

COLORADO LIQUOR CODE

ARTICLE 3, TITLE 44, C.R.S.

Updated 1/1/23

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PART 1

GENERAL PROVISIONS

44-3-101. Short title. The short title of this article 3 is the "Colorado Liquor Code".

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 950, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-101 as it existed prior to 2018.

44-3-102. Legislative declaration. (1) The general assembly hereby declares that this article 3 shall be deemed an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state and that no provisions of this article 3 shall ever be construed so as to authorize the establishment or maintenance of any saloon.

(2) The general assembly further declares that it is lawful to manufacture and sell for beverages or medicinal purposes alcohol beverages, subject to the terms, conditions, limitations, and restrictions in this article 3.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 951, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-102 as it existed prior to 2018.

44-3-103. Definitions. As used in this article 3 and article 4 of this title 44, unless the context otherwise requires:

(1) "Adult" means a person lawfully permitted to purchase alcohol beverages.

(2) "Alcohol beverage" means fermented malt beverage or malt, vinous, or spirituous liquors; except that "alcohol beverage" shall not include confectionery containing alcohol within the limits prescribed by section 25-5-410 (1)(i)(II).

(3) "Alternating proprietor licensed premises" means a distinct and definite area, as specified in an alternating use of premises application, that is owned by or in possession of a person licensed pursuant to section 44-3-402, 44-3-403, 44-3-417, or 44-3-422 and within which the licensee and other persons licensed pursuant to section 44-3-402, 44-3-403, 44-3-417, or 44-3-422 are authorized to manufacture and store vinous liquors or malt liquors in accordance with this article 3.

(4) "Bed and breakfast" means an overnight lodging establishment that provides at least one meal per day at no charge other than a charge for overnight lodging and does not sell alcohol beverages by the drink.

(5) "Brew pub" means a retail establishment that manufactures not more than one million eight hundred sixty thousand gallons of malt liquor on its licensed premises or licensed alternating proprietor licensed premises, combined, each calendar year.

(6) "Brewery" means any establishment where malt liquors are manufactured, except brew pubs licensed under this article 3.

(7) "Campus" means property owned or used by an institution of higher education to regularly provide students with education, housing, or college activities.

(8) "Campus liquor complex" means an area within a campus that is licensed to serve alcohol under section 44-3-413 (3).

(9) "Club" means:

(a) A corporation that:

(I) Has been incorporated for not less than three years; and

(II) Has a membership that has paid dues for a period of at least three years; and

(III) Has a membership that for three years has been the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, fraternal, patriotic, political, or athletic nature, but not for pecuniary gain, and the property as well as the advantages of which belong to the members;

(b) A corporation that is a regularly chartered branch, or lodge, or chapter of a national organization that is operated solely for the objects of a patriotic or fraternal organization or society, but not for pecuniary gain.

(10) "Colorado grown" means wine produced from one hundred percent Colorado-grown grapes, other fruits, or other agricultural products containing natural sugar, including honey, manufactured by a winery that is located in Colorado and licensed pursuant to part 3 of this article 3.

(11) "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.

(11.5) "Communal outdoor dining area" means an outdoor space that is used for food and alcohol beverage service by two or more licensees licensed under this article 3 or article 4 of this title 44 as a:

(a) Tavern;

(b) Hotel and restaurant;

(c) Brew pub;

(d) Distillery pub;

(e) Vintner's restaurant;

(f) Beer and wine licensee;

(g) Manufacturer that operates a sales room authorized under section 44-3-402 (2) or (7);

- (h) Beer wholesaler that operates a sales room under section 44-3-407 (1)(b)(I);
 - (i) Limited winery;
 - (j) Lodging and entertainment facility;
 - (k) Optional premises; or
 - (l) Fermented malt beverage retailer licensed for consumption on the premises.
- (12) "Distill" or "distillation" means the process by which alcohol that is created by fermentation is separated from the portion of the liquid that has no alcohol content.
- (13) "Distillery" means any establishment where spirituous liquors are manufactured.
- (14) "Distillery pub" means a retail establishment:
- (a) Whose primary purpose is selling and serving food and alcohol beverages for on-premises consumption; and
 - (b) That ferments and distills not more than eight hundred seventy-five thousand liters of spirituous liquor on its licensed premises each calendar year.
- (15) "Entertainment district" means an area that:
- (a) Is located within a municipality, a city and county, or the unincorporated area of a county and is designated in accordance with section 44-3-301 (11)(b) as an entertainment district;
 - (b) Comprises no more than one hundred acres; and
 - (c) Contains at least twenty thousand square feet of premises that, at the time the district is created, is licensed pursuant to this article 3 as a:
 - (I) Tavern;
 - (II) Hotel and restaurant;
 - (III) Brew pub;
 - (IV) Distillery pub;
 - (V) Retail gaming tavern;
 - (VI) Vintner's restaurant;
 - (VII) Beer and wine licensee;
 - (VIII) Manufacturer that operates a sales room pursuant to section 44-3-402 (2) or (7);
 - (IX) Beer wholesaler that operates a sales room pursuant to section 44-3-407 (1)(b)(I);
 - (X) Limited winery;
 - (XI) Lodging and entertainment facility licensee; or
 - (XII) Optional premises.
- (16) "Expert taster" means an individual, other than a qualified student or qualified employee, who is at least twenty-one years of age and who is employed in the brewing industry or has demonstrated expertise or experience in brewing.
- (17) "Ferment" or "fermentation" means the chemical process by which sugar is converted into alcohol.
- (18) "Fermented malt beverage" has the same meaning as provided in section 44-4-103 (1).
- (19) "Good cause", for the purpose of refusing or denying a license renewal or initial license issuance, means:
- (a) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this article 3 or any rules promulgated pursuant to this article 3;

(b) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license in prior disciplinary proceedings or arose in the context of potential disciplinary proceedings;

(c) In the case of a new license, the applicant has not established the reasonable requirements of the neighborhood or the desires of its adult inhabitants as provided in section 44-3-301 (2); or

(d) Evidence that the licensed premises have been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the establishment is located, which evidence must include a continuing pattern of fights, violent activity, or disorderly conduct. For purposes of this subsection (19)(d), "disorderly conduct" has the meaning as provided for in section 18-9-106.

(20) "Hard cider" means an alcohol beverage containing at least one-half of one percent and less than seven percent alcohol by volume that is made by fermentation of the natural juice of apples or pears, including but not limited to flavored hard cider and hard cider containing not more than 0.392 grams of carbon dioxide per hundred milliliters. For the purpose of simplicity of administration of this article 3, hard cider shall in all respects be treated as a vinous liquor except where expressly provided otherwise.

(21) "Hotel" means any establishment with sleeping rooms for the accommodation of guests and having restaurant facilities.

(22) "Inhabitant", with respect to cities or towns having less than forty thousand population, means an individual who resides in a given neighborhood or community for more than six months each year.

(23) "License" means a grant to a licensee to manufacture or sell alcohol beverages as provided by this article 3.

(24) "Licensed premises" means the premises specified in an application for a license under this article 3 that are owned or in possession of the licensee within which the licensee is authorized to sell, dispense, or serve alcohol beverages in accordance with this article 3.

(25) "Limited winery" means any establishment manufacturing not more than one hundred thousand gallons, or the metric equivalent thereof, of vinous liquors annually within Colorado.

(26) "Liquor-licensed drugstore" means any drugstore licensed by the state board of pharmacy that has also applied for and has been granted a license by the state licensing authority to sell malt, vinous, and spirituous liquors in original sealed containers for consumption off the premises.

(27) "Local licensing authority" means the governing body of a municipality or city and county, the board of county commissioners of a county, or any authority designated by municipal or county charter, municipal ordinance, or county resolution.

(28) "Location" means a particular parcel of land that may be identified by an address or by other descriptive means.

(29) "Lodging and entertainment facility" means an establishment that:

(a) Is either:

(I) A lodging facility, the primary business of which is to provide the public with sleeping rooms and meeting facilities; or

(II) An entertainment facility, the primary business of which is to provide the public with sports or entertainment activities within its licensed premises; and

(b) Incidental to its primary business, sells and serves alcohol beverages at retail for consumption on the premises and has sandwiches and light snacks available for consumption on the premises.

(30) (a) "Malt liquors" includes beer and means any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof, in water containing not less than one-half of one percent alcohol by volume.

(b) For purposes of licenses described in section 44-3-401 (1)(j) to (1)(p), (1)(s), (1)(t), (1)(v), and (1)(w), "malt liquors" includes fermented malt beverages when purchased from a retailer licensed pursuant to section 44-4-104 (1)(c).

(31) "Meal" means a quantity of food of such nature as is ordinarily consumed by an individual at regular intervals for the purpose of sustenance.

(32) "Medicinal spirituous liquors" means any alcohol beverage, excepting beer and wine, that has been aged in wood for four years and bonded by the United States government and is at least one hundred proof.

(33) (a) "Optional premises" means:

(I) The premises specified in an application for a hotel and restaurant license under this article 3 with related outdoor sports and recreational facilities for the convenience of its guests or the general public located on or adjacent to the hotel or restaurant within which the licensee is authorized to sell or serve alcohol beverages in accordance with this article 3 and at the discretion of the state and local licensing authorities; or

(II) The premises specified in an application for an optional premises license located on an applicant's outdoor sports and recreational facility.

(b) For purposes of this subsection (33), "outdoor sports and recreational facility" means a facility that charges a fee for the use of such facility.

(34) "Package", "packaged", or "packaging" means the process by which wine is bottled, canned, kegged, or otherwise packed into a sealed container.

(35) "Person" means a natural person, partnership, association, company, corporation, or organization or a manager, agent, servant, officer, or employee thereof.

(36) "Personal consumer" means an individual who is at least twenty-one years of age, does not hold an alcohol beverage license issued in this state, and intends to use wine purchased under section 44-3-104 for personal consumption only and not for resale or other commercial purposes.

(37) "Powdered alcohol" means alcohol that is prepared or sold in a powder or crystalline form for either direct use or reconstitution.

(38) (a) "Premises" means a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

(b) Notwithstanding subsection (38)(a) of this section, for a winery authorized to manufacture vinous liquors pursuant to section 44-3-402 or 44-3-403, the licensed premises may include up to two noncontiguous locations, both of which are used for manufacturing purposes, within a radius of ten miles.

(39) "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.

(40) "Qualified employee" means an individual who:

(a) Is employed by a state institution of higher education;
(b) Is engaged in manufacturing and tasting malt liquors for teaching or research purposes; and
(c) Is at least twenty-one years of age.
(41) "Qualified student" means a student who:
(a) Is enrolled in a brewing class or program offered at or by a state institution of higher education; and

(b) Is at least twenty-one years of age.
(42) "Racetrack" means any premises where race meets or simulcast races with pari-mutuel wagering are held in accordance with the provisions of article 32 of this title 44.

(43) "Rectify" means to blend spirituous liquor with neutral spirits or other spirituous liquors of different age.

(44) "Rectifying plant" means any establishment where spirituous liquors are blended with neutral spirits or other spirituous liquors of different age.

(45) "Resort complex" means a hotel with at least fifty sleeping rooms and that has related sports and recreational facilities for the convenience of its guests or the general public located contiguous or adjacent to the hotel. For purposes of a resort complex only, "contiguous or adjacent" means within the overall boundaries or scheme of development or regularly accessible from the hotel by its members and guests.

(46) "Resort hotel" means a hotel, as defined in subsection (21) of this section, with well-defined occupancy seasons.

(47) "Restaurant" means an establishment, which is not a hotel as defined in subsection (21) of this section, provided with special space, sanitary kitchen and dining room equipment, and persons to prepare, cook, and serve meals, where, in consideration of payment, meals, drinks, tobaccos, and candies are furnished to guests and in which nothing is sold excepting food, drinks, tobaccos, candies, and items of souvenir merchandise depicting the theme of the restaurant or the geographical or historic subjects of the nearby area. Any establishment connected with any business wherein any business is conducted, excepting hotel business, limited gaming conducted pursuant to article 30 of this title 44, or the sale of food, drinks, tobaccos, candies, or such items of souvenir merchandise, is declared not to be a restaurant. Nothing in this subsection (47) shall be construed to prohibit the use in a restaurant of orchestras, singers, floor shows, coin-operated music machines, amusement devices that pay nothing of value and cannot by adjustment be made to pay anything of value, or other forms of entertainment commonly provided in restaurants.

(48) "Retail liquor store" means an establishment engaged only in the sale of malt, vinous, and spirituous liquors in sealed containers for consumption off the premises and nonalcohol products, but only if the annual gross revenues from the sale of nonalcohol products do not exceed twenty percent of the retail liquor store establishment's total annual gross sales revenues, as determined in accordance with section 44-3-409 (1)(b).

(49) "Sales room" means an area in which a licensed winery, pursuant to section 44-3-402 (2); limited winery, pursuant to section 44-3-403 (2)(e); distillery, pursuant to section 44-3-402 (7); or beer wholesaler, pursuant to section 44-3-407 (1)(b), sells and serves alcohol beverages for consumption on the licensed premises, sells alcohol beverages in sealed containers for consumption off the licensed premises, or both.

(50) "School" means a public, parochial, or nonpublic school that provides a basic academic education in compliance with school attendance laws for students in grades one

through twelve. "Basic academic education" has the same meaning as set forth in section 22-33-104 (2)(b).

(51) "Sealed containers" means any container or receptacle used for holding an alcohol beverage, which container or receptacle is corked or sealed with any stub, stopper, or cap.

(52) "Sell" or "sale" means any of the following: To exchange, barter, or traffic in; to solicit or receive an order for except through a licensee licensed under this article 3 or article 4 or 5 of this title 44; to keep or expose for sale; to serve with meals; to deliver for value or in any way other than gratuitously; to peddle or to possess with intent to sell; to possess or transport in contravention of this article 3; to traffic in for any consideration promised or obtained, directly or indirectly.

(53) "Sell at wholesale" means selling to any other than the intended consumer of malt, vinous, or spirituous liquors. "Sell at wholesale" shall not be construed to prevent a brewer or wholesale beer dealer from selling malt liquors to the intended consumer, thereof, or to prevent a licensed manufacturer or importer from selling malt, vinous, or spirituous liquors to a licensed wholesaler.

(54) "Spirituous liquors" means any alcohol beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin, powdered alcohol, and every liquid or solid, patented or not, containing at least one-half of one percent alcohol by volume and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor, except as provided in subsections (30) and (59) of this section, shall not be construed to be fermented malt or malt or vinous liquor but shall be construed to be spirituous liquor.

(55) "State licensing authority" means the executive director or the deputy director of the department if the executive director so designates.

(56) "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 the licensee pursuant to the provisions of section 44-3-301 (10).

(57) "Tavern" means an establishment serving alcohol beverages in which the principal business is the sale of alcohol beverages at retail for consumption on the premises and where sandwiches and light snacks are available for consumption on the premises.

(58) "Tax-paid wine" means vinous liquors on which federal excise taxes have been paid.

(59) (a) "Vinous liquors" means wine and fortified wines that:

(I) Contain not less than one-half of one percent and not more than twenty-one percent alcohol by volume; and

(II) Are produced by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

(b) For the purpose of simplifying the administration of this article 3, sake is deemed a vinous liquor.

(60) "Vintner's restaurant" means a retail establishment that sells food for consumption on the premises and that manufactures not more than nine hundred twenty-five thousand gallons of wine on its premises or licensed alternating proprietor licensed premises, combined, each calendar year.

(61) "Winery" means any establishment where vinous liquors are manufactured; except that the term does not include a vintner's restaurant licensed pursuant to section 44-3-422.

Source: **L. 2018:** (59) amended, (SB 18-079), ch. 120, p. 822, § 1, effective August 8; (42) amended, (HB 18-1024), ch. 26, p. 321, § 6, effective October 1; entire article added with relocations, (HB 18-1025), ch. 152, p. 951, § 2, effective October 1. **L. 2019:** (3), (5), (6), (30), and (40)(b) amended, (SB 19-011), ch. 1, p. 5, § 4, effective January 31; (15)(a), (15)(c)(X), and (15)(c)(XI) amended and (15)(x)(XII) added, (SB 19-141), ch. 207, p. 2204, § 1, effective August 2. **L. 2020:** (3) and (60) amended, (HB 20-1055), ch. 15, p. 67, § 1, effective September 14. **L. 2021:** (11.5) added, (HB 21-1027), ch. 290, p. 1714, § 2, effective June 22; (14)(b) and (60) amended, (SB 21-270), ch. 479, p. 3422, § 1, effective September 7; (38) amended, (HB 21-1044), ch. 165, p. 925, § 1, effective September 7.

Editor's note: (1) This section is similar to former § 12-47-103 as it existed prior to 2018.

(2) (a) Subsection (42) of this section was numbered as § 12-47-103 (25) in HB 18-1024. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

(b) Subsection (59) of this section was numbered as § 12-47-103 (39) in SB 18-079. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

44-3-104. Wine shipments - permits. (1) (a) The holder of a winery direct shipper's permit may sell and deliver wine that is produced or bottled by the permittee to a personal consumer located in Colorado.

(b) The holder of a winery direct shipper's permit may not sell or ship wine to a minor, as defined in section 2-4-401 (6).

(2) A winery direct shipper's permit may be issued to only a person who applies for such permit to the state licensing authority and who:

(a) Operates a winery located in the United States and holds all state and federal licenses, permits, or both, necessary to operate the winery, including the federal winemaker's and blender's basic permit;

(b) Expressly submits to personal jurisdiction in Colorado state and federal courts for civil, criminal, and administrative proceedings and expressly submits to venue in the city and county of Denver, Colorado, as proper venue for any proceedings that may be initiated by or against the state licensing authority; and

(c) Except as provided in sections 44-3-402 (1) and 44-3-407 (3), does not directly or indirectly have any financial interest in a Colorado wholesaler or retailer licensed pursuant to section 44-3-407, 44-3-409, or 44-3-410.

(3) (a) All wine sold or shipped by the holder of a winery direct shipper's permit shall be in a package that is clearly and conspicuously labeled, showing that:

(I) The package contains wine; and

(II) The package may be delivered only to a person who is twenty-one years of age or older.

(b) Wine sold or shipped by a holder of a winery direct shipper's permit may not be delivered to any person other than:

(I) The person who purchased the wine;

(II) A recipient designated in advance by such purchaser; or

(III) A person who is twenty-one years of age or older.

(c) Wine may be delivered only to a person who is twenty-one years of age or older after the person accepting the package:

(I) Presents valid proof of identity and age; and

(II) Personally signs a receipt acknowledging delivery of the package.

(4) The holder of a winery direct shipper's permit shall maintain records of all sales and deliveries made under the permit in accordance with section 44-3-701.

(5) A personal consumer purchasing wine from the holder of a winery direct shipper's permit may not resell the wine.

(6) The state licensing authority may adopt rules and forms necessary to implement this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 958, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-104 as it existed prior to 2018.

44-3-105. Local option. The operation of this article 3 shall be statewide unless any municipality or city and county, by a majority of the registered electors of any municipality or city and county, voting at any regular election or special election called for that purpose in accordance with the election laws of this state, decides against the right to sell alcohol beverages or to limit the sale of alcohol beverages to any one or more of the classes of licenses as provided by this article 3 within their respective limits. The local option question shall be submitted only upon a petition signed by not less than fifteen percent of the registered electors in the municipality or city and county; otherwise, the procedure with reference to the calling and holding of the elections shall be substantially in accordance with the election laws of the state. The expenses of the election shall be borne by the municipality or city and county in which the elections are held. The question of prohibition of sale of alcohol beverages or the limitation of sales to any one or more of the classes of licenses provided in this article 3 shall not be submitted to the registered electors more than once in any four-year period.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 959, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-105 as it existed prior to 2018.

44-3-106. Exemptions. (1) The provisions of this article 3 shall not apply to the sale or distribution of sacramental wines sold and used for religious purposes.

(2) (a) Notwithstanding any provision of this article 3 to the contrary, when permitted by federal law and rules and regulations promulgated pursuant thereto, an adult may produce, for personal use and not for sale, an amount of malt or vinous liquor equal to the amount that is exempt from the federal excise tax on the alcohol beverage when produced by an adult for personal use and not for sale.

(b) The production of malt or vinous liquors under the circumstances set forth in this subsection (2) shall be in strict conformity with federal law and rules and regulations issued pursuant thereto.

(c) Malt or vinous liquors produced pursuant to this subsection (2) shall be exempt from any tax imposed by this article 3, and the producer shall not be required to obtain any license provided by this article 3.

(d) Malt liquors or vinous liquors produced in accordance with this subsection (2) may be transported and delivered by the producer to any licensed premises where consumption of malt liquors or vinous liquors by persons at least twenty-one years of age is authorized for use at organized affairs, exhibitions, or competitions, such as home brew or wine-making contests, tastings, or judgments. To claim this exemption, consumption must be limited solely to the participants in and judges of the events. Malt liquors or vinous liquors used for the purposes described in this subsection (2)(d) must also be served in portions not exceeding six ounces and must not be sold, offered for sale, or made available for consumption by the general public.

(3) (a) The provisions of this article 3 or article 4 of this title 44, with the exception of the requirements of section 44-3-503, shall not apply to the occasional sale of an alcohol beverage to any individual twenty-one years of age or older at public auction by any person where the auction sale is for the purpose of disposing of the alcohol beverage as may lawfully have come into the possession of the person in the due course of the person's regular business in the following manner:

(I) By reason of the failure of the owner of the alcohol beverage to claim the same or to furnish instructions as to the disposition thereof;

(II) By reason of the foreclosure of any lawful lien upon the alcohol beverage by the person in accordance with lawful procedure;

(III) By reason of salvage of the alcohol beverage, in the case of carriers, from shipments damaged in transit;

(IV) By reason of a lawful donation of the alcohol beverage to an organization qualifying under section 44-5-102 for a special event permit; except that no more than four public auctions per year shall be conducted pursuant to this subsection (3)(a)(IV).

(b) The state licensing authority shall be presented records of all transactions referred to in subsection (3)(a) of this section.

(4) Any individual twenty-one years of age or older entering this state from another state or a foreign country may lawfully possess for personal use and not for sale alcohol beverages without liability for the Colorado excise tax on the alcohol beverages up to the following amounts:

(a) Two and one-fourth gallons, or two hundred eighty-eight ounces, of malt liquor;

(b) Two and one-fourth gallons, or two hundred eighty-eight ounces, of hard cider;

(c) Nine liters of vinous liquor; and

(d) Six liters of spiritous liquor.

(5) This article 3 shall not apply to state institutions of higher education when the institutions are engaged in the manufacture of vinous liquor on alternating proprietor licensed premises or premises licensed pursuant to section 44-3-402 or 44-3-403, for the purpose of enology research and education.

(6) This article 3 does not apply to a state institution of higher education when the institution is engaged in the manufacture and tasting, at the place of manufacture or at a licensed premises, of malt liquors for teaching or research purposes, so long as the malt liquor is not sold or offered for sale and is only tasted by a qualified student, qualified employee, or expert taster. Any unused malt liquor product that is produced by a state institution of higher education in

accordance with this subsection (6) must be removed from a licensed premises at the end of an event if the event is held at a licensed premises located off campus.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 960, § 2, effective October 1. **L. 2019:** (2)(a), (2)(b), and (2)(c) amended, (SB 19-011), ch. 1, p. 6, § 5, effective January 31. **L. 2022:** (4) amended, (HB 22-1017), ch. 47, p. 227, § 1, effective August 10.

Editor's note: This section is similar to former § 12-47-106 as it existed prior to 2018.

44-3-107. Permitted acts - auctions at special events - definition. (1) Any person who has an interest in a liquor license may also be listed as an officer or director on a license owned by a municipality or governmental entity if the person does not individually manage or receive any direct financial benefit from the operation of such license.

(2) (a) An organization that is holding a special event pursuant to article 5 of this title 44 may, subject to the requirements of subsection (2)(b) of this section:

(I) Bring onto and remove from the licensed premises or unlicensed premises where the special event is held alcohol beverages in sealed containers that were donated to or otherwise lawfully obtained by the organization for fund-raising purposes; and

(II) Auction the alcohol beverages in sealed containers for fund-raising purposes while on the licensed premises or unlicensed premises where the special event is held.

(b) (I) An organization holding a special event and, if the special event is held on a licensed premises, the licensee on whose licensed premises the special event is held, or, if the special event is held on unlicensed premises, the person on whose unlicensed premises the special event is held, shall ensure that any alcohol beverages in sealed containers brought onto, auctioned at, or removed from the premises remain sealed at all times while on the premises.

(II) The licensee on whose licensed premises the special event is held or the person on whose unlicensed premises the special event is held, as applicable, shall not require or accept any fee for, percentage or portion of the proceeds from, or other financial benefit specifically related to the auction of alcohol beverages in sealed containers on the premises.

(c) The retail value of alcohol beverages donated to an organization pursuant to this section by a retailer licensed under section 44-3-409, 44-3-410, or 44-4-104 (1)(c) to sell alcohol beverages at retail for consumption off the licensed premises does not count against the annual limit on purchases from those retailers specified in section 44-3-411 (2), 44-3-413 (7)(b), 44-3-414 (2), 44-3-416 (2), 44-3-417 (3), 44-3-418 (2), 44-3-419 (4), 44-3-420 (2), 44-3-422 (3), 44-3-426 (4)(b), or 44-3-428 (2).

(d) (I) A retailer licensed under this article 3 or article 4 of this title 44 that donates alcohol beverages to an organization pursuant to this section is not liable for any violation of section 44-3-901 committed by the organization or other person on the premises where the special event is held or involving the donated alcohol beverages if the licensed retailer that donated the alcohol beverages was not involved in the violation and did not engage in any act or omission that constitutes an unlawful act under section 44-3-901.

(II) The state and local licensing authorities shall consider mitigating factors, including a licensee's lack of knowledge of a violation, in determining whether to hold a licensee on whose licensed premises the special event was held responsible for any violation of section 44-3-901

that occurred on the licensed premises and that was committed by the organization holding the special event.

(e) As used in this subsection (2), "organization" means an organization described in section 44-5-102 (1):

(I) That obtains a special event permit under article 5 of this title 44 to hold a special event on a premises licensed under section 44-3-403, 44-3-404, 44-3-413 (3), 44-3-418, 44-3-419, or 44-3-424;

(II) That is holding a special event at a retail premises licensed under this article 3 to sell alcohol beverages for consumption on the licensed premises; or

(III) That is otherwise exempt from article 5 of this title 44 pursuant to section 44-5-108.

Source: L. 2018: Entire section amended, (SB 18-067), ch. 4, p. 29, § 1, effective March 1; entire article added with relocations, (HB 18-1025), ch. 152, p. 961, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-47-107 as it existed prior to 2018.

(2) This section was numbered as § 12-47-107 in SB 18-067. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

PART 2

STATE LICENSING AUTHORITY - DUTIES

44-3-201. State licensing authority - creation. (1) For the purpose of regulating and controlling the licensing of the manufacture, distribution, and sale of alcohol beverages in this state, there is hereby created the state licensing authority, which shall be the executive director or the deputy director if the executive director so designates.

(2) The executive director shall be the chief administrative officer of the state licensing authority and may employ, pursuant to section 13 of article XII of the state constitution, clerks and inspectors as may be determined to be necessary.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 962, § 2, effective October 1. **L. 2019:** Entire section amended, (SB 19-241), ch. 390, p. 3478, § 60, effective August 2.

Editor's note: This section is similar to former § 12-47-201 as it existed prior to 2018.

44-3-202. Duties of state licensing authority. (1) The state licensing authority shall:

(a) Grant or refuse licenses for the manufacture, distribution, and sale of alcohol beverages as provided by law and suspend or revoke such licenses upon a violation of this article 3, article 4 or 5 of this title 44, or any rule adopted pursuant to those articles;

(b) Make general rules and special rulings and findings as necessary for the proper regulation and control of the manufacture, distribution, and sale of alcohol beverages and for the enforcement of this article 3 and articles 4 and 5 of this title 44 and alter, amend, repeal, and publish the same from time to time;

(c) Hear and determine at public hearing all complaints against any licensee and administer oaths and issue subpoenas to require the presence of persons and production of papers, books, and records necessary to the determination of any hearing so held;

(d) Keep complete records of all acts and transactions of the state licensing authority, which records, except confidential reports obtained from the licensee showing the sales volume or quantity of alcohol beverages sold or stamps purchased or customers served, shall be open for inspection by the public;

(e) Prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to section 24-1-136, a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the state licensing authority;

(f) Notify all persons to whom wholesale licenses have been issued as to applications for licenses and renewals of the licenses provided in sections 44-3-409 to 44-3-420 and 44-4-104 (1).

(2) (a) (I) Rules adopted pursuant to subsection (1)(b) of this section may cover, without limitation, the following subjects:

(A) Compliance with or enforcement or violation of any provision of this article 3, article 4 or 5 of this title 44, or any rule issued pursuant to those articles;

(B) Specifications of duties of officers and employees;

(C) Instructions for local licensing authorities and law enforcement officers;

(D) All forms necessary or convenient in the administration of this article 3 and articles 4 and 5 of this title 44;

(E) Inspections, investigations, searches, seizures, and activities as may become necessary from time to time, including a range of penalties for use by licensing authorities, which shall include aggravating and mitigating factors to be considered, when licensees' employees violate certain provisions of this article 3 and article 4 of this title 44, including the sale or service of alcohol beverages to persons under twenty-one years of age or to visibly intoxicated persons;

(F) Limitation of number of licensees as to any area or vicinity;

(G) Misrepresentation, unfair practices, and unfair competition;

(H) Control of signs and other displays on licensed premises;

(I) Use of screens;

(J) Identification of licensees and their employees;

(K) Storage, warehouses, and transportation;

(L) Health and sanitary requirements;

(M) Standards of cleanliness, orderliness, and decency, and sampling and analysis of products;

(N) Standards of purity and labeling;

(O) Records to be kept by licensees and availability thereof;

(P) Practices unduly designed to increase the consumption of alcohol beverages;

(Q) Implementation, standardization, and enforcement of alternating proprietor licensed premises. The state licensing authority shall consult with interested parties from the alcohol beverage industry in developing appropriate rules to ensure adequate oversight and regulation of alternating proprietor licensed premises.

(R) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this article 3 and articles 4 and 5 of this title 44;

(S) Repealed.

(T) Sales rooms operated by licensed wineries, distilleries, limited wineries, or beer wholesalers, including the manner by which a licensee operating a sales room notifies the state licensing authority of its sales rooms, the content of the notice, and any other necessary provisions related to the notice requirement.

(II) Nothing in this article 3 and articles 4 and 5 of this title 44 shall be construed as delegating to the state licensing authority the power to fix prices. The licensing authority shall make no rule that would abridge the right of any licensee to fairly, honestly, and lawfully advertise the place of business of or the commodities sold by such licensee. All rules shall be reasonable and just.

(b) (I) (A) The state licensing authority shall make no rule regulating or prohibiting the sale of alcohol beverages on credit offered or extended by a licensee to a retailer where the credit is offered or extended for thirty days or less. The state licensing authority shall enforce the prohibition against extending credit for more than thirty days for the sale of alcohol beverages pursuant to 27 CFR 6 and may adopt rules regulating or prohibiting the sale of alcohol beverages on credit where the credit is offered or extended for more than thirty days, consistent with the federal regulations.

(B) Nothing in this subsection (2)(b)(I) allows the state licensing authority to adopt a rule that restricts the ability of a licensee to, or prohibits a licensee from, making sales of alcohol beverages, on a cash-on-delivery basis, to a retailer who is or may be in arrears in payments to a licensee for prior alcohol beverage sales.

(II) Licensees shall comply with the prohibition against extending credit to a retailer for more than thirty days for the sale of alcohol beverages, including beer, contained in 27 CFR 6 and with rules adopted by the state licensing authority that are consistent with 27 CFR 6.

(III) Notwithstanding any provision of this article 3 to the contrary, a liquor-licensed drugstore licensed under section 44-3-410 on or after January 1, 2017, shall not purchase alcohol beverages on credit or accept an offer or extension of credit from a licensee and shall effect payment upon delivery of the alcohol beverages.

(IV) As used in this subsection (2)(b), "licensee" shall have the same meaning as "industry member", as defined in 27 CFR 6.11, and includes a person engaged in business as a distiller, brewer, rectifier, blender, or other producer; as an importer or wholesaler of alcohol beverages; or as a bottler or warehouseman and bottler of spiritous liquors.

(3) In any hearing held by the state licensing authority pursuant to this article 3 or article 4 or 5 of this title 44, no person may refuse, upon request of the state licensing authority, to testify or provide other information on the ground of self-incrimination; but no testimony or other information produced in the hearing or any information directly or indirectly derived from such testimony or other information may be used against such person in any criminal prosecution based on a violation of this article 3 or article 4 or 5 of this title 44 except a prosecution for perjury in the first degree committed in so testifying. Continued refusal to testify or provide other information shall constitute grounds for suspension or revocation of any license granted pursuant to this article 3 or article 4 or 5 of this title 44.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 962, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-47-202 as it existed prior to 2018.

(2) Subsection (2)(a)(I)(S) provided for the repeal of subsection (2)(a)(I)(S), effective January 1, 2019. (See L. 2016, pp. 1530, 1539.)

44-3-203. Performance of duties. (1) The performance of the functions or activities set forth in this article 3 and articles 4 and 5 of this title 44 shall be subject to available appropriations; but nothing in this section shall be construed to remove from the state licensing authority the responsibility for performing such functions or activities in accordance with law at the level of funding provided.

(2) Notwithstanding the provisions of subsection (1) of this section, the state shall be the final interpretive authority as it relates to this article 3 and articles 4 and 5 of this title 44 and the rules promulgated thereunder, concerning persons licensed pursuant to this article 3 and articles 4 and 5 of this title 44 as wholesalers, manufacturers, importers, and public transportation system licensees.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 965, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-203 as it existed prior to 2018.

PART 3

STATE AND LOCAL LICENSING

44-3-301. Licensing in general. (1) No local licensing authority shall issue a license provided for in this article 3 or article 4 or 5 of this title 44 until that share of the license fee due the state has been received by the department. All licenses granted pursuant to this article 3 and articles 4 and 5 of this title 44 shall be valid for a period of one year from the date of their issuance unless revoked or suspended pursuant to section 44-3-601 or 44-3-306.

