

**Second Regular Session  
Sixty-fourth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 04-0087.01 Stephen Miller

**HOUSE BILL 04-1021**

---

**HOUSE SPONSORSHIP**

**Briggs,** and Merrifield

**SENATE SPONSORSHIP**

**McElhany**

---

**House Committees**

Transportation & Energy  
Appropriations

**Senate Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING THE CONSUMPTION OF ALCOHOL.**

---

**Bill Summary**

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

**Transportation Legislation Review Committee.** For driving under the influence of alcohol, lowers the blood alcohol content level to 0.08 grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

Makes conforming amendments.

---

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

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.*

1           **SECTION 1.** 42-4-1301 (2) (a), (6) (a) (II), and (6) (a) (III),  
2 Colorado Revised Statutes, are amended to read:

3           **42-4-1301. Driving under the influence - driving while**  
4 **impaired - driving with excessive alcoholic content - penalties.**

5 (2) (a) It is a misdemeanor for any person to drive any vehicle in this  
6 state when the person's BAC is ~~0.10~~ 0.08 or more at the time of driving  
7 or within two hours after driving. During a trial, if the state's evidence  
8 raises the issue, or if a defendant presents some credible evidence, that  
9 the defendant consumed alcohol between the time that the defendant  
10 stopped driving and the time that testing occurred, such issue shall be an  
11 affirmative defense, and the prosecution must establish beyond a  
12 reasonable doubt that the minimum ~~0.10~~ 0.08 blood or breath alcohol  
13 content required in this paragraph (a) was reached as a result of alcohol  
14 consumed by the defendant before the defendant stopped driving.

15 (6) (a) In any prosecution for DUI or DWAI, the defendant's BAC  
16 at the time of the commission of the alleged offense or within a  
17 reasonable time thereafter gives rise to the following presumptions or  
18 inferences:

19 (II) If at such time the defendant's BAC was in excess of 0.05 but  
20 less than ~~0.10~~ 0.08, such fact gives rise to the permissible inference that  
21 the defendant's ability to operate a vehicle was impaired by the  
22 consumption of alcohol, and such fact may also be considered with other  
23 competent evidence in determining whether or not the defendant was  
24 under the influence of alcohol.

25 (III) If at such time the defendant's BAC was ~~0.10~~ 0.08 or more,  
26 such fact gives rise to the permissible inference that the defendant was  
27 under the influence of alcohol.

1           **SECTION 2.** 42-4-1300.3 (3), Colorado Revised Statutes, is  
2 amended to read:

3           **42-4-1300.3. Definitions.** As used in this part 13, unless the  
4 context otherwise requires:

5           (3) "DUI per se" means driving with a BAC of ~~0.10~~ 0.08 or more,  
6 and use of the term shall incorporate by reference the offense described  
7 in section 42-4-1301 (2) (a).

8           **SECTION 3.** 18-3-106 (2) (b) and (2) (c), Colorado Revised  
9 Statutes, are amended to read:

10           **18-3-106. Vehicular homicide.** (2) In any prosecution for a  
11 violation of subsection (1) of this section, the amount of alcohol in the  
12 defendant's blood or breath at the time of the commission of the alleged  
13 offense, or within a reasonable time thereafter, as shown by analysis of  
14 the defendant's blood or breath, shall give rise to the following  
15 presumptions:

16           (b) If there was at such time in excess of 0.05 but less than ~~0.10~~  
17 0.08 grams of alcohol per one hundred milliliters of blood, or if there was  
18 at such time in excess of 0.05 but less than ~~0.10~~ 0.08 grams of alcohol per  
19 two hundred ten liters of breath, such fact may be considered with other  
20 competent evidence in determining whether or not the defendant was  
21 under the influence of alcohol.

22           (c) If there was at such time ~~0.10~~ 0.08 or more grams of alcohol  
23 per one hundred milliliters of blood, or if there was at such time ~~0.10~~ 0.08  
24 or more grams of alcohol per two hundred ten liters of breath, it shall be  
25 presumed that the defendant was under the influence of alcohol.

26           **SECTION 4.** 18-3-205 (2) (b) and (2) (c), Colorado Revised  
27 Statutes, are amended to read:

1           **18-3-205. Vehicular assault.** (2) In any prosecution for a  
2 violation of subsection (1) of this section, the amount of alcohol in the  
3 defendant's blood or breath at the time of the commission of the alleged  
4 offense, or within a reasonable time thereafter, as shown by analysis of  
5 the defendant's blood or breath, shall give rise to the following  
6 presumptions:

7           (b) If there was at such time in excess of 0.05 but less than ~~0.10~~  
8 0.08 grams of alcohol per one hundred milliliters of blood, or if there was  
9 at such time in excess of 0.05 but less than ~~0.10~~ 0.08 grams of alcohol per  
10 two hundred ten liters of breath, such fact may be considered with other  
11 competent evidence in determining whether or not the defendant was  
12 under the influence of alcohol.

13           (c) If there was at such time ~~0.10~~ 0.08 or more grams of alcohol  
14 per one hundred milliliters of blood, or if there was at such time ~~0.10~~ 0.08  
15 or more grams of alcohol per two hundred ten liters of breath, it shall be  
16 presumed that the defendant was under the influence of alcohol.

17           **SECTION 5.** 42-2-126 (2) (a) (I), (2) (a) (I.5), (5) (a) (I), (7) (a)  
18 (I), (9) (c) (I), and (9) (c) (II), Colorado Revised Statutes, are amended to  
19 read:

20           **42-2-126. Revocation of license based on administrative**  
21 **determination.** (2) (a) The department shall revoke the license of any  
22 person upon its determination that the person:

23           (I) Drove a vehicle in this state when the amount of alcohol, as  
24 shown by analysis of the person's blood or breath, in such person's blood  
25 was ~~0.10~~ 0.08 or more grams of alcohol per one hundred milliliters of  
26 blood or ~~0.10~~ 0.08 or more grams of alcohol per two hundred ten liters of  
27 breath at the time of driving or within two hours after driving. If the

1 preponderance of the evidence establishes that such person consumed  
2 alcohol between the time that the person stopped driving and the time of  
3 testing, the preponderance of the evidence must also establish that the  
4 minimum ~~0.10~~ 0.08 blood or breath alcohol content was reached as a  
5 result of alcohol consumed before the person stopped driving.

6 (I.5) Drove a vehicle in this state when such person was under  
7 twenty-one years of age and when the amount of alcohol, as shown by  
8 analysis of the person's blood or breath, in such person's blood was in  
9 excess of 0.05 but less than ~~0.10~~ 0.08 grams of alcohol per one hundred  
10 milliliters of blood or in excess of 0.05 but less than ~~0.10~~ 0.08 grams of  
11 alcohol per two hundred ten liters of breath at the time of driving or  
12 within two hours after driving. If the preponderance of the evidence  
13 establishes that such person consumed alcohol between the time that the  
14 person stopped driving and the time of testing, the preponderance of the  
15 evidence must also establish that the minimum required blood or breath  
16 alcohol content was reached as a result of alcohol consumed before the  
17 person stopped driving.

18 (5) (a) (I) Whenever a law enforcement officer requests a person  
19 to take any test or tests as required by section 42-4-1301.1 and such  
20 person refuses to take or to complete or to cooperate in the completing of  
21 such test or tests or whenever such test results are available to the law  
22 enforcement officer and such tests show an alcohol concentration of ~~0.10~~  
23 0.08 or more grams of alcohol per one hundred milliliters of blood as  
24 shown by analysis of such person's blood or ~~0.10~~ 0.08 or more grams of  
25 alcohol per two hundred ten liters of breath as shown by analysis of such  
26 person's breath if the person is twenty-one years of age or older or,  
27 subject to section 42-4-1301.1, at least 0.02 but not in excess of 0.05

1 grams of alcohol per two hundred ten liters of breath as shown by  
2 analysis of such person's breath if the person is under twenty-one years  
3 of age and when the person who is tested or who refuses to take or to  
4 complete or to cooperate in the completing of any test or tests is still  
5 available to the law enforcement officer, the officer, acting on behalf of  
6 the department, shall serve the notice of revocation personally on such  
7 person.

8 (7) (a) The periods of revocation specified by subsection (6) of  
9 this section are intended to be minimum periods of revocation for the  
10 described conduct. No license shall be restored under any circumstances,  
11 and no probationary license shall be issued during the revocation period;  
12 except that:

13 (I) A person whose privilege to drive a commercial motor vehicle  
14 has been revoked because the person drove a commercial motor vehicle  
15 when the person's blood alcohol content was 0.04 or greater, but less than  
16 ~~0.10~~ 0.08, grams of alcohol per one hundred milliliters of blood or per  
17 two hundred ten liters of breath and who was twenty-one years of age or  
18 older at the time of the offense may apply for a driver's license of another  
19 class or type as long as there is no other statutory reason to deny the  
20 person a license. Such person may not operate any commercial motor  
21 vehicle during the period of revocation of such person's privilege to  
22 operate commercial motor vehicles. The department may not issue such  
23 person a probationary license that would authorize such person to operate  
24 any commercial motor vehicle.

25 (9) (c) (I) Where a license is revoked under subparagraph (I),  
26 (I.5), or (I.7) of paragraph (a) of subsection (2) of this section, the sole  
27 issue at the hearing shall be whether, by a preponderance of the evidence,

1 the person drove a vehicle in this state when the amount of alcohol, as  
2 shown by analysis of the person's blood or breath, in such person's blood  
3 was ~~0.10~~ 0.08 or more grams of alcohol per one hundred milliliters of  
4 blood or ~~0.10~~ 0.08 or more grams of alcohol per two hundred ten liters of  
5 breath at the time of driving or within two hours after driving if the  
6 person was twenty-one years of age or older at the time of driving the  
7 vehicle or, subject to section 42-4-1301.1, at least 0.02 but not in excess  
8 of 0.05 grams of alcohol per two hundred ten liters of breath at the time  
9 of driving or within two hours after driving if the person was under  
10 twenty-one years of age at the time of driving the vehicle, or in excess of  
11 0.05 grams of alcohol per one hundred milliliters of blood or in excess of  
12 0.05 grams of alcohol per two hundred ten liters of breath at the time of  
13 driving or within two hours after driving if the person was under  
14 twenty-one years of age at the time of driving the vehicle. If the  
15 preponderance of the evidence establishes that such person consumed  
16 alcohol between the time that the person stopped driving and the time that  
17 testing occurred, the preponderance of the evidence must also establish  
18 that the minimum ~~0.10~~ 0.08 blood or breath alcohol content required in  
19 subparagraph (I) of paragraph (a) of subsection (2) of this section, the  
20 minimum 0.05 blood or breath alcohol content required in subparagraph  
21 (I.5) of paragraph (a) of subsection (2) of this section, or the minimum  
22 0.02 breath alcohol content required in subparagraph (I.7) of paragraph  
23 (a) of subsection (2) of this section was reached as a result of alcohol  
24 consumed before the person stopped driving; or, where a license is  
25 revoked under subparagraph (II) of paragraph (a) of subsection (2) of this  
26 section, whether the person refused to take or to complete or to cooperate  
27 in the completing of any test or tests of the person's blood, breath, saliva,

1 or urine as required by section 42-4-1301.1. If the presiding hearing  
2 officer finds the affirmative of the issue, the revocation order shall be  
3 sustained. If the presiding hearing officer finds the negative of the issue,  
4 the revocation order shall be rescinded.

5 (II) When the determination of the issue pursuant to this  
6 paragraph (c) is based upon an analysis of the respondent's blood or  
7 breath and evidence is offered by the respondent to show a disparity  
8 between the results of the analysis done on behalf of the law enforcement  
9 agency and the results of an analysis done on behalf of the respondent,  
10 and when a preponderance of the evidence establishes that the blood  
11 analysis conducted on behalf of the law enforcement agency was properly  
12 conducted by a qualified person associated with a laboratory certified by  
13 the department of public health and environment using properly working  
14 testing devices or when a preponderance of the evidence establishes that  
15 the law enforcement breath test was administered using a properly  
16 working breath testing device certified by the department of public health  
17 and environment, which device was properly operated by a qualified  
18 operator, there shall be a presumption favoring the accuracy of the  
19 analysis done on behalf of the law enforcement agency if such analysis  
20 showed the amount of alcohol in the respondent's blood or breath to be  
21 ~~0.12~~ 0.096 or more grams of alcohol per hundred milliliters of blood or  
22 ~~0.12~~ 0.096 or more grams of alcohol per two hundred ten liters of breath.  
23 If the respondent offers evidence of blood or breath analysis, the  
24 respondent shall be required to state under oath the number of analyses  
25 done in addition to the one offered as evidence and the names of the  
26 laboratories that performed the analyses and the results of all analyses.

27 **SECTION 6.** 12-47-103, Colorado Revised Statutes, is amended

1 BY THE ADDITION OF A NEW SUBSECTION to read:

2 **12-47-103. Definitions.** As used in this article and article 46 of  
3 this title, unless the context otherwise requires:

4 (37.5) "TASTINGS" MEANS THE SAMPLING OF MALT, VINOUS, OR  
5 SPIRITOUS LIQUORS THAT MAY OCCUR ON THE PREMISES OF A RETAIL  
6 LIQUOR STORE LICENSEE OR LIQUOR-LICENSED DRUGSTORE LICENSEE BY  
7 ADULT PATRONS OF THE LICENSEE PURSUANT TO THE PROVISIONS OF  
8 SECTION 12-47-301 (10).

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

11 **12-47-301. Licensing in general.** (10) (a) THE PROVISIONS OF  
12 THIS SUBSECTION (10) SHALL ONLY APPLY WITHIN A COUNTY, CITY AND  
13 COUNTY, OR MUNICIPALITY IF THE GOVERNING BODY OF THE COUNTY, CITY  
14 AND COUNTY, OR MUNICIPALITY ADOPTS AN ORDINANCE OR RESOLUTION  
15 AUTHORIZING TASTINGS PURSUANT TO THIS SUBSECTION (10). THE  
16 ORDINANCE OR RESOLUTION MAY PROVIDE FOR STRICTER LIMITS THAN  
17 THIS SUBSECTION (10) ON THE NUMBER OF TASTINGS PER YEAR PER  
18 LICENSEE, THE DAYS ON WHICH TASTINGS MAY OCCUR, OR THE NUMBER OF  
19 HOURS EACH TASTING MAY LAST.

20 (b) A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE  
21 LICENSEE WHO WISHES TO CONDUCT TASTINGS MAY SUBMIT AN  
22 APPLICATION OR APPLICATION RENEWAL TO THE LOCAL LICENSING  
23 AUTHORITY. THE LOCAL LICENSING AUTHORITY MAY REJECT THE  
24 APPLICATION IF THE APPLICANT FAILS TO ESTABLISH THAT HE OR SHE IS  
25 ABLE TO CONDUCT TASTINGS WITHOUT VIOLATING THE PROVISIONS OF THIS  
26 SECTION OR CREATING A PUBLIC SAFETY RISK TO THE NEIGHBORHOOD. A  
27 LOCAL LICENSING AUTHORITY MAY ESTABLISH ITS OWN APPLICATION

1 PROCEDURE AND MAY CHARGE A REASONABLE APPLICATION FEE.

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

3 (I) TASTINGS SHALL BE CONDUCTED ONLY BY A PERSON WHO HAS

4 COMPLETED A SERVER TRAINING PROGRAM THAT MEETS THE STANDARDS

5 ESTABLISHED BY THE LIQUOR ENFORCEMENT DIVISION IN THE DEPARTMENT

6 OF REVENUE AND WHO IS EITHER A RETAIL LIQUOR STORE LICENSEE OR A

7 LIQUOR-LICENSED DRUGSTORE LICENSEE, OR AN EMPLOYEE OF A LICENSEE,

8 AND ONLY ON A LICENSEE'S LICENSED PREMISES.

9 (II) THE ALCOHOL USED IN TASTINGS SHALL BE PURCHASED

10 THROUGH A LICENSED WHOLESALER, LICENSED BREW PUB, OR WINERY

11 LICENSED PURSUANT TO SECTION 12-47-403 AT A COST THAT IS NOT LESS

12 THAN THE LAID-IN COST OF SUCH ALCOHOL.

13 (III) THE SIZE OF AN INDIVIDUAL ALCOHOL SAMPLE SHALL NOT

14 EXCEED ONE OUNCE OF MALT OR VINOUS LIQUOR OR ONE-HALF OF ONE

15 OUNCE OF SPIRITUOUS LIQUOR.

16 (IV) TASTINGS SHALL NOT EXCEED A TOTAL OF FIVE HOURS IN

17 DURATION PER DAY, WHICH NEED NOT BE CONSECUTIVE.

18 (V) TASTINGS SHALL BE CONDUCTED ONLY DURING THE

19 OPERATING HOURS IN WHICH THE LICENSEE ON WHOSE PREMISES THE

20 TASTINGS OCCUR IS PERMITTED TO SELL ALCOHOL BEVERAGES, AND IN NO

21 CASE EARLIER THAN 11 A.M. OR LATER THAN 7 P.M.

22 (VI) THE LICENSEE SHALL PROHIBIT PATRONS FROM LEAVING THE

23 LICENSED PREMISES WITH AN UNCONSUMED SAMPLE.

24 (VII) THE LICENSEE SHALL PROMPTLY REMOVE ALL OPEN AND

25 UNCONSUMED ALCOHOL BEVERAGE SAMPLES FROM THE LICENSED

26 PREMISES OR SHALL DESTROY THE SAMPLES IMMEDIATELY FOLLOWING THE

27 COMPLETION OF THE TASTING.

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

3 (IX) THE LICENSEE SHALL NOT SERVE MORE THAN FOUR  
4 INDIVIDUAL SAMPLES TO A PATRON DURING A TASTING.

5 (X) ALCOHOL SAMPLES SHALL BE IN OPEN CONTAINERS AND SHALL  
6 BE PROVIDED TO A PATRON FREE OF CHARGE.

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

10 (XII) NO MANUFACTURER OF SPIRITUOUS OR VINOUS LIQUORS  
11 SHALL INDUCE A LICENSEE THROUGH FREE GOODS OR FINANCIAL OR  
12 IN-KIND ASSISTANCE TO FAVOR THE MANUFACTURER'S PRODUCTS BEING  
13 SAMPLED AT A TASTING. THE LICENSEE SHALL BEAR THE FINANCIAL AND  
14 ALL OTHER RESPONSIBILITY FOR A TASTING.

15 (d) A VIOLATION OF A LIMITATION SPECIFIED IN THIS SUBSECTION  
16 (10) OR OF SECTION 12-47-801 BY A RETAIL LIQUOR STORE OR  
17 LIQUOR-LICENSED DRUGSTORE LICENSEE, WHETHER BY HIS OR HER  
18 EMPLOYEES, AGENTS, OR OTHERWISE, SHALL BE THE RESPONSIBILITY OF  
19 THE RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE  
20 WHO IS CONDUCTING THE TASTING.

21 (e) A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE  
22 LICENSEE CONDUCTING A TASTING SHALL BE SUBJECT TO THE SAME  
23 REVOCATION, SUSPENSION, AND ENFORCEMENT PROVISIONS AS OTHERWISE  
24 APPLY TO THE LICENSEE.

25 (f) NOTHING IN THIS SUBSECTION (10) SHALL AFFECT THE ABILITY  
26 OF A COLORADO WINERY LICENSED PURSUANT TO SECTION 12-47-402 OR  
27 12-47-403 TO CONDUCT A TASTING PURSUANT TO THE AUTHORITY OF

1 SECTION 12-47-402 (2) OR 12-47-403 (2) (e).

2 SECTION 8. 12-47-407 (1), Colorado Revised Statutes, is  
3 amended to read:

4 12-47-407. Retail liquor store license. (1) A retail liquor store  
5 license shall be issued to persons selling only malt, vinous, and spirituous  
6 liquors in sealed containers not to be consumed at the place where sold.  
7 Malt, vinous, and spirituous liquors in sealed containers shall not be sold  
8 at retail other than in retail liquor stores except as provided in section  
9 12-47-408. In addition, retail liquor stores may sell nonfood items related  
10 to the consumption of such liquors, liquor-filled candy, and food items  
11 approved by the state licensing authority that are prepackaged, labeled,  
12 directly related to the consumption of such liquors, and are sold solely for  
13 the purpose of cocktail garnish in containers up to sixteen ounces.  
14 Nothing in this section shall be construed to authorize the sale of food  
15 items that could constitute a snack, a meal, or portion of a meal. Nothing  
16 in this section or in section 12-47-103 (31) shall be construed to prohibit  
17 the sale of items by a retail liquor store on behalf of or to benefit a  
18 charitable organization, as defined in section 39-26-102, C.R.S., or a  
19 nonprofit corporation subject to the "Colorado Revised Nonprofit  
20 Corporation Act", articles 121 to 137 of title 7, C.R.S., and determined  
21 to be exempt from federal income tax by the federal internal revenue  
22 service, if the retail liquor store does not receive compensation for any  
23 such sale. Nothing in this section shall prohibit a retail liquor store  
24 licensee, at the option of the licensee, from displaying promotional  
25 material furnished by a manufacturer or wholesaler, which material  
26 permits a customer to purchase other items from a third person if the  
27 retail liquor store licensee does not receive payment from the third person

1 and if the ordering of the additional merchandise is done by the customer  
2 directly from the third person. NOTHING IN THIS SUBSECTION (1) SHALL  
3 PROHIBIT A RETAIL LIQUOR STORE LICENSEE FROM ALLOWING TASTINGS TO  
4 BE CONDUCTED ON HIS OR HER LICENSED PREMISES IF AN AUTHORIZATION  
5 FOR THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

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

8 **12-47-408. Liquor-licensed drugstore license.** (1) A  
9 liquor-licensed drugstore license shall be issued to persons selling malt,  
10 vinous, and spirituous liquors in sealed containers not to be consumed at  
11 the place where sold. NOTHING IN THIS SUBSECTION (1) SHALL PROHIBIT  
12 A LIQUOR-LICENSED DRUGSTORE LICENSEE FROM ALLOWING TASTINGS TO  
13 BE CONDUCTED ON HIS OR HER LICENSED PREMISES IF AN AUTHORIZATION  
14 FOR THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

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

17 **12-47-901. Unlawful acts - exceptions.** (1) Except as provided  
18 in section 18-13-122, C.R.S., it is unlawful for any person:

19 (h) (I) To consume malt, vinous, or spirituous liquor in any public  
20 place except on any licensed premises permitted under this article to sell  
21 such liquor by the drink for consumption thereon; to consume any alcohol  
22 beverage upon any premises licensed to sell liquor for consumption on  
23 the licensed premises, the sale of which is not authorized by the state  
24 licensing authority; to consume alcohol beverages at any time on such  
25 premises other than such alcohol beverage as is purchased from such  
26 establishment; or to consume alcohol beverages in any public room on  
27 such premises during such hours as the sale of such beverage is

1 prohibited under this article.

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

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

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

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

25 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH  
26 (i), IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR  
27 LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS TO BE

1 CONDUCTED ON HIS OR HER LICENSED PREMISES IF AUTHORIZATION FOR  
2 THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

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

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

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

27 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (7),

1 IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR  
2 LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS TO BE  
3 CONDUCTED ON HIS OR HER LICENSED PREMISES IF AUTHORIZATION FOR  
4 THE TASTINGS HAS BEEN GRANTED PURSUANT SECTION 12-47-301.

5 **SECTION 11. Effective date - applicability.** This act shall take  
6 effect July 1, 2004, and shall apply to offenses committed on or after said  
7 date.

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