

Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 04-0087.01 Stephen Miller

HOUSE BILL 04-1021

HOUSE SPONSORSHIP

Briggs, and Merrifield

SENATE SPONSORSHIP

McElhany

House Committees

Transportation & Energy
Appropriations

Senate Committees

Business Affairs & Labor
Appropriations

SENATE
Amended 3rd Reading
May 4, 2004

A BILL FOR AN ACT

101 **CONCERNING THE CONSUMPTION OF ALCOHOL, AND MAKING AN**
102 **APPROPRIATION THEREFOR.**

SENATE
Amended 2nd Reading
May 3, 2004

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Transportation Legislation Review Committee. For driving under the influence of alcohol, lowers the blood alcohol content level to 0.08 grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

Makes conforming amendments.

HOUSE
3rd Reading Unamended
April 7, 2004

HOUSE
Amended 2nd Reading
April 6, 2004

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.

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

2 **SECTION 1.** 42-4-1301 (2) (a), (4), (6) (a) (II), and (6) (a) (III),
3 Colorado Revised Statutes, are amended to read:

4 **42-4-1301. Driving under the influence - driving while**
5 **impaired - driving with excessive alcoholic content - penalties.**

6 (2) (a) It is a misdemeanor for any person to drive any vehicle in this
7 state when the person's BAC is ~~0.10~~ 0.08 or more at the time of driving
8 or within two hours after driving. During a trial, if the state's evidence
9 raises the issue, or if a defendant presents some credible evidence, that
10 the defendant consumed alcohol between the time that the defendant
11 stopped driving and the time that testing occurred, such issue shall be an
12 affirmative defense, and the prosecution must establish beyond a
13 reasonable doubt that the minimum ~~0.10~~ 0.08 blood or breath alcohol
14 content required in this paragraph (a) was reached as a result of alcohol
15 consumed by the defendant before the defendant stopped driving.

16 (4) No court shall accept a plea of guilty to a non-alcohol-related
17 or non-drug-related traffic offense or guilty to the offense of UDD from
18 a person charged with DUI, DUI per se, ~~DWAI~~, or habitual user; except
19 that the court may accept a plea of guilty to a non-alcohol-related or
20 non-drug-related traffic offense or to UDD upon a good faith
21 representation by the prosecuting attorney that the attorney could not
22 establish a prima facie case if the defendant were brought to trial on the
23 original alcohol-related or drug-related offense.

24 (6) (a) In any prosecution for DUI or DWAI, the defendant's BAC
25 at the time of the commission of the alleged offense or within a
26 reasonable time thereafter gives rise to the following presumptions or
27 inferences:

1 (II) If at such time the defendant's BAC was in excess of 0.05 but
2 less than ~~0.10~~ 0.08, such fact gives rise to the permissible inference that
3 the defendant's ability to operate a vehicle was impaired by the
4 consumption of alcohol, and such fact may also be considered with other
5 competent evidence in determining whether or not the defendant was
6 under the influence of alcohol.

7 (III) If at such time the defendant's BAC was ~~0.10~~ 0.08 or more,
8 such fact gives rise to the permissible inference that the defendant was
9 under the influence of alcohol.

10 **SECTION 2.** 42-4-1300.3 (3), Colorado Revised Statutes, is
11 amended to read:

12 **42-4-1300.3. Definitions.** As used in this part 13, unless the
13 context otherwise requires:

14 (3) "DUI per se" means driving with a BAC of ~~0.10~~ 0.08 or more,
15 and use of the term shall incorporate by reference the offense described
16 in section 42-4-1301 (2) (a).

17 **SECTION 3.** 18-3-106 (2) (b) and (2) (c), Colorado Revised
18 Statutes, are amended to read:

19 **18-3-106. Vehicular homicide.** (2) In any prosecution for a
20 violation of subsection (1) of this section, the amount of alcohol in the
21 defendant's blood or breath at the time of the commission of the alleged
22 offense, or within a reasonable time thereafter, as shown by analysis of
23 the defendant's blood or breath, shall give rise to the following
24 presumptions:

25 (b) If there was at such time in excess of 0.05 but less than ~~0.10~~
26 0.08 grams of alcohol per one hundred milliliters of blood, or if there was
27 at such time in excess of 0.05 but less than ~~0.10~~ 0.08 grams of alcohol per

1 two hundred ten liters of breath, such fact may be considered with other
2 competent evidence in determining whether or not the defendant was
3 under the influence of alcohol.

4 (c) If there was at such time ~~0.10~~ 0.08 or more grams of alcohol
5 per one hundred milliliters of blood, or if there was at such time ~~0.10~~ 0.08
6 or more grams of alcohol per two hundred ten liters of breath, it shall be
7 presumed that the defendant was under the influence of alcohol.

8 **SECTION 4.** 18-3-205 (2) (b) and (2) (c), Colorado Revised
9 Statutes, are amended to read:

10 **18-3-205. Vehicular assault.** (2) In any prosecution for a
11 violation of subsection (1) of this section, the amount of alcohol in the
12 defendant's blood or breath at the time of the commission of the alleged
13 offense, or within a reasonable time thereafter, as shown by analysis of
14 the defendant's blood or breath, shall give rise to the following
15 presumptions:

16 (b) If there was at such time in excess of 0.05 but less than ~~0.10~~
17 0.08 grams of alcohol per one hundred milliliters of blood, or if there was
18 at such time in excess of 0.05 but less than ~~0.10~~ 0.08 grams of alcohol per
19 two hundred ten liters of breath, such fact may be considered with other
20 competent evidence in determining whether or not the defendant was
21 under the influence of alcohol.

22 (c) If there was at such time ~~0.10~~ 0.08 or more grams of alcohol
23 per one hundred milliliters of blood, or if there was at such time ~~0.10~~ 0.08
24 or more grams of alcohol per two hundred ten liters of breath, it shall be
25 presumed that the defendant was under the influence of alcohol.

26 **SECTION 5.** 42-2-126 (2) (a) (I), (2) (a) (I.5), (5) (a) (I), (7) (a)
27 (I), (9) (c) (I), and (9) (c) (II), Colorado Revised Statutes, are amended to

1 read:

2 **42-2-126. Revocation of license based on administrative**
3 **determination.** (2) (a) The department shall revoke the license of any
4 person upon its determination that the person:

5 (I) Drove a vehicle in this state when the amount of alcohol, as
6 shown by analysis of the person's blood or breath, in such person's blood
7 was ~~0.10~~ 0.08 or more grams of alcohol per one hundred milliliters of
8 blood or ~~0.10~~ 0.08 or more grams of alcohol per two hundred ten liters of
9 breath at the time of driving or within two hours after driving. If the
10 preponderance of the evidence establishes that such person consumed
11 alcohol between the time that the person stopped driving and the time of
12 testing, the preponderance of the evidence must also establish that the
13 minimum ~~0.10~~ 0.08 blood or breath alcohol content was reached as a
14 result of alcohol consumed before the person stopped driving.

15 (I.5) Drove a vehicle in this state when such person was under
16 twenty-one years of age and when the amount of alcohol, as shown by
17 analysis of the person's blood or breath, in such person's blood was in
18 excess of 0.05 but less than ~~0.10~~ 0.08 grams of alcohol per one hundred
19 milliliters of blood or in excess of 0.05 but less than ~~0.10~~ 0.08 grams of
20 alcohol per two hundred ten liters of breath at the time of driving or
21 within two hours after driving. If the preponderance of the evidence
22 establishes that such person consumed alcohol between the time that the
23 person stopped driving and the time of testing, the preponderance of the
24 evidence must also establish that the minimum required blood or breath
25 alcohol content was reached as a result of alcohol consumed before the
26 person stopped driving.

27 (5) (a) (I) Whenever a law enforcement officer requests a person

1 to take any test or tests as required by section 42-4-1301.1 and such
2 person refuses to take or to complete or to cooperate in the completing of
3 such test or tests or whenever such test results are available to the law
4 enforcement officer and such tests show an alcohol concentration of ~~0.10~~
5 0.08 or more grams of alcohol per one hundred milliliters of blood as
6 shown by analysis of such person's blood or ~~0.10~~ 0.08 or more grams of
7 alcohol per two hundred ten liters of breath as shown by analysis of such
8 person's breath if the person is twenty-one years of age or older or,
9 subject to section 42-4-1301.1, at least 0.02 but not in excess of 0.05
10 grams of alcohol per two hundred ten liters of breath as shown by
11 analysis of such person's breath if the person is under twenty-one years
12 of age and when the person who is tested or who refuses to take or to
13 complete or to cooperate in the completing of any test or tests is still
14 available to the law enforcement officer, the officer, acting on behalf of
15 the department, shall serve the notice of revocation personally on such
16 person.