(2) (a) Before granting any license, all licensing authorities shall consider, except where this article 3 and article 4 of this title 44 specifically provide otherwise, 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. With respect to a second or additional license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w) or 44-3-412 (1) or in a financial institution referred to in section 44-3-308 (4) for the same licensee, all licensing authorities shall consider the effect on competition of the granting or disapproving of additional licenses to such licensee and shall not approve an application for a second or additional license that would have the effect of restraining competition.

(b) A local licensing authority or the state on state-owned property may deny the issuance of any new tavern or retail liquor store license whenever such authority determines that the issuance of the license would result in or add to an undue concentration of the same class of license and, as a result, require the use of additional law enforcement resources.

(c) The state licensing authority shall approve the proposed premises for a winery applying pursuant to section 44-3-402 or 44-3-403, which premises includes up to two

noncontiguous locations used for manufacturing vinous liquors, or a modification of the licensed premises of a winery licensed pursuant to section 44-3-402 or 44-3-403 to include up to two noncontiguous locations used for manufacturing vinous liquors if the alcohol and tobacco tax and trade bureau of the United States department of the treasury has approved the description and diagram of the proposed or modified premises. Additionally, with the initial license application that includes noncontiguous locations within the proposed premises or a subsequent application to modify the premises to include noncontiguous locations, the winery licensee must submit proof from the municipality in which the premises is located of compliance with all applicable zoning, building, fire, and other requirements for occupancy and operation. The state licensing authority may, by rule, establish a one-time application fee and an annual renewal fee, neither of which may exceed five hundred dollars per location, for applications under this subsection (2)(c).

(3) (a) (I) Each license issued under this article 3 and article 4 of this title 44 is separate and distinct. It is unlawful for any person to exercise any of the privileges granted under any license other than the license the person holds or for any licensee to allow any other person to exercise the privileges granted under the licensee's license, except as provided in section 44-3-402 (3), 44-3-403 (2)(a), 44-3-404, or 44-3-417 (1)(b). A separate license must be issued for each specific business or business entity and each geographic location, and in the license the particular alcohol beverages the applicant is authorized to manufacture or sell must be named and described.

(II) For purposes of this section, each of the following is considered a single business and location:

- (A) A resort complex with common ownership;
 - (B) A campus liquor complex;
 - (C) A hotel and restaurant licensee with optional premises;
 - (D) An optional premises licensee for optional premises located on an outdoor sports and recreational facility;
 - (E) A winery licensed pursuant to section 44-3-402 or 44-3-403 that has noncontiguous locations included in the licensed premises; and
 - (F) A festival at which more than one licensee participates pursuant to a festival permit.
- (b) At all times a licensee shall possess and maintain possession of the premises or optional premises for which the license is issued by ownership, lease, rental, or other arrangement for possession of the premises.

(4) (a) The licenses provided pursuant to this article 3 and article 4 of this title 44 shall specify the date of issuance, the period which is covered, the name of the licensee, the premises or optional premises licensed, the optional premises in the case of a hotel and restaurant license, and the alcohol beverages that may be sold on the premises or optional premises. The license shall be conspicuously placed at all times on the licensed premises or optional premises, and all sheriffs and police officers shall see to it that every person selling alcohol beverages within their jurisdiction has procured a license to do so.

(b) No local licensing authority shall issue, transfer location of, or renew any license to sell any alcohol beverages until the person applying for the license produces a license issued and granted by the state licensing authority covering the whole period for which a license or license renewal is sought.

(5) In computing any period of time prescribed by this article 3, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and legal holidays shall be counted as any other day.

(6) (a) Licensees at facilities owned by a municipality, county, or special district or at publicly or privately owned sports and entertainment venues with a minimum seating capacity of one thousand five hundred seats may possess and serve for on-premises consumption any type of alcohol beverage as may be permitted pursuant to guidelines established by the local and state licensing authorities, and the licensees need not have meals available for consumption.

(b) Nothing in this article 3 shall prohibit a licensee at a sports and entertainment venue described in subsection (6)(a) of this section from selling or providing alcohol beverages in sealed containers, as authorized by the license in effect, to adult occupants of luxury boxes located at stadiums, arenas, and similar sports and entertainment venues that are included within the licensed premises of the licensee. However, no person shall be allowed to leave the licensed premises with a sealed container of alcohol beverage that was obtained in the luxury box. As used in this subsection (6)(b), "luxury box" means a limited public access room or booth that is used by its occupants and their guests at sports and entertainment venues that are provided within the licensed premises.

(7) A licensee shall report each transfer or change of financial interest in the license to the state licensing authority and, for retail licenses, to the local licensing authority within thirty days after the transfer or change. A report shall be required for transfers of capital stock of a public corporation; except that a report shall not be required for transfers of such stock totaling less than ten percent in any one year, but any transfer of a controlling interest shall be reported regardless of size. It is unlawful for the licensee to fail to report a transfer required by this subsection (7). Failure to report shall be grounds for suspension or revocation of the license.

(8) Each licensee holding a fermented malt beverage on-premises license or on- and off-premises license, beer and wine license, hotel and restaurant license, tavern license, lodging and entertainment license, club license, arts license, or racetrack license shall manage the premises himself or herself or employ a separate and distinct manager on the premises and shall report the name of the manager to the state and local licensing authorities. The licensee shall report any change in managers to the state and local licensing authorities within thirty days after the change. When a hotel and restaurant, tavern, or lodging and entertainment licensee reports a change in manager to the state and local licensing authority, the licensee shall pay:

- (a) A thirty-dollar fee to the state licensing authority; and
- (b) A thirty-dollar fee to the local licensing authority.

(9) (a) (I) (A) Subject to subsections (9)(a)(I)(B) and (9)(a)(I)(C) of this section, a licensee may move its permanent location to any other place in the same city, town, or city and county for which the license was originally granted, or in the same county if the license was granted for a place outside the corporate limits of any city, town, or city and county, but it is unlawful to sell any alcohol beverage at the new location until permission is granted by the state and local licensing authorities.

(B) The state and local licensing authorities shall not grant permission under this subsection (9)(a)(I) to a fermented malt beverage retailer licensed under section 44-4-107 (1)(a) to move its permanent location if the new location is: Within one thousand five hundred feet of a retail liquor store licensed under section 44-3-409; for a premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of a retail liquor store licensed under section 44-3-409; or, for a premises located in a municipality with a population of ten

thousand or fewer that is contiguous to the city and county of Denver, within one thousand five hundred feet of a retail liquor store licensed under section 44-3-409.

(C) The state and local licensing authorities shall not grant permission under this subsection (9)(a)(I) to a retail liquor store licensed under section 44-3-409 to move its permanent location if the new location is: Within one thousand five hundred feet of another retail liquor store licensed under section 44-3-409; for a premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of another retail liquor store licensed under section 44-3-409; or, for a premises located in a municipality with a population of ten thousand or fewer that is contiguous to the city and county of Denver, within one thousand five hundred feet of another retail liquor store licensed under section 44-3-409.

(II) Notwithstanding subsection (9)(a)(I) of this section and subject to subsection (9)(a)(I)(C) of this section, for a retail liquor store licensed on or before January 1, 2016, the licensee may apply to move the permanent location to another place within or outside the municipality or county in which the license was originally granted. It is unlawful for the licensee to sell any alcohol beverages at the new location until permission is granted by the state and local licensing authorities.

(b) (I) In permitting a change of location, the licensing authorities shall consider the reasonable requirements of the neighborhood to which the applicant seeks to change his or her location, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all reasonable restrictions that are or may be placed upon the new district by the council, board of trustees, or licensing authority of the city, town, or city and county or by the board of county commissioners of any county.

(II) If the state and local licensing authorities approve an application for a change of location submitted under subsection (9)(a)(II) of this section by a retail liquor store licensed on or before January 1, 2016, the licensee must change the location of its premises within three years after the approval is granted.

(10) (a) The provisions of this subsection (10) shall only apply within a county, city and county, or municipality if the governing body of the county, city and county, or municipality adopts an ordinance or resolution authorizing tastings pursuant to this subsection (10). The ordinance or resolution may provide for stricter limits than this subsection (10) on the number of tastings per year per licensee, the days on which tastings may occur, or the number of hours each tasting may last.

(b) A retail liquor store or liquor-licensed drugstore licensee who 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 he or she 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.

(c) Tastings are subject to the following limitations:

(I) Tastings shall be conducted only:

(A) By a person who: Has completed a server training program that meets the standards established by the liquor enforcement division in the department and is a retail liquor store or liquor-licensed drugstore licensee, an employee of a retail liquor store or liquor-licensed drugstore licensee, or a representative, employee, or agent of the licensed wholesaler, brew pub, distillery pub, manufacturer, limited winery, importer, or vintner's restaurant promoting the alcohol beverages for the tasting; and

(B) On a licensee's licensed premises.

(II) The alcohol beverage used in tastings must be purchased through a licensed wholesaler, licensed brew pub, licensed distillery pub, or winery licensed pursuant to section 44-3-403 at a cost that is not less than the laid-in cost of the alcohol beverage.

(III) The size of an individual alcohol sample shall not exceed one ounce of malt or vinous liquor or one-half of one ounce of spirituous liquor.

(IV) Tastings shall not exceed a total of five hours in duration per day, which need not be consecutive.

(V) The licensee may conduct tastings 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 9 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, destroy the samples immediately following the completion of the tasting, or store any open containers of unconsumed alcohol beverages in a secure area outside the sales area of the licensed premises for use at a tasting conducted at a later time or date.

(VIII) The licensee shall not serve a person who is under twenty-one years of age or who is visibly intoxicated.

(IX) The licensee shall not serve more than four individual samples to a patron during a tasting.

(X) Alcohol samples shall be in open containers and shall be provided to a patron free of charge.

(XI) The licensee may conduct tastings on no more than one hundred fifty-six days per year.

(XII) No manufacturer of spirituous or vinous liquors shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a tasting. The retail liquor store or liquor-licensed drugstore licensee bears the financial and all other responsibility for a tasting conducted on its licensed premises.

(d) A violation of a limitation specified in this subsection (10) by a retail liquor store or liquor-licensed drugstore licensee, whether by the licensee's employees, agents, or otherwise or by a representative, employee, or agent of the licensed wholesaler, brew pub, distillery pub, manufacturer, limited winery, importer, or vintner's restaurant that promoted the alcohol beverages for the tasting, is the responsibility of, and section 44-3-801 applies to, the retail liquor store or liquor-licensed drugstore licensee that conducted the tasting.

(e) 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 the licensee.

(f) Nothing in this subsection (10) shall affect the ability of a Colorado winery licensed pursuant to section 44-3-402 or 44-3-403 to conduct a tasting pursuant to the authority of section 44-3-402 (2) or 44-3-403 (2)(e).

(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 5 of this title 44 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 3 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 licensed tavern, lodging and entertainment facility, hotel and restaurant, brew pub, distillery pub, retail gaming tavern, vintner's restaurant, beer and wine licensee, manufacturer or beer wholesaler that operates a sales room, or limited winery that 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 3 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 subsection (11)(c)(II)(C) of this section 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 3 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 44-3-910.

(d) A person shall not attach a premises licensed under this article 3 to a common consumption area unless authorized by the local licensing authority. Any noncontiguous location included in the licensed premises of a winery licensed pursuant to section 44-3-402 or 44-3-403 that falls outside the approved boundaries of an entertainment district or a common consumption area authorized pursuant to this subsection (11) shall not be included as part of a certified promotional association or entertainment district even though the licensed premises of that winery is within the entertainment district.

(e) (I) A licensed tavern, lodging and entertainment facility, hotel and restaurant, brew pub, distillery pub, retail gaming tavern, vintner's restaurant, beer and wine licensee,

manufacturer or beer wholesaler that operates a sales room, limited winery, or optional premises that 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 3 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 3 or creating a safety risk to the neighborhood; or

(C) Violates section 44-3-910.

(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 3, 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.

(12) (a) Notwithstanding any other provision of this article 3, on and after July 1, 2016, the state and local licensing authorities shall not issue a new license under this article 3 authorizing the sale at retail of malt, vinous, or spirituous liquors in sealed containers for consumption off the licensed premises if the premises for which the retail license is sought is located:

(I) Within one thousand five hundred feet of another licensed premises licensed to sell malt, vinous, or spirituous liquors at retail for off-premises consumption;

(II) For a premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of another licensed premises licensed to sell malt, vinous, or spirituous liquors at retail for off-premises consumption; or

(III) For a premises located in a municipality with a population of ten thousand or fewer that is contiguous to the city and county of Denver, within one thousand five hundred feet of another licensed premises licensed to sell malt, vinous, or spirituous liquors at retail for off-premises consumption.

(a.5) (I) Notwithstanding any other provision of this article 3, on and after June 4, 2018, the state and local licensing authorities shall not issue a new fermented malt beverage retailer's license under article 4 of this title 44 authorizing the sale at retail of fermented malt beverages in sealed containers for consumption off the licensed premises if the premises for which the retail license is sought is located within five hundred feet of a retail liquor store licensed under section 44-3-409.

(II) This subsection (12)(a.5) does not apply to a person that owns or leases a proposed fermented malt beverage retailer licensed premises and, as of January 1, 2019, has applied for or received from the municipality, city and county, or county in which the premises are located:

(A) A building permit for the structure to be used for the fermented malt beverage retailer licensed premises, which permit is currently active and will not expire before the completion of the liquor licensing process; or

(B) A certificate of occupancy for the structure to be used for the fermented malt beverage retailer licensed premises.

(b) For purposes of subsection (12)(a) of this section, a license under this article 3 authorizing the sale at retail of malt, vinous, or spirituous liquors in sealed containers for consumption off the licensed premises includes a license under this article 3 authorizing the sale of malt and vinous liquors in sealed containers not to be consumed at the place where the malt and vinous liquors are sold.

(c) For purposes of determining whether the distance requirements specified in subsections (12)(a) and (12)(a.5) of this section are satisfied, the distance shall be determined by a radius measurement that begins at the principal doorway of the premises for which the application is made and ends at the principal doorway of the other retail licensed premises.

Source: L. 2018: (2)(a), (9)(a), (10)(c)(I), (10)(c)(V), (10)(c)(VII), (10)(c)(XI), (10)(c)(XII), (10)(d), and (12) amended, (SB 18-243), ch. 366, p. 2195, § 5, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 965, § 2, effective October 1; (8) amended, (SB 18-243), ch. 366, p. 2195, § 5, effective July 1, 2019. **L. 2019:** (3)(a) amended, (SB 19-011), ch. 1, p. 6, § 6, effective January 31; (8) amended, (SB 19-028), ch. 4, p. 24, § 3, effective February 20; (11)(e)(I) amended, (SB 19-141), ch. 207, p. 2204, § 2, effective August 2. **L. 2021:** (2)(c) added and (3)(a) and (11)(d) amended, (HB 21-1044), ch. 165, p. 925, § 2, effective September 7; (3)(a) amended, (SB 21-082), ch. 195, p. 1044, § 1, effective September 7. **L. 2022:** (8) amended, (HB 22-1415), ch. 426, p. 3017, § 1, effective June 7.

Editor's note: (1) This section is similar to former § 12-47-301 as it existed prior to 2018.

(2) (a) Subsections (2)(a), (9)(a), (10)(c)(I), (10)(c)(V), (10)(c)(VII), (10)(c)(XI), (10)(c)(XII), (10)(d), and (12) of this section were numbered as § 12-47-301 (2)(a), (9)(a), (10)(c)(I), (10)(c)(V), (10)(c)(VII), (10)(c)(XI), (10)(c)(XII), (10)(d), and (12), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

(b) Subsection (8) of this section was numbered as § 12-47-301 (8) in SB 18-243. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025, effective July 1, 2019.

(3) Amendments to subsection (3)(a) by SB 21-082 and HB 21-1044 were harmonized.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-3-302. License renewal - rules. (1) (a) Ninety days before the expiration date of an existing license, the state licensing authority shall notify the licensee of the expiration date by any method reasonably likely to actually notify the licensee. The state licensing authority shall

promulgate rules setting the procedure to notify a licensee in accordance with this subsection (1)(a).

(b) For the renewal of an existing license, the licensee must apply to the local licensing authority not less than forty-five days and to the state licensing authority not less than thirty days before the date of expiration. The local licensing authority shall not accept an application for renewal of a license after the date of expiration, except as provided in subsection (2) of this section. Filing with the local licensing authority is deemed filing with the state licensing authority. The state licensing authority shall process all renewal applications that are filed with the local licensing authorities before the expiration date and subsequently approved and shall extend the expiration date until the state license application process is completed. The state or the local licensing authority, for good cause, may waive the forty-five- or thirty-day time requirements set forth in this subsection (1)(b).

(c) The local licensing authority may hold a hearing on the application for renewal, but not until a notice of hearing has been conspicuously posted on the licensed premises for ten days and notice of the hearing has been provided the applicant at least ten days before the hearing. The licensing authority may refuse to renew any license for good cause, subject to judicial review. The state licensing authority shall hold any renewal hearing in accordance with section 44-3-305 (2).

(2) (a) Notwithstanding the provisions of subsection (1) of this section, a licensee whose license has been expired for not more than ninety days may file a late renewal application upon the payment of a nonrefundable late application fee of five hundred dollars each to the state and local licensing authorities. A licensee who files a late renewal application and pays the requisite fees may continue to operate until both state and local licensing authorities have taken final action to approve or deny the licensee's late renewal application.

(b) A state or local licensing authority shall not accept a late renewal application more than ninety days after the expiration of a licensee's permanent annual license. Any licensee whose permanent annual license has been expired for more than ninety days must apply for a new license pursuant to section 44-3-311 or a reissued license pursuant to subsection (2)(d) of this section.

(c) Notwithstanding the amount specified for the fee in subsection (2)(a) of this section, the state licensing authority by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3) to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the state licensing authority by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4).

(d) (I) Notwithstanding subsection (2)(b) of this section, with the permission of the licensing authority, a licensee whose permanent annual license has been expired for more than ninety days but less than one hundred eighty days may submit to the local licensing authority, or to the state licensing authority in the case of a licensee whose alcohol beverage license is not subject to issuance or approval by a local licensing authority, an application for a reissued license. The licensing authority has the sole discretion to determine whether to allow a licensee to apply for a reissued license.

(II) If the licensing authority does not allow the licensee's application, then the licensee must apply for a new license pursuant to section 44-3-311. A person who has applied for a new license shall not sell, or possess for sale in public view, any alcohol beverage until all required licenses have been obtained.

(III) For licensees subject to issuance or approval by a local licensing authority, if the local licensing authority allows the licensee to apply for a reissuance of the expired license, the licensee must submit to the local licensing authority:

- (A) An application for a reissued license;
- (B) Payment of a five-hundred-dollar late application fee; and
- (C) Payment of a fine of twenty-five dollars per day for each day the license has been expired beyond ninety days.

(IV) After the local licensing authority accepts the application, late application fee, and fine, the licensee may continue to operate and sell alcohol beverages until the state licensing authority and local licensing authority have each taken final action on the licensee's application for license reissuance.

(V) If the local licensing authority approves the reissuance of the licensee's license, the local licensing authority shall forward the approved application to the state licensing authority for review. In addition to the late application fee and fine imposed by the local licensing authority, the state licensing authority shall impose a five-hundred-dollar late application fee and a fine of twenty-five dollars per day for each day the license has been expired beyond ninety days.

(VI) For licensees who are not subject to issuance or approval by a local licensing authority, if the state licensing authority allows the licensee to apply for a reissuance of the expired license, the licensee must submit to the state licensing authority:

- (A) An application for a reissued license;
- (B) Payment of a five-hundred-dollar late application fee; and
- (C) Payment of a fine of twenty-five dollars per day for each day the license has been expired beyond ninety days.

(VII) After the state licensing authority accepts the application, late application fee, and fine, the licensee may continue to operate and sell alcohol beverages until the state licensing authority takes final action on the licensee's application for license reissuance.

(VIII) If the state licensing authority approves the reissuance, the licensee will maintain the same license period dates as if the license had been renewed prior to the expiration date.

(IX) If either the local or state licensing authority denies the licensee's application for reissuance of the expired license, then the licensee may apply for a new license pursuant to section 44-3-311.

(X) Neither the state nor local licensing authority may grant a licensee's application for license reissuance more than three times in any five-year period.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 972, § 2, effective October 1. **L. 2020:** (1) amended, (SB 20-086), ch. 67, p. 269, § 1, effective September 14.

Editor's note: This section is similar to former § 12-47-302 as it existed prior to 2018.

44-3-303. Transfer of ownership and temporary permits. (1) (a) No license granted under the provisions of this article 3 or article 4 of this title 44 shall be transferable except as provided in this subsection (1), but this shall not prevent a change of location as provided in section 44-3-301 (9).

(b) When a license has been issued to a husband and wife, or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to such survivors for the balance of the license period.

(c) (I) Except as provided in subsection (1)(c)(II) of this section, for any other transfer of ownership, application must be made to the state and local licensing authorities on forms prepared and furnished by the state licensing authority. In determining whether to permit a transfer of ownership, the licensing authorities shall consider only the requirements of section 44-3-307 and 1 CCR 203-2, rule 47-302, entitled "Changing, Altering, or Modifying Licensed Premises", or any analogous successor rule. The local licensing authority may conduct a hearing on the application for transfer of ownership after providing notice in accordance with subsection (1)(c)(III) of this section. Any transfer of ownership hearing by the state licensing authority must be held in accordance with section 44-3-305 (2).

(II) A license merger and conversion as provided for in section 44-3-410 (1)(b) includes a transfer of ownership of at least two retail liquor stores, a change of location of one of the retail liquor stores, and a merger and conversion of the retail liquor store licenses into a single liquor-licensed drugstore license, all as part of a single transaction, and the liquor-licensed drugstore applicant need not apply separately for a transfer of ownership under this section. The liquor-licensed drugstore applying for a license merger and conversion pursuant to section 44-3-410 (1)(b) is ineligible for a temporary permit pursuant to this section. The local licensing authority shall consider the reasonable requirements of the neighborhood pursuant to section 44-3-312 when making a determination on the merger and conversion of the retail liquor store licenses into a single liquor-licensed drugstore license. The local licensing authority may hold a hearing on the application for the license merger and conversion after providing notice in accordance with subsection (1)(c)(III) of this section.

(III) Prior to holding a hearing as provided in this subsection (1)(c), the local licensing authority shall notify the applicant of the hearing at least ten days before the hearing and shall post, or may direct the license applicant to post, a notice of the hearing in a conspicuous location on the licensed premises for at least ten consecutive days before the hearing.

(d) The state or a local licensing authority shall not approve a transfer of ownership under this subsection (1) until the applicant files with the local licensing authority confirmation from each wholesaler licensed under this article 3 that has sold alcohol beverages to the transferor that the wholesaler has been paid in full for all alcohol beverages delivered to the transferor.

(2) Notwithstanding any provision of this article 3 to the contrary, a local licensing authority may issue a temporary permit to a transferee of any retail class of alcohol beverage license issued by the local licensing authority pursuant to this article 3 or article 4 of this title 44; except that a local licensing authority shall not issue a temporary permit to a liquor-licensed drugstore that has acquired ownership of licensed retail liquor stores in accordance with section 44-3-410 (1)(b). A temporary permit authorizes a transferee to continue selling alcohol beverages as permitted under the permanent license during the period in which an application to transfer the ownership of the license is pending.

(3) A temporary permit shall authorize a transferee to conduct business and sell alcohol beverages at retail in accordance with the license of the transferor subject to compliance with all of the following conditions:

(a) The premises where alcohol beverages are sold shall have been previously licensed by the state and local licensing authorities, and the license shall have been valid at the time the application for transfer of ownership was filed with the local licensing authority that has jurisdiction to approve an application for a temporary permit.

(b) The applicant has filed with the local licensing authority on forms provided by the department an application for the transfer of the liquor license. The application shall include, but not be limited to, the following information:

(I) The name and address of the applicant; if the applicant is a partnership, the names and addresses of all the partners; and, if the applicant is a corporation, association, or other organization, the names and addresses of the president, vice-president, secretary, and managing officer;

(II) The applicant's financial interest in the proposed transfer;

(III) The premises for which the temporary permit is sought;

(IV) Such other information as the local licensing authority may require; and

(V) A statement that all accounts for alcohol beverages sold to the applicant are paid.

(c) The application for a temporary permit shall be filed no later than thirty days after the filing of the application for transfer of ownership and shall be accompanied by a temporary permit fee not to exceed one hundred dollars.

(d) When applying with the local licensing authority for a temporary permit, the applicant shall provide a copy, by facsimile or otherwise, of the statement made pursuant to subsection (3)(b)(V) of this section to the state licensing authority. The statement is a public record and shall be open to inspection by the public.

(4) A temporary permit, if granted, by a local licensing authority shall be issued within five working days after the receipt of the application. A temporary permit issued pursuant to this section shall be valid until such time as the application to transfer ownership of the license to the applicant is granted or denied or for one hundred twenty days, whichever occurs first; except that, if the application to transfer the license has not been granted or denied within the one-hundred-twenty-day period and the transferee demonstrates good cause, the local licensing authority may extend, in its discretion, the validity of the permit for an additional period not to exceed sixty days.

(5) A temporary permit shall also be authorized in the event of a transfer of possession of the licensed premises by operation of law, a petition in bankruptcy pursuant to federal bankruptcy law, the appointment of a receiver, a foreclosure action by a secured party, or a court order dispossessing the prior licensee of all rights of possession pursuant to article 40 of title 13.

(6) A temporary permit may be canceled, revoked, or summarily suspended if the local or state licensing authority determines that there is probable cause to believe that the transferee has violated any provision of this article 3 or article 4 of this title 44 or has violated any rule adopted by the local or state licensing authority or has failed to truthfully disclose those matters required pursuant to the application forms required by the department.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 974, § 2, effective October 1. L. 2019: IP(3)(b) and (6) amended, (SB 19-241), ch. 390, p. 3478, § 61, effective August 2.

Editor's note: This section is similar to former § 12-47-303 as it existed prior to 2018.

44-3-304. State licensing authority - application and issuance procedures - definitions - rules. (1) (a) Applications for licenses under the provisions of this article 3 and articles 4 and 5 of this title 44 shall be made to the state licensing authority on forms prepared and furnished by the state licensing authority and shall set forth such information as the state licensing authority may require to enable the authority to determine whether a license should be granted. The information shall include the name and address of the applicant, and if a partnership, also the names and addresses of all the partners, and if a corporation, association, or other organization, also the names and addresses of the president, vice-president, secretary, and managing officer, together with all other information deemed necessary by the licensing authority. Each application shall be verified by the oath or affirmation of the person or persons as the state licensing authority may prescribe.

(b) Notwithstanding the requirements of subsection (1)(a) of this section, an applicant seeking licenses for multiple locations may request the state licensing authority to establish a master file. All requests for a master file shall be made on forms provided by the state licensing authority and shall contain such information as the state licensing authority may require to enable the authority to determine the suitability of the license applicant and its principal owners as required pursuant to section 44-3-307. The state licensing authority shall either approve the request for a master file and issue an approval letter, or deny the request pursuant to the provisions of section 44-3-305. Any change to information contained in the master file shall be reported by the applicant or licensee to the state licensing authority within thirty days after the change. Failure to report all changes as required may be grounds for suspension or revocation of a license or licenses as determined by the state licensing authority. No local licensing authority shall require applicants with an approved master file to file additional background investigation forms or fingerprints. Nothing in this section shall prohibit a local licensing authority from conducting its own investigation, or from verifying any of the information provided by the applicant, or from denying the application of the applicant pursuant to the provisions set forth in section 44-3-307.

(c) As used in this part 3, "master file" means a file that is established by the state licensing authority and that contains licensing and background information for an applicant seeking licenses pursuant to this article 3 in multiple locations. The master file shall be available to the local licensing authority.

(d) The state licensing authority shall promulgate rules governing the minimum number of multiple locations required to establish and maintain a master file.

(2) (a) Before granting any license for which application has been made, the state licensing authority or one or more of its inspectors may visit and inspect the plant or property in which the applicant proposes to conduct business and investigate the fitness to conduct such business of any person or the officers and directors of any corporation applying for a license. In investigating the fitness of the applicant or a licensee, the state licensing authority may have access to criminal history record information furnished by a criminal justice agency, subject to any restrictions imposed by such agency. In the event the state licensing authority takes into consideration information concerning the applicant's criminal history record, the state licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

(b) As used in subsection (2)(a) of this section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

(3) The state licensing authority shall not issue a license pursuant to this section until the local licensing authority has approved the application provided for in section 44-3-309.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 976, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-304 as it existed prior to 2018.

44-3-305. Denial of application. (1) The state licensing authority shall refuse a state license if the premises on which the applicant proposes to conduct its business do not meet the requirements of this article 3, or if the character of the applicant or its officers or directors is such that violations of this article 3 or article 4 or 5 of this title 44 would be likely to result if a license were granted, or if in its opinion licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(2) The state licensing authority shall not refuse a state license after a local license has been granted, except upon hearing after fifteen days' notice to the applicant and to the local licensing authority. The notice shall be in writing and shall state grounds upon which the application may be refused. If the applicant does not respond to the notice within fifteen days after the date of the notice, the application for a license shall be denied. The hearing shall be conducted in accordance with the provisions of section 24-4-105, and judicial review of the state licensing authority's decision shall be pursuant to section 24-4-106.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 978, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-305 as it existed prior to 2018.

44-3-306. Inactive licenses. The state or local licensing authority, in its discretion, may revoke or elect not to renew a retail license if it determines that the licensed premises has been inactive, without good cause, for at least one year or, in the case of a retail license approved for a facility that has not been constructed, the facility has not been constructed and placed in operation within two years after approval of the license application or construction of the facility has not commenced within one year after the approval.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 978, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-306 as it existed prior to 2018.

44-3-307. Persons prohibited as licensees - definition. (1) (a) No license provided by this article 3 or article 4 or 5 of this title 44 shall be issued to or held by:

(I) Any person until the annual fee therefor has been paid;

(II) Any person who is not of good moral character;

(III) Any corporation, any of whose officers, directors, or stockholders holding ten percent or more of the outstanding and issued capital stock thereof are not of good moral character;

(IV) Any partnership, association, or company, any of whose officers, or any of whose members holding ten percent or more interest therein, are not of good moral character;

(V) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the respective licensing authorities;

(VI) Any person unless the person's character, record, and reputation are satisfactory to the respective licensing authority;

(VII) Any natural person under twenty-one years of age.

(b) (I) In making a determination as to character or when considering the conviction of a crime, a licensing authority shall be governed by the provisions of section 24-5-101.

(II) With respect to arts or club license applications, an investigation of the character of the president or chair of the board and the operational manager shall be deemed sufficient to determine whether to issue the arts or club license to the applicant.

(2) (a) No license provided by this article 3 shall be issued to or held by a peace officer described in section 16-2.5-121, 16-2.5-122, 16-2.5-123, 16-2.5-125, 16-2.5-126, 16-2.5-128, or 16-2.5-129, or the state licensing authority or any of its inspectors or employees.

(b) A peace officer described in section 16-2.5-103, 16-2.5-105, 16-2.5-108, 16-2.5-132, or 16-2.5-149 may not obtain or hold a license under this article 3 to operate a licensed premises that is located within the same jurisdiction that employs the peace officer.

(3) (a) In investigating the qualifications of the applicant or a licensee, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency, subject to any restrictions imposed by such agency. In the event the local licensing authority takes into consideration information concerning the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

(b) As used in subsection (3)(a) of this section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

(c) At the time of the application for a license, the applicant shall submit fingerprints and file personal history information concerning the applicant's qualifications for a license on forms prepared by the state licensing authority. The state and local licensing authorities shall submit the fingerprints to the Colorado bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. When the results of a fingerprint-based criminal history record check of an applicant performed pursuant to this section reveal a record of arrest without a disposition, the licensing authority shall require the applicant to submit to a name-based judicial record check, as defined in section 22-2-119.3 (6)(d). The licensing authorities shall use the

information resulting from the fingerprint-based criminal history record check and, if applicable, name-based judicial record check to investigate and to determine if an applicant is qualified for a license pursuant to this article 3 and article 4 of this title 44. The licensing authority may verify any of the information required to be submitted by an applicant pursuant to this section. An applicant shall not be required to submit additional information beyond that required in this subsection (3) unless the licensing authority has determined any of the following:

- (I) The applicant has misrepresented a material fact;
- (II) The applicant has an established criminal history record;
- (III) A prior criminal or administrative proceeding determined that the applicant violated alcohol beverage laws;
- (IV) The information submitted by an applicant is incomplete; or
- (V) The character, record, or reputation of the applicant, his or her agent, or his or her principal is such that a potential violation of this article 3 or article 4 of this title 44 may occur if a license is issued to the applicant.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 978, § 2, effective October 1. **L. 2019:** IP(3)(c) amended, (HB 19-1166), ch. 125, p. 559, § 52, effective April 18. **L. 2022:** IP(3)(c) amended, (HB 22-1270), ch. 114, p. 534, § 56, effective April 21.

Editor's note: This section is similar to former § 12-47-307 as it existed prior to 2018.

44-3-308. Unlawful financial assistance. (1) (a) (I) It is unlawful for any person licensed pursuant to this article 3 as a manufacturer, limited winery, wholesaler, or importer, or any person, partnership, association, organization, or corporation interested financially in or with any of said licensees, to furnish, supply, or loan, in any manner, directly or indirectly, to any person licensed to sell at retail pursuant to this article 3 or article 4 or 5 of this title 44:

(A) Any financial assistance, including the extension of credit for more than thirty days, as specified in section 44-3-202 (2)(b) or in rules of the state licensing authority; or

(B) Any equipment, fixtures, chattels, or furnishings used in the storing, handling, serving, or dispensing of food or alcohol beverages within the premises or for making any structural alterations or improvements in or on the building in which the premises is located.

(II) This subsection (1) does not:

(A) Apply to signs or displays within the licensed premises; or

(B) Prevent a representative, employee, or agent of a person licensed under this article 3 as a manufacturer, limited winery, wholesaler, or importer from pouring or serving the licensee's alcohol beverage products as part of a tasting being conducted on the licensed premises of a person licensed under this article 3 to sell alcohol beverages at retail for off-premises consumption, and pouring or serving the licensee's alcohol beverages does not constitute labor provided by a person licensed under this article 3 as a manufacturer, limited winery, wholesaler, or importer to a person licensed under this article 3 to sell alcohol beverages at retail.

(b) Notwithstanding the provisions of subsection (1)(a) of this section, any person or party described in subsection (1)(a) of this section may provide financial or in-kind assistance, directly or indirectly, to a nonprofit arts organization that has been issued an arts license pursuant to section 44-3-419 or to a state-supported institution of higher education in Colorado, including local district colleges, area technical colleges, and the Auraria higher education center, or the governing board of a state-supported institution of higher education, or to a nonpublic institution of higher education as defined in section 23-3.7-102 that is operating pursuant to 26 U.S.C. sec.

501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, if the institution has been issued a license pursuant to this article 3 or article 4 or 5 of this title 44.

(2) The state licensing authority, by rule, shall require a complete disclosure of all persons having a direct or indirect financial interest, and the extent of such interest, in each hotel and restaurant license and each retail gaming tavern license issued under this article 3. A willful failure to report and disclose the financial interests of all persons having a direct or indirect financial interest in a hotel and restaurant license or in a retail gaming tavern license shall be grounds for suspension or revocation of such license by the state licensing authority. The invalidity of any provision of this subsection (2) concerning interest in more than one hotel and restaurant license or retail gaming tavern license shall invalidate all interests in more than one hotel and restaurant license or retail gaming tavern license, and such invalidity shall make any such interest unlawful financial assistance.

(3) (a) (I) It is unlawful for any person licensed to sell at retail pursuant to this article 3 or article 4 of this title 44 to receive and obtain from the persons or parties described and referred to in subsection (1)(a) of this section, directly or indirectly, any financial assistance or any equipment, fixtures, chattels, or furnishings used in the storing, handling, serving, or dispensing of food or alcohol beverages within the premises or from making any structural alterations or improvements in or on the building on which the premises is located.

(II) This subsection (3) does not:

(A) Apply to signs or displays within the premises or to advertising materials that are intended primarily to advertise the product of the wholesaler or manufacturer and that have only negligible value in themselves or to the inspection and servicing of malt or vinous liquor-dispensing equipment to the extent necessary for the maintenance of reasonable standards of purity, cleanliness, and health; or

(B) Prevent a representative, employee, or agent of a licensee described and referred to in subsection (1)(a) of this section from pouring or serving the licensee's alcohol beverage products as part of a tasting being conducted on the licensed premises of the person licensed under this article 3 to sell alcohol beverages at retail for off-premises consumption, and pouring or serving the licensee's alcohol beverages does not constitute labor provided by a licensee described in subsection (1)(a) of this section to a person licensed under this article 3 to sell alcohol beverages at retail.

(b) Notwithstanding the provisions of subsection (3)(a) of this section, a nonprofit arts organization that has been issued an arts license pursuant to section 44-3-419 or a state-supported institution of higher education in Colorado, including local district colleges, area technical colleges, and the Auraria higher education center, or the governing board of a state-supported institution of higher education, or a nonpublic institution of higher education as defined in section 23-3.7-102 that is operating pursuant to 26 U.S.C. sec. 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, if the institution has been issued a license pursuant to this article 3 or article 4 or 5 of this title 44, may receive financial or in-kind assistance, directly or indirectly, from the persons or parties described and referred to in subsection (1)(a) of this section.

(4) (a) Except as otherwise authorized, it is unlawful for any person or corporation holding any license pursuant to this article 3 or article 4 of this title 44 or any person who is a stockholder, director, or officer of any corporation holding a license pursuant to this article 3 or article 4 of this title 44 to be a stockholder, director, or officer or to be interested, directly or indirectly, in any person or corporation that lends money to any person or corporation licensed

pursuant to this article 3 or article 4 of this title 44, but this subsection (4) does not apply to banks or savings and loan associations supervised and regulated by an agency of the state or federal government, or to FHA-approved mortgagees, or to stockholders, directors, or officers thereof; and it is unlawful for any person or corporation licensed pursuant to this article 3 or article 4 of this title 44, or any stockholder, director, or officer of such corporation, to make any loan or be interested, directly or indirectly, in any loan to any other person licensed pursuant to this article 3 or article 4 of this title 44; except that this subsection (4)(a) does not apply to any financial institution that comes into possession of a licensed premises by virtue of a foreclosure or deed in lieu of foreclosure if the financial institution does not retain such premises for longer than one year or for such time exceeding one year as provided in subsection (4)(b) of this section.

(b) In the case of a financial institution that comes into possession of a licensed premises by virtue of a foreclosure or deed in lieu of foreclosure, the state and the local licensing authority may grant a transfer of ownership for such license for a period of one year and, upon notice and hearing, renewal of such license may be granted. This subsection (4)(b) shall apply in the case of every foreclosure or deed in lieu of foreclosure in which disposition of the license has not otherwise been made by the state or local licensing authority.

(5) (a) It is unlawful for any owner, part owner, shareholder, stockholder, or person interested, directly or indirectly, in any retail business or establishment of a person licensed to sell at retail pursuant to this article 3 or article 4 or 5 of this title 44 to enter into any agreement with any person or party or to receive, possess, or accept any money, fixtures, supplies, or things of value from any person or party, whereby a person licensed to sell at retail pursuant to this article 3 or article 4 or 5 of this title 44 may be influenced or caused, directly or indirectly, to buy, sell, dispense, or handle the product of any manufacturer of alcohol beverages.

(b) This subsection (5) does not:

(I) Apply to displays within the premises; or

(II) Prevent a representative, employee, or agent of a person licensed under this article 3 as a manufacturer, limited winery, wholesaler, or importer from pouring or serving the licensee's alcohol beverage products as part of a tasting being conducted on the licensed premises of a person licensed under this article 3 to sell alcohol beverages at retail for off-premises consumption, and pouring or serving the licensee's alcohol beverages does not constitute labor provided by a person licensed under this article 3 as a manufacturer, limited winery, wholesaler, or importer to a person licensed under this article 3 to sell alcohol beverages at retail.

(6) Any transaction, agreement, or arrangement prohibited by the provisions of this section, if made and entered into by and between the persons and parties described and referred to in this section, is unlawful, illegal, invalid, and void, and any obligation or liability arising out of such transaction, agreement, or arrangement shall be unenforceable in any court of this state by or against any such persons and parties entering into the transaction, agreement, or arrangement.

(7) This section is intended to prohibit and prevent the control of the outlets for the sale of alcohol beverages by any persons or parties other than the persons licensed pursuant to the provisions of this article 3 or article 4 or 5 of this title 44.

(8) It is unlawful for an owner, part owner, shareholder, or person interested directly or indirectly in a brew pub, distillery pub, or vintner's restaurant license to conduct, own in whole or in part, or be directly or indirectly interested in a wholesaler's license issued under this article 3 or article 4 of this title 44.

Source: L. 2018: (1)(a), (3)(a), and (5) amended, (SB 18-243), ch. 366, p. 2198, § 6, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 980, § 2, effective October 1. **L. 2019:** IP(1)(a)(I), (1)(a)(II)(B), and (5)(b)(II) amended, (SB 19-011), ch. 1, p. 6, § 7, effective January 31.

Editor's note: (1) This section is similar to former § 12-47-308 as it existed prior to 2018.

(2) Subsections (1)(a), (3)(a), and (5) of this section were numbered as § 12-47-308 (1)(a), (3)(a), and (5), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-3-309. Local licensing authority - applications - optional premises licenses. (1) A local licensing authority may issue only the following alcohol beverage licenses upon payment of the fee specified in section 44-3-505:

- (a) Retail liquor store license;
- (b) Liquor-licensed drugstore license;
- (c) Beer and wine license;
- (d) Hotel and restaurant license;
- (e) Tavern license;
- (f) Brew pub license;
- (g) Club license;
- (h) Arts license;
- (i) Racetrack license;
- (j) Optional premises license;
- (k) Retail gaming tavern license;
- (l) Vintner's restaurant license;
- (m) Distillery pub license;
- (n) Lodging and entertainment license.

(2) An application for any license specified in subsection (1) of this section or section 44-4-107 shall be filed with the appropriate local licensing authority on forms provided by the state licensing authority and containing such information as the state licensing authority may require. Each application shall be verified by the oath or affirmation of such persons as prescribed by the state licensing authority.

(3) The applicant shall file at the time of application plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of the building to be constructed. In its discretion, the local licensing authority may impose additional requirements necessary for the approval of the application.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 983, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-309 as it existed prior to 2018.

44-3-310. Optional premises license - local option. (1) No optional premises license, or optional premises permit for a hotel and restaurant license, as defined in section 44-3-103 (33)(a), shall be issued within any municipality or the unincorporated portion of any county unless the governing body of the municipality has adopted by ordinance, or the governing body of the county has adopted by resolution, specific standards for the issuance of optional premises licenses or for optional premises for a hotel and restaurant license. No municipality or county shall be required to adopt such standards or make such licenses available within its jurisdiction.

(2) In addition to all other standards applicable to the issuance of licenses under this article 3, the governing body may adopt additional standards for the issuance of optional premises licenses or for optional premises for a hotel and restaurant license that may include:

(a) The specific types of outdoor sports and recreational facilities that are eligible to apply for an optional premises license or an optional premises for a hotel and restaurant license;

(b) Restrictions on the number of optional premises that any one licensee may have on an outdoor sports or recreational facility;

(c) A restriction on the minimum size of any applicant's outdoor sports or recreational facility that would be eligible for the issuance of an optional premises license or optional premises for a hotel and restaurant license;

(d) Any other requirements necessary to ensure the control of the premises and the ease of enforcement.

(3) An applicant for a hotel and restaurant license who desires to sell or serve alcohol beverages on optional premises shall file with the optional premises permit application a list of the optional premises locations. The application and list shall be filed with the state and local licensing authorities upon initial application, and each license year thereafter. Approval of the areas must be obtained from the state licensing authority and the local licensing authority. The decision of each authority shall be discretionary. In the event that the state and local licensing authorities allow the area or areas to be designated optional premises, no alcohol beverages may be served on the optional premises without the licensee having provided written notice to the state and local licensing authorities forty-eight hours prior to serving alcohol beverages on the optional premises. The notice shall contain the specific days and hours on which the optional premises are to be used. This subsection (3) shall not be construed to permit the violation of any other provision of this article 3 under circumstances not specified in this subsection (3).

(4) An applicant for an optional premises license who desires to sell, dispense, or serve alcohol beverages on optional premises shall file with the optional premises license application a list of the optional premises locations and the area in which the applicant desires to store alcohol beverages for future use on the optional premises. The applicant shall file the application and additional information with the state and local licensing authorities upon initial application and each license year thereafter. Approval of the license and areas must be obtained from the state licensing authority and the local licensing authority. The decision of each authority shall be discretionary. In the event that the state and local licensing authorities allow the area or areas to be designated optional premises, no alcohol beverages may be served on the optional premises without the licensee having provided written notice to the state and local licensing authorities forty-eight hours prior to serving alcohol beverages on the optional premises. The notice must contain the specific days and hours on which the optional premises are to be used. This

subsection (4) does not permit the violation of any other provision of this article 3 under circumstances not specified in this subsection (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 983, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-310 as it existed prior to 2018.

44-3-311. Public notice - posting and publication - definition. (1) Upon receipt of an application, except an application for renewal or for transfer of ownership, the local licensing authority shall schedule a public hearing upon the application not less than thirty days from the date of the application and shall post and publish the public notice thereof not less than ten days prior to the hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation in the county in which the premises are located.

(2) Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners, and if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice president, secretary, and manager or other managing officers.

(3) Notice given by publication shall contain the same information as that required for signs.

(4) If the building in which the alcohol beverage is to be sold is in existence at the time of the application, any sign posted as required in subsections (1) and (2) of this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

(5) (a) At the public hearing held pursuant to this section, any party in interest shall be allowed to present evidence and to cross-examine witnesses.

(b) As used in this subsection (5), "party in interest" means any of the following:

(I) The applicant;

(II) An adult resident of the neighborhood under consideration;

(III) The owner or manager of a business located in the neighborhood under consideration;

(IV) The principal or representative of any school located within five hundred feet of the premises for which the issuance of a license pursuant to section 44-3-309 (1) is under consideration.

(c) The local licensing authority, in its discretion, may limit the presentation of evidence and cross-examination so as to prevent repetitive and cumulative evidence or examination.

(d) Nothing in this subsection (5) shall be construed to prevent a representative of an organized neighborhood group that encompasses part or all of the neighborhood under consideration from presenting evidence subject to this section. The representative shall reside

within the neighborhood group's geographic boundaries and shall be a member of the neighborhood group. The representative shall not be entitled to cross-examine witnesses or seek judicial review of the licensing authority's decision.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 985, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-311 as it existed prior to 2018.

44-3-312. Results of investigation - decision of authorities. (1) Not less than five days prior to the date of hearing, the local licensing authority shall make known its findings based on its investigation in writing to the applicant and other interested parties. The local licensing authority has authority to refuse to issue any licenses provided in sections 44-3-309 (1) and 44-4-107 for good cause, subject to judicial review.

(2) (a) Before entering any decision approving or denying the application, the local licensing authority shall consider, except where this article 3 specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the desires of the adult inhabitants, the number, type, and availability of alcohol beverage outlets located in or near the neighborhood under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed; except that the reasonable requirements of the neighborhood shall not be considered in the issuance of a club liquor license. For the merger and conversion of retail liquor store licenses to a single liquor-licensed drugstore license in accordance with section 44-3-410 (1)(b), the local licensing authority shall consider the reasonable requirements of the neighborhood and the desires of the adult inhabitants of the neighborhood.

(b) Any petitioning otherwise required to establish the reasonable requirements of the neighborhood shall be waived for a bed and breakfast permit applicant unless the local licensing authority has previously taken affirmative, official action to rescind the availability of such waiver in all subsequent cases.

(3) Any decision of a local licensing authority approving or denying an application shall be in writing stating the reasons therefor within thirty days after the date of the public hearing, and a copy of the decision shall be sent by certified mail to the applicant at the address shown in the application.

(4) No license shall be issued by any local licensing authority after approval of an application until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as is necessary to comply with the applicable provisions of this article 3 and article 4 of this title 44, and then only after inspection of the premises has been made by the licensing authority to determine that the applicant has complied with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.

(5) After approval of any application, the local licensing authority shall notify the state licensing authority of the approval, who shall investigate and either approve or disapprove such application.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 986, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-312 as it existed prior to 2018.

44-3-313. Restrictions for applications for new license. (1) An application for the issuance of any license specified in section 44-3-309 (1) or 44-4-107 (1) shall not be received or acted upon:

(a) (I) If the application for a license described in section 44-3-309 (1) concerns a particular location that is the same as or within five hundred feet of a location for which, within the two years next preceding the date of the application, the state or a local licensing authority denied an application for the same class of license for the reason that the reasonable requirements of the neighborhood and the desires of the adult inhabitants were satisfied by the existing outlets.

(II) Subsection (1)(a)(I) of this section shall not apply to cities in which limited gaming is permitted pursuant to section 9 of article XVIII of the state constitution.

(III) No licensing authority shall consider an application for any license to sell fermented malt beverages at retail pursuant to section 44-4-107 (1) if, within one year before the date of the application, the state or a local licensing authority has denied an application at the same location for the reason that the reasonable requirements of the neighborhood or the desires of the inhabitants were satisfied by the existing outlets.

(b) Until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement, or other arrangement for possession of the premises, or by virtue of ownership thereof;

(c) For a location in an area where the sale of alcohol beverages as contemplated is not permitted under the applicable zoning laws of the municipality, city and county, or county;

(d) (I) If the building in which the alcohol beverages are to be sold pursuant to a license described in section 44-3-309 (1) is located within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary; except that this subsection (1)(d)(I) does not:

(A) Affect the renewal or reissuance of a license once granted;

(B) Apply to licensed premises located or to be located on land owned by a municipality;

(C) Apply to an existing licensed premises on land owned by the state;

(D) Apply to a liquor license in effect and actively doing business before the principal campus was constructed;

(E) Apply to any club located within the principal campus of any college, university, or seminary that limits its membership to the faculty or staff of the institution; or

(F) Apply to a campus liquor complex.

(II) The distances referred to in subsection (1)(d)(I) of this section are to be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which liquor is to be sold, using a route of direct pedestrian access.

(III) The local licensing authority of any city and county, by rule or regulation; the governing body of any other municipality, by ordinance; and the governing body of any other county, by resolution, may eliminate or reduce the distance restrictions imposed by this subsection (1)(d) for any class of license, or may eliminate one or more types of schools or

campuses from the application of any distance restriction established by or pursuant to this subsection (1)(d).

(IV) In addition to the requirements of section 44-3-312 (2), the local licensing authority shall consider the evidence and make a specific finding of fact as to whether the building in which the liquor is to be sold is located within any distance restrictions established by or pursuant to this section. This finding shall be subject to judicial review pursuant to section 44-3-802.

(e) (I) If the building in which the fermented malt beverages are to be sold pursuant to a license under section 44-4-107 (1)(a) is located within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary; except that this subsection (1)(e)(I) does not apply to:

- (A) Licensed premises located or to be located on land owned by a municipality;
- (B) An existing licensed premises on land owned by the state;
- (C) A fermented malt beverage retailer that held a valid license and was actively doing business before the principal campus was constructed;
- (D) A club located within the principal campus of any college, university, or seminary that limits its membership to the faculty or staff of the institution; or
- (E) A campus liquor complex.

(II) The distances referred to in subsection (1)(e)(I) of this section are to be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which fermented malt beverages are to be sold, using a route of direct pedestrian access.

(III) The local licensing authority of any city and county, by rule or regulation; the governing body of any other municipality, by ordinance; or the governing body of any other county, by resolution, may:

- (A) Eliminate or modify the distance restrictions imposed by this subsection (1)(e); or
- (B) Eliminate one or more types of schools or campuses from the application of any distance restriction established by or pursuant to this subsection (1)(e).

(IV) In addition to the requirements of section 44-3-312 (2), the local licensing authority shall consider the evidence and make a specific finding of fact as to whether the building in which the fermented malt beverages are to be sold is located within any distance restriction established by or pursuant to this subsection (1)(e). The finding is subject to judicial review pursuant to section 44-3-802.

(V) This subsection (1)(e) applies to:

- (A) Applications for new fermented malt beverage retailer's licenses under section 44-4-107 (1)(a) submitted on or after June 4, 2018; and
- (B) Applications submitted on or after June 4, 2018, under section 44-3-301 (9) by fermented malt beverage retailers licensed under section 44-4-107 (1)(a) to change the permanent location of the fermented malt beverage retailer's licensed premises.

(2) An application for the issuance of a tavern or retail liquor store license may be denied under this article 3 if the local licensing authority or the state on state-owned property determines, pursuant to section 44-3-301 (2)(b), that the issuance of the license would result in or add to an undue concentration of the same class of license and, as a result, require the use of additional law enforcement resources.

Source: L. 2018: IP(1) amended and (1)(e) added, (SB 18-243), ch. 366, p. 2200, § 7, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 987, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-47-313 as it existed prior to 2018.

(2) Subsections IP(1) and (1)(e) of this section were numbered as § 12-47-313 IP(1) and (1)(e), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

PART 4

CLASSES OF LICENSES AND PERMITS

44-3-401. Classes of licenses and permits - rules. (1) For the purpose of regulating the manufacture, sale, and distribution of alcohol beverages, the state licensing authority in its discretion, upon application in the prescribed form made to it, may issue and grant to the applicant a license or permit from any of the following classes, subject to the provisions and restrictions provided by this article 3:

- (a) Manufacturer's license;
- (b) Limited winery license;
- (c) Nonresident manufacturer's license;
- (d) Importer's license;
- (e) Malt liquor importer's license;
- (f) Wholesaler's liquor license;
- (g) Wholesaler's beer license;
- (h) Retail liquor store license;
- (i) Liquor-licensed drugstore license;
- (j) Beer and wine license;
- (k) Hotel and restaurant license;
- (l) Tavern license;
- (m) Brew pub license;
- (n) Club license;
- (o) Arts license;
- (p) Racetrack license;
- (q) Public transportation system license;
- (r) Optional premises license;
- (s) Retail gaming tavern license;
- (t) Vintner's restaurant license;
- (u) Wine packaging permit;
- (v) Distillery pub license;
- (w) Lodging and entertainment license;
- (x) Manager's permit.

(2) If the federal alcohol and tobacco tax and trade bureau approves the purchase, sale, possession, or manufacturing of powdered alcohol in the United States, the state licensing authority shall adopt rules establishing a mechanism for regulating the manufacture, purchase, sale, possession, and use of powdered alcohol.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 988, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-401 as it existed prior to 2018.

44-3-402. Manufacturer's license. (1) A manufacturer's license shall be issued by the state licensing authority to persons distilling, rectifying, or brewing within this state for the following purposes only:

- (a) To produce, manufacture, or rectify malt, vinous, or spirituous liquors;
 - (b) To sell malt or vinous liquors of their own manufacture within this state. Brewers or winers licensed under this section may solicit business directly from licensed retail persons or consumers by procuring a wholesaler's license as provided in this article 3; except that any malt liquor sold at wholesale by a brewer that has procured a wholesaler's license shall be unloaded and placed in the physical possession of a licensed wholesaler at the wholesaler's licensed premises in this state and inventoried for purposes of tax collection prior to delivery to a retailer or consumer. Wholesalers of malt liquors receiving products to be held as required by this subsection (1)(b) shall be liable for the payment of any tax due on such products under section 44-3-503 (1)(a).
 - (c) To sell vinous or spirituous liquors of their own manufacture within the state to persons licensed by this article 3 without procuring a wholesaler's license;
 - (d) To sell malt, vinous, or spirituous liquors in other states, the laws of which permit the sale of alcohol beverages;
 - (e) To sell for export to foreign countries, if such export for beverage or medicinal purposes is permitted by the laws of the United States; but Colorado distillers, rectifiers, winers, and brewers licensed under this section may sell their products distilled, rectified, or brewed in this state directly to licensed retail licensees by procuring a wholesaler's license.
- (2) (a) A winery licensed pursuant to this section may conduct tastings and sell vinous liquors of its own manufacture, as well as other vinous liquors manufactured by other Colorado wineries licensed pursuant to this section or section 44-3-403, on the licensed premises of the winery and at one other approved sales room location at no additional cost, whether included in the license at the time of the original license issuance or by supplemental application. If the licensed premises includes multiple noncontiguous locations, the winery may operate a sales room on only one of those noncontiguous locations. Any additional sales room operated on a noncontiguous location of the licensed premises must be approved in accordance with the process outlined in subsection (2)(c) of this section.
- (b) A winery licensed pursuant to this section may serve and sell food, general merchandise, and nonalcohol beverages for consumer consumption on or off the licensed premises.
- (c) (I) (A) Prior to operating a sales room location, a winery licensed pursuant to this section shall, at the time of application to the state licensing authority, send a copy of the application or supplemental application for a sales room to the local licensing authority in the

jurisdiction in which the sales room is proposed. The local licensing authority may submit a response to the application, including its determination specified in subsection (2)(c)(II) of this section, to the state licensing authority but must submit its response within forty-five days after the licensed winery submits its sales room application to the state licensing authority, or, for purposes of an application to operate a temporary sales room for not more than three consecutive days, within the time specified by the state licensing authority by rule.

(B) If the local licensing authority does not submit a response to the state licensing authority within the time specified in subsection (2)(c)(I)(A) of this section, the state licensing authority shall deem that the local licensing authority has determined that the proposed sales room will not impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances or that the applicant will sufficiently mitigate any impacts identified by the local licensing authority.

(II) The state licensing authority must consider the response from the local licensing authority, if any, and may deny the proposed sales room application if the local licensing authority determines that approval of the proposed sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, which may be determined by the local licensing authority without requiring a public hearing, or that the applicant cannot sufficiently mitigate any potential impacts identified by the local licensing authority.

(III) The state licensing authority shall not grant approval of an additional sales room unless the applicant affirms to the state licensing authority that the applicant has complied with local zoning restrictions.

(IV) A licensed winery that is operating a sales room as of August 5, 2015, or that is granted approval pursuant to this subsection (2)(c) to operate a sales room on or after August 5, 2015, shall notify the state licensing authority of all sales rooms it operates. The state licensing authority shall maintain a list of all licensed winery sales rooms in the state and make the list available on its website.

(V) The local licensing authority may request that the state licensing authority take action in accordance with section 44-3-601 against a licensed winery approved to operate a sales room if the local licensing authority:

(A) Demonstrates to the state licensing authority that the licensee has engaged in an unlawful act as set forth in part 9 of this article 3; or

(B) Shows good cause as specified in section 44-3-103 (19)(a), (19)(b), or (19)(d).

(VI) This subsection (2)(c) does not apply if the licensed winery does not sell and serve vinous liquors for consumption on the licensed premises or in an approved sales room.

(3) (a) Any winery that has received a license pursuant to this section shall be authorized to manufacture vinous liquors upon an alternating proprietor licensed premises, as approved by the state licensing authority, but retail sales of vinous liquors shall not be conducted from an area licensed or defined as an alternating proprietor licensed premises.

(b) Any brewery that has received a license pursuant to this section shall be authorized to manufacture malt liquors upon an alternating proprietor licensed premises, as approved by the state licensing authority, but retail sales of malt liquors shall not be conducted from an area licensed or defined as an alternating proprietor licensed premises.

(c) Any winery or brewery that holds a wholesaler's license pursuant to section 44-3-407 may engage in the wholesale sale of alcohol beverages that the licensee manufactured at an

alternating proprietor licensed premises from both its licensed premises and the alternating proprietor licensed premises where the alcohol beverages were manufactured.

(4) A winery that has received a license pursuant to this section may ship wine directly to personal consumers if the winery also has received a winery direct shipper's permit under section 44-3-104.

(5) (a) It is unlawful for a manufacturer licensed under this article 3 or any person, partnership, association, organization, or corporation interested financially in or with a licensed manufacturer to be interested financially, directly or indirectly, in the business of any person licensed to sell at retail pursuant to this article 3 or article 4 of this title 44.

(b) It is unlawful for any licensed manufacturer of vinous or spirituous liquors or any person, partnership, association, organization, or corporation interested financially in or with such a licensed manufacturer to be interested financially, directly or indirectly, in the business of any vinous or spirituous wholesale licensee; except that any such financial interest that occurred on or before July 1, 1969, shall be lawful.

(6) Each applicant for a license as a brewer shall enter into a written contract with each wholesaler with which the applicant intends to do business that designates the territory within which the product of the applicant is sold by the respective wholesaler. The contract shall be submitted to the state licensing authority with an application, and the applicant, if licensed, shall have a continuing duty to submit any subsequent revisions, amendments, or superseding contracts to the state licensing authority.

(7) (a) A manufacturer of spirituous liquors licensed pursuant to this section may conduct tastings and sell to customers spirituous liquors of its own manufacture on its licensed premises and at one other approved sales room location at no additional cost. A sales room location may be included in the license at the time of the original license issuance or by supplemental application.

(b) A manufacturer of spirituous liquors licensed pursuant to this section may serve and sell food, general merchandise, and nonalcohol beverages for consumer consumption on or off the licensed premises.

(c) (I) (A) Prior to operating a sales room location, a manufacturer of spirituous liquors licensed pursuant to this section shall, at the time of application to the state licensing authority, send a copy of the application or supplemental application for a sales room to the local licensing authority in the jurisdiction in which the sales room is proposed. The local licensing authority may submit a response to the application, including its determination specified in subsection (7)(c)(II) of this section, to the state licensing authority but must submit its response within forty-five days after the licensee submits its sales room application to the state licensing authority, or, for purposes of an application to operate a temporary sales room for not more than three consecutive days, within the time specified by the state licensing authority by rule.

(B) If the local licensing authority does not submit a response to the state licensing authority within the time specified in subsection (7)(c)(I)(A) of this section, the state licensing authority shall deem that the local licensing authority has determined that the proposed sales room will not impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances or that the applicant will sufficiently mitigate any impacts identified by the local licensing authority.

(II) The state licensing authority must consider the response from the local licensing authority, if any, and may deny the proposed sales room application if the local licensing authority determines that approval of the proposed sales room will impact traffic, noise, or other

neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, which may be determined by the local licensing authority without requiring a public hearing, or that the applicant cannot sufficiently mitigate any potential impacts identified by the local licensing authority.

(III) The state licensing authority shall not grant approval of an additional sales room unless the applicant affirms to the state licensing authority that the applicant has complied with local zoning restrictions.

(IV) A licensed spirituous liquors manufacturer that is operating a sales room as of August 5, 2015, or that is granted approval pursuant to this subsection (7)(c) to operate a sales room on or after August 5, 2015, shall notify the state licensing authority of all sales rooms it operates. The state licensing authority shall maintain a list of all licensed spirituous liquor manufacturer sales rooms in the state and make the list available on its website.

(V) The local licensing authority may request that the state licensing authority take action in accordance with section 44-3-601 against a licensed spirituous liquors manufacturer approved to operate a sales room if the local licensing authority:

(A) Demonstrates to the state licensing authority that the licensee has engaged in an unlawful act as set forth in part 9 of this article 3; or

(B) Shows good cause as specified in section 44-3-103 (19)(a), (19)(b), or (19)(d).

(VI) This subsection (7)(c) does not apply if the licensed spirituous liquors manufacturer does not sell and serve its spirituous liquors for consumption on the licensed premises or in an approved sales room.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 990, § 2, effective October 1. **L. 2019:** (3)(c) and (5)(a) amended, (SB 19-011), ch. 1, p. 7, § 8, effective January 31. **L. 2021:** (2)(a) amended, (HB 21-1044), ch. 165, p. 927, § 3, effective September 7.

Editor's note: This section is similar to former § 12-47-402 as it existed prior to 2018.

44-3-403. Limited winery license - rules. (1) A Colorado limited winery license shall be granted by the state licensing authority to an applicant that certifies that it will manufacture not more than one hundred thousand gallons, or the metric equivalent thereof, of vinous liquors within Colorado. Each limited winery licensee shall annually certify to the state licensing authority its compliance with this subsection (1) and shall be subject to revocation of its license for false certification.

(2) A limited winery licensee is authorized:

(a) To manufacture vinous liquors upon its licensed premises and, in order to enhance the growth and viability of the Colorado wine industry, upon alternating proprietor licensed premises, as approved by the state licensing authority;

(b) To sell vinous liquors of its own manufacture within this state at wholesale, at retail, or to personal consumers, including, if the limited winery also has received a winery direct shipper's permit under section 44-3-104, sales to be delivered by common carrier or by the limited winery licensee to personal consumers in accordance with all requirements in section 44-3-104;

(c) To sell vinous liquors of its own manufacture in other states, the laws of which permit the sale of such wines and liquors;

(d) To sell vinous liquors of its own manufacture for export to foreign countries if such export is permitted by the laws of the United States;

(e) (I) (A) Except as provided in subsection (2)(e)(I)(B) of this section and subject to subsection (2)(e)(II) of this section, to conduct tastings and sell vinous liquors of its own manufacture, as well as vinous liquors manufactured by other Colorado wineries, on the licensed premises of the limited winery and up to five other approved sales room locations, whether included in the license at the time of the original license issuance or by supplemental application. If the licensed premises includes multiple noncontiguous locations, the licensee may operate a sales room on only one of those noncontiguous locations. Any additional sales room operated on a noncontiguous location of the licensed premises must be approved as one of the licensee's additional sales rooms allowed under this subsection (2)(e)(I)(A) in accordance with the process outlined in subsection (2)(e)(II) of this section.

(B) A limited winery licensee shall not conduct retail sales from an area licensed or defined as an alternating proprietor licensed premises.

(II) (A) Prior to operating a sales room location, a limited winery licensed pursuant to this section shall, at the time of application to the state licensing authority, send a copy of the application or supplemental application for a sales room to the local licensing authority in the jurisdiction in which the sales room is proposed. The local licensing authority may submit a response to the application, including its determination specified in subsection (2)(e)(II)(B) of this section, to the state licensing authority but must submit its response within forty-five days after the licensed limited winery submits its sales room application to the state licensing authority, or, for purposes of an application to operate a temporary sales room for not more than three consecutive days, within the time specified by the state licensing authority by rule. If the local licensing authority does not submit a response to the state licensing authority within the time specified in this subsection (2)(e)(II)(A), the state licensing authority shall deem that the local licensing authority has determined that the proposed sales room will not impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances or that the applicant will sufficiently mitigate any impacts identified by the local licensing authority.

(B) The state licensing authority must consider the response from the local licensing authority, if any, and may deny the proposed sales room application if the local licensing authority determines that approval of the proposed sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, which may be determined by the local licensing authority without requiring a public hearing, or that the applicant cannot sufficiently mitigate any potential impacts identified by the local licensing authority.

(C) The state licensing authority shall not grant approval of an additional sales room unless the applicant affirms to the state licensing authority that the limited winery applicant has complied with local zoning restrictions.

(D) A licensed limited winery that is operating a sales room as of August 5, 2015, or that is granted approval pursuant to this subsection (2)(e)(II) to operate a sales room on or after August 5, 2015, shall notify the state licensing authority of all sales rooms it operates. The state licensing authority shall maintain a list of all limited winery licensee sales rooms in the state and make the list available on its website.

(E) The local licensing authority may request that the state licensing authority take action in accordance with section 44-3-601 against a licensed limited winery approved to operate a

sales room if the local licensing authority demonstrates to the state licensing authority that the licensee has engaged in an unlawful act as set forth in part 9 of this article 3 or shows good cause as specified in section 44-3-103 (19)(a), (19)(b), or (19)(d).

(F) This subsection (2)(e)(II) does not apply if the licensed limited winery does not sell and serve vinous liquors for consumption on the licensed premises or in an approved sales room.

(f) To serve and sell food, general merchandise, and nonalcohol beverages for consumption on the premises of any licensed premises or to be taken by the consumer.

(3) In order to encourage and maintain the integrity and authenticity of Colorado's viticultural identity, support the wine-grape and fruit growing industries in Colorado, and inform the consumer of the source of grapes and fruit used by Colorado limited wineries to produce vinous liquors, the liquor enforcement division shall, after consultation with the Colorado wine industry and other interested parties from the alcohol beverage industry, within one year after June 1, 2005, enact rules for the implementation, standardization, and enforcement of appellation labeling requirements that are consistent with, and, with respect to the origin of the grapes and other fruit used to manufacture the vinous liquor, more informative than currently required by federal wine labeling regulations set forth in 27 CFR 4, "Labeling and Advertising of Wine", and related regulations. Colorado's labeling regulations shall apply to a manufacturer licensed pursuant to section 44-3-402 or a Colorado limited winery licensed under this section in the manufacture of the vinous liquor contained in the labeled bottle. Honey wine, including honey wine flavored with fruit, herbs, or spices, shall be exempt from the labeling requirements included in this section.

(4) (a) A winery may affix the phrase "Colorado Grown" to bottles of wine described in section 44-3-103 (10).

(b) Effective July 1, 2006, it shall be unlawful for a Colorado winery to make any misleading statement on its product label regarding the origin of grapes, fruit, or other agricultural products used to make vinous liquor. This subsection (4)(b) shall not be construed to apply to the winery's name or address or to an appellation allowed under federal regulations.

(5) A person who has a financial interest in a limited winery license and relinquishes such license to apply for another license under this article 3 shall be prohibited from obtaining a limited winery license for three years from the date of issuance of such other license.

(6) (a) It is unlawful for any limited winery licensee or any person, partnership, association, organization, or corporation interested financially in or with a limited winery licensee to be interested financially, directly or indirectly, in the business of any person licensed to sell at retail pursuant to this article 3.

(b) It is unlawful for any limited winery licensee or any person, partnership, association, organization, or corporation interested financially in or with a limited winery licensee to be interested financially, directly or indirectly, in the business of any vinous or spirituous wholesale licensee.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 994, § 2, effective October 1. **L. 2019:** (2)(e)(I)(A) amended, (SB 19-241), ch. 390, p. 3479, § 62, effective August 2. **L. 2021:** (2)(e)(I)(A) amended, (HB 21-1044), ch. 165, p. 927, § 4, effective September 7.

Editor's note: This section is similar to former § 12-47-403 as it existed prior to 2018.

44-3-404. Festival permit - rules. (1) (a) A person listed in subsection (9) of this section may file a festival permit application with the state licensing authority. The applicant must:

- (I) Specify the licensed premises for the first of the festivals to be held;
- (II) File the application at least ten business days before the festival is to be held; and
- (III) Include a twenty-five dollar annual processing fee with the application filed with the state licensing authority.

(b) (I) A local licensing authority may create a local permit for festivals; except that a limited winery licensee or winery licensee need not obtain a local permit to participate in or hold a festival. If a local licensing authority does not create a local permit under this subsection (1)(b), an applicant need not obtain a local permit under this subsection (1)(b) to conduct festivals.

(II) If a licensee is applying for both a festival permit and a special event liquor permit issued under article 5 of this title 44, the licensee need not apply for any local permit established in accordance with subsection (1)(b)(I) of this section.

(c) If a festival permittee notifies the state licensing authority and the appropriate local licensing authority of the location of and dates of each festival at least ten business days before holding the festival, the permittee may hold up to, but no more than, nine festivals during the twelve months after the festival permit is issued.

(2) The licensee that holds the festival must file the application for the permit, but other licensees may jointly participate under the permit issued to the licensee that applied for the permit.

(3) Notification of all subsequent festivals shall be by supplemental application, as approved by the state licensing authority.

(4) The state licensing authority may deny a festival permit or supplemental application for any of the following reasons:

(a) A documented history of violations of this article 3 or rules issued under this article 3 by any participating licensee;

(b) The filing of an incomplete or late application; or

(c) A finding that the application, if granted, would result in violations of this article 3 or rules issued under this article 3 or violations of the laws of a local government.

(5) After the issuance of an initial festival permit, all supplemental applications that are complete and filed in a timely manner are deemed approved unless the state licensing authority provides the permittee with a notice of denial at least seventy-two hours prior to the date of the event.

(6) Notwithstanding any other provision of this article 3, the permittee and participating licensees are authorized to use the licensed premises jointly to conduct alcohol beverage tastings and to engage in the same retail sales of alcohol beverages that the permittee and participating licensees are authorized to conduct at their licensed premises. A festival permit does not authorize the permittee to use the licensed premises for more than seventy-two hours for any one festival.

(7) If a violation of this article 3 occurs during a festival and the licensee responsible for the violation can be identified, the state or local licensing authority may charge and impose appropriate penalties on the licensee. If the responsible party cannot be identified, the state licensing authority may send a written notice to every licensee identified on the permit application and may fine each the same dollar amount, which fine must not exceed twenty-five

dollars per licensee or two hundred dollars in the aggregate. A joint fine levied pursuant to this subsection (7) does not apply to the revocation of the licensee's license under section 44-3-601.

(8) A joint fine levied pursuant to subsection (7) of this section shall not create or increase civil liability under section 44-3-801 (3) for a participating licensee or create joint liability for such a licensee.

(9) This section applies to a person licensed under section 44-3-402, 44-3-403, 44-3-407, 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-422, or 44-3-426.

(10) The state licensing authority may adopt rules necessary to implement and administer this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 996, § 2, effective October 1. **L. 2021:** (1), (2), IP(4), (5), (6), and (7) amended and (9) and (10) added, (SB 21-082), ch. 195, p. 1044, § 2, effective September 7.

Editor's note: This section is similar to former § 12-47-403.5 as it existed prior to 2018.

44-3-405. Importer's license. (1) (a) An importer's license shall be issued to persons importing vinous or spirituous liquors into this state for the following purposes only:

(I) To import and sell such liquors to wholesale liquor licensees;

(II) To solicit orders from retail licensees and fill such orders through wholesale liquor licensees.

(b) Such license shall not permit the licensee to maintain stocks of alcohol beverages in this state.

(2) It is unlawful for any licensed importer of vinous or spirituous liquors or any person, partnership, association, organization, or corporation interested financially in or with such a licensed importer to be interested financially, directly or indirectly, in the business of any vinous or spirituous wholesale licensee; except that any such financial interest that occurred on or before July 1, 1969, shall be lawful.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 997, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-404 as it existed prior to 2018.

44-3-406. Nonresident manufacturers and importers of malt liquor. (1) A nonresident manufacturer's license shall be issued to persons brewing malt liquor outside the state of Colorado for the purposes listed in subsection (3) of this section.

(2) A malt liquor importer's license shall be issued to persons importing malt liquor into this state for the purposes listed in subsection (3) of this section.

(3) The licenses referred to in subsections (1) and (2) of this section shall be issued for the following purposes only:

(a) To import and sell malt liquors within the state of Colorado to persons licensed as wholesalers pursuant to this article 3;

(b) To maintain stocks of malt liquors and to operate malt liquor warehouses by procuring a malt liquor wholesaler's license for each such operation as provided in this article 3;

(c) To solicit orders from retail licensees licensed under this article 3 or article 4 of this title 44 and fill the orders through malt liquor wholesalers.

(4) Any person holding a nonresident manufacturer's license or a malt liquor importer's license shall also be eligible to obtain a vinous and spirituous liquor importer's license pursuant to section 44-3-405; except that each such license obtained shall be separate and distinct.

(5) Each manufacturer, nonresident manufacturer, and malt liquor importer shall enter into a written contract with each wholesaler with which the manufacturer, nonresident manufacturer, and malt liquor importer intends to do business that designates the territory within which the product of the manufacturer, nonresident manufacturer, and malt liquor importer is sold by the respective wholesaler. A manufacturer, nonresident manufacturer, and malt liquor importer shall not contract with more than one wholesaler to sell their products within the same territory. The contract shall be submitted to the state licensing authority with any application and the applicant, if licensed, shall have a continuing duty to submit any subsequent revisions, amendments, or superseding contracts to the state licensing authority.

(6) It is unlawful for a nonresident manufacturer licensed under this article 3, or any person, partnership, association, organization, or corporation interested financially in or with the licensee, to be interested financially, directly or indirectly, in the business of any person licensed to sell at retail pursuant to this article 3 or article 4 of this title 44.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 998, § 2, effective October 1. **L. 2019:** (3)(c) and (6) amended, (SB 19-011), ch. 1, p. 7, § 9, effective January 31.

Editor's note: This section is similar to former § 12-47-405 as it existed prior to 2018.

44-3-407. Wholesaler's license - discrimination in wholesale sales prohibited. (1) (a) A wholesaler's liquor license shall be issued to persons selling vinous or spirituous liquors at wholesale for the following purposes only:

(I) To maintain and operate one or more warehouses in this state to handle vinous or spirituous liquors;

(II) To take orders for vinous and spirituous liquors at any place and deliver vinous and spirituous liquors on orders previously taken to any place if the licensee has procured a wholesaler's liquor license and the place where orders are taken and delivered is a place regularly licensed pursuant to the provisions of this article 3;

(III) To package vinous and spirituous liquors that a licensed importer has legally transported into Colorado or that a licensed manufacturer has legally produced in Colorado.

(b) (I) A wholesaler's beer license shall be issued to persons that sell malt liquors at wholesale to retailers licensed under this article 3 or article 4 of this title 44 and that designate to the state licensing authority on their application the territory within which the licensee may sell the designated products of any brewer as agreed upon by the licensee and the brewer of the products for the following purposes only:

(A) To maintain and operate warehouses and one sales room in this state to handle malt liquors to be denominated a wholesale beer store;

(B) To take orders for malt liquors at any place within the territory designated on the license application and deliver malt liquors on orders previously taken to any place within the designated geographical territory, if the licensee has procured a wholesaler's beer license and the

place where orders are taken and delivered is a place regularly licensed to sell at retail for consumption on or off the licensed premises pursuant to this article 3 or article 4 of this title 44.

(II) (A) Prior to operating a sales room as authorized by this subsection (1)(b), a wholesaler's beer licensee that is licensed pursuant to this section shall, at the time of application to the state licensing authority, send a copy of the application or supplemental application for a sales room to the local licensing authority in the jurisdiction in which the sales room is proposed. The local licensing authority may submit a response to the application, including its determination specified in subsection (1)(b)(II)(B) of this section, to the state licensing authority but must submit its response within forty-five days after the wholesaler's beer licensee submits its sales room application to the state licensing authority. If the local licensing authority does not submit a response to the state licensing authority within forty-five days after submission of the sales room application, the state licensing authority shall deem that the local licensing authority has determined that the proposed sales room will not impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances or that the applicant will sufficiently mitigate any impacts identified by the local licensing authority.

(B) The state licensing authority must consider the response from the local licensing authority, if any, and may deny the proposed sales room application if the local licensing authority determines that approval of the proposed sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, which may be determined by the local licensing authority without requiring a public hearing, or that the applicant cannot sufficiently mitigate any potential impacts identified by the local licensing authority.

(C) A wholesaler's beer licensee that is operating a sales room as of August 5, 2015, or that is granted approval pursuant to this subsection (1)(b)(II) to operate a sales room on or after August 5, 2015, shall notify the state licensing authority of its sales room. The state licensing authority shall maintain a list of all wholesaler's beer licensee sales rooms in the state and make the list available on its website.

(D) The local licensing authority may request that the state licensing authority take action in accordance with section 44-3-601 against a wholesaler's beer licensee approved to operate a sales room if the local licensing authority demonstrates to the state licensing authority that the licensee has engaged in an unlawful act as set forth in part 9 of this article 3 or shows good cause as specified in section 44-3-103 (19)(a), (19)(b), or (19)(d).

(E) This subsection (1)(b)(II) does not apply if the wholesaler's beer licensee does not sell and serve malt liquors for consumption on the licensed premises.

(c) Each license shall be separate and distinct, but any person may secure both licenses upon the payment in advance of both fees provided in this article 3.

(d) All malt, vinous, and spirituous liquors purchased by any licensee under this section, and all malt, vinous, and spirituous liquors shipped into this state by or to any such licensee, shall be placed in the physical possession of the licensee at the licensee's warehouse facilities prior to delivery to persons holding licenses pursuant to this article 3 or article 4 of this title 44.

(e) (I) A brewer or importer licensed pursuant to this article 3 shall not sell malt liquors to a wholesaler without having a written contract with the wholesaler that designates the specific products of such brewer or importer to be sold by the wholesaler and that establishes the territory within which the wholesaler may sell the designated products.

(II) A brewer or importer shall not contract with more than one wholesaler to sell the products of such brewer or importer within the same territory.

(f) Notwithstanding any provision of this article 3 to the contrary, a wholesaler licensed pursuant to subsection (1)(a) of this section may establish a program for its employees to purchase directly from the wholesaler vinous or spirituous liquors sold by that wholesaler.

(2) It is unlawful for any licensed wholesaler or any person, partnership, association, organization, or corporation interested financially in or with a licensed wholesaler to be interested financially, directly or indirectly, in the business of any person licensed to sell at retail pursuant to this article 3 or article 4 of this title 44.

(3) It is unlawful for a licensed wholesaler of vinous or spirituous liquors or any person, partnership, association, organization, or corporation interested financially in or with such a wholesaler to be interested financially in the business of any licensed manufacturer or importer of vinous or spirituous liquors; except that any such financial interest that occurred on or before July 1, 1969, shall be lawful.

(4) (a) A wholesaler shall make available to all retailers licensed pursuant to this article 3 and article 4 of this title 44 in this state without discrimination all malt, vinous, and spirituous liquors offered by the wholesaler for sale at wholesale. A wholesaler shall use its best efforts to make available to licensed retailers each brand of alcohol beverage that the wholesaler has been authorized to distribute.

(b) Nothing in this section prohibits a wholesaler from establishing reasonable allocation procedures when the anticipated demand for a product is greater than the supply of the product.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 999, § 2, effective October 1. **L. 2019:** IP(1)(b)(I), (1)(b)(I)(B), (1)(d), (2), and (4)(a) amended, (SB 19-011), ch. 1, p. 8, § 10, effective January 31.

Editor's note: This section is similar to former § 12-47-406 as it existed prior to 2018.

44-3-408. Termination of wholesalers - remedies - definitions. (1) (a) Except as provided in subsections (2) to (4) of this section, no supplier shall terminate an agreement with a wholesaler unless all of the following occur:

(I) The wholesaler fails to comply with a provision of a written agreement between the wholesaler and the supplier;

(II) The wholesaler receives written notification by certified mail, return receipt requested, from the supplier of the alleged noncompliance and is afforded no less than sixty days in which to cure such noncompliance;

(III) The wholesaler fails to cure such noncompliance within the allotted sixty-day cure period; and

(IV) The supplier provides written notice by certified mail, return receipt requested, to the wholesaler of such continued failure to comply with the agreement. The notification shall contain a statement of the intention of the supplier to terminate or not renew the agreement, the reasons for termination or nonrenewal, and the date the termination or nonrenewal shall take effect.

(b) If a wholesaler cures an alleged noncompliance within the cure period provided in subsection (1)(a)(II) of this section, any notice of termination from a supplier to a wholesaler shall be null and void.

(2) A supplier may immediately terminate an agreement with a wholesaler, effective upon furnishing written notification to the wholesaler by certified mail, return receipt requested, for any of the following reasons:

(a) The wholesaler's failure to pay any account when due and upon written demand by the supplier for payment, in accordance with agreed payment terms;

(b) The assignment or attempted assignment by the wholesaler for the benefit of creditors, the institution of proceedings in bankruptcy by or against the wholesaler, the dissolution or liquidation of the wholesaler, or the insolvency of the wholesaler;

(c) The revocation or suspension of, or the failure to renew for a period of more than fourteen days, a state, local, or federal license or permit to sell products in this state;

(d) Failure of an owner of a wholesaler to sell his or her ownership interest in the distribution rights to the supplier's products within one hundred twenty days after the owner of a wholesaler has been convicted of a felony that, in the supplier's sole judgment, adversely affects the goodwill of the wholesaler or supplier;

(e) A wholesaler has been convicted of, found guilty of, or pleaded guilty or nolo contendere to, a charge of violating a law or regulation of the United States or of this state if it materially and adversely affects the ability of the wholesaler or supplier to continue to sell its products in this state;

(f) Any attempted transfer of ownership of the wholesaler, stock of the wholesaler, or stock of any parent corporation of the wholesaler, or any change in the beneficial ownership or control of any entity, without obtaining the prior written approval of the supplier, except as may otherwise be permitted pursuant to a written agreement between the parties;

(g) Fraudulent conduct in the wholesaler's dealings with the supplier or its products, including the intentional sale of products outside the supplier's established quality standards;

(h) The wholesaler ceases to conduct business for five consecutive business days, unless such cessation is the result of an act of God, war, or a condition of national, state, or local emergency; or

(i) Any sale of products, directly or indirectly, to customers located outside the territory assigned to the wholesaler by the supplier. This subsection (2)(i) shall not prohibit wholesalers from making sales to licensed retailers who buy off the wholesaler's dock, so long as the retailer's licensed location is within the wholesaler's assigned territory.

(3) The supplier shall have the right to terminate an agreement with a wholesaler at any time by giving the wholesaler at least ninety days' written notice by certified mail, return receipt requested, with copies by first-class mail to all other wholesalers in all other states who have entered into the same distribution agreement with the supplier.

(4) If a particular brand of products is transferred by purchase or otherwise from a supplier to a successor supplier, the following shall occur:

(a) The successor supplier shall notify the existing wholesaler of the successor supplier's intent not to appoint the existing wholesaler for all or part of the existing wholesaler's territory for the product. The successor supplier shall mail the notice of termination by certified mail, return receipt requested, to the existing wholesaler. The successor supplier shall include in the notice the names, addresses, and telephone numbers of the successor wholesalers.

(b) (I) The successor wholesaler shall negotiate with the existing wholesaler to determine the fair market value of the existing wholesaler's right to distribute the product in the existing wholesaler's territory immediately before the successor supplier acquired rights to the particular

brand of products. The successor wholesaler and the existing wholesaler shall negotiate the fair market value in good faith.

(II) The existing wholesaler shall continue to distribute the product until payment of the compensation agreed to under subsection (4)(b)(I) of this section, or awarded under subsection (4)(c) of this section, is received.

(c) (I) If the successor wholesaler and the existing wholesaler fail to reach a written agreement on the fair market value within thirty days after the existing wholesaler receives the notice required pursuant to subsection (4)(a) of this section, the successor wholesaler or the existing wholesaler shall send a written notice to the other party requesting arbitration pursuant to the uniform arbitration act, part 2 of article 22 of title 13. Arbitration shall be held for the purpose of determining the fair market value of the existing wholesaler's right to distribute the product in the existing wholesaler's territory immediately before the successor supplier acquired rights to the particular brand of products.

(II) Notice of intent to arbitrate shall be sent, as provided in subsection (4)(c)(I) of this section, not later than thirty-five days after the existing wholesaler receives the notice required pursuant to subsection (4)(a) of this section. The arbitration proceeding shall conclude not later than forty-five days after the date the notice of intent to arbitrate is mailed to a party.

(III) Any arbitration held pursuant to this subsection (4) shall be conducted in a city within this state that:

(A) Is closest to the existing wholesaler; and

(B) Has a population of more than twenty thousand.

(IV) Any arbitration held pursuant to this subsection (4)(c) shall be conducted before one impartial arbitrator, to be selected by the American arbitration association or its successor. The arbitration shall be conducted in accordance with the rules and procedures of the uniform arbitration act, part 2 of article 22 of title 13.

(V) An arbitrator's award in any arbitration held pursuant to this subsection (4)(c) shall be monetary only and shall not enjoin or compel conduct. Any arbitration held pursuant to this subsection (4)(c) shall be in lieu of all other remedies and procedures.

(VI) The cost of the arbitrator and any other direct costs of an arbitration held pursuant to this subsection (4)(c) shall be equally divided by the parties engaged in the arbitration. All other costs shall be paid by the party incurring them.

(VII) The arbitrator in any arbitration held pursuant to this subsection (4)(c) shall render a written decision not later than thirty days after the conclusion of the arbitration, unless this time is extended by mutual agreement of the parties and the arbitrator. The decision of the arbitrator is final and binding on the parties. The arbitrator's award may be enforced by commencing a civil action in any court of competent jurisdiction. Under no circumstances may the parties appeal the decision of the arbitrator.

(VIII) An existing wholesaler or successor wholesaler who fails to participate in the arbitration hearings in any arbitration held pursuant to this subsection (4)(c) waives all rights the existing wholesaler or successor wholesaler would have had in the arbitration and is considered to have consented to the determination of the arbitrator.

(IX) If the existing wholesaler does not receive payment from the successor wholesaler of the settlement or arbitration award required under subsection (4)(b) or (4)(c) of this section within thirty days after the date of the settlement or arbitration award:

(A) The existing wholesaler shall remain the wholesaler of the product in the existing wholesaler's territory to at least the same extent that the existing wholesaler distributed the product immediately before the successor wholesaler acquired rights to the product; and

(B) The existing wholesaler is not entitled to the settlement or arbitration award.

(5) (a) Any wholesaler or supplier who is aggrieved by a violation of any provision of subsections (1) and (3) of this section shall be entitled to recovery of damages caused by the violation. Except for a dispute arising under subsection (4) of this section, damages shall be sought in a civil action in any court of competent jurisdiction.

(b) Any dispute arising under subsections (1) and (3) of this section may also be settled by such dispute resolution procedures as may be provided by a written agreement between the parties.

(6) Nothing in this section shall be construed to limit or prohibit good-faith settlements voluntarily entered into by the parties.

(7) Nothing in this section shall be construed to give an existing wholesaler or a successor wholesaler any right to compensation if an agreement with the existing wholesaler or successor wholesaler is terminated by a successor supplier pursuant to subsections (1) to (3) of this section.

(8) Nothing in this section shall apply to a manufacturer that produces less than three hundred thousand gallons of malt beverages per calendar year.

(9) As used in this section:

(a) "Existing wholesaler" means a wholesaler who distributes a particular brand of products at the time a successor supplier acquires rights to manufacture or import the particular brand of products.

(b) "Fair market value" means the value that would be determined in a transaction entered into without duress or threat of termination of the existing wholesaler's right and shall include all elements of value, including goodwill and going-concern value.

(c) "Products" means malt liquors.

(d) "Successor supplier" means a primary source of supply, a brewer, or an importer that acquires rights to a product from a predecessor supplier.

(e) "Successor wholesaler" means one or more wholesalers designated by a successor supplier to replace the existing wholesaler, for all or part of the existing wholesaler's territory, in the distribution of the existing product or products.

(f) "Supplier" means any person, partnership, corporation, association, or other business enterprise that is engaged in the manufacturing or importing of products.

(g) "Wholesaler" means the holder of a Colorado wholesaler's beer license.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1001, § 2, effective October 1. **L. 2019:** (9)(c) and (9)(g) amended, (SB 19-011), ch. 1, p. 8, § 11, effective January 31.

Editor's note: This section is similar to former § 12-47-406.3 as it existed prior to 2018.

44-3-409. Retail liquor store license - rules. (1) (a) (I) 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 44-3-410 or except as allowed under this article 3.

(II) On and after July 1, 2016, the state and local licensing authorities shall not issue a new retail liquor store license if the premises for which the retail liquor store license is sought is located:

(A) Within one thousand five hundred feet of another retail liquor store licensed under this section or a liquor-licensed drugstore licensed under section 44-3-410;

(B) For a premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of another retail liquor store licensed under this section or a liquor-licensed drugstore licensed under section 44-3-410; or

(C) For a premises located in a municipality with a population of ten thousand or fewer that is contiguous to the city and county of Denver, within one thousand five hundred feet of another retail liquor store licensed under this section or a liquor-licensed drugstore licensed under section 44-3-410.

(b) In addition, retail liquor stores may sell any nonalcohol products, but only if the annual gross revenues from the sale of nonalcohol products do not exceed twenty percent of the retail liquor store's total annual gross sales revenues. For purposes of calculating the annual gross revenues from the sale of nonalcohol products, sales revenues from the following products are excluded:

(I) Lottery products;

(II) Cigarettes, tobacco products, and nicotine products, as defined in section 18-13-121 (5);

(III) Ice, soft drinks, and mixers; and

(IV) Nonfood items related to the consumption of malt, vinous, or spirituous liquors.

(c) Nothing in this section or in section 44-3-103 (48) prohibits a licensed retail liquor store from:

(I) Selling items on behalf of or to benefit a charitable organization, as defined in section 39-26-102, or a nonprofit corporation subject to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, 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 the sale;

(II) At the option of the licensee, displaying promotional material furnished by a manufacturer or wholesaler, which material permits a customer to purchase other items from a third person, so long as the retail liquor store licensee does not receive payment from the third person and the customer orders the additional merchandise directly from the third person; or

(III) Allowing tastings to be conducted on the licensed premises if the licensee has received authorization to conduct tastings pursuant to section 44-3-301.

(2) (a) A person licensed under this section to sell malt, vinous, and spirituous liquors in a retail liquor store:

(I) Shall purchase the malt, vinous, and spirituous liquors only from a wholesaler licensed pursuant to this article 3; and

(II) (A) Shall not sell malt, vinous, or spirituous liquors to consumers at a price that is below the retail liquor store's cost, as listed on the invoice, to purchase the malt, vinous, or spirituous liquors, unless the sale is of discontinued or close-out malt, vinous, or spirituous liquors.

(B) This subsection (2)(a)(II) does not prohibit a retail liquor store from operating a bona fide loyalty or rewards program for malt, vinous, or spirituous liquors so long as the price for the product is not below the retail liquor store's costs as listed on the invoice. The state licensing authority may adopt rules to implement this subsection (2)(a)(II).

(b) A person licensed under this section that obtains additional retail liquor store licenses in accordance with subsection (4)(b)(III) of this section may operate under a single or consolidated corporate entity but shall not commingle purchases of or credit extensions for purchases of malt, vinous, or spirituous liquors from a wholesaler licensed under this article 3 for more than one licensed premises. A wholesaler licensed under this article 3 shall not base the price for the malt, vinous, or spirituous liquors it sells to a retail liquor store licensed under this section on the total volume of malt, vinous, or spirituous liquors that the licensee purchases for multiple licensed premises.

(3) (a) A person licensed to sell at retail who complies with this subsection (3) and rules promulgated pursuant to this subsection (3) may deliver malt, vinous, and spirituous liquors to a person of legal age if:

(I) The person receiving the delivery of malt, vinous, or spirituous liquors is located at a place that is not licensed pursuant to this section;

(II) The delivery is made by an employee of the licensed retail liquor store who is at least twenty-one years of age and who is using a vehicle owned or leased by the licensee to make the delivery;

(III) The person making the delivery verifies, in accordance with section 44-3-901 (11), that the person receiving the delivery of malt, vinous, or spirituous liquors is at least twenty-one years of age; and

(IV) The retail liquor store derives no more than fifty percent of its gross annual revenues from total sales of malt, vinous, and spirituous liquors from the sale of malt, vinous, and spirituous liquors that the retail liquor store delivers.

(b) The state licensing authority shall promulgate rules as necessary for the proper delivery of malt, vinous, and spirituous liquors and is authorized to issue a permit to any person who is licensed under this section to sell at retail and delivers the liquors pursuant to this subsection (3). A permit issued under this subsection (3) is subject to the same suspension and revocation provisions as are set forth in section 44-3-601 for other licenses granted pursuant to this article 3.

(4) (a) Except as provided in subsection (4)(b) of this section, it is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a retail liquor store to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3.

(b) An owner, part owner, shareholder, or person interested directly or indirectly in a retail liquor store may have an interest in:

(I) An arts license granted under this article 3;

(II) An airline public transportation system license granted under this article 3;

(III) For a retail liquor store licensed on or before January 1, 2016, and whose license holder is a Colorado resident, additional retail liquor store licenses as follows, but only if the premises for which a license is sought satisfies the distance requirements specified in subsection (1)(a)(II) of this section:

(A) On or after January 1, 2017, and before January 1, 2022, one additional retail liquor store license, for a maximum of up to two total retail liquor store licenses;

(B) On or after January 1, 2022, and before January 1, 2027, up to two additional retail liquor store licenses, for a maximum of three total retail liquor store licenses; and

(C) On or after January 1, 2027, up to three additional retail liquor store licenses, for a maximum of four total retail liquor store licenses; or

(IV) A financial institution referred to in section 44-3-308 (4).

(5) A liquor-licensed drugstore may apply to the state and local licensing authorities, as part of a single application, for a merger and conversion of retail liquor store licenses to a single liquor-licensed drugstore license as provided in section 44-3-410 (1)(b).

Source: L. 2018: (1)(a)(I) amended, (SB 18-067), ch. 4, p. 31, § 2, effective March 1; (1)(a)(II) amended, (SB 18-243), ch. 366, p. 2201, § 8, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 1005, § 2, effective October 1; (2) and (3) amended, (SB 18-243), ch. 366, p. 2201, § 8, effective January 1, 2019.

Editor's note: (1) This section is similar to former § 12-47-407 as it existed prior to 2018.

(2) (a) Subsection (1)(a)(I) of this section was numbered as § 12-47-407 (1)(a)(I) in SB 18-067. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

(b) Subsection (1)(a)(II) of this section was numbered as § 12-47-407 (1)(a)(II) in SB 18-243. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

(c) Subsections (2) and (3) of this section were numbered as § 12-47-407 (2) and (3), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025, effective January 1, 2019.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-3-410. Liquor-licensed drugstore license - multiple licenses permitted - requirements - rules. (1) (a) (I) 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. On and after July 1, 2016, except as permitted under subsection (1)(b) of this section, the state and local licensing authorities shall not issue a new liquor-licensed drugstore license if the licensed premises for which a liquor-licensed drugstore license is sought is located:

(A) Within one thousand five hundred feet of a retail liquor store licensed under section 44-3-409;

(B) For a drugstore premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of a retail liquor store licensed under section 44-3-409; or

(C) For a drugstore premises located in a municipality with a population of ten thousand or fewer that is contiguous to the city and county of Denver, within one thousand five hundred feet of a retail liquor store licensed under section 44-3-409.

(II) Nothing in this subsection (1) prohibits:

(A) The renewal or transfer of ownership of a liquor-licensed drugstore license initially issued prior to July 1, 2016.

(B) A liquor-licensed drugstore licensee from allowing tastings on the licensed premises if the applicable local licensing authority has authorized the liquor-licensed drugstore to conduct tastings on its licensed premises in accordance with section 44-3-301 (10).

(b) (I) On or after January 1, 2017, to qualify for an additional liquor-licensed drugstore license under this section, a liquor-licensed drugstore licensee, or a retail liquor store licensee that was licensed as a liquor-licensed drugstore on February 21, 2016, must apply to the state and local licensing authorities, as part of a single application, for a transfer of ownership of at least two licensed retail liquor stores that were licensed or had applied for a license on or before May 1, 2016, a change of location of one of the retail liquor stores, and a merger and conversion of the retail liquor store licenses into a single liquor-licensed drugstore license. The applicant may apply for a transfer, change of location, and merger and conversion only if all of the following requirements are met:

(A) The retail liquor stores that are the subject of the transfer of ownership are located within the same local licensing authority jurisdiction as the drugstore premises for which the applicant is seeking a liquor-licensed drugstore license, and, if any retail liquor stores are located within one thousand five hundred feet of the drugstore premises or, for a drugstore premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of the drugstore premises, the applicant applies to transfer ownership of all retail liquor stores located within that distance. If there are no licensed retail liquor stores or only one licensed retail liquor store within the same local licensing authority jurisdiction as the drugstore premises for which a liquor-licensed drugstore license is sought, the applicant shall apply to transfer ownership of one or two retail liquor stores, as necessary, that are located in the local licensing authority jurisdiction that is nearest to the jurisdiction in which the drugstore premises is located.

(B) Upon transfer and conversion of the retail liquor store licenses to a single liquor-licensed drugstore license, the drugstore premises for which the liquor-licensed drugstore license is sought will be located at least one thousand five hundred feet from all licensed retail liquor stores that are within the same local licensing authority jurisdiction as the drugstore premises or, for a drugstore premises located in a municipality with a population of ten thousand or fewer, at least three thousand feet from all licensed retail liquor stores that are within the same local licensing authority jurisdiction as the drugstore premises.

(II) For purposes of determining whether the distance requirements specified in subsection (1)(b)(I) of this section are satisfied, the distance shall be determined by a radius measurement that begins at the principal doorway of the drugstore premises for which the application is made and ends at the principal doorway of the licensed retail liquor store.

(III) In making its determination on the transfer of ownership, change of location, and license merger and conversion application, the local licensing authority shall consider the reasonable requirements of the neighborhood and the desires of the adult inhabitants in accordance with section 44-3-312.

(IV) In addition to any other requirements for licensure under this section or this article 3, a person applying for a new liquor-licensed drugstore license in accordance with this subsection (1)(b) on or after January 1, 2017, or to renew a liquor-licensed drugstore license issued on or after January 1, 2017, under this subsection (1)(b) must:

(A) Provide evidence to the state and local licensing authorities that at least twenty percent of the licensee's gross annual income derived from total sales during the prior twelve months at the drugstore premises for which a new or renewal licenses is sought is from the sale of food items, as defined by the state licensing authority by rule; and

(B) Make and keep its premises open to the public.

(2) (a) A person licensed under this section to sell malt, vinous, and spirituous liquors as provided in this section shall:

(I) Purchase malt, vinous, and spirituous liquors only from a wholesaler licensed under this article 3;

(II) (A) Not sell malt, vinous, or spirituous liquors to consumers at a price that is below the liquor-licensed drugstore's cost, as listed on the invoice, to purchase the malt, vinous, or spirituous liquors, unless the sale is of discontinued or close-out malt, vinous, or spirituous liquors.

(B) This subsection (2)(a)(II) does not prohibit a liquor-licensed drugstore from operating a bona fide loyalty or rewards program for malt, vinous, or spirituous liquors so long as the price for the product is not below the liquor-licensed drugstore's costs as listed on the invoice. The state licensing authority may adopt rules to implement this subsection (2)(a)(II).

(III) Not allow consumers to purchase malt, vinous, or spirituous liquors at a self-checkout or other mechanism that allows the consumer to complete the alcohol beverage purchase without assistance from and completion of the entire transaction by an employee of the liquor-licensed drugstore;

(IV) Require, in accordance with section 44-3-901 (11), consumers attempting to purchase malt, vinous, or spirituous liquors to present a valid identification, as determined by the state licensing authority by rule; and

(V) Not sell clothing or accessories imprinted with advertising, logos, slogans, trademarks, or messages related to alcohol beverages.

(b) A person licensed under this section on or after January 1, 2017, shall not purchase malt, vinous, or spirituous liquors from a wholesaler on credit and shall effect payment upon delivery of the alcohol beverages.

(3) (a) A liquor-licensed drugstore licensee who complies with this subsection (3) and rules promulgated pursuant to this subsection (3) may deliver malt, vinous, and spirituous liquors to a person of legal age if:

(I) The person receiving the delivery of malt, vinous, or spirituous liquors is located at a place that is not licensed pursuant to this section;

(II) The delivery is made by an employee of the liquor-licensed drugstore who is at least twenty-one years of age and who is using a vehicle owned or leased by the licensee to make the delivery;

(III) The person making the delivery verifies, in accordance with section 44-3-901 (11), that the person receiving the delivery of malt, vinous, or spirituous liquors is at least twenty-one years of age; and

(IV) The liquor-licensed drugstore derives no more than fifty percent of its gross annual revenues from total sales of malt, vinous, and spirituous liquors from the sale of malt, vinous, and spirituous liquors that the liquor-licensed drugstore delivers.

(b) The state licensing authority shall promulgate rules as necessary for the proper delivery of malt, vinous, and spirituous liquors and is authorized to issue a permit to any liquor-licensed drugstore licensee that will allow the licensee to deliver the liquors pursuant to the rules and this subsection (3). A permit issued under this subsection (3) is subject to the same suspension and revocation provisions as are set forth in sections 44-3-306 and 44-3-601 for other licenses granted pursuant to this article 3.

(4) (a) Except as provided in subsection (4)(b) of this section, it is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a liquor-licensed drugstore to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3.

(b) An owner, part owner, shareholder, or person interested directly or indirectly in a liquor-licensed drugstore may have an interest in:

(I) An arts license granted under this article 3;

(II) An airline public transportation system license granted under this article 3;

(III) A financial institution referred to in section 44-3-308 (4);

(IV) For a liquor-licensed drugstore licensed on or before January 1, 2016, or a liquor-licensed drugstore licensee that was licensed as a liquor-licensed drugstore on February 21, 2016, that converted its license to a retail liquor store license after February 21, 2016, and that applied on or before May 1, 2017, to convert its retail liquor store license back to a liquor-licensed drugstore license, additional liquor-licensed drugstore licenses as follows, but only if obtained in accordance with subsection (1)(b) of this section:

(A) On or after January 1, 2017, and before January 1, 2022, four additional liquor-licensed drugstore licenses, for a maximum of five total liquor-licensed drugstore licenses;

(B) On or after January 1, 2022, and before January 1, 2027, up to seven additional liquor-licensed drugstore licenses, for a maximum of eight total liquor-licensed drugstore licenses;

(C) On or after January 1, 2027, and before January 1, 2032, up to twelve additional liquor-licensed drugstore licenses, for a maximum of thirteen total liquor-licensed drugstore licenses;

(D) On or after January 1, 2032, and before January 1, 2037, up to nineteen additional liquor-licensed drugstore licenses, for a maximum of twenty total liquor-licensed drugstore licenses; and

(E) On or after January 1, 2037, an unlimited number of additional liquor-licensed drugstore licenses.

(V) For a liquor-licensed drugstore that submitted an application for a new liquor-licensed drugstore license before October 1, 2016, additional liquor-licensed drugstore licenses as follows, but only if obtained in accordance with subsection (1)(b) of this section:

(A) On or after January 1, 2019, and before January 1, 2022, four additional liquor-licensed drugstore licenses, for a maximum of five total liquor-licensed drugstore licenses;

(B) On or after January 1, 2022, and before January 1, 2027, up to seven additional liquor-licensed drugstore licenses, for a maximum of eight total liquor-licensed drugstore licenses;

(C) On or after January 1, 2027, and before January 1, 2032, up to twelve additional liquor-licensed drugstore licenses, for a maximum of thirteen total liquor-licensed drugstore licenses;

(D) On or after January 1, 2032, and before January 1, 2037, up to nineteen additional liquor-licensed drugstore licenses, for a maximum of twenty total liquor-licensed drugstore licenses; and

(E) On or after January 1, 2037, an unlimited number of additional liquor-licensed drugstore licenses.

(c) Subsection (4)(b)(V) of this section does not apply to a liquor-licensed drugstore licensee that was licensed as a liquor-licensed drugstore on February 21, 2016, that converted its

license to a retail liquor store license after February 21, 2016, and that applied on or before May 1, 2017, to convert its retail liquor store license back to a liquor-licensed drugstore license.

(5) (a) A liquor-licensed drugstore licensed under this section shall not store alcohol beverages off the licensed premises.

(b) A licensed wholesaler shall make all deliveries of alcohol beverages to a liquor-licensed drugstore:

(I) Through a common carrier, a contract carrier, or on vehicles owned by the wholesaler; and

(II) Only to the business address of the liquor-licensed drugstore.

(6) (a) A liquor-licensed drugstore licensed under this section on or after January 1, 2017, shall have at least one manager permitted under section 44-3-427 who works on the licensed premises. The liquor-licensed drugstore shall designate at least one permitted manager on the licensed premises to conduct the liquor-licensed drugstore's purchases of alcohol beverages from a licensed wholesaler. A licensed wholesaler shall take orders for alcohol beverages only from a permitted manager designated by the liquor-licensed drugstore.

(b) A liquor-licensed drugstore that is involved in selling alcohol beverages must obtain and maintain a certification as a responsible alcohol beverage vendor in accordance with part 10 of this article 3.

(c) An employee of a liquor-licensed drugstore who is under twenty-one years of age shall not deliver malt, vinous, or spirituous liquors offered for sale on, or sold and removed from, the licensed premises.

(7) A person licensed under this section that obtains additional liquor-licensed drugstore licenses in accordance with subsection (4)(b)(IV) or (4)(b)(V) of this section may operate under a single or consolidated corporate entity but shall not commingle purchases of or credit extensions for purchases of malt, vinous, or spirituous liquors from a wholesaler licensed under this article 3 for more than one licensed premises. A wholesaler licensed under this article 3 shall not base the price for the malt, vinous, or spirituous liquors it sells to a liquor-licensed drugstore licensed under this section on the total volume of malt, vinous, or spirituous liquors that the licensee purchases for multiple licensed premises.

Source: L. 2018: (1)(a)(I), IP(1)(b)(IV), (1)(b)(IV)(B), and IP(4)(b)(IV) amended and (4)(b)(V) and (4)(c) added, (SB 18-243), ch. 366, p. 2202, § 9, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 1007, § 2, effective October 1; (2)(a)(II), (2)(a)(III), and (3) amended and (7) added, (SB 18-243), ch. 366, p. 2202, § 9, effective January 1, 2019. **L. 2020:** (6)(c) amended, (SB 20-032), ch. 28, p. 98, § 1, effective September 14.

Editor's note: (1) This section is similar to former § 12-47-408 as it existed prior to 2018.

(2) (a) Subsections (1)(a)(I), IP(1)(b)(IV), (1)(b)(IV)(B), IP(4)(b)(IV), (4)(b)(V), and (4)(c) of this section were numbered as § 12-47-408 (1)(a)(I), IP(1)(b)(IV), (1)(b)(IV)(B), IP(4)(b)(IV), (4)(b)(V), and (4)(c), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

(b) Subsections (2)(a)(II), (2)(a)(III), (3), and (7) of this section were numbered as § 12-47-408 (2)(a)(II), (2)(a)(III), (3), and (8), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025, effective January 1, 2019.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-3-411. Beer and wine license. (1) A beer and wine license shall be issued to persons selling malt and vinous liquors for consumption on the premises. Beer and wine licensees shall have sandwiches and light snacks available for consumption on the premises during business hours, but need not have meals available for consumption.

(2) (a) Every person selling malt and vinous liquors as provided in this section shall purchase malt and vinous liquors only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, any person selling malt and vinous liquors as provided in this section may purchase not more than two thousand dollars' worth of malt and vinous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) A beer and wine licensee shall retain evidence of each purchase of malt and vinous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the malt or vinous liquor purchased, and the price paid for the purchase. The beer and wine licensee shall retain the receipt and shall make it available to the state and local licensing authorities at all times during business hours.

(3) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a beer and wine license to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44; except that the person may have an interest in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1011, § 2, effective October 1. **L. 2019:** (1) and (2) amended, (SB 19-011), ch. 1, p. 9, § 12, effective January 31.

Editor's note: This section is similar to former § 12-47-409 as it existed prior to 2018.

44-3-412. Bed and breakfast permit. (1) In lieu of a hotel and restaurant license, a person operating a bed and breakfast with not more than twenty sleeping rooms that offers complimentary alcohol beverages for consumption only on the premises and only by overnight guests may be issued a bed and breakfast permit. A bed and breakfast permittee shall not sell alcohol beverages by the drink and shall not serve alcohol beverages for more than four hours in any one day.

(2) An applicant for a bed and breakfast permit is exempt from any fee otherwise assessable under section 44-3-501 (3) or 44-3-505 (4)(a), but is subject to all other fees and all other requirements of this article 3.

(3) A local licensing authority may, at its option, determine that bed and breakfast permits are not available within its jurisdiction.

(4) A bed and breakfast permit may be suspended or revoked in accordance with section 44-3-601 if the permittee violates any provision of this article 3 or any rule adopted pursuant to this article 3 or fails truthfully to furnish any required information in connection with a permit application.

(5) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a bed and breakfast permit to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44; except that a person regulated under this section may have an interest in other bed and breakfast permits; in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w) or 44-4-104 (1)(c); or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1012, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-410 as it existed prior to 2018.

44-3-413. Hotel and restaurant license - definitions - rules. (1) Except as otherwise provided in subsection (2) of this section, a hotel and restaurant license shall be issued to persons selling alcohol beverages in the place where the alcohol beverages are to be consumed, subject to the following restrictions:

(a) Restaurants shall sell alcohol beverages as provided in this section only to customers of the restaurant and only if meals are actually and regularly served and provide not less than twenty-five percent of the gross income from sales of food and drink of the business of the licensed premises over any period of time of at least one year.

(b) Hotels shall sell alcohol beverages as provided in this section only to customers of the hotel and, except in hotel rooms, only on the licensed premises where meals are actually and regularly served and provide not less than twenty-five percent of the gross income from sales of food and drink of the business of the licensed premises over any period of time of at least one year.

(c) Any hotel and restaurant licensee who is open for business and selling alcohol beverages by the drink shall serve meals between the hours of 8 a.m. and 8 p.m. and meals or light snacks and sandwiches after 8 p.m.; except that nothing in this subsection (1)(c) shall be construed to require a licensee to be open for business between the hours of 8 a.m. and 8 p.m.

(d) A hotel may be designated as a resort complex if it has at least fifty sleeping rooms and has related sports and recreational facilities located contiguous or adjacent to the hotel for the convenience of its guests or the general public. For purposes of a resort complex only, "contiguous or adjacent" means within the overall boundaries or scheme of development or regularly accessible from the hotel by its members and guests.

(2) (a) A resort complex shall designate its principal licensed premises and additional separate, related facilities that are located contiguous or adjacent to the licensed premises of the resort complex. Each related facility shall be identified by the resort complex at the time of initial licensure or upon license renewal. Each related facility shall also be clearly identified by its geographic location within the overall boundaries of the licensed premises of the resort complex. A resort complex may apply for a resort-complex-related facility permit for each related facility at the time of initial licensure, upon license renewal, or at any time upon application by the resort complex.

(b) Customers and guests who purchase alcohol beverages at one related facility are permitted to carry such beverages to other related facilities within the overall licensed premises boundaries of the resort complex.

(c) Each related facility shall remain at all times under the ownership and control of the resort complex licensee. Any subletting or transfer of ownership or change of control of a related facility without proper notification and approval by state and local licensing authorities shall be considered a violation of this article 3 and will be cause for the denial, suspension, revocation, or cancellation of the license of the entire resort complex, including all of its related facilities, pursuant to section 44-3-601.

(d) Except as provided in this subsection (2), for violations of section 44-3-307, and for violations of this article 3 and rules promulgated pursuant to this article 3 that are intentionally authorized by the ownership or management of a resort complex, each related facility shall be considered separately licensed or permitted for the purpose of application of the sanctions imposed under section 44-3-601.

(e) For purposes of this subsection (2), "related facility" means those areas, as approved by the state and local licensing authorities, that are contiguous or adjacent to the resort hotel and that are owned by or under the exclusive possession and control of the resort complex licensee. "Related facilities" shall include:

(I) Those indoor areas or facilities contiguous or adjacent to the licensed premises of the resort complex that are operated under a separate trade name and are used by resort complex patrons;

(II) Related outdoor sports and recreation facilities located contiguous or adjacent to the resort complex that are used by patrons of the resort complex for a fee; and

(III) Distinct areas or facilities contiguous or adjacent to the resort complex that are directly related to the resort complex use.

(3) (a) An institution of higher education, or a person who contracts with the institution to provide food services, that is licensed under this section may apply to be designated a campus liquor complex at the time of initial licensure or upon license renewal.

(b) A licensee shall designate its principal licensed premises and additional separate, related facilities that are located within the campus liquor complex. The licensee may identify each related facility that serves alcohol at the time of initial licensure or upon license renewal. To be approved for a campus liquor complex related facility permit, each related facility must be clearly identified by its geographic location within the boundaries of the campus, including the specific point of service, and each area where alcohol beverages are consumed must be clearly identified by a description and map of the area.

(c) A licensee may apply for a related facility permit for each related facility within the campus liquor complex at the time of initial licensure, upon license renewal, or at any time upon application by the licensee.

(d) (I) To be permitted, each related facility must remain at all times under the ownership or control of the licensee. A licensee that sublets or transfers ownership of, or changes control of, a related facility without notifying and obtaining approval from state and local licensing authorities violates this article 3, and the violation is grounds for denial, suspension, revocation, or cancellation of the campus liquor complex license and all related facility permits in accordance with section 44-3-601.

(II) The institution of higher education shall designate a manager for the campus liquor complex and for each related facility.

(e) Except as provided in this subsection (3), for violations of this article 3 and rules promulgated under this article 3 that are intentionally authorized by the ownership or

management of a related facility, each related facility is deemed separately permitted for the purpose of application of the sanctions authorized under section 44-3-601.

(f) For purposes of this subsection (3), "related facility" means those areas approved by the state and local licensing authorities that are on the campus of the institution of higher education licensed under this section and that are owned by or under the exclusive possession and control of the institution of higher education holding the license. "Related facilities" include an area or facility operated under a separate trade name.

(4) Notwithstanding any provision of this article 3 to the contrary, a hotel, licensed pursuant to this article 3, may:

(a) Furnish and deliver complimentary alcohol beverages in sealed containers for the convenience of its guests;

(b) Sell alcohol beverages provided by the hotel in sealed containers, at any time, by means of a minibar located in hotel guest rooms, to adult registered guests of the hotel for consumption in guest rooms if the price of the alcohol beverages is clearly posted. For purposes of this section, "minibar" means a closed container, either nonrefrigerated or refrigerated in whole or in part, access to the interior of which is restricted by means of a locking device that requires the use of a key, magnetic card, or similar device or which is controlled at all times by the hotel.

(c) Enter into a contract with a lodging facility for the purpose of authorizing the lodging facility to sell alcohol beverages pursuant to subsection (4)(b) of this section if the lodging facility and hotel share common ownership and are located within one thousand feet of one another. The alcohol beverages that may be sold pursuant to this subsection (4)(c) must be provided by and subject to the control of the licensed hotel. For purposes of this subsection (4)(c), "common ownership" means a controlling ownership interest that is held by the same person or persons, whether through separate corporations, partnerships, or other legal entities. To determine whether the distance limitation referred to in this subsection (4)(c) is met, the distance from the property line of the land used for the lodging facility to the portion of the hotel licensed under this article 3 shall be measured using the nearest and most direct routes of pedestrian access.

(5) The state licensing authority shall promulgate rules that prohibit the placement of a container of alcohol beverages in a minibar if the container has a capacity of more than five hundred milliliters.

(6) It is the intent of this section to require hotel and restaurant licensees to maintain a bona fide restaurant business and not a mere pretext of such for obtaining a hotel and restaurant license.

(7) (a) Except as provided in subsection (7)(b) of this section, every person selling alcohol beverages as provided in this section shall purchase alcohol beverages only from a wholesaler licensed pursuant to this article 3.

(b) (I) During a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(II) A hotel and restaurant licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the

alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

(8) Each hotel and restaurant license shall be granted for specific premises, and optional premises approved by the state and local licensing authorities, and issued in the name of the owner or lessee of the business.

(9) Repealed.

(10) The manager for each hotel and restaurant license, the hotel and restaurant licensee, or an employee or agent of the hotel and restaurant licensee shall purchase alcohol beverages for one licensed premises only, and the purchases shall be separate and distinct from purchases for any other hotel and restaurant license.

(11) to (13) Repealed.

(14) (a) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a hotel and restaurant license to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44.

(b) Notwithstanding subsection (14)(a) of this section, an owner, part owner, shareholder, or person interested directly or indirectly in a hotel and restaurant license may conduct, own either in whole or in part, or be directly or indirectly interested in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1012, § 2, effective October 1. **L. 2019:** (7) amended, (SB 19-011), ch. 1, p. 9, § 13, effective January 31. **L. 2022:** (9) and (11) to (13) repealed and (10) amended, (HB 22-1415), ch. 426, p. 3017, § 2, effective June 7.

Editor's note: This section is similar to former § 12-47-411 as it existed prior to 2018.

44-3-414. Tavern license. (1) A tavern license shall be issued to persons selling alcohol beverages by the drink only to customers for consumption on the premises. A tavern licensee shall have sandwiches and light snacks available for consumption on the premises during business hours, but need not have meals available for consumption.

(2) (a) Every person selling alcohol beverages as provided in this section shall purchase alcohol beverages only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) A tavern licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The tavern licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

(3) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in tavern licenses to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44;

except that the person may have an interest in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

(4) Repealed.

(5) The manager for each tavern license, the tavern licensee, or an employee or agent of the tavern licensee shall purchase alcohol beverages for one licensed premises only, and the purchases shall be separate and distinct from purchases for any other tavern license.

(6) to (8) Repealed.

(9) (a) At the time a tavern license is due for renewal or by one year after August 10, 2016, whichever occurs later, a tavern licensed under this section that does not have as its principal business the sale of alcohol beverages, has a valid license on August 10, 2016, and is a lodging and entertainment facility may apply to, and the applicable local licensing authority shall, convert the tavern license to a lodging and entertainment license under section 44-3-428, and the licensee may continue to operate as a lodging and entertainment facility licensee. If a tavern licensee does not have as its principal business the sale of alcohol beverages but is not a lodging and entertainment facility, at the time the tavern license is due for renewal or by one year after August 10, 2016, whichever occurs later, the licensee may apply to, and the applicable local licensing authority shall, convert the tavern license to another license under this article 3, if any, for which the person qualifies.

(b) A person applying under this subsection (9) to convert an existing tavern license to another license under this article 3 may apply to convert the license, even if the location of the licensed premises is within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary, so long as the local licensing authority has previously approved the location of the licensed premises in accordance with section 44-3-313 (1)(d).

Source: L. 2018: (9)(a) amended, (HB 18-1375), ch. 274, p. 1696, § 7, effective May 29; entire article added with relocations, (HB 18-1025), ch. 152, p. 1017, § 2, effective October 1. **L. 2019:** (2) amended, (SB 19-011), ch. 1, p. 10, § 14, effective January 31. **L. 2022:** (4) and (6) to (8) repealed and (5) amended, (HB 22-1415), ch. 426, p. 3018, § 3, effective June 7.

Editor's note: (1) This section is similar to former § 12-47-412 as it existed prior to 2018.

(2) Subsection (9)(a) of this section was numbered as § 12-47-412 (9)(a) in HB 18-1375. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

44-3-415. Optional premises license. (1) An optional premises license shall be granted for optional premises approved by the state and local licensing authorities to persons selling alcohol beverages by the drink only to customers for consumption on the optional premises and for storing alcohol beverages in a secure area on or off the optional premises for future use on the optional premises.

(2) (a) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in an optional premises license to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44.

(b) Notwithstanding subsection (2)(a) of this section, an owner, part owner, shareholder, or person interested directly or indirectly in an optional premises license may own, either in whole or in part, or be directly or indirectly interested in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1019, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-413 as it existed prior to 2018.

44-3-416. Retail gaming tavern license. (1) A retail gaming tavern license shall be issued to persons who are licensed pursuant to section 44-30-501 (1)(c), who sell alcohol beverages by individual drink for consumption on the premises, and who sell sandwiches or light snacks or who contract with an establishment that provides the food services within the same building as the licensed premises. In no event shall any person hold more than three retail gaming tavern licenses.

(2) (a) Every person selling alcohol beverages as described in this section shall purchase the alcohol beverages only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, or spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) A retail gaming tavern licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

(3) Nothing in this article 3 shall permit more than one retail gaming tavern license per building where the licensed premises are located.

(4) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a retail gaming tavern license to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44; except that the person may have an interest in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1019, § 2, effective October 1; (1) amended, (SB 18-034), ch. 14, p. 238, § 8, effective October 1. **L. 2019:** (2) amended, (SB 19-011), ch. 1, p. 10, § 15, effective January 31.

Editor's note: (1) This section is similar to former § 12-47-414 as it existed prior to 2018.

(2) Subsection (1) of this section was numbered as § 12-47-414 (1) in SB 18-034. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

44-3-417. Brew pub license - definitions. (1) (a) A brew pub license may be issued to any person operating a brew pub and also selling alcohol beverages for consumption on the premises.

(b) A brew pub licensed pursuant to this section to manufacture malt liquors upon its licensed premises may, upon approval of the state licensing authority, manufacture malt liquors upon alternating proprietor licensed premises within the restrictions specified in section 44-3-103 (5).

(2) (a) Except as provided in subsection (2)(b) of this section, during the hours established in section 44-3-901 (6)(b), malt liquors manufactured by a brew pub licensee on the licensed premises or alternating proprietor licensed premises may be:

(I) Furnished for consumption on the premises;

(II) Sold to independent wholesalers for distribution to licensed retailers;

(III) Sold to the public in sealed containers for off-premises consumption. Except as provided in subsection (2)(a.5) of this section, only malt liquors manufactured and packaged by the licensee on the licensed premises or on an alternating proprietor licensed premises may be sold to the public in sealed containers.

(IV) Sold at wholesale to licensed retailers in an amount up to three hundred thousand gallons per calendar year.

(a.5) (I) For purposes of sales to the public in sealed containers pursuant to subsection (2)(a)(III) of this section, a brew pub licensee may also sell on the licensed premises malt liquors that are manufactured by the licensee on another brew pub licensed premises that is under the same ownership as the brew pub licensed premises at which the sale occurs.

(II) As used in this subsection (2)(a.5), "same ownership" means that a person or group of persons has at least fifty percent ownership interest in the licensed brew pub at which the sale to the public of malt liquors in sealed containers occurs and in another brew pub licensed premises at which the malt liquors being sold were manufactured.

(b) A brew pub authorized to manufacture malt liquors upon alternating proprietor licensed premises shall not conduct retail sales of malt liquors from an area licensed or defined as an alternating proprietor licensed premises.

(3) (a) Every person selling alcohol beverages pursuant to this section shall purchase alcohol beverages, other than those that are manufactured at the licensed brew pub, from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) The brew pub licensee shall retain evidence of each purchase of malt, vinous, and spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to state and local licensing authorities at all times during business hours.

(4) A brew pub licensee shall sell alcohol beverages for on-premises consumption only if at least fifteen percent of the gross on-premises food and drink income of the business of the licensed premises is from the sale of food. For purposes of this subsection (4), "food" means a

quantity of foodstuffs of such nature as is ordinarily consumed by an individual at regular intervals for the purpose of sustenance.

(5) (a) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a brew pub license to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44.

(b) Notwithstanding subsection (5)(a) of this section, a person interested directly or indirectly in a brew pub license may conduct, own either in whole or in part, or be directly or indirectly interested in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1020, § 2, effective October 1. **L. 2019:** (1)(b), IP(2)(a), (2)(a)(III), (2)(b), and (3) amended, (SB 19-011), ch. 1, p. 11, § 16, effective January 31. **L. 2020:** (2)(a)(III) amended and (2)(a.5) added, (SB 20-194), ch. 263, p. 1264, § 1, effective September 14.

Editor's note: This section is similar to former § 12-47-415 as it existed prior to 2018.

44-3-418. Club license - legislative declaration. (1) A club license shall be issued to persons selling alcohol beverages by the drink only to members of the club and guests and only for consumption on the premises of the club.

(2) (a) Every person selling alcohol beverages as provided in this section shall purchase the alcohol beverages only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) The club licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

(3) (a) The general assembly finds, determines, and declares that the people of the state of Colorado desire to promote and achieve tax equity and fairness among all the state's citizens and further desire to conform to the public policy of nondiscrimination. The general assembly further declares that the provisions of this subsection (3) are enacted for these reasons and for no other purpose.

(b) Any club licensee that has a policy to restrict membership on the basis of sex, sexual orientation, gender identity, gender expression, marital status, race, creed, religion, color, ancestry, or national origin shall, when issuing a receipt for expenses that may otherwise be used by taxpayers for deduction purposes pursuant to section 162 (a) of the federal "Internal Revenue Code of 1986", as amended, for purposes of determining taxes owed pursuant to article 22 of title 39, incorporate a printed statement on the receipt as follows:

The expenditures covered by this receipt are
nondeductible for state income tax purposes.

(4) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a club license to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44; except that:

(a) Such a person may have an interest in an arts license or an airline public transportation system license granted under this article 3, or in a financial institution referred to in section 44-3-308 (4);

(b) Any person who owns, in whole or in part, directly or indirectly, any other license issued pursuant to this article 3 or article 4 of this title 44 may be listed as an officer or director on a club license if the person does not individually manage or receive any direct financial benefit from the operation of the license.

Source: **L. 2018:** Entire article added with relocations, (HB 18-1025), ch. 152, p. 1021, § 2, effective October 1. **L. 2019:** (2) amended, (SB 19-011), ch. 1, p. 11, § 17, effective January 31. **L. 2021:** (3)(b) amended, (HB 21-1108), ch. 156, p. 899, § 49, effective September 7.

Editor's note: This section is similar to former § 12-47-416 as it existed prior to 2018.

Cross references: (1) For section 162 (a) of the federal "Internal Revenue Code of 1986", see 26 U.S.C. § 162 (a).

(2) For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of Colorado 2021.

44-3-419. Arts license - definition. (1) (a) An arts license may be issued to any nonprofit arts organization that sponsors and presents productions or performances of an artistic or cultural nature, and the arts license permits the licensee to sell alcohol beverages only to patrons of the productions or performances for consumption on the licensed premises in connection with the productions or performances. No person licensed pursuant to this section shall permit any exterior or interior advertising concerning the sale of alcohol beverages on the licensed premises.

(b) An arts license may be issued to any municipality owning arts facilities at which productions or performances of an artistic or cultural nature are presented, in the same manner as provided for in subsection (1)(a) of this section and subject to the same restrictions.

(2) Any provision of this article 3 to the contrary notwithstanding, the proximity of premises licensed pursuant to this section to any public or parochial school or the principal campus of a college, university, or seminary shall not, in and of itself, affect the granting or denial of such license by the state and the local licensing authority, but a public or parochial school shall not contain a licensed premises. The campus of a college, university, or seminary may contain a licensed premises.

(3) As used in this section, "nonprofit arts organization" means only an organization subject to the provisions of articles 121 to 137 of title 7 and held to be tax-exempt by the federal internal revenue service.

(4) (a) Every person selling alcohol beverages as provided in this section shall purchase the alcohol beverages only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may

purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) An arts licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1022, § 2, effective October 1. **L. 2019:** (4) amended, (SB 19-011), ch. 1, p. 12, § 18, effective January 31.

Editor's note: This section is similar to former § 12-47-417 as it existed prior to 2018.

44-3-420. Racetrack license. (1) A racetrack licensee may sell alcohol beverages by the drink for consumption on the licensed premises only to customers of the racetrack and shall serve food as well as alcohol beverages.

(2) (a) Every person selling alcohol beverages as provided in this section shall purchase the alcohol beverages only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) A racetrack licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

(3) If any person holds a valid license pursuant to this article 3 to sell alcohol beverages by the drink for consumption on the licensed premises, the person is not required to obtain a racetrack class license pursuant to this section if simulcast races with pari-mutuel wagering occur on the licensed premises.

(4) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a racetrack license to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44; except that a person licensed under this section may have an interest in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1023, § 2, effective October 1. **L. 2019:** (2) amended, (SB 19-011), ch. 1, p. 12, § 19, effective January 31.

Editor's note: This section is similar to former § 12-47-418 as it existed prior to 2018.

44-3-421. Public transportation system license. (1) The state licensing authority shall issue a public transportation system license to every person operating a public transportation system that sells alcohol beverages by the drink to be served and consumed in or upon any dining, club, or parlor car; plane; bus; or other conveyance of the public transportation system. A public transportation system license issued to a commercial airline authorizes the licensee to sell alcohol beverages by the drink in an airport or airport concourse private club room that is in existence and operated by the licensee on or before April 1, 1995. A public transportation system license issued to a common carrier railroad authorizes the licensee to sell alcohol beverages by the drink at any event not open to the public that is held in a museum owned and operated by the licensee if the licensee notifies the appropriate local law enforcement agency of the event no later than fourteen days prior to the scheduled date of the event.

(2) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a public transportation system license to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44; except that a person licensed under this section may be interested in any other retail license issued pursuant to this article 3 or article 4 of this title 44 or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1024, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-419 as it existed prior to 2018.

44-3-422. Vintner's restaurant license. (1) (a) A vintner's restaurant license may be issued to a person operating a vintner's restaurant and also selling alcohol beverages for consumption on the premises.

(b) A vintner's restaurant licensed pursuant to this section to manufacture vinous liquors upon its licensed premises may, upon approval of the state licensing authority, manufacture vinous liquors upon alternating proprietor licensed premises within the restrictions specified in section 44-3-103 (60).

(2) (a) Except as provided in subsection (2)(b) of this section, during the hours established in section 44-3-901 (6)(b), vinous liquors manufactured by a vintner's restaurant licensee on the licensed premises may be:

- (I) Furnished for consumption on the premises;
- (II) Sold to independent wholesalers for distribution to licensed retailers;
- (III) Sold to the public in sealed containers for off-premises consumption. Only vinous liquors fermented, manufactured, and packaged on the licensed premises or alternating proprietor licensed premises by the licensee shall be sold in sealed containers.

(IV) Sold at wholesale to licensed retailers in an amount up to fifty thousand gallons per calendar year.

(b) A vintner's restaurant authorized to manufacture vinous liquors upon alternating proprietor licensed premises shall not conduct retail sales of vinous liquors from an area licensed or defined as an alternating proprietor licensed premises.

(3) (a) Every person selling alcohol beverages pursuant to this section shall purchase the alcohol beverages, other than those that are manufactured at the licensed vintner's restaurant, from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person

may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) The vintner's restaurant licensee shall retain evidence of each purchase of malt, vinous, and spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to state and local licensing authorities at all times during business hours.

(4) A vintner's restaurant licensee may sell alcohol beverages for on-premises consumption only if at least fifteen percent of the gross on-premises food and drink income of the business of the licensed premises is from the sale of food.

(5) (a) Subject to subsection (5)(b) of this section, it is unlawful for an owner, part owner, shareholder, or person interested directly or indirectly in a vintner's restaurant license to conduct, own either in whole or in part, or be directly or indirectly interested in another business licensed pursuant to this article 3 or article 4 of this title 44.

(b) A person interested directly or indirectly in a vintner's restaurant license may conduct, own either in whole or in part, or be directly or indirectly interested in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c) or in a financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1025, § 2, effective October 1. **L. 2019:** (3) amended, (SB 19-011), ch. 1, p. 13, § 20, effective January 31. **L. 2020:** (1) and (2) amended, (HB 20-1055), ch. 15, p. 67, § 2, effective September 14.

Editor's note: This section is similar to former § 12-47-420 as it existed prior to 2018.

44-3-423. Removal of vinous liquor from licensed premises. (1) Notwithstanding any provision of this article 3 to the contrary, a licensee described in subsection (2) of this section may permit a customer of the licensee to reseal and remove from the licensed premises one opened container of partially consumed vinous liquor purchased on the premises so long as the originally sealed container did not contain more than seven hundred fifty milliliters of vinous liquor.

(2) This section applies to a person:

(a) That is duly licensed as a:

(I) Manufacturer under section 44-3-402;

(II) Limited winery under section 44-3-403;

(III) Beer and wine licensee under section 44-3-411;

(IV) Hotel and restaurant under section 44-3-413;

(V) Tavern under section 44-3-414;

(VI) Brew pub under section 44-3-417;

(VII) Vintner's restaurant under section 44-3-422;

(VIII) Club under section 44-3-418;

(IX) Distillery pub under section 44-3-426; or

(X) Lodging and entertainment facility under section 44-3-428; and

(b) That has meals, as defined in section 44-3-103 (31), or sandwiches and light snacks available for consumption on the licensed premises.

Source: L. 2018: (2)(b) amended, (SB 18-173), ch. 102, p. 780, § 1, effective August 8; entire article added with relocations, (HB 18-1025), ch. 152, p. 1026, § 2, effective October 1.

Editor's note: (1) This section is similar to former § 12-47-421 as it existed prior to 2018.

(2) Subsection (2)(b) of this section was numbered as § 12-47-421 (2)(b) in SB 18-173. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

44-3-424. Art gallery permit - definition. (1) A person operating an art gallery that offers complimentary alcohol beverages for consumption only on the premises may be issued an art gallery permit, which shall be renewed annually. An art gallery permittee shall not, directly or indirectly, sell alcohol beverages by the drink, shall not serve alcohol beverages for more than four hours in any one day, and shall not serve alcohol beverages more than fifteen days per year of licensure.

(2) (a) The state or local licensing authority may reject the application for an art gallery permit if the applicant fails to establish that the applicant is able to offer complimentary alcohol beverages without violating this section or creating a public safety risk to the neighborhood.

(b) Upon initial application, and for each renewal, the applicant shall list each day that alcohol beverages will be served, which days shall not be changed without a minimum of fifteen days' written notice to the state and local licensing authority.

(3) An art gallery shall not be denied an art gallery permit based solely on the art gallery's proximity to any public or private school or the principal campus of a college, university, or seminary.

(4) An art gallery shall not charge an entrance fee or a cover charge in connection with offering complimentary alcohol beverages for consumption only on the premises.

(5) An art gallery permit may be suspended or revoked in accordance with section 44-3-601 if the permittee violates any provision of this article 3 or any rule adopted pursuant to this article 3 or fails to truthfully furnish any required information in connection with a permit application.

(6) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in an art gallery permit to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44; except that a person regulated under this section may have an interest in other art gallery permits; in a license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c); or in a financial institution referred to in section 44-3-308 (4).

(7) As used in this section, "art gallery" means an establishment whose primary purpose is to exhibit and offer for sale works of fine art as defined in section 6-15-101 or precious or semiprecious metals or stones as defined in section 18-16-102.

(8) An art gallery issued a permit shall not intentionally allow more than two hundred fifty people to be on the premises at one time when alcohol beverages are being served.

(9) Nothing in this section shall be construed to abrogate any insurance coverage required by law; to authorize a licensed art gallery to violate section 44-3-901, including, without limitation, serving a visibly intoxicated person and taking an alcohol beverage off the licensed premises; or to violate any zoning or occupancy ordinances or laws.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1027, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-422 as it existed prior to 2018.

44-3-425. Wine packaging permit - limitations - rules. (1) (a) The state licensing authority may issue a wine packaging permit to a winery licensed under section 44-3-402, a limited winery licensed under section 44-3-403, or a wholesaler licensed under section 44-3-407 that allows the licensed winery, limited winery, or wholesaler to package tax-paid wine manufactured by another winery or manufacturer.

(b) A licensed winery, limited winery, or wholesaler that obtains a wine packaging permit under this section shall:

(I) Take possession and custody of the tax-paid wine that it packages; and

(II) Return the packaged tax-paid wine either to the original manufacturer of the tax-paid wine or to the original manufacturer's licensed wholesaler; except that, if the original manufacturer's wholesaler obtains a wine packaging permit pursuant to this section, the wholesaler need not return the packaged tax-paid wine to the original manufacturer.

(2) A licensed winery or limited winery that obtains a wine packaging permit pursuant to this section shall not sell or distribute tax-paid wine it packages:

(a) To a person licensed to sell alcohol beverages at retail, for consumption on or off the licensed premises, under section 44-3-409, 44-3-410, 44-3-411, 44-3-412, 44-3-413, 44-3-414, 44-3-415, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-421, 44-3-422, 44-3-424, 44-3-426, or 44-3-428; or

(b) Directly to a consumer.

(3) The state licensing authority may adopt rules as necessary to implement and administer this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1028, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-423 as it existed prior to 2018.

44-3-426. Distillery pub license - legislative declaration - definition. (1) The general assembly finds and determines that:

(a) Colorado is a state that welcomes and encourages entrepreneurs and new business opportunities;

(b) Currently, manufacturing of spirituous liquors by persons licensed as manufacturers pursuant to section 44-3-402 is a thriving industry, with new distilleries opening throughout the state and increasing the availability of Colorado-produced craft spirits both within and outside the state;

(c) The spirituous liquors manufacturing business focuses primarily on producing a spirituous liquor product that the licensed spirits manufacturer can then sell and distribute, through a wholesaler, throughout the state and in other states to retail outlets;

(d) While licensed spirits manufacturers are permitted to sell their products directly to consumers, the majority of the manufacturing business is selling the bulk of a manufacturer's product to retail outlets that then sell the product to consumers;

(e) On the other hand, the main focus of a distillery pub business authorized by this section is to operate a local pub in which food and alcohol beverages, including a small quantity of spirituous liquors fermented and distilled on site, are sold and served for on-premises consumption;

(f) While a distillery pub is allowed to produce, serve, and distribute its own spirituous liquors, unlike a licensed spirits manufacturer, the production level for a distillery pub is capped, and the ability to distribute to retail outlets is greatly restricted, thereby establishing a new business model that is distinct from, and serves a different clientele than, a licensed spirits manufacturer;

(g) Additionally, unlike a licensed spirits manufacturer, which is only required to obtain a license from the state licensing authority, a distillery pub must obtain both a state and local license after demonstrating that the distillery pub meets the reasonable requirements and the desires of the adult inhabitants of the neighborhood in which it will be situated; and

(h) It is important to encourage the new distillery pub business model, which will add to the thriving craft spirits industry in this state without disrupting the ever-growing spirituous liquors manufacturing industry.

(2) A distillery pub license may be issued to any person operating a distillery pub and also selling food and alcohol beverages for consumption on the premises. At least fifteen percent of the gross on-premises food and alcohol beverage income of the licensed distillery pub must be from the sale of food. For purposes of this subsection (2), "food" means a quantity of foodstuffs of a nature that is ordinarily consumed by an individual at regular intervals for the purpose of sustenance.

(3) During the hours established in section 44-3-901 (6)(b), a licensed distillery pub may, with regard to spirituous liquors fermented and distilled by the distillery pub licensee on the licensed premises:

(a) Furnish its spirituous liquors for consumption on the premises;

(b) Sell its spirituous liquors to independent wholesalers for distribution to licensed retailers;

(c) Sell its spirituous liquors to the public in sealed containers for off-premises consumption, as long as the spirituous liquors are fermented, distilled, and packaged on the licensed premises by the licensee; or

(d) Sell its spirituous liquors at wholesale to licensed retailers in an amount up to two thousand seven hundred liters per spirituous liquor product per calendar year.

(4) (a) Except as provided in subsection (4)(b) of this section, every person selling alcohol beverages pursuant to this section must purchase alcohol beverages, other than those that are fermented and distilled at the licensed distillery pub, from a wholesaler licensed pursuant to this article 3.

(b) (I) During a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(II) The distillery pub licensee shall retain evidence of each purchase of malt, vinous, and spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of

purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to state and local licensing authorities at all times during business hours.

(5) (a) Except as provided in subsection (5)(b) of this section, it is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a distillery pub license to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44.

(b) A person interested directly or indirectly in a distillery pub license may conduct, own either in whole or in part, or be directly or indirectly interested in:

- (I) Other distillery pub licenses;
- (II) A license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c); or
- (III) A financial institution referred to in section 44-3-308 (4).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1028, § 2, effective October 1. **L. 2019:** (4) amended, (SB 19-011), ch. 1, p. 13, § 21, effective January 31.

Editor's note: This section is similar to former § 12-47-424 as it existed prior to 2018.

44-3-427. Liquor-licensed drugstore manager's permit. (1) The state licensing authority may issue a manager's permit to an individual who is employed by a liquor-licensed drugstore licensed under section 44-3-410 and who will be in actual control of the liquor-licensed drugstore's alcohol beverage operations.

(2) An individual seeking a manager's permit shall apply to the state licensing authority in the form and manner required by the state licensing authority. To obtain a manager's permit, the individual must demonstrate that he or she:

- (a) Has not been convicted of a crime involving the sale or distribution of alcohol beverages within the eight years immediately preceding the date on which the application is submitted;
- (b) Has not been convicted of any felony within the five years immediately preceding the date on which the application is submitted; except that in considering the conviction of a felony, the state licensing authority is governed by section 24-5-101;
- (c) Is at least twenty-one years of age; and
- (d) Has not had a manager's permit or any similar permit issued by the state, a local jurisdiction, or another state or foreign jurisdiction revoked by the issuing authority within the three years immediately preceding the date on which the application is submitted.

(3) It is unlawful for an individual who has a manager's permit issued under this section to be interested directly or indirectly in:

- (a) A wholesaler licensed pursuant to section 44-3-407;
- (b) A limited winery licensed pursuant to section 44-3-403;
- (c) An importer licensed pursuant to section 44-3-405;
- (d) A manufacturer licensed pursuant to section 44-3-402 or 44-3-406; or
- (e) Any business licensed under this article 3 that has had its license revoked by the state licensing authority within the eight years immediately preceding the date on which the individual applies for a manager's permit under this section.

(4) In recognition of the state's flourishing local breweries, wineries, and distilleries that locally produce high-quality malt, vinous, and spirituous liquors, managers of liquor-licensed drugstores are encouraged to purchase and promote locally produced alcohol beverage products in their liquor-licensed drugstores.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1030, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-425 as it existed prior to 2018.

44-3-428. Lodging and entertainment license. (1) A lodging and entertainment license may be issued to a lodging and entertainment facility selling alcohol beverages by the drink only to customers for consumption on the premises. A lodging and entertainment facility licensee shall have sandwiches and light snacks available for consumption on the premises during business hours but need not have meals available for consumption.

(2) (a) A lodging and entertainment facility licensed to sell alcohol beverages as provided in this section shall purchase alcohol beverages only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a lodging and entertainment facility licensed to sell alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to sections 44-3-409, 44-3-410, and 44-4-104 (1)(c).

(b) A lodging and entertainment facility licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, 44-3-410, or 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The lodging and entertainment facility licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

(3) (a) Except as provided in subsection (3)(b) of this section, it is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in lodging and entertainment licenses to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44.

(b) An owner, part owner, shareholder, or person interested directly or indirectly in a lodging and entertainment license may have an interest in:

(I) A license described in section 44-3-401 (1)(j) to (1)(t), (1)(v), or (1)(w), 44-3-412 (1), or 44-4-104 (1)(c); or

(II) A financial institution referred to in section 44-3-308 (4).

(4) (a) (Deleted by amendment, L. 2022.)

(b) The manager for each lodging and entertainment license, the lodging and entertainment facility licensee, or an employee or agent of the lodging and entertainment facility licensee shall purchase alcohol beverages for one licensed premises only, and the purchases shall be separate and distinct from purchases for any other lodging and entertainment license.

(c) to (e) (Deleted by amendment, L. 2022.)

(5) At the time a tavern license issued under section 44-3-414 is due for renewal or by one year after August 10, 2016, whichever occurs later, a person licensed as a tavern that does not have as its principal business the sale of alcohol beverages, has a valid license on August 10,

2016, and is a lodging and entertainment facility may apply to, and the applicable local licensing authority shall, convert the tavern license to a lodging and entertainment license under this section, and the person may continue to operate as a lodging and entertainment facility licensee. A person applying to convert an existing tavern license to a lodging and entertainment license under this subsection (5) may apply to convert the license, even if the location of the licensed premises is within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary, so long as the local licensing authority has previously approved the location of the licensed premises in accordance with section 44-3-313 (1)(d).

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1031, § 2, effective October 1. **L. 2019:** (2) amended, (SB 19-011), ch. 1, p. 14, § 22, effective January 31. **L. 2022:** (4) amended, (HB 22-1415), ch. 426, p. 3019, § 4, effective June 7.

Editor's note: This section is similar to former § 12-47-426 as it existed prior to 2018.

44-3-429. Purchasing alcohol from a surrendered license of common ownership - definition. (1) This section applies to a person that has been issued the following license types:

- (a) Beer and wine license under section 44-3-411;
- (b) Hotel and restaurant license under section 44-3-413;
- (c) Tavern license under section 44-3-414;
- (d) Retail gaming tavern license under section 44-3-416;
- (e) Brew pub license under section 44-3-417;
- (f) Club license under section 44-3-418;
- (g) Arts license under section 44-3-419;
- (h) Racetrack license under section 44-3-420;
- (i) Vintner's restaurant license under section 44-3-422;
- (j) Distillery pub license under section 44-3-426; or
- (k) Lodging and entertainment facility license under section 44-3-428.

(2) Notwithstanding sections 44-3-411, 44-3-413, 44-3-414, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-422, 44-3-426, and 44-3-428, a current licensee listed in subsection (1) of this section may purchase the remaining alcohol beverage inventory from a former licensee listed in subsection (1) of this section if:

(a) Within the last sixty days, the seller's license for a licensed premises has been surrendered or revoked or the seller has lost legal possession of the licensed premises; and

(b) There is common ownership between the seller and the purchaser.

(3) In order to sell the remaining alcohol beverage inventory from a licensed premises for which a license is being surrendered or revoked or of which the seller has lost legal possession to another licensee listed in subsection (1) of this section, the seller must:

(a) Have surrendered the license for the premises within the last sixty days, have had the license for the premises revoked within the last sixty days, or have lost legal possession of the licensed premises within the last sixty days;

(b) Return, within thirty days after the license was surrendered or revoked or the seller lost legal possession of the licensed premises, all alcohol beverages that the seller has not paid for to the wholesaler from whom the seller obtained the alcohol beverages on credit, and the wholesaler shall cancel the debt for the returned inventory;

(c) Offer and give wholesalers from whom the seller purchased remaining alcohol beverages a thirty-day option to repurchase any remaining alcohol beverages that the wholesaler sold to the seller before selling any inventory to a purchaser listed in subsection (1) of this section;

(d) Possess proof that all wholesalers the seller has purchased alcohol beverages from for the licensed premises have been paid in full for those purchases; and

(e) Sell the alcohol beverage inventory for only one licensed premises.

(4) The licensee purchasing alcohol beverages under this section shall retain evidence of the purchase in the form of a purchase receipt showing the name of the seller, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt for three years and make it available to the state and local licensing authorities at all times during business hours.

(5) The state licensing authority shall not promulgate rules that regulate or establish the price at which the inventory may be sold under this section.

(6) A wholesaler shall not transport the alcohol beverage inventory from the seller's premises to the purchaser's premises. The seller may transport the alcohol beverage inventory to the purchaser's licensed premises.

(7) Nothing in this section allows a licensee to sell alcohol beverages if:

(a) The seller's license is not being surrendered or revoked or the seller did not lose legal possession of the licensed premises within the last sixty days;

(b) Common ownership does not exist;

(c) The seller is selling the business and transferring the license to a new owner; or

(d) The seller is changing the location of the licensed premises.

(8) For the purposes of this section, "common ownership" means that a person owns at least a ten percent ownership interest in both the seller and the purchaser at the time the license is surrendered or revoked or the seller lost legal possession of the licensed premises.

Source: L. 2018: Entire section added, (SB 18-138), ch. 94, p. 737, § 1, effective August 8.

Editor's note: This section was numbered as § 12-47-427 in SB 18-138. That section was harmonized with HB 18-1025 and relocated to this section.

PART 5

LICENSE FEES AND EXCISE TAXES

44-3-501. State fees - rules - one-time fee waiver - repeal. (1) The applicant shall pay the following license and permit fees to the department annually in advance:

(a) For each resident and nonresident manufacturer's license, the fee shall be:

(I) For each brewery, three hundred dollars;

(II) For each winery, three hundred dollars;

(III) For each distillery or rectifier:

(A) On or after August 10, 2016, and before August 10, 2017, six hundred seventy-five dollars; and

(B) On or after August 10, 2017, three hundred dollars;

- (IV) For each limited winery, seventy dollars;
- (b) For each importer's license, three hundred dollars;
- (c) For each wholesaler's liquor license:
 - (I) On or after August 10, 2016, and before August 10, 2017, eight hundred dollars; and
 - (II) On or after August 10, 2017, five hundred fifty dollars;
- (d) For each wholesaler's beer license, five hundred fifty dollars;
- (e) For each retail liquor store license, one hundred dollars;
- (f) For each liquor-licensed drugstore license, one hundred dollars;
- (g) For each beer and wine license, seventy-five dollars;
- (h) For each hotel and restaurant license, seventy-five dollars;
- (i) For each resort-complex-related facility permit, seventy-five dollars per related facility, as defined in section 44-3-413 (2)(e);
- (j) For each related facility permit, seventy-five dollars per related facility, as defined in section 44-3-413 (3)(f);
- (k) For each tavern license, seventy-five dollars;
- (l) For each optional premises license, seventy-five dollars;
- (m) For each retail gaming tavern license, seventy-five dollars;
- (n) For each brew pub, distillery pub, or vintner's restaurant license, three hundred twenty-five dollars;
- (o) For each club license, seventy-five dollars;
- (p) For each arts license, seventy-five dollars;
- (q) For each racetrack license, seventy-five dollars;
- (r) For each public transportation system license, seventy-five dollars for each dining, club, or parlor car; plane; bus; or other vehicle in which such liquor is sold. No additional license fee shall be required by any municipality, city and county, or county for the sale of such liquor in dining, club, or parlor cars; planes; buses; or other conveyances.
- (s) For each bed and breakfast permit, fifty dollars;
- (t) For each art gallery permit, fifty dollars;
- (u) For each wine packaging permit, two hundred dollars;
- (v) For each lodging and entertainment license, seventy-five dollars;
- (w) For each manager's permit, one hundred dollars.
- (2) Notwithstanding the amount specified for any fee in subsection (1) of this section, the executive director by rule, or as otherwise provided by law, may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3) to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the executive director, by rule or as otherwise provided by law, may increase the amount of one or more of the fees as provided in section 24-75-402 (4).
- (3) (a) The state licensing authority shall establish fees for processing the following types of applications, notices, or reports required to be submitted to the state licensing authority:
 - (I) Applications for new liquor licenses pursuant to section 44-3-304 and rules adopted pursuant to that section;
 - (II) Applications to change location pursuant to section 44-3-301 (9) and rules adopted pursuant to that section;
 - (III) Applications for transfer of ownership pursuant to section 44-3-303 (1)(c) and rules adopted pursuant to that section;

(IV) Applications for modification of licensed premises pursuant to section 44-3-301 and rules adopted pursuant to that section;

(V) Applications for alternating use of premises pursuant to section 44-3-402 (3), 44-3-403 (2)(a), or 44-3-417 (1)(b) and rules adopted pursuant to those sections;

(VI) Applications for branch warehouse permits pursuant to section 44-3-407 and rules adopted pursuant to that section;

(VII) Applications for approval of a contract to sell alcohol beverages pursuant to section 44-3-413 (4)(c);

(VIII) Applications for warehouse storage permits pursuant to section 44-3-202 and rules adopted pursuant to that section;

(IX) Applications for duplicate licenses;

(X) Applications for wine shipment permits pursuant to section 44-3-104;

(XI) Sole source registrations or new product registrations pursuant to section 44-3-901 (4)(b);

(XII) Hotel and restaurant optional premises registrations;

(XIII) Expired license renewal and reissuance applications pursuant to section 44-3-302;

(XIV) Notice of change of name or trade name pursuant to section 44-3-301 and rules adopted pursuant to that section;

(XV) Applications for wine packing permits pursuant to section 44-3-425;

(XVI) Applications for transfer of ownership, change of location, and license merger and conversion pursuant to section 44-3-410 (1)(b);

(XVII) Applications for manager's permits pursuant to section 44-3-427;

(XVIII) Applications for the renewal of a license or permit issued in accordance with this article 3; and

(XIX) Applications for a permit for or attachment to a communal outdoor dining area or for modification of a licensed premises to include a communal outdoor dining area.

(b) The amounts of such fees, when added to the other fees transferred to the liquor enforcement division and state licensing authority cash fund pursuant to sections 44-4-105, 44-3-502 (1), and 44-5-104 shall reflect the direct and indirect costs of the liquor enforcement division and the state licensing authority in the administration and enforcement of this article 3 and articles 4 and 5 of this title 44.

(c) The state licensing authority may charge corporate applicants and limited liability companies licensed under this article 3 and article 4 of this title 44 a fee for the cost of each fingerprint analysis and background investigation undertaken to qualify new officers, directors, stockholders, members, or managers pursuant to the requirements of section 44-3-307 (1); however, the state licensing authority shall not collect such a fee if the applicant has already undergone a background investigation by and paid a fee to a local licensing authority.

(d) At least annually, the amounts of the fees shall be reviewed and, if necessary, adjusted to reflect the direct and indirect costs of the liquor enforcement division and the state licensing authority.

(4) Except as provided in subsection (5) of this section, the state licensing authority shall establish a basic fee which shall be paid at the time of service of any subpoena upon the state licensing authority or upon any employee of the division, plus a fee for meals and a fee for mileage at the rate prescribed for state officers and employees in section 24-9-104 for each mile actually and necessarily traveled in going to and returning from the place named in the subpoena. If the person named in the subpoena is required to attend the place named in the subpoena for

more than one day, there shall be paid, in advance, a sum to be established by the state licensing authority for each day of attendance to cover the expenses of the person named in the subpoena.

(5) The subpoena fee established pursuant to subsection (4) of this section shall not be applicable to any state or local governmental agency.

(6) (a) Notwithstanding any provision of this section to the contrary, the following fees imposed pursuant to this section are waived for twelve months following December 7, 2020:

(I) License fees imposed pursuant to subsections (1)(a)(IV), (1)(g), (1)(h), (1)(i), (1)(j), (1)(k), (1)(l), (1)(m), (1)(n), (1)(o), (1)(p), (1)(q), and (1)(v) of this section and pursuant to section 44-4-105;

(II) Application fees imposed pursuant to subsections (3)(a)(I), (3)(a)(XII), and (3)(a)(XIII) of this section and pursuant to regulation 47-302 (F), 1 CCR 203-2; and

(III) All fees associated with the renewal of a license.

(b) The waiver of fees specified in subsection (6)(a) of this section applies to the following license types:

(I) A limited winery license under section 44-3-403;

(II) A beer and wine license under section 44-3-411;

(III) A hotel and restaurant license under section 44-3-413;

(IV) A tavern license under section 44-3-414;

(V) An optional premises license under section 44-3-415;

(VI) A retail gaming tavern license under section 44-3-416;

(VII) A brew pub license under section 44-3-417;

(VIII) A club license under section 44-3-418;

(IX) An arts license under section 44-3-419;

(X) A racetrack license under section 44-3-420;

(XI) A vintner's restaurant license under section 44-3-422;

(XII) A distillery pub license under section 44-3-426;

(XIII) A lodging and entertainment license under section 44-3-428;

(XIV) A fermented malt beverage license under section 44-4-107 (1)(b); and

(XV) A fermented malt beverage license under section 44-4-107 (1)(c).

(c) The general assembly shall appropriate an amount not to exceed one million eight hundred seventy-eight thousand dollars from the general fund to the liquor enforcement division and state licensing authority cash fund for use by the department to offset the reduction in fee revenues used by the department for the direct and indirect costs of the liquor enforcement division and the state licensing authority in the administration and enforcement of articles 3 to 5 of this title 44.

(d) This subsection (6) is repealed, effective December 31, 2022.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1033, § 2, effective October 1. **L. 2019:** (3)(a)(V) amended, (SB 19-011), ch. 1, p. 14, § 23, effective January 31; IP(1) and (2) amended, (SB 19-241), ch. 390, p. 3479, § 63, effective August 2. **L. 2020:** (3)(a)(XVII) amended and (3)(a)(XVIII) added, (SB 20-086), ch. 67, p. 270, § 2, effective September 14. **L. 2020 1st Ex. Sess.:** (6) added, (SB 20B-001), ch. 2, p. 16, § 7, effective December 7. **L. 2021:** (3)(a)(XVII) and (3)(a)(XVIII) amended and (3)(a)(XIX) added, (HB 21-1027), ch. 290, p. 1716, § 4, effective June 22.

Editor's note: This section is similar to former § 12-47-501 as it existed prior to 2018.

Cross references: For the legislative declaration in SB 20B-001, see section 1 of chapter 2, Session Laws of Colorado 2020, First Extraordinary Session.

44-3-502. Fees and taxes - allocation. (1) (a) All state license fees and taxes provided for by this article 3 and all fees provided for by section 44-3-501 (3) and (4) for processing applications, reports, and notices shall be paid to the department, which shall transmit the fees and taxes to the state treasurer. The state treasurer shall credit eighty-five percent of the fees and taxes to the old age pension fund and the balance to the general fund.

(b) An amount equal to the revenues attributable to fifty dollars of each state license fee provided for by this article 3 and the processing fees provided for by section 44-3-501 (3) and (4) for processing applications, reports, and notices shall be transferred out of the general fund to the liquor enforcement division and state licensing authority cash fund. The transfer shall be made by the state treasurer as soon as possible after the twentieth day of the month following the payment of such fees.

(c) The expenditures of the state licensing authority and the liquor enforcement division shall be paid out of appropriations from the liquor enforcement division and state licensing authority cash fund as provided in section 44-6-101.

(2) Eighty-five percent of the local license fees shall be paid to the department, which shall transmit the fees to the state treasurer to be credited to the old age pension fund.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1037, § 2, effective October 1; (1)(c) amended, (HB 18-1026), ch. 24, p. 281, § 5, effective October 1.

Editor's note: (1) This section is similar to former § 12-47-502 as it existed prior to 2018.

(2) Subsection (1)(c) of this section was numbered as § 12-47-502 (1)(c) in HB 18-1026. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

44-3-503. Excise tax - records - rules - definition. (1) (a) An excise tax at the rate of 8.0 cents per gallon, or the same per unit volume tax applied to metric measure, on all malt liquors and hard cider, 7.33 cents per liter on all vinous liquors except hard cider, and 60.26 cents per liter on all spirituous liquors is imposed, and the taxes shall be collected on all such respective beverages, not otherwise exempt from the tax, sold, offered for sale, or used in this state; except that, upon the same beverages, only one such tax shall be paid in this state. The manufacturer thereof, the holder of a winery direct shipper's permit, or the first licensee receiving alcohol beverages in this state if shipped from without the state, shall be primarily liable for the payment of any tax or tax surcharge imposed pursuant to this section; but, if the beverage is transported by a manufacturer or wholesaler to a point outside of the state and disposed of there, then the manufacturer or wholesaler, upon the filing with the state licensing authority of a duplicate bill of lading, invoice, or affidavit showing such transaction, shall not be subject to the tax provided in this section on such beverages, and, if such tax has already been paid, it shall be refunded to said manufacturer or wholesaler. For purposes of this section, "manufacturer" includes brew pub, distillery pub, and vintner's restaurant licensees.

(b) The department shall promulgate rules concerning the excise tax applied to powdered alcohol at 60.26 cents per liter for the amount of liters of water suggested to be added by the manufacturer's packaging.

(c) (I) Effective July 1, 2000, a wine development fee at the rate of 1.0 cent per liter is imposed on all vinous liquors except hard cider sold, offered for sale, or used in this state. An amount equal to one hundred percent of the wine development fee collected pursuant to this subsection (1)(c)(I) shall be transferred from the general fund to the Colorado wine industry development fund created in section 35-29.5-105. Such transfers shall be made by the state treasurer as soon as possible after the twentieth day of the month following the collection of such wine development fee.

(II) In addition to the excise tax imposed pursuant to subsection (1)(a) of this section, an additional excise tax surcharge at the rate of 5.0 cents per liter for the first nine thousand liters, 3.0 cents per liter for the next thirty-six thousand liters, and 1.0 cent per liter for all additional amounts, is imposed on all vinous liquors except hard cider produced by Colorado licensed wineries and sold, offered for sale, or used in this state. An amount equal to one hundred percent of the excise tax surcharge collected pursuant to this subsection (1)(c)(II) shall be transferred from the general fund to the Colorado wine industry development fund created in section 35-29.5-105. Such transfers shall be made by the state treasurer as soon as possible after the twentieth day of the month following the collection of such excise tax surcharge.

(d) (I) An excise tax of ten dollars per ton of grapes is imposed upon all grapes of the vinifera varieties or other produce used in the production of wine in this state by a licensed Colorado winery or vintner's restaurant, whether true or hybrid. The excise tax imposed pursuant to this subsection (1)(d) shall be paid to the department by the licensed winery or vintner's restaurant at the time of purchase of the product by the winery or vintner's restaurant or of importation of the product, whichever is later. An amount equal to one hundred percent of such excise tax shall be transferred from the general fund to the Colorado wine industry development fund created in section 35-29.5-105. Such transfers shall be made by the state treasurer as soon as possible after the twentieth day of the month following the collection of such excise tax.

(II) The excise tax imposed in accordance with this subsection (1)(d) does not apply to produce used in the production of hard cider.

(e) The policy of this state is that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcohol beverages, but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society. The general assembly finds that the cost of implementing a statewide treatment plan is greater than originally estimated. By increasing the excise tax on alcohol beverages in Colorado, it is the intent of this general assembly that the increased revenues derived from this subsection (1) be viewed as one of the sources of funding for the future development of alcoholism treatment programs under the statute enacted in 1973 and for the payment of other related direct and indirect costs caused by the consumption of alcohol beverages.

(2) The state licensing authority shall make and publish such rules to secure and enforce the collection and payment of the tax as it may deem proper if the rules are not inconsistent with the provisions of this article 3.

(3) Except as provided in subsection (1)(d) of this section, the excise taxes and excise tax surcharges provided for in this section shall be paid to the department upon the filing of the return provided for in subsection (4) of this section and shall be delivered to the department on or

before the twentieth day of the month following the month in which such alcohol beverages are first sold in this state. As used in this subsection (3), "first sold" means the sale or disposal that occurs when a licensed wholesaler sells, transfers, or otherwise disposes of a product, when a manufacturer sells to a licensed wholesaler or a consumer, or when a holder of a winery direct shipper's permit ships to a personal consumer in this state.

(4) Each licensed manufacturer and wholesaler of alcohol beverages within this state shall file, on or before the twentieth day of each month, an exact, verified return with the state licensing authority showing for the preceding calendar month the quantities of alcohol beverages:

- (a) Constituting the licensee's beginning and ending inventory for the month;
- (b) Manufactured by the licensee in this state;
- (c) Shipped to the licensee from within this state and received by the licensee in this state;
- (d) Shipped to the licensee from outside this state and received by the licensee in this state;
- (e) Sold or disposed of by the licensee to persons or purchasers in this state;
- (f) Sold or disposed of by the licensee to persons or purchasers outside this state, separately indicating those sales or transactions of alcohol beverages to which the excise tax is not applicable; and
- (g) For persons licensed pursuant to section 44-3-402 (3), 44-3-403 (2)(a), or 44-3-417 (1)(b), a separate report of vinous or malt liquors, as applicable, that were manufactured or inventoried in, or transferred from, an alternating proprietor licensed premises.

(5) Each holder of a winery direct shipper's permit under section 44-3-104 shall file, on or before the twentieth day of each calendar month, an exact, verified return with the state licensing authority showing for the preceding calendar month the quantities of vinous liquor shipped to personal consumers in this state.

(6) The return, on forms prescribed by the state licensing authority, shall also show the amount of excise tax payable, after allowances for all proper deductions, for alcohol beverages sold by the manufacturer, wholesaler, or holder of a winery direct shipper's permit in this state and shall include any additional information as the state licensing authority may require for the proper administration of this article 3. The payment of the excise tax provided for in this section, in the amount disclosed by the return, shall accompany the return and shall be paid to the department. Each manufacturer, wholesaler, or holder of a winery direct shipper's permit required to file a return shall keep complete and accurate books and records, accounts, and other documents as may be necessary to substantiate the accuracy of his or her return and the amount of excise tax due and shall retain such records for a period of three years.

(7) The state licensing authority, after public hearing of which the licensee shall have due notice as provided in this article 3, shall suspend or revoke any license or winery direct shipper's permit issued pursuant to this article 3 for a failure to pay any excise tax required by this article 3 and may suspend or revoke the license or permit for a violation of or failure to comply with the rules promulgated by the authority.

(8) If the excise tax is not paid when due, there shall be added to the amount of the tax as a penalty a sum equivalent to ten percent thereof and, in addition thereto, interest on the tax and a penalty at the rate of one percent a month or fraction of a month from the date the tax became due until paid. Nothing in this section shall be construed to relieve any person otherwise liable from liability for payment of the excise tax.

(9) The department shall make a refund or allow a credit to the manufacturer, the wholesaler, or the holder of a winery direct shipper's permit, as the case may be, of the amount of the excise tax paid on alcohol beverages sold in this state when, after payment of the excise tax, the alcohol beverages are rendered unsalable by reason of destruction or damage upon submission of evidence satisfactory to the state licensing authority that the excise tax has actually been paid. Such refund or credit shall be made by the department within sixty days after the submission of evidence satisfactory to the department.

(10) (a) In order to economize and to simplify administrative procedures, the state licensing authority may authorize a procedure whereby a manufacturer or wholesaler of alcohol beverages or holder of a winery direct shipper's permit entitled by law to a refund of the tax provided in this section may instead receive a credit against the tax due on other sales by claiming said credit on the next month's return and attaching a duplicate bill of lading, invoice, or affidavit showing such transaction.

(b) To the extent and so long as federal law precludes this state from collecting its excise tax on vinous and spirituous liquors sold and delivered on ceded federal property, any manufacturer or wholesaler of such liquors making any such sales and deliveries on such federal property within the boundaries of this state may receive a refund of or a credit for the excise tax paid to this state on such liquors.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1037, § 2, effective October 1. **L. 2019:** (1)(a) and (4)(g) amended, (SB 19-011), ch. 1, p. 14, § 24, effective January 31; (1)(d) amended, (SB 19-142), ch. 421, p. 3686, § 2, effective September 1.

Editor's note: This section is similar to former § 12-47-503 as it existed prior to 2018.

44-3-504. Lien to secure payment of taxes - exemptions - recovery. (1) (a) The state of Colorado and the department shall have a lien, to secure the payment of the taxes, penalties, and interest imposed pursuant to section 44-3-503 upon all the assets and property of the wholesaler or manufacturer owing the tax, including the stock in trade, business fixtures, and equipment owned or used by the wholesaler or manufacturer in the conduct of business, as long as a delinquency in the payment of the tax continues. The lien shall be prior to any lien of any kind whatsoever, including existing liens for taxes.

(b) Any wholesaler and manufacturer or person in possession shall provide a copy of any lease pertaining to the assets and property described in subsection (1)(a) of this section to the department within ten days after seizure by the department of the assets and property. The department shall verify that the lease is bona fide and notify the owner that the lease has been received by the department. The department shall use its best efforts to notify the owner of the real or personal property that might be subject to the lien created in subsection (1)(a) of this section. The real or personal property of an owner who has made a bona fide lease to a wholesaler or manufacturer shall be exempt from the lien created in subsection (1)(a) of this section if the property can reasonably be identified from the lease description or if the lessee is given an option to purchase in the lease and has not exercised the option to become the owner of the property leased. This exemption shall be effective from the date of the execution of the lease. The exemption shall also apply if the lease is recorded with the county clerk and recorder of the county where the property is located or based or a memorandum of the lease is filed with the department on such forms as may be prescribed by the department after the execution of the

lease at a cost for the filing of two dollars and fifty cents per document. Motor vehicles that are properly registered in this state, showing the lessor as owner thereof, shall be exempt from the lien created in subsection (1)(a) of this section; except that said lien shall apply to the extent that the lessee has an earned reserve, allowance for depreciation not to exceed fair market value, or similar interest that is or may be credited to the lessee. Where the lessor and lessee are blood relatives or relatives by law or have twenty-five percent or more common ownership, a lease between the lessee and the lessor shall not be considered as bona fide for the purposes of this section.

(2) (a) Any wholesaler or manufacturer who files a return pursuant to section 44-3-503 but who fails to accompany it with payment of the excise tax disclosed on the return shall be sent a notice by the executive director. The notice shall state that the excise tax is due and unpaid and shall state the amount of the tax, penalty, and interest owed pursuant to section 44-3-503. The notice shall be sent by first-class mail and shall be directed to the last address of the wholesaler or manufacturer on file with the department.

(b) (I) If a wholesaler or manufacturer fails to file both the return and the payment required by section 44-3-503, the executive director shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the wholesaler or manufacturer is delinquent and shall add any penalty and interest authorized in section 44-3-503. The executive director shall give the delinquent taxpayer written notice of the estimated tax, penalty, and interest, which notice shall be sent by first-class mail and shall be directed to the last address of the person on file with the department.

(II) The remedies available to a taxpayer pursuant to article 21 of title 39 shall be available to any wholesaler or manufacturer who seeks to contest the estimated tax, penalty, or interest specified in the notice mailed pursuant to subsection (2)(b)(I) of this section.

(3) If any taxes, penalties, or interest imposed pursuant to section 44-3-503 are not paid within ten days after the notice is mailed pursuant to subsection (2) of this section, the executive director may seek to enforce collection of the unpaid amounts in accordance with the provisions of article 21 of title 39, to the extent that those provisions are not in conflict with or inconsistent with the provisions of this article 3.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1040, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-504 as it existed prior to 2018.

44-3-505. Local license fees. (1) The applicant shall pay the following license fees to the treasurer of the municipality, city and county, or county where the licensed premises is located annually in advance:

(a) (I) For each retail liquor store license for premises located within any municipality or city and county, one hundred fifty dollars;

(II) For each retail liquor store license for premises located outside the municipal limits of any municipality or city and county, two hundred fifty dollars;

(b) (I) For each liquor-licensed drugstore license for premises located within any municipality or city and county, one hundred fifty dollars;

(II) For each liquor-licensed drugstore license for premises located outside the municipal limits of any municipality or city and county, two hundred fifty dollars;

(c) (I) For each beer and wine license for premises located within any municipality or city and county, except as provided in subsection (1)(c)(III) of this section, three hundred twenty-five dollars;

(II) For each beer and wine license for premises located outside the municipal limits of any municipality or city and county, except as provided in subsection (1)(c)(III) of this section, four hundred twenty-five dollars;

(III) For each beer and wine license issued to a resort hotel, three hundred seventy-five dollars;

(d) For each hotel and restaurant license, five hundred dollars;

(e) For each tavern license, five hundred dollars;

(f) For each optional premises license, five hundred dollars;

(g) For each retail gaming tavern license, five hundred dollars;

(h) For each application for approval of a contract to sell alcohol beverages pursuant to section 44-3-413 (4)(c), three hundred twenty-five dollars;

(i) For each brew pub, distillery pub, or vintner's restaurant license, five hundred dollars;

(j) For each club license, two hundred seventy-five dollars;

(k) For each arts license, two hundred seventy-five dollars;

(l) For each racetrack license, five hundred dollars;

(m) For each bed and breakfast permit, twenty-five dollars;

(n) For each resort-complex-related facility permit, one hundred dollars per related facility, as defined in section 44-3-413 (2)(e);

(o) For each art gallery permit, twenty-five dollars;

(p) For each lodging and entertainment license, five hundred dollars;

(q) For each related facility permit, one hundred dollars per related facility, as defined in section 44-3-413 (3)(f).

(2) No rebate shall be paid by any municipality, city and county, or county of any alcohol beverage license fee paid for any such license issued by it except upon affirmative action by the respective local licensing authority rebating a proportionate amount of such license fee.

(3) Eighty-five percent of the local license fees provided for in this article 3 and article 4 of this title 44 must be paid to the department, which shall transmit said fees to the state treasurer to be credited to the old age pension fund.

(4) (a) Each application for a license provided for in this article 3 and article 4 of this title 44 filed with a local licensing authority must be accompanied by an application fee in an amount determined by the local licensing authority to cover actual and necessary expenses, subject to the following limitations:

(I) For a new license, not to exceed the following:

(A) On or before July 1, 2008, six hundred twenty-five dollars;

(B) After July 1, 2008, and before July 2, 2009, seven hundred fifty dollars;

(C) After July 1, 2009, and before July 2, 2010, eight hundred seventy-five dollars;

(D) After July 2, 2010, one thousand dollars;

(II) For a transfer of location or ownership, not to exceed the following for each:

(A) On or before July 1, 2008, six hundred twenty-five dollars;

(B) After July 1, 2008, seven hundred fifty dollars;

(III) For a renewal of license, not to exceed the following; except that an expired license renewal fee shall not exceed five hundred dollars:

(A) On or before July 1, 2008, seventy-five dollars;

(B) After July 1, 2008, one hundred dollars;

(IV) For a new license or renewal application for an art gallery permit, not to exceed one hundred dollars;

(V) For a transfer of ownership, change of location, and license merger and conversion pursuant to section 44-3-410 (1)(b), not to exceed one thousand dollars.

(b) No fees or charges of any kind, except as provided in this article 3 or article 4 of this title 44, may be charged by the local licensing authority to the license holder or applicant for the purposes of granting or renewing a license or transferring ownership or location of a license.

(5) The local licensing authority may charge corporate applicants and limited liability companies up to one hundred dollars for the cost of each fingerprint analysis and background investigation undertaken to qualify new officers, directors, stockholders, members, or managers pursuant to the requirements of section 44-3-307 (1); however, no local licensing authority shall collect such a fee if the applicant has already undergone a background investigation by and paid a fee to the state licensing authority.

(6) The local licensing authority may charge a fee to approve the attachment to a communal outdoor dining area or for modification of a licensed premises to include a communal outdoor dining area. The local licensing authority shall set the fee in an amount to cover the direct and indirect costs of administering the approval.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1042, § 2, effective October 1. **L. 2021:** (6) added, (HB 21-1027), ch. 290, p. 1716, § 5, effective June 22.

Editor's note: This section is similar to former § 12-47-505 as it existed prior to 2018.

PART 6

DISCIPLINARY ACTIONS

44-3-601. Suspension - revocation - fines - rules. (1) (a) Subject to subsection (8) of this section, in addition to any other penalties prescribed by this article 3 or article 4 or 5 of this title 44, the state or any local licensing authority has the power, on its own motion or on complaint, after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard, to fine a licensee or to suspend or revoke, in whole or in part, any license or permit issued by such authority for any violation by the licensee or by any of the agents, servants, or employees of the licensee of this article 3; any rules authorized by this article 3; or any of the terms, conditions, or provisions of the license or permit issued by such authority. A licensing authority may impose a fine pursuant to this subsection (1) regardless of whether a licensee has petitioned the licensing authority pursuant to subsection (3)(a) of this section for permission to pay a fine in lieu of license or permit suspension, and the licensing authority need not make the findings specified in subsections (3)(a)(I) and (3)(a)(II) of this section.

(b) Any licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing that the licensing authority is authorized to conduct.

(c) For the purposes of imposing a fine, the state licensing authority shall adopt rules establishing categories of violations by level of severity and associated ranges of penalties for

state and local licensing authorities, including aggravating and mitigating factors to be considered in determining penalties. A fine imposed pursuant to this subsection (1) must be between five hundred and one hundred thousand dollars; except that penalties for a first violation that is in the least severe level of license violations established pursuant to this subsection (1)(c) must not exceed five thousand dollars.

(2) Notice of suspension or revocation, as well as any required notice of such hearing, shall be given by mailing the same in writing to the licensee at the address contained in the license or permit. No such suspension shall be for a longer period than six months. If any license or permit is suspended or revoked, no part of the fees paid therefor shall be returned to the licensee. Any license or permit may be summarily suspended by the issuing licensing authority without notice pending any prosecution, investigation, or public hearing. Nothing in this section shall prevent the summary suspension of a license or permit for a temporary period of not more than fifteen days.

(3) (a) Whenever a decision of the state or any local licensing authority suspending a license or permit becomes final, whether by failure of the licensee to appeal the decision or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of the license or permit suspension for all or part of the suspension period. Upon the receipt of the petition, the state or the local licensing authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made that it deems desirable and may, in its sole discretion, grant the petition if it is satisfied that:

(I) The public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and

(II) The books and records of the licensee are kept in such a manner that the loss of sales of alcohol beverages that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy.

(b) Subject to subsection (8) of this section, the fine accepted by the licensee pursuant to subsection (3)(a) of this section shall be equivalent to twenty percent of the licensee's estimated gross revenues from sales of alcohol beverages during the period of the proposed suspension; except that the fine must be between five hundred and one hundred thousand dollars.

(c) Repealed.

(3.5) The method of payment of any fine pursuant to subsection (1) or (3) of this section:

(a) To a local licensing authority shall be in the form of cash or in the form of a certified check or cashier's check made payable to the local licensing authority;

(b) To the state licensing authority shall be in the form determined by the state licensing authority by rule.

(4) Upon payment of the fine pursuant to subsection (3) of this section, the state or the local licensing authority shall enter its further order permanently staying the imposition of the suspension. If the fine is paid to a local licensing authority, the governing body of the authority shall cause such money to be paid into the general fund of the local licensing authority. Fines paid to the state licensing authority pursuant to subsection (3) of this section shall be transmitted to the state treasurer who shall credit the same to the general fund.

(5) In connection with any petition pursuant to subsection (3) of this section, the authority of the state or local licensing authority is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings,

to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(6) If the state or the local licensing authority does not make the findings required in subsection (3)(a) of this section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the state or the local licensing authority.

(7) The provisions of subsections (3) to (6) of this section shall be effective and may be implemented by the state licensing authority upon its decision to accept and adopt the optional procedures set forth in said subsections. The provisions of subsections (3) to (6) of this section shall be effective and may be implemented by a local licensing authority only after the governing body of the municipality, the governing body of the city and county, or the board of county commissioners of the county chooses to do so and acts, by appropriate resolution or ordinance, to accept and adopt the optional procedures set forth in said subsections. Any such actions may be revoked in a similar manner.

(8) (a) The following applies only if the licensing authority has decided to impose a suspension for a violation of section 44-3-901 (1)(a), (1)(b), or (6)(a)(I) that occurs in a sales room for a licensee operating pursuant to section 44-3-402 (2) or (7), 44-3-403 (2)(c), or 44-3-407 (1)(b):

(I) If the licensing authority decides to accept a fine in lieu of a license suspension, the licensing authority shall only include in the computation of the fine the estimated gross revenues of the retail sales of the sales room where the violation occurred, and not any manufacturing or wholesale activities of the licensee; except that the fine must be between two hundred and five thousand dollars; and

(II) If the licensing authority declines to accept a fine, it shall limit any suspension to the designated premises for the sales room where the violation occurred, and not any manufacturing or wholesale activities of the licensee. In the case of a temporary sales room for not more than three consecutive days, the licensing authority shall apply a suspension issued in accordance with this section only to future temporary sales rooms and not any manufacturing or wholesale activities of the licensee.

(b) The following applies only if the licensing authority has decided to impose a suspension for a violation of section 44-3-901 (1)(a), (1)(b), or (6)(a)(I) that occurs in a retail establishment for licensees operating pursuant to section 44-3-417, 44-3-422, or 44-3-426:

(I) If the licensing authority decides to accept a fine in lieu of a license suspension, the licensing authority shall only include in the computation of the fine the estimated gross revenues of the retail activities of the licensee, and not any manufacturing or wholesale activities of the licensee; except that the fine must be between two hundred and five thousand dollars; and

(II) If the licensing authority declines to accept a fine, it shall limit any suspension to the retail activities of the licensee, and not any manufacturing or wholesale activities of the licensee.

(c) When imposing a suspension or fine against a retail establishment licensed under section 44-4-107 (1) or this article 3 for a violation of section 44-3-901 (6)(a)(I), the licensing authority shall not take into consideration any violation of section 44-3-901 (6)(a)(I) by the licensee that occurred more than five years before the date on which the violation for which the suspension or fine is being imposed occurred.

(9) When penalizing a vendor who has violated provisions of this article 3 and article 4 of this title 44 that prohibit the service of an alcohol beverage to a minor or a visibly intoxicated person, state and local licensing authorities shall consider it a mitigating factor if the vendor is a

responsible alcohol beverage vendor as defined by part 10 of this article 3. In addition, the state licensing authority by rule may include other violations of this article 3 and article 4 of this title 44 that licensing authorities shall consider for mitigation if the vendor qualifies as a responsible alcohol beverage vendor.

Source: L. 2018: (8)(c) added, (SB 18-243), ch. 366, p. 2205, § 10, effective June 4; entire article added with relocations, (HB 18-1025), ch. 152, p. 1044, § 2, effective October 1. **L. 2020:** (1) and (3)(b) amended, (3)(c) repealed, and (3.5) added, (SB 20-110), ch. 290, p. 1434, § 1, effective July 13.

Editor's note: (1) This section is similar to former § 12-47-601 as it existed prior to 2018.

(2) Subsection (8)(c) of this section was numbered as § 12-47-601 (7.5)(c) in SB 18-243. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

PART 7

INSPECTION OF BOOKS AND RECORDS

44-3-701. Inspection procedures. Each licensee shall keep a complete set of books of account, invoices, copies of orders, shipping instructions, bills of lading, weigh bills, correspondence, and all other records necessary to show fully the business transactions of such licensee, all of which shall be open at all times during business hours for the inspection and examination of the state licensing authority or its duly authorized representatives. The state licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this article 3, and may require an audit to be made of the books of account and records on any occasions as it may consider necessary by an auditor to be selected by the state licensing authority, who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1047, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-701 as it existed prior to 2018.

PART 8

JUDICIAL REVIEW AND CIVIL LIABILITY

44-3-801. Civil liability - legislative declaration - definitions. (1) The general assembly hereby finds, determines, and declares that this section shall be interpreted so that any common law cause of action against a vendor of alcohol beverages is abolished and that in certain cases the consumption of alcohol beverages rather than the sale, service, or provision

thereof is the proximate cause of injuries or damages inflicted upon another by an intoxicated person, except as otherwise provided in this section.

(2) As used in this section, "licensee" means a person licensed under the provisions of this article 3 or article 4 or 5 of this title 44 and the agents or servants of the person.

(3) (a) No licensee is civilly liable to any injured individual or his or her estate for any injury to the individual or damage to any property suffered because of the intoxication of any person due to the sale or service of any alcohol beverage to the person, except when:

(I) It is proven that the licensee willfully and knowingly sold or served any alcohol beverage to the person who was under the age of twenty-one years or who was visibly intoxicated; and

(II) The civil action is commenced within one year after the sale or service.

(b) No civil action may be brought pursuant to this subsection (3) by the person to whom the alcohol beverage was sold or served or by his or her estate, legal guardian, or dependent.

(c) In any civil action brought pursuant to this subsection (3), the total liability in any such action shall not exceed one hundred fifty thousand dollars.

(4) (a) No social host who furnishes any alcohol beverage is civilly liable to any injured individual or his or her estate for any injury to the individual or damage to any property suffered, including any action for wrongful death, because of the intoxication of any person due to the consumption of such alcohol beverages, except when:

(I) It is proven that the social host knowingly served any alcohol beverage to the person who was under the age of twenty-one years or knowingly provided the person under the age of twenty-one a place to consume an alcoholic beverage; and

(II) The civil action is commenced within one year after the service.

(b) No civil action may be brought pursuant to this subsection (4) by the person to whom the alcohol beverage was served or by his or her estate, legal guardian, or dependent.

(c) The total liability in any such action shall not exceed one hundred fifty thousand dollars.

(5) An instructor or entity that complies with section 18-13-122 (5)(c) shall not be liable for civil damages resulting from the intoxication of a minor due to the minor's unauthorized consumption of alcohol beverages during instruction in culinary arts, food service, or restaurant management pursuant to section 18-13-122 (5)(c).

(6) (a) The limitations on damages set forth in subsections (3)(c) and (4)(c) of this section must be adjusted for inflation as of January 1, 1998, January 1, 2008, January 1, 2020, and each January 1 every two years thereafter. The adjustments made on January 1, 1998, January 1, 2008, January 1, 2020, and each January 1 every two years thereafter must be based on the cumulative annual adjustment for inflation for each year since the effective date of the damages limitations in subsections (3)(c) and (4)(c) of this section. The adjustments made pursuant to this subsection (6)(a) must be rounded upward or downward to the nearest ten-dollar increment.

(b) As used in this subsection (6), "inflation" means the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index.

(c) The secretary of state shall certify the adjusted limitation on damages within fourteen days after the appropriate information is available, and:

(I) The adjusted limitation on damages as of January 1, 1998, is applicable to all claims for relief that accrue on or after January 1, 1998, and before January 1, 2008;

(II) The adjusted limitation on damages as of January 1, 2008, is applicable to all claims for relief that accrue on and after January 1, 2008, and before January 1, 2020; and

(III) The adjusted limitation on damages as of January 1, 2020, and each January 1 every two years thereafter is applicable to all claims for relief that accrue on and after the specified January 1 and before the January 1 two years thereafter.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1047, § 2, effective October 1. **L. 2019:** (6)(a) and (6)(c) amended, (SB 19-109), ch. 83, p. 295, § 1, effective August 2.

Editor's note: This section is similar to former § 12-47-801 as it existed prior to 2018.

44-3-802. Judicial review. Any person applying to the courts for a review of the state or any local licensing authority's decision shall apply for review within thirty days after the date of decision of refusal by a local licensing authority or, in the case of approval by a local licensing authority, within thirty days after the date of decision by the state licensing authority and shall be required to pay the cost of preparing a transcript of proceedings before the licensing authority when a transcript is demanded by the person taking the appeal or when a transcript is furnished by the licensing authority pursuant to court order.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1049, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-802 as it existed prior to 2018.

PART 9

UNLAWFUL ACTS - ENFORCEMENT

44-3-901. Unlawful acts - exceptions - definitions. (1) Except as provided in section 18-13-122, it is unlawful for any person:

(a) To sell, serve, give away, dispose of, exchange, or deliver, or permit the sale, serving, giving, or procuring of, any alcohol beverage to a visibly intoxicated person or to a known habitual drunkard;

(b) (I) To sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any alcohol beverage to or for any person under the age of twenty-one years.

(II) If a person is convicted of an offense pursuant to subsection (1)(b)(I) of this section for serving, giving away, disposing of, exchanging, or delivering or permitting the serving, giving, or procuring of any alcohol beverage to a person under the age of twenty-one years, the court shall consider the following in mitigation:

(A) After consuming the alcohol, the underage person was in need of medical assistance as a result of consuming alcohol; and

(B) Within six hours after the underage person consumed the alcohol, the defendant contacted the police or emergency medical personnel to report that the underage person was in need of medical assistance as a result of consuming alcohol.

(c) To obtain or attempt to obtain any alcohol beverage by misrepresentation of age or by any other method in any place where alcohol beverages are sold when a person is under twenty-one years of age;

(d) To possess alcohol beverages in any store, in any public place, including public streets, alleys, roads, or highways, or upon property owned by the state of Colorado or any subdivision thereof, or inside vehicles while upon the public streets, alleys, roads, or highways when a person is under twenty-one years of age;

(e) To knowingly, or under conditions that an average parent or guardian should have knowledge of, suffer or permit any person under twenty-one years of age, of whom such person may be a parent or guardian, to violate the provisions of subsection (1)(c) or (1)(d) of this section;

(f) To buy any vinous or spirituous liquor from any person not licensed to sell at retail as provided by this article 3 except as otherwise provided in this article 3;

(g) To sell at retail any malt, vinous, or spirituous liquors in sealed containers without holding a retail liquor store or liquor-licensed drugstore license, except as permitted by section 44-3-107 (2) or 44-3-301 (6)(b) or any other provision of this article 3, or to sell at retail any fermented malt beverages in sealed containers without holding a fermented malt beverage retailer's license under sections 44-4-104 (1)(c) and 44-4-107 (1)(a);

(h) To manufacture, sell, or possess for sale any alcohol beverage unless licensed to do so as provided by this article 3 or article 4 or 5 of this title 44 and unless all licenses required are in full force and effect;

(i) (I) To consume any alcohol beverages:

(A) In any public place except on any licensed premises permitted under this article 3 or article 4 of this title 44 to sell any alcohol beverages by the drink for consumption on the licensed premises;

(B) Upon any premises licensed to sell alcohol beverages for consumption on the licensed premises, the sale of which is not authorized by the state licensing authority;

(C) At any time on such premises other than the alcohol beverages purchased from the establishment; or

(D) In any public room on the licensed premises during hours during which the sale of the alcohol beverage is prohibited under this article 3.

(II) Notwithstanding subsection (1)(i)(I) of this section, a person who is at least twenty-one years of age may consume alcohol beverages while the person is a passenger aboard a luxury limousine or a charter bus, as those terms are defined in section 40-10.1-301. Nothing in this subsection (1)(i)(II) authorizes an owner or operator of a luxury limousine or charter bus to sell or distribute alcohol beverages without obtaining a public transportation system license pursuant to section 44-3-421.

(III) Notwithstanding subsection (1)(i)(I) of this section, 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 the licensed premises when the consumption is conducted within the limitations of the licensee's license and is part of a tasting if authorization for the tasting has been granted pursuant to section 44-3-301.

(IV) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for adult patrons of an art gallery permittee to consume alcohol beverages on the premises when the consumption is conducted within the limitations of a valid permit granted pursuant to section 44-3-424.

(V) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for adult patrons of the Colorado state fair to consume malt, vinous, or spirituous liquor upon unlicensed areas within the designated fairgrounds of the Colorado state fair authority or at a licensed premises on the fairgrounds when not purchased at the licensed premises, but this subsection (1)(i)(V) does not authorize a patron to remove an alcohol beverage from the fairgrounds.

(VI) Notwithstanding subsection (1)(i)(I) of this section, 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 subsection (1)(i)(VI) does not authorize a patron to remove an alcohol beverage from the common consumption area.

(VII) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for a person who is at least twenty-one years of age to consume any alcohol beverages in any public place, other than a public right of way, where consumption of alcohol beverages has been specifically authorized by ordinance, resolution, or rule adopted by a municipality, city and county, or county or, for purposes of state parks, state wildlife areas, or other properties open to recreation that are under the supervision of the parks and wildlife commission created in article 9 of title 33, by the parks and wildlife commission.

(VIII) Notwithstanding subsection (1)(i)(I) of this section and when and where consumption is specifically authorized by an ordinance adopted by the city and county of Denver, it is not unlawful for adult patrons of the national western center to consume malt, vinous, or spirituous liquors in unlicensed areas of the national western center or at a licensed premises in the national western center when not purchased at the licensed premises. This subsection (1)(i)(VIII) does not authorize a patron to remove an alcohol beverage from the national western center.

(j) To regularly provide premises, or any portion thereof together with soft drinks or other mix, ice, glasses, or containers at a direct or indirect cost or charge to any person who brings alcohol beverages upon the premises for the purpose of consuming the beverages on the premises during the hours in which the sale of such beverages is prohibited or to consume such beverages upon premises operated in the manner described in this subsection (1)(j);

(k) To possess any package, parcel, or container on which the excise tax has not been paid;

(l) With knowledge, to permit or fail to prevent the use of his or her identification, including a driver's license, by a person who is under twenty-one years of age, for the unlawful purchase of any alcohol beverage;

(m) Who is a common carrier regulated under article 10.1 of title 40, or is an agent or employee of such common carrier, to deliver alcohol beverages for any person who has not been issued a license or permit pursuant to this article 3;

(n) To remove an alcohol beverage from a licensed premises where the liquor license for the licensed premises allows only on-premises consumption of alcohol beverages, except as permitted under subsection (1)(i)(VI) of this section or section 44-3-107 (2).

(2) (a) An underage person is immune from arrest and prosecution under subsection (1)(c) or (1)(d) of this section if he or she establishes the following:

(I) The underage person called 911 and reported that another underage person was in need of medical assistance due to alcohol consumption;

(II) The underage person who called 911 provided his or her name to the 911 operator;

(III) The underage person was the first person to make the 911 report; and

(IV) The underage person who made the 911 call remained on the scene with the underage person in need of medical assistance until assistance arrived and cooperated with medical assistance or law enforcement personnel on the scene.

(b) The immunity described in subsection (2)(a) of this section also extends to the underage person who was in need of medical assistance due to alcohol consumption if the conditions of subsection (2)(a) of this section are satisfied.

(3) It is unlawful for any person licensed as a manufacturer, limited winery, brew pub, or distillery pub pursuant to this article 3 to manufacture alcohol beverages in any location other than the permanent location specifically designated in the license for manufacturing, except as allowed pursuant to section 44-3-402 (3), 44-3-403 (2)(a), 44-3-417 (1)(b), or 44-3-422 (1)(b).

(4) (a) It is unlawful for any person to import or sell any imported alcohol beverage in this state unless that person is the primary source of supply in the United States for the brand of such liquor to be imported into or sold within this state and unless that person holds a valid importer's license issued under the provisions of this article 3.

(b) If it is determined by the state licensing authority, in its discretion, as not constituting unfair competition or unfair practice, any importer may be authorized by the state licensing authority to import and sell under and subject to the provisions of the importer's license any brand of alcohol beverage for which he or she is not the primary source of supply in the United States if the licensee is the sole source of supply of that brand of alcohol beverage in the state of Colorado and authorization is determined by the state licensing authority as not constituting a violation of section 44-3-308.

(c) Any such manufacturer or importer shall file with the state licensing authority notice of intent to import one or more specified brands of the alcohol beverage, together with a statement that the manufacturer or importer is the primary source of supply in the United States for the brand, unless exempted pursuant to subsection (4)(b) of this section, in which case, the manufacturer or importer shall also file a statement that the manufacturer or importer is the sole source of supply of that brand of beverage in the state of Colorado. Upon the request of the state licensing authority, the manufacturer or importer shall file a copy of the manufacturer's federal brand label approval form as required by the federal bureau of alcohol, tobacco, firearms, and explosives or any of its successor agencies. Thereafter, the licensee shall file with the state licensing authority a copy of each sales invoice with a monthly sales report as required by section 44-3-503 (4) and (6).

(d) As used in this subsection (4), the term "primary source of supply in the United States" means the manufacturer, the producer, the owner of such alcohol beverage at the time it becomes a marketable product, the bottler in the United States, or the exclusive agent within the United States, or any of the states, of any such manufacturer, producer, owner, or bottler outside the United States. To be the "primary source of supply in the United States", the said manufacturer or importer must be the first source, such as the manufacturer or the source closest to the manufacturer, in the channel of commerce from which the product can be secured by Colorado alcohol beverage wholesalers.

(e) It is unlawful for any person licensed as an importer of alcohol beverages pursuant to this article 3 to deliver any such alcohol beverages to any person not in possession of a valid wholesaler's license.

(5) It is unlawful for any person licensed to sell at wholesale pursuant to this article 3:

(a) To peddle malt, vinous, or spirituous liquor at wholesale or by means of a truck or other vehicle if the sale is consummated and delivery made concurrently, but nothing in this subsection (5)(a) shall prevent delivery from a truck or other vehicle of orders previously taken;

(b) To deliver malt liquors to any retail licensee located outside the geographic territory designated on the license application filed with the state licensing authority if the person holds a wholesaler's beer license;

(c) To purchase or receive any alcohol beverage from any person not licensed pursuant to this article 3 or article 4 of this title 44, unless otherwise provided in this article 3;

(d) To sell or serve any alcohol beverage to consumers for consumption on or off the licensed premises during any hours retailers are prohibited from selling or serving such liquors pursuant to subsection (6) of this section.

(6) It is unlawful for any person licensed to sell at retail pursuant to this article 3 or article 4 of this title 44:

(a) (I) To sell an alcohol beverage to any person under the age of twenty-one years, to a habitual drunkard, or to a visibly intoxicated person. If a person who, in fact, is not twenty-one years of age exhibits a fraudulent proof of age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this article 3 or article 4 of this title 44.

(II) (A) If a licensee or a licensee's employee has reasonable cause to believe that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any alcohol beverage, the licensee or employee shall be authorized to confiscate the fraudulent proof of age, if possible, and shall, within seventy-two hours after the confiscation, turn it over to a state or local law enforcement agency. The failure to confiscate such fraudulent proof of age or to turn it over to a state or local law enforcement agency within seventy-two hours after the confiscation shall not constitute a criminal offense, notwithstanding section 44-3-904 (1)(a).

(B) If a licensee or a licensee's employee believes that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any alcohol beverage, the licensee or the licensee's employee or any peace or police officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question the person in a reasonable manner for the purpose of ascertaining whether the person is guilty of any unlawful act under this section. Questioning of a person by a licensee or a licensee's employee or a peace or police officer does not render the licensee, the licensee's employee, or a peace or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

(III) Each licensee shall display a printed card that contains notice of the provisions of this subsection (6)(a).

(IV) Any licensee or licensee's employee acting in good faith in accordance with the provisions of subsection (6)(a)(II) of this section shall be immune from any liability, civil or criminal; except that a licensee or employee acting willfully or wantonly shall not be immune from liability pursuant to subsection (6)(a)(II) of this section.

(b) To sell, serve, or distribute any malt, vinous, or spirituous liquors at any time other than the following:

(I) For consumption on the premises on any day of the week, except between the hours of 2 a.m. and 7 a.m.;

(II) In sealed containers, beginning at 8 a.m. until 12 midnight each day; except that no malt, vinous, or spirituous liquors shall be sold, served, or distributed in a sealed container on Christmas day;

(c) To sell fermented malt beverages:

(I) To any person under the age of twenty-one years, except as provided in section 18-13-122;

(II) To any person between the hours of 12 midnight and 8 a.m.; or

(III) In a sealed container on Christmas day;

(d) To offer for sale or solicit any order for vinous or spirituous liquors in person at retail except within the licensed premises;

(e) Except as provided in section 44-3-107 (2), to have in possession or upon the licensed premises any alcohol beverage, the sale of which is not permitted by said license;

(f) To buy any alcohol beverages from any person not licensed to sell at wholesale as provided by this article 3 except as otherwise provided in this article 3;

(g) To sell at retail alcohol beverages except in the permanent location specifically designated in the license for such sale;

(h) To fail to display at all times in a prominent place a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter to be a minimum of one-half inch in height, which shall read as follows:

WARNING

IT IS ILLEGAL TO SELL WHISKEY, WINE, OR BEER TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE, AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

IT IS ILLEGAL IF YOU ARE TWENTY-ONE YEARS OF AGE OR OLDER FOR YOU TO PURCHASE WHISKEY, WINE, OR BEER FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE.

FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.

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

(II) Notwithstanding subsection (6)(i)(I) of this section, it shall not be unlawful for a retail liquor store or liquor-licensed drugstore licensee to allow tastings to be conducted on his or her licensed premises if authorization for the tastings has been granted pursuant to section 44-3-301.

(j) To display or cause to be displayed, on the licensed premises, any exterior sign advertising any particular brand of malt liquors or fermented malt beverages, unless the particular brand so designated in the sign is dispensed on draft or in sealed containers within the licensed premises wherein the sign is displayed;

(k) (I) Except as provided in subsections (6)(k)(II), (6)(k)(IV), and (6)(k)(V) of this section, to have on the licensed premises, if licensed as a retail liquor store, liquor-licensed drugstore, or fermented malt beverage retailer, 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 the container;

(II) (A) A person holding a retail liquor store or liquor-licensed drugstore license under this article 3 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 3 for the purpose of sampling malt, vinous, or spirituous liquors by the retail liquor store or liquor-licensed drugstore licensee only.

(B) A person holding a fermented malt beverage retailer's license under section 44-4-107 (1)(a) may have upon the licensed premises fermented malt beverages in open containers when the open containers were brought onto the licensed premises by and remain solely in the possession of the sales personnel of a person licensed to sell at wholesale pursuant to article 4 of this title 44 for the purpose of sampling fermented malt beverages by the fermented malt beverage retailer licensee only.

(III) Nothing in this subsection (6)(k) applies to any liquor-licensed drugstore where the contents, or a portion of the contents, have been used in compounding prescriptions.

(IV) It is not unlawful for a retail liquor store or liquor-licensed drugstore licensee to allow tastings to be conducted on the licensed premises if authorization for the tastings has been granted pursuant to section 44-3-301.

(V) A person holding a retail liquor store or liquor-licensed drugstore license under this article 3 or a fermented malt beverage retailer's license under section 44-4-107 (1)(a) may have upon the licensed premises an open container of an alcohol beverage product that the licensee discovers to be damaged or defective so long as the licensee marks the product as damaged or for return and stores the open container outside the sales area of the licensed premises until the licensee is able to return the product to the wholesaler from whom the product was purchased.

(l) To employ or permit, if the person is licensed to sell alcohol beverages for on-premises consumption or is the agent or manager of said licensee, any employee, waiter, waitress, entertainer, host, hostess, or agent of said licensee to solicit from patrons in any manner, for himself or herself or for any other employee, the purchase of any food, beverage, or any other thing of value;

(m) To require a wholesaler to make delivery to any premises other than the specific hotel and restaurant premises where the alcohol beverage is to be sold and consumed if the person is a hotel and restaurant licensee or the manager of a hotel and restaurant license requires the delivery;

(n) (I) To authorize or permit any gambling, or the use of any gambling machine or device, except as provided by the "Bingo and Raffles Law", part 6 of article 21 of title 24. This subsection (6)(n) does not apply to those activities, equipment, and devices authorized and legally operated pursuant to articles 30 and 32 of this title 44.

(II) A person who violates any provision of this subsection (6)(n) is guilty of a class 5 felony and, upon conviction thereof, shall be punished as provided in section 18-1.3-401.

(o) To authorize or permit toughperson fighting as defined in section 12-110-104;

(p) (I) (A) To permit a person under eighteen years of age to sell, dispense, or participate in the sale or dispensing of any alcohol beverage; or

(B) Except as provided in subsection (6)(p)(II) of this section, to employ a person who is at least eighteen years of age but under twenty-one years of age to sell or dispense malt, vinous, or spirituous liquors unless the employee is supervised by another person who is on the licensed premises and is at least twenty-one years of age; except that this subsection (6)(p)(I)(B) does not apply to a retail liquor store licensed under section 44-3-409 or a liquor-licensed drugstore licensed under section 44-3-410;

(II) If licensed as a tavern under section 44-3-414 that does not regularly serve meals or a lodging and entertainment facility under section 44-3-428 that does not regularly serve meals, to permit an employee who is under twenty-one years of age to sell malt, vinous, or spirituous liquors; or

(III) If licensed as a retail liquor store under section 44-3-409, a liquor-licensed drugstore under section 44-3-410, or a fermented malt beverage retailer under section 44-4-107 (1)(a), to permit an employee who is under twenty-one years of age to deliver malt, vinous, or spirituous liquors or fermented malt beverages offered for sale on, or sold and removed from, the licensed premises of the retail liquor store, liquor-licensed drugstore, or fermented malt beverage retailer.

(7) It is unlawful for any importer, manufacturer, or brewer to sell or to bring into this state for purposes of sale any malt liquor without causing the same to be unloaded and placed in the physical possession of a licensed wholesaler at the wholesaler's licensed premises in this state and to be inventoried for purposes of tax collection prior to delivery to a retailer or consumer.

(8) (a) It is unlawful for any person licensed pursuant to this article 3 or article 4 of this title 44 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 subsection (8)(a) of this section, it shall not be unlawful for a retail liquor store or liquor-licensed drugstore licensee to allow tastings to be conducted on his or her licensed premises if authorization for the tastings has been granted pursuant to section 44-3-301.

(9) Repealed.

(10) (a) (I) Except as provided in subsection (10)(c) of this section, it is unlawful for a person who is licensed to sell alcohol beverages for consumption on the licensed premises to knowingly permit the removal of an alcohol beverage from the licensed premises.

(II) (A) Except as provided in subsection (10)(a)(II)(C) of this section, the licensee shall not be charged with permitting the removal of an alcohol beverage from the licensed premises when the licensee has posted a sign at least ten inches wide and six inches high by each exit used by the public that contains the following notice in type that is at least one-half inch in height:

WARNING

DO NOT LEAVE THE PREMISES OF THIS ESTABLISHMENT WITH AN ALCOHOL BEVERAGE.

IT IS ILLEGAL TO CONSUME AN ALCOHOL BEVERAGE IN A PUBLIC PLACE.

A FINE OF UP TO \$250 MAY BE IMPOSED BY THE COURTS FOR A VIOLATION OF THIS PROVISION.

(B) A person licensed pursuant to section 44-3-416 must post a sign with the specified notice and in the minimum type size required by subsection (10)(a)(II)(A) of this section that is at least twelve inches wide and eighteen inches high.

(C) Regardless of whether a licensee posts a sign as specified in subsection (10)(a)(II) of this section, the licensee may be charged with knowingly permitting the removal of an alcohol beverage from the licensed premises if the licensee shows reckless disregard for the prohibition against alcohol beverage removal from the licensed premises, which may include permitting the removal of an alcohol beverage from the licensed premises three times within a twelve-month period, regardless of whether the three incidents occur on the same day or separate days. A licensee may be charged with knowingly permitting the removal of an alcohol beverage from the licensed premises upon the third occurrence of alcohol beverage removal from the licensed premises.

(III) In addition to posting a sign as described in subsection (10)(a)(II) of this section, a licensee may also station personnel at each exit used by the public in order to prevent the removal of an alcohol beverage from the licensed premises.

(b) This subsection (10) applies to persons licensed or permitted to sell or serve alcohol beverages for consumption on the licensed premises pursuant to section 44-3-403, 44-3-411, 44-3-412, 44-3-413, 44-3-414, 44-3-415, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-421, 44-3-422, 44-3-424, 44-3-426, 44-3-428, or 44-4-107 (1)(b).

(c) This subsection (10) does not preclude a licensee described in section 44-3-423 (2) from permitting a customer to remove from the licensed premises one opened container of partially consumed vinous liquor that was purchased on the licensed premises and has been resealed, as permitted by section 44-3-423 (1).

(11) (a) Except as provided in subsection (11)(b) of this section, a retail licensee or an employee of a retail licensee shall not sell malt, vinous, or spirituous liquors or fermented malt beverages to a consumer for consumption off the licensed premises unless the retail licensee or employee verifies that the consumer is at least twenty-one years of age by requiring the consumer to present a valid identification, as determined by the state licensing authority by rule. The retail licensee or employee shall make a determination from the information presented whether the purchaser is at least twenty-one years of age.

(b) It is not unlawful for a retail licensee or employee of a retail licensee to sell malt, vinous, or spirituous liquors or fermented malt beverages to a consumer who is or reasonably appears to be over fifty years of age and who failed to present an acceptable form of identification.

(c) As used in this subsection (11), "retail licensee" means a person licensed under section 44-3-409, 44-3-410, 44-4-104 (1)(c), or 44-4-107 (1)(a).

Source: L. 2018: IP(1), (1)(g), (1)(n), and (6)(e) amended, (SB 18-067), ch. 4, p. 31, § 3, effective March 1; (1)(m) amended, (HB 18-1375), ch. 274, p. 1696, § 8, effective May 29; (4)(c) amended, (SB 18-124), ch. 23, p. 277, § 1, effective August 8; entire article added with relocations, (HB 18-1025), ch. 152, p. 1049, § 2, effective October 1; (6)(n)(I) amended, (HB 18-1024), ch. 26, p. 321, § 7, effective October 1; IP(1), (1)(g), (1)(i)(I), (1)(i)(II), (6)(c), (6)(k),

(6)(p)(I)(B), (6)(p)(II), (6)(p)(III), (10)(b), and (11) amended and (1)(i)(VII) added, (SB 18-243), ch. 366, p. 2205, § 11, effective January 1, 2019. **L. 2019:** IP(1)(i)(I), (1)(i)(I)(A), (1)(i)(VII), (3), IP(5), (5)(b), and (7) amended, (SB 19-011), ch. 1, p. 15, § 25, effective January 31; (1)(i)(VIII) added, (SB 19-200), ch. 307, p. 2798, § 1, effective August 2; (6)(o) amended, (HB 19-1172), ch. 136, p. 1734, § 262, effective October 1. **L. 2020:** (3) amended, (HB 20-1055), ch. 15, p. 68, § 3, effective September 14. **L. 2022:** (6)(m) amended, (HB 22-1415), ch. 426, p. 3019, § 5, effective June 7.

Editor's note: (1) This section is similar to former § 12-47-901 as it existed prior to 2018.

(2) (a) Subsections IP(1), (1)(g), (1)(n), and (6)(e) of this section were numbered as § 12-47-901 IP(1), (1)(f), (1)(m), and (5)(e), respectively, in SB 18-067. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025.

(b) Subsection (1)(m) of this section was numbered as § 12-47-901 (1)(l) in HB 18-1375. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

(c) Subsection (4)(c) of this section was numbered as § 12-47-901 (3)(c) in SB 18-124. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

(d) Subsection (6)(n)(I) of this section was numbered as § 12-47-901 (5)(n)(I) in HB 18-1024. That provision was harmonized with and relocated to this section as this section appears in HB 18-1025.

(e) Subsections IP(1), (1)(g), (1)(i)(I), (1)(i)(II), (1)(i)(VII), (6)(c), (6)(k), (6)(p)(I)(B), (6)(p)(II), (6)(p)(III), (10)(b), and (11) of this section were numbered as § 12-47-901 IP(1), (1)(f), (1)(h)(I), (1)(h)(II), (1)(h)(VII), (5)(c), (5)(k), (5)(p)(I)(B), (5)(p)(II), (5)(p)(III), (9)(b), and (10), respectively, in SB 18-243. Those provisions were harmonized with and relocated to this section as this section appears in HB 18-1025, effective January 1, 2019.

(3) Subsection (9)(b) provided for the repeal of subsection (9), effective January 1, 2019. (See L. 2016, pp. 1536, 1539.)

Cross references: For the legislative declaration in SB 18-243, see section 1 of chapter 366, Session Laws of Colorado 2018.

44-3-902. Testing for intoxication by law enforcement officers - when prohibited. (1) No person who is patronizing a licensed premises as defined in sections 44-3-103 (24) and 44-4-103 (3) shall be required or solicited by any law enforcement officer to submit to any mechanical test for the purpose of determining the alcohol content of the person's blood or breath while he or she is upon the licensed premises except to determine if there is a violation of section 42-4-1301 by a driver of a motor vehicle, unless the law enforcement officer is acting pursuant to a court order obtained in the manner described in subsection (2) of this section. No such test may be performed upon any licensed premises to obtain evidence of alleged intoxication, except pursuant to a court order as provided in this section or in case of a medical emergency, regardless of whether the alleged intoxication is a violation of any provision of this article 3.

(2) An ex parte order to permit any law enforcement officer to solicit any person who is patronizing a licensed premises, as defined in sections 44-3-103 (24) and 44-4-103 (3), to submit to any mechanical test for the purpose of determining the alcohol content of the person's blood or

breath while he or she is upon such licensed premises may be issued by any judge of competent jurisdiction in the state of Colorado, including a district, county, or municipal court judge, upon application of a district attorney or a law enforcement agency showing probable cause to believe that evidence will be obtained of the commission of the crime of providing any alcohol beverage to a visibly intoxicated person or minor in violation of section 44-3-901 (1)(a) or (6)(a)(I).

(3) Each application for an ex parte order as described in subsection (2) of this section shall be made in writing upon oath or affirmation to a judge of competent jurisdiction, including a district, county, or municipal court judge, and shall state the applicant's authority to make the application. Each application shall include the following information:

(a) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(b) A complete statement of the facts and circumstances relied upon by the applicant to justify his or her belief that an order should be issued, which shall include, but not be limited to:

(I) A sufficient description of the licensed premises that is proposed to be the subject of the court order;

(II) Evidence that shows probable cause to believe that there have been frequent and continuing violations of section 44-3-901 (1)(a) or (6)(a)(I) regarding the crime of providing any alcohol beverage to a visibly intoxicated person or minor; and

(III) A complete statement as to whether or not other investigative procedures have been tried and failed, or why other investigative procedures reasonably appear to be impractical for economic or other reasons or unlikely to succeed if tried.

(4) Upon an application being made in accordance with subsection (3) of this section, the judge may enter an ex parte order, as requested or as modified, authorizing or approving testing as described in subsection (2) of this section in a particular licensed premises located within the territorial jurisdiction of the court in which the judge is sitting, and within the jurisdiction of the district attorney or law enforcement agency making the request, if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause to believe that there have been frequent and continuing violations of section 44-3-901 (1)(a) or (6)(a)(I) regarding the crime of providing an alcohol beverage to a visibly intoxicated person or minor; and

(b) Normal investigative procedures have been tried and failed, or reasonably appear impractical for economic or other reasons or unlikely to succeed if tried.

(5) Any order issued pursuant to subsection (4) of this section, the application for such order, and any information or evidence submitted to the court in support of such order, shall not be disclosed to any person other than the law enforcement officer or agency that applied for the order until the order has been executed at the licensed premises to which the order applies.

(6) Any evidence obtained through any violation of this section shall not be admissible in any court of this state or in any administrative proceeding in this state.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1059, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-902 as it existed prior to 2018.

44-3-903. Alcohol-without-liquid devices - legislative declaration - definition - unlawful acts. (1) (a) The general assembly hereby finds and declares that:

(I) Alcohol-without-liquid (AWOL) devices create alcohol vapor by pouring alcohol into a diffuser capsule connected to an oxygen pipe;

(II) AWOL devices enable individuals to inhale or snort the alcohol vapor created from certain alcohol beverages through a tube into the nose or mouth rather than drink the alcohol beverage in its liquid form through the mouth;

(III) Alcohol vapor ingested from an AWOL device bypasses the stomach and the filtering capabilities of the liver and is absorbed through blood vessels in the nose or lungs creating a faster and more intense "high" or intoxicating effect on the brain;

(IV) The popularity of AWOL devices is increasing in the nightclub and bar businesses throughout the nation; and

(V) AWOL devices are being marketed as a way to become intoxicated without a hangover and as a "dieter's dream" because there are no calories associated with inhaling or snorting alcohol vapor.

(b) The general assembly, therefore, determines that:

(I) AWOL devices will substantially increase the economic costs of alcohol abuse in Colorado;

(II) AWOL devices are not conducive to the health, safety, and welfare of the citizens of Colorado; and

(III) The possession, sale, purchase, and use of AWOL devices in this state should be prohibited.

(2) For purposes of this section, "AWOL device" means a device, machine, apparatus, or appliance that mixes an alcohol beverage with pure or diluted oxygen to produce an alcohol vapor that an individual can inhale or snort. "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication.

(3) Except as otherwise provided in subsection (5) of this section, it is unlawful for a person to possess, purchase, sell, offer to sell, or use an AWOL device in this state. A person who violates this section shall be punished in accordance with the provisions of section 44-3-904 (2).

(4) In addition to the penalty imposed by this section, if a person that violates subsection (3) of this section is a licensee, the state or local licensing authority may suspend or revoke the license of the licensee in accordance with the provisions of section 44-3-601.

(5) (a) Subsection (3) of this section shall not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university, as defined in section 23-2-102 (11), conducting bona fide research, or to a pharmaceutical company or biotechnology company conducting bona fide research and that complies with the provisions of this subsection (5).

(b) A hospital, state institution, private college or university, pharmaceutical company, or biotechnology company that possesses an AWOL device or that intends to acquire an AWOL device, shall, by September 1, 2005, or within thirty days prior to the acquisition, whichever is later, file with the Colorado department of public health and environment or its designee a notice of possession of AWOL device or a notice of acquisition of AWOL device, as appropriate.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1060, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-902.5 as it existed prior to 2018.

44-3-904. Violations - penalties. (1) (a) Except as provided in subsections (2), (3), and (4) of this section, any person violating any of the provisions of this article 3 or article 4 or 5 of this title 44 or any of the rules authorized and adopted pursuant to such articles commits a civil infraction.

(b) The penalties provided in this section shall not be affected by the penalties provided in any other section of this article 3 or article 4 or 5 of this title 44 but shall be construed to be in addition to any other penalties.

(2) Any person violating any of the provisions of section 44-3-901 (1)(a), (1)(g), (1)(h), (1)(j), (1)(l), (1)(m), (6)(a)(I), or (6)(b) or section 44-3-903 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(3) A person violating the provisions of section 44-3-901 (1)(b) commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(4) Any person violating any of the provisions of section 44-3-901 (1)(c) or (1)(d) commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. For the second conviction and for all subsequent convictions of violating the provisions of section 44-3-901 (1)(c) or (1)(d), the court shall impose at least the minimum fine and shall have no discretion to suspend any fine so imposed; except that the court may provide for the payment of such fine as provided in subsection (5) of this section.

(5) At the discretion of the court, the fines provided for violations of section 44-3-901 (1)(c) and (1)(d) may be ordered to be paid by public work only at a reasonable hourly rate to be established by the court, who shall designate the time within which the public work is to be completed.

(6) Any person who knowingly violates the provisions of section 44-3-901 (1)(b), (1)(e), or (1)(l) or any person who knowingly induces, aids, or encourages a person under the age of eighteen years to violate the provisions of section 44-3-901 (1)(b), (1)(c), or (1)(d) may be proceeded against pursuant to section 18-6-701 for contributing to the delinquency of a minor.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1061, § 2, effective October 1. **L. 2021:** (1)(a) and (3) amended, (SB 21-271), ch. 462, p. 3327, § 784, effective March 1, 2022.

Editor's note: This section is similar to former § 12-47-903 as it existed prior to 2018.

44-3-905. Duties of inspectors and police officers. (1) The inspectors of the liquor enforcement division and their supervisors, while actually engaged in performing their duties and while acting under proper orders or regulations, shall have and exercise all the powers vested in peace officers of this state. In the exercise of their duties, the inspectors and their supervisors shall have the power to arrest. The inspectors and their supervisors shall also have the authority to issue summonses for violations of the provisions of this article 3 and articles 4 and 5 of this title 44.

(2) It is the duty of all sheriffs and police officers to enforce the provisions of this article 3 and articles 4 and 5 of this title 44 and the rules made pursuant to said articles and to arrest and complain against any person violating any of the provisions of this article 3 or rules pertaining thereto. It is the duty of the district attorney of the respective judicial districts of this state to

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prosecute all violations of said articles in the manner and form as is now provided by law for the prosecution of crimes and misdemeanors, and it is a violation of said articles for any such person, knowingly, to fail to perform any duties pursuant to this section.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1062, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-904 as it existed prior to 2018.

44-3-906. Warrants - searches and seizures. (1) If any person makes an affidavit before the judge of any county or district court stating that he or she has reason to and does believe that alcohol beverages are being sold, bartered, exchanged, divided, or unlawfully given away, or kept for such purposes, or carried in violation of this article 3 and article 4 of this title 44 within the jurisdiction of such court, and describing in the affidavit the premises, wagon, automobile, truck, vehicle, contrivance, thing, or device to be searched, the judge of the court shall issue a warrant to any officer, which the complainant may designate, having power to serve original process commanding the officer to search the premises (other than a home), wagon, automobile, truck, vehicle, contrivance, thing, or device described in the affidavit.

(2) The warrant shall be substantially as follows:

STATE OF COLORADO)
)
) ss.
County of.....)

The People of the State of Colorado to.....

Greeting:

Whereas, there has been filed with the undersigned an affidavit of which the following is a copy:

(Here copy of affidavit)

Therefore you are hereby commanded, in the name of the people of the State of Colorado, forthwith, together with the necessary and proper assistance to enter into

(Here describe place mentioned in the affidavit)

of the said situated in the county of aforesaid and there diligently search for the said alcohol beverages and that you bring the same or any part thereof found in such search, together with such vessels in which such beverages are found and the implements and furniture used in connection therewith, and the wagon, automobile, truck, vehicle, contrivance, thing, or device in which carried, forthwith before me, to be disposed of and dealt with according to law.

Given under my hand and seal this day of,
Judge of the Court

(3) The officer charged with the execution of the warrant, when necessary to obtain entrance or when entrance has been refused, may break open any premises (other than a home),

wagon, automobile, truck, vehicle, contrivance, thing, or device that by said warrant the officer is directed to search and may execute said warrant any hour of the day or night.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1063, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-905 as it existed prior to 2018.

44-3-907. Return on warrant - sale of liquor seized. (1) If any alcohol beverages are there found, said officer shall seize the same and the vessels in which they are contained and all implements and furniture used or kept in connection with such beverages in the illegal selling, bartering, exchanging, giving away, or carrying of same, and any wagon, automobile, truck, vehicle, contrivance, thing, or device used in conveying the same, and safely keep them and make immediate return on the warrant. The property shall not be taken from the custody of any officer seizing or holding the same by writ of replevin or other process while the proceedings relating thereto are pending.

(2) Final judgment of conviction in such proceedings shall be a bar to any suit for the recovery of any property so seized or the value of same or for damages alleged to arise by reason of the seizure and detention. The judgment entered shall find said alcohol beverages to be unlawful and shall direct their destruction or sale forthwith, in the manner provided by subsection (7) of this section. The wagon, automobile, truck, vehicle, contrivance, thing, or device, vessels, implements, and furniture shall likewise be ordered disposed of in the same manner as personal property is sold under execution, and the proceeds therefrom applied, first in the payment of the cost of the prosecution and of any fine imposed, and the balance, if any, paid into the general school fund of the county in which the conviction is had.

(3) The officer serving the warrant shall forthwith proceed in the manner required for the institution of a criminal action in the court issuing the warrant, charging a violation of law as the evidence in the case justifies. If the officer refuses or neglects to so proceed as specified, then the person filing the affidavit for the search warrant, or any other person, may so proceed.

(4) If, during the trial of a person charged with a violation of this article 3, the evidence presented discloses that fluids were poured out, or otherwise destroyed, manifestly for the purpose of preventing seizure, said fluids shall be held to be prima facie alcohol beverages and intended for unlawful use, sale, barter, exchange, or gift.

(5) If no person is in possession of the premises where illegal alcohol beverages are found, the officer seizing the alcohol beverages shall post in a conspicuous place on said premises a copy of the warrant, and if at the time fixed for any hearing concerning the alcohol beverages seized, or within thirty days thereafter, no person appears, the court in which the hearing was to be held shall order the alcohol beverages destroyed or sold in the manner provided in subsection (7) of this section.

(6) No warrant issued pursuant to this article 3 shall authorize the search of any place where a person may lawfully keep alcohol beverages as provided in this article 3. No warrant shall be issued to search a home occupied as such, as provided in this section, unless it or some part of it is used in connection with or as a store, shop, hotel, boardinghouse, rooming house, or place of public resort.

(7) Any sale of alcohol beverages conducted upon order of court pursuant to this section shall be conducted in the following manner:

(a) The officer ordered by the court to conduct the sale shall give notice of the time and place of the sale by posting a notice in a prominent place in the county for a period of five consecutive days prior to the day of the sale. The notice shall describe as fully as possible the property to be sold and shall state the time and place of the sale.

(b) The sale shall be conducted as a public auction in some suitable public place on the specified day at some time between the hours of 9 a.m. and 5 p.m., and the time chosen for the sale shall be indicated in the notice.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1064, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-906 as it existed prior to 2018.

44-3-908. Loss of property rights. There shall be no property rights of any kind in any alcohol beverages, vessels, appliances, fixtures, bars, furniture, implements, wagons, automobiles, trucks, vehicles, contrivances, or any other things or devices used in or kept for the purpose of violating any of the provisions of this article 3 or article 4 of this title 44.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1065, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-907 as it existed prior to 2018.

44-3-909. Colorado state fair - common consumption area - national western center - consumption on premises. (1) Notwithstanding any other provision of this article 3, a person who purchases an alcohol beverage for consumption from a vendor licensed under this article 3 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 alcohol beverage and possess and consume the alcohol beverage at any place within the common consumption area or fairgrounds if the person does not remove the alcohol beverage from the common consumption area or fairgrounds. This subsection (1) 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.

(2) When and where specifically authorized by an ordinance adopted by the city and county of Denver and notwithstanding any other provision of this article 3, a person who purchases an alcohol beverage for consumption from a vendor licensed under this article 3 for the national western center may leave the licensed premises with the alcohol beverage and possess and consume the alcohol beverage at any place within the national western center if the person does not remove the alcohol beverage from the national western center. This subsection (2) does not authorize a person to bring into the national western center an alcohol beverage purchased outside the national western center.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1065, § 2, effective October 1. **L. 2019:** Entire section amended, (SB 19-200), ch. 307, p. 2798, § 2, effective August 2.

Editor's note: This section is similar to former § 12-47-908 as it existed prior to 2018.

44-3-910. 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;

(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 subsections (1)(b) and (1)(c) of this section;

(e) Operate the common consumption area during hours the licensed premises cannot sell alcohol under this article 3 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 3 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 an alcohol beverage 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 5 of this title 44 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 3 and the local licensing authority concerning the common consumption area.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1065, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-909 as it existed prior to 2018.

44-3-911. Takeout and delivery of alcohol beverages - permit - on-premises consumption licenses - requirements and limitations - rules - definition - repeal. (1) (a) Notwithstanding any other provision of this article 3 or article 4 of this title 44 and subject to subsections (2) and (3) of this section:

(I) Between the hours of 7 a.m. and 12 midnight, a licensee may sell and deliver an alcohol beverage to a customer for consumption off the licensed premises; and

(II) If an alcohol beverage is part of a takeout order for consumption off the licensed premises:

(A) A customer may remove the alcohol beverage from the licensed premises if the alcohol beverage is in a sealed container that complies with the rules of the state licensing authority; and

(B) The licensee may allow a customer to remove the alcohol beverage from the licensed premises.

(b) Subject to subsections (2) and (3) of this section, a licensee may sell or deliver alcohol beverages under this section by the drink.

(2) To sell and deliver an alcohol beverage or to allow a customer to remove an alcohol beverage from the licensed premises as either is authorized under subsection (1) of this section, the licensee must:

(a) Have any applicable permits issued under this section to sell alcohol beverages for takeout or delivery; except that this subsection (2)(a) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24;

(b) Sell or deliver:

(I) The alcohol beverage only to a customer who is twenty-one years of age or older;

(II) The alcohol beverage in a sealed container that complies with the rules of the state licensing authority; and

(III) No more than the following amounts of alcohol beverages per delivery or takeout order unless the governor has declared a disaster emergency under part 7 of article 33.5 of title 24:

(A) One thousand five hundred milliliters, approximately 50.8 fluid ounces, of vinous liquors;

(B) One hundred forty-four fluid ounces, approximately four thousand two hundred fifty-nine milliliters, of malt liquors, fermented malt beverages, and hard cider; and

(C) One liter, approximately 33.8 fluid ounces, of spirituous liquors.

(c) Derive no more than fifty percent of its gross annual revenues from total sales of food and alcohol beverages from the sale of alcohol beverages through takeout orders and that the licensee delivers; except that:

(I) This subsection (2)(c) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24; or

(II) This subsection (2)(c) does not apply to a sales room at a premises licensed under section 44-3-402 or 44-3-407; and

(d) If an alcohol beverage is being delivered, use a delivery person who complies with subsection (3) of this section.

(3) To deliver an alcohol beverage under this section, the delivery person must:

(a) Deliver the alcohol beverage to a place that is not licensed under this article 3 or article 4 of this title 44;

(b) Be an employee of the licensee who is twenty-one years of age or older;

(c) Deliver an alcohol beverage only to a person who is twenty-one years of age or older; and

(d) Have satisfactorily completed the server and seller training program established under section 44-3-1002.

(4) (a) The state licensing authority shall promulgate rules:

(I) Specifying the types of containers that may be used for takeout or delivery of an alcohol beverage under this section;

(II) Creating a permit for takeout and delivery of alcohol beverages;

(III) Setting fees for the processing and approval of a takeout or delivery permit application; and

(IV) Concerning any other matter necessary for the safe and effective implementation of this section.

(b) The state licensing authority shall issue a permit to a licensee to sell alcohol beverages for takeout and delivery if the licensee demonstrates the ability to comply with this section. A permit issued under this subsection (4)(b) is subject to the suspension and revocation provisions set forth in section 44-3-601.

(c) (I) The local licensing authority may create a permit for takeout and delivery of alcohol beverages to implement this section. If a local licensing authority does not create a permit under this subsection (4)(c), a licensee need not obtain a local permit to sell and deliver an alcohol beverage or to allow a customer to remove an alcohol beverage from the licensed premises.

(II) A local licensing authority may establish fees for the processing and approval of a takeout or delivery permit application, but the amount of the fee must not exceed the amount of the fee set by the state licensing authority under subsection (4)(a)(III) of this section.

(III) If a local licensing authority creates a takeout or delivery permit:

(A) The licensee must obtain the permit to sell and deliver an alcohol beverage or to allow a customer to remove an alcohol beverage from the licensed premises as either is authorized under subsection (1) of this section; and

(B) The local licensing authority shall issue a permit to a licensee to sell alcohol beverages for takeout and delivery if the licensee demonstrates the ability to comply with this section.

(IV) A permit issued under this subsection (4)(c) is subject to the suspension and revocation provisions set forth in section 44-3-601.

(V) A manufacturer licensed under section 44-3-402 that operates a sales room or a wholesaler licensed under section 44-3-407 that operates a sales room need not obtain a permit from the local licensing authority to sell and deliver an alcohol beverage or to allow a customer to remove an alcohol beverage from the licensed premises.

(d) The licensee shall submit an application for a permit issued under this section to the state licensing authority and the local licensing authority, if applicable, simultaneously. Approval by either the state licensing authority or a local licensing authority does not guarantee approval by the other licensing authority.

(5) For the purposes of this article 3 and article 4 of this title 44, an alcohol beverage that is sold and delivered to a customer's home for consumption off the licensed premises under this section is sold at the licensed premises.

(6) (a) (I) This section authorizes a license holder that is issued a license under one of the following sections to sell an alcohol beverage to a customer for consumption off of the licensed premises: Section 44-3-402 that operates a sales room or section 44-3-407 that operates a sales room or section 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-418, 44-3-422, 44-3-426, 44-3-428, 44-4-104 (1)(c)(I)(A), or 44-4-104 (1)(c)(III).

(II) This section authorizes a license holder that is issued a license under one of the following sections to deliver an alcohol beverage to a customer for consumption off of the licensed premises: Section 44-3-411, 44-3-412, 44-3-413, 44-3-414, 44-3-415, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-421, 44-3-422, 44-3-426, or 44-3-428.

(III) Repealed.

(b) (I) This section does not apply to a person issued a license or permit that is not listed in subsection (6)(a) of this section or to a caterer who is licensed to sell alcohol beverages.

(II) Subsection (2)(b)(III) of this section does not apply to:

(A) A manufacturer licensed under section 44-3-402 that operates a sales room or a wholesaler licensed under section 44-3-407 that operates a sales room; and

(B) The sale of an alcohol beverage manufactured by the licensee and sold by a brew pub licensed under section 44-3-417, a vintner's restaurant licensed under section 44-3-422, or a distillery pub licensed under section 44-3-426.

(7) This section is repealed, effective July 1, 2025.

Source: L. 2020: Entire section added, (SB 20-213), ch. 262, p. 1260, § 1, effective July 10. **L. 2021:** (1)(a)(I), (2)(b)(III), (6)(a), and (7) amended, (HB 21-1027), ch. 290, p. 1713, § 1, effective June 22; (4)(b) amended, (SB 21-266), ch. 423, p. 2809, § 46, effective July 2.

Editor's note: Subsection (6)(a)(III) provided for the repeal of subsection (6)(a)(III), effective January 2, 2022. (See L. 2021, p. 1713.)

44-3-912. Communal outdoor dining areas - permit required - rules. (1)

Notwithstanding any other provision of this article 3 or article 4 of this title 44 and subject to the approval of the state and local licensing authorities, a communal outdoor dining area may be shared by two or more persons licensed for on-premises consumption, including an approved sales room, under this article 3 or article 4 of this title 44.

(2) A licensee shall not sell or serve alcohol beverages in a communal outdoor dining area unless:

(a) The licensee obtains a permit from the state licensing authority and pays the permitting fee established by rule; and

(b) The state and local licensing authorities have first approved:

(I) Attaching the license to the communal outdoor dining area; and

(II) A modification of the licensed premises of each attached licensee to include the communal outdoor dining area.

(3) This section does not apply to a special event permit issued under article 5 of this title 44 or the holder of the permit unless the permit holder holds a special event at an existing communal outdoor dining area and agrees in writing to the requirements of this article 3 for and the local licensing authority for the communal outdoor dining area.

(4) To be approved, a communal outdoor dining area must be within one thousand feet of the permanent licensed premises of each of the licenses attached to the communal outdoor dining area. This distance must be computed by direct measurement, using a route of direct pedestrian access, from the nearest property line of the land used for the communal outdoor dining area to the nearest portion of the building where the permanent licensed premises is located.

(5) If a violation of this article 3 or article 4 of this title 44 occurs within a communal outdoor dining area and the licensee responsible for the violation can be identified, that licensee is subject to discipline as set forth in section 44-3-601. If the licensee responsible for the violation cannot be identified, each attached licensee is deemed jointly responsible and subject to discipline for the violation.

(6) The state licensing authority shall promulgate rules governing communal outdoor dining areas, including rules governing:

- (a) Applications;
- (b) Modification of the licensed premises to include a communal outdoor dining area;
- (c) Supervision and control of the communal outdoor dining area by the attached licensees;
- (d) Submission to and approval of security and control plans by the state and local licensing authorities;
- (e) Removal of alcohol beverages from the communal outdoor dining area;
- (f) Special events held within a communal outdoor dining area; and
- (g) Insurance requirements.

Source: L. 2021: Entire section added, (HB 21-1027), ch. 290, p. 1715, § 3, effective June 22.

PART 10

RESPONSIBLE ALCOHOL BEVERAGE VENDOR ACT

44-3-1001. Short title. The short title of this part 10 is the "Responsible Alcohol Beverage Vendor Act".

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1066, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-1001 as it existed prior to 2018.

44-3-1002. Responsible vendors - standards. (1) To be a responsible alcohol beverage vendor, a vendor shall comply with the server and seller training program established by the director of the liquor enforcement division of the department.

(2) The director of the liquor enforcement division shall set standards for compliance with the server and seller training program. When creating standards, the director shall consider input from local and state government, the alcohol beverage industry, and any other state or national seller and server programs.

Source: L. 2018: Entire article added with relocations, (HB 18-1025), ch. 152, p. 1066, § 2, effective October 1.

Editor's note: This section is similar to former § 12-47-1002 as it existed prior to 2018.