

CHAPTER 290

REVENUE - ACTIVITIES REGULATION

HOUSE BILL 21-1027

BY REPRESENTATIVE(S) Larson and Roberts, Bennett, Bird, Boesenecker, Cutter, Geitner, Gray, Herod, Jackson, Kipp, McCluskie, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Pelton, Pico, Ricks, Sandridge, Snyder, Soper, Titone, Van Winkle, Will, Garnett, Valdez A., Valdez D.;
also SENATOR(S) Bridges and Priola, Gardner, Holbert, Kirkmeyer, Liston, Lundeen, Moreno, Pettersen, Smallwood, Sonnenberg, Woodward, Zenzinger.

AN ACT

CONCERNING THE AUTHORIZATION FOR CERTAIN ALCOHOL LICENSE HOLDERS TO OFFER ALCOHOL BEVERAGES FOR CONSUMPTION OFF THE LICENSED PREMISES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 44-3-911, **amend** (1)(a)(I), (2)(b)(III), (6)(a), and (7) as follows:

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

(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:

(b) Sell or deliver:

(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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

article 33.5 of title 24:

(A) ~~Seven hundred fifty~~ ONE THOUSAND FIVE HUNDRED milliliters, approximately ~~26.4~~ 50.8 fluid ounces, of ~~spirituous liquors and~~ vinous liquors; ~~and~~

(B) ~~Seventy-two~~ ONE HUNDRED FORTY-FOUR fluid ounces, approximately ~~two thousand forty-six~~ 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.

(6) (a) (I) ~~As used in this section, "licensee" means a person issued a license under~~ 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) THIS SECTION AUTHORIZES A LICENSE HOLDER THAT IS ISSUED A LICENSE UNDER SECTION 44-3-402 AND THAT OPERATES A SALES ROOM OR SECTION 44-3-407 AND THAT OPERATES A SALES ROOM TO DELIVER AN ALCOHOL BEVERAGE TO A CUSTOMER FOR CONSUMPTION OFF OF THE LICENSED PREMISES. THIS SUBSECTION (6)(a)(III) IS REPEALED, EFFECTIVE JANUARY 2, 2022.

(7) This section is repealed, effective July 1, ~~2021~~ 2025.

SECTION 2. In Colorado Revised Statutes, 44-3-103, **add** (11.5) as follows:

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

(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.

SECTION 3. In Colorado Revised Statutes, **add** 44-3-912 as follows:

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.

SECTION 4. In Colorado Revised Statutes, 44-3-501, **amend** (3)(a)(XVII) and (3)(a)(XVIII); and **add** (3)(a)(XIX) as follows:

44-3-501. State fees - rules - one-time fee waiver - repeal. (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:

(XVII) Applications for manager's permits pursuant to section 44-3-427; ~~and~~

(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.

SECTION 5. In Colorado Revised Statutes, 44-3-505, **add** (6) as follows:

44-3-505. Local license fees. (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.

SECTION 6. Appropriation. (1) For the 2021-22 state fiscal year, \$63,274 is appropriated to the department of revenue for use by the liquor and tobacco enforcement division. This appropriation is from the liquor enforcement division and state licensing authority cash fund created in section 44-6-101, C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$41,294 for personal services, which amount is based on an assumption that the division will require an additional 0.8 FTE; and

(b) \$21,980 for operating expenses.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 22, 2021