17 (7) (a) The periods of revocation specified by subsection (6) of
18 this section are intended to be minimum periods of revocation for the
19 described conduct. No license shall be restored under any circumstances,
20 and no probationary license shall be issued during the revocation period;
21 except that:

22 (I) A person whose privilege to drive a commercial motor vehicle
23 has been revoked because the person drove a commercial motor vehicle
24 when the person's blood alcohol content was 0.04 or greater, but less than
25 ~~0.10~~ 0.08, grams of alcohol per one hundred milliliters of blood or per
26 two hundred ten liters of breath and who was twenty-one years of age or
27 older at the time of the offense may apply for a driver's license of another

1 class or type as long as there is no other statutory reason to deny the
2 person a license. Such person may not operate any commercial motor
3 vehicle during the period of revocation of such person's privilege to
4 operate commercial motor vehicles. The department may not issue such
5 person a probationary license that would authorize such person to operate
6 any commercial motor vehicle.

7 (9) (c) (I) Where a license is revoked under subparagraph (I),
8 (I.5), or (I.7) of paragraph (a) of subsection (2) of this section, the sole
9 issue at the hearing shall be whether, by a preponderance of the evidence,
10 the person drove a vehicle in this state when the amount of alcohol, as
11 shown by analysis of the person's blood or breath, in such person's blood
12 was ~~0.10~~ 0.08 or more grams of alcohol per one hundred milliliters of
13 blood or ~~0.10~~ 0.08 or more grams of alcohol per two hundred ten liters of
14 breath at the time of driving or within two hours after driving if the
15 person was twenty-one years of age or older at the time of driving the
16 vehicle or, subject to section 42-4-1301.1, at least 0.02 but not in excess
17 of 0.05 grams of alcohol per two hundred ten liters of breath at the time
18 of driving or within two hours after driving if the person was under
19 twenty-one years of age at the time of driving the vehicle, or in excess of
20 0.05 grams of alcohol per one hundred milliliters of blood or in excess of
21 0.05 grams of alcohol per two hundred ten liters of breath at the time of
22 driving or within two hours after driving if the person was under
23 twenty-one years of age at the time of driving the vehicle. If the
24 preponderance of the evidence establishes that such person consumed
25 alcohol between the time that the person stopped driving and the time that
26 testing occurred, the preponderance of the evidence must also establish
27 that the minimum ~~0.10~~ 0.08 blood or breath alcohol content required in

1 subparagraph (I) of paragraph (a) of subsection (2) of this section, the
2 minimum 0.05 blood or breath alcohol content required in subparagraph
3 (I.5) of paragraph (a) of subsection (2) of this section, or the minimum
4 0.02 breath alcohol content required in subparagraph (I.7) of paragraph
5 (a) of subsection (2) of this section was reached as a result of alcohol
6 consumed before the person stopped driving; or, where a license is
7 revoked under subparagraph (II) of paragraph (a) of subsection (2) of this
8 section, whether the person refused to take or to complete or to cooperate
9 in the completing of any test or tests of the person's blood, breath, saliva,
10 or urine as required by section 42-4-1301.1. If the presiding hearing
11 officer finds the affirmative of the issue, the revocation order shall be
12 sustained. If the presiding hearing officer finds the negative of the issue,
13 the revocation order shall be rescinded.

14 (II) When the determination of the issue pursuant to this
15 paragraph (c) is based upon an analysis of the respondent's blood or
16 breath and evidence is offered by the respondent to show a disparity
17 between the results of the analysis done on behalf of the law enforcement
18 agency and the results of an analysis done on behalf of the respondent,
19 and when a preponderance of the evidence establishes that the blood
20 analysis conducted on behalf of the law enforcement agency was properly
21 conducted by a qualified person associated with a laboratory certified by
22 the department of public health and environment using properly working
23 testing devices or when a preponderance of the evidence establishes that
24 the law enforcement breath test was administered using a properly
25 working breath testing device certified by the department of public health
26 and environment, which device was properly operated by a qualified
27 operator, there shall be a presumption favoring the accuracy of the

1 analysis done on behalf of the law enforcement agency if such analysis
2 showed the amount of alcohol in the respondent's blood or breath to be
3 ~~0.12~~ 0.096 or more grams of alcohol per hundred milliliters of blood or
4 ~~0.12~~ 0.096 or more grams of alcohol per two hundred ten liters of breath.
5 If the respondent offers evidence of blood or breath analysis, the
6 respondent shall be required to state under oath the number of analyses
7 done in addition to the one offered as evidence and the names of the
8 laboratories that performed the analyses and the results of all analyses.

9 **SECTION 6.** 12-47-103, Colorado Revised Statutes, is amended
10 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
11 read:

12 **12-47-103. Definitions.** As used in this article and article 46 of
13 this title, unless the context otherwise requires:

14 (24.5) "PRODUCE", WHEN USED IN CONJUNCTION WITH THE
15 PRODUCTION REQUIREMENTS OF A LIMITED WINERY, MEANS
16 COLORADO-GROWN GRAPES AND FRUIT ONLY.

17 (37.5) "TASTINGS" MEANS THE SAMPLING OF MALT, VINOUS, OR
18 SPIRITOUS LIQUORS THAT MAY OCCUR ON THE PREMISES OF A RETAIL
19 LIQUOR STORE LICENSEE OR LIQUOR-LICENSED DRUGSTORE LICENSEE BY
20 ADULT PATRONS OF THE LICENSEE PURSUANT TO THE PROVISIONS OF
21 SECTION 12-47-301 (10).

22 **SECTION 7.** 12-47-301, Colorado Revised Statutes, is amended
23 BY THE ADDITION OF A NEW SUBSECTION to read:

24 **12-47-301. Licensing in general.** (10) (a) THE PROVISIONS OF
25 THIS SUBSECTION (10) SHALL ONLY APPLY WITHIN A COUNTY, CITY AND
26 COUNTY, OR MUNICIPALITY IF THE GOVERNING BODY OF THE COUNTY, CITY
27 AND COUNTY, OR MUNICIPALITY ADOPTS AN ORDINANCE OR RESOLUTION

1 AUTHORIZING TASTINGS PURSUANT TO THIS SUBSECTION (10). THE
2 ORDINANCE OR RESOLUTION MAY PROVIDE FOR STRICTER LIMITS THAN
3 THIS SUBSECTION (10) ON THE NUMBER OF TASTINGS PER YEAR PER
4 LICENSEE, THE DAYS ON WHICH TASTINGS MAY OCCUR, OR THE NUMBER OF
5 HOURS EACH TASTING MAY LAST.

6 (b) A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE
7 LICENSEE WHO WISHES TO CONDUCT TASTINGS MAY SUBMIT AN
8 APPLICATION OR APPLICATION RENEWAL TO THE LOCAL LICENSING
9 AUTHORITY. THE LOCAL LICENSING AUTHORITY MAY REJECT THE
10 APPLICATION IF THE APPLICANT FAILS TO ESTABLISH THAT HE OR SHE IS
11 ABLE TO CONDUCT TASTINGS WITHOUT VIOLATING THE PROVISIONS OF THIS
12 SECTION OR CREATING A PUBLIC SAFETY RISK TO THE NEIGHBORHOOD. A
13 LOCAL LICENSING AUTHORITY MAY ESTABLISH ITS OWN APPLICATION
14 PROCEDURE AND MAY CHARGE A REASONABLE APPLICATION FEE.

15 (c) TASTINGS SHALL BE SUBJECT TO THE FOLLOWING LIMITATIONS:

16 (I) TASTINGS SHALL BE CONDUCTED ONLY BY A PERSON WHO HAS
17 COMPLETED A SERVER TRAINING PROGRAM THAT MEETS THE STANDARDS
18 ESTABLISHED BY THE LIQUOR ENFORCEMENT DIVISION IN THE DEPARTMENT
19 OF REVENUE AND WHO IS EITHER A RETAIL LIQUOR STORE LICENSEE OR A
20 LIQUOR-LICENSED DRUGSTORE LICENSEE, OR AN EMPLOYEE OF A LICENSEE,
21 AND ONLY ON A LICENSEE'S LICENSED PREMISES.

22 (II) THE ALCOHOL USED IN TASTINGS SHALL BE PURCHASED
23 THROUGH A LICENSED WHOLESALER, LICENSED BREW PUB, OR WINERY
24 LICENSED PURSUANT TO SECTION 12-47-403 AT A COST THAT IS NOT LESS
25 THAN THE LAID-IN COST OF SUCH ALCOHOL.

26 (III) THE SIZE OF AN INDIVIDUAL ALCOHOL SAMPLE SHALL NOT
27 EXCEED ONE OUNCE OF MALT OR VINOUS LIQUOR OR ONE-HALF OF ONE

1 OUNCE OF SPIRITUOUS LIQUOR.

2 (IV) TASTINGS SHALL NOT EXCEED A TOTAL OF FIVE HOURS IN
3 DURATION PER DAY, WHICH NEED NOT BE CONSECUTIVE.

4 (V) TASTINGS SHALL BE CONDUCTED ONLY DURING THE
5 OPERATING HOURS IN WHICH THE LICENSEE ON WHOSE PREMISES THE
6 TASTINGS OCCUR IS PERMITTED TO SELL ALCOHOL BEVERAGES, AND IN NO
7 CASE EARLIER THAN 11 A.M. OR LATER THAN 7 P.M.

8 (VI) THE LICENSEE SHALL PROHIBIT PATRONS FROM LEAVING THE
9 LICENSED PREMISES WITH AN UNCONSUMED SAMPLE.

10 (VII) THE LICENSEE SHALL PROMPTLY REMOVE ALL OPEN AND
11 UNCONSUMED ALCOHOL BEVERAGE SAMPLES FROM THE LICENSED
12 PREMISES OR SHALL DESTROY THE SAMPLES IMMEDIATELY FOLLOWING THE
13 COMPLETION OF THE TASTING.

14 (VIII) THE LICENSEE SHALL NOT SERVE A PERSON WHO IS UNDER
15 TWENTY-ONE YEARS OF AGE OR WHO IS VISIBLY INTOXICATED.

16 (IX) THE LICENSEE SHALL NOT SERVE MORE THAN FOUR
17 INDIVIDUAL SAMPLES TO A PATRON DURING A TASTING.

18 (X) ALCOHOL SAMPLES SHALL BE IN OPEN CONTAINERS AND SHALL
19 BE PROVIDED TO A PATRON FREE OF CHARGE.

20 (XI) TASTINGS MAY OCCUR ON NO MORE THAN FOUR OF THE SIX
21 DAYS FROM A MONDAY TO THE FOLLOWING SATURDAY, NOT TO EXCEED
22 ONE HUNDRED FOUR DAYS PER YEAR.

23 (XII) NO MANUFACTURER OF SPIRITUOUS OR VINOUS LIQUORS
24 SHALL INDUCE A LICENSEE THROUGH FREE GOODS OR FINANCIAL OR
25 IN-KIND ASSISTANCE TO FAVOR THE MANUFACTURER'S PRODUCTS BEING
26 SAMPLED AT A TASTING. THE LICENSEE SHALL BEAR THE FINANCIAL AND
27 ALL OTHER RESPONSIBILITY FOR A TASTING.

1 (d) A VIOLATION OF A LIMITATION SPECIFIED IN THIS SUBSECTION
2 (10) OR OF SECTION 12-47-801 BY A RETAIL LIQUOR STORE OR
3 LIQUOR-LICENSED DRUGSTORE LICENSEE, WHETHER BY HIS OR HER
4 EMPLOYEES, AGENTS, OR OTHERWISE, SHALL BE THE RESPONSIBILITY OF
5 THE RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE
6 WHO IS CONDUCTING THE TASTING.

7 (e) A RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE
8 LICENSEE CONDUCTING A TASTING SHALL BE SUBJECT TO THE SAME
9 REVOCATION, SUSPENSION, AND ENFORCEMENT PROVISIONS AS OTHERWISE
10 APPLY TO THE LICENSEE.

11 (f) NOTHING IN THIS SUBSECTION (10) SHALL AFFECT THE ABILITY
12 OF A COLORADO WINERY LICENSED PURSUANT TO SECTION 12-47-402 OR
13 12-47-403 TO CONDUCT A TASTING PURSUANT TO THE AUTHORITY OF
14 SECTION 12-47-402 (2) OR 12-47-403 (2) (e).

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

17 **12-47-407. Retail liquor store license.** (1) A retail liquor store
18 license shall be issued to persons selling only malt, vinous, and spirituous
19 liquors in sealed containers not to be consumed at the place where sold.
20 Malt, vinous, and spirituous liquors in sealed containers shall not be sold
21 at retail other than in retail liquor stores except as provided in section
22 12-47-408. In addition, retail liquor stores may sell nonfood items related
23 to the consumption of such liquors, liquor-filled candy, and food items
24 approved by the state licensing authority that are prepackaged, labeled,
25 directly related to the consumption of such liquors, and are sold solely for
26 the purpose of cocktail garnish in containers up to sixteen ounces.
27 Nothing in this section shall be construed to authorize the sale of food

1 items that could constitute a snack, a meal, or portion of a meal. Nothing
2 in this section or in section 12-47-103 (31) shall be construed to prohibit
3 the sale of items by a retail liquor store on behalf of or to benefit a
4 charitable organization, as defined in section 39-26-102, C.R.S., or a
5 nonprofit corporation subject to the "Colorado Revised Nonprofit
6 Corporation Act", articles 121 to 137 of title 7, C.R.S., and determined
7 to be exempt from federal income tax by the federal internal revenue
8 service, if the retail liquor store does not receive compensation for any
9 such sale. Nothing in this section shall prohibit a retail liquor store
10 licensee, at the option of the licensee, from displaying promotional
11 material furnished by a manufacturer or wholesaler, which material
12 permits a customer to purchase other items from a third person if the
13 retail liquor store licensee does not receive payment from the third person
14 and if the ordering of the additional merchandise is done by the customer
15 directly from the third person. NOTHING IN THIS SUBSECTION (1) SHALL
16 PROHIBIT A RETAIL LIQUOR STORE LICENSEE FROM ALLOWING TASTINGS TO
17 BE CONDUCTED ON HIS OR HER LICENSED PREMISES IF AN AUTHORIZATION
18 FOR THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

19 **SECTION 9.** 12-47-408 (1), Colorado Revised Statutes, is
20 amended to read:

21 **12-47-408. Liquor-licensed drugstore license.** (1) A
22 liquor-licensed drugstore license shall be issued to persons selling malt,
23 vinous, and spirituous liquors in sealed containers not to be consumed at
24 the place where sold. NOTHING IN THIS SUBSECTION (1) SHALL PROHIBIT
25 A LIQUOR-LICENSED DRUGSTORE LICENSEE FROM ALLOWING TASTINGS TO
26 BE CONDUCTED ON HIS OR HER LICENSED PREMISES IF AN AUTHORIZATION
27 FOR THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

1 **SECTION 10.** 12-47-411 (6) (b) (I), Colorado Revised Statutes,
2 is amended to read:

3 **12-47-411. Hotel and restaurant license.** (6) (b) (I) Any
4 person selling malt, vinous, and spirituous liquors as provided in this
5 section may purchase not more than ~~five hundred~~ ONE THOUSAND dollars'
6 worth of such malt, vinous, and spirituous liquors during a calendar year
7 from a retail liquor store.

8 **SECTION 11.** 12-47-901 (1) (h), (5) (i), (5) (k), and (7),
9 Colorado Revised Statutes, are amended to read:

10 **12-47-901. Unlawful acts - exceptions.** (1) Except as provided
11 in section 18-13-122, C.R.S., it is unlawful for any person:

12 (h) (I) To consume malt, vinous, or spirituous liquor in any public
13 place except on any licensed premises permitted under this article to sell
14 such liquor by the drink for consumption thereon; to consume any alcohol
15 beverage upon any premises licensed to sell liquor for consumption on
16 the licensed premises, the sale of which is not authorized by the state
17 licensing authority; to consume alcohol beverages at any time on such
18 premises other than such alcohol beverage as is purchased from such
19 establishment; or to consume alcohol beverages in any public room on
20 such premises during such hours as the sale of such beverage is
21 prohibited under this article.

22 (II) Notwithstanding subparagraph (I) of this paragraph (h), it
23 shall not be unlawful for a person who is at least twenty-one years of age
24 to consume malt, vinous, or spirituous liquors while such person is a
25 passenger aboard a luxury limousine, as defined in section 40-16-101 (3),
26 C.R.S., or a charter or scenic bus, as defined in section 40-16-101 (1.3),
27 C.R.S. Nothing in this subparagraph (II) shall be construed to authorize

1 an owner or operator of a luxury limousine or charter or scenic bus to sell
2 or distribute malt, vinous, or spirituous liquors without obtaining a public
3 transportation system license pursuant to section 12-47-419.

4 (III) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH
5 (h), IT SHALL NOT BE UNLAWFUL FOR ADULT PATRONS OF A RETAIL LIQUOR
6 STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEE TO CONSUME MALT,
7 VINOUS, OR SPIRITUOUS LIQUORS ON THE LICENSED PREMISES WHEN THE
8 CONSUMPTION IS CONDUCTED WITHIN THE LIMITATIONS OF THE LICENSEE'S
9 LICENSE AND IS PART OF A TASTING IF AUTHORIZATION FOR THE TASTING
10 HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

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

13 (i) (I) To sell malt, vinous, or spirituous liquors in a place where
14 the same are to be consumed, unless such place is a hotel, restaurant,
15 tavern, racetrack, club, retail gaming tavern, or arts licensed premises or
16 unless such place is a dining, club, or parlor car; plane; bus; or other
17 conveyance or facility of a public transportation system.

18 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH
19 (i), IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR
20 LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS TO BE
21 CONDUCTED ON HIS OR HER LICENSED PREMISES IF AUTHORIZATION FOR
22 THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

23 (k) (I) To have on the licensed premises, if licensed as a retail
24 liquor store or liquor-licensed drugstore, any container that shows
25 evidence of having once been opened or that contains a volume of liquor
26 less than that specified on the label of such container; except that a
27 person holding a retail liquor store or liquor-licensed drugstore license

1 may have upon the licensed premises malt, vinous, or spirituous liquors
2 in open containers, when the open containers were brought on the
3 licensed premises by and remain solely in the possession of the sales
4 personnel of a person licensed to sell at wholesale pursuant to this article
5 for the purpose of sampling malt, vinous, or spirituous liquors by the
6 retail licensee only. Nothing in this paragraph (k) shall apply to any
7 liquor-licensed drugstore where the contents, or a portion thereof, have
8 been used in compounding prescriptions.

