



***SPECIAL CITY COUNCIL MEETING AGENDA
Monday, February 26, 2024 - 2:00 PM
City Council Chambers, Elks Civic Building - 107 S. Cascade Ave.***

1) Call to order by Mayor Barbara Bynum

2) Roll call by the City Clerk

3) LIQUOR LICENSE RENEWAL HEARING

City Council will hold a public hearing on the renewal of a Tavern liquor license at 35 N. Cascade Avenue held by Daisy McEachern, doing business as Red, White and Brew Tavern.
Staff: City Attorney Chris Dowsey and Assistant City Attorney Matt Magliaro

4) Adjournment

APPLICANT ID: 795092

Submit to Local Licensing Authority

**RED, WHITE AND BLUE TAVERN
 35 NORTH CASCADE AVENUE
 Montrose CO 81401**

Fees Due	
Renewal Fee	625.00
Storage Permit \$100 X _____	\$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X _____	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Colorado Beer and Wine License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name DAISY MCEACHERN		Doing Business As Name (DBA) RED, WHITE AND BLUE TAVERN	
Liquor License # 03-18346	License Type Tavern (city)		
Sales Tax License Number 95513884	Expiration Date 02/23/2024	Due Date 01/09/2024	
Business Address 35 NORTH CASCADE AVENUE Montrose CO 81401			Phone Number 9704174560
Mailing Address 35 NORTH CASCADE AVENUE Montrose CO 81401		Email	
Operating Manager	Date of Birth	Home Address	Phone Number
1. Do you have legal possession of the premises at the street address above? ☐ Yes ☒ No Are the premises owned or rented? ☐ Owned ☒ Rented* *If rented, expiration date of lease _____			
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. ☒ Yes ☐ No 2030			
3a. Are you renewing a takeout and/or delivery permit? (Note: must hold a qualifying license type and be authorized for takeout and/or delivery license privileges) ☐ Yes ☒ No			
3b. If so, which are you renewing? ☐ Delivery ☐ Takeout ☐ Both Takeout and Delivery			
4a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? ☐ Yes ☒ No			
4b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? ☐ Yes ☒ No			
5. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. ☐ Yes ☒ No			
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. ☐ Yes ☒ No			

Tax Check Authorization, Waiver, and Request to Release Information

I, Preston McEachern am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of Daisy McEachern (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101, et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and is duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business) <u>Preston McEachern</u>		Social Security Number/Tax Identification Number <u>92-1261527</u>	
Address <u>PO Box 22</u>			
City <u>Montrose</u>		State <u>CO</u>	Zip <u>81402</u>
Home Phone Number <u>970-901-7620</u>		Business/Work Phone Number	
Printed name of person signing on behalf of the Applicant/Licensee <u>Preston McEachern</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) <u>[Signature]</u>			Date signed <u>1-29-24</u>

Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).

7. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. ☐ Yes ☒ No
8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. ☐ Yes ☒ No

Affirmation & Consent I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.		
Type or Print Name of Applicant/Authorized Agent of Business <i>Preston M. Cracher</i>		Title <i>MUG</i>
Signature <i>[Signature]</i>		Date <i>1-29-24</i>
Report & Approval of City or County Licensing Authority The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules. Therefore this application is approved.		
Local Licensing Authority For		RECEIVED JAN 29 2024 Date
Signature	Title	Attest



City of Montrose
PO Box 790
Montrose, CO 81402
(970) 240-1400
utility_billing@ci.montrose.co.us

XBP Confirmation Number: **164320103**

Transaction detail for payment to City of Montrose.				Date: 01/29/2024 - 10:24:31 AM MT	
Transaction Number: 212253126					
Visa — XXXX-XXXX-XXXX-8780					
Status: Successful					
Account #	Item	Receipt Number	Void Receipt Number	Quantity	Item Amount
81193	CBI LIQUOR LICENSE FEE 81193			1	\$175.00
Notes: Red, White & Brew Renewal					

TOTAL: \$175.00

Billing Information
Preston McEachern
, 81402

Transaction taken by: Admin Idelpiccolo

AMPM SWEEPERS & STRIPES LLC PO BOX 22 MONTROSE, CO 81402		1774 82-7710/3021
Pay to the Order of <u>Colorado Dept. of Revenue</u>		\$ <u>625.00</u>
<u>Six hundred twenty-five & no/100</u>		DOLLARS
1400 E. MAIN STREET MONTROSE, COLORADO 81401 970-249-5319		
FOR		1774

NO. 81193

LICENSE

CITY OF MONTROSE
P.O. BOX 790
MONTROSE, CO 81402-0790
(970) 240-1422

THE BELOW LISTED PERSON(S), HAVING PAID THE REQUIRED FEE OF \$ 1,075.00CR IS (ARE) HEREBY
AUTHORIZED AND EMPOWERED BY THE CITY COUNCIL OF THE CITY OF MONTROSE FOR THE
TERM OF Annual FROM 02/23/2023 TO 02/23/2024 TO:
Sell Malt, Vinous, Spirituous Liquor-Consumption on Premises

Daisy McEachern
Daisy McEachern
Red, White and Brew Tavern
35 N. Cascade Avenue
Montrose CO 81401



IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND
CAUSED THE SEAL OF THE CITY TO BE AFFIXED AT MONTROSE. THIS 27
DAY OF February A.D. 2023.

Lisa Ad Pirolo
CITY CLERK

[Signature]
MAYOR

POST IN A CONSPICUOUS PLACE-NOT TRANSFERABLE

THIS LICENSE MUST BE POSTED IN PUBLIC VIEW

DR 8402 (07/01/2012)

STATE OF COLORADO DEPARTMENT OF REVENUE

LIQUOR ENFORCEMENT DIVISION

1707 Cole Blvd, Suite 300
Lakewood, CO 80401

DAISY MCEACHERN
dba RED, WHITE AND BLUE TAVERN
35 NORTH CASCADE AVENUE
Montrose CO 81401

ALCOHOL BEVERAGE LICENSE

Liquor License Number 03-18346	License Expires at Midnight February 23, 2024
License Type TAVERN (CITY)	
Authorized Beverages MALT, VINOUS AND SPIRITUOUS LIQUOR	

This license is issued subject to the laws of the State of Colorado and especially under the provisions of Title 44, Articles 4, 3, CRS 1973, as amended. This license is nontransferable and shall be conspicuously posted in the place above described. This license is only valid through the expiration date shown above. Any questions concerning this license should be addressed to: Colorado Liquor Enforcement Division, 1707 Cole Blvd, Suite 300 Lakewood, CO 80401.

In testimony whereof, I have hereunto set my hand. 2/24/2023 SB

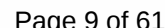
Michelle Stone-Principato

Michelle Stone-Principato, Division Director

Mark Ferrandino

Mark Ferrandino, Executive Director/CEO





NOTICE OF PUBLIC HEARING

The Montrose City Council will hold a public hearing on the renewal of a Tavern liquor license at 35 N. Cascade Avenue held by Daisy McEachern doing business as Red, White and Brew Tavern.

The City will hold a quasi-judicial hearing where evidence will be presented on Monday, February 26, 2024, at 2:00 pm in the City Council Chambers of the Elks Civic Building, 107 S. Cascade Avenue, in Montrose, Colorado.

Published in the Montrose Daily Press Feb 15, 2024

PUBLIC NOTICE MAIL BALLOT ELECTION

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CITY OF MONTROSE
OFFICE OF THE CITY ATTORNEY
CHRISTOPHER DOWSEY

Matthew Magliaro, Assistant City Attorney
Christine M. Aslakson, Paralegal

Direct Dial: 970.240.1440
E-mail: legal@ci.montrose.co.us

February 14, 2024

VIA HAND-DELIVERY

Daisy Marie McEachern
Red, White and Blue Tavern¹ d/b/a
Red, White and Brew Tavern
35 North Cascade Avenue
Montrose, Colorado 81401

VIA CERTIFIED FIRST-CLASS MAIL

Red White and Brew Tavern Corporation, c/o
Benjamin Lewis, Registered Agent
35 North Cascade Avenue
Montrose, Colorado 81401

**NOTICE OF HEARING ON RENEWAL APPLICATION PER
C.R.S. § 44-3-302(c).**

**NOTICE OF CITY OF MONTROSE'S OBJECTION TO RED
WHITE AND BREW TAVERN'S COLORADO BEER AND WINE
LICENSE RENEWAL 2024 APPLICATION**

To Daisy McEachern:

This is the City of Montrose's formal, ten-day advanced written notice to Red White and Brew Tavern of hearing and of its objection to the renewal of the 2024 application of the tavern licensure to sell on premises malt, vinous and spirituous liquor at 35 North Cascade Avenue. The City of Montrose is a represented entity by this office. Please direct any and all future correspondence to the Montrose City Attorney's Office.

The retail license application for Red, White and Brew Tavern was approved by the Montrose City Council on February 7, 2023. The current license expires February 23, 2024. The renewal application was due on or before Tuesday, January 9, 2024. City staff acknowledge the late receipt of the renewal application, on January 29, 2024, with the local fee of \$175.00 received that same date. Applicants for renewal of an existing license "must apply to the local licensing authority **not less than forty-five days** and to the state licensing authority not less than thirty

¹ The renewal application on page 1 lists 'Red, White and Blue Tavern' as applicant. The City notes the applicant has inconsistently referred to the doing business name in the record between the renewal and the initial application. The City uses the initial application name in this notice.



days **before the date of expiration.**" C.R.S. § 44-3-302(b)(emphasis added). This renewal application is late, as it was received twenty-six days before the date of expiration. No good cause has been demonstrated by you to support a waiver of this requirement. C.R.S. § 44-3-302(1)(b).

City staff have reviewed the late renewal application for licensure on the merits, object to the renewal, and will recommend non-renewal to the Montrose City Council, the local licensing authority for liquor license renewals. Pursuant to C.R.S. § 44-3-302 the "local licensing authority may hold a hearing on the application for renewal[.]" **A special session hearing is scheduled for Monday, February 26, 2024, at 2 p.m. Mountain Standard Time at the Elks' Civic Building located at 107 South Cascade Avenue in Montrose, Colorado.**

"The licensing authority may refuse to renew any [liquor] license for good cause, subject to judicial review." C.R.S. § 44-3-302(c). The phrase '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 3 or any rules promulgated pursuant to this article 3; . . .
- (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 subsection (19)(d), 'disorderly conduct' has the meaning as provided for in section 18-9-106."

C.R.S. § 44-3-103(19).

State of Colorado regulation requires "[e]ach person licensed under Article 3, Article 4, and Article 5 of Title 44, and any employee or agent of such licensee shall conduct the licensed premises in a decent, orderly and respectable manner, and shall not serve a known habitual drunkard or any person who displays any visible signs of intoxication, nor shall they permit a known habitual drunkard or any person who displays any visible signs of intoxication to remain on the licensed premises without an acceptable purpose, nor shall the licensee, their employee or agent knowingly permit any activity or acts of disorderly conduct as defined by and provided for in Section 18-9-106, C.R.S., nor shall a licensee permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the licensed establishment is located," 1 CCR § 203-2:47-900(A).

This is the legal standard for the hearing.

Good cause exists to refuse to renew Red White and Brew's tavern liquor license, for the following, specific grounds:

1. Mr. Preston McEachern, who signed the current renewal application on behalf of you and on information and belief works at Red White and Brew Tavern as a bartender, sold alcohol



in violation of C.R.S. § 44-3-901(1)(a). This statute reads in relevant part: “[I]t is unlawful for any person: (a) To sell, serve, give away, dispose of, exchange or deliver, or permit the sale, serving, giving, or procuring of, any alcohol beverage to a visibly intoxicated person or to a known habitual drunkard.” C.R.S. § 44-3-901(1)(a). Mr. Preston McEachern was cited for Providing Alcohol to Visibly Intoxicated Patrons, in violation of C.R.S. § 44-3-901(1)(a), for serving alcohol to patrons on premises on December 16, 2023. He was convicted pursuant to guilty plea and sentenced on January 29, 2024. *People of Colorado v Preston McEachern*, 2023M0867.

2. Red White and Brew Tavern staff overserved patrons alcoholic beverages on premises on December 16, 2023. “[I]t is unlawful for any person: (a) To sell, serve, give away, dispose of, exchange or deliver, or permit the sale, serving, giving, or procuring of, any alcohol beverage to a visibly intoxicated person or to a known habitual drunkard.” C.R.S. § 44-3-901(1)(a). “It is unlawful for any person licensed to sell at retail pursuant to this article 3 or article 4 of this title 44: (a)(I) To sell an alcohol beverage . . . **to a visibly intoxicated person.**” C.R.S. § 44-3-901(6)(a)(I). On December 16, 2023, members of the Montrose Police Department observed several patrons enter the establishment who appeared to have been overserved alcohol and were so intoxicated they were having difficulty remaining upright. Officers inside the bar in an undercover capacity observed two females who appeared to be visibly intoxicated go behind the bar at their pleasure and help themselves to the liquor there, as well as serving individuals without an apparent sales transaction. Officers observed bar staff take a bottle of Fireball-brand whiskey and pour the liquor into patrons’ mouths with no apparent effort to monitor the amount furnished for consumption. Bottles of hard alcohol were distributed amongst patrons and patrons were observed consuming alcohol directly from the bottle. The Montrose Police Department ordered the cessation of service and shut down Red White and Brew Tavern in the early morning hours of December 17, 2023. The police department issued citations to the tavern’s staff² for overservice, C.R.S. § 44-3-901(1)(a): *People of Colorado v Preston McEachern*, 2023M0867 [convicted 1/29/24]; *People of Colorado v Benjamin Lewis*, 2023M868 [convicted 1/29/24]; *Marissa J. Hines*, 2023M0870 [case pending]; and *Michelle Martinez*, 2023M869 [case pending].
3. Red White and Brew Tavern regularly overserves patrons alcoholic beverages on premises, allowing excessive intoxication and endangering the community when those intoxicated patrons drive from the premises of Red White and Brew Tavern. On January 27, 2024, December 31, 2023, December 17, 2023, December 3, 2023, and July 15, 2023, law enforcement officers pulled over and arrested patrons as they drove away from the tavern for Driving Under the Influence of Alcohol³ and/or Driving Under the Influence of Alcohol

² We would note as to all open cases unadjudicated by conviction the accused have the presumption of innocence. We remind any reader of this notice that the persons described herein are innocent until proven guilty beyond a reasonable doubt in a court of law.

³ C.R.S. § 42-4-1301(1)(a).



Per Se,⁴ among other traffic crimes. These Montrose County Court cases are respectively: *People of Colorado v Nicholas Palafox*, 2024T5002 (refusal, case pending); *People of Colorado v Tom Samples IV*, 2023T5014 (blood test results submitted, deferral sentence for DUI); *People of Colorado v Cody Gallagher*, 2023T0762 (0.266 g/100ml BrAC, conviction for DUI); *People of Colorado v Richard Raymond*, 2023T0759 (0.092 grams/210L BrAC, pending); *People of Colorado v Makenzi Larson*, 2023T713 (0.089 grams/210L BrAC, sentence for 'wet' Reckless Driving); *People of Colorado v Dillon Morris*, 2023T425 (sentenced for Driving While Ability Impaired). In addition, on October 19, 2023, Red White and Brew Tavern staff overserved a male party several double shots of alcohol as well as approximately twelve beers, to the point the male passed out due to acute alcohol intoxication and struck his head on the bathroom door jamb. The unconscious male was transported to Montrose Memorial Hospital via ambulance, MPD 23-026380.

4. Red White and Brew Tavern violated the terms of its Tavern License by not serving food on or about December 16-17, 2023, with its service of alcoholic beverages that evening, in violation of the terms and conditions of C.R.S. § 44-3-414(1); C.R.S. § 44-3-103(19)(a). "A tavern license shall be issued to persons selling alcohol beverages by the drink only to customers for consumption on the premises. A tavern licensee shall have sandwiches and light snacks available for consumption on the premises during business hours, but need not have meals available for consumption." C.R.S. § 44-3-414(1).
5. Red White and Brew Tavern allows on premises a "continuing pattern of fights, violent activity, or disorderly conduct." Over the course of a year of licensed operation, the Montrose Police Department has regularly responded to 35 North Cascade Avenue for reports of disturbances, fights and disorderly conduct. On April 25, 2023, officers responded to a report of a fight that involved use of a beer bottle as a weapon had occurred on the premises of the Red, White and Brew tavern. Both involved parties bore visible injuries to the police and both were charged, with Mr. Preston McEachern pleading guilty to Disorderly Conduct Fight in Public, a petty offense in violation of C.R.S. 18-9-106(1)(d). *People of Colorado v Preston McEachern*, 2023M0316. On September 24, 2023, officers responded to a report of male party bleeding from the face and laying on the ground of the intersection of North 3rd Street and North Park Avenue, with investigation revealing that the intoxicated male attacked and bit in the face another person outside the tavern. Both involved persons eventually were taken to the Montrose Regional Health Center for their respective injuries. Charges were brought against the initial aggressor for Disorderly Conduct Fight in Public, a petty offense in violation of C.R.S. 18-9-106(1)(d), and violation of protection order for consumption of alcohol. *People of Colorado v Jose Cantu*, 2023M0675 [case pending]. On October 28, 2023, officers with the Montrose Police Department were present outside Red White and Brew at closing time and observed a male party scream at bar staff. Officers interviewed the male and learned he alleged he was punched in the face inside the bar. Multiple officers responded as intoxicated persons leaving the bar continued to hang around on scene and threaten to fight one another, taking

⁴ C.R.S. § 42-4-1301(2)(a).



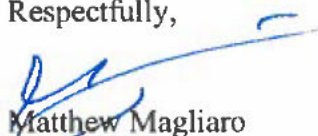
February 14, 2024

Page 5

approximately forty minutes on scene for all persons to disperse. On December 7, 2023, the Montrose Police Department responded to a cold report of an assault on the premises of Red White and Brew Tavern. Officers were told that Preston McEachern and two other individuals confronted an individual they were attempting to throw out of the bar and began to punch him inside the bar. Officers interviewing Mr. McEachern and the two other individuals were advised one of that group struck the man, who they claimed brandished a semiautomatic handgun at them, then drove away while pointing it at the group. When asked why no one reported this event, Mr. McEachern and the other two men advised they do not call the police. Officers were unable to substantiate what occurred due to lack of evidence and delay in reporting.

You have the right to appear at the Montrose City Council special session scheduled at the date, place and time above, as the hearing on your application renewal request and the City's objection to that request. You are advised that City staff will present live, sworn testimony from witnesses at this hearing. The City will present any offer of proof, video media and documentary evidence necessary to meet the legal standard of good cause for non-renewal recited above. You are advised you have the right to be afforded an opportunity to be heard on the City's objection. You are advised you have the right to ask questions in cross-examination of any witnesses who testify at the proceeding. You have the right to present your case or defense by oral and documentary evidence, to submit any rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. You may choose to retain at your expense an attorney as legal counsel to assist you.

Respectfully,


Matthew Magliaro
Assistant City Attorney



CITY OF MONTROSE
OFFICE OF THE CITY ATTORNEY
CHRISTOPHER DOWSEY

Matthew Magliaro, Assistant City Attorney
Christine M. Aslakson, Paralegal

Direct Dial: 970.240.1440
E-mail: legal@ci.montrose.co.us

February 14, 2024

VIA HAND-DELIVERY

Daisy Marie McEachern
Red, White and Blue Tavern¹ d/b/a
Red, White and Brew Tavern
35 North Cascade Avenue
Montrose, Colorado 81401

VIA CERTIFIED FIRST-CLASS MAIL

Red White and Brew Tavern Corporation, c/o
Benjamin Lewis, Registered Agent
35 North Cascade Avenue
Montrose, Colorado 81401

**NOTICE OF HEARING ON RENEWAL APPLICATION PER
C.R.S. § 44-3-302(c).**

**NOTICE OF CITY OF MONTROSE'S OBJECTION TO RED
WHITE AND BREW TAVERN'S COLORADO BEER AND WINE
LICENSE RENEWAL 2024 APPLICATION**

To Benjamin Lewis:

This is the City of Montrose's formal, ten-day advanced written notice to Red White and Brew Tavern of hearing and of its objection to the renewal of the 2024 application of the tavern licensure to sell on premises malt, vinous and spirituous liquor at 35 North Cascade Avenue. The City of Montrose is a represented entity by this office. Please direct any and all future correspondence to the Montrose City Attorney's Office.

The retail license application for Red, White and Brew Tavern was approved by the Montrose City Council on February 7, 2023. The current license expires February 23, 2024. The renewal application was due on or before Tuesday, January 9, 2024. City staff acknowledge the late receipt of the renewal application, on January 29, 2024, with the local fee of \$175.00 received that same date. Applicants for renewal of an existing license "must apply to the local licensing authority **not less than forty-five days** and to the state licensing authority not less than thirty

¹ The renewal application on page 1 lists 'Red, White and Blue Tavern' as applicant. The City notes the applicant has inconsistently referred to the doing business name in the record between the renewal and the initial application. The City uses the initial application name in this notice.



days **before the date of expiration.**” C.R.S. § 44-3-302(b)(emphasis added). This renewal application is late, as it was received twenty-six days before the date of expiration. No good cause has been demonstrated by you to support a waiver of this requirement. C.R.S. § 44-3-302(1)(b).

City staff have reviewed the late renewal application for licensure on the merits, object to the renewal, and will recommend non-renewal to the Montrose City Council, the local licensing authority for liquor license renewals. Pursuant to C.R.S. § 44-3-302 the “local licensing authority may hold a hearing on the application for renewal[.]” **A special session hearing is scheduled for Monday, February 26, 2024, at 2 p.m. Mountain Standard Time at the Elks’ Civic Building located at 107 South Cascade Avenue in Montrose, Colorado.**

“The licensing authority may refuse to renew any [liquor] license for good cause, subject to judicial review.” C.R.S. § 44-3-302(c). The phrase ‘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 3 or any rules promulgated pursuant to this article 3; . . .
- (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 subsection (19)(d), ‘disorderly conduct’ has the meaning as provided for in section 18-9-106.”

C.R.S. § 44-3-103(19).

State of Colorado regulation requires “[e]ach person licensed under Article 3, Article 4, and Article 5 of Title 44, and any employee or agent of such licensee shall conduct the licensed premises in a decent, orderly and respectable manner, and shall not serve a known habitual drunkard or any person who displays any visible signs of intoxication, nor shall they permit a known habitual drunkard or any person who displays any visible signs of intoxication to remain on the licensed premises without an acceptable purpose, nor shall the licensee, their employee or agent knowingly permit any activity or acts of disorderly conduct as defined by and provided for in Section 18-9-106, C.R.S., nor shall a licensee permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the licensed establishment is located,” 1 CCR § 203-2:47-900(A).

This is the legal standard for the hearing.

Good cause exists to refuse to renew Red White and Brew’s tavern liquor license, for the following, specific grounds:

1. Mr. Preston McEachern, who signed the current renewal application on behalf of you and on information and belief works at Red White and Brew Tavern as a bartender, sold alcohol



in violation of C.R.S. § 44-3-901(1)(a). This statute reads in relevant part: “[I]t is unlawful for any person: (a) To sell, serve, give away, dispose of, exchange or deliver, or permit the sale, serving, giving, or procuring of, any alcohol beverage to a visibly intoxicated person or to a known habitual drunkard.” C.R.S. § 44-3-901(1)(a). Mr. Preston McEachern was cited for Providing Alcohol to Visibly Intoxicated Patrons, in violation of C.R.S. § 44-3-901(1)(a), for serving alcohol to patrons on premises on December 16, 2023. He was convicted pursuant to guilty plea and sentenced on January 29, 2024. *People of Colorado v Preston McEachern*, 2023M0867.

2. Red White and Brew Tavern staff overserved patrons alcoholic beverages on premises on December 16, 2023. “[I]t is unlawful for any person: (a) To sell, serve, give away, dispose of, exchange or deliver, or permit the sale, serving, giving, or procuring of, any alcohol beverage to a visibly intoxicated person or to a known habitual drunkard.” C.R.S. § 44-3-901(1)(a). “It is unlawful for any person licensed to sell at retail pursuant to this article 3 or article 4 of this title 44: (a)(I) To sell an alcohol beverage . . . **to a visibly intoxicated person.**” C.R.S. § 44-3-901(6)(a)(I). On December 16, 2023, members of the Montrose Police Department observed several patrons enter the establishment who appeared to have been overserved alcohol and were so intoxicated they were having difficulty remaining upright. Officers inside the bar in an undercover capacity observed two females who appeared to be visibly intoxicated go behind the bar at their pleasure and help themselves to the liquor there, as well as serving individuals without an apparent sales transaction. Officers observed bar staff take a bottle of Fireball-brand whiskey and pour the liquor into patrons’ mouths with no apparent effort to monitor the amount furnished for consumption. Bottles of hard alcohol were distributed amongst patrons and patrons were observed consuming alcohol directly from the bottle. The Montrose Police Department ordered the cessation of service and shut down Red White and Brew Tavern in the early morning hours of December 17, 2023. The police department issued citations to the tavern’s staff² for overservice, C.R.S. § 44-3-901(1)(a): *People of Colorado v Preston McEachern*, 2023M0867 [convicted 1/29/24]; *People of Colorado v Benjamin Lewis*, 2023M868 [convicted 1/29/24]; *Marissa J. Hines*, 2023M0870 [case pending]; and *Michelle Martinez*, 2023M869 [case pending].
3. Red White and Brew Tavern regularly overserves patrons alcoholic beverages on premises, allowing excessive intoxication and endangering the community when those intoxicated patrons drive from the premises of Red White and Brew Tavern. On January 27, 2024, December 31, 2023, December 17, 2023, December 3, 2023, and July 15, 2023, law enforcement officers pulled over and arrested patrons as they drove away from the tavern for Driving Under the Influence of Alcohol³ and/or Driving Under the Influence of Alcohol

² We would note as to all open cases unadjudicated by conviction the accused have the presumption of innocence. We remind any reader of this notice that the persons described herein are innocent until proven guilty beyond a reasonable doubt in a court of law.

³ C.R.S. § 42-4-1301(1)(a).



Per Se,⁴ among other traffic crimes. These Montrose County Court cases are respectively: *People of Colorado v Nicholas Palafox*, 2024T5002 (refusal, case pending); *People of Colorado v Tom Samples IV*, 2023T5014 (blood test results submitted, deferral sentence for DUI); *People of Colorado v Cody Gallagher*, 2023T0762 (0.266 g/100ml BrAC, conviction for DUI); *People of Colorado v Richard Raymond*, 2023T0759 (0.092 grams/210L BrAC, pending); *People of Colorado v Makenzi Larson*, 2023T713 (0.089 grams/210L BrAC, sentence for 'wet' Reckless Driving); *People of Colorado v Dillon Morris*, 2023T425 (sentenced for Driving While Ability Impaired). In addition, on October 19, 2023, Red White and Brew Tavern staff overserved a male party several double shots of alcohol as well as approximately twelve beers, to the point the male passed out due to acute alcohol intoxication and struck his head on the bathroom door jamb. The unconscious male was transported to Montrose Memorial Hospital via ambulance, MPD 23-026380.

4. Red White and Brew Tavern violated the terms of its Tavern License by not serving food on or about December 16-17, 2023, with its service of alcoholic beverages that evening, in violation of the terms and conditions of C.R.S. § 44-3-414(1); C.R.S. § 44-3-103(19)(a). "A tavern license shall be issued to persons selling alcohol beverages by the drink only to customers for consumption on the premises. A tavern licensee shall have sandwiches and light snacks available for consumption on the premises during business hours, but need not have meals available for consumption." C.R.S. § 44-3-414(1).
5. Red White and Brew Tavern allows on premises a "continuing pattern of fights, violent activity, or disorderly conduct." Over the course of a year of licensed operation, the Montrose Police Department has regularly responded to 35 North Cascade Avenue for reports of disturbances, fights and disorderly conduct. On April 25, 2023, officers responded to a report of a fight that involved use of a beer bottle as a weapon had occurred on the premises of the Red, White and Brew tavern. Both involved parties bore visible injuries to the police and both were charged, with Mr. Preston McEachern pleading guilty to Disorderly Conduct Fight in Public, a petty offense in violation of C.R.S. 18-9-106(1)(d). *People of Colorado v Preston McEachern*, 2023M0316. On September 24, 2023, officers responded to a report of male party bleeding from the face and laying on the ground of the intersection of North 3rd Street and North Park Avenue, with investigation revealing that the intoxicated male attacked and bit in the face another person outside the tavern. Both involved persons eventually were taken to the Montrose Regional Health Center for their respective injuries. Charges were brought against the initial aggressor for Disorderly Conduct Fight in Public, a petty offense in violation of C.R.S. 18-9-106(1)(d), and violation of protection order for consumption of alcohol. *People of Colorado v Jose Cantu*, 2023M0675 [case pending]. On October 28, 2023, officers with the Montrose Police Department were present outside Red White and Brew at closing time and observed a male party scream at bar staff. Officers interviewed the male and learned he alleged he was punched in the face inside the bar. Multiple officers responded as intoxicated persons leaving the bar continued to hang around on scene and threaten to fight one another, taking

⁴ C.R.S. § 42-4-1301(2)(a).



February 14, 2024

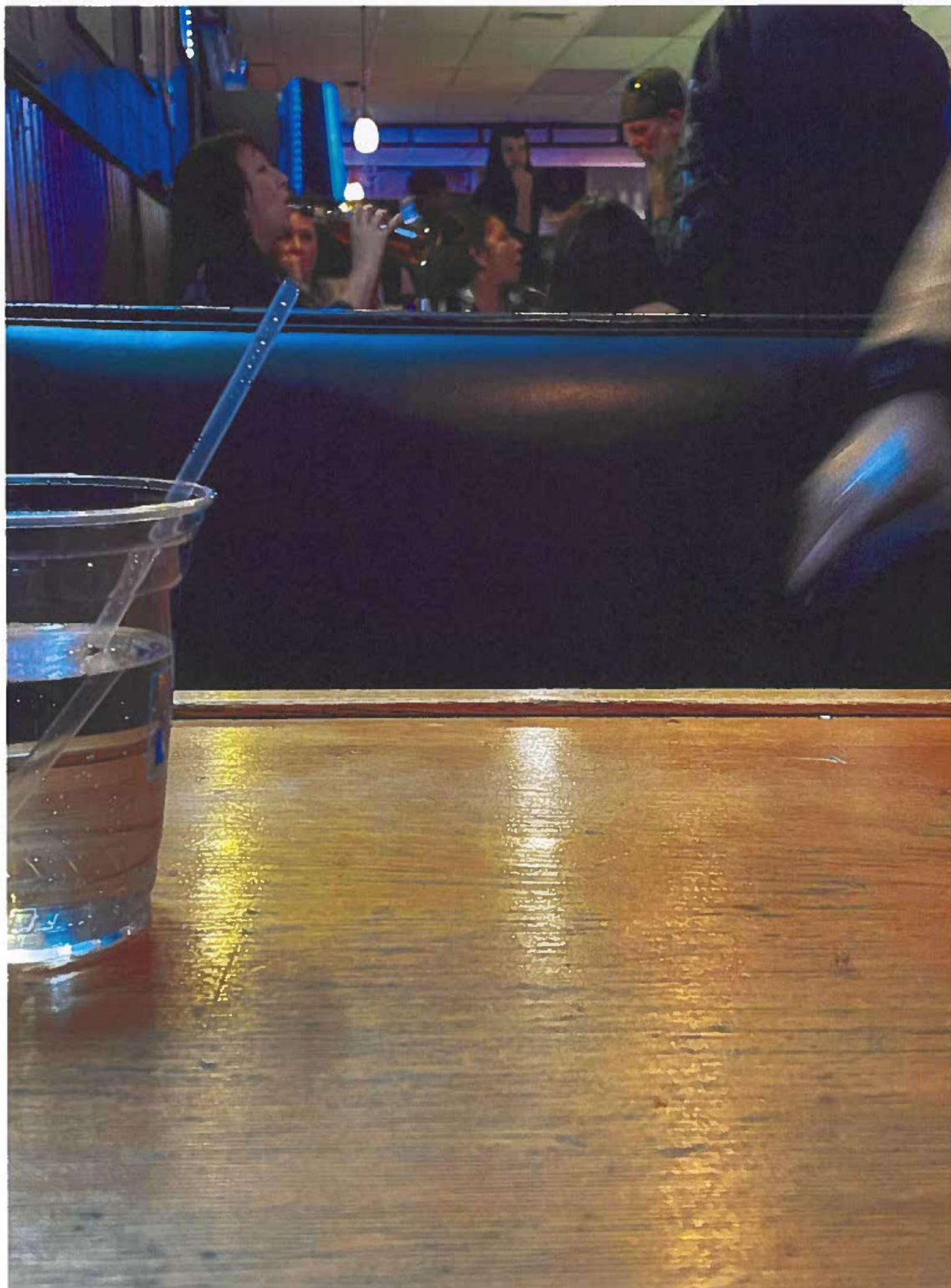
Page 5

approximately forty minutes on scene for all persons to disperse. On December 7, 2023, the Montrose Police Department responded to a cold report of an assault on the premises of Red White and Brew Tavern. Officers were told that Preston McEachern and two other individuals confronted an individual they were attempting to throw out of the bar and began to punch him inside the bar. Officers interviewing Mr. McEachern and the two other individuals were advised one of that group struck the man, who they claimed brandished a semiautomatic handgun at them, then drove away while pointing it at the group. When asked why no one reported this event, Mr. McEachern and the other two men advised they do not call the police. Officers were unable to substantiate what occurred due to lack of evidence and delay in reporting.

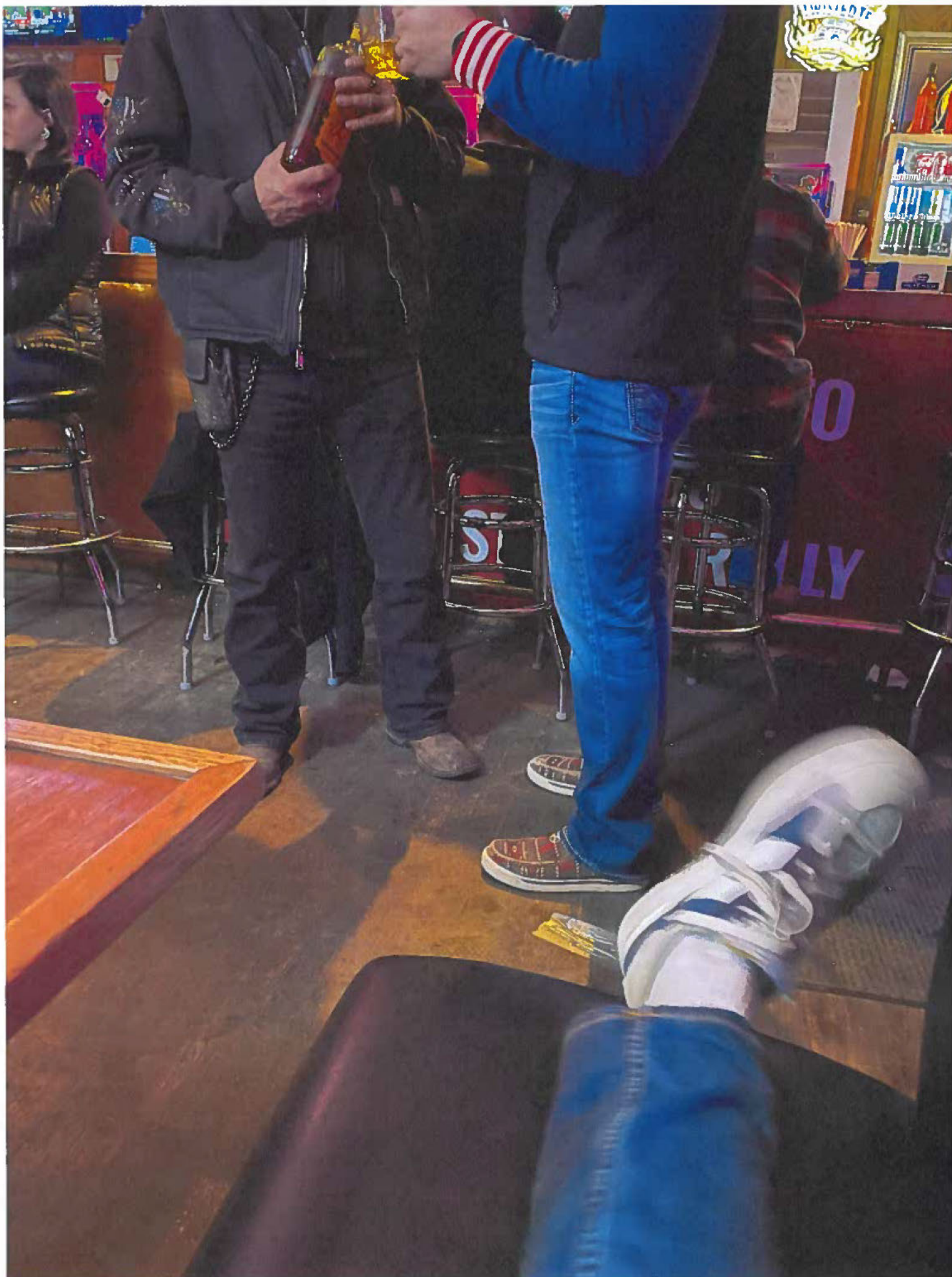
You have the right to appear at the Montrose City Council special session scheduled at the date, place and time above, as the hearing on your application renewal request and the City's objection to that request. You are advised that City staff will present live, sworn testimony from witnesses at this hearing. The City will present any offer of proof, video media and documentary evidence necessary to meet the legal standard of good cause for non-renewal recited above. You are advised you have the right to be afforded an opportunity to be heard on the City's objection. You are advised you have the right to ask questions in cross-examination of any witnesses who testify at the proceeding. You have the right to present your case or defense by oral and documentary evidence, to submit any rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. You may choose to retain at your expense an attorney as legal counsel to assist you.

Respectfully,


Matthew Magliaro
Assistant City Attorney









E-Filed

Document must be filed electronically.
Paper documents are not accepted.
Fees & forms are subject to change.
For more information or to print copies
of filed documents, visit www.coloradosos.gov.

Colorado Secretary of State
Date and Time: 12/04/2022 08:36 PM
ID Number: 20228188132
Document number: 20228188132
Amount Paid: \$1.00

ABOVE SPACE FOR OFFICE USE ONLY

Statement of Trade Name of an Individual
filed pursuant to §7-71-103 of the Colorado Revised Statutes (C.R.S.)

1. The true name of the individual delivering this statement is

McEachern Daisy Marie
(Last) (First) (Middle) (Suffix)

2. The principal address of such individual is

Street address 35 North Cascade Ave
(Street number and name)

Montrose CO 81401
(City) (State) (Postal/Zip Code)
United States
(Province - if applicable) (Country - if not US)

Mailing address 35 North Cascade Ave
(leave blank if same as street address) (Street number and name or Post Office Box information)

Montrose CO 81401
(City) (State) (Postal/Zip Code)
United States
(Province - if applicable) (Country - if not US)

3. The trade name under which such individual transacts business or contemplates transacting business in this state is

Red White and Brew Tavern

4. A brief description of the kind of business transacted or contemplated to be transacted in this state under such trade name is

Tavern

5. (If the following statement applies, adopt the statement by marking the box and include an attachment.)

☐ This document contains additional information as provided by law.

6. (Caution: Leave blank if the document does not have a delayed effective date. Stating a delayed effective date has significant legal consequences. Read instructions before entering a date.)

(If the following statement applies, adopt the statement by entering a date and, if applicable, time using the required format.)

The delayed effective date and, if applicable, time of this document are _____
(mm/dd/yyyy hour:minute am/pm)

Notice:

Causing this document to be delivered to the Secretary of State for filing shall constitute the affirmation or acknowledgment of each individual causing such delivery, under penalties of perjury, that such document is such individual's act and deed, or that such individual in good faith believes such document is the act and deed of the person on whose behalf such individual is causing such document to be delivered for filing, taken in conformity with the requirements of part 3 of article 90 of title 7, C.R.S. and, if applicable, the constituent documents and the organic statutes, and that such individual in good faith believes the facts stated in such document are true and such document complies with the requirements of that Part, the constituent documents, and the organic statutes.

This perjury notice applies to each individual who causes this document to be delivered to the Secretary of State, whether or not such individual is identified in this document as one who has caused it to be delivered.

7. The true name and mailing address of the individual causing this document to be delivered for filing are

<u>McEachern</u>	<u>Daisy</u>	<u>Marie</u>	
(Last)	(First)	(Middle)	(Suffix)
<u>35 North Cascade Ave</u>			
(Street number and name or Post Office Box information)			
<u>Montrose</u>	<u>CO</u>	<u>81401</u>	
(City)	(State)	(Postal/Zip Code)	
<u>United States</u>			
(Province – if applicable)	(Country – if not US)		

- (If the following statement applies, adopt the statement by marking the box and include an attachment.)
- ☐ This document contains the true name and mailing address of one or more additional individuals causing the document to be delivered for filing.

Disclaimer:

This form/cover sheet, and any related instructions, are not intended to provide legal, business or tax advice, and are furnished without representation or warranty. While this form/cover sheet is believed to satisfy minimum legal requirements as of its revision date, compliance with applicable law, as the same may be amended from time to time, remains the responsibility of the user of this form/cover sheet. Questions should be addressed to the user's legal, business or tax advisor(s).

First Judicial District Court
Montrose County, Colorado

COUNTY COURT, MONTROSE COUNTY, COLORADO

JAN 29 2024

Court Address: Montrose County Justice Center, Courts Building
1200 North Grand Ave, Bin A
Montrose, CO 81401-3146
Phone Number: 970-252-4300

DATE FILED: January 29, 2024 2:20 PM
Jodi Hanson
Clerk of Court

COURT USE ONLY

Case Number: 2023M 000867

The People of the State of Colorado
vs.
MCEACHERN, PRESTON F

Division: D

SENTENCE ORDER

Defendant: MCEACHERN, PRESTON F	Date of Birth: [REDACTED]	Finding
Count	Class Plea	Guilty
1 44-3-901(1)(a) - ALCOHOL-PROVIDING TO VISIBLY INTOXICATED	M2 Plea of Guilty	

ASSESSED FINES & COSTS

Count # 1	
Court Costs	\$21.00
Court Security Cash Fund	\$5.00
E-Discovery	\$5.00
Genetic Testing Surcharge	\$2.50
Victims Assistance Fund	\$78.00
Victim Compensation Fund	\$78.00
Restorative Justice Surcharge	\$10.00
Misdemeanor Fine	\$150.00
TOTAL	\$349.50

Other Conditions of Sentence:

*IF AT ANY TIME THE DEFENDANT IS UNABLE TO PAY THE MONETARY AMOUNT DUE, THE DEFENDANT MUST CONTACT THE COURTS DESIGNATED OFFICIAL OR APPEAR BEFORE THE COURT TO EXPLAIN WHY HE OR SHE IS UNABLE TO PAY THE MONETARY AMOUNT;
*IF THE DEFENDANT LACKS THE PRESENT ABILITY TO PAY THE MONETARY AMOUNT DUE WITHOUT UNDUE HARDSHIP TO THE DEFENDANT OR THE DEFENDANTS DEPENDENTS, THE COURT SHALL NOT JAIL THE DEFENDANT FOR FAILURE TO PAY; AND
*IF THE DEFENDANT HAS THE ABILITY TO PAY THE MONETARY AMOUNT AS DIRECTED BY THE COURT OR THE COURTS DESIGNEE BUT WILLFULLY FAILS TO PAY, THE DEFENDANT MAY BE IMPRISONED FOR FAILURE TO COMPLY WITH THE COURTS LAWFUL ORDER TO PAY PURSUANT TO 18-1.3-702
*PEOPLE ARE NOT REQUESTING RESTITUTION. NO RESTITUTION ORDERED. /JWL

HARVELL, LAURA EH	2024-01-29
Judge/Magistrate	Date

MCEACHERN, PRESTON F	2024-01-29
Defendant	Date

PO BOX 22 MONTROSE

*****NOTICE*****
Following this hearing you are to present this form to the Clerk's Office for payment. Payment is due by the end of business on your Court Date. Pursuant to §16-11-101.6, C.R.S., if the Defendant does not pay all amounts assessed at the time of order, the Defendant shall pay an additional time payment fee. In addition, the Defendant may be assessed a late penalty fee each time payment is not received on or before the due date.

CO 81402

CERTIFIED TO BE A TRUE, TRUE
AND CORRECT COPY OF ORIGINAL
IN MY CUSTODY
DATE 2/13/24

Deputy Clerk
7th Judicial District



xc Def

COUNTY COURT, MONTROSE COUNTY, COLORADO

Filed in the Combined Court
Montrose County, Colorado

Court Address: Montrose County Justice Center, Courts Building
1200 North Grand Ave, Bin A
Montrose, CO 81401-3146
Phone Number: 970-252-4300

DATE FILED: January 29, 2024

Jodi Hanson
Clerk of Court

COURT USE ONLY

Case Number: 2023M 000868

The People of the State of Colorado
vs.
LEWIS, BENJAMIN K

Division: D

SENTENCE ORDER

Defendant: LEWIS, BENJAMIN K Date of Birth: [REDACTED]
Count Class Plea Finding
1 44-3-901(1)(a) - ALCOHOL-PROVIDING TO VISIBLY INTOXICATED M2 Plea of Guilty Guilty

ASSESSED FINES & COSTS

Count # 1	
Court Costs	\$21.00
Court Security Cash Fund	\$5.00
E-Discovery	\$5.00
Genetic Testing Surcharge	\$2.50
Victims Assistance Fund	\$78.00
Victim Compensation Fund	\$78.00
Restorative Justice Surcharge	\$10.00
Misdemeanor Fine	\$150.00
TOTAL	\$349.50

Other Conditions of Sentence:

*IF AT ANY TIME THE DEFENDANT IS UNABLE TO PAY THE MONETARY AMOUNT DUE, THE DEFENDANT MUST CONTACT THE COURTS DESIGNATED OFFICIAL OR APPEAR BEFORE THE COURT TO EXPLAIN WHY HE OR SHE IS UNABLE TO PAY THE MONETARY AMOUNT;
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*IF THE DEFENDANT HAS THE ABILITY TO PAY THE MONETARY AMOUNT AS DIRECTED BY THE COURT OR THE COURTS DESIGNEE BUT WILLFULLY FAILS TO PAY, THE DEFENDANT MAY BE IMPRISONED FOR FAILURE TO COMPLY WITH THE COURTS LAWFUL ORDER TO PAY PURSUANT TO 18-1.3-702
*PEOPLE ARE NOT REQUESTING RESTITUTION. NO RESTITUTION ORDERED. /JWL

HARVELL, LAURA EH Judge/Magistrate	<i>[Signature]</i>	2024-01-29 Date
LEWIS, BENJAMIN K Defendant	<i>[Signature]</i>	2024-01-29 Date

*****NOTICE*****
Following this hearing you are to present this form to the Clerk's Office for payment. Payment is due by the end of business on your Court Date. Pursuant to §16-11-101.6, C.R.S., if the Defendant does not pay all amounts assessed at the time of order, the Defendant shall pay an additional time payment fee. In addition, the Defendant may be assessed a late penalty fee each time payment is not received on or before the due date.

13985 Shawnee Valley Rd
Montrose, CO 81403
970 318-1663

XC Def

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AND CORRECT COPY OF ORIGINAL
IN MY CUSTODY
DATE 2/13/24
[Signature]
Deputy Clerk
7th Judicial District



COUNTY COURT, MONTROSE COUNTY, COLORADO

Filed in the Combined Court
Montrose County, Colorado

Court Address: Montrose County Justice Center, Courts Building
1200 North Grand Ave, Bin A
Montrose, CO 81401-3146
Phone Number: 970-252-4300

DATE FILED: February 20, 2024 12:44 PM
FEB 20 2024

Jodi Hanson
Clerk of Court

COURT USE ONLY

Case Number: 2023M 000869

The People of the State of Colorado
vs.
MARTINEZ, MICHELLE L

Division: D

SENTENCE ORDER

Defendant: MARTINEZ, MICHELLE L
Count 1 44-3-901(1)(a) - ALCOHOL-PROVIDING TO VISIBLY INTOXICATED
Date of Birth: [REDACTED]
Class M2
Plea Plea of Guilty
Finding Guilty

ASSESSED FINES & COSTS

Count # 1	
Court Costs	\$21.00
Court Security Cash Fund	\$5.00
E-Discovery	\$5.00
Genetic Testing Surcharge	\$2.50
Victims Assistance Fund	\$78.00
Victim Compensation Fund	\$78.00
Restorative Justice Surcharge	\$10.00
Misdemeanor Fine	\$150.00
TOTAL	\$349.50

Other Conditions of Sentence:

*IF AT ANY TIME THE DEFENDANT IS UNABLE TO PAY THE MONETARY AMOUNT DUE, THE DEFENDANT MUST CONTACT THE COURTS DESIGNATED OFFICIAL OR APPEAR BEFORE THE COURT TO EXPLAIN WHY HE OR SHE IS UNABLE TO PAY THE MONETARY AMOUNT;
*IF THE DEFENDANT LACKS THE PRESENT ABILITY TO PAY THE MONETARY AMOUNT DUE WITHOUT UNDUE HARDSHIP TO THE DEFENDANT OR THE DEFENDANTS DEPENDENTS, THE COURT SHALL NOT JAIL THE DEFENDANT FOR FAILURE TO PAY; AND
*IF THE DEFENDANT HAS THE ABILITY TO PAY THE MONETARY AMOUNT AS DIRECTED BY THE COURT OR THE COURTS DESIGNEE BUT WILLFULLY FAILS TO PAY, THE DEFENDANT MAY BE IMPRISONED FOR FAILURE TO COMPLY WITH THE COURTS LAWFUL ORDER TO PAY PURSUANT TO 18-1.3-702
*PEOPLE ARE NOT REQUESTING RESTITUTION. NO RESTITUTION ORDERED. /JWL

HARVELL, LAURA EH
Judge/Magistrate

2024-02-20
Date

MARTINEZ, MICHELLE L
Defendant

2024-02-20
Date

*****NOTICE*****
Following this hearing you are to present this form to the Clerk's Office for payment. Payment is due by the end of business on your Court Date. Pursuant to §16-11-101.6, C.R.S., if the Defendant does not pay all amounts assessed at the time of order, the Defendant shall pay an additional time payment fee. In addition, the Defendant may be assessed a late penalty fee each time payment is not received on or before the due date.

1140 S. Townsend Ave
Montrose Co 81401
970-901-9733

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DATE 2/20/24
Deputy Clerk
7th Judicial District



COUNTY COURT, MONTROSE COUNTY, COLORADO

Court Address: Montrose County Justice Center, Courts Building
1200 North Grand Ave, Bin A
Montrose, CO 81401-3146
Phone Number: 970-252-4300

Filed in the Combined Court
Montrose County, Colorado

DATE FILED: July 10, 2023 3:47 PM
JUL 10 2023

Clerk of Court

COURT USE ONLY

Case Number: 2023M 000316

The People of the State of Colorado
vs.
MCEACHERN, PRESTON F

Division: D

SENTENCE ORDER

Defendant: MCEACHERN, PRESTON F
Count

Date of Birth: [REDACTED]

Class PO
Plea Plea of Guilty

Finding Guilty

1 18-9-106(1)(d) - DISORDERLY CONDUCT-FIGHTING IN PUBLIC

ASSESSED FINES & COSTS

Count # 1	
Court Costs	\$21.00
Court Security Cash Fund	\$5.00
Restorative Justice Surcharge	\$10.00
Misdemeanor Fine	\$50.00
TOTAL	\$86.00

Other Conditions of Sentence:

- *PEOPLE ARE NOT REQUESTING RESTITUTION. NO RESTITUTION ORDERED
- *MANDATORY PROTECTION ORDER IS VACATED
- *IF AT ANY TIME THE DEFENDANT IS UNABLE TO PAY THE MONETARY AMOUNT DUE, THE DEFENDANT MUST CONTACT THE COURTS DESIGNATED OFFICIAL OR APPEAR BEFORE THE COURT TO EXPLAIN WHY HE OR SHE IS UNABLE TO PAY THE MONETARY AMOUNT;
- *IF THE DEFENDANT LACKS THE PRESENT ABILITY TO PAY THE MONETARY AMOUNT DUE WITHOUT UNDUE HARDSHIP TO THE DEFENDANT OR THE DEFENDANTS DEPENDENTS, THE COURT SHALL NOT JAIL THE DEFENDANT FOR FAILURE TO PAY; AND
- *IF THE DEFENDANT HAS THE ABILITY TO PAY THE MONETARY AMOUNT AS DIRECTED BY THE COURT OR THE COURTS DESIGNEE BUT WILLFULLY FAILS TO PAY, THE DEFENDANT MAY BE IMPRISONED FOR FAILURE TO COMPLY WITH THE COURTS LAWFUL ORDER TO PAY PURSUANT TO 18-1.3-702 /SLM

HARVELL, LAURA EH
Judge/Magistrate

2023-07-10
Date

MCEACHERN, PRESTON F
Defendant

2023-07-10
Date

*****NOTICE*****
Following this hearing you are to present this form to the Clerk's Office for payment. Payment is due by the end of business on your Court Date. Pursuant to §16-11-101.6, C.R.S., if the Defendant does not pay all amounts assessed at the time of order, the Defendant shall pay an additional time payment fee. In addition, the Defendant may be assessed a late penalty fee each time payment is not received on or before the due date.

PO BOX 22 MONTROSE CO 81402

970-901-7620

CERTIFIED TO BE A FULL, TRUE
AND CORRECT COPY OF ORIGINAL
IN MY CUSTODY
DATE 7/13/23

Deputy Clerk
Judicial District



COUNTY COURT, MONTROSE COUNTY, COLORADO

Court Address: Montrose County Justice Center, Courts Building
1200 North Grand Ave, Bin A
Montrose, CO 81401-3146
Phone Number: 970-252-4300

DATE FILED: January 17, 2024 1:09 PM

COURT USE ONLY

Case Number: 2023T 000713

The People of the State of Colorado
vs.
LARSON, MAKENZI SAGE

Division: D

Amended SENTENCE ORDER

Defendant: LARSON, MAKENZI SAGE
Count

Date of Birth: [REDACTED]
Class TIA
Plea T2 Plea of Guilty
M

Finding
Dism by DA
Guilty
Dism by DA

- 1 42-4-1007(1)(a) - LANE USAGE VIOLATION
- 2 42-4-1401 - RECKLESS DRIVING
- 3 42-4-1301(2)(a) - DRIVING UNDER THE INFLUENCE PER SE

ASSESSED FINES & COSTS

Count # 2
Court Costs \$21.00
Court Security Cash Fund \$5.00
Genetic Testing Surcharge \$2.50
Victims Assistance Fund \$33.00
Victim Compensation Fund \$33.00
Restorative Justice Surcharge \$10.00
E-Discovery \$5.00
→ Probation - Unsupervised: 12 Months
Credit for Time Served: 1 Days
Traffic Fine \$150.00
TOTAL \$109.50

CERTIFIED TO BE A FULL, TRUE
AND CORRECT COPY OF ORIGINAL
IN MY CUSTODY

DATE 1/23/24

Deputy Clerk
Judicial District
SUSPENDED



Other Conditions of Sentence:

*PROBATION WITH STANDARD TERMS; PERFORMANCE OF ALL OTHER TERMS OF YOUR SENTENCE IS ALSO A CONDITION OF PROBATION INCLUDING NO NEW VIOLATIONS OF LAW AND KEEPING CONTACT INFORMATION CURRENT WITH THE COURT AND PROBATION IF APPLICABLE *DEFENDANT ORDERED TO MAKE ALCOHOL EVALUATION APPOINTMENT WITHIN 48 HOURS AND FOLLOW RECOMMENDED TREATMENT
*THE COURT SUSPENDS 150.00 FINE FOR 12 MONTHS WITH CONDITION OF THE SUSPENSION BEING SUCCESSFUL PERFORMANCE OF THE TERMS OF THE SENTENCE
*PEOPLE ARE NOT REQUESTING RESTITUTION. NO RESTITUTION ORDERED
*BOND IS DISCHARGED
*IF AT ANY TIME THE DEFENDANT IS UNABLE TO PAY THE MONETARY AMOUNT DUE, THE DEFENDANT MUST CONTACT THE COURT'S DESIGNATED OFFICIAL OR APPEAR BEFORE THE COURT TO EXPLAIN WHY HE OR SHE IS UNABLE TO PAY THE MONETARY AMOUNT;
*IF THE DEFENDANT LACKS THE PRESENT ABILITY TO PAY THE MONETARY AMOUNT DUE WITHOUT UNDUE HARDSHIP TO THE DEFENDANT OR THE DEFENDANTS DEPENDENTS, THE COURT SHALL NOT JAIL THE DEFENDANT FOR FAILURE TO PAY; AND
*IF THE DEFENDANT HAS THE ABILITY TO PAY THE MONETARY AMOUNT AS DIRECTED BY THE COURT OR THE COURT'S DESIGNEE BUT WILLFULLY FAILS TO PAY, THE DEFENDANT MAY BE IMPRISONED FOR FAILURE TO COMPLY WITH THE COURT'S LAWFUL ORDER TO PAY PURSUANT TO 18-1.3-702 /SLM

HARVELL, LAURA EH
Judge/Magistrate

2024-01-16
Date

LARSON, MAKENZI SAGE
Defendant

2024-01-16
Date

*****NOTICE*****
Following this hearing you are to present this form to the Clerk's Office for payment. Payment is due by the end of business on your Court Date. Pursuant to §16-11-101.6, C.R.S., if the Defendant does not pay all amounts assessed at the time of order, the Defendant shall pay an additional time payment fee. In addition, the Defendant may be assessed a late penalty fee each time payment is not received on or before the due date.

in. Del.

TERMS OF PROBATION

1. **Probation:** If you are sentenced to supervised or unsupervised probation, you shall comply with all standard terms and conditions of probation set forth in C.R.S. § 18-1.3-204(2)(a)(I-XV). You shall also comply with all terms set forth in C.R.S. § 18-1.3-204(2)(b), if the Court made a finding that the acts charged in your case were committed as acts of Domestic Violence. You shall comply with all terms of this sentencing order, and all terms of the supervised probation order, if applicable.
2. **C.R.S. § 18-1-1001 Mandatory Criminal Protection Order:** You shall not harass, molest, intimidate, retaliate against, threaten or tamper with any victim(s) or witness(es) of the acts charged in this case. You shall also comply with any special terms of said protection order. The mandatory criminal protection order shall remain in effect during the term of this sentence, including any term of probation (whether supervised or unsupervised).
3. **Costs of Care:** Pursuant to C.R.S. § 18-1.3-701, the Defendant shall pay the "costs of care" for his/her term of imprisonment, which amount shall not exceed the per capita cost of maintaining prisoners in the applicable institution or facility, whether county jail, or Department of Corrections.
4. **New Criminal Charges:** You shall not commit another criminal offense, whether federal, state, tribal or local. You shall report any new charges immediately in writing to the District Attorney and this Court.
5. **Defendant's Mailing Address:** You shall ensure that the Court always has his/her current mailing address. Any complaint to revoke probation, deferral, or continuance will be mailed to you at the current mailing address you have provided. You shall appear in Court as directed by the mailed notice; Defendant agrees as a term of this sentence that such mailed notice shall be sufficient legal notice, and shall appear in Court as directed thereby. If the Defendant fails to appear pursuant to such a notice, mailed by the Court or the Probation Department, the Court may issue a warrant for the Defendant's arrest.
6. **Illegal Drugs:** You shall not use or possess any illegal, dangerous, or abusable drugs or controlled substances without a prescription, except that the use of medical marijuana is permissible unless the conviction is for a violation of Article 43.3 of Title 12, C.R.S., or unless the court determines, based on the assessment as required by C.R.S. § 18-1.3-209, that a prohibition against the possession or use of medical marijuana is necessary and appropriate to accomplish the goals of sentencing as stated in C.R.S. § 18-1-102.5.
7. **Payment of Amounts Due; Time Payment Plans:** If the fines, fees, costs, and restitution are not paid immediately upon sentencing, you may set up a payment agreement. There is a \$25.00 fee for payment agreements. You shall contact the Collections Investigator ("C.I.") today to arrange for payment of amounts due.
 - a. Failure to abide by a payment agreement by not making timely payments, or by failing to stay in weekly contact with the C.I., (or failure to update the C.I. of any employment, financial, or residential changes) is a violation of this sentence. Payment of any fine imposed is a condition of probation, and failure to pay or appear in Court will result in additional statutory fees.
 - b. Payment of restitution is a condition of probation, which pursuant to C.R.S. § 18-1.3-603(4)(b)(I), will accrue interest on the restitution balance from the date of the entry of the Court order, at a rate of 8% per annum.
8. **Useful Public Service:** If Useful Public Service ("UPS") was ordered in your case, you shall contact the UPS coordinator to receive an assigned worksite. You shall complete any UPS ordered within six (6) months from the date of your sentencing order, unless otherwise ordered by the Court.
9. **Driving:** You shall not operate a motor vehicle on the highways of Colorado without first obtaining a valid Colorado driver's license, and proof of automobile insurance.
10. **Education and Treatment:** Discharge from the education and treatment programs, if ordered in your case, for any reason other than completion, shall be considered a violation of probation. You must regularly attend all classes: two (2) or more unexcused absences will be considered a violation of probation.
11. **Alcohol Evaluation:** It is a condition of probation that you shall report immediately to the Probation Department, and/or schedule and appear for an alcohol evaluation, if one has been ordered. You shall comply with all recommendations outlined in the evaluation, or as ordered upon sentencing. Your education/treatment will be under the direct supervision of the Alcohol Evaluator. You cannot change treatment agencies without prior approval of the Court, or Alcohol Evaluator. You shall obtain a written report regarding compliance from the treatment provider, and provide the Probation Department a copy of such report every 90 days, or as ordered by the Court or the Probation Department.
12. **Sealing of Records:** See C.R.S. § 24-72-308 for information regarding the sealing of criminal justice records.

COUNTY COURT, MONTROSE COUNTY, COLORADO

Filed in the Combined Court
Montrose County, Colorado

Court Address: Montrose County Justice Center, Courts Building
1200 North Grand Ave, Bin A
Montrose, CO 81401-3146
Phone Number: 970-252-4300

DATE FILED: January 8, 2024 3:27 PM
JAN 08 2024

Jodi Hanson
Clerk of Court

COURT USE ONLY

Case Number: 2023T 000762

The People of the State of Colorado
vs.
GALLAGHER, CODY G

Division: D

SENTENCE ORDER

Defendant: GALLAGHER, CODY G
Count

Date of Birth: [REDACTED]

Class Plea

Finding

- 1 42-4-1402(1),(2)(a) - CARELESS DRIVING
- 2 42-4-1301(1)(a) - DRIVING UNDER THE INFLUENCE
- 3 42-4-1301(2)(a) - DRIVING UNDER THE INFLUENCE PER SE.

T2

M Plea of Guilty

M

Dismissed by Plea
Guilty
Dismissed by Plea

ASSESSED FINES & COSTS

Count # 2	
Court Costs	\$21.00
Court Security Cash Fund	\$5.00
E-Discovery	\$5.00
Genetic Testing Surcharge	\$2.50
Brain Injury Trust Fund	\$25.00
Alcohol Eval Fee	\$200.00
LEAF Assessment	\$90.00
Victim Compensation Fund	\$33.00
Driving Und Infl/Abil Impaired	\$600.00
Persistent Drunk Driving Schg	\$100.00
Victims Assistance Fund	\$222.00
Rural Youth Alc/Sub Abuse Surc	\$5.00
Jail: 5 Days	
Community Service: 48 Hours	
Subst Affect Driving Data Surc	\$2.00
Restorative Justice Surcharge	\$10.00
Useful Public Service	\$120.00
Probation: 1 Years	
Probation Supervision Fee	\$600.00
Credit for Time Served: 1 Days	
Jail SUSPENDED IMPOSITION: 4 Days	
TOTAL	\$2,040.50

Other Conditions of Sentence:

*PROBATION WITH STANDARD TERMS; PERFORMANCE OF ALL OTHER TERMS OF YOUR SENTENCE IS ALSO A CONDITION OF PROBATION INCLUDING NO NEW VIOLATIONS OF LAW AND KEEPING CONTACT INFORMATION CURRENT WITH THE COURT AND PROBATION IF APPLICABLE *THE COURT SUSPENDS 4 DAYS JAIL FOR 23 MONTHS WITH CONDITION OF THE SUSPENSION BEING SUCCESSFUL PERFORMANCE OF THE TERMS OF THE SENTENCE *PEOPLE ARE NOT REQUESTING RESTITUTION. NO RESTITUTION ORDERED *DEFENDANT ORDERED TO MAKE ALCOHOL EVALUATION APPOINTMENT AND FOLLOW RECOMMENDED TREATMENT *BOND IS DISCHARGED *DEFENDANT NOT TO USE, CONSUME, OR POSSESS ALCOHOL OR CONTROLLED SUBSTANCES FOR THE TERM OF THE SENTENCE, THE LATTER WITHOUT PRESCRIPTION. *IF AT ANY TIME THE DEFENDANT IS UNABLE TO PAY THE MONETARY AMOUNT DUE, THE DEFENDANT MUST CONTACT THE COURTS DESIGNATED OFFICIAL OR APPEAR BEFORE THE COURT TO EXPLAIN WHY HE OR SHE IS UNABLE TO PAY THE MONETARY AMOUNT; *IF THE DEFENDANT LACKS THE PRESENT ABILITY TO PAY THE MONETARY AMOUNT DUE WITHOUT UNDUE HARDSHIP TO THE DEFENDANT OR THE DEFENDANTS DEPENDENTS, THE COURT SHALL NOT JAIL THE DEFENDANT FOR FAILURE TO PAY; AND

Defendant: GALLAGHER, CODY G

Date of Birth: 03/07/1985

*IF THE DEFENDANT HAS THE ABILITY TO PAY THE MONETARY AMOUNT AS DIRECTED BY THE COURT OR THE COURTS DESIGNEE BUT WILLFULLY FAILS TO PAY, THE DEFENDANT MAY BE IMPRISONED FOR FAILURE TO COMPLY WITH THE COURTS LAWFUL ORDER TO PAY PURSUANT TO 18-1.3-702 /JAH

HARVELL, LAURA EH
Judge/Magistrate2024-01-08
DateGALLAGHER, CODY G
Defendant2024-01-08
Date

*****NOTICE*****
Following this hearing you are to present this form to the Clerk's Office for payment. Payment is due by the end of business on your Court Date. Pursuant to §16-11-101.6, C.R.S., if the Defendant does not pay all amounts assessed at the time of order, the Defendant shall pay an additional time payment fee. In addition, the Defendant may be assessed a late penalty fee each time payment is not received on or before the due date.

(623) 693-1001

62770 SPRING CREEK RD. MONTROSE, COL.

CERTIFIED TO BE A FULL, TRUE
AND CORRECT COPY OF ORIGINAL
IN MY CUSTODY
DATE 2/14/24

Deputy Clerk
7th Judicial District



TERMS OF PROBATION

1. **Probation:** If you are sentenced to supervised or unsupervised probation, you shall comply with all standard terms and conditions of probation set forth in C.R.S. § 18-1.3-204(2)(a)(I-XV). You shall also comply with all terms set forth in C.R.S. § 18-1.3-204(2)(b), if the Court made a finding that the acts charged in your case were committed as acts of Domestic Violence. You shall comply with all terms of this sentencing order, and all terms of the supervised probation order, if applicable.
2. **C.R.S. § 18-1-1001 Mandatory Criminal Protection Order:** You shall not harass, molest, intimidate, retaliate against, threaten or tamper with any victim(s) or witness(es) of the acts charged in this case. You shall also comply with any special terms of said protection order. The mandatory criminal protection order shall remain in effect during the term of this sentence, including any term of probation (whether supervised or unsupervised).
3. **Costs of Care:** Pursuant to C.R.S. § 18-1.3-701, the Defendant shall pay the "costs of care" for his/her term of imprisonment, which amount shall not exceed the per capita cost of maintaining prisoners in the applicable institution or facility, whether county jail, or Department of Corrections.
4. **New Criminal Charges:** You shall not commit another criminal offense, whether federal, state, tribal or local. You shall report any new charges immediately in writing to the District Attorney and this Court.
5. **Defendant's Mailing Address:** You shall ensure that the Court always has his/her current mailing address. Any complaint to revoke probation, deferral, or continuance will be mailed to you at the current mailing address you have provided. You shall appear in Court as directed by the mailed notice; Defendant agrees as a term of this sentence that such mailed notice shall be sufficient legal notice, and shall appear in Court as directed thereby. If the Defendant fails to appear pursuant to such a notice, mailed by the Court or the Probation Department, the Court may issue a warrant for the Defendant's arrest.
6. **Illegal Drugs:** You shall not use or possess any illegal, dangerous, or abusable drugs or controlled substances without a prescription, except that the use of medical marijuana is permissible unless the conviction is for a violation of Article 43.3 of Title 12, C.R.S., or unless the court determines, based on the assessment as required by C.R.S. § 18-1.3-209, that a prohibition against the possession or use of medical marijuana is necessary and appropriate to accomplish the goals of sentencing as stated in C.R.S. § 18-1-102.5.
7. **Payment of Amounts Due; Time Payment Plans:** If the fines, fees, costs, and restitution are not paid immediately upon sentencing, you may set up a payment agreement. There is a \$25.00 fee for payment agreements. You shall contact the Collections Investigator ("C.I.") today to arrange for payment of amounts due.
 - a. Failure to abide by a payment agreement by not making timely payments, or by failing to stay in weekly contact with the C.I., (or failure to update the C.I. of any employment, financial, or residential changes) is a violation of this sentence. Payment of any fine imposed is a condition of probation, and failure to pay or appear in Court will result in additional statutory fees.
 - b. Payment of restitution is a condition of probation, which pursuant to C.R.S. § 18-1.3-603(4)(b)(I), will accrue interest on the restitution balance from the date of the entry of the Court order, at a rate of 8% per annum.
8. **Useful Public Service:** If Useful Public Service ("UPS") was ordered in your case, you shall contact the UPS coordinator to receive an assigned worksite. You shall complete any UPS ordered within six (6) months from the date of your sentencing order, unless otherwise ordered by the Court.
9. **Driving:** You shall not operate a motor vehicle on the highways of Colorado without first obtaining a valid Colorado driver's license, and proof of automobile insurance.
10. **Education and Treatment:** Discharge from the education and treatment programs, if ordered in your case, for any reason other than completion, shall be considered a violation of probation. You must regularly attend all classes: two (2) or more unexcused absences will be considered a violation of probation.
11. **Alcohol Evaluation:** It is a condition of probation that you shall report immediately to the Probation Department, and/or schedule and appear for an alcohol evaluation, if one has been ordered. You shall comply with all recommendations outlined in the evaluation, or as ordered upon sentencing. Your education/treatment will be under the direct supervision of the Alcohol Evaluator. You cannot change treatment agencies without prior approval of the Court, or Alcohol Evaluator. You shall obtain a written report regarding compliance from the treatment provider, and provide the Probation Department a copy of such report every 90 days, or as ordered by the Court or the Probation Department.
12. **Sealing of Records:** See C.R.S. § 24-72-308 for information regarding the sealing of criminal justice records.

COUNTY COURT, MONTROSE COUNTY, COLORADO

Filed in the Combined Court
Montrose County, Colorado

Court Address: Montrose County Justice Center, Courts Building
1200 North Grand Ave, Bin A
Montrose, CO 81401-3146
Phone Number: 970-252-4300

DATE FILED: January 22, 2024 4:23 PM

Jodi Hanson
Clerk of Court

COURT USE ONLY

Case Number: 2023T 005014

The People of the State of Colorado
vs.
SAMPLES, TOM C

Division: D

SENTENCE ORDER

Defendant: SAMPLES, TOM C
Count

Date of Birth: [REDACTED]
Class T2
TIA
M
Plea
Plea of Guilty

Finding
Dism by DA
Dism by DA
Dfrd Sentence

- 1 42-2-138(1)(d) - DRIVING UNDER RESTRAINT-ALCOHOL-RELATED
2 42-4-703(3) - STOP SIGN-FAIL TO STOP
3 42-4-1301(1)(a) - DRIVING UNDER THE INFLUENCE

ASSESSED FINES & COSTS

Count # 3		
Genetic Testing Surcharge	\$2.50	
Brain Injury Trust Fund	\$25.00	
Alcohol Eval Fee	\$200.00	
LEAF Assessment	\$90.00	
Victim Compensation Fund	\$33.00	
Driving Und Inflr/Abil Impaired	\$600.00	SUSPENDED
Persistent Drunk Driving Schg	\$100.00	
Victims Assistance Fund	\$222.00	
Rural Youth Alc/Sub Abuse Surc	\$5.00	
Useful Public Service	\$120.00	
Community Service: 48 Hours		
Restorative Justice Surcharge	\$10.00	
Deferred Sentence - Alcohol: 12 Months		
Probation Alcohol Eval & Suprv: 12 Months		
Jail: 5 Days		
Jail SUSPENDED IMPOSITION: 4 Days		
Credit for Time Served: 1 Days		
TOTAL	\$807.50	

Other Conditions of Sentence:

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* THE COURT SUSPENDS 4 DAYS JAIL AND \$600.00 DUI FINE FOR 12 MONTHS WITH CONDITION OF THE SUSPENSION BEING SUCCESSFUL PERFORMANCE OF THE TERMS OF THE SENTENCE
* DEFENDANT TO COMPLETE UPS HOURS WITHIN 12 MONTHS.
* DEFENDANT NOT TO USE, CONSUME, OR POSSESS ALCOHOL OR CONTROLLED SUBSTANCES FOR THE TERM OF THE SENTENCE, THE LATTER WITHOUT PRESCRIPTION. MONITORING TO BE PERFORMED BY PROBATION.
* DEFENDANT ORDERED TO MAKE ALCOHOL EVALUATION APPOINTMENT WITHIN 48 HOURS AND FOLLOW RECOMMENDED TREATMENT
* PEOPLE ARE NOT REQUESTING RESTITUTION. NO RESTITUTION ORDERED
* BOND IS DISCHARGED
* IF AT ANY TIME THE DEFENDANT IS UNABLE TO PAY THE MONETARY AMOUNT DUE, THE DEFENDANT MUST CONTACT THE COURTS DESIGNATED OFFICIAL OR APPEAR BEFORE THE COURT TO EXPLAIN WHY HE OR SHE IS UNABLE TO PAY THE MONETARY AMOUNT;
* IF THE DEFENDANT LACKS THE PRESENT ABILITY TO PAY THE MONETARY AMOUNT DUE WITHOUT UNDUE HARDSHIP TO THE DEFENDANT OR THE DEFENDANTS DEPENDENTS, THE COURT SHALL NOT JAIL THE DEFENDANT FOR FAILURE TO PAY; AND

Case Number: 2023T 005014
Defendant: SAMPLES, TOM C

Date of Birth: 02/08/1995

Page: 2

*IF THE DEFENDANT HAS THE ABILITY TO PAY THE MONETARY AMOUNT AS DIRECTED BY THE COURT OR THE COURTS DESIGNEE BUT WILLFULLY FAILS TO PAY, THE DEFENDANT MAY BE IMPRISONED FOR FAILURE TO COMPLY WITH THE COURTS LAWFUL ORDER TO PAY PURSUANT TO 18-1.3-702 /AJH

HARVELL, LAURA EH
Judge/Magistrate

2024-01-22
Date

SAMPLES, TOM C
Defendant

2024-01-22
Date

*****NOTICE*****
Following this hearing you are to present this form to the Clerk's Office for payment. Payment is due by the end of business on your Court Date. Pursuant to §16-11-101.6, C.R.S., if the Defendant does not pay all amounts assessed at the time of order, the Defendant shall pay an additional time payment fee. In addition, the Defendant may be assessed a late penalty fee each time payment is not received on or before the due date.

CERTIFIED TO BE A TRUE
AND CORRECT COPY OF ORIGINAL
IN MY CUSTODY
DATE 2/13/24

Deputy Clerk
7th Judicial District



TERMS OF PROBATION

1. **Probation:** If you are sentenced to supervised or unsupervised probation, you shall comply with all standard terms and conditions of probation set forth in C.R.S. § 18-1.3-204(2)(a)(I-XV). You shall also comply with all terms set forth in C.R.S. § 18-1.3-204(2)(b), if the Court made a finding that the acts charged in your case were committed as acts of Domestic Violence. You shall comply with all terms of this sentencing order, and all terms of the supervised probation order, if applicable.
2. **C.R.S. § 18-1-1001 Mandatory Criminal Protection Order:** You shall not harass, molest, intimidate, retaliate against, threaten or tamper with any victim(s) or witness(es) of the acts charged in this case. You shall also comply with any special terms of said protection order. The mandatory criminal protection order shall remain in effect during the term of this sentence, including any term of probation (whether supervised or unsupervised).
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6. **Illegal Drugs:** You shall not use or possess any illegal, dangerous, or abusable drugs or controlled substances without a prescription, except that the use of medical marijuana is permissible unless the conviction is for a violation of Article 43.3 of Title 12, C.R.S., or unless the court determines, based on the assessment as required by C.R.S. § 18-1.3-209, that a prohibition against the possession or use of medical marijuana is necessary and appropriate to accomplish the goals of sentencing as stated in C.R.S. § 18-1-102.5.
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 - a. Failure to abide by a payment agreement by not making timely payments, or by failing to stay in weekly contact with the C.I., (or failure to update the C.I. of any employment, financial, or residential changes) is a violation of this sentence. Payment of any fine imposed is a condition of probation, and failure to pay or appear in Court will result in additional statutory fees.
 - b. Payment of restitution is a condition of probation, which pursuant to C.R.S. § 18-1.3-603(4)(b)(I), will accrue interest on the restitution balance from the date of the entry of the Court order, at a rate of 8% per annum.
8. **Useful Public Service:** If Useful Public Service ("UPS") was ordered in your case, you shall contact the UPS coordinator to receive an assigned worksite. You shall complete any UPS ordered within six (6) months from the date of your sentencing order, unless otherwise ordered by the Court.
9. **Driving:** You shall not operate a motor vehicle on the highways of Colorado without first obtaining a valid Colorado driver's license, and proof of automobile insurance.
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11. **Alcohol Evaluation:** It is a condition of probation that you shall report immediately to the Probation Department, and/or schedule and appear for an alcohol evaluation, if one has been ordered. You shall comply with all recommendations outlined in the evaluation, or as ordered upon sentencing. Your education/treatment will be under the direct supervision of the Alcohol Evaluator. You cannot change treatment agencies without prior approval of the Court, or Alcohol Evaluator. You shall obtain a written report regarding compliance from the treatment provider, and provide the Probation Department a copy of such report every 90 days, or as ordered by the Court or the Probation Department.
12. **Sealing of Records:** See C.R.S. § 24-72-308 for information regarding the sealing of criminal justice records.

COLORADO REVISED STATUTES (C.R.S.)

West's Colorado Revised Statutes Annotated

Title 44. Activities Regulated by the Department of Revenue

Alcohol and Tobacco Regulation

Article 3. Alcohol Beverages

Part 3. State and Local Licensing

C.R.S.A. § 44-3-302
Formerly cited as CO ST § 12-47-302

§ 44-3-302. License renewal--rules

Effective: September 14, 2020

Currentness

(1)(a) Ninety days before the expiration date of an existing license, the state licensing authority shall notify the licensee of the expiration date by any method reasonably likely to actually notify the licensee. The state licensing authority shall promulgate rules setting the procedure to notify a licensee in accordance with this subsection (1)(a).

(b) For the renewal of an existing license, the licensee must apply to the local licensing authority not less than forty-five days and to the state licensing authority not less than thirty days before the date of expiration. The local licensing authority shall not accept an application for renewal of a license after the date of expiration, except as provided in subsection (2) of this section. Filing with the local licensing authority is deemed filing with the state licensing authority. The state licensing authority shall process all renewal applications that are filed with the local licensing authorities before the expiration date and subsequently approved and shall extend the expiration date until the state license application process is completed. The state or the local licensing authority, for good cause, may waive the forty-five- or thirty-day time requirements set forth in this subsection (1)(b).

(c) The local licensing authority may hold a hearing on the application for renewal, but not until a notice of hearing has been conspicuously posted on the licensed premises for ten days and notice of the hearing has been provided the applicant at least ten days before the hearing. The licensing authority may refuse to renew any license for good cause, subject to judicial review. The state licensing authority shall hold any renewal hearing in accordance with [section 44-3-305\(2\)](#).

(2)(a) Notwithstanding the provisions of subsection (1) of this section, a licensee whose license has been expired for not more than ninety days may file a late renewal application upon the payment of a nonrefundable late application fee of five hundred dollars each to the state and local licensing authorities. A licensee who files a late renewal application and pays the requisite fees may continue to operate until both state and local licensing authorities have taken final action to approve or deny the licensee's late renewal application.

(b) A state or local licensing authority shall not accept a late renewal application more than ninety days after the expiration of a licensee's permanent annual license. Any licensee whose permanent annual license has been expired for more than ninety days must apply for a new license pursuant to [section 44-3-311](#) or a reissued license pursuant to subsection (2)(d) of this section.

(c) Notwithstanding the amount specified for the fee in subsection (2)(a) of this section, the state licensing authority by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to [section 24-75-402\(3\)](#) to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the state licensing authority by rule or as otherwise provided by law may increase the amount of the fee as provided in [section 24-75-402\(4\)](#).

(d)(I) Notwithstanding subsection (2)(b) of this section, with the permission of the licensing authority, a licensee whose permanent annual license has been expired for more than ninety days but less than one hundred eighty days may submit to the local licensing authority, or to the state licensing authority in the case of a licensee whose alcohol beverage license is not subject to issuance or approval by a local licensing authority, an application for a reissued license. The licensing authority has the sole discretion to determine whether to allow a licensee to apply for a reissued license.

(II) If the licensing authority does not allow the licensee's application, then the licensee must apply for a new license pursuant to [section 44-3-311](#). A person who has applied for a new license shall not sell, or possess for sale in public view, any alcohol beverage until all required licenses have been obtained.

(III) For licensees subject to issuance or approval by a local licensing authority, if the local licensing authority allows the licensee to apply for a reissuance of the expired license, the licensee must submit to the local licensing authority:

(A) An application for a reissued license;

(B) Payment of a five-hundred-dollar late application fee; and

(C) Payment of a fine of twenty-five dollars per day for each day the license has been expired beyond ninety days.

(IV) After the local licensing authority accepts the application, late application fee, and fine, the licensee may continue to operate and sell alcohol beverages until the state licensing authority and local licensing authority have each taken final action on the licensee's application for license reissuance.

(V) If the local licensing authority approves the reissuance of the licensee's license, the local licensing authority shall forward the approved application to the state licensing authority for review. In addition to the late application fee and fine imposed by the local licensing authority, the state licensing authority shall impose a five-hundred-dollar late application fee and a fine of

twenty-five dollars per day for each day the license has been expired beyond ninety days.

(VI) For licensees who are not subject to issuance or approval by a local licensing authority, if the state licensing authority allows the licensee to apply for a reissuance of the expired license, the licensee must submit to the state licensing authority:

(A) An application for a reissued license;

(B) Payment of a five-hundred-dollar late application fee; and

(C) Payment of a fine of twenty-five dollars per day for each day the license has been expired beyond ninety days.

(VII) After the state licensing authority accepts the application, late application fee, and fine, the licensee may continue to operate and sell alcohol beverages until the state licensing authority takes final action on the licensee's application for license reissuance.

(VIII) If the state licensing authority approves the reissuance, the licensee will maintain the same license period dates as if the license had been renewed prior to the expiration date.

(IX) If either the local or state licensing authority denies the licensee's application for reissuance of the expired license, then the licensee may apply for a new license pursuant to [section 44-3-311](#).

(X) Neither the state nor local licensing authority may grant a licensee's application for license reissuance more than three times in any five-year period.

Credits

Relocated and amended by [Laws 2018, Ch. 152, § 2, eff. Oct. 1, 2018](#). Amended by Laws 2020, Ch. 67 (S.B. 20-086), § 1, eff. Sept. 14, 2020.

C. R. S. A. § 44-3-302, CO ST § 44-3-302

Current through legislation effective January 31, 2024 of the Second Regular Session, 74th General Assembly (2024). Some statute sections may be more current. See credits for details.

End of Document

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West's Colorado Revised Statutes Annotated

Title 44. Activities Regulated by the Department of Revenue

Alcohol and Tobacco Regulation

Article 3. Alcohol Beverages

Part 4. Classes of Licenses and Permits

C.R.S.A. § 44-3-414
Formerly cited as CO ST § 12-47-412

§ 44-3-414. Tavern license

Effective: June 7, 2022

Currentness

(1) A tavern license shall be issued to persons selling alcohol beverages by the drink only to customers for consumption on the premises. A tavern licensee shall have sandwiches and light snacks available for consumption on the premises during business hours, but need not have meals available for consumption.

(2)(a) Every person selling alcohol beverages as provided in this section shall purchase alcohol beverages only from a wholesaler licensed pursuant to this article 3; except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of malt, vinous, and spirituous liquors from retailers licensed pursuant to [sections 44-3-409, 44-3-410, and 44-4-104\(1\)\(c\)](#).

(b) A tavern licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to [section 44-3-409, 44-3-410, or 44-4-104\(1\)\(c\)](#), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The tavern licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

(3) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in tavern licenses to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article 3 or article 4 of this title 44; except that the person may have an interest in a license described in [section 44-3-401\(1\)\(j\) to \(1\)\(t\), \(1\)\(v\), or \(1\)\(w\), 44-3-412\(1\), or 44-4-104\(1\)\(c\)](#) or in a financial institution referred to in [section 44-3-308\(4\)](#).

(4) Repealed by [Laws 2022, Ch. 426 \(H.B. 22-1415\), § 3, eff. June 7, 2022](#).

(5) The manager for each tavern license, the tavern licensee, or an employee or agent of the tavern licensee shall purchase alcohol beverages for one licensed premises only, and the purchases shall be separate and distinct from purchases for any other tavern license.

(6) Repealed by [Laws 2022, Ch. 426 \(H.B. 22-1415\), § 3, eff. June 7, 2022](#).

(7) Repealed by [Laws 2022, Ch. 426 \(H.B. 22-1415\), § 3, eff. June 7, 2022](#).

(8) Repealed by [Laws 2022, Ch. 426 \(H.B. 22-1415\), § 3, eff. June 7, 2022](#).

(9)(a) At the time a tavern license is due for renewal or by one year after August 10, 2016, whichever occurs later, a tavern licensed under this section that does not have as its principal business the sale of alcohol beverages, has a valid license on

August 10, 2016, and is a lodging and entertainment facility may apply to, and the applicable local licensing authority shall, convert the tavern license to a lodging and entertainment license under [section 44-3-428](#), and the licensee may continue to operate as a lodging and entertainment facility licensee. If a tavern licensee does not have as its principal business the sale of alcohol beverages but is not a lodging and entertainment facility, at the time the tavern license is due for renewal or by one year after August 10, 2016, whichever occurs later, the licensee may apply to, and the applicable local licensing authority shall, convert the tavern license to another license under this article 3, if any, for which the person qualifies.

(b) A person applying under this subsection (9) to convert an existing tavern license to another license under this article 3 may apply to convert the license, even if the location of the licensed premises is within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary, so long as the local licensing authority has previously approved the location of the licensed premises in accordance with [section 44-3-313\(1\)\(d\)](#).

Credits

Relocated and amended by [Laws 2018, Ch. 152, § 2, eff. Oct. 1, 2018](#). Amended by [Laws 2019, Ch. 1 \(S.B. 19-011\), § 14, eff. Jan. 31, 2019](#); [Laws 2022, Ch. 426 \(H.B. 22-1415\), § 3, eff. June 7, 2022](#).

C. R. S. A. § 44-3-414, CO ST § 44-3-414

Current through legislation effective January 31, 2024 of the Second Regular Session, 74th General Assembly (2024). Some statute sections may be more current. See credits for details.

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West's Colorado Revised Statutes Annotated

Title 44. Activities Regulated by the Department of Revenue

Alcohol and Tobacco Regulation

Article 3. Alcohol Beverages

Part 9. Unlawful Acts--Enforcement

C.R.S.A. § 44-3-901
Formerly cited as CO ST § 12-47-901

§ 44-3-901. Unlawful acts--exceptions--definitions

Effective: August 7, 2023

Currentness

(1) Except as provided in [section 18-13-122](#), it is unlawful for any person:

(a) To sell, serve, give away, dispose of, exchange, or deliver, or permit the sale, serving, giving, or procuring of, any alcohol beverage to a visibly intoxicated person or to a known habitual drunkard;

(b)(I) To sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any alcohol beverage to or for any person under the age of twenty-one years.

(II) If a person is convicted of an offense pursuant to subsection (1)(b)(I) of this section for serving, giving away, disposing of, exchanging, or delivering or permitting the serving, giving, or procuring of any alcohol beverage to a person under the age of twenty-one years, the court shall consider the following in mitigation:

(A) After consuming the alcohol, the underage person was in need of medical assistance as a result of consuming alcohol; and

(B) Within six hours after the underage person consumed the alcohol, the defendant contacted the police or emergency medical personnel to report that the underage person was in need of medical assistance as a result of consuming alcohol.

(c) To obtain or attempt to obtain any alcohol beverage by misrepresentation of age or by any other method in any place where alcohol beverages are sold when a person is under twenty-one years of age;

(d) To possess alcohol beverages in any store, in any public place, including public streets, alleys, roads, or highways, or upon property owned by the state of Colorado or any subdivision thereof, or inside vehicles while upon the public streets, alleys, roads, or highways when a person is under twenty-one years of age;

(e) To knowingly, or under conditions that an average parent or guardian should have knowledge of, suffer or permit any person under twenty-one years of age, of whom such person may be a parent or guardian, to violate the provisions of subsection (1)(c) or (1)(d) of this section;

(f) To buy any vinous or spirituous liquor from any person not licensed to sell at retail as provided by this article 3 except as otherwise provided in this article 3;

(g) To sell at retail any malt, vinous, or spirituous liquors in sealed containers without holding a retail liquor store or liquor-licensed drugstore license, except as permitted by [section 44-3-107\(2\)](#) or [44-3-301\(6\)\(b\)](#) or any other provision of this article 3, or to sell at retail any fermented malt beverages in sealed containers without holding a fermented malt beverage retailer's license under [section 44-4-104\(1\)\(c\)](#) or to sell at retail any fermented malt beverages and wine in sealed containers without holding a fermented malt beverage and wine retailer's license under [section 44-4-107\(1\)\(a\)](#).

(h) To manufacture, sell, or possess for sale any alcohol beverage unless licensed to do so as provided by this article 3 or article 4 or 5 of this title 44 and unless all licenses required are in full force and effect;

(i)(I) To consume any alcohol beverages:

(A) In any public place except on any licensed premises permitted under this article 3 or article 4 of this title 44 to sell any alcohol beverages by the drink for consumption on the licensed premises;

(B) Upon any premises licensed to sell alcohol beverages for consumption on the licensed premises, the sale of which is not authorized by the state licensing authority;

(C) At any time on such premises other than the alcohol beverages purchased from the establishment; or

(D) In any public room on the licensed premises during hours during which the sale of the alcohol beverage is prohibited under this article 3.

(II) Notwithstanding subsection (1)(i)(I) of this section, a person who is at least twenty-one years of age may consume alcohol beverages while the person is a passenger aboard a luxury limousine or a charter bus, as those terms are defined in [section 40-10.1-301](#). Nothing in this subsection (1)(i)(II) authorizes an owner or operator of a luxury limousine or charter bus to sell or distribute alcohol beverages without obtaining a public transportation system license pursuant to [section 44-3-421](#).

(III)(A) Notwithstanding subsection (1)(i)(I) of this section, it shall not be unlawful for adult patrons of a retail liquor store or liquor-licensed drugstore licensee to consume malt, vinous, or spirituous liquors on the licensed premises when the consumption is conducted within the limitations of the licensee's license and is part of a tasting if authorization for the tasting has been granted pursuant to [section 44-3-301](#).

(B) Notwithstanding subsection (1)(i)(I) of this section, it shall not be unlawful for adult patrons of a fermented malt beverage and wine retailer licensee to consume malt or vinous liquors on the licensed premises when the consumption is conducted within the limitations of the licensee's license and is part of a tasting if authorization for the tasting has been granted pursuant to [section 44-3-301](#).

(IV) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for adult patrons of a retail establishment permit holder to consume alcohol beverages on the premises when the consumption is conducted within the limitations of a valid permit granted pursuant to [section 44-3-424](#).

(V) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for adult patrons of the Colorado state fair to consume malt, vinous, or spirituous liquor upon unlicensed areas within the designated fairgrounds of the Colorado state fair authority or at a licensed premises on the fairgrounds when not purchased at the licensed premises, but this subsection (1)(i)(V) does not authorize a patron to remove an alcohol beverage from the fairgrounds.

(VI) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for adult patrons of a licensed premises that is attached to a common consumption area to consume alcohol beverages upon unlicensed areas within a common consumption area, but this subsection (1)(i)(VI) does not authorize a patron to remove an alcohol beverage from the common consumption area.

(VII) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for a person who is at least twenty-one years of age to consume any alcohol beverages in any public place, other than a public right of way, where consumption of alcohol beverages has been specifically authorized by ordinance, resolution, or rule adopted by a municipality, city and county, or county or, for purposes of state parks, state wildlife areas, or other properties open to recreation that are under the supervision of the parks and wildlife commission created in article 9 of title 33, by the parks and wildlife commission.

(VIII) Notwithstanding subsection (1)(i)(I) of this section and when and where consumption is specifically authorized by an ordinance adopted by the city and county of Denver, it is not unlawful for adult patrons of the national western center to consume malt, vinous, or spirituous liquors in unlicensed areas of the national western center or at a licensed premises in the national western center when not purchased at the licensed premises. This subsection (1)(i)(VIII) does not authorize a patron to remove an alcohol beverage from the national western center.

(j) To regularly provide premises, or any portion thereof together with soft drinks or other mix, ice, glasses, or containers at a direct or indirect cost or charge to any person who brings alcohol beverages upon the premises for the purpose of consuming the beverages on the premises during the hours in which the sale of such beverages is prohibited or to consume such beverages upon premises operated in the manner described in this subsection (1)(j);

(k) To possess any package, parcel, or container on which the excise tax has not been paid;

(l) With knowledge, to permit or fail to prevent the use of his or her identification, including a driver's license, by a person who is under twenty-one years of age, for the unlawful purchase of any alcohol beverage;

(m) Who is a common carrier regulated under article 10.1 of title 40, or is an agent or employee of such common carrier, to deliver alcohol beverages for any person who has not been issued a license or permit pursuant to this article 3;

(n) To remove an alcohol beverage from a licensed premises where the liquor license for the licensed premises allows only on-premises consumption of alcohol beverages, except as permitted under subsection (1)(i)(VI) of this section or [section 44-3-107\(2\)](#).

(2)(a) An underage person is immune from arrest and prosecution under subsection (1)(c) or (1)(d) of this section if he or she establishes the following:

(I) The underage person called 911 and reported that another underage person was in need of medical assistance due to alcohol consumption;

(II) The underage person who called 911 provided his or her name to the 911 operator;

(III) The underage person was the first person to make the 911 report; and

(IV) The underage person who made the 911 call remained on the scene with the underage person in need of medical assistance until assistance arrived and cooperated with medical assistance or law enforcement personnel on the scene.

(b) The immunity described in subsection (2)(a) of this section also extends to the underage person who was in need of medical assistance due to alcohol consumption if the conditions of subsection (2)(a) of this section are satisfied.

(3) It is unlawful for any person licensed as a manufacturer, limited winery, brew pub, or distillery pub pursuant to this article 3 to manufacture alcohol beverages in any location other than the permanent location specifically designated in the license for manufacturing, except as allowed pursuant to [section 44-3-402\(3\)](#), [44-3-403\(2\)\(a\)](#), [44-3-417\(1\)\(b\)](#), or [44-3-422\(1\)\(b\)](#).

(4)(a) It is unlawful for any person to import or sell any imported alcohol beverage in this state unless that person is the primary source of supply in the United States for the brand of such liquor to be imported into or sold within this state and unless that person holds a valid importer's license issued under the provisions of this article 3.

(b) If it is determined by the state licensing authority, in its discretion, as not constituting unfair competition or unfair practice, any importer may be authorized by the state licensing authority to import and sell under and subject to the provisions of the importer's license any brand of alcohol beverage for which he or she is not the primary source of supply in the United States if the licensee is the sole source of supply of that brand of alcohol beverage in the state of Colorado and authorization is determined by the state licensing authority as not constituting a violation of [section 44-3-308](#).

(c) Any such manufacturer or importer shall file with the state licensing authority notice of intent to import one or more specified brands of the alcohol beverage, together with a statement that the manufacturer or importer is the primary source of supply in the United States for the brand, unless exempted pursuant to subsection (4)(b) of this section, in which case, the manufacturer or importer shall also file a statement that the manufacturer or importer is the sole source of supply of that brand of beverage in the state of Colorado. Upon the request of the state licensing authority, the manufacturer or importer shall file a copy of the manufacturer's federal brand label approval form as required by the federal bureau of alcohol, tobacco, firearms, and explosives or any of its successor agencies. Thereafter, the licensee shall file with the state licensing authority a copy of each sales invoice with a monthly sales report as required by [section 44-3-503\(4\)](#) and (6).

(d) As used in this subsection (4), the term "primary source of supply in the United States" means the manufacturer, the producer, the owner of such alcohol beverage at the time it becomes a marketable product, the bottler in the United States, or the exclusive agent within the United States, or any of the states, of any such manufacturer, producer, owner, or bottler outside the United States. To be the "primary source of supply in the United States", the said manufacturer or importer must be the first source, such as the manufacturer or the source closest to the manufacturer, in the channel of commerce from which the product can be secured by Colorado alcohol beverage wholesalers.

(e) It is unlawful for any person licensed as an importer of alcohol beverages pursuant to this article 3 to deliver any such alcohol beverages to any person not in possession of a valid wholesaler's license.

(5) It is unlawful for any person licensed to sell at wholesale pursuant to this article 3:

(a) To peddle malt, vinous, or spirituous liquor at wholesale or by means of a truck or other vehicle if the sale is consummated and delivery made concurrently, but nothing in this subsection (5)(a) shall prevent delivery from a truck or other vehicle of orders previously taken;

(b) To deliver malt liquors to any retail licensee located outside the geographic territory designated on the license application filed with the state licensing authority if the person holds a wholesaler's beer license;

(c) To purchase or receive any alcohol beverage from any person not licensed pursuant to this article 3 or article 4 of this title 44, unless otherwise provided in this article 3;

(d) To sell or serve any alcohol beverage to consumers for consumption on or off the licensed premises during any hours retailers are prohibited from selling or serving such liquors pursuant to subsection (6) of this section.

(6) It is unlawful for any person licensed to sell at retail pursuant to this article 3 or article 4 of this title 44:

(a)(I) To sell an alcohol beverage to any person under the age of twenty-one years, to a habitual drunkard, or to a visibly intoxicated person. If a person who, in fact, is not twenty-one years of age exhibits a fraudulent proof of age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this article 3 or article 4 of this title 44.

(II)(A) If a licensee or a licensee's employee has reasonable cause to believe that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any alcohol beverage, the licensee or employee shall be authorized to confiscate the fraudulent proof of age, if possible, and shall, within seventy-two hours after the confiscation, turn it over to a state or local law enforcement agency. The failure to confiscate such fraudulent proof of age or to turn it over to a state or local law enforcement agency within seventy-two hours after the confiscation shall not constitute a criminal offense, notwithstanding [section 44-3-904\(1\)\(a\)](#).

(B) If a licensee or a licensee's employee believes that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any alcohol beverage, the licensee or the licensee's employee or any peace or police officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question the person in a reasonable manner for the purpose of ascertaining whether the person is guilty of any unlawful act under this section. Questioning of a person by a licensee or a licensee's employee or a peace or police officer does not render the licensee, the licensee's employee, or a peace or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

(III) Each licensee shall display a printed card that contains notice of the provisions of this subsection (6)(a).

(IV) Any licensee or licensee's employee acting in good faith in accordance with the provisions of subsection (6)(a)(II) of this section shall be immune from any liability, civil or criminal; except that a licensee or employee acting willfully or wantonly shall not be immune from liability pursuant to subsection (6)(a)(II) of this section.

(b) To sell, serve, or distribute any malt, vinous, or spirituous liquors at any time other than the following:

(I) For consumption on the premises on any day of the week, except between the hours of 2 a.m. and 7 a.m.;

(II) In sealed containers, beginning at 8 a.m. until 12 midnight each day; except that no malt, vinous, or spirituous liquors shall be sold, served, or distributed in a sealed container on Christmas day;

(c) To sell fermented malt beverages:

(I) To any person under the age of twenty-one years, except as provided in [section 18-13-122](#);

(II) To any person between the hours of 12 midnight and 8 a.m.; or

(III) In a sealed container on Christmas day;

(d) To offer for sale or solicit any order for vinous or spirituous liquors in person at retail except within the licensed premises;

(e) Except as provided in [section 44-3-107\(2\)](#), to have in possession or upon the licensed premises any alcohol beverage, the sale of which is not permitted by said license;

(f) To buy any alcohol beverages from any person not licensed to sell at wholesale as provided by this article 3 except as otherwise provided in this article 3;

(g) To sell at retail alcohol beverages except in the permanent location specifically designated in the license for such sale;

(h) To fail to display at all times in a prominent place a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter to be a minimum of one-half inch in height, which shall read as follows:

WARNING

IT IS ILLEGAL TO SELL WHISKEY, WINE, OR BEER TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE, AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

IT IS ILLEGAL IF YOU ARE TWENTY-ONE YEARS OF AGE OR OLDER FOR YOU TO PURCHASE WHISKEY, WINE, OR BEER FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE.

FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.

(i)(I) To sell malt, vinous, or spirituous liquors or fermented malt beverages in a place where the alcohol beverages are to be consumed, unless the place is a hotel, restaurant, tavern, lodging and entertainment facility, racetrack, club, retail gaming tavern, or arts licensed premises or unless the place is a dining, club, or parlor car; plane; bus; or other conveyance or facility of a public transportation system.

(II) Notwithstanding subsection (6)(i)(I) of this section, it shall not be unlawful for a retail liquor store, liquor-licensed drugstore, or fermented malt beverage and wine retailer licensee to allow tastings to be conducted on his or her licensed premises if authorization for the tastings has been granted pursuant to [section 44-3-301](#).

(j) To display or cause to be displayed, on the licensed premises, any exterior sign advertising any particular brand of malt liquors or fermented malt beverages, unless the particular brand so designated in the sign is dispensed on draft or in sealed containers within the licensed premises wherein the sign is displayed;

(k)(I) Except as provided in subsections (6)(k)(II), (6)(k)(IV), and (6)(k)(V) of this section, to have on the licensed premises, if licensed as a retail liquor store, liquor-licensed drugstore, fermented malt beverage retailer, or fermented malt beverage and wine retailer, any container that shows evidence of having once been opened or that contains a volume of liquor less than that specified on the label of the container;

(II)(A) A person holding a retail liquor store or liquor-licensed drugstore license under this article 3 may have upon the licensed premises malt, vinous, or spirituous liquors in open containers when the open containers were brought on the licensed premises by and remain solely in the possession of the sales personnel of a person licensed to sell at wholesale pursuant to this article 3 for the purpose of sampling malt, vinous, or spirituous liquors by the retail liquor store or liquor-licensed drugstore licensee only.

(B) A person holding a fermented malt beverage and wine retailer's license under [section 44-4-107\(1\)\(a\)](#) may have upon the licensed premises fermented malt beverages and wine in open containers when the open containers were brought onto the licensed premises by and remain solely in the possession of the sales personnel of a person licensed to sell at wholesale pursuant to article 4 of this title 44 for the purpose of sampling fermented malt beverages and wine by the fermented malt beverage and wine retailer licensee only.

(III) Nothing in this subsection (6)(k) applies to any liquor-licensed drugstore where the contents, or a portion of the contents, have been used in compounding prescriptions.

(IV) It is not unlawful for a retail liquor store, liquor-licensed drugstore, or fermented malt beverage and wine retailer licensee to allow tastings to be conducted on the licensed premises if authorization for the tastings has been granted pursuant to [section 44-3-301](#).

(V) A person holding a retail liquor store or liquor-licensed drugstore license under this article 3 or a fermented malt beverage and wine retailer's license under [section 44-4-107\(1\)\(a\)](#) may have upon the licensed premises an open container of an alcohol beverage product that the licensee discovers to be damaged or defective so long as the licensee marks the product as damaged or for return and stores the open container outside the sales area of the licensed premises until the licensee is able to return the product to the wholesaler from whom the product was purchased.

(I) To employ or permit, if the person is licensed to sell alcohol beverages for on-premises consumption or is the agent or manager of said licensee, any employee, waiter, waitress, entertainer, host, hostess, or agent of said licensee to solicit from patrons in any manner, for himself or herself or for any other employee, the purchase of any food, beverage, or any other thing of value;

(m) To require a wholesaler to make delivery to any premises other than the specific hotel and restaurant premises where the alcohol beverage is to be sold and consumed if the person is a hotel and restaurant licensee or the manager of a hotel and restaurant license requires the delivery;

(n)(I) To authorize or permit any gambling, or the use of any gambling machine or device, except as provided by the "Bingo and Raffles Law", part 6 of article 21 of title 24. This subsection (6)(n) does not apply to those activities, equipment, and devices authorized and legally operated pursuant to articles 30 and 32 of this title 44.

(II) A person who violates any provision of this subsection (6)(n) is guilty of a class 5 felony and, upon conviction thereof, shall be punished as provided in [section 18-1.3-401](#).

(o) To authorize or permit toughperson fighting as defined in [section 12-110-104](#);

(p)(I)(A) To permit a person under eighteen years of age to sell, dispense, or participate in the sale or dispensing of any alcohol beverage; or

(B) Except as provided in subsection (6)(p)(II) of this section, to employ a person who is at least eighteen years of age but under twenty-one years of age to sell or dispense malt, vinous, or spirituous liquors unless the employee is supervised by another person who is on the licensed premises and is at least twenty-one years of age; except that this subsection (6)(p)(I)(B) does not apply to a retail liquor store licensed under [section 44-3-409](#) or a liquor-licensed drugstore licensed under [section 44-3-410](#);

(II) If licensed as a tavern under [section 44-3-414](#) that does not regularly serve meals or a lodging and entertainment facility under [section 44-3-428](#) that does not regularly serve meals, to permit an employee who is under twenty-one years of age to sell malt, vinous, or spirituous liquors; or

(III) If licensed as a retail liquor store under [section 44-3-409](#), a liquor-licensed drugstore under [section 44-3-410](#), or a fermented malt beverage and wine retailer under [section 44-4-107\(1\)\(a\)](#), to permit an employee or any other person who is

under twenty-one years of age to deliver malt, vinous, or spirituous liquors or fermented malt beverages and wine offered for sale on, or sold and removed from, the licensed premises of the retail liquor store, liquor-licensed drugstore, or fermented malt beverage and wine retailer.

(7) It is unlawful for any importer, manufacturer, or brewer to sell or to bring into this state for purposes of sale any malt liquor without causing the same to be unloaded and placed in the physical possession of a licensed wholesaler at the wholesaler's licensed premises in this state and to be inventoried for purposes of tax collection prior to delivery to a retailer or consumer.

(8)(a) It is unlawful for any person licensed pursuant to this article 3 or article 4 of this title 44 to give away fermented malt beverages for the purpose of influencing the sale of any particular kind, make, or brand of any malt beverage and to furnish or supply any commodity or article at less than its market price for said purpose, except advertising material and signs.

(b) Notwithstanding subsection (8)(a) of this section, it shall not be unlawful for a retail liquor store, liquor-licensed drugstore, or fermented malt beverage and wine retailer licensee to allow tastings to be conducted on his or her licensed premises if authorization for the tastings has been granted pursuant to [section 44-3-301](#).

(9) Repealed by [Laws 2018, Ch. 152, § 2, eff. Jan. 1, 2019](#).

(10)(a)(I) Except as provided in subsection (10)(c) of this section, it is unlawful for a person who is licensed to sell alcohol beverages for consumption on the licensed premises to knowingly permit the removal of an alcohol beverage from the licensed premises.

(II)(A) Except as provided in subsection (10)(a)(II)(C) of this section, the licensee shall not be charged with permitting the removal of an alcohol beverage from the licensed premises when the licensee has posted a sign at least ten inches wide and six inches high by each exit used by the public that contains the following notice in type that is at least one-half inch in height:

WARNING

DO NOT LEAVE THE PREMISES OF THIS ESTABLISHMENT WITH AN ALCOHOL BEVERAGE.

IT IS ILLEGAL TO CONSUME AN ALCOHOL BEVERAGE IN A PUBLIC PLACE.

A FINE OF UP TO \$250 MAY BE IMPOSED BY THE COURTS FOR A VIOLATION OF THIS PROVISION.

(B) A person licensed pursuant to [section 44-3-416](#) must post a sign with the specified notice and in the minimum type size required by subsection (10)(a)(II)(A) of this section that is at least twelve inches wide and eighteen inches high.

(C) Regardless of whether a licensee posts a sign as specified in subsection (10)(a)(II) of this section, the licensee may be charged with knowingly permitting the removal of an alcohol beverage from the licensed premises if the licensee shows reckless disregard for the prohibition against alcohol beverage removal from the licensed premises, which may include permitting the removal of an alcohol beverage from the licensed premises three times within a twelve-month period, regardless of whether the three incidents occur on the same day or separate days. A licensee may be charged with knowingly permitting the removal of an alcohol beverage from the licensed premises upon the third occurrence of alcohol beverage removal from the licensed premises.

(III) In addition to posting a sign as described in subsection (10)(a)(II) of this section, a licensee may also station personnel at each exit used by the public in order to prevent the removal of an alcohol beverage from the licensed premises.

(b) This subsection (10) applies to persons licensed or permitted to sell or serve alcohol beverages for consumption on the licensed premises pursuant to [section 44-3-403](#), [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](#), [44-3-424](#), [44-3-426](#), [44-3-428](#), or [44-4-107\(1\)\(b\)](#).

(c) This subsection (10) does not preclude a licensee described in [section 44-3-423\(2\)](#) from permitting a customer to remove from the licensed premises one opened container of partially consumed vinous liquor that was purchased on the licensed premises and has been resealed, as permitted by [section 44-3-423\(1\)](#).

(11)(a) Except as provided in subsection (11)(b) of this section, a retail licensee or an employee of a retail licensee shall not sell malt, vinous, or spirituous liquors or fermented malt beverages to a consumer for consumption off the licensed premises unless the retail licensee or employee verifies that the consumer is at least twenty-one years of age by requiring the consumer to present a valid identification, as determined by the state licensing authority by rule. The retail licensee or employee shall make a determination from the information presented whether the purchaser is at least twenty-one years of age.

(b) It is not unlawful for a retail licensee or employee of a retail licensee to sell malt, vinous, or spirituous liquors or fermented malt beverages to a consumer who is or reasonably appears to be over fifty years of age and who failed to present an acceptable form of identification.

(c) As used in this subsection (11), "retail licensee" means a person licensed under [section 44-3-409](#), [44-3-410](#), [44-4-104\(1\)\(c\)](#), or [44-4-107\(1\)\(a\)](#).

Credits

Relocated and amended by [Laws 2018, Ch. 152, § 2, eff. Oct. 1, 2018](#). Amended by [Laws 2018, Ch. 366, § 11, eff. Jan. 1, 2019](#); [Laws 2019, Ch. 1 \(S.B. 19-011\), § 25, eff. Jan. 31, 2019](#); [Laws 2019, Ch. 136 \(H.B. 19-1172\), § 262, eff. Oct. 1, 2019](#); [Laws 2019, Ch. 307 \(S.B. 19-200\), § 1, eff. Aug. 2, 2019](#); [Laws 2020, Ch. 15 \(H.B. 20-1055\), § 3, eff. Sept. 14, 2020](#); [Laws 2022, Ch. 426 \(H.B. 22-1415\), § 5, eff. June 7, 2022](#); [Laws 2022, I.P. 121 \(Proposition 125\), § 5, eff. March 1, 2023](#); [Laws 2023, Ch. 340 \(H.B. 23-1061\), § 4, eff. Aug. 7, 2023](#).

C. R. S. A. § 44-3-901, CO ST § 44-3-901

Current through legislation effective January 31, 2024 of the Second Regular Session, 74th General Assembly (2024). Some statute sections may be more current. See credits for details.

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West's Colorado Revised Statutes Annotated

Title 44. Activities Regulated by the Department of Revenue

Alcohol and Tobacco Regulation

Article 3. Alcohol Beverages

Part 1. General Provisions

C.R.S.A. § 44-3-103
Formerly cited as CO ST § 12-47-103

§ 44-3-103. Definitions

Effective: March 1, 2023

Currentness

As used in this article 3 and article 4 of this title 44, 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\(1\)\(i\)\(II\)](#).
- (3) "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 44-3-402](#), [44-3-403](#), [44-3-417](#), or [44-3-422](#) and within which the licensee and other persons licensed pursuant to [section 44-3-402](#), [44-3-403](#), [44-3-417](#), or [44-3-422](#) are authorized to manufacture and store vinous liquors or malt liquors in accordance with this article 3.
- (4) "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.
- (5) "Brew pub" means a retail establishment that manufactures not more than one million eight hundred sixty thousand gallons of malt liquor on its licensed premises or licensed alternating proprietor licensed premises, combined, each calendar year.
- (6) "Brewery" means any establishment where malt liquors are manufactured, except brew pubs licensed under this article 3.
- (7) "Campus" means property owned or used by an institution of higher education to regularly provide students with education, housing, or college activities.
- (8) "Campus liquor complex" means an area within a campus that is licensed to serve alcohol under [section 44-3-413\(3\)](#).

(9) "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.

(10) "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 3.

(11) "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.

(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.

(12) "Distill" or "distillation" means the process by which alcohol that is created by fermentation is separated from the portion of the liquid that has no alcohol content.

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

(14) "Distillery pub" means a retail establishment:

- (a) Whose primary purpose is selling and serving food and alcohol beverages for on-premises consumption; and
- (b) That ferments and distills not more than eight hundred seventy-five thousand liters of spirituous liquor on its licensed premises each calendar year.

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

(a) Is located within a municipality, a city and county, or the unincorporated area of a county and is designated in accordance with [section 44-3-301\(1\)\(b\)](#) as an entertainment district;

(b) Comprises no more than one hundred acres; and

(c) Contains at least twenty thousand square feet of premises that, at the time the district is created, is licensed pursuant to this article 3 as a:

(I) Tavern;

(II) Hotel and restaurant;

(III) Brew pub;

(IV) Distillery pub;

(V) Retail gaming tavern;

(VI) Vintner's restaurant;

(VII) Beer and wine licensee;

(VIII) Manufacturer that operates a sales room pursuant to [section 44-3-402\(2\)](#) or (7);

(IX) Beer wholesaler that operates a sales room pursuant to [section 44-3-407\(1\)\(b\)\(I\)](#);

(X) Limited winery;

(XI) Lodging and entertainment facility licensee; or

(XII) Optional premises.

(16) "Expert taster" means an individual, other than a qualified student or qualified employee, who is at least twenty-one years of age and who is employed in the brewing industry or has demonstrated expertise or experience in brewing.

(17) "Ferment" or "fermentation" means the chemical process by which sugar is converted into alcohol.

(18) "Fermented malt beverage" has the same meaning as provided in [section 44-4-103\(1\)](#).

(18.5) "Fermented malt beverage and wine retailer" means a retailer licensed under article 4 of this title 44 to sell fermented malt beverages and wine, but not spirituous liquors, in original sealed containers for consumption off the licensed premises.

(19) "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 3 or any rules promulgated pursuant to this article 3;

(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 44-3-301\(2\)](#); 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 subsection (19)(d), "disorderly conduct" has the meaning as provided for in [section 18-9-106](#).

(20) "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 grams of carbon dioxide per hundred milliliters. For the purpose of simplicity of administration of this article 3, hard cider shall in all respects be treated as a vinous liquor except where expressly provided otherwise.

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

(22) "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.

(23) "License" means a grant to a licensee to manufacture or sell alcohol beverages as provided by this article 3.

(24) "Licensed premises" means the premises specified in an application for a license under this article 3 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 3.

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

(26) "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.

(27) "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.

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

(29) "Lodging and entertainment facility" means an establishment that:

(a) Is either:

(I) A lodging facility, the primary business of which is to provide the public with sleeping rooms and meeting facilities; or

(II) An entertainment facility, the primary business of which is to provide the public with sports or entertainment activities within its licensed premises; and

(b) Incidental to its primary business, sells and serves alcohol beverages at retail for consumption on the premises and has sandwiches and light snacks available for consumption on the premises.

(30)(a) "Malt liquors" includes beer and means 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 not less than one-half of one percent alcohol by volume.

(b) For purposes of licenses described in [section 44-3-401\(1\)\(j\)](#) to [\(1\)\(p\)](#), [\(1\)\(s\)](#), [\(1\)\(t\)](#), [\(1\)\(v\)](#), and [\(1\)\(w\)](#), "malt liquors" includes fermented malt beverages when purchased from a retailer licensed pursuant to [section 44-4-104\(1\)\(c\)](#).

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

(32) "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.

(32.5) "Off-premises retailer" means any retailer licensed under this article 3 or article 4 of this title 44 that is allowed to sell alcohol beverages at retail for consumption off the licensed premises.

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

(I) The premises specified in an application for a hotel and restaurant license under this article 3 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 3 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 (33), "outdoor sports and recreational facility" means a facility that charges a fee for the use of such facility.

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

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

(36) "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 44-3-104](#) for personal consumption only and not for resale or other commercial purposes.

(37) "Powdered alcohol" means alcohol that is prepared or sold in a powder or crystalline form for either direct use or reconstitution.

(38)(a) "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.

(b) Notwithstanding subsection (38)(a) of this section, for a winery authorized to manufacture vinous liquors pursuant to [section 44-3-402](#) or [44-3-403](#), the licensed premises may include up to two noncontiguous locations, both of which are used for manufacturing purposes, within a radius of ten miles.

(39) "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.

(40) "Qualified employee" means an individual who:

- (a) Is employed by a state institution of higher education;
- (b) Is engaged in manufacturing and tasting malt liquors for teaching or research purposes; and
- (c) Is at least twenty-one years of age.

(41) "Qualified student" means a student who:

- (a) Is enrolled in a brewing class or program offered at or by a state institution of higher education; and
- (b) Is at least twenty-one years of age.

(42) "Racetrack" means any premises where race meets or simulcast races with pari-mutuel wagering are held in accordance with the provisions of article 32 of this title 44.

(43) "Rectify" means to blend spirituous liquor with neutral spirits or other spirituous liquors of different age.

(44) "Rectifying plant" means any establishment where spirituous liquors are blended with neutral spirits or other spirituous liquors of different age.

(45) "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.

(46) "Resort hotel" means a hotel, as defined in subsection (21) of this section, with well-defined occupancy seasons.

(47) "Restaurant" means an establishment, which is not a hotel as defined in subsection (21) 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 30 of this title 44, 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 (47) 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.

(48) "Retail liquor store" means an establishment engaged only in the sale of malt, vinous, and spirituous liquors in sealed containers for consumption off the premises and nonalcohol products, but only if the annual gross revenues from the sale of nonalcohol products do not exceed twenty percent of the retail liquor store establishment's total annual gross sales revenues, as determined in accordance with [section 44-3-409\(1\)\(b\)](#).

(49) "Sales room" means an area in which a licensed winery, pursuant to [section 44-3-402\(2\)](#); limited winery, pursuant to [section 44-3-403\(2\)\(e\)](#); distillery, pursuant to [section 44-3-402\(7\)](#); or beer wholesaler, pursuant to [section 44-3-407\(1\)\(b\)](#), sells and serves alcohol beverages for consumption on the licensed premises, sells alcohol beverages in sealed containers for consumption off the licensed premises, or both.

(50) "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 through twelve. "Basic academic education" has the same meaning as set forth in [section 22-33-104\(2\)\(b\)](#).

(51) "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.

(52) "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 3 or article 4 or 5 of this title 44; 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 3; to traffic in for any consideration promised or obtained, directly or indirectly.

(53) "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.

(54) "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, powdered alcohol, 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 (30) and (59) of this section, shall not be construed to be fermented malt or malt or vinous liquor but shall be construed to be spirituous liquor.

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

(56) "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 44-3-301\(10\)](#).

(57) "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.

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

(59)(a) "Vinous liquors" means wine and fortified wines that:

(I) Contain not less than one-half of one percent and not more than twenty-one percent alcohol by volume; and

(II) Are produced by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

(b) For the purpose of simplifying the administration of this article 3, sake is deemed a vinous liquor.

(60) "Vintner's restaurant" means a retail establishment that sells food for consumption on the premises and that manufactures not more than nine hundred twenty-five thousand gallons of wine on its premises or licensed alternating proprietor licensed premises, combined, each calendar year.

(60.5) "Wine" means vinous liquors.

(61) "Winery" means any establishment where vinous liquors are manufactured; except that the term does not include a vintner's restaurant licensed pursuant to [section 44-3-422](#).

Credits

Relocated and amended by Laws 2018, Ch. 152, § 2, eff. Oct. 1, 2018. Amended by Laws 2019, Ch. 1 (S.B. 19-011), § 4, eff. Jan. 31, 2019; Laws 2019, Ch. 207 (S.B. 19-141), § 1, eff. Aug. 2, 2019; Laws 2020, Ch. 15 (H.B. 20-1055), § 1, eff. Sept. 14, 2020; Laws 2021, Ch. 290 (H.B. 21-1027), § 2, eff. June 22, 2021; Laws 2021, Ch. 165 (H.B. 21-1044), § 1, eff. Sept. 7, 2021; Laws 2021, Ch. 479 (S.B. 21-270), § 1, eff. Sept. 7, 2021; Laws 2022, I.P. 121 (Proposition 125), § 2, eff. March 1, 2023.

C. R. S. A. § 44-3-103, CO ST § 44-3-103

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