

HB1192_L.008

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) "BEER-LICENSED CONVENIENCE STORE" MEANS AN
8 ESTABLISHMENT THAT IS COMMONLY REFERRED TO AS A "CONVENIENCE
9 STORE" AND THAT:

10 (a) GENERATES REVENUES FROM THE SALE OF:

11 (I) PACKAGED FOOD PRODUCTS, INCLUDING SNACK FOODS;

12 (II) TOBACCO AND TOBACCO PRODUCTS; AND

13 (III) SOFT DRINKS, BOTTLED WATER, AND OTHER NONALCOHOL
14 BEVERAGES; AND

15 (b) MAY GENERATE REVENUES FROM THE SALE OF GASOLINE; AND

16 (c) HAS BEEN GRANTED A LICENSE BY THE STATE LICENSING
17 AUTHORITY TO SELL MALT LIQUORS IN SEALED CONTAINERS FOR



1 CONSUMPTION OFF THE PREMISES.

2 SECTION 2. 12-47-301 (2) (b), Colorado Revised Statutes, is
3 amended to read:

4 12-47-301. **Licensing in general.** (2) (b) A local licensing
5 authority or the state on state-owned property may deny the issuance of
6 any new tavern, or retail liquor store, OR BEER-LICENSED CONVENIENCE
7 STORE license whenever such authority determines that the issuance of
8 such THE license would result in or add to an undue concentration of the
9 same class of license OR, IN THE CASE OF A RETAIL LIQUOR STORE AND A
10 BEER-LICENSED CONVENIENCE STORE, A SIMILAR CLASS OF LICENSE, and,
11 as a result, WOULD require the use of additional law enforcement
12 resources.

13 SECTION 3. 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 CONVENIENCE STORE LICENSE.

20 SECTION 4. 12-47-313 (2), Colorado Revised Statutes, is
21 amended to read:

22 12-47-313. **Restrictions for applications for new license.**
23 (2) An application for the issuance of a tavern, or retail liquor store, OR
24 BEER-LICENSED CONVENIENCE STORE license may be denied under this
25 article if the local licensing authority or the state on state-owned property
26 determines, pursuant to section 12-47-301 (2) (b), that the issuance of
27 such THE license would result in or add to an undue concentration of the
28 same class of license OR, IN THE CASE OF A RETAIL LIQUOR STORE AND A
29 BEER-LICENSED CONVENIENCE STORE, A SIMILAR CLASS OF LICENSE, and,
30 as a result, WOULD require the use of additional law enforcement
31 resources.

32 SECTION 5. 12-47-401 (1), Colorado Revised Statutes, is
33 amended BY THE ADDITION OF A NEW PARAGRAPH to read:



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

7 (u) BEER-LICENSED CONVENIENCE STORE LICENSE.

8 **SECTION 6.** 12-47-407 (1), Colorado Revised Statutes, is
9 amended to read:

10 **12-47-407. Retail liquor store license.** (1) (a) A retail liquor
11 store license shall be issued to persons selling only malt, vinous, and
12 spirituous liquors in sealed containers not to be consumed at the place
13 where sold. Malt, vinous, and spirituous liquors in sealed containers shall
14 not be sold at retail other than in retail liquor stores except as provided in
15 section 12-47-408 OR 12-47-423.

16 (b) In addition TO SELLING MALT, VINOUS, AND SPIRITUOUS
17 LIQUORS, A retail liquor stores STORE may sell nonfood items related to
18 the consumption of such liquors, liquor-filled candy, and food items
19 approved by the state licensing authority that are prepackaged, labeled,
20 directly related to the consumption of such liquors, and sold solely for the
21 purpose of cocktail garnish in containers up to sixteen ounces. Nothing
22 in this section shall be construed to authorize the sale of food items that
23 could constitute a snack, a meal, or a portion of a meal.

24 (c) Nothing in this section or in section 12-47-103 (31) shall be
25 construed to prohibit the sale of items by a retail liquor store on behalf of
26 or to benefit a charitable organization, as defined in section 39-26-102,
27 C.R.S., or a nonprofit corporation subject to the "Colorado Revised
28 Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., and
29 determined to be exempt from federal income tax by the federal internal
30 revenue service, if the retail liquor store does not receive compensation
31 for any such sale.

32 (d) Nothing in this section shall prohibit a retail liquor store
33 licensee, at the option of the licensee, from displaying promotional
34 material furnished by a manufacturer or wholesaler, which material
35 permits a customer to purchase other items from a third person if the



1 retail liquor store licensee does not receive payment from the third person
2 and if the ordering of the additional merchandise is done by the customer
3 directly from the third person.

4 (e) Nothing in this subsection (1) shall prohibit a retail liquor store
5 licensee from allowing tastings to be conducted on his or her licensed
6 premises if an authorization for the tastings has been granted pursuant to
7 section 12-47-301.

8 **SECTION 7.** Part 4 of article 47 of title 12, Colorado Revised
9 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
10 read:

11 **12-47-423. Beer-licensed convenience store license - rules.**

12 (1) (a) A BEER-LICENSED CONVENIENCE STORE LICENSE SHALL BE ISSUED
13 TO PERSONS SELLING ONLY MALT LIQUORS IN SEALED CONTAINERS NOT TO
14 BE CONSUMED AT THE PLACE WHERE SOLD.

15 (b) IN ORDER TO QUALIFY FOR A BEER-LICENSED CONVENIENCE
16 STORE LICENSE, THE BEER-LICENSED CONVENIENCE STORE SHALL
17 MAINTAIN A BONA FIDE CONVENIENCE STORE SALES OPERATION AND
18 SHALL SELL PACKAGED FOOD PRODUCTS PRIMARILY INTENDED FOR
19 CONSUMPTION OFF THE PREMISES.

20 (c) THE STATE LICENSING AUTHORITY SHALL ADOPT RULES AS
21 NECESSARY TO DEFINE THE REQUIREMENTS OF A BONA FIDE CONVENIENCE
22 STORE SALES OPERATION.

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

26 (3) THE AREA OF A BEER-LICENSED CONVENIENCE STORE DEVOTED
27 TO THE SALE OF MALT LIQUORS SHALL NOT EXCEED ONE HUNDRED SQUARE
28 FEET OF REFRIGERATED SPACE IN THE LICENSED PREMISES.

29 (4) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS
30 SUBSECTION (4), IT IS UNLAWFUL FOR AN OWNER, PART OWNER,
31 SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A
32 BEER-LICENSED CONVENIENCE STORE TO CONDUCT, OWN EITHER IN WHOLE
33 OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER



1 BUSINESS LICENSED PURSUANT TO THIS ARTICLE.

2 (b) AN OWNER, PART OWNER, SHAREHOLDER, OR PERSON
3 INTERESTED DIRECTLY OR INDIRECTLY IN A BEER-LICENSED CONVENIENCE
4 STORE MAY HAVE AN INTEREST IN ADDITIONAL BEER-LICENSED
5 CONVENIENCE STORES.

6 (5) A LICENSEE UNDER SECTION 12-46-104 (1) (c) THAT WOULD
7 QUALIFY AS A BEER-LICENSED CONVENIENCE STORE UNDER THIS ARTICLE
8 AND THAT HOLDS A VALID FERMENTED MALT BEVERAGE RETAILER LICENSE
9 IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION, OR A PERSON WHO
10 WOULD QUALIFY AS A BEER-LICENSED CONVENIENCE STORE UNDER THIS
11 ARTICLE AND WHOSE APPLICATION FOR A FERMENTED MALT BEVERAGE
12 RETAILER LICENSE UNDER SECTION 12-46-104 (1) (c) IS PENDING ON THE
13 EFFECTIVE DATE OF THIS SECTION, MAY APPLY TO A LOCAL LICENSING
14 AUTHORITY TO CONVERT OR TRANSFER SUCH LICENSE OR APPLICATION FOR
15 A LICENSE UNDER SECTION 12-46-104 (1) (c) TO A BEER-LICENSED
16 CONVENIENCE STORE LICENSE ISSUED UNDER THIS SECTION. THE LOCAL
17 LICENSING AUTHORITY MAY, BUT SHALL NOT BE REQUIRED TO, CONSIDER
18 THE REASONABLE REQUIREMENTS OF THE NEIGHBORHOOD PURSUANT TO
19 SECTION 12-47-312 IN MAKING A DETERMINATION ON THE CONVERSION OR
20 TRANSFER TO A BEER-LICENSED CONVENIENCE STORE LICENSE.

21 (6) A PERSON WHO APPLIES FOR A BEER-LICENSED CONVENIENCE
22 STORE LICENSE, OR A PERSON LICENSED UNDER ARTICLE 46 OF THIS TITLE
23 AS A RETAILER WHO IS SEEKING TO CONVERT OR TRANSFER A FERMENTED
24 MALT BEVERAGE RETAILER LICENSE TO A BEER-LICENSED CONVENIENCE
25 STORE LICENSE, SHALL NOT BE ENTITLED TO OBTAIN, CONVERT, OR
26 TRANSFER SUCH LICENSE. NOTHING IN THIS SECTION SHALL LIMIT THE
27 ABILITY OF A LOCAL LICENSING AUTHORITY OR THE STATE LICENSING
28 AUTHORITY, IN THE CASE OF STATE-OWNED PROPERTY, TO DENY A
29 BEER-LICENSED CONVENIENCE STORE LICENSE IF THE LICENSING
30 AUTHORITY DETERMINES, PURSUANT TO SECTION 12-47-301 (2) (b) OR
31 12-47-313 (2), THAT THE ISSUANCE OF THE BEER-LICENSED CONVENIENCE
32 STORE LICENSE WOULD RESULT IN AN UNDUE CONCENTRATION OF THE
33 SAME OR SIMILAR CLASS OF LICENSES AND WOULD REQUIRE THE USE OF
34 ADDITIONAL LAW ENFORCEMENT RESOURCES.

35 **SECTION 8.** 12-47-501 (1), Colorado Revised Statutes, is
36 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

3 (s) FOR A BEER-LICENSED CONVENIENCE STORE LICENSE, TWO
4 HUNDRED DOLLARS.

5 **SECTION 9.** 12-47-501 (2) (a), Colorado Revised Statutes, is
6 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

7 **12-47-501. State fees.** (2) (a) The state licensing authority shall
8 establish fees for processing the following types of applications, notices,
9 or reports required to be submitted to the state licensing authority:

10 (XV) (A) APPLICATIONS FOR NEW BEER-LICENSED CONVENIENCE
11 STORE LICENSES PURSUANT TO SECTION 12-47-423 (1) AND RULES
12 ADOPTED PURSUANT TO THAT SECTION, BUT SUCH FEE SHALL NOT EXCEED
13 TWO HUNDRED DOLLARS.

14 (B) APPLICATIONS TO CONVERT OR TRANSFER A FERMENTED MALT
15 BEVERAGE LICENSE TO A BEER-LICENSED CONVENIENCE STORE LICENSE
16 PURSUANT TO SECTION 12-47-423 (5) AND RULES ADOPTED PURSUANT TO
17 THAT SECTION, BUT SUCH FEE SHALL NOT EXCEED ONE HUNDRED FIFTY
18 DOLLARS.

19 **SECTION 10.** 12-47-505 (1), Colorado Revised Statutes, is
20 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

24 (p) FOR A BEER-LICENSED CONVENIENCE STORE LICENSE, ONE
25 HUNDRED FIFTY DOLLARS.

26 **SECTION 11.** 12-47-505 (4) (a), Colorado Revised Statutes, is
27 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

28 **12-47-505. Local license fees.** (4) (a) Each application for a
29 license provided for in this article and article 46 of this title filed with a
30 local licensing authority shall be accompanied by an application fee in an
31 amount determined by the local licensing authority to cover actual and



1 necessary expenses, subject to the following limitations:

2 (V) (A) FOR A NEW BEER-LICENSED CONVENIENCE STORE LICENSE
3 PURSUANT TO SECTION 12-47-423 (1) AND RULES ADOPTED PURSUANT TO
4 THAT SECTION, THE FEE SHALL NOT EXCEED TWO HUNDRED DOLLARS.

5 (B) TO CONVERT OR TRANSFER A FERMENTED MALT BEVERAGE
6 LICENSE TO A BEER-LICENSED CONVENIENCE STORE LICENSE PURSUANT TO
7 SECTION 12-47-423 (5), THE FEE SHALL NOT EXCEED ONE HUNDRED FIFTY
8 DOLLARS.

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

11 **12-47-901. Unlawful acts - exceptions.** (1) Except as provided
12 in section 18-13-122, C.R.S., it is unlawful for any person:

13 (f) To sell at retail any malt, vinous or spirituous liquors in sealed
14 containers without holding a retail liquor store or liquor-licensed
15 drugstore license, OR TO SELL AT RETAIL ANY MALT LIQUORS IN SEALED
16 CONTAINERS WITHOUT HOLDING A RETAIL LIQUOR STORE,
17 LIQUOR-LICENSED DRUGSTORE, OR BEER-LICENSED CONVENIENCE STORE
18 LICENSE;

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

21 (k) (I) To have on the licensed premises, if licensed as a retail
22 liquor store, or liquor-licensed drugstore, OR BEER-LICENSED
23 CONVENIENCE STORE, any container that shows evidence of having once
24 been opened or that contains a volume of liquor less than that specified
25 on the label of such container; except that a person holding a retail liquor
26 store or liquor-licensed drugstore license may have upon the licensed
27 premises malt, vinous, or spirituous liquors in open containers, AND A
28 PERSON HOLDING A BEER-LICENSED CONVENIENCE STORE LICENSE MAY
29 HAVE UPON THE LICENSED PREMISES MALT LIQUORS IN OPEN CONTAINERS,
30 when the open containers were brought on the licensed premises by and
31 remain solely in the possession of the sales personnel of a person licensed
32 to sell at wholesale pursuant to this article for the purpose of sampling
33 malt, vinous, or spirituous liquors by the retail licensee only. Nothing in
34 this paragraph (k) shall apply to any liquor-licensed drugstore where the

1 contents, or a portion thereof, have been used in compounding
2 prescriptions.

3 **SECTION 14. Act subject to petition - effective date.** This act
4 shall take effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly that is
6 allowed for submitting a referendum petition pursuant to article V,
7 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
8 sine die is on May 6, 2009); except that, if a referendum petition is filed
9 against this act or an item, section, or part of this act within such period,
10 then the act, item, section, or part, if approved by the people, shall take
11 effect on the date of the official declaration of the vote thereon by
12 proclamation of the governor."

13 Page 1, line 102, strike "COLORADO." and substitute "COLORADO BY
14 CERTAIN RETAILERS."

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