9 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH
10 (k), IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR
11 LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS TO BE
12 CONDUCTED ON HIS OR HER LICENSED PREMISES IF AUTHORIZATION FOR
13 THE TASTINGS HAS BEEN GRANTED PURSUANT TO SECTION 12-47-301.

14 (7) (a) It is unlawful for any person licensed pursuant to this
15 article or article 46 of this title to give away fermented malt beverages for
16 the purpose of influencing the sale of any particular kind, make, or brand
17 of any malt beverage and to furnish or supply any commodity or article
18 at less than its market price for said purpose, except advertising material
19 and signs.

20 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (7),
21 IT SHALL NOT BE UNLAWFUL FOR A RETAIL LIQUOR STORE OR
22 LIQUOR-LICENSED DRUGSTORE LICENSEE TO ALLOW TASTINGS TO BE
23 CONDUCTED ON HIS OR HER LICENSED PREMISES IF AUTHORIZATION FOR
24 THE TASTINGS HAS BEEN GRANTED PURSUANT SECTION 12-47-301.

25 **SECTION 12. 12-47-411, Colorado Revised Statutes, is amended**
26 **BY THE ADDITION OF A NEW SUBSECTION to read:**

1 **12-47-411. Hotel and restaurant license.**

2 (3.5) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE
3 CONTRARY, A HOTEL OR RESTAURANT LICENSED PURSUANT TO THIS
4 SECTION MAY PERMIT A CUSTOMER OF THE HOTEL OR RESTAURANT TO
5 RESEAL AND REMOVE FROM THE LICENSED PREMISES ONE OPENED
6 CONTAINER OF PARTIALLY CONSUMED VINOUS LIQUOR PURCHASED ON THE
7 PREMISES SO LONG AS THE ORIGINAL CONTAINER DID NOT CONTAIN MORE
8 THAN 750 MILLILITERS OF VINOUS LIQUOR.

9 **SECTION 13. Appropriation.** (1) In addition to any other
10 appropriation, there is hereby appropriated, out of any moneys in the
11 driver's license administrative revocation account in the highway users
12 tax fund, created in section 42-2-132 (4) (b), C.R.S., not otherwise
13 appropriated, to the department of revenue, for allocation to the hearings
14 division, for the fiscal year beginning July 1, 2004, the sum of
15 eighty-three thousand nine hundred fifty dollars (\$83,950) and 0.4 FTE,
16 or so much thereof as may be necessary, for the implementation of this
17 act.

18 (2) In addition to any other appropriation, there is hereby
19 appropriated, out of any moneys in the general fund not otherwise
20 appropriated, to the judicial department, for the fiscal year beginning
21 July 1, 2004, the sum of eight thousand three hundred seventy-seven
22 dollars (\$8,377) and 0.2 FTE, or so much thereof as may be necessary,
23 for the implementation of this act.

24 **SECTION 14.** Part 1 of article 1 of title 17, Colorado Revised
25 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
26 read:

27 **17-1-150. Appropriation to comply with section 2-2-703.**

1 (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY
2 APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE
3 IN ORDER TO IMPLEMENT H.B. 04-1021, ENACTED AT THE SECOND
4 REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY:

5 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION TO
6 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM THE
7 CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO
8 THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
9 17-1-116, THE SUM OF SEVENTY-SIX THOUSAND FOUR HUNDRED FOURTEEN
10 DOLLARS (\$76,414).

11 (b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2006, IN ADDITION
12 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
13 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
14 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
15 SECTION 17-1-116, THE SUM OF NINETY THOUSAND THREE HUNDRED SEVEN
16 DOLLARS (\$90,307).

17 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2006, IN ADDITION
18 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
19 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
20 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF NINETEEN THOUSAND
21 FOUR HUNDRED FORTY-FIVE DOLLARS (\$19,445).

22 (c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2007, IN ADDITION
23 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
24 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
25 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
26 SECTION 17-1-116, THE SUM OF THIRTEEN THOUSAND EIGHT HUNDRED
27 NINETY-THREE DOLLARS (\$13,893).

1 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2007, IN ADDITION
2 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
3 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
4 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF FORTY-TWO THOUSAND
5 FOUR HUNDRED TWENTY-FIVE DOLLARS (\$42,425).

6 (d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2008, IN ADDITION
7 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
8 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
9 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
10 SECTION 17-1-116, THE SUM OF SIXTY-NINE THOUSAND FOUR HUNDRED
11 SIXTY-SEVEN DOLLARS (\$69,467).

12 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2008, IN ADDITION
13 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
14 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
15 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF FORTY-FIVE THOUSAND
16 NINE HUNDRED SIXTY DOLLARS (\$45,960).

17 **SECTION 15.** 24-75-302 (2)(s) and (2)(t), Colorado Revised
18 Statutes, as they will become effective July 1, 2004, are amended, and the
19 said 24-75-302 (2), as it will become effective July 1, 2004, is further
20 amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

21 **24-75-302. Capital construction fund - capital assessment fees**
22 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
23 through July 1, 2008, a sum as specified in this subsection (2) shall
24 accrue to the capital construction fund. The state treasurer and the
25 controller shall transfer such sum out of the general fund and into the
26 capital construction fund as moneys become available in the general fund
27 during the fiscal year beginning on said July 1. Transfers between funds

1 pursuant to this subsection (2) shall not be deemed to be appropriations
2 subject to the limitations of section 24-75-201.1. The amount which shall
3 accrue pursuant to this subsection (2) shall be as follows:

4 =====

5 =====

6 (s) On July 1, 2006, twenty-two thousand nine hundred
7 twenty-four dollars pursuant to section 3 of H.B. 02S-1006, enacted at the
8 third extraordinary session of the sixty-third general assembly; plus two
9 hundred ninety-one thousand seven hundred sixty-one dollars pursuant
10 to H.B. 03-1004, enacted at the first regular session of the sixty-fourth
11 general assembly; plus one hundred twenty-five thousand forty-one
12 dollars pursuant to H.B. 03-1138, enacted at the first regular session of
13 the sixty-fourth general assembly; plus sixty-nine thousand four hundred
14 sixty-seven dollars pursuant to H.B. 03-1213, enacted at the first regular
15 session of the sixty-fourth general assembly; plus sixty-nine thousand
16 four hundred sixty-seven dollars pursuant to H.B. 03-1317, enacted at the
17 first regular session of the sixty-fourth general assembly; PLUS NINETY
18 THOUSAND THREE HUNDRED SEVEN DOLLARS PURSUANT TO H.B. 04-1021,
19 ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FOURTH
20 GENERAL ASSEMBLY;

21 (t) On July 1, 2007, four hundred sixteen thousand eight hundred
22 two dollars pursuant to H.B. 03-1004, enacted at the first regular session
23 of the sixty-fourth general assembly; plus fifty-five thousand five hundred
24 seventy-four dollars pursuant to H.B. 03-1317, enacted at the first regular
25 session of the sixty-fourth general assembly; PLUS THIRTEEN THOUSAND
26 EIGHT HUNDRED NINETY-THREE DOLLARS PURSUANT TO H.B. 04-1021,
27 ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FOURTH

1 GENERAL ASSEMBLY;

2 (u) ON JULY 1, 2008, SIXTY-NINE THOUSAND FOUR HUNDRED
3 SIXTY-SEVEN DOLLARS PURSUANT TO H.B. 04-1021, ENACTED AT THE
4 SECOND REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY.

5 **SECTION 16.** 24-75-302 (2), Colorado Revised Statutes, is
6 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

7 **24-75-302. Capital construction fund - capital assessment fees**
8 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
9 through July 1, 2008, a sum as specified in this subsection (2) shall
10 accrue to the capital construction fund. The state treasurer and the
11 controller shall transfer such sum out of the general fund and into the
12 capital construction fund as moneys become available in the general fund
13 during the fiscal year beginning on said July 1. Transfers between funds
14 pursuant to this subsection (2) shall not be deemed to be appropriations
15 subject to the limitations of section 24-75-201.1. The amount which shall
16 accrue pursuant to this subsection (2) shall be as follows:

17 (r.5) ON JULY 1, 2005, SEVENTY-SIX THOUSAND FOUR HUNDRED
18 FOURTEEN DOLLARS PURSUANT TO H.B. 04-1021, ENACTED AT THE
19 SECOND REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY;

20 _____
21 _____

22 **SECTION 17. Effective date - applicability.** This act shall take
23 effect July 1, 2004, and shall apply to offenses committed on or after said
24 date; except that, section 15 of this act shall take effect only if House Bill
25 04-1412 is enacted at the Second Regular Session of the Sixty-fourth
26 General Assembly and becomes law.

27 **SECTION 18. Safety clause.** The general assembly hereby

- 1 finds, determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.