

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



SENATE BILL 18-138

BY SENATOR(S) Gardner and Kerr, Fields, Marble, Moreno, Neville T., Smallwood, Tate, Todd, Zenzinger, Grantham;
also REPRESENTATIVE(S) Gray and Liston, Arndt, Becker K., Buckner, Herod, McKean, Melton, Rosenthal, Sandridge, Van Winkle, Williams D.

CONCERNING AUTHORIZATION FOR RETAIL SELLERS OF ALCOHOL BEVERAGES FOR ON-PREMISES CONSUMPTION TO SELL REMAINING INVENTORY TO ANOTHER ON-PREMISES RETAIL SELLER OF ALCOHOL BEVERAGES WITH WHOM THERE IS COMMON OWNERSHIP WHEN NO LONGER LICENSED TO SELL ALCOHOL BEVERAGES FOR ON-PREMISES CONSUMPTION.

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

SECTION 1. In Colorado Revised Statutes, **add** 12-47-427 as follows:

12-47-427. 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 12-47-409;

- (b) HOTEL AND RESTAURANT LICENSE UNDER SECTION 12-47-411;
- (c) TAVERN LICENSE UNDER SECTION 12-47-412;
- (d) RETAIL GAMING TAVERN LICENSE UNDER SECTION 12-47-414;
- (e) BREW PUB LICENSE UNDER SECTION 12-47-415;
- (f) CLUB LICENSE UNDER SECTION 12-47-416;
- (g) ARTS LICENSE UNDER SECTION 12-47-417;
- (h) RACETRACK LICENSE UNDER SECTION 12-47-418;
- (i) VINTNER'S RESTAURANT LICENSE UNDER SECTION 12-47-420;
- (j) DISTILLERY PUB LICENSE UNDER SECTION 12-47-424; OR
- (k) LODGING AND ENTERTAINMENT FACILITY LICENSE UNDER SECTION 12-47-426.

(2) NOTWITHSTANDING SECTIONS 12-47-409, 12-47-411, 12-47-412, 12-47-414, 12-47-415, 12-47-416, 12-47-417, 12-47-418, 12-47-420, 12-47-424, AND 12-47-901, 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.

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

and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO