

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 17-0240.01 Ed DeCecco x4216

HOUSE BILL 17-1245

HOUSE SPONSORSHIP

Foote, Herod, Lee, Willett, Wist

SENATE SPONSORSHIP

Kagan, Cooke, Gardner, Guzman, Holbert

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING THE NONSUBSTANTIVE RELOCATION OF THE LAWS**
102 **RELATED TO PUBLIC ESTABLISHMENTS FROM TITLE 12,**
103 **COLORADO REVISED STATUTES, AS PART OF THE**
104 **ORGANIZATIONAL RECODIFICATION OF TITLE 12.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Committee on Legal Services. Current law directs the Office of Legislative Legal Services to study the organizational recodification of title 12, Colorado Revised Statutes, which relates to professions and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
April 17, 2017

HOUSE
3rd Reading Unamended
April 4, 2017

HOUSE
2nd Reading Unamended
April 3, 2017

occupations. To implement the initial recommendations of the study, **section 1** of the bill relocates parts 1 and 3 of article 44 of title 12, which relate to public establishments, to title 6.

Section 3 repeals the parts where this law was previously codified, and **section 2** makes a conforming amendment.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add with amended**
3 **and relocated provisions** article 23 to title 6 as follows:

4 **ARTICLE 23**

5 **Public Establishments**

6 **PART 1**

7 **HOTELS AND RESTAURANTS**

8 **6-23-101. [Formerly 12-44-101] Definitions - evidence of intent.**

9 As used in this part 1, unless the context otherwise requires:

10 (1) "Agreement with ~~such~~ THE public establishment" means any
11 written or verbal agreement as to the price to be charged for, and the
12 acceptance of, food, beverage, service, or accommodations where the
13 price to be charged therefor is printed on a menu or schedule of rates
14 shown to or made available by a public establishment to the patron and
15 includes the acceptance of ~~such~~ THE food, beverage, service, or
16 accommodations for which a reasonable charge is made.

17 (2) "Notice", as used in ~~section 12-44-103~~ SECTION 6-23-104,
18 shall be given by posting a printed copy of ~~sections 12-44-101 to~~
19 ~~12-44-103~~ SECTIONS 6-23-101 TO 6-23-104 at any conspicuous place
20 within the sleeping accommodations.

21 (3) "Public establishment" means any establishment selling or
22 offering for sale prepared food or beverages to the public generally, or
23 any establishment leasing or renting overnight sleeping accommodations

1 to the public generally, including, but not exclusively, restaurants, cafes,
2 dining rooms, lunch counters, coffee shops, boarding houses, hotels,
3 motor hotels, motels, and rooming houses, unless the rental thereof is on
4 a month-to-month basis or a longer period of time.

5 (4) It shall be evidence of an intent to defraud that food, service,
6 or accommodations were given to any person who gave false information
7 concerning his OR HER name or address, or both, in obtaining ~~such~~ THE
8 food, service, or accommodations, or that ~~such~~ THE person removed or
9 attempted to remove his OR HER baggage from the premises of ~~such~~ THE
10 public establishment without giving notice of his OR HER intent to do so
11 to ~~such~~ THE public establishment. These provisions shall not constitute
12 the sole means of establishing evidence that a person accused under this
13 part 1 had an intent to defraud. Proof of ~~such~~ intent to defraud may be
14 made by any facts or circumstances sufficient to establish ~~such~~ THE intent
15 to defraud beyond a reasonable doubt as provided by law.

16 (5) If any person, partnership, or corporation shall by written or
17 verbal complaint, or otherwise, institute or cause to be instituted any
18 prosecution for any violation of this section and shall thereafter, whether
19 or not restitution is sought or received from the alleged offender, fail to
20 cooperate in the full prosecution of the alleged offender without
21 reasonable cause, the court having jurisdiction, on motion of the
22 prosecuting attorney appearing therein and, after notice to ~~such~~ THE
23 person, partnership, or corporation and an opportunity to be heard, may
24 give judgment against ~~such~~ THE person, partnership, or corporation and
25 in favor of the county wherein prosecution was commenced for all costs
26 of the prosecution, including a reasonable allowance for the time of the
27 prosecuting attorney.

1 **6-23-102. [Formerly 12-44-101.5] Public establishment -**
2 **vendor contract.** A contract between a vendor and a public establishment
3 shall be invalid unless the vendor enters into the contract directly with the
4 public establishment's owner, general manager, or a person with authority
5 to enter into a contract as specifically designated in writing by ~~such~~ THE
6 owner or general manager. The acceptance of delivered items by a public
7 establishment from a vendor that includes an invoice stating the terms of
8 a contract shall not constitute acceptance of ~~such~~ THE terms and the
9 contract shall be void.

10 **6-23-103. [Formerly 12-44-102] Defrauding an innkeeper.** A
11 person who, with intent to defraud, procures food or accommodations
12 from a public establishment without making payment therefor in
13 accordance with his or her agreement with the public establishment is
14 guilty of a misdemeanor if the total amount due under the agreement is
15 one thousand dollars or less and, upon conviction thereof, shall be
16 punished by a fine of not more than five hundred dollars, or by
17 imprisonment in the county jail for not more than ninety days, or by both
18 ~~such~~ THE fine and imprisonment; and, if the amount due under the
19 agreement is more than one thousand dollars, the person commits a class
20 6 felony and shall be punished as provided in section 18-1.3-401. ~~C.R.S.~~

21 **6-23-104. [Formerly 12-44-103] Notice prerequisite to**
22 **conviction.** No conviction shall be had under ~~section 12-44-102~~ SECTION
23 6-23-103, unless it is made to appear upon the trial for a violation of
24 ~~section 12-44-102~~ SECTION 6-23-103 that the person charged with ~~such~~
25 THE violation was given notice of the terms and provisions of ~~sections~~
26 ~~12-44-101 to 12-44-103~~ SECTIONS 6-23-101 TO 6-23-104.

27 **6-23-105. [Formerly 12-44-104] Jurisdiction.** Jurisdiction of

1 cases arising under ~~sections 12-44-101 to 12-44-103~~ SECTIONS 6-23-101
2 TO 6-23-104 and appeals from judgments in ~~such~~ THE cases shall be as
3 provided by statute.

4 **6-23-106. [Formerly 12-44-105] Safe for valuables - notice.**
5 Every landlord or keeper of a hotel or public inn in this state who
6 provides in the office of his OR HER hotel, inn, or other convenient place
7 a safe, vault, or other suitable receptacle, for the secure custody of money,
8 jewelry, ornaments, or other valuable articles other than necessary
9 baggage belonging to the guests or patrons of ~~such~~ THE hotel or public
10 inn, and who keeps posted in a public and conspicuous place in the office,
11 public room, and public parlors of ~~such~~ THE hotel or public inn, and upon
12 the inside entrance door of every public sleeping room in ~~such~~ THE hotel
13 or public inn a notice printed in English stating ~~such~~ THE fact, shall not
14 be liable for the loss of any money, jewelry, ornaments, or other valuable
15 articles, other than necessary baggage, sustained by ~~such~~ THE guest or
16 patron by theft or otherwise, unless ~~such~~ THE guest or patron delivers
17 ~~such~~ THE money, jewelry, ornaments, or other valuable articles, other than
18 necessary baggage, to the landlord or keeper of ~~such~~ THE hotel or public
19 inn, or person in charge of the office of ~~such~~ THE hotel or public inn, for
20 deposit in ~~such~~ THE safe, vault, or other receptacle. ~~Such~~ THE liability
21 shall not be greater than the amount at the time of deposit declared by the
22 guest or patron to be the value of the article deposited.

23 **6-23-107. [Formerly 12-44-106] Maximum amount landlord**
24 **bound to receive.** No landlord or keeper of any hotel or public inn is
25 obliged to receive ~~such~~ property from any guest or patron for ~~such~~
26 custody under the provisions of ~~section 12-44-105~~ SECTION 6-23-106,
27 exceeding in value the sum of five thousand dollars, nor is he OR SHE

1 liable for any loss thereof by theft or otherwise in any sum exceeding the
2 sum of five thousand dollars, unless the landlord or keeper of ~~such~~ THE
3 hotel or public inn, or person in charge of the office, assumes in writing
4 a greater liability.

5 **6-23-108. [Formerly 12-44-107] Landlord not responsible -**
6 **when.** The landlord or keeper of any hotel or public inn shall not be liable
7 to any guest or patron of ~~such~~ THE hotel or public inn for the loss within
8 his OR HER hotel or public inn of any article of wearing apparel or other
9 necessary baggage belonging to any guest or patron, unless the same had
10 been left within a room assigned to ~~such~~ THE guest or patron, or had been
11 especially entrusted to the care or custody of the landlord or keeper of
12 ~~such~~ THE hotel or public inn, or to an employee or servant thereof
13 entrusted with the duty of receiving or caring for ~~such~~ THE article in the
14 hotel or public inn.

15 **6-23-109. [Formerly 12-44-108] Responsibility when key**
16 **furnished.** When the landlord or keeper of any hotel or public inn
17 provides the doors of the rooms or sleeping apartments in ~~such~~ THE hotel
18 or public inn with locks and keys in good order and repair and ~~such~~ THE
19 room or sleeping apartment is turned over to the possession of any guest
20 or patron together with the key to the door thereof, the landlord or keeper
21 of ~~such~~ THE hotel or public inn shall not be liable to any guest or patron
22 thereof occupying ~~such~~ THE room or apartment for loss of any article of
23 personal property left within ~~such~~ THE room or apartment by ~~such~~ THE
24 guest or patron while in possession thereof, unless the door in ~~such~~ THE
25 room or apartment was left locked when unoccupied, and after being
26 locked the key thereto was delivered to the person in charge of the office
27 of ~~such~~ THE hotel or public inn. If any article of personal property is taken

1 by an employee or servant of the landlord or keeper of ~~such~~ THE hotel or
2 public inn, then the provisions of this section shall not prevent ~~such~~ THE
3 guest or patron from recovering the value of ~~such~~ THE article, not to
4 exceed the sum of two hundred dollars for all ~~such~~ THE articles.

5 **6-23-110. [Formerly 12-44-109] Maximum liability for articles**
6 **lost from rooms.** The landlord or keeper of any hotel or public inn shall
7 not be liable for the loss of any article left by any guest or patron in any
8 room assigned to or occupied by ~~such~~ THE guest or patron, greater, in any
9 event, than the sum of two hundred dollars for all articles ~~which~~ THAT
10 may be lost by ~~said~~ THE guest or patron, except by an agreement in
11 writing made by the landlord or keeper of ~~such~~ THE hotel or public inn,
12 or person in charge of the office, assuming a greater liability.

13 **6-23-111. [Formerly 12-44-110] Liability for baggage left by**
14 **guest.** In case any person who has been the guest or patron of any hotel
15 or public inn ceases to be ~~such~~ A guest or patron and leaves with the
16 landlord or keeper of ~~such~~ THE hotel or public inn any baggage or other
17 personal property for safekeeping, and the landlord or keeper accepts and
18 receives the same for safekeeping, and makes no charge for services or
19 storage in keeping ~~such~~ THE property, then ~~such~~ THE landlord or keeper
20 of a hotel or public inn shall be liable only as a gratuitous bailee and as
21 such shall be liable for no sum greater than fifty dollars.

22 **6-23-112. [Formerly 12-44-111] Liability in case of fire or**
23 **accident.** The landlord or keeper of any hotel or public inn shall not be
24 liable for loss of or damage to the property of any guest or patron of ~~such~~
25 THE hotel or public inn by fire or by any unforeseen causes or by
26 inevitable accident, unless ~~such~~ THE loss or damage occurs on account of
27 his OR HER negligence or the negligence of his OR HER servants or

1 employees.

2 **6-23-113. [Formerly 12-44-112] Liability limited to damages.**

3 None of the provisions of ~~sections 12-44-105 to 12-44-112~~ SECTIONS
4 6-23-106 TO 6-23-113 shall be construed to render the landlord or keeper
5 of a hotel or public inn in this state liable in a greater sum than the actual
6 loss or damage sustained.

7

PART 2

8

INNKEEPERS' RIGHTS

9 **6-23-201. [Formerly 12-44-301] Definitions.** As used in this ~~part~~
10 ~~3~~ PART 2, unless the context otherwise requires:

11 (1) "Innkeeper" means the owner, operator, or manager of a
12 lodging establishment.

13 (2) "Lodging establishment" means a bed and breakfast, as
14 defined in section 12-47-103 (3), or a hotel, motel, resort, or public inn,
15 as defined in ~~section 12-44-101 (3)~~ SECTION 6-23-101 (3).

16 (3) "Minor" means a person under eighteen years of age.

17 (4) "Resort" means a hotel with related sports and recreational
18 facilities for the convenience of its guests or the general public located
19 contiguous or adjacent to the hotel.

20 **6-23-202. [Formerly 12-44-302] Innkeepers' right to refuse**
21 **accommodations - exceptions.** (1) An innkeeper has the right to refuse
22 or deny accommodations, facilities, and the privileges of a lodging
23 establishment to any person who is not willing or able to pay for ~~such~~ THE
24 accommodations, facilities, and services. The innkeeper shall have the
25 right to require a prospective guest to demonstrate his or her ability to pay
26 by cash, valid credit card, or a validated check, and if the prospective
27 guest is a minor, the innkeeper may require a parent or legal guardian of

1 ~~such~~ THE minor or other responsible adult:

2 (a) To provide a valid credit card number or agree, in writing, to
3 pay for the cost of:

4 (I) The guest room, including applicable taxes;

5 (II) All charges made by the minor; and

6 (III) Any damages caused by the minor or the minor's guests to the
7 guest room or its furnishings; or

8 (b) To provide an advance cash payment to cover the cost of the
9 guest room for all nights reserved, including applicable taxes, plus a cash
10 deposit to be held toward the payment of any charges made by the minor
11 and any damages to the guest room or its furnishings. The cash deposit
12 shall be refunded, unless applied to charges or damages, following a joint
13 inspection of the room. It is the obligation of the guest to join the
14 innkeeper during the inspection. Should the guest fail to join the
15 innkeeper, the guest thereby waives his or her right to the joint inspection.
16 ~~Such~~ THE refund, if any, shall immediately be made to the extent it is not
17 used to cover the described charges or damages.

18 **SECTION 2.** In Colorado Revised Statutes, 18-1-202, **amend**
19 (7)(b)(II) introductory portion and (7)(b)(II)(L) as follows:

20 **18-1-202. Place of trial.** (7) (b) (II) The provisions of
21 ~~subparagraph (I) of this paragraph (b)~~ SUBSECTION (7)(b)(I) OF THIS
22 SECTION shall apply to the following offenses:

23 (L) Procuring food or accommodation with intent to defraud, as
24 defined in ~~section 12-44-102, C.R.S.~~ SECTION 6-23-103;

25 **SECTION 3. Repeal of relocated provisions in this act.** In
26 Colorado Revised Statutes, **repeal** parts 1 and 3 of article 44 of title 12.

27 **SECTION 4. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly (August
3 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
4 referendum petition is filed pursuant to section 1 (3) of article V of the
5 state constitution against this act or an item, section, or part of this act
6 within such period, then the act, item, section, or part will not take effect
7 unless approved by the people at the general election to be held in
8 November 2018 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor.