

COLORADO GAMING REGULATIONS

TITE 12. PROFESSIONS AND OCCUPATIONS GENERAL

ARTICLE 47. ALCOHOL BEVERAGES

PART 3. STATE AND LOCAL LICENSING

12-47-308 - Unlawful financial assistance.

(1) (a) It is unlawful for any person licensed pursuant to article 46 or 47 of this title as a manufacturer, limited winery licensee, wholesaler, or importer, or any person, partnership, association, organization, or corporation interested financially in or with any of said licensees, to furnish, supply, or loan, in any manner, directly or indirectly, to any person licensed to sell at retail pursuant to the provisions of this article or article 46 or 48 of this title any financial assistance or any equipment, fixtures, chattels, or furnishings used in the storing, handling, serving, or dispensing of food or alcohol beverages within the premises or for making any structural alterations or improvements in or on the building on which such premises are located. This section shall not apply to signs or displays within such premises.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), any person or party described in said paragraph (a) may provide financial or in-kind assistance, directly or indirectly, to a nonprofit arts organization that has been issued an arts license pursuant to section 12-47-417.

(2) The state licensing authority, by rule and regulation, shall require a complete disclosure of all persons having a direct or indirect financial interest, and the extent of such interest, in each hotel and restaurant license and each retail gaming tavern license issued under this article. A willful failure to report and disclose the financial interests of all persons having a direct or indirect financial interest in a hotel and restaurant license or in a retail gaming tavern license shall be grounds for suspension or revocation of such license by the state licensing authority. The invalidity of any provision of this subsection (2) concerning interest in more than one hotel and restaurant license or retail gaming tavern license shall invalidate all interests in more than one hotel and restaurant license or retail gaming tavern license, and such invalidity shall make any such interest unlawful financial assistance.

(3) (a) It is unlawful for any person licensed to sell at retail pursuant to this article or article 46 of this title to receive and obtain from the persons or parties described and referred to in subsection (1) (a) of this section, directly or indirectly, any financial assistance or any equipment, fixtures, chattels, or furnishings used in the storing, handling, serving, or dispensing of food or alcohol beverages within the premises or from making any structural alterations or improvements in or on the building on which such premises are located. This subsection (3) shall not apply to signs or displays within such premises or to advertising materials that are intended primarily to advertise the product of the wholesaler or manufacturer and that have only negligible value in themselves or to the inspection and servicing of malt or vinous liquor-dispensing equipment to the extent necessary for the maintenance of reasonable standards of purity, cleanliness, and health.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), a nonprofit arts organization that has been issued an arts license pursuant to section 12-47-417 may receive financial or in-kind assistance, directly or indirectly, from the persons or parties described and referred to in subsection (1) (a) of this section.

(4) (a) Except as otherwise authorized, it is unlawful for any person or corporation holding any license pursuant to this article or article 46 of this title or any person who is a stockholder, director, or officer of any corporation holding a license pursuant to this article or article 46 of this title to be a stockholder, director, or officer or to be interested, directly or indirectly, in any person or corporation that lends money to any person or corporation licensed pursuant to this article or article 46 of this title, but this subsection (4) shall not apply to banks, savings and loan associations, or industrial banks supervised and regulated by an agency of the state or federal government, or to FHA-approved mortgagees, or to stockholders, directors, or officers thereof; and it is unlawful for any person or corporation licensed pursuant to this article or article 46 of this title, or any stockholder, director, or officer of such corporation, to make any loan or be interested, directly or indirectly, in any loan to any other person licensed pursuant to the provisions of this article or article 46 of this title; except that this paragraph (a) shall not apply to any financial institution that comes into possession of a licensed premises by virtue of a foreclosure or deed in lieu of foreclosure if such financial institution does not retain such premises for longer than one year or for such time exceeding one year as provided in paragraph (b) of this subsection (4).

(b) In the case of a financial institution that comes into possession of a licensed premises by virtue of a foreclosure or deed in lieu of foreclosure, the state and the local licensing authority may grant a transfer of ownership for such license for a period of one year and, upon notice and hearing, renewal of such license may be granted. This paragraph (b) shall apply in the case of every foreclosure or deed in lieu of foreclosure in which disposition of the license has not otherwise been made by the state or local licensing authority.

(5) It is unlawful for any owner, part owner, shareholder, stockholder, or person interested, directly or indirectly, in any retail business or establishment of a person licensed to sell at retail pursuant to the provisions of this article or article 46 or 48 of this title to enter into any agreement with any person or party or to receive, possess, or accept any money, fixtures, supplies, or things of value from any person or party, whereby a person licensed to sell at retail pursuant to this article or article 46 or 48 of this title may be influenced or caused, directly or indirectly, to buy, sell, dispense, or handle the product of any manufacturer of alcohol beverages. This subsection (5) shall not apply to displays within such premises.

(6) Any transaction, agreement, or arrangement prohibited by the provisions of this section, if made and entered into by and between the persons and parties described and referred to in this section, is unlawful, illegal, invalid, and void, and any obligation or liability arising out of such transaction, agreement, or arrangement shall be unenforceable in any court of this state by or against any such persons and parties entering into such transaction, agreement, or arrangement.

(7) This section is intended to prohibit and prevent the control of the outlets for the sale of alcohol beverages by any persons or parties other than the persons licensed pursuant to the provisions of this article or article 46 or 48 of this title.

(8) It is unlawful for an owner, part owner, shareholder, or person interested directly or indirectly in any brew pub license to conduct, own in whole or in part, or be directly or indirectly interested in a wholesaler's license issued under this article.

12-47-309 - Local licensing authority - applications - optional premises licenses.

(1) A local licensing authority may issue only the following malt, vinous, and spirituous liquor licenses upon payment of the fee specified in section 12-47-505:

- (a) Retail liquor store license;
- (b) Liquor-licensed drugstore license;
- (c) Beer and wine license;

- (d) Hotel and restaurant license;
- (e) Tavern license;
- (f) Brew pub license;
- (g) Club license;
- (h) Arts license;
- (i) Racetrack license;
- (j) Optional premises license;
- (k) Retail gaming tavern license.

(2) An application for any license specified in subsection (1) of this section or section 12-46-107 shall be filed with the appropriate local licensing authority on forms provided by the state licensing authority and containing such information as the state licensing authority may require. Each application shall be verified by the oath or affirmation of such persons as prescribed by the state licensing authority.

(3) The applicant shall file at the time of application plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of the building to be constructed. In its discretion, the local licensing authority may impose additional requirements necessary for the approval of the application.

12-47-313 - Restrictions for applications for new license.

(1) No application for the issuance of any license specified in section 12-47-309 (1) or 12-46-107 (1) shall be received or acted upon:

(a) (I) If such application for a malt, vinous, or spirituous liquor license concerns a particular location that is the same as or within five hundred feet of a location for which, within the two years next preceding the date of the application, the state or a local licensing authority denied an application for the same class of license for the reason that the reasonable requirements of the neighborhood and the desires of the adult inhabitants were satisfied by the existing outlets.

(II) Subparagraph (I) of this paragraph (a) shall not apply to cities in which limited gaming is permitted pursuant to section 9 of article XVIII of the state constitution.

(III) No licensing authority shall consider an application for any license to sell fermented malt beverages at retail if, within one year next preceding the date of the application, the state or a local licensing authority has denied an application at the same location for the reason that the reasonable requirements of the neighborhood or the desires of the inhabitants were satisfied by the existing outlets.

(b) Until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement, or other arrangement for possession of the premises, or by virtue of ownership thereof;

(c) For a location in an area where the sale of alcohol beverages as contemplated is not permitted under the applicable zoning laws of the municipality, city and county, or county;

(d) (I) If the building in which the malt, vinous, or spirituous liquor is to be sold is located within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary; except this provision shall not affect the renewal or reissuance of a license once granted or apply to licensed premises located or to be located on land owned by a municipality, or apply to an existing licensed premises on land owned by the state, or apply to a liquor license in effect and actively doing business before said principal campus was constructed, or apply to any club located within the principal campus of any college, university, or seminary that limits its membership to the faculty or staff of such institution;

(II) The distances referred to in subparagraph (I) of this paragraph (d) are to be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which liquor is to be sold, using a route of direct pedestrian access.

(III) The local licensing authority of any city and county, by rule or regulation, the governing body of any other municipality, by ordinance, and the governing body of any other county, by resolution, may eliminate or reduce the distance restrictions imposed by this paragraph (d) for any class of license, or may eliminate one or more types of schools or campuses from the application of any distance restriction established by or pursuant to this paragraph (d).

(IV) In addition to the requirements of section 12-47-312 (2), the local licensing authority shall consider the evidence and make a specific finding of fact as to whether the building in which the liquor is to be sold is located within any distance restrictions established by or pursuant to this section. This finding shall be subject to judicial review pursuant to section 12-47-802.

(2) An application for the issuance of a tavern or retail liquor store license may be denied under this article if the local licensing authority or the state on state-owned property determines, pursuant to section 12-47-301 (2) (b), that the issuance of such license would result in or add to an undue concentration of the same class of license and, as a result, require the use of additional law enforcement resources.

PART 4. CLASSES OF LICENSES AND PERMITS

12-47-401 - Classes of licenses.

(1) For the purpose of regulating the manufacture, sale, and distribution of malt, vinous, and spirituous liquors, the state licensing authority in its discretion, upon application in the prescribed form made to it, may issue and grant to the applicant a license from any of the following classes, subject to the provisions and restrictions provided by this article:

- (a) Manufacturer's license;
- (b) Limited winery license;
- (c) Nonresident manufacturer's license;
- (d) Importer's license;
- (e) Malt liquor importer's license;
- (f) Wholesaler's liquor license;
- (g) Wholesaler's beer license;
- (h) Retail liquor store license;

- (i) Liquor-licensed drugstore license;
- (j) Beer and wine license;
- (k) Hotel and restaurant license;
- (l) Tavern license;
- (m) Brew pub license;
- (n) Club license;
- (o) Arts license;
- (p) Racetrack license;
- (q) Public transportation system license;
- (r) Optional premises license;
- (s) Retail gaming tavern license.

12-47-414 - Retail gaming tavern license.

(1) A retail gaming tavern license shall be issued to persons who are licensed pursuant to section 12-47.1-501 (1) (c), who sell malt, vinous, or spirituous liquors by individual drink for consumption on the premises, and who sell sandwiches or light snacks or who contract with an establishment that provides such food services within the same building as the licensed premises. In no event shall any person hold more than three retail gaming tavern licenses.

(2) (a) Every person selling malt, vinous, or spirituous liquors as described in this section shall purchase such liquors only from a wholesaler licensed pursuant to this article; except that any person selling malt, vinous, or spirituous liquors as provided in this section may purchase not more than five hundred dollars' worth of such liquors during a calendar year from a retail liquor store.

(b) Each purchase of malt, vinous, or spirituous liquors from a retail liquor store as provided in this section shall be evidenced by a purchase receipt showing the name of the retail liquor store, the date of purchase, a description of the malt, vinous, or spirituous liquor purchased, and the price paid for such purchase. Such receipt shall be retained and shall be available to the state and local licensing authorities at all times during business hours.

(3) Nothing in this article shall permit more than one retail gaming tavern license per building where the licensed premises are located.

(4) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a retail gaming tavern license to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article; except that such a person may have an interest in another retail gaming tavern license or establishment, an arts license or an airline public transportation system license granted under this article, or in a financial institution referred to in section 12-47-308 (4).

12-47-501 - State fees.

(1) The following license fees shall be paid to the department of revenue annually in advance:

(a) For each resident and nonresident manufacturer's license, the fee shall be:

(I) For each brewery, two hundred seventy-five dollars;

(II) For each winery, two hundred seventy-five dollars;

(III) For each distillery or rectifier, one thousand twenty-five dollars;

(IV) For each limited winery, forty-five dollars;

(b) For each importer's license, two hundred seventy-five dollars;

(c) For each wholesaler's liquor license, one thousand twenty-five dollars;

(d) For each wholesaler's beer license, five hundred twenty-five dollars;

(e) For each retail liquor store license, seventy-five dollars;

(f) For each liquor-licensed drugstore license, seventy-five dollars;

(g) For each beer and wine license, fifty dollars;

(h) For each hotel and restaurant license, fifty dollars;

(i) For each tavern license, fifty dollars;

(j) For each optional premises license, fifty dollars;

(k) For each retail gaming tavern license, fifty dollars;

(l) For each brew pub license, three hundred dollars;

(m) For each club license, fifty dollars;

(n) For each arts license, fifty dollars;

(o) For each racetrack license, fifty dollars;

(p) For each public transportation system license, fifty dollars for each dining, club, or parlor car; plane; bus; or other vehicle in which such liquor is sold. No additional license fee shall be required by any municipality, city and county, or county for the sale of such liquor in dining, club, or parlor cars; planes; buses; or other conveyances.

(q) For each bed and breakfast permit, twenty-five dollars.

(1.5) Notwithstanding the amount specified for any fee in subsection (1) of this section, the executive director of the department of revenue by rule or as otherwise provided by law may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the executive director by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402 (4), C.R.S.

(2) The state licensing authority shall establish fees for processing the following types of applications, notices, or reports required to be submitted to the state licensing authority: Applications for new liquor

licenses pursuant to section 12-47-304 and regulations thereunder; applications to change location pursuant to section 12-47-301 (9) and regulations thereunder; applications for transfer of ownership pursuant to section 12-47-303 (1) (c) and regulations thereunder; applications for modification of licensed premises pursuant to section 12-47-301 and regulations thereunder; applications for branch warehouse permits pursuant to section 12-47-406 and regulations thereunder; applications for approval of a contract to sell alcohol beverages pursuant to section 12-47-411 (3) (c); applications for warehouse storage permits pursuant to section 12-47-202 and regulations thereunder; applications for duplicate licenses; applications for wine shipment permits pursuant to section 12-47-104; sole source registrations or new product registrations pursuant to section 12-47-901 (3) (b); hotel and restaurant optional premises registrations; expired license renewal applications pursuant to section 12-47-302; and notice of change of name or trade name pursuant to section 12-47-301 and regulations thereunder. The amounts of such fees, when added to the other fees transferred to the liquor enforcement division cash fund pursuant to sections 12-46-105, 12-47-502

(1), and 12-48-104, shall reflect the direct and indirect costs of the division in the administration and enforcement of this article and articles 46 and 48 of this title. The state licensing authority may charge corporate applicants and limited liability companies up to one hundred dollars for the cost of each fingerprint analysis and background investigation undertaken to qualify new officers, directors, stockholders, or members pursuant to the requirements of section 12-47-307 (1) (a); however, the state licensing authority shall not collect such a fee if the applicant has already undergone a background investigation by and paid a fee to a local licensing authority. At least annually, the amounts of the fees shall be reviewed and, if necessary, adjusted to reflect such direct and indirect costs.

(3) Except as provided in subsection (4) of this section, the state licensing authority shall establish a basic fee which shall be paid at the time of service of any subpoena upon the state licensing authority or upon any employee of the division, plus a fee for meals and a fee for mileage at the rate prescribed for state officers and employees in section 24-9-104, C.R.S., for each mile actually and necessarily traveled in going to and returning from the place named in the subpoena. If the person named in the subpoena is required to attend the place named in the subpoena for more than one day, there shall be paid, in advance, a sum to be established by the state licensing authority for each day of attendance to cover the expenses of the person named in the subpoena.

(4) The subpoena fee established pursuant to subsection (3) of this section shall not be applicable to any state or local governmental agency.

12-47-505 - Local license fees.

(1) The following license fees shall be paid to the treasurer of the municipality, city and county, or county where the licensed premises is located annually in advance:

(a) (I) For each retail liquor store license for premises located within any municipality or city and county, one hundred fifty dollars;

(II) For each retail liquor store license for premises located outside the municipal limits of any municipality or city and county, two hundred fifty dollars;

(b) (I) For each liquor-licensed drugstore license for premises located within any municipality or city and county, one hundred fifty dollars;

(II) For each liquor-licensed drugstore license for premises located outside the municipal limits of any municipality or city and county, two hundred fifty dollars;

(c) (I) For each beer and wine license for premises located within any municipality or city and county, except as provided in subparagraph (III) of this paragraph (c), three hundred twenty-five dollars;

(II) For each beer and wine license for premises located outside the municipal limits of any municipality or city and county, except as provided in subparagraph (III) of this paragraph (c), four hundred twenty-five dollars;

(III) For each beer and wine license issued to a resort hotel, three hundred seventy-five dollars;

(d) For each hotel and restaurant license, five hundred dollars;

(e) For each tavern license, five hundred dollars;

(f) For each optional premises license, five hundred dollars;

(g) For each retail gaming tavern license, five hundred dollars;

(h) For each application for approval of a contract to sell alcohol beverages pursuant to section 12-47-411 (3) (c), three hundred twenty-five dollars;

(i) For each brew pub license, five hundred dollars;

(j) For each club license, two hundred seventy-five dollars;

(k) For each arts license, two hundred seventy-five dollars;

(l) For each racetrack license, five hundred dollars;

(m) For each bed and breakfast permit, twenty-five dollars.

(2) No rebate shall be paid by any municipality, city and county, or county of any alcohol beverage license fee paid for any such license issued by it except upon affirmative action by the respective local licensing authority rebating a proportionate amount of such license fee.

(3) Eighty-five percent of the local license fees provided for in this article and article 46 of this title shall be paid to the department of revenue, which shall transmit said fees to the state treasurer to be credited to the old age pension fund.

(4) (a) Each application for a license provided for in this article and article 46 of this title filed with a local licensing authority shall be accompanied by an application fee in an amount determined by the local licensing authority to cover actual and necessary expenses subject to the following limitations:

(I) For a new license, not to exceed five hundred dollars;

(II) For a transfer of location or ownership, not to exceed five hundred dollars each;

(III) For a renewal of license, not to exceed fifty dollars; except that an expired license renewal fee shall not exceed five hundred dollars.

(b) No fees or charges of any kind, except as provided in this article or article 46 of this title, may be charged by the local licensing authority to the license holder or applicant for the purposes of granting or renewing a license or transferring ownership or location of a license.

(5) The local licensing authority may charge corporate applicants and limited liability companies up to one hundred dollars for the cost of each fingerprint analysis and background investigation undertaken to qualify new officers, directors, stockholders, or members pursuant to the requirements of section 12-47-307 (1) (a); however, no local licensing authority shall collect such a fee if the applicant has already undergone a background investigation by and paid a fee to the state licensing authority.

PART 9. UNLAWFUL ACTS -- ENFORCEMENT

12-47-901 - Unlawful acts - exceptions.

(1) Except as provided in section 18-13-122, C.R.S., 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 or for any person under the age of twenty-one years, to a visibly intoxicated person, or to a known habitual drunkard;

(b) 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 such person is under twenty-one years of age;

(c) 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 such person is under twenty-one years of age;

(d) 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 paragraph (b) or (c) of this subsection (1);

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

(f) To sell at retail any malt, vinous, or spirituous liquors in sealed containers without holding a retail liquor store or liquor-licensed drugstore license;

(g) To manufacture, sell, or possess for sale any alcohol beverage unless licensed to do so as provided by this article or article 46 or 48 of this title and unless all licenses required are in full force and effect;

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

(II) Notwithstanding subparagraph (I) of this paragraph (h), it shall not be unlawful for a person who is at least twenty-one years of age to consume malt, vinous, or spirituous liquors while such person is a passenger aboard a luxury limousine, as defined in section 40-16-101 (3), C.R.S., or a charter or scenic bus, as defined in section 40-16-101 (1.3), C.R.S. Nothing in this subparagraph (II) shall be construed to authorize an owner or operator of a luxury limousine or charter or scenic bus to sell or distribute malt, vinous, or spirituous liquors without obtaining a public transportation system license pursuant to section 12-47-419.

(i) 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 such premises for the purpose of consuming such beverages on said 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 paragraph (i);

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

(k) 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;

(l) Who is a common carrier regulated under article 10 or 11 of title 40, C.R.S., 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.

(2) It is unlawful for any person licensed as a manufacturer or as a limited winery licensee pursuant to this article or article 46 of this title to manufacture alcohol beverages except in the permanent location specifically designated in the license for such manufacture.

(3) (a) It is unlawful for any person to import or sell any imported alcohol beverage in this state unless such 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 such person holds a valid importer's license issued under the provisions of this article.

(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 said state licensing authority to import and sell under and subject to the provisions of such 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 such licensee is the sole source of supply of that brand of alcohol beverage in the state of Colorado and such authorization is determined by the state licensing authority as not constituting a violation of section 12-47-308.

(c) Any such manufacturer or importer shall, at least thirty days before the importation or sale of any such alcohol beverage in this state, file with the state licensing authority notice of intent to import one or more specified brands of such beverage, together with a statement that such manufacturer or importer is the primary source of supply in the United States for any such brand, unless exempted pursuant to paragraph (b) of this subsection (3), in which case, a statement that such manufacturer or importer is the sole source of supply of that brand of beverage in the state of Colorado, and, upon the request of the state licensing authority, a copy of the manufacturer's federal brand label approval form as required by the federal bureau of alcohol, tobacco, and firearms. Thereafter, said licensee shall file with the state licensing authority a copy of each sales invoice with a monthly sales report as required by section 12-47-503 (4) and (5).

(d) As used in this subsection (3), 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 to deliver any such beverages to any person not in possession of a valid wholesaler's license.

(4) It is unlawful for any person licensed to sell at wholesale pursuant to this article or article 46 of this title:

(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 paragraph (a) shall prevent delivery from a truck or other vehicle of orders previously taken;

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

(c) To purchase or receive any alcohol beverage from any person not licensed pursuant to this article or article 46 of this title, unless otherwise provided in this article;

(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 (5) of this section.

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

(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, or to permit any alcohol beverage to be sold or dispensed by a person under eighteen years of age, or to permit any such person to participate in the sale or dispensing thereof. 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 or article 46 of this title. Notwithstanding any provision in this subparagraph (I) to the contrary, no person under twenty-one years of age shall be employed to sell or dispense malt, vinous, or spirituous liquors unless he or she is supervised by another person who is on premise and has attained twenty-one years of age. No employee of a tavern licensed pursuant to section 12-47-412, that does not regularly serve meals as defined in section 12-47-103 (19), or a retail liquor store shall sell malt, vinous, or spirituous liquors unless such person is at least twenty-one years of age.

(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 such 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 12-47-903 (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 such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of any unlawful act under this section. Such 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 paragraph (a).

(IV) Any licensee or licensee's employee acting in good faith in accordance with the provisions of subparagraph (II) of this paragraph (a) 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 subparagraph (II) of this paragraph (a).

(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, on Monday through Saturday, beginning at 8 a.m. until 12 midnight each day; except that, for a limited winery licensee, sales of vinous liquors in sealed containers or by the glass shall be permitted on Sunday beginning at 8 a.m. until 12 midnight. No malt, vinous, or spirituous liquors shall be sold, served, or distributed in a sealed container on Christmas day.

(c) Except as provided in section 18-13-122, C.R.S., it is unlawful for any person to sell fermented malt beverages to any person under the age of twenty-one years or to any person between the hours of 12 midnight and 5 a.m.

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

(e) 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 except as otherwise provided in this article;

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

(j) To display or cause to be displayed, on the licensed premises, any exterior sign advertising any particular brand of malt liquors 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) To have on the licensed premises, if licensed as a retail liquor store or liquor-licensed drugstore, 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 such container; except that a person holding a retail liquor store or liquor-licensed drugstore license, 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 for the purpose of sampling malt, vinous, or spirituous liquors by the retail licensee only. Nothing in this paragraph (k) shall apply to any liquor-licensed drugstore where the contents, or a portion thereof, have been used in compounding prescriptions.

(l) To employ or permit, if such 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 malt, vinous, or spirituous liquor is to be sold and consumed if such person is a hotel and restaurant licensee or the registered manager of a hotel and restaurant license requires such 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", article 9 of this title. The provisions of this paragraph (n) shall not apply to those activities, equipment, and devices authorized and legally operated pursuant to articles 47.1 and 60 of this title.

(II) Any person who violates any provision of this paragraph (n) is guilty of a class 5 felony and, upon conviction thereof, shall be punished as provided in section 18-1-105, C.R.S.

(6) It is unlawful for any importer, manufacturer, or brewer to sell or to bring into this state for purposes of sale any fermented malt beverage or 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.

(7) It is unlawful for any person licensed pursuant to this article or article 46 of this title 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.

(8) It is unlawful for any manufacturer or wholesaler licensed pursuant to article 46 of this title to sell, deliver, or cause to be delivered to any retail licensee any beverage containing alcohol in excess of three and two-tenths percent by weight or four percent by volume, or for any fermented malt beverage retailer to sell, possess, or permit the consumption on the premises of any of the beverages containing alcohol in excess of three and two-tenths percent by weight or four percent by volume, or for any fermented malt beverage retail licensee to hold or operate under any license for the sale of any beverages containing alcohol in excess of three and two-tenths percent by weight or four percent by volume for the same premises. Any violation by any fermented malt beverage licensee of the provisions of this subsection (8) shall immediately cause the cancellation of the license granted under this article.

ARTICLE 47.1. COLORADO LIMITED GAMING ACT

12-47.1-101 - Short title.

This article shall be known and may be cited as the "Limited Gaming Act of 1991".

12-47.1-102 - Legislative declaration.

(1) The general assembly hereby finds, determines, and declares it to be the public policy of this state that:

(a) The success of limited gaming is dependent upon public confidence and trust that licensed limited gaming is conducted honestly and competitively; that the rights of the creditors of licensees are protected; and that gaming is free from criminal and corruptive elements;

(b) Public confidence and trust can be maintained only by strict regulation of all persons, locations, practices, associations, and activities related to the operation of licensed gaming establishments and the manufacture or distribution of gaming devices and equipment;

(c) All establishments where limited gaming is conducted and where gambling devices are operated and all manufacturers, sellers, and distributors of certain gambling devices and equipment must therefore be licensed, controlled, and assisted to protect the public health, safety, good order, and the general welfare of the inhabitants of the state to foster the stability and success of limited gaming and to preserve the economy and policies of free competition of the state of Colorado;

(d) No applicant for a license or other affirmative commission approval has any right to a license or to the granting of the approval sought. Any license issued or other commission approval granted pursuant to the provisions of this article is a revocable privilege, and no holder acquires any vested right therein or thereunder.

(2) It is the intent of the general assembly that, to achieve the goals set forth in subsection (1) of this section, the commission should place great weight upon the policies expressed in said subsection (1) in construing the provisions of this article.

12-47.1-103 - Definitions.

As used in this article, unless the context otherwise requires:

- (1) "Adjusted gross proceeds", except with respect to games of poker, means the total amount of all wagers made by players on limited gaming less all payments to players; and payment to players shall include all payments of cash premiums, merchandise, tokens, redeemable game credits, or any other thing of value. With respect to games of poker, "adjusted gross proceeds" means any sums wagered in a poker hand which may be retained by the licensee as compensation which must be consistent with the minimum and maximum amounts established by the Colorado limited gaming control commission.
- (2) "Applicant" means any person who has applied for a license or registration under this article or who has applied for permission to engage in any act or activity which is regulated by this article.
- (3) "Bet" means an amount placed as a wager in a game of chance.
- (4) "Blackjack" means a banking card game commonly known as "21" or "blackjack" played by a maximum of seven players in which each player bets against the dealer. The object is to draw cards whose value will equal or approach twenty-one without exceeding that amount and win amounts bet, payable by the dealer, if the player holds cards more valuable than the dealer's cards.
- (5) "Commission" means the Colorado limited gaming control commission.
- (5.5) "Crane game" means an amusement machine that, upon insertion of a coin, bill, token, or similar object, allows the player to use one or more buttons, joysticks, or other controls to maneuver a crane or claw over a nonmonetary prize, toy, or novelty, none of which shall have a cost of more than twenty-five dollars, and then, using the crane or claw, to attempt to retrieve the prize, toy, or novelty for the player.

(6) "Department" means the Colorado department of revenue.

(7) "Director" means the director of the division of gaming.

(8) "Division" means the division of gaming.

(9) "Executive director" means the executive director of the department of revenue.

(10) "Gaming device" or "gaming equipment" means any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used remotely or directly in connection with gaming or any game. The term includes a system for processing information which can alter the normal criteria of random selection which affects the operation of any game, or which determines the outcome of a game. The term includes a slot machine, poker table, blackjack table, and the cards used to play poker and blackjack.

(11) "Gaming employee" means any person employed by an operator or retailer hosting gaming to work directly with the gaming portion of such operator's or retailer's business, which person shall be twenty-one years of age or older and hold a support license. Persons deemed to be gaming employees shall include, but shall not be limited to, the following: Dealers; change and counting room personnel; cashiers; floormen; cage personnel; slot machine repairmen or mechanics; persons who accept or transport revenue from a slot, blackjack, or poker table drop or dropbox; security personnel; shift or pit bosses; floor managers; supervisors; slot machine and slot booth personnel; any person involved in the handling, counting, collecting, or exchanging of money, property, checks, credit or any representative of value, including any coin, token, chip, cash premium, merchandise, redeemable game credits, or any other thing of value or payoff from any game, any gaming, or any gaming device; and such other persons as the commission shall by rule or regulation determine.

(12) "Gaming license" means any license issued by the commission pursuant to this article which authorizes any person to engage in gaming within the cities of Central, Black Hawk, or Cripple Creek.

(13) "Immediate family" means a person's spouse and any children actually living with the person.

(14) "Key employee" means any executive, employee, or agent of a gaming licensee having the power to exercise a significant influence over decisions concerning any part of the operation of a gaming licensee.

(15) "Licensed gaming establishment" means any premises licensed pursuant to this article for the conduct of gaming.

(16) "Licensed premises" means that portion of any premises licensed for the conduct of limited gaming. Nothing pursuant to this subsection (16) shall be construed to prohibit the affected local governing authority from otherwise determining the size of any building. In no event shall the licensed premises exceed thirty-five percent of the square footage of any building and no more than fifty percent of any one floor of such building.

(17) "Licensee" means any person licensed under this article.

(18) "Licensing authority" means the Colorado limited gaming control commission.

(19) "Limited card games and slot machines", "limited gaming", or "gaming" means slot machines and the card games of poker and blackjack, which are authorized by this article and defined and regulated by the commission, each game having a maximum single bet of five dollars.

(20) "Operator" means any person who places slot machines upon such person's business premises or any person who, individually or jointly, pursuant to an agreement whereby consideration is paid for the right to place slot machines on another's business premises, engages in the business of placing and operating slot machines on retail premises within the cities of Central, Black Hawk, or Cripple Creek.

(21) "Person" means an individual, partnership, business trust, government or governmental subdivision or agency, estate, association, trust, for profit corporation, nonprofit corporation, organization, or any other legal entity or a manager, agent, servant, officer, or employee thereof.

(22) (a) "Poker" means a card game played by a player or players who are dealt cards by a dealer. The object of the game is:

- (I) For each player to bet the superiority of such player's hand and win the other players' bets by either making a bet no other player is willing to match or proving to hold the most valuable cards after all the betting is over; or \
- (II) For each player, whether by reason of the skill of the player or application of the element of chance, or both, to hold a poker hand entitled to a monetary or premium return based upon a publicly available pay schedule.

(b) In a variation of poker in which there can be more than one winning hand and the dealer's participation is necessary or desirable to improve the game for players other than the dealer, the dealer may play, but under no circumstances may the dealer place a wager in any game in which he or she is dealing. A game in which the player holding the highest-scoring hand splits his or her winnings with the player holding the lowest-scoring hand does not qualify as a "variation of poker in which there can be more than one winning hand" for purposes of this paragraph (b).

(23) "Repeating gambling offender" shall have the same meaning as set forth in section 18-10-102 (9), C.R.S.

(24) "Retailer" means any licensee who maintains gaming at his place of business within the cities of Central, Black Hawk, or Cripple Creek for use and operation by the public.

(25) "Retail space" means the area where a retailer's business is principally conducted.

(26) (a) "Slot machine" means any mechanical, electrical, video, electronic, or other device, contrivance, or machine which, after insertion of a coin, token, or similar object, or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens, or redeemable game credits, or any other thing of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner.

(b) "Slot machine" does not include:

(I) Vintage slot machine models which were introduced on the market prior to 1984 and are not used for gambling purposes or in connection with limited gaming; or

(II) Crane games.

(27) "Slot machine distributor" means any person who imports into this state, or first receives in this state, slot machines, or who sells, leases, for a fixed or flat fee, or distributes slot machines in this state; except that "slot machine distributor" does not include operators licensed in this state.

(28) "Slot machine manufacturer" means any person who designs, assembles, fabricates, produces, constructs, or otherwise prepares a complete or component part of a slot machine, other than tables or cabinetry; except that "slot machine manufacturer" does not include licensed operators performing incidental repairs on their on slot machines or slot machines leased or distributed by them. A licensed slot machine manufacturer may sell slot machines, or components of slot machines, of its own manufacture to licensed slot machine distributors or operators. A licensed manufacturer may also import those slot machine parts or components necessary for its manufacturing operations.

(29) "Suitability" or "suitable" means, in relation to a person, the ability to be licensed by the commission and, in relation to acts or practices, lawful acts or practices.

(30) "Unsuitability or unsuitable" means, in relation to a person, the inability to be licensed by the commission because of prior acts, associations, or financial conditions, and, in relation to acts or practices, those which violate or would violate the statutes or rules or are or would be contrary to the declared legislative purposes of this article.

(31) "Within the cities of Central, Black Hawk, or Cripple Creek" means within the commercial district of any of those cities as specified in section 12-47.1-105.

12-47.1-104 - Limited gaming - authorization - regulation.

Limited gaming is hereby authorized and may be operated and maintained subject to the provisions of this article. All limited gaming authorized by this article shall be regulated by the Colorado limited gaming control commission.

12-47.1-105 - Limited gaming - cities - commercial districts.

Limited gaming shall take place only in the following existing Colorado cities: The city of Central, county of Gilpin; the city of Black Hawk, county of Gilpin; and the city of Cripple Creek, county of Teller. Limited gaming shall be further confined to the commercial districts of said cities as said districts are respectively defined in the city ordinances adopted by the city of Central on October 7, 1981; the city of Black Hawk on May 4, 1978; and the city of Cripple Creek on December 3, 1973.

12-47.1-106 - Exceptions.

(1) Nothing in this article shall be construed in any way to affect or interfere with the regulation of bingo and raffles by the office of the secretary of state.

(2) Nothing contained in this article shall be construed to modify, amend, or otherwise affect the validity of any provisions contained in article 10 of title 18, C.R.S.

12-47.1-201 - Division of gaming - creation.

There is hereby created, within the department of revenue, the division of gaming, the head of which shall be the director of the division of gaming. The director shall be appointed by, and shall be subject to removal by, the executive director of the department of revenue. The division of gaming, the Colorado limited gaming control commission created in section 12-47.1-301, and the director of the division of gaming shall exercise their respective powers and perform their respective duties and functions as specified in this article under the department of revenue as if the same were transferred to the department by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.; except that the commission shall have full and exclusive authority to promulgate rules and populations related to limited gaming without any approval by, or delegation of authority from, the department.

12-47.1-202 - Function of division.

The function of the division is to license, implement, regulate, and supervise the conduct of limited gaming in this state as authorized by section 9 of article XVIII of the state constitution.

12-47.1-203 - Director - qualification - powers and duties.

(1) The director shall:

(a) Be qualified by training and experience to direct the work of the division;

(b) Be of good character and shall not have been convicted of any felony or gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S.;

(c) Not be engaged in any other profession or occupation that could present a conflict of interest to the director's duties as director of the division; and

(d) Direct and supervise the administrative and technical activities of the division.

(2) In addition to the duties imposed upon the director elsewhere in this part 2, the director shall:

(a) Supervise and administer the operation of the division and limited gaming in accordance with the provisions of this article and the rules of the commission;

(b) Attend meetings of the commission or appoint a designee to attend in the director's place;

(c) (I) Employ and direct such personnel as may be necessary to carry out the purposes of this article, but no person shall be employed who has been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S.

(II) The director, with the approval of the commission, may enter into agreements with any department, agency, or unit of state government to secure services which the director deems necessary and to provide for the payment for such services and may employ and compensate such consultants and technical assistants as may be required and as otherwise permitted by law.

(d) Confer with the commission as necessary or desirable, but not less than once each month, with regard to the operation of the division;

(e) Make available for inspection by the commission or any member of the commission, upon request, all books, records, files, and other information and documents in the director's office;

(f) Advise the commission and recommend to the commission such rules and other procedures as the director deems necessary and advisable to improve the operation of the division and the conduct of limited gaming;

(g) With the concurrence of the commission or pursuant to commission requirements and procedures, enter into contracts for materials, equipment, and supplies to be used in the operation of the division;

(h) Make a continuous study and investigation of the operation and the administration of similar laws which may be in effect in other states or countries; of any literature on gaming which from time to time may be published or available; and of any federal laws which may affect the operation of the division, the conduction of limited gaming, or the reaction of Colorado citizens to limited gaming with a view to recommending or effecting changes that would serve the purposes of this article;

(i) (I) Furnish to the commission a monthly report which contains a full and complete statement of the division's revenue and expenses for each month.

(II) All reports required by this paragraph (i) shall be public, and copies of all such reports shall be sent to the governor, the speaker of the house of representatives, the president of the senate, the minority leaders of both houses, and the executive director of the department of revenue.

(j) Annually prepare and submit to the commission, for its approval, a proposed budget for the succeeding fiscal year, which budget shall set forth a complete financial plan for all proposed expenditures and anticipated revenues of the division;

(k) Take such action as may be determined by the commission to be necessary to protect the security and integrity of limited gaming;

(l) Perform any other lawful acts which the commission may consider necessary or desirable in order to carry out the purposes and provisions of this article; and

(m) Annually prepare and submit to the commission, for its approval, a proposed budget for the ensuing fiscal year, which budget shall present a complete financial plan setting forth all proposed expenditures and anticipated revenues of the division.

12-47.1-204 - Investigator - peace officers.

(1) All investigators of the division of gaming, and their supervisors, including the director and the executive director, shall have all the powers of any peace officer to:

(a) Make arrests, with or without warrant, for any violation of the provisions of this article, article 20 of title 18, C.R.S., or the rules and regulations promulgated pursuant to this article, any other laws or regulations pertaining to the conducting of limited gaming in this state, or any criminal law of this state, if, during an officer's exercise of powers or performance of duties under this section, probable cause is established that a violation of any said law or rule or regulation has occurred;

(b) Inspect, examine, investigate, hold, or impound any premises where limited gaming is conducted, any devices or equipment designed for or used in limited gaming, and any books and records in any way connected with any limited gaming activity;

(c) Require any person licensed pursuant to this article, upon demand, to permit an inspection of such person's licensed premises, gaming equipment and devices, or books or records; and to permit the testing and the seizure for testing or examination purposes of all such devices, equipment, and books and records;

(d) Serve all warrants, notices, summonses, or other processes relating to the enforcement of laws regulating limited gaming;

(e) Serve distraint warrants issued by the department of revenue pertaining to limited gaming;

(f) Conduct investigations into the character, record, and reputation of all applicants for limited gaming licenses, all licensees, and such other persons as the commission may determine pertaining to limited gaming;

(g) Investigate violations of all the laws pertaining to limited gaming and limited gaming activities;

(h) Assist or aid any sheriff or other peace officer in the performance of his duties upon such sheriff's or peace officer's request or the request of other local officials having jurisdiction.

(2) Criminal violations of this article discovered during an authorized investigation or discovered by the commission shall be referred to the appropriate district attorney.

(3) The investigators of the division and their supervisors, including the director of the division and the executive director of the department of revenue, shall be considered a peace officer, level II as defined in section 18-1-901 (3) (I) (III), C.R.S.

(4) Nothing in this section shall be construed to prohibit local sheriffs, police departments, and other local law enforcement agencies from enforcing the provisions of this article, and the rules and regulations promulgated pursuant to this article, or from performing their other duties to the full extent permitted by law. All such sheriffs, police officers, district attorneys, and other local law enforcement agencies shall have all the powers set forth in subsection (1) of this section.

12-47.1-205 - Division of gaming - access to records.

The division of gaming, for purposes of this article, shall have full authority to procure, at the expense of the division, any records furnished to or maintained by any law enforcement agency in the United States, including state and local law enforcement agencies in Colorado and other states for the purposes of carrying out its responsibilities pursuant to this article. Upon request from the Colorado bureau of investigation, the division shall provide copies of any and all information obtained pursuant to this article.

12-47.1-106 - Exceptions.

(1) Nothing in this article shall be construed in any way to affect or interfere with the regulation of bingo and raffles by the office of the secretary of state.

(2) Nothing contained in this article shall be construed to modify, amend, or otherwise affect the validity of any provisions contained in article 10 of title 18, C.R.S.

12-47.1-301 - Colorado limited gaming control commission - creation.

(1) There is hereby created, within the division of gaming, the Colorado limited gaming control commission. The commission shall consist of five members, all of whom shall be citizens of the United States and residents of this state who have been residents of the state for the past five years. The members shall be appointed by the governor, with the consent and approval of the senate. No member shall have been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S. No more than three of the five members shall be members of the same political party and no more than one member shall be from any one congressional district. At the first meeting of each fiscal year, a chairman and vice-chairman of the commission shall be chosen from the membership by a majority of the members. Membership and operation of the commission shall additionally meet the following requirements:

(a) One member of the commission shall have had at least five years' law enforcement experience as a peace officer qualified pursuant to section 24-31-306 (1), C.R.S.; one member shall be an attorney admitted to the practice of law in Colorado for not less than five years and who has experience in regulatory law; one member shall be a certified public accountant or public accountant who has been practicing in Colorado for at least five years and who has a comprehensive knowledge of the principles and practices of corporate finance; one member shall have been engaged in business in a management-level capacity for at least five

years; and one member shall be a registered elector of the state who is not employed in any profession or industry otherwise described in this paragraph (a).

(b) Initial members shall be appointed to the commission by the governor as follows: One member to serve until July 1, 1992, one member to serve until July 1, 1993, one member to serve until July 1, 1994, and two members to serve until July 1, 1995. All subsequent appointments shall be for terms of four years. No member of the commission shall be eligible to serve more than two consecutive terms.

(c) Any vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment. The member appointed to fill such vacancy shall be from the same category described in paragraph (a) of this subsection (1) as the member vacating the position.

(d) Any member of the commission may be removed by the governor at any time.

(e) The term of any member of the commission who misses more than two consecutive regular commission meetings without good cause shall be terminated and such member's successor shall be appointed in the manner provided for appointments under this section.

(f) Commission members shall receive as compensation for their services one hundred dollars for each day spent in the conduct of commission business and shall be reimbursed for necessary travel and other reasonable expenses incurred in the performance of their official duties. The maximum annual compensation for each member of the commission, including reimbursement for necessary travel and other reasonable expenses incurred in the performance of their official duties, shall not exceed ten thousand dollars per year.

(g) Prior to confirmation by the senate, each member shall file with the secretary of state a financial disclosure statement in the form required and prescribed by the executive director. Such statement shall be renewed as of each January 1 during the member's term of office.

(h) The commission shall hold at least one meeting each month and such additional meetings as may be prescribed by rules of the commission. In addition, special meetings may be called by the chairman, any two commission members, or the director, if written notification of such meeting is delivered to each member at least seventy-two hours prior to such meeting. Notwithstanding the provisions of section 24-6-402, C.R.S., in emergency situations in which a majority of the commission certifies that exigencies of time require that the commission meet without delay, the requirements of public notice and of seventy-two hours' actual advance written notice to members may be dispensed with, and commission members as well as the public shall receive such notice as is reasonable under the circumstances.

(i) A majority of the commission shall constitute a quorum, but the concurrence of a majority of the members appointed to the commission shall be required for any final determination by the commission.

(j) The commission shall keep a complete and accurate record of all its meetings.

12-47.1-302 - Commission - powers and duties.

(1) In addition to any other powers and duties set forth in this part 3, and notwithstanding the designation of the Colorado limited gaming control commission under section 12-47.1-201 as a type 2 transfer, the commission shall nonetheless have the following powers and duties:

(a) To promulgate such rules and regulations governing the licensing, conducting, and operating of limited gaming as it deems necessary to carry out the purposes of this article. The director shall prepare and submit to the commission written recommendations concerning proposed rules and regulations for this purpose.

(b) To conduct hearings upon complaints charging violations of this article or rules and regulations promulgated pursuant to this article, and to conduct such other hearings as may be required by rules of the commission;

(c) To enter into agreements with the Colorado bureau of investigation and state and local law enforcement agencies for the conduct of investigation, identification, or registration, or any combination thereof, of licensed operators and employees in licensed premises or in premises containing licensed premises in accordance with the provisions of this article, which conduct shall include, but not be limited to, performing background investigations and criminal records checks on an applicant applying for licensure pursuant to the provisions of this article and investigating violations of any provision of this article or of any rule or regulation promulgated by the commission pursuant to paragraph (a) of this subsection (1) discovered as a result of such investigatory process or discovered by the department of revenue or the commission in the course of conducting its business. Nothing in this section shall prevent or impair the Colorado bureau of investigation or state or local law enforcement agencies from engaging in the activities set forth in this paragraph (c) on their own initiative.

(d) To conduct a continuous study and investigation of limited gaming throughout the state for the purpose of ascertaining any defects in this article or in the rules and regulations promulgated pursuant to this article in order to discover any abuses in the administration and operation of the division or any violation of this article or any rule or regulation promulgated pursuant to this article;

(e) To formulate and recommend changes to this article or any rule or regulation promulgated pursuant to this article for the purpose of preventing abuses and violations of this article or any of the rules or regulations promulgated pursuant to this article; to guard against the use of this article and such rules and regulations as a cloak for the conducting of illegal activities; and to ensure that this article and such rules and regulations shall be in such form and be so administered as to serve the true purpose and intent of this article;

(f) To report immediately to the governor, the attorney general, the speaker of the house of representatives, the president of the senate, the minority leaders of both houses, and such other state officers as the commission deems appropriate concerning any laws which it determines require immediate amendment to prevent abuses and violations of this article or any rule or regulation promulgated pursuant to this article or to remedy undesirable conditions in connection with the administration or the operation of the division or limited gaming;

(g) To require such special reports from the director as it considers necessary;

(h) To issue temporary or permanent licenses to those involved in the ownership, participation, or conduct of limited gaming;

(i) Upon complaint, or upon its own motion, to levy fines and to suspend or revoke, licenses which the commission has issued;

(j) To establish and collect fees and taxes upon persons, licenses, and gaming devices used in, or participating in, limited gaming;

(k) To obtain all information from licensees and other persons and agencies which the commission deems necessary or desirable in the conduct of its business;

(l) To issue subpoenas for the appearance or production of persons, records, and things in connection with applications before the commission or in connection with disciplinary or contested cases considered by the commission;

(m) To apply for injunctive or declaratory relief to enforce the provisions of this article and any rules and regulations promulgated pursuant to this article;

(n) To inspect and examine without notice all premises wherein limited gaming is conducted or devices or equipment used in limited gaming are located, manufactured, sold, or distributed, and to summarily seize, remove, and impound, without notice or hearing from such premises any equipment, devices, supplies, books, or records for the purpose of examination or inspection;

(o) To enter into contracts with any governmental entity to carry out its duties without compliance with the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S. Such contracts or formal agreements, or both, are to be based on preestablished commission criteria specifying minimum levels of cooperation and conditions for payment.

(p) To exercise such other incidental powers as may be necessary to ensure the safe and orderly regulation of limited gaming and the secure collection of all revenues, taxes, and license fees;

(q) To establish internal control procedures for licensees, including accounting procedures, reporting procedures, and personnel policies;

(r) To establish and collect fees for performing background checks on all applicants for licenses and on all persons with whom the commission or division may agree with or contract with for the providing of goods or services, as the commission deems appropriate;

(s) To establish and collect fees for performing, or having performed, tests on equipment and devices to be used in limited gaming;

(t) To establish a field office in Black Hawk, Central City, or Cripple Creek, as deemed necessary by the commission;

(u) To demand, at any time when business is being conducted, access to and inspection, examination, photocopying, and auditing of all papers, books, and records of applicants and licensees, on their premises or elsewhere as practicable and in the presence of the licensee or his agent, pertaining to the gross income produced by any licensed gaming establishment and to require verification of income, and all other matters affecting the enforcement of the policies of the commission or any provision of this article; and to impound or remove all papers, books, and records of applicants and licensees, without hearing, for inspection or examination; and

(v) To prescribe voluntary alternative methods for the making, filing, signing, subscribing, verifying, transmitting, receiving, or storing of returns or other documents.

(2) Rules and regulations promulgated pursuant to subsection (1) of this section shall include, but shall not be limited to, the following:

(a) The types of limited gaming activities to be conducted and the rules for those activities;

(b) The requirements, qualifications, and grounds for the issuance, revocation, suspension, and summary suspension of all types of permanent and temporary licenses required for the conduct of limited gaming;

(c) Qualifications of persons to hold limited gaming licenses;

(d) Restrictions upon the times, places, and structures where limited gaming shall be authorized;

(e) The ongoing operation of limited gaming activities;

(f) The scope and conditions for investigations and inspections into the conduct of limited gaming, the background of licensees and applicants for licenses, the premises where limited gaming is authorized, all premises where gaming devices are located, the books and records of licensees, and the sources and maintenance of limited gaming devices and equipment;

- (g) Activities which constitute fraud, cheating, or illegal or criminal activities;
- (h) The percentage of the adjusted gross proceeds to be paid by each licensee to the commission, in addition to license fees and taxes;
- (i) The seizure without notice or hearing of gaming equipment, supplies, or books and records for the purpose of examination and inspection;
- (j) The disclosure of the complete financial interests of applicants for licenses or of licensees;
- (k) The issuance or denial of support licenses by the director;
- (l) The granting of certain licenses with special conditions or for limited periods, or both;
- (m) The establishment of procedures for determining suitability or unsuitability of persons, acts, or practices;
- (n) The payment of costs incurred in the operation and administration of the division, and the costs resulting from any contract entered into for consulting or operational services;
- (o) The payment of costs incurred by the Colorado bureau of investigation and any other agencies for investigations or background checks, which shall be paid by applicants for licenses or by licensees;
- (p) The levying of fines for violations of this article or any rule or regulation promulgated pursuant to this article;
- (q) The amount of license fees for all types of licenses issued by the commission and the division;
- (r) The conditions and circumstances which constitute suitability of persons, locations, and equipment for gaming;
- (s) The types and specifications of all equipment and devices used in or with limited gaming; and
- (t) All other provisions necessary to accomplish the purposes of this article.

12-47.1-401 - Conflict of interest.

(1) Members of the commission and employees of the division are declared to be in positions of public trust. In order to ensure the confidence of the people of the state in the integrity of the division, its employees, and the commission, the following restrictions shall apply:

(a) No member of the commission, an ancestor or descendant of a member, including a natural child, child by adoption, or stepchild, or a brother or sister of the whole or half blood of a member, or an uncle, aunt, nephew, or niece of the whole blood of a member, shall have any interest of any kind in a license issued pursuant to this article or own or have any interest in property in any county where limited gaming is permitted. The provisions of this paragraph (a) shall apply to spouses of commission members in like fashion as to members.

(b) No member of the commission or employee of the division, including the director, and no member of the immediate family of a member or employee of the division, shall have any interest, direct or indirect, in any licensee, licensed premises, establishment, or business involved in or with limited gaming. Further, no such person shall own, in whole or in part, property in the cities of Central, Black Hawk, or Cripple

Creek; except that employees of the division assigned to work regularly in Gilpin or Teller county may live with their families in those counties, and may own private property therein for residential purposes, with commission approval.

(c) No member of the commission or employee of the division, including the director, and no member of the immediate family of a member of the commission or employee of the division, shall receive any gift, gratuity, employment, or other thing of value from any person, corporation, association, or firm that contracts with or that offers services, supplies, materials, or equipment used by the division in the normal course of its operations, or which is licensed by the division or the commission; except that such persons may accept on an infrequent basis in the normal course of business such nonpecuniary items of insignificant value as shall be allowed by the director and as shall be specified by the commission by rule and regulation.

(d) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall participate in limited gaming.

(e) No member of the commission or employee of the division, including the director, shall have been convicted of a felony or any gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S.

(1.5) Notwithstanding the provisions of subsection (1) of this section, the commission may, by rule, determine that an ownership interest of no more than five percent held by or through an institutional investor fund does not constitute an interest under paragraphs (a) and (b) of subsection (1) of this section.

(2) For purposes of investigating violations of this article, the provisions of paragraphs (c) and (d) of subsection (1) of this section shall not apply to an employee of the division acting in his official capacity while on duty.

12-47.1-501 - Licenses - types.

(1) The commission may issue five types of licenses as follows:

(a) Slot machine manufacturer or distributor. A slot machine manufacturer or distributor license is required for all persons who import, manufacture, or distribute slot machines in this state, or who otherwise act as a slot machine manufacturer or distributor. Each license issued pursuant to this paragraph (a) shall expire one year from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule and regulation.

(b) Operator license. (I) An operator license is required for all persons who permit slot machines on their premises or who engage in the business of placing and operating slot machines on the premises of a retailer. Each license issued pursuant to this paragraph (b) shall expire one year from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule. A licensed operator shall obtain slot machines only from a licensed manufacturer or distributor.

(II) This paragraph (b) shall not apply to persons holding retail gaming licenses issued pursuant to paragraph (c) of this subsection (1).

(c) Retail gaming license. A retail gaming license is required for all persons permitting or conducting limited gaming on their premises. A retail gaming license may only be granted to a retailer. Each person licensed as a retailer shall have and maintain sole and exclusive legal possession of the entire premises for which the retail license is issued. Each license issued pursuant to this paragraph (c) shall expire one year from the date of its issuance but may be renewed upon the filing and approval of an application for

renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule and regulation.

(d) Support license. A support license is required for all persons employed in the field of limited gaming and by all gaming employees. No person required to hold a support license shall be an employee of, or assist, any licensee until such person obtains a valid support license. Persons licensed as key employees need not obtain support licenses. The commission may deny a support license to any person discharged for cause from employment by any licensed gaming establishment in this or any other country. Each license issued pursuant to this paragraph (d) shall expire two years from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule.

(e) Key employee license. Every retail gaming licensee shall have a person in charge of all limited gaming activities available at all times when limited gaming is being conducted. Such person in charge shall hold a key employee license. Each license issued pursuant to this paragraph (e) shall expire two years from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule.

12-47.1-503 - Key employee - determination of status.

If, in the determination of the commission, an employee of a licensee for limited gaming is a key employee and as such is subject to licensure, the commission shall serve notice of such determination upon the licensee who employed such key employee. In determining whether or not an employee is a key employee, the commission is not restricted by the title of the job performed by such employee but may consider the functions and responsibilities of such employee in making its decision. The licensee shall, within thirty days following receipt of the notice of the commission's determination, present the application for licensing of such employee to the commission or provide documentary evidence that such employee is no longer employed by the licensee. Failure of the licensee to respond as required by this section is grounds for disciplinary action. A person subject to application for licensing as a key employee may make written request to the commission to review its determination of such person's status within the gaming organization. If the commission determines that the person is not a key employee, such person shall be allowed to withdraw his application and continue in his employment. The request by an employee for review of his employment status does not stay the obligation of the licensee to present such employee's application to the commission within the thirty-day period prescribed by this section.

12-47.1-504 - Licenses - revocable - nontransferable.

Every license issued pursuant to this article is revocable and nontransferable. No licensee acquires any vested interest or property right in a license. The gaming licenses issued pursuant to this article are only for the particular location initially authorized. The revocable privilege for any license issued or other approval granted is conditioned upon the proper and continuing qualification of the licensee or registrant and upon the discharge of the affirmative responsibility of each such licensee or registrant to provide to the regulatory, investigatory, and law enforcement authorities any assistance and information necessary to assure that the policies and requirements of this article are achieved.

12-47.1-505 - Operator, slot machine manufacturer or distributor, key employee, support licensee, or retailer - qualifications for licensure.

Prior to a person's licensure as an operator, slot machine manufacturer or distributor, key employee, support licensee, or retailer, such person shall, in addition to meeting any other requirements imposed by this article, the commission, or any rule or regulation promulgated pursuant to this article, show that he is of good moral character. Such person has the burden of proving his qualifications to the satisfaction of the commission. Such person shall submit to and pay for any background investigations as may be ordered by the commission. All such payments shall be deposited into the limited gaming fund.

12-47.1-506 - Considerations for licensure.

In considering whether a person is of good moral character for purposes of issuing any license pursuant to this article, or for any other purposes, the commission may, in addition to all other information, consider whether that person has been denied a gaming license by this or any other jurisdiction, city, state, or country, or whether the person has ever had a gaming license in this or any other jurisdiction, city, state, or country suspended or revoked. The commission may also consider whether a person has ever withdrawn an application for any type of gaming license anywhere and the reasons for such withdrawal.

12-47.1-507 - Temporary or conditional licenses.

The commission may issue temporary or conditional licenses for up to a maximum of six months, or shorter periods, with respect to all licenses authorized under this article.

12-47.1-508 - Delegation of authority to issue certain licenses.

The commission may delegate to the division the authority to issue permanent and temporary support and key employee licenses, but the commission shall review and approve the issuance of all other licenses issued pursuant to this article.

12-47.1-510 - License - disqualification - criteria.

(1) The commission shall deny a license to any applicant who is disqualified for licensure on the basis of any of the following criteria:

(a) Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article;

(b) Failure of the applicant to provide information, documentation, and assurances required by this article or requested by the commission, failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria;

(c) Conviction of the applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant, of any of the following:

(I) Service of a sentence upon conviction of a felony in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation

department within ten years prior to the date of the application, notwithstanding the provisions of section 24-5-101, C.R.S.;

(II) Service of a sentence upon conviction of any misdemeanor gambling-related offense or misdemeanor theft by deception in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department within ten years prior to the date of the application;

(III) Service of a sentence upon conviction of any misdemeanor involving fraud or misrepresentation in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department within ten years prior to the date of the application, notwithstanding the provisions of section 24-5-101, C.R.S.;

(IV) Service of a sentence upon conviction of any gambling-related felony or felony involving theft by deception in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department, notwithstanding the provisions of section 24-5-101, C.R.S.;

(V) Service of a sentence upon conviction of any felony involving fraud or misrepresentation in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department, notwithstanding the provisions of section 24-5-101, C.R.S.;

(d) Current prosecution or pending charges in any jurisdiction against the applicant, or against any person listed in paragraph (c) of this subsection (1), for any of the offenses enumerated in paragraph (c) of this subsection (1); except that, at the request of the applicant or the person charged, the commission shall defer decision upon such application during the pendency of such charge;

(e) The identification of the applicant or any person listed in paragraph (c) of this subsection (1) as a career offender or a member of a career offender cartel or an associate of a career offender or a career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policy of this article and to gaming operations. For purposes of this section, "career offender" means any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this state. For purposes of this section, "career offender cartel" means any group of persons who operate together as career offenders.

(f) Refusal to cooperate by the applicant or any person who is required to be qualified under this article with any legislative investigatory body or other official investigatory body of any state or of the United States when such body is engaged in the investigation of crimes relating to gaming, official corruption, or organized crime activity;

(g) The applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant is or has been a professional gambler as that term is defined in article 10 of title 18, C.R.S.

12-47.1-511 - Applicants and licensees - providing information.

(1) All applicants for licenses issued by the commission, and all persons holding such licenses, including all persons interested, directly or indirectly, in the gaming business or license held by an applicant or licensee, shall upon request by the commission or division provide fingerprints and handwriting exemplars, and each such person shall allow himself or herself to be photographed in accordance with procedures established by the commission.

(2) Upon issuance of a formal request or subpoena by the commission to answer or produce information, evidence, or testimony, each applicant and licensee shall comply with the request or subpoena. Where an applicant or licensee, or any employee or person interested, directly or indirectly, in either refuses or fails to comply with a commission request or subpoena, then that person's license or application may be suspended, revoked, or denied, based solely upon such failure or refusal.

12-47.1-512 - Application - fee - waiver of confidentiality.

(1) The commission may establish investigation and application fees for the purpose of paying for the administrative costs of the commission and for paying for any background investigations of applicants and others. These fees may vary depending on the type of application, the complexity of the investigation, or the costs of the commission in reviewing the matters involved.

(2) The application form created by the commission shall include a waiver of any right of confidentiality and a provision which allows the information contained in the application to be accessible to law enforcement agents of this or any other state, the government of the United States, any foreign country, or any Indian tribe. The waiver of confidentiality shall extend to any financial or personnel record, wherever maintained.

12-47.1-513 - Supplier of licensee - licensure requirements.

(1) Except as otherwise provided in subsection (2) of this section, any person supplying goods, equipment, devices, or services to any licensee in return for payment of a percentage, or calculated upon a percentage, of limited gaming activity or income must obtain an operator license or must be listed on the retailer's license where such limited gaming will take place.

(2) A licensed slot machine manufacturer or distributor need not obtain an operator's license or be listed on a retailer's license for purposes of establishing and administering a fund associated with a multiple-property, linked, progressive slot machine system as defined by the commission, so long as all of the following conditions are met:

(a) The manufacturer or distributor shall deposit in the fund and shall account, subject to supervision by the commission, for those moneys derived from wagering in machines linked to the system which are due to the manufacturer or distributor pursuant to its agreement with the retail licensee.

(b) The manufacturer or distributor shall maintain a separate account for the fund associated with each progressive system.

(c) The manufacturer or distributor shall retain as compensation only a flat, predetermined fee per machine. Operating costs of the system, including payment of prizes, may be disbursed from the fund.

(d) Machines linked to the system shall be placed only in premises controlled by a licensed operator or retailer.

12-47.1-514 - Application - authorization for background investigations.

By signing and filing an application for a license, which is hereby made subject to the perjury laws of this state, the applicant authorizes the commission to obtain information from any source, public or private, in this or any other country, regarding the background or conduct of the applicant and, if the applicant is a partnership or corporation, any of its shareholders, officers, directors, partners, agents, or employees.

12-47.1-515 - License - grounds for approval or denial.

The commission may approve or deny any application for a license, in addition to all other conditions and requirements set forth in this article and the rules and regulations promulgated pursuant thereto, on the basis of whether it deems the applicant a suitable person to hold the license applied for and whether it considers the proposed location, retail floor plan, or any other conditions suitable. Refusal of an applicant to provide all information requested by the commission or to allow investigation into the applicant's background is grounds for denial of a license. Information requested from the applicant by the commission shall include the applicant's date of birth in addition to other information necessary to identify and investigate fully the record and relevant history of the applicant

12-47.1-516 - Licensed premises - safety conditions - fire and electrical.

(1) (a) The building in which limited gaming will be conducted and the areas where limited gaming will occur shall meet safety standards and conditions for the protection of life and property as determined by the local fire official and the local building official. In making such determinations, the following codes are hereby adopted by the Colorado division of fire safety as minimum safety standards for limited gaming structures:

- (I) The uniform code for building conservation, 1987 edition;
- (II) The uniform building code, 1988 edition; and
- (III) The uniform fire code, 1988 edition.

(b) The local building official and the local historical preservation commission shall work together to ensure that neither historical preservation of existing buildings nor the safety of life are compromised.

(2) A certificate of compliance shall be issued to an applicant for a premises license by the local fire and building officials, and approved by the division of fire safety. A copy of the local inspection report shall be filed with the state division of fire safety. Once the division has deemed that the minimum requirements for fire safety have been met, the division shall approve the certificate of compliance within five working days from receipt of the inspection report. If not acted upon within five days, the certificate of compliance shall be considered approved. Such certificate shall be current and valid and shall cover the entire building where limited gaming is conducted.

(3) From October 1, 1991, to October 1, 1994, any owner may file a written hardship notice and a letter of intent to meet fire safety standards with the commission for its approval. The time period for compliance shall not exceed thirty-six months. The letter of intent shall include temporary life safety measures and time frames for the installation of permanent life safety measures. Upon receipt and approval of the notice by the commission, the local fire officials, local building officials, and the division of fire safety shall issue a

temporary certificate of compliance once they have deemed that the building has adequate life safety provisions to temporarily operate with limited gaming.

(4) In advance of any structural or significant change to the building or areas where limited gaming is conducted, the plans for such a change shall be submitted by the licensee holding a premises license to the local fire official and the local building official for their review. No changes may be made to the building or areas where limited gaming is conducted until the plans are approved by the local fire official and the local building official.

(5) The state division of fire safety and the state historical society shall provide technical assistance to the local building officials, the local fire officials, the local historical preservation commissions, and the commission upon request.

(6) The commission shall act as an appeals board for any owner, fire official, building official, or the division of fire safety who feels aggrieved by fire and life safety requirements or the lack of fire and life safety standards in buildings in which limited gaming will be conducted. If the commission fails to act upon an appeal within fourteen days after its receipt by the commission, the certificate of compliance shall be considered approved.

12-47.1-517 - Buildings - accessible to persons with disabilities.

(1) All premises where limited gaming is conducted shall be accessible to and functional for persons with physical disabilities.

(2) An exception to the requirement of subsection (1) of this section may be granted in cases where the local historical preservation commission determines that compliance would result in degradation of the historical significance of the building where limited gaming is conducted.

12-47.1-518 - Waiver from liability - state of Colorado - disclosures or publications.

All applicants, registrants, and licensees shall waive liability as to the state of Colorado and its instrumentalities and agents for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations, or hearings.

12-47.1-519 - Renewal of licenses.

(1) Subject to the power of the commission to deny, revoke, or suspend licenses, any license in force shall be renewed by the commission for the next succeeding license period upon proper application for renewal and payment of license fees and taxes as required by law and the regulations of the commission.

The license period for a renewed license shall be one year. In addition, the commission shall reopen licensing hearings at any time at the request of the director,

Colorado bureau of investigation, or any law enforcement authority. The commission shall act upon any such application prior to the date of expiration of the current license.

(2) An application for renewal of a license may be filed with the commission up to one hundred twenty days prior to the expiration of the current license, and all license fees and taxes as required by law shall be paid to the commission on or before the date of expiration of the current license. The commission shall set the manner, time, and place at which an application is made.

(3) Upon renewal of any license, the commission shall issue an appropriate renewal certificate or validating device or sticker which shall be attached to each license.

(4) Renewal of a license may be denied by the commission for any violation of this article or article 20 of title 18, C.R.S., or the rules and regulations promulgated pursuant thereto, for any reason which would or could have prevented its original issuance, or for any good cause shown.

12-47.1-520 - Denial of application.

(1) Any person, or anyone who has an ownership interest of five percent or more in the person:

(a) Whose application has been denied by the commission may not reapply for licensure until at least one year has elapsed from the date of denial;

(b) Who has been denied a license for a second time may not reapply until at least three years have passed since the date of the second denial.

12-47.1-521 - Appeal of final action of commission.

Any person aggrieved by a final action of the commission may appeal the final action to the court of appeals pursuant to section 24-4-106, C.R.S.

12-47.1-522 - Executive and closed meetings.

(1) The commission may hold executive or closed meetings for any of the following purposes:

(a) Considering applications for licensing when discussing background investigations or personal information;

(b) Meeting with gaming officials of other jurisdictions, the attorney general, the district attorney for either Teller or Gilpin county, or law enforcement officials in connection with possible criminal violations;

(c) Consulting with the executive director, director, employees, or agents of the commission concerning possible criminal violations or any security issues;

(d) Deliberations after hearing evidence in an informal consultation or in a contested case.

12-47.1-523 - Communications - privileged and confidential.

Communications among the commission, executive director, and the director relating to licensing, disciplining of licensees, or violations by licensees are privileged and confidential if made lawfully and in the course of or in furtherance of the business of the commission, except pursuant to court order after an in-camera review. The executive director, director, the commission, or any member of the commission may claim this privilege.

12-47.1-524 - Summary suspension.

Every license granted pursuant to this article may be summarily suspended by the commission, pending a hearing before the commission, upon such terms and conditions as the commission shall by rule and regulation mandate.

12-47.1-525 - Suspension or revocation of license - grounds - penalties.

(1) Any license granted pursuant to this article may be suspended for up to six months or revoked for any cause which would have prevented its issuance, or for any violation by the licensee or any officer, director, agent, member, or employee of a licensee of this article or any rule or regulation promulgated by the commission, or for conviction of a crime involving moral turpitude or a felony, after notice to the licensee and a hearing upon proof by a preponderance of the evidence as determined by the commission. In addition to revocation or suspension, or in lieu of revocation or suspension, the commission may impose a reprimand or a monetary penalty not to exceed the following amounts:

(a) If the licensee is a slot machine manufacturer or distributor, the amount of one hundred thousand dollars;

(b) If the licensee is an operator, the amount of twenty-five thousand dollars;

(c) If the licensee is a retailer, the amount of twelve thousand five hundred dollars;

(d) If the licensee is a key employee, the amount of five thousand dollars;

(e) If the licensee holds a support license, the sum of two thousand five hundred dollars.

(2) Any monetary penalty received by the commission pursuant to this section shall be deposited in the limited gaming fund established in section 12-47.1-701.

(3) The civil penalties set forth in this section shall not be a bar to any criminal prosecution or to any civil or administrative prosecution.

12-47.1-526 - Commission hearings - testimony.

In any hearing held by the commission pursuant to this article, the commission may apply to the district attorney having jurisdiction to prosecute the underlying

criminal matter for orders pursuant to section 13-90-118, C.R.S., to compel testimony.

12-47.1-527 - Records - confidentiality - exceptions.

(1) Information and records of the commission enumerated by this section are confidential and may not be disclosed except pursuant to a court order. No person may by subpoena, discovery, or statutory authority obtain such information or records. Information and records considered confidential include:

(a) Tax returns of individual licensees;

(b) Credit reports and security reports and procedures of applicants for licenses and other persons seeking or doing business with the commission;

(c) Audit work papers, worksheets, and auditing procedures used by the commission, its agents, or employees; and

(d) Investigative reports concerning violations of law or concerning the backgrounds of licensees, applicants, or other persons prepared by division investigators or investigators from other agencies working with the commission and any work papers related to such reports; except that the commission may in its sole discretion disclose so much of said reports or work papers as it deems necessary and prudent.

(2) This section does not apply to requests for such information or records from the governor, attorney general, state auditor, any of the respective district attorneys of this state, or any federal or state law enforcement agency, or for the use of such information or records by the executive director, director, or commission for official purposes, or by employees of the division of gaming or the department of revenue in the performance of their authorized and official duties.

(3) This section may not be construed to make confidential the aggregate tax collections during any reporting period, the names and businesses of licensees, or figures showing the aggregate amount of money bet during any reporting period.

(4) (a) Any person who discloses confidential records or information in violation of the provisions of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. Any criminal prosecution pursuant to the provisions of this section must be brought within five years from the date the violation occurred.

(b) If the person who violates this section is an officer or employee of the state, in addition to any other penalties or sanctions, such person shall be subject to dismissal if the procedures in section 24-50-125, C.R.S., are followed.

(c) If the person violating such provisions is a present employee or officer of the state who obtained the confidential records or information during such employment, then in any civil action, the subject of which includes the release of such confidential records or information, such person shall be liable for treble damages to any injured party.

(d) If the person violating such provisions is a former employee or officer of the state who obtained the confidential records or information during such employment, and if such person executed a written statement with the state agreeing to be held to the confidentiality standards expressed in this subsection (4), then in any civil action, the subject of which includes the release of such records or information after leaving state employment, the former employee or officer shall be liable for treble damages to any injured party.

12-47.1-528 - Executive director and director have access to files and records.

The executive director and the director shall have access both physically and electronically to all files and records kept, or required to be maintained, and may contribute to those records.

12-47.1-529 - Licensees - duty to maintain records.

Each licensee shall keep a complete set of books of account, correspondence, and all other records necessary to show fully the gaming transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination of the division or its duly authorized representatives. The division may require any licensee to furnish such information as the division considers necessary for the proper administration of this article and may require an audit to be made of such books of account and records on such occasions as the division considers necessary by an auditor, selected by the commission or the director, who shall likewise have access to all such books and records of the licensee, and the licensee may be required to pay the expense thereof.

12-47.1-530 - Businesses operating in compliance with section 18-10-105 (1.5), CRS

Nothing in this article shall be construed to affect a manufacturer who, prior to June 4, 1991, was operating a business in compliance with section 18-10-105 (1.5), C.R.S.

12-47.1-601 - Gaming tax.

(1) There is hereby imposed a gaming tax on the adjusted gross proceeds of gaming allowed by this article. The tax shall be set by rule promulgated by the commission. In no event shall the tax exceed forty percent of the adjusted gross proceeds. In setting the tax rate the commission shall consider the need to provide moneys to the cities of Central, Black Hawk, and Cripple Creek for historic restoration and preservation; the impact on the communities and any state agency including, but not limited to, infrastructure, law enforcement, environment, public health and safety, education requirements, human services, and other components due to limited gaming; the impact on licensees and the profitability of their operations; the profitability of the other "for profit" forms of gambling in this state; the profitability or similar forms of gambling in other states; and the expenses of the commission and the division for their administration and operation. The commission shall also consider the following:

(a) The amount shall never exceed the percentage provided in paragraph (a) of subsection (5) of section 9 of article XVIII of the state constitution;

(b) The amount shall be established in conformity with the spirit and interest of this article so as to encourage business growth and investment in the gaming industry and to permit licensed operations, under normal business conditions and operation procedures, to realize a fair and just profit;

(c) The amount shall take into account unreimbursed local financial burdens associated with limited gaming-related operations;

(d) The amount shall take into account profit levels after expenses of other "for profit" gaming in Colorado and similar forms of gaming in other states;

(e) The amount shall take into account capital costs required to comply with local, state, or federal requirements; financial reserves required by the commission for payments to winners; and investments necessitated by regulatory requirements of the commission; and

(f) The amount shall permit the licensed operator a reasonable profit after expenses, including:

(I) Capital costs associated with the licensed premises;

(II) Capital costs associated with limited gaming equipment;

(III) Capital costs required to comply with local or state requirements;

(IV) Extraordinary operating costs, including the provision of housing or transportation, or both, for employees;

(V) Initial costs associated with commencement of limited gaming;

(VI) Financial reserves required by the commission for payments to winners; and

(VII) Investments necessitated by regulatory requirements of the commission.

(2) (a) The department of revenue shall collect the amount of gaming tax on adjusted gross proceeds determined pursuant to subsection (1) of this section from the licensed retailer and shall have all of the powers, rights, and duties provided in articles 20, 21, and 26 of title 39, C.R.S., to carry out such collection. The commission shall authorize reimbursement to the department of revenue of the costs associated with collection of gaming tax on adjusted gross proceeds from licensed operators pursuant to subsection (1) of this section, upon documentation of such costs satisfactory to the commission.

(b) All moneys collected pursuant to this section shall be deposited in the limited gaming fund created by subsection (5)(a) of section 9 of article XVIII of the state constitution.

12-47.1-602 - Return and remittance.

Not later than fifteen days following the end of each retail month, each gaming licensee shall make a return and remittance to the director on forms prescribed and furnished by the director. The director may grant an extension of not more than five days for filing a return and remittance; except that the director shall not grant more than two extensions during any one-year period. Unless an extension is granted, a penalty or interest under section 12-47.1-604 shall be paid if a return or remittance is not made on time.

12-47.1-603 - Violations of taxation provisions - penalties.

(1) Any person who:

(a) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed by this article commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.;

(b) Fails to pay tax due under this article within thirty days after the date the tax becomes due commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.;

(c) Fails to file a return required by this article within thirty days after the date the return is due commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.;

(d) Violates either paragraph (b) or (c) two or more times in any twelve-month period commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.;

(e) Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under or in connection with any matter arising under any title administered by the commission or a return, affidavit, claim, or other document which is fraudulent or is false as to any material fact, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.

(2) For purposes of this section, "person" includes corporate officers having control or supervision of, or responsibility for, completing tax returns or making payments pursuant to this article.

12-47.1-604 - Returns and reports - failure to file - penalties.

(1) (a) Any person who fails to file a return or report required by this article, which return or report includes taxable transactions, on or before the date the return or report is due as prescribed in section 12-47.1-602 is subject to the payment of an additional amount assessed as a penalty equal to fifteen percent of the tax or ten dollars, whichever is greater; except that, for good cause shown, the executive director may reduce or eliminate such penalty.

(b) Any person subject to taxation under this article who fails to pay the tax within the time prescribed is subject to an interest charge of two percent per month or portion thereof for the period of time during which the payment is late or five dollars, whichever is greater.

(c) (I) Penalty and interest are considered the same as a tax for the purposes of collection and enforcement, including liens, distraint warrants, and criminal violations.

(II) Any payment received for taxes, penalties, or interest is applied first to the tax, beginning with the oldest delinquency, then to interest and then to penalty.

(d) The executive director may, upon application of the taxpayer, establish a maximum interest rate of twenty-four percent upon delinquent taxes if the executive director determines that the delinquent payment was caused by a mistake of law and was not caused by an intent to evade the tax.

(2) The procedures for collection of any taxes and penalties due under this article and the authority of the department of revenue to collect such taxes and penalties shall be the same as those provided for the collection of sales taxes pursuant to articles 20, 21, and 26 of title 39, C.R.S.

12-47.1-605 - Local jurisdiction.

Nothing in this article shall impair or otherwise affect the power of the municipalities where limited gaming is authorized to impose a fee upon gaming devices used in limited gaming.

12-47.1-701 - Limited gaming fund - repeal.

(1) There is hereby created in the office of the state treasurer the limited gaming fund. The fund shall be maintained and operated as follows:

(a) The initial appropriation to the division and all subsequent revenues of the division shall be paid into the limited gaming fund. All expenses of the division and the commission, including the expenses of investigation and prosecution relating to limited gaming, shall be paid from the fund.

(b) In addition to the initial appropriation to the division, all moneys paid into the limited gaming fund shall be available immediately, without further appropriation, for the purposes of said fund. From the moneys in the limited gaming fund, the state treasurer is hereby authorized to pay all ongoing expenses of the commission, the department, the division, and any other state agency from whom assistance related to the administration of this article is requested by the commission, director, or executive director. Such payment shall be made upon proper presentation of a voucher prepared by the commission in accordance with other statutes governing payments of liabilities incurred on behalf of the state. Such payment shall not be conditioned on any appropriation by the general assembly. Receipt of such payment shall constitute spending authority by the department of revenue, division of gaming.

(c) At the end of each state fiscal year, the state treasurer shall distribute the balance remaining in the limited gaming fund, except for an amount equal to all expenses of the administration of this article for the preceding two-month period, according to the following guidelines:

(I) Fifty percent shall be transferred to the state general fund or such other fund as the general assembly shall provide, including the state highway fund. The general assembly shall determine and appropriate an amount as a separate line item to be transferred to the state highway fund.

(II) Twenty-eight percent shall be transferred to the state historical fund to be administered by the state historical society.

(III) Twelve percent shall be distributed to the governing bodies of Gilpin county and Teller county in proportion to the gaming revenues generated in each county.

(IV) The remaining ten percent shall be distributed to the governing bodies of the cities of Central, Black Hawk, and Cripple Creek in proportion to the gaming revenues generated in each respective city.

(V) The initial appropriation shall be repaid to the state treasurer before the state treasurer makes any distributions under this paragraph (c).

(d) The state treasurer shall invest the moneys in the limited gaming fund so long as said moneys are readily available to pay the expenses of the division. Investments shall be those otherwise permitted by state law, and interest or any other return on the investments shall be paid into the limited gaming fund.

(2) The division shall be operated so that, after the initial state appropriation, it shall be self-sustaining.

(3) No claim for the payment of any expense of the commission, department, division, or other state agency shall be made unless it is against the limited gaming fund. No other moneys of the state of Colorado shall be used or obligated to pay the expenses of the division or commission.

(4) (a) At the end of each fiscal year, the state treasurer shall distribute the balance remaining in the limited gaming fund in accordance with the provisions of section 9 (5) (b) (II) of article XVIII of the state constitution; except that forty-nine and eight-tenths percent shall be transferred to the general fund of this state and two-tenths of one percent shall be transferred to the Colorado tourism promotion fund created in section 24-32-1306, C.R.S.

(b) (I) Of the fifty percent transferred to the general fund pursuant to section 9 (5) (b) (II) of article XVIII of the state constitution prior to July 1, 2002, two percent shall be transferred to the municipal limited gaming impact fund created in section 12-47.1-1501 and the amount transferred to the general fund pursuant to this subsection (4) shall be further reduced to forty-eight and eight-tenths percent.

(II) This paragraph (b) is repealed, effective September 1, 2002.

(c) Out of the forty-eight and eight-tenths percent that would otherwise be transferred to the general fund pursuant to this subsection (4), an amount to be determined as provided in paragraph (c) of subsection (1) of this section shall be transferred to the state highway fund and the amount transferred to the general fund pursuant to this subsection (4) shall be reduced accordingly.

12-47.1-702 - Audits and annual reports.

(1) The limited gaming fund shall be audited at least annually by or under the direction of the state auditor, who shall submit a report of the audit to the legislative audit committee. The expenses of the audit shall be paid from the limited gaming fund.

(2) Repealed.

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12-47.1-703 - Enforcement.

It is the duty of all sheriffs and police officers in this state to enforce the provisions of this article, or article 20 of title 18, C.R.S., and the rules and regulations promulgated by the commission, either on their own motion or upon complaint of any person, including any authorized agent of the commission. Such sheriffs and police officers may exercise any authority of inspection and examination specified in this article. The district attorneys of the respective judicial districts of this state shall prosecute all violations of this article in the same manner as provided for other crimes and misdemeanors.

12-47.1-704 - Attorney general - duties.

(1) The attorney general shall provide legal services for the division and the commission at the request of the executive director, director, or the commission. The attorney general shall make reasonable efforts to ensure that there is continuity in the legal services provided and that the attorneys providing legal services to the division and the commission have expertise in such field.

(2) The commission, the executive director, or the director may request the attorney general to make civil investigations and enforce civil violations of rules and regulations of the commission, on behalf of and in the name of the division, and to bring and defend civil suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the division.

(3) Expenses of the attorney general incurred in the performance of the responsibilities under this section shall be paid from the limited gaming fund.

12-47.1-801 - Slot machine manufacturers or distributors, operators, retailers, key employees, support licensees, persons contracting with the commission or division - criteria.

(1) This section applies to the following persons:

(a) All persons licensed pursuant to this article;

(b) With respect to privately held corporations licensed pursuant to this article, the officers, directors, and stockholders of such corporations;

(c) With respect to publicly traded corporations licensed pursuant to this article, all officers, directors, and stockholders holding either five percent or greater interest or a controlling interest;

(d) With respect to partnerships licensed pursuant to this article, all general partners and all limited partners;

(e) With respect to any other organization licensed pursuant to this article, all those persons connected with the organization having a relationship to it similar to that of an officer, director, or stockholder of a corporation;

(f) All persons contracting with or supplying any goods or service to the commission or the division;

(g) All persons supplying financing or loaning money to any licensee, when such financing or loan is connected with the establishment or operation of limited gaming;

(h) All persons having a contract, lease, or other ongoing financial or business arrangement with any licensee, where such contract, lease, or arrangement relates to limited gaming operations, equipment, devices, or premises.

(2) Each of the persons described in subsection (1) of this section shall be:

(a) A person of good moral character, honesty, and integrity notwithstanding the provisions of section 24-5-101, C.R.S.;

(b) A person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interests of this state or to the control of gaming or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying-on of the business or financial arrangements incidental to the conduct of gaming;

(c) A person who has not served a sentence upon conviction of a felony in a correctional facility, city or county jail, or community correctional facility or under the supervision of the state board of parole or any probation department within ten years prior to the date of applying for a license pursuant to this article, notwithstanding the provisions of section 24-5-101, C.R.S.;

(d) A person who has not been found to have seriously or repeatedly violated the provisions of this article or any rule or regulation promulgated pursuant to this article; and has not knowingly made a false statement of material facts to the commission, its legal counsel, or any employee of the division.

12-47.1-802 - False statement on application - violations of rules or provisions of article as felony.

Any person who knowingly makes a false statement in any application for a license or in any statement attached to the application, or who provides any false or misleading information to the commission or the division, or who fails to keep books and records to substantiate the receipts, expenses, or uses resulting from limited gaming conducted under this article as prescribed in rules or regulations promulgated by the commission, or who falsifies any books or records which relate to any transaction connected with the holding, operating, and conducting of any limited card games or slot machines, or who knowingly violates any of the provisions of this article or any rule or regulation adopted by the commission or any terms of

any license granted under this article, commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.

12-47.1-803 - Slot machines - shipping notices.

(1) (a) (I) Any slot machine manufacturer or distributor shipping or importing a slot machine into the state of Colorado shall provide to the commission at the time of shipment a copy of the shipping invoice which shall include, at a minimum, the destination, the serial number of each machine, and a description of each machine.

(II) Any person within the state of Colorado receiving a slot machine shall, upon receipt of the machine, provide to the commission upon a form available from the commission information showing at a minimum the location of each machine, its serial number, and description. Such report shall be provided regardless of whether the machine is received from a manufacturer or any other person.

(III) Any machine licensed pursuant to this section shall be licensed for a specific location, and movement of the machine from that location shall be reported to the commission in accordance with rules adopted by the commission.

(b) Any person violating any provision of this section commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.

(c) Any slot machine that is not in compliance with this article is declared contraband and may be summarily seized and destroyed after notice and hearing.

(d) The commission shall promulgate rules setting the time and manner for reporting the movement of any slot machine.

(2) Slot machines which because of age and condition bear no manufacturer serial number shall be assigned a serial number by a remanufacturer of slot machines. Such new serial number shall be duly recorded as required by federal regulations.

(3) The director may approve a change to the registration of a slot machine under circumstances constituting an emergency. If the director approves such an emergency change, the registration of the slot machine shall not be suspended pending the filing of a supplemental application.

12-47.1-804 - Persons prohibited from interest in limited gaming.

(1) None of the following persons shall have any interest, direct or indirect, in any license involved in or with limited gaming:

(a) Officers, reserve police officers, agents, or employees of any law enforcement agency of the state of Colorado with the authority to investigate or prosecute crime in Teller or Gilpin counties or of any local law enforcement agency or detention or correctional facility within Teller or Gilpin counties;

(b) District, county, or municipal court judges whose jurisdiction includes all or any portion of Teller or Gilpin counties;

(c) Elected municipal officials or county commissioners of the counties of Teller and Gilpin and of the cities of Central, Black Hawk, and Cripple Creek;

(d) Central, Black Hawk, or Cripple Creek city manager or planning commission member.

(2) No licensee may employ any person in any capacity while that person is in the employment of the commission or is in the employment of, or has a reserve police officer position with, a law enforcement agency of the state of Colorado with the authority to investigate or prosecute crime in Teller or Gilpin counties, any local law enforcement agency or detention or correctional facility within Teller or Gilpin counties, or any other county that may later be an authorized gaming location under section 12-47.1-105.

12-47.1-805 - Responsibilities of operator.

Every licensed operator and retailer having slot machines on his premises shall provide audit and security measures relating to slot machines, as prescribed by this article and by rules of the commission. Every licensed operator and retailer having slot machines on his premises shall ensure that the slot machines in his establishment comply with the specifications set forth in this article and the rules and regulations promulgated pursuant to this article.

12-47.1-806 - Slot machine - security and audit specifications.

All slot machines and all other equipment and devices used in limited gaming allowed by this article shall have the features,

security provisions, and audit specifications established in rules or regulations adopted by the commission.

12-47.1-807 - Gaming equipment - not subject to exclusive agreements.

It is the public policy of this state that gaming equipment authorized and approved by the commission may not be subject to any exclusive agreement entered into prior to October 1, 1991.

12-47.1-808 - Restriction upon persons having financial interest in retail licenses.

No person may have an ownership interest in more than three retail licenses. The interest of a licensed operator leasing or routing slot machines in return for a percentage of the income from limited gaming shall not by itself be considered an interest in a retail license under this section.

12-47.1-809 - Age of participants - violation as misdemeanor - applicability.

(1) (a) It is unlawful for any person under twenty-one years of age to:

(I) Linger in the gaming area of a casino;

(II) Sit on a chair or be present at a gaming table, slot machine, or other area in which gaming is conducted; or

(III) Participate, play, be allowed to play, place wagers, or collect winnings, whether personally or through an agent, in or from any limited gaming game or slot machines.

(b) Subparagraphs (I) and (II) of paragraph (a) of this subsection (1) shall not apply to a person employed by the casino in which the person is present.

(c) Nothing in paragraph (a) of this subsection (1) shall prevent any person under twenty-one years of age from passing through a casino to nongaming areas.

(2) It is unlawful for any person to engage in limited gaming with, or to share proceeds from limited gaming with, any person under twenty-one years of age.

(3) (a) It is unlawful for any licensee to permit any person who is less than twenty-one years of age to:

(I) Linger in the gaming area of a casino;

(II) Sit on a chair or be present at a gaming table, slot machine, or other area in which gaming is conducted; or

(III) Participate, play, place wagers, or collect winnings, whether personally or through an agent, in or from any limited gaming game or slot machine.

(b) Subparagraphs (I) and (II) of paragraph (a) of this subsection (3) shall not apply to a person employed by the casino in which the person is present.

(c) Nothing in paragraph (a) of this subsection (3) shall prevent any person under twenty-one years of age from passing through a casino to nongaming areas.

(4) Any person violating any of the provisions of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

(5) Any person violating any of the provisions of this section with a person under eighteen years of age may also be proceeded against pursuant to section 18-6-701, C.R.S., for contributing to the delinquency of a minor.

12-47.1-810 - Employee twenty-one years or older required on premises.

A retail licensee shall have one employee who is at least twenty-one years of age on the premises during the hours limited gaming is conducted and within full view and control of any limited card games or slot machines operated on the premises pursuant to the license obtained.

12-47.1-811 - Persons conducting limited gaming.

No person under the age of twenty-one years shall be employed as a gaming employee, conduct, or assist in conducting, any limited gaming activity, and no such person shall manage or handle any of the proceeds from limited gaming.

12-47.1-812 - Employee of licensed person - good moral character.

No person licensed under this article shall employ or be assisted by any person who is not of good moral character.

12-47.1-813 - Minimum payback - limit to a slot machine.

The minimum theoretical payback value on a slot machine shall be at least eighty but not more than one hundred percent of the value of any credit played. However, this section shall not be construed to prohibit tournament slot machines with theoretical payback values greater than one hundred percent where such machines do not accept nor pay out coins or tokens.

12-47.1-814 - Key employee - support license.

(1) A licensee shall not employ any person to work in the field of limited gaming, or to handle any of the proceeds of limited gaming, unless such person holds a valid key employee or support license issued by the commission.

(2) It is unlawful for any person holding a key employee or support license to participate in limited gaming in the gaming establishment where such licensee is employed; except that such licensee may participate in limited gaming if such participation is performed as part of such licensee's employment responsibilities.

12-47.1-815 - Extension of credit prohibited.

No person licensed under this article may extend credit to another person for participation in limited card games and slot machines.

12-47.1-816 - Maximum amount of bets.

The amount of a bet made pursuant to this article shall not be more than five dollars on the initial bet or subsequent bet, subject to rules promulgated by the commission.

12-47.1-817 - Failure to pay winners.

(1) It is unlawful for any licensee to willfully refuse to pay the winner of any limited gaming game.

(2) Any person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

12-47.1-818 - Approval of rules for certain games.

(1) Specific rules for blackjack and poker shall be approved by the commission and clearly posted within plain view of any applicable card table.

(2) No licensee shall offer poker or any variation game thereof without prior approval of the game by the commission.

(3) No licensee shall employ skills.

12-47.1-819 - Exchange - redemption of chips - unlawful acts.

It is unlawful for any person to exchange or redeem chips for anything whatsoever, except currency, negotiable personal checks, negotiable counter checks, or other chips. A licensee shall, upon the request of any person, redeem that licensee's gaming chips surrendered by that person in any amount over twenty-five dollars with a check drawn upon the licensee's account at any banking institution in this state and made payable to that person.

12-47.1-820 - Persons in supervisory positions - unlawful acts.

It is unlawful for any dealer, floorman, or any other employee who serves in a supervisory position, to solicit or accept any tip or gratuity from any player or patron at the premises where he is employed. A dealer may, however, accept tips or gratuities from a patron at the table at which such dealer is conducting play, subject to the provisions of this section. All

such tips or gratuities shall be immediately deposited in a lockbox reserved for that purpose, accounted for, and placed in a pool for distribution based upon criteria established in advance by the licensed retailer.

12-47.1-821 - Limited gaming - limited hours.

It shall be unlawful for any person to conduct or participate in limited gaming between the hours of 2:00 a.m. and 8:00 a.m.

12-47.1-822 - Cheating.

(1) It is unlawful for any person, whether he is an owner or employee of, or a player in, an establishment, to cheat at any limited gaming activity.

(2) For purposes of this article, "cheating" means to alter the selection of criteria which determine:

(a) The result of a game; or

(b) The amount or frequency of payment in a game.

(3) Any person issued a license pursuant to this article violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1-105, C.R.S., and any other person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. If the person is a repeating gambling offender the person commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.

12-47.1-823 - Fraudulent acts.

(1) It is unlawful for any person:

(a) To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(b) To place, increase, or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or

to aid anyone in acquiring such knowledge for the purpose of placing, increasing, or decreasing a bet or determining the course of play contingent upon that event or outcome;

(c) To claim, collect, or take, or attempt to claim, collect, or take, money or anything of value in or from a limited gaming activity with intent to defraud and without having made a wager contingent thereon, or to claim, collect, or take an amount greater than the amount won;

(d) Knowingly to entice or induce another to go to any place where limited gaming is being conducted or operated in violation of the provisions of this article, with the intent that the other person play or participate in that limited gaming activity;

(e) To place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets;

(f) To reduce the amount wagered or to cancel a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets;

(g) To manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a slot machine, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game;

(h) To, by any trick or slight of hand performance, or by fraud or fraudulent scheme, cards, or device, for himself or another, win or attempt to win money or property or a representative of either or reduce a losing wager or attempt to reduce a losing wager in connection with limited gaming;

(i) To conduct any limited gaming operation without a valid license;

(j) To conduct any limited gaming operation on an unlicensed premises;

(k) To permit any limited gaming game or slot machine to be conducted, operated, dealt, or carried on in any limited gaming premises by a person other than a person licensed for such premises pursuant to this article;

(l) To place any limited gaming games or slot machines into play or display such games or slot machines without the authorization of the commission;

(m) To employ or continue to employ any person in a limited gaming operation who is not duly licensed or registered in a position whose duties require a license or registration pursuant to this article; or

(n) To, without first obtaining the requisite license or registration pursuant to this article, be employed, work, or otherwise

act in a position whose duties would require licensing or registration pursuant to this article.

(2) Any person issued a license pursuant to this article violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1-105, C.R.S., and any other person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.

12-47.1-824 - Use of device for calculating probabilities.

(1) It is unlawful for any person at a licensed gaming establishment to use, or possess with the intent to use, any device to assist:

(a) In projecting the outcome of the game;

(b) In keeping track of the cards played;

(c) In analyzing the probability of the occurrence of an event relating to the game; or

(d) In analyzing the strategy for playing or betting to be used in the game, except as permitted by the commission.

(2) Any person issued a license pursuant to this article violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1-105, C.R.S., and any other person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.

12-47.1-825 - Use of counterfeit or unapproved chips or tokens or unlawful or devices - possession of certain unlawful devices, equipment, products, or materials.

(1) It is unlawful for any licensee, employee, or other person to use counterfeit chips in any limited gaming activity.

(2) It is unlawful for any person, in playing or using any limited gaming activity designed to be played with, to receive, or to be operated by chips or tokens approved by the commission or by lawful coin of the United States of America:

(a) Knowingly to use anything other than chips or tokens approved by the commission or lawful coin, legal tender of the

United States of America, or to use coin not of the same denomination as the coin intended to be used in that limited gaming activity; or

(b) To use any device or means to violate the provisions of this article.

(3) It is unlawful for any person to possess any device, equipment, or material which he knows has been manufactured, distributed, sold, tampered with, or serviced in violation of the provisions of this article.

(4) It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his or her employment within an establishment, to have on his or her person or in his or her possession any device intended to be used to violate the provisions of this article.

(5) It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his or her employment within an establishment, to have on his or her person or in his or her possession while on the premises of any licensed gaming establishment any key or device known to have been designed for the purpose of and suitable for opening, entering, or affecting the operation of any limited gaming activity, drop box, or electronic or mechanical device connected thereto, or for removing money or other contents therefrom.

(6) Possession of more than one of the devices, equipment, products, or materials described in this section shall give rise to a rebuttable presumption that the possessor intended to use them for cheating.

(7) It is unlawful for any person to use or possess while on the premises any cheating or thieving device, including but not limited to, tools, drills, wires, coins, or tokens attached to strings or wires or electronic or magnetic devices, to facilitate the alignment of any winning combination or to facilitate removing from any slot machine any money or contents thereof, unless the person is a duly authorized gaming employee acting in the furtherance of his or her employment.

(8) Any person issued a license pursuant to this article violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1-105, C.R.S., and any other person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.

12-47.1-826 - Cheating game and devices.

(1) It is unlawful for any person playing any licensed game in licensed gaming premises to:

(a) Knowingly conduct, carry on, operate, or deal or allow to be conducted, carried on, operated, or dealt any cheating or thieving game or device; or

(b) Knowingly deal, conduct, carry on, operate, or expose for play any game or games played with cards or any mechanical device, or any combination of games or devices, which have in any manner been marked or tampered with or placed in a condition or operated in a manner the result of which tends to deceive the public or tends to alter the normal random selection of characteristics or the normal chance of the game which could determine or alter the result of the game.

(2) Any person issued a license pursuant to this article violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1-105, C.R.S., and any other person violating this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.

12-47.1-827 - Unlawful manufacture, sale, distribution, marking, altering, or modification of equipment and devices associated with limited gaming – unlawful instruction.

(1) It is unlawful to manufacture, sell, or distribute any cards, chips, dice, game, or device which is intended to be used to violate any provision of this article.

(2) It is unlawful to mark, alter, or otherwise modify any associated equipment or limited gaming device in a manner that:

(a) Affects the result of a wager by determining win or loss; or

(b) Alters the normal criteria of random selection, which affects the operation of a game or which determines the outcome of a game.

(3) It is unlawful for any person to instruct another in cheating or in the use of any device for that purpose, with the knowledge or intent that the information or use so conveyed may be employed to violate any provision of this article.

(4) Any person issued a license pursuant to this article violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1-105, C.R.S., and any other person violating any provision of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.

12-47.1-828 - Unlawful entry by excluded and ejected persons.

(1) It is unlawful for any person whose name is on the list promulgated by the commission pursuant to section 12-47.1-1001 or 12-47.1-1002 to enter the licensed premises of a limited gaming licensee.

(2) It is unlawful for any person whose name is on the list promulgated by the commission pursuant to section 12-47.1-1001 or 12-47.1-1002 to have any personal pecuniary interest, direct or indirect, in any limited gaming licensee, licensed premises, establishment, or business involved in or with limited gaming or in the shares in any corporation, association, or firm licensed pursuant to this article.

(3) Any person violating the provisions of this section commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.

12-47.1-829 - Detention and questioning of person suspected of violating article - limitations on liability - posting of notice.

(1) Any licensee or an officer, employee, or agent thereof may question any person in the licensee's establishment suspected of violating any of the provisions of this article. A licensee or any officer, employee, or agent thereof is not criminally or civilly liable:

(a) On account of any such questioning; or

(b) For reporting to the division, commission, or law enforcement authorities the person suspected of the violation.

(2) Any licensee or any officer, employee, or agent thereof who has probable cause to believe that there has been a violation of this article in the licensee's establishment by any person may take that person into custody and detain him in the establishment in a reasonable manner and for a reasonable length of time. Such a taking into custody and detention does not render the licensee or the officer, employee, or agent thereof criminally or civilly liable unless it is established by clear and convincing evidence that the taking into custody or detention is unreasonable under all the circumstances.

(3) A licensee or any officer, employee, or agent thereof is not entitled to the immunity from liability provided for in subsection (2) of this section unless there is displayed in a conspicuous place in the licensee's establishment a notice in bold-face type clearly legible and in substantially this form:

"Any gaming licensee, or any officer, employee, or agent thereof who has probable cause to believe that any person has violated any provision prohibiting cheating in limited gaming may detain that person in the establishment."

12-47.1-830 - Failure to display operator and premises licenses.

(1) It is unlawful for any person to fail to permanently display in a conspicuous manner:

(a) Operator and premises licenses granted by the commission;

(b) A notice in bold face type which is clearly legible and in substantially the following form:

"IT IS UNLAWFUL FOR ANY PERSON UNDER THE AGE OF TWENTY-ONE TO ENGAGE IN LIMITED GAMING".

(2) Any person violating this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

12-47.1-831 - Authority, duties, and powers - department of revenue and department of public safety.

(1) The gaming commission, the department of revenue, and the division shall regulate the gaming industry and enforce the gaming laws. Nothing in this section shall be construed to prohibit or limit the authority of local sheriffs or police officers to enforce all the provisions of this article or the rules and regulations promulgated pursuant to this article.

(2) The Colorado bureau of investigation shall have authority for the following:

(a) Conduct criminal investigations and law enforcement oversight relating to violations of the "Colorado Organized Crime Control Act" article 17 of title 18, C.R.S., as these violations are reported by law enforcement officials, the gaming commission, the governor, or as discovered by the Colorado bureau of investigation.

(b) In cooperation with local law enforcement officials and the commission, the Colorado bureau of investigation shall develop and collect information with regard to organized crime in an effort to identify criminal elements or enterprises which might infiltrate and influence limited gaming and report such information to appropriate law enforcement organizations and the limited gaming commission.

(c) Prepare reports concerning any activities in, or movements into, this state of organized crime for use by the commission or the governor in their efforts to prevent and thwart criminal elements or enterprises from infiltrating or influencing limited gaming as defined in this article.

(d) Inspect or examine, during normal business hours, premises, equipment, books, records, or other written material maintained at gaming establishments as required by this article, in the course of performing the activities of the Colorado bureau of investigation as set forth in this section.

(3) The commission shall, in cooperation with the Colorado bureau of investigation, conduct background investigations of gaming license applicants, licensees, owners or tenants of property or premises upon which gaming is permitted or conducted, and key employees of such gaming establishments as defined in this article or by commission rule or regulation.

(4) Criminal violations of this article discovered during an authorized investigation or discovered by the limited gaming commission shall be referred to the appropriate district attorney.

(5) The director of the Colorado bureau of investigation shall employ such personnel as may be necessary to carry out the duties and responsibilities set forth in this article. The commission shall authorize payment to the Colorado bureau of investigation for the cost involved. Costs for activities relating to limited gaming shall be paid from the limited gaming fund pursuant to preestablished contracts or formal agreements, or both, including contracts or formal agreements on specific activities the department of public safety will complete for the commission and conditions for payment, the manner in which the commission and the department of public safety will review budgets and project resource needs in the future, and the level of cooperation established between the division, the Colorado bureau of investigation for conducting background investigations, and the Colorado state patrol for contracted services.

12-47.1-832 - Violations of article as misdemeanors.

Any person violating any of the provisions of this article, or any of the rules and regulations promulgated pursuant thereto, commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S., except as may otherwise be specifically provided in this article.

12-47.1-833 - Agreements, contracts, leases - void and unenforceable.

All agreements, contracts, leases, or arrangements in violation of this article, or the rules and regulations promulgated pursuant to this article, are void and unenforceable.

12-47.1-834 - Buildings - accessible to persons with disabilities.

(1) All premises where limited gaming is conducted shall be accessible to and functional for persons with physical disabilities.

(2) An exception to the requirement of subsection (1) of this section may be granted in cases where the local historical preservation commission determines that compliance would result in degradation of the historical significance of the building where limited gaming is conducted.

12-47.1-835 - Financial interest restrictions.

(1) (a) No manufacturer or distributor of slot machines or associated equipment shall:

(I) Have any interest, directly or indirectly, in any operator;

(II) Allow any of its officers, or any other person with a substantial interest in such business, to have any interest in an operator;

(III) Employ any person in any capacity or allow any person to represent the business in any way if such person is also employed by an operator;

(IV) Allow any operator or any person with a substantial interest therein, to have an interest directly or indirectly in the business;

(V) Allow any operator or any person having a substantial interest therein, to have any interest, directly or indirectly, in such business.

(b) The word "interest" as used in this section does not preclude transactions in the ordinary course of business.

12-47.1-836 - Distributorships located in the state of Colorado.

Any manufacturer shall have its own distributorship or a separate distributor for the sale of gaming equipment, which distributorship or distributor shall be a resident of Colorado or shall be located in Colorado.

12-47.1-837 - Revocation or expiration of license - requirement of notification.

A licensee shall, within twenty-four hours of receipt of written notice thereof, terminate the appointment or employment of any person whose license has been revoked or has expired. A licensee whose license has been revoked or has expired shall notify such licensee's employer within twenty-four hours after such revocation or expiration.

12-47.1-838 - Personal pecuniary gain or conflict of interest.

(1) It is unlawful for any person to issue, suspend, revoke, or renew any license pursuant to this article for any personal pecuniary gain or any thing of value, as defined in section 18-1-901 (3) (r), C.R.S., or for any person to violate any of the provisions of section 12-47.1-401.

(2) Any person violating any of the provisions of this section commits a class 3 felony and shall be punished as provided in section 18-1-105, C.R.S.

12-47.1-839 - False or misleading information - unlawful.

(1) It is unlawful for any person to provide any false or misleading information under the provisions of this article.

(2) Any person violating any of the provisions of this section commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.

12-47.1-901 - Events sponsored by charitable organizations.

(1) Any person licensed as a retailer, or as both a retailer and operator, may choose to allow a charitable organization to sponsor limited gaming at that retailer's licensed premises, if the following conditions are met:

(a) The organization is a charitable organization, which for purposes of this section means any organization, not for pecuniary profit, which is operated for the relief of poverty, distress, or other condition of public concern within this state and which has been so engaged for five years prior to making application to sponsor limited gaming under this article;

(b) The licensed operator or retailer and the charitable organization agree in writing upon all the terms and conditions of the sponsorship, and a copy of the written agreement is filed with the commission at least fourteen days prior to the day of the sponsored event;

(c) All sponsored events shall take place on licensed retail premises, and all requirements of this article shall apply to such events, unless specifically modified by this part 9; and

(d) Criminal violations of this article discovered during an authorized investigation or discovered by the commission shall be referred to the appropriate district attorney.

12-47.1-902 - Terms of sponsorship.

(1) All limited gaming events sponsored by charitable organizations pursuant to this part 9 shall, in addition to all the other requirements of this article, meet the following conditions:

(a) The agreement between the licensed operator or retailer and the charitable organization shall provide for the payment by the charitable organization to the retailer or operator of a flat fee or no fee; in return, the charitable organization shall receive one hundred percent of the adjusted gross proceeds, less the amount of taxes due on those proceeds as determined by the commission from gaming for each day of the sponsored event, or during all the hours of a sponsored event if less than a full day. The licensed operator or retailer shall report and pay taxes on the full amount of the adjusted gross proceeds from gaming sponsored by any charitable organization.

(b) A one-day sponsored event shall, for purposes of this part 9, begin at 8:00 a.m. on one day and end at 2:00 a.m. on the following day. For purposes of this section, no event shall be considered as less than a one-day event; except that a retailer may devote less than one full day to a charitable event.

(c) No retailer shall permit a single charitable organization to sponsor more than three days of limited gaming at that retailer's licensed premises during any calendar year; and no retailer shall permit more than thirty total days of sponsored events on its premises during any calendar year;

(d) No charitable organization shall sponsor more than three days of limited gaming during any calendar year;

(e) The charitable organization shall file notice of its intent to sponsor limited gaming at least fourteen days in advance with the commission, upon forms provided by the commission.

12-47.1-903 - Notice of sponsorship.

No person licensed as a retailer, operator, key employee, or support person, and no member, agent, employee, officer, or director of a charitable organization, shall represent to any person that a limited gaming activity is being sponsored by that or another charitable organization unless the sponsoring charitable organization has filed a notice of intent with the commission pursuant to section 12-47.1-902 (1) (e).

12-47.1-1001 - Persons excluded or ejected - factors considered – legislative declaration.

(1) The general assembly hereby declares that the exclusion or ejection of certain persons from licensed gaming establishments is necessary to carry out the policies of this article and to maintain effectively the strict regulation of licensed gaming.

(2) The commission may by rule or regulation provide for the establishment of a list of persons who are to be excluded or ejected from any licensed gaming establishment, including any person whose presence in the establishment is determined to pose a threat to the interest of the state of Colorado or to licensed gaming, or both. In making the determination for exclusion, the commission may consider any of the following:

(a) Prior conviction of a felony, a misdemeanor involving moral turpitude, or a violation of the gaming laws of any state, the United States, or any of its possessions or territories, including Indian tribes;

(b) A violation, attempt to violate, or conspiracy to violate the provisions of this article relating to the failure to disclose an interest in a gaming establishment for which the person must obtain a license or make disclosures to the commission, or intentional evasion of fees or taxes;

(c) A reputation that would adversely affect public confidence and trust that the gaming industry is free from criminal or corruptive influences;

(d) Prior exclