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*C.R.S. 12-47-103*

COLORADO REVISED STATUTES

\*\*\* This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) \*\*\*

TITLE 12. PROFESSIONS AND OCCUPATIONS  
GENERAL - Continued  
ARTICLE 47. ALCOHOL BEVERAGES  
PART 1. GENERAL PROVISIONS

**C.R.S. 12-47-103** (2014)

12-47-103. Definitions

As used in this article and article 46 of this title, 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), C.R.S.
- (2.5) "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 12-46-104 (1) (a), 12-47-402, 12-47-403, or 12-47-415 and within which such licensee and other persons licensed pursuant to section 12-46-104 (1) (a), 12-47-402, 12-47-403, or 12-47-415, are authorized to manufacture and store vinous liquors, malt liquors, or fermented malt beverages in accordance with the provisions of this article or article 46 of this title, as applicable.
- (3) "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.
- (4) "Brew pub" means a retail establishment that manufactures not more than one million eight hundred sixty thousand gallons of malt liquor and fermented malt beverages on its licensed premises or licensed alternating proprietor licensed premises, combined, each calendar year.
- (5) "Brewery" means any establishment where malt liquors or fermented malt beverages are manufactured, except brew pubs licensed under this article.
- (6) "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.

(6.5) "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.

(6.6) "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.

(7) "Distillery" means any establishment where spirituous liquors are manufactured.

(7.5) "Entertainment district" means an area that:

(a) Is located within a municipality and is designated in accordance with section 12-47-301 (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 licensed as a tavern, hotel and restaurant, brew pub, retail gaming tavern, or vintner's restaurant at the time the district is created.

(8) "Fermented malt beverage" has the same meaning as provided in section 12-46-103 (1).

(9) "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 or any rules and regulations promulgated pursuant to this article;

(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 12-47-301 (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 paragraph (d), "disorderly conduct" has the meaning as provided for in section 18-9-106, C.R.S.

(10) "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 gram of carbon dioxide per hundred milliliters. For the purpose of simplicity of administration of this article, hard cider shall in all respects be treated as a vinous liquor except where expressly provided otherwise.

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

(12) "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.

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

(14) "Licensed premises" means the premises specified in an application for a license under this article 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.

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

(16) "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.

(17) "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.

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

(19) "Malt liquors" includes beer and shall be construed to mean 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 more than three and two-tenths percent of alcohol by weight or four percent alcohol by volume.

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

(21) "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.

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

(I) The premises specified in an application for a hotel and restaurant license under this article 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 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 (22), "outdoor sports and recreational facility" means a facility that charges a fee for the use of such facility.

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

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

(23.5) "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 12-47-104 for personal consumption only and not for resale or other commercial purposes.

(24) "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.

- (24.5) "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.
- (25) "Racetrack" means any premises where race meets or simulcast races with pari-mutuel wagering are held in accordance with the provisions of article 60 of this title.
- (26) "Rectify" means to blend spirituous liquor with neutral spirits or other spirituous liquors of different age.
- (27) "Rectifying plant" means any establishment where spirituous liquors are blended with neutral spirits or other spirituous liquors of different age.
- (28) "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.
- (29) "Resort hotel" means a hotel, as defined in subsection (11) of this section, with well-defined occupancy seasons.
- (30) "Restaurant" means an establishment, which is not a hotel as defined in subsection (11) 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 47.1 of this title, 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 (30) 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.
- (31) "Retail liquor store" means an establishment engaged only in the sale of malt, vinous, and spirituous liquors and soft drinks and mixers, all in sealed containers for consumption off the premises; tobaccos, tobacco products, smokers' supplies, and nonfood items related to the consumption of such beverages; and liquor-filled candy and food items approved by the state licensing authority, which are prepackaged, labeled, and directly related to the consumption of such beverages and are sold solely for the purpose of cocktail garnish in containers up to sixteen ounces. Nothing in this section shall be construed to authorize the sale of food items that could constitute a snack, a meal, or portion of a meal.
- (32) "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 to twelve. "Basic academic education" has the same meaning as set forth in section 22-33-104 (2) (b), C.R.S.
- (33) "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.
- (34) "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 or article 46 or 48 of this title; 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; to traffic in for any consideration promised or obtained, directly or indirectly.
- (35) "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.

(36) "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, 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 (19) and (39) of this section, shall not be construed to be fermented malt or malt or vinous liquor but shall be construed to be spirituous liquor.

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

(37.5) "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 12-47-301 (10).

(38) "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.

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

(39) "Vinous liquors" means wine and fortified wines that contain not less than one-half of one percent and not more than twenty-one percent alcohol by volume and shall be construed to mean an alcohol beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

(39.5) "Vintner's restaurant" means a retail establishment that sells food for consumption on the premises and that manufactures not more than two hundred fifty thousand gallons of wine on its premises each year.

(40) "Winery" means any establishment where vinous liquors are manufactured; except that the term does not include a vintner's restaurant licensed pursuant to section 12-47-420.

**HISTORY:** Source: L. 97: Entire article amended with relocations, p. 225, § 3, effective July 1. L. 2000: (28) amended, p. 1167, § 1, effective May 26. L. 2004: (37.5) added, p. 784, § 6, effective July 1; (39.5) added and (40) amended, p. 738, § 1, effective August 4. L. 2005: (6.5) added and (15) amended, p. 683, § 1, effective June 1. L. 2006: (23.5) added, p. 433, § 1, effective July 1. L. 2008: (2.5) added, p. 2164, § 1, effective August 5. L. 2009: (2.5) and (4) amended, (SB 09-254), ch. 272, p. 1229, § 2, effective May 18. L. 2011: (3), (4), (5), (13), (14), (22)(a)(I), and (38) amended, (SB 11-060), ch. 171, p. 605, § 16, effective May 13; (6.6), (7.5), and (24.5) added, (SB11-273), ch. 233, p. 1003, § 1, effective August 10. L. 2013: (7.5) amended, (SB 13-043), ch. 175, p. 637, § 2, effective May 10. L. 2014: (22.5) and (38.5) added, (HB 14-1034), ch. 148, p. 501, § 1, effective May 9.

Editor's note: This section is similar to former § 12-47-103 as it existed prior to 1997.

Annotator's note. Since § 12-47-103 is similar to § 12-47-103 as it existed prior to the 1997 amendment of title 12, article 47, which resulted in the relocation of provisions, a relevant case construing that provision has been included in the annotations to this section.

Definition of words "sell" or "sale", in subsection (24), must be considered in light of the purpose underlying this article. *Contemporary Enters., Inc. v. Charnes*, 44 Colo. App. 26, 613 P.2d 339 (1980).

Words "distinct" and "definite" in subsection (15) should be given their ordinary and generally accepted meanings. Denial of request for modification, where premises would still be distinct and definite as those terms are ordinarily defined, is arbitrary and capricious. *East 40th Corp. v. City of Aurora*, 746 P.2d 55 (Colo. App. 1987).

The operation of shuffleboards for gain or profit constitutes a business within the meaning of subsection (21) and is prohibited by law in restaurants where liquor is sold with meals. *City and County of Denver v. Gushurst*, 120 Colo. 465, 210 P.2d 616 (1949).

The playing of the game of shuffleboard does not come within the exceptions in subsection (21) and cannot be considered as an ancillary or auxiliary activity in aid of the main business of serving meals, but on the contrary is a separate and distinct business wholly incompatible with the type of restaurant defined in that subsection. *City and County of Denver v. Gushurst*, 120 Colo. 465, 210 P.2d 616 (1949).

The presence and operation of a "Chicago Coin Pistol" machine constitutes a separate and distinct business and is prohibited in restaurants which are licensed to sell intoxicating liquor by the drink. *MacArthur v. Wycaver*, 120 Colo. 525, 211 P.2d 556 (1949); *City and County of Denver v. Gushurst*, 120 Colo. 465, 210 P.2d 616 (1949).



Pizza Hut outlets are restaurants and not stores or mercantile establishments. *Pizza Hut, Inc. v. Dolan*, 619 P.2d 508 (Colo. App. 1980).

The sale of cigarettes, mints, and salad dressings does not exclude Pizza Hut outlets from the category of restaurants. *Pizza Hut, Inc. v. Dolan*, 619 P.2d 508 (Colo. App. 1980).

Sale of "charge-a-drink" cards did not constitute sale of liquor under article. The activities of a company which sold "charge-a-drink" cards which entitled the holder to obtain, without charge, one drink worth up to \$2 at each of 40 restaurants and lounges did not constitute the sale of liquor under the terms of this article. *Contemporary Enters., Inc. v. Charnes*, 44 Colo. App. 26, 613 P.2d 339 (1980).

Applied in *Chroma Corp. v. County of Adams*, 36 Colo. App. 345, 543 P.2d 83 (1975).

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