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2001



HOUSE BILL 01-1209

BY REPRESENTATIVE(S) Fairbank, Cadman, Hoppe, Kester, Lee, Paschall, Scott, Spence, Stengel, Alexander, Crane, and Jameson; also SENATOR(S) Phillips.

CONCERNING THE AUTHORIZATION OF ALCOHOL TASTINGS ON LICENSED PREMISES.

*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 A NEW SUBSECTION to read:

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

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

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

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

**12-47-301. Licensing in general.** (10) (a) A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE THAT WISHES TO CONDUCT TASTINGS MAY SUBMIT AN APPLICATION OR APPLICATION RENEWAL TO THE LOCAL LICENSING AUTHORITY. THE LOCAL LICENSING AUTHORITY MAY REJECT THE APPLICATION IF THE APPLICANT FAILS TO ESTABLISH THAT IT IS ABLE TO CONDUCT TASTINGS WITHOUT VIOLATING THE PROVISIONS OF THIS SECTION OR CREATING A PUBLIC SAFETY RISK TO THE NEIGHBORHOOD. A LOCAL LICENSING AUTHORITY MAY ESTABLISH ITS OWN APPLICATION PROCEDURE AND MAY CHARGE A REASONABLE APPLICATION FEE.

(b) TASTINGS SHALL BE SUBJECT TO THE FOLLOWING LIMITATIONS:

(I) TASTINGS SHALL BE CONDUCTED ONLY BY A PERSON WHO HAS COMPLETED A SERVER TRAINING PROGRAM THAT MEETS THE STANDARDS ESTABLISHED BY THE LIQUOR ENFORCEMENT DIVISION AND WHO IS EITHER A RETAIL LIQUOR STORE LICENSEE, LIQUOR-LICENSED DRUGSTORE LICENSEE, OR AN EMPLOYEE OF EITHER OF SUCH LICENSEES, AND ONLY ON SUCH LICENSEES' LICENSED PREMISES.

(II) THE ALCOHOL USED IN TASTINGS SHALL BE PURCHASED THROUGH A LICENSED WHOLESALER, LICENSED BREW PUB, OR WINERY LICENSED PURSUANT TO SECTION 12-47-403.

(III) THE SIZE OF ANY INDIVIDUAL ALCOHOL SAMPLE SHALL NOT EXCEED ONE OUNCE OF MALT OR VINOUS LIQUOR OR ONE-HALF OF ONE OUNCE OF SPIRITUOUS LIQUORS.

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

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

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

(VII) THE LICENSEE SHALL PROMPTLY REMOVE ALL OPEN AND UNCONSUMED ALCOHOL BEVERAGE SAMPLES FROM THE LICENSED PREMISES

OR SHALL DESTROY SUCH SAMPLES IMMEDIATELY FOLLOWING THE COMPLETION OF THE TASTING.

(VIII) THE LICENSEE SHALL SERVE NO PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE OR WHO IS VISIBLY INTOXICATED.

(IX) NO PATRON SHALL BE SERVED MORE THAN FOUR INDIVIDUAL SAMPLES DURING ANY TASTING.

(X) ALCOHOL SAMPLES MAY BE IN OPEN CONTAINERS AND MAY BE PROVIDED TO THE PATRON FREE OF CHARGE.

(XI) TASTINGS MAY OCCUR ON NO MORE THAN FOUR OF THE SEVEN DAYS FROM A SUNDAY TO THE FOLLOWING SATURDAY, NOT TO EXCEED ONE HUNDRED FOUR DAYS PER YEAR.

(XII) A LICENSEE MAY PROVIDE A TASTING OF ONLY ONE MANUFACTURER AT A TIME.

(c) A VIOLATION OF ANY OF THE LIMITATIONS OF THIS SUBSECTION (10) OR OF SECTION 12-47-801 BY A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE, WHETHER BY ITS EMPLOYEES, AGENTS, OR OTHERWISE, SHALL BE THE RESPONSIBILITY OF THE RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE THAT IS CONDUCTING THE TASTING.

(d) A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE CONDUCTING A TASTING SHALL BE SUBJECT TO THE SAME REVOCATION, SUSPENSION, AND ENFORCEMENT PROVISIONS AS OTHERWISE APPLY TO SUCH LICENSEES.

(e) THE GOVERNING BODY OF A MUNICIPALITY OR COUNTY OR CITY AND COUNTY MAY ADOPT AN ORDINANCE OR RESOLUTION PROHIBITING TASTINGS IN ITS LICENSING JURISDICTION, OR FURTHER LIMITING THE NUMBER OF TASTINGS PER YEAR PER LICENSEE, THE DAYS ON WHICH TASTINGS MAY OCCUR, AND THE NUMBER OF HOURS EACH TASTING MAY LAST.

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

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

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

**12-47-407. Retail liquor store license.** (1) A retail liquor store license shall be issued to persons selling only malt, vinous, and spirituous liquors in sealed containers not to be consumed at the place where sold. Malt, vinous, and spirituous liquors in sealed containers shall not be sold at retail other than in retail liquor stores except as provided in section 12-47-408. In addition, retail liquor stores may sell nonfood items related to the consumption of such liquors, liquor-filled candy, and food items approved by the state licensing authority that are prepackaged, labeled, directly related to the consumption of such liquors, and are sold solely for the purpose of cocktail garnish in containers up to sixteen ounces. Nothing in this section shall be construed to authorize the sale of food items that could constitute a snack, a meal, or portion of a meal. Nothing in this section or in section 12-47-103 (~~30~~) (31) shall be construed to prohibit the sale of items by a retail liquor store on behalf of or to benefit a charitable organization, as defined in section 39-26-102, C.R.S., or a nonprofit corporation subject to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., and determined to be exempt from federal income tax by the federal internal revenue service, if the retail liquor store does not receive compensation for any such sale. Nothing in this section shall prohibit a retail liquor store licensee, at the option of the licensee, from displaying promotional material furnished by a manufacturer or wholesaler, which material permits a customer to purchase other items from a third person if the retail liquor store licensee does not receive payment from the third person and if the ordering of the additional merchandise is done by the customer directly from the third person. NOTHING IN THIS SUBSECTION (1) SHALL PROHIBIT A RETAIL LIQUOR STORE LICENSEE FROM ALLOWING TASTINGS, AS DEFINED IN SECTION 12-47-103 (37.5), TO BE CONDUCTED ON ITS LICENSED PREMISES IF AN AUTHORIZATION FOR SUCH TASTINGS HAS BEEN GRANTED UNDER SECTION 12-47-301.

**SECTION 4.** 12-47-408 (1), Colorado Revised Statutes, is amended to read:

**12-47-408. Liquor-licensed drugstore license.** (1) A liquor-licensed drugstore license shall be issued to persons selling malt,

vinous, and spirituous liquors in sealed containers not to be consumed at the place where sold. NOTHING IN THIS SUBSECTION (1) SHALL PROHIBIT A LIQUOR-LICENSED DRUGSTORE LICENSEE FROM ALLOWING TASTINGS, AS DEFINED IN SECTION 12-47-103 (37.5), TO BE CONDUCTED ON ITS LICENSED PREMISES IF AN AUTHORIZATION FOR SUCH TASTINGS HAS BEEN GRANTED UNDER SECTION 12-47-301.

**SECTION 5.** 12-47-901 (1) (h), (5) (i), (5) (k), and (7), Colorado Revised Statutes, are amended 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) (I) To consume malt, vinous, or spirituous liquor in any public place except on any licensed premises permitted under this article to sell such liquor by the drink for consumption thereon; to consume any alcohol beverage upon any premises licensed to sell liquor for consumption on the licensed premises, the sale of which is not authorized by the state licensing authority; to consume alcohol beverages at any time on such premises other than such alcohol beverage as is purchased from such establishment; or to consume alcohol beverages in any public room on such premises during such hours as the sale of such beverage is prohibited under this article.

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

(III) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH (h), IT SHALL NOT BE UNLAWFUL FOR ADULT PATRONS OF A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE TO CONSUME MALT, VINOUS, OR SPIRITUOUS LIQUORS ON SUCH LICENSED PREMISES WHEN SUCH CONSUMPTION IS CONDUCTED WITHIN THE LIMITATIONS OF THE LICENSEE'S LICENSE AND IS PART OF A TASTING, AS DEFINED IN SECTION 12-47-103 (37.5), IF AUTHORIZATION FOR SUCH TASTING HAS BEEN GRANTED UNDER SECTION 12-47-301.

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

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

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH (i), IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS, AS DEFINED IN SECTION 12-47-103 (37.5), TO BE CONDUCTED ON ITS LICENSED PREMISES IF AUTHORIZATION FOR SUCH TASTINGS HAS BEEN GRANTED UNDER SECTION 12-47-301.

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

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH (k), IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS, AS DEFINED IN SECTION 12-47-103 (37.5), TO BE CONDUCTED ON ITS LICENSED PREMISES IF AUTHORIZATION FOR SUCH TASTINGS HAS BEEN GRANTED UNDER SECTION 12-47-301.

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

(b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (7), IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS, AS DEFINED IN SECTION 12-47-103 (37.5), TO BE CONDUCTED ON ITS LICENSED PREMISES IF AUTHORIZATION FOR SUCH TASTINGS HAS BEEN GRANTED UNDER SECTION 12-47-301.

**SECTION 6. 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

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

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Doug Dean  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Stan Matsunaka  
PRESIDENT OF  
THE SENATE

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Judith Rodrigue  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Karen Goldman  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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Bill Owens  
GOVERNOR OF THE STATE OF COLORADO