFFICERS OF THE PROMOTIONAL ASSOCIATION, SECURITY ARRANGEMENTS WITHIN THE COMMON CONSUMPTION AREA, AND ANY VIOLATION OF THIS ARTICLE COMMITTED BY AN ATTACHED LICENSED PREMISES.

(III) THE LOCAL LICENSING AUTHORITY MAY REFUSE TO CERTIFY OR MAY DECERTIFY A PROMOTIONAL ASSOCIATION OF A COMMON CONSUMPTION AREA IF THE PROMOTIONAL ASSOCIATION:

(A) FAILS TO SUBMIT THE REPORT REQUIRED BY SUB-SUBPARAGRAPH (C) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (c) BY JANUARY 31 OF EACH YEAR;

(B) FAILS TO ESTABLISH THAT THE LICENSED PREMISES AND COMMON CONSUMPTION AREA CAN BE OPERATED WITHOUT VIOLATING THIS ARTICLE OR CREATING A SAFETY RISK TO THE NEIGHBORHOOD;

(C) FAILS TO HAVE AT LEAST TWO LICENSED PREMISES ATTACHED TO THE COMMON CONSUMPTION AREA;

(D) FAILS TO OBTAIN OR MAINTAIN A PROPERLY ENDORSED GENERAL LIABILITY AND LIQUOR LIABILITY INSURANCE POLICY THAT IS REASONABLY ACCEPTABLE TO THE LOCAL LICENSING AUTHORITY AND NAMES THE LOCAL LICENSING AUTHORITY AS AN ADDITIONAL INSURED;

(E) THE USE IS NOT COMPATIBLE WITH THE REASONABLE REQUIREMENTS OF THE NEIGHBORHOOD OR THE DESIRES OF THE ADULT

INHABITANTS; OR

(F) VIOLATES SECTION 12-47-909.

(d) A PERSON SHALL NOT ATTACH A PREMISES LICENSED UNDER THIS ARTICLE TO A COMMON CONSUMPTION AREA UNLESS AUTHORIZED BY THE LOCAL LICENSING AUTHORITY.

(e) (I) A TAVERN, HOTEL AND RESTAURANT, BREW PUB, RETAIL GAMING TAVERN, OR VINTNER'S RESTAURANT LICENSEE WHO WISHES TO ATTACH TO A COMMON CONSUMPTION AREA MAY SUBMIT AN APPLICATION TO THE LOCAL LICENSING AUTHORITY. TO QUALIFY, THE LICENSEE MUST INCLUDE A REQUEST FOR AUTHORITY TO ATTACH TO THE COMMON CONSUMPTION AREA FROM THE CERTIFIED PROMOTIONAL ASSOCIATION OF THE COMMON CONSUMPTION AREA UNLESS THE PROMOTIONAL ASSOCIATION DOES NOT EXIST WHEN THE APPLICATION IS SUBMITTED; IF SO, THE APPLICANT SHALL REQUEST THE AUTHORITY WHEN A PROMOTIONAL ASSOCIATION IS CERTIFIED AND SHALL DEMONSTRATE TO THE LOCAL LICENSING AUTHORITY THAT THE AUTHORITY HAS BEEN OBTAINED BY THE TIME THE APPLICANT'S LICENSE ISSUED UNDER THIS ARTICLE IS RENEWED.

(II) THE LOCAL LICENSING AUTHORITY MAY DEAUTHORIZE OR REFUSE TO AUTHORIZE OR REAUTHORIZE A LICENSEE'S ATTACHMENT TO A COMMON CONSUMPTION AREA IF THE LICENSED PREMISES IS NOT WITHIN OR ON THE PERIMETER OF THE COMMON CONSUMPTION AREA AND IF THE LICENSEE:

(A) FAILS TO OBTAIN OR RETAIN AUTHORITY TO ATTACH TO THE COMMON CONSUMPTION AREA FROM THE CERTIFIED PROMOTIONAL ASSOCIATION;

(B) FAILS TO ESTABLISH THAT THE LICENSED PREMISES AND COMMON CONSUMPTION AREA CAN BE OPERATED WITHOUT VIOLATING THIS ARTICLE OR CREATING A SAFETY RISK TO THE NEIGHBORHOOD; OR

(C) VIOLATES SECTION 12-47-909.

(f) A LOCAL LICENSING AUTHORITY MAY ESTABLISH APPLICATION PROCEDURES AND A FEE FOR CERTIFYING A PROMOTIONAL AUTHORITY OR AUTHORIZING ATTACHMENT TO A COMMON CONSUMPTION AREA. THE

AUTHORITY SHALL ESTABLISH THE FEE IN AN AMOUNT DESIGNED TO REASONABLY OFFSET THE COST OF IMPLEMENTING THIS SUBSECTION (11). NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A LOCAL AUTHORITY MAY SET THE HOURS DURING WHICH A COMMON CONSUMPTION AREA AND ATTACHED LICENSED PREMISES MAY SERVE ALCOHOL AND THE CUSTOMERS MAY CONSUME ALCOHOL. BEFORE CERTIFYING A PROMOTIONAL ASSOCIATION, THE LOCAL LICENSING AUTHORITY SHALL CONSIDER THE REASONABLE REQUIREMENTS OF THE NEIGHBORHOOD, THE DESIRES OF THE ADULT INHABITANTS AS EVIDENCED BY PETITIONS, REMONSTRANCES, OR OTHERWISE, AND ALL OTHER REASONABLE RESTRICTIONS THAT ARE OR MAY BE PLACED UPON THE NEIGHBORHOOD BY THE LOCAL LICENSING AUTHORITY.

SECTION 3. 12-47-901 (1) (h), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH 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:

(h) (VI) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH (h), IT IS NOT UNLAWFUL FOR ADULT PATRONS OF A LICENSED PREMISES THAT IS ATTACHED TO A COMMON CONSUMPTION AREA TO CONSUME ALCOHOL BEVERAGES UPON UNLICENSED AREAS WITHIN A COMMON CONSUMPTION AREA, BUT THIS SUBPARAGRAPH (VI) DOES NOT AUTHORIZE A PATRON TO REMOVE AN ALCOHOL BEVERAGE FROM THE COMMON CONSUMPTION AREA.

SECTION 4. 12-47-908, Colorado Revised Statutes, is amended to read:

12-47-908. Colorado state fair or common consumption area - consumption on premises. Notwithstanding any other provision of this article, a person who purchases an alcohol beverage for consumption from a vendor licensed pursuant to UNDER this article at THAT IS EITHER ATTACHED TO A COMMON CONSUMPTION AREA OR LICENSED FOR the fairgrounds of the Colorado state fair authority may leave the licensed premises with the beverage and possess and consume the beverage at any place within the COMMON CONSUMPTION AREA OR fairgrounds if the person does not remove the beverage from the COMMON CONSUMPTION AREA OR fairgrounds. This section does not authorize a person to bring into the COMMON CONSUMPTION AREA OR fairgrounds an alcohol beverage

purchased outside of the COMMON CONSUMPTION AREA OR fairgrounds.

SECTION 5. Part 9 of article 47 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

12-47-909. Common consumption areas. (1) A PROMOTIONAL ASSOCIATION OR ATTACHED LICENSED PREMISES SHALL NOT:

(a) EMPLOY A PERSON TO SERVE ALCOHOL BEVERAGES OR PROVIDE SECURITY WITHIN THE COMMON CONSUMPTION AREA UNLESS THE SERVER HAS COMPLETED THE SERVER AND SELLER TRAINING PROGRAM ESTABLISHED BY THE DIRECTOR OF THE LIQUOR ENFORCEMENT DIVISION OF THE DEPARTMENT OF REVENUE;

(b) SELL OR PROVIDE AN ALCOHOL BEVERAGE TO A CUSTOMER FOR CONSUMPTION WITHIN THE COMMON CONSUMPTION AREA BUT NOT WITHIN THE LICENSED PREMISES IN A CONTAINER THAT IS LARGER THAN SIXTEEN OUNCES;

(c) SELL OR PROVIDE AN ALCOHOL BEVERAGE TO A CUSTOMER FOR CONSUMPTION WITHIN THE COMMON CONSUMPTION AREA BUT NOT WITHIN THE LICENSED PREMISES UNLESS THE CONTAINER IS DISPOSABLE AND CONTAINS THE NAME OF THE VENDOR IN AT LEAST TWENTY-FOUR-POINT FONT;

(d) PERMIT CUSTOMERS TO LEAVE THE LICENSED PREMISES WITH AN ALCOHOL BEVERAGE UNLESS THE BEVERAGE CONTAINER COMPLIES WITH PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (1);

(e) OPERATE THE COMMON CONSUMPTION AREA DURING HOURS THE LICENSED PREMISES CANNOT SELL ALCOHOL UNDER THIS ARTICLE OR THE LIMITATIONS IMPOSED BY THE LOCAL LICENSING AUTHORITY;

(f) OPERATE THE COMMON CONSUMPTION AREA IN AN AREA THAT EXCEEDS THE MAXIMUM AUTHORIZED BY THIS ARTICLE OR BY THE LOCAL LICENSING AUTHORITY;

(g) SELL, SERVE, DISPOSE OF, EXCHANGE, OR DELIVER, OR PERMIT THE SALE, SERVING, GIVING, OR PROCURING OF, AN ALCOHOL BEVERAGE TO A VISIBLY INTOXICATED PERSON OR TO A KNOWN HABITUAL DRUNKARD;

(h) SELL, SERVE, DISPOSE OF, EXCHANGE, OR DELIVER OR PERMIT THE SALE, SERVING, OR GIVING OF AN ALCOHOL BEVERAGE TO A PERSON UNDER TWENTY-ONE YEARS OF AGE; OR

(i) PERMIT A VISIBLY INTOXICATED PERSON TO LOITER WITHIN THE COMMON CONSUMPTION AREA.

(2) THE PROMOTIONAL ASSOCIATION SHALL PROMPTLY REMOVE ALL ALCOHOL BEVERAGES FROM THE COMMON CONSUMPTION AREA AT THE END OF THE HOURS OF OPERATION.

(3) A PERSON SHALL NOT CONSUME ALCOHOL WITHIN THE COMMON CONSUMPTION AREA UNLESS IT WAS PURCHASED FROM AN ATTACHED, LICENSED PREMISES.

(4) THIS SECTION DOES NOT APPLY TO A SPECIAL EVENT PERMIT ISSUED UNDER ARTICLE 48 OF THIS TITLE OR THE HOLDER THEREOF UNLESS THE PERMIT HOLDER DESIRES TO USE AN EXISTING COMMON CONSUMPTION AREA AND AGREES IN WRITING TO THE REQUIREMENTS OF THIS ARTICLE AND THE LOCAL LICENSING AUTHORITY CONCERNING THE COMMON CONSUMPTION AREA.

SECTION 6. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act shall apply to acts committed on or after the applicable effective date of this act.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO