

HB1192_L.003

HOUSE COMMITTEE OF REFERENCE REPORT

 Chairman of Committee

 Date
Committee on Business Affairs and Labor.

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

HB09-1192 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute the following:

3 "SECTION 1. 12-47-103, Colorado Revised Statutes, is amended
4 BY THE ADDITION OF A NEW SUBSECTION 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 (3.5) (a) "BEER-LICENSED STORE" MEANS AN ESTABLISHMENT
8 THAT IS COMMONLY REFERRED TO AS A "CONVENIENCE STORE", THE
9 LICENSED PREMISES OF WHICH CONTAINS LESS THAN FIFTEEN THOUSAND
10 SQUARE FEET, AND THAT:

11 (I) GENERATES REVENUES FROM THE SALE OF:

12 (A) PACKAGED FOOD PRODUCTS, INCLUDING SNACK FOODS;

13 (B) TOBACCO AND TOBACCO PRODUCTS; AND

14 (C) SOFT DRINKS, BOTTLED WATER, AND OTHER NONALCOHOL
15 BEVERAGES; AND

16 (II) MAY GENERATE REVENUES FROM THE SALE OF GASOLINE; AND

17 (III) HAS BEEN GRANTED A LICENSE BY THE STATE LICENSING



1 AUTHORITY TO SELL MALT LIQUORS IN SEALED CONTAINERS FOR
2 CONSUMPTION OFF THE PREMISES.

3 (b) ON AND AFTER JULY 1, 2010, "BEER-LICENSED STORE" ALSO
4 MEANS AN ESTABLISHMENT THAT IS COMMONLY REFERRED TO AS A
5 "GROCERY STORE", THE LICENSED PREMISES OF WHICH CONTAINS FIFTEEN
6 THOUSAND SQUARE FEET OR MORE, AND THAT:

7 (I) GENERATES REVENUE FROM THE SALE OF PACKAGED OR FRESH
8 FOOD PRODUCTS, INCLUDING BREADS, FRUIT, VEGETABLES, MEATS, AND
9 DAIRY PRODUCTS; AND

10 (II) HAS BEEN GRANTED A LICENSE BY THE STATE LICENSING
11 AUTHORITY TO SELL MALT LIQUORS IN SEALED CONTAINERS FOR
12 CONSUMPTION OFF THE PREMISES.

13 **SECTION 2.** 12-47-309 (1), Colorado Revised Statutes, is
14 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

15 **12-47-309. Local licensing authority - applications - optional**
16 **premises licenses.** (1) A local licensing authority may issue only the
17 following malt, vinous, and spirituous liquor licenses upon payment of
18 the fee specified in section 12-47-505:

19 (m) BEER-LICENSED STORE LICENSE.

20 **SECTION 3.** 12-47-401 (1), Colorado Revised Statutes, is
21 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22 **12-47-401. Classes of licenses.** (1) For the purpose of regulating
23 the manufacture, sale, and distribution of malt, vinous, and spirituous
24 liquors, the state licensing authority in its discretion, upon application in
25 the prescribed form made to it, may issue and grant to the applicant a
26 license from any of the following classes, subject to the provisions and
27 restrictions provided by this article:

28 (u) BEER-LICENSED STORE LICENSE.

29 **SECTION 4.** Part 4 of article 47 of title 12, Colorado Revised
30 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
31 read:



1 **12-47-423. Beer-licensed store license - repeal - rules.**

2 (1) (a) ON OR AFTER JANUARY 1, 2010, A BEER-LICENSED STORE LICENSE
3 SHALL BE ISSUED TO PERSONS SELLING ONLY MALT LIQUORS IN SEALED
4 CONTAINERS NOT TO BE CONSUMED AT THE PLACE WHERE SOLD.

5 (b) (I) IN ORDER TO QUALIFY FOR A BEER-LICENSED STORE
6 LICENSE, THE BEER-LICENSED STORE SHALL MAINTAIN A BONA FIDE
7 CONVENIENCE STORE SALES OPERATION AND SHALL SELL PACKAGED FOOD
8 PRODUCTS PRIMARILY INTENDED FOR CONSUMPTION OFF THE PREMISES.

9 (II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2010.

10 (c) ON AND AFTER JULY 1, 2010, IN ORDER TO QUALIFY FOR A
11 BEER-LICENSED STORE LICENSE, THE BEER-LICENSED STORE SHALL
12 MAINTAIN A BONA FIDE CONVENIENCE STORE OR GROCERY STORE SALES
13 OPERATION AND SHALL SELL PACKAGED OR FRESH FOOD PRODUCTS
14 PRIMARILY INTENDED FOR CONSUMPTION OFF THE PREMISES.

15 (d) THE STATE LICENSING AUTHORITY SHALL ADOPT RULES AS
16 NECESSARY TO DEFINE THE REQUIREMENTS OF A BONA FIDE CONVENIENCE
17 STORE SALES OPERATION AND A BONA FIDE GROCERY STORE SALES
18 OPERATION.

19 (2) EVERY PERSON SELLING MALT LIQUORS AS PROVIDED IN THIS
20 SECTION SHALL PURCHASE SUCH MALT LIQUORS ONLY FROM A
21 WHOLESALE LICENSED PURSUANT TO THIS ARTICLE.

22 (3) (a) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS
23 SUBSECTION (3), IT IS UNLAWFUL FOR AN OWNER, PART OWNER,
24 SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A
25 BEER-LICENSED STORE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART,
26 OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER BUSINESS
27 LICENSED PURSUANT TO THIS ARTICLE.

28 (b) AN OWNER, PART OWNER, SHAREHOLDER, OR PERSON
29 INTERESTED DIRECTLY OR INDIRECTLY IN A BEER-LICENSED STORE MAY
30 HAVE AN INTEREST IN ADDITIONAL BEER-LICENSED STORE LICENSES.

31 (4) A RETAILER LICENSE ISSUED UNDER SECTION 12-46-104(1)(c)
32 BEFORE JANUARY 1, 2010, TO A PERSON WHO QUALIFIES AS A
33 BEER-LICENSED STORE UNDER SECTION 12-47-103 (3.5) (a) SHALL BE



1 CONVERTED FROM A FERMENTED MALT BEVERAGE RETAILER LICENSE TO
2 A BEER-LICENSED STORE LICENSE UPON A FINDING BY THE STATE AND
3 LOCAL LICENSING AUTHORITIES THAT THE PERSON MEETS SUCH
4 QUALIFICATIONS. A RETAILER LICENSE ISSUED UNDER SECTION 12-46-104
5 (1) (c) BEFORE JULY 1, 2010, TO A PERSON WHO QUALIFIES AS A
6 BEER-LICENSED STORE UNDER SECTION 12-47-103 (3.5) (b) SHALL BE
7 CONVERTED FROM A FERMENTED MALT BEVERAGE RETAILER LICENSE TO
8 A BEER-LICENSED STORE LICENSE UPON A FINDING BY THE STATE AND
9 LOCAL LICENSING AUTHORITIES THAT THE PERSON MEETS SUCH
10 QUALIFICATIONS.

11 **SECTION 5.** 12-47-501 (1), Colorado Revised Statutes, is
12 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13 **12-47-501. State fees.** (1) The following license fees shall be
14 paid to the department of revenue annually in advance:

15 (s) FOR EACH BEER-LICENSED STORE LICENSE, SEVENTY-FIVE
16 DOLLARS.

17 **SECTION 6.** 12-47-505 (1), Colorado Revised Statutes, is
18 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19 **12-47-505. Local license fees.** (1) The following license fees
20 shall be paid to the treasurer of the municipality, city and county, or
21 county where the licensed premises is located annually in advance:

22 (p) FOR EACH BEER-LICENSED STORE LICENSE, TWENTY-FIVE
23 DOLLARS IF THE LICENSED PREMISES IS LOCATED IN A MUNICIPALITY OR
24 CITY AND COUNTY AND FIFTY DOLLARS IF THE LICENSED PREMISES IS
25 LOCATED OUTSIDE THE MUNICIPAL LIMITS OF A MUNICIPALITY OR CITY AND
26 COUNTY.

27 **SECTION 7.** 12-47-901 (1) (f) and (5) (k) (I), Colorado Revised
28 Statutes, are amended to read:

29 **12-47-901. Unlawful acts - exceptions.** (1) Except as provided
30 in section 18-13-122, C.R.S., it is unlawful for any person:

31 (f) To sell at retail any malt, vinous or spirituous liquors in sealed
32 containers without holding a retail liquor store or liquor-licensed



1 drugstore license, OR TO SELL AT RETAIL ANY MALT LIQUORS IN SEALED
2 CONTAINERS WITHOUT HOLDING A RETAIL LIQUOR STORE, LIQUOR
3 LICENSED DRUGSTORE, OR BEER-LICENSED STORE LICENSE;

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

6 (k) (I) To have on the licensed premises, if licensed as a retail
7 liquor store, or liquor-licensed drugstore, OR BEER-LICENSED STORE, any
8 container that shows evidence of having once been opened or that
9 contains a volume of liquor less than that specified on the label of such
10 container; except that a person holding a retail liquor store or
11 liquor-licensed drugstore license may have upon the licensed premises
12 malt, vinous, or spirituous liquors in open containers, AND A PERSON
13 HOLDING A BEER-LICENSED STORE LICENSE MAY HAVE UPON THE LICENSED
14 PREMISES MALT LIQUORS IN OPEN CONTAINERS, when the open containers
15 were brought on the licensed premises by and remain solely in the
16 possession of the sales personnel of a person licensed to sell at wholesale
17 pursuant to this article for the purpose of sampling malt, vinous, or
18 spirituous liquors by the retail licensee only. Nothing in this paragraph
19 (k) shall apply to any liquor-licensed drugstore where the contents, or a
20 portion thereof, have been used in compounding prescriptions.

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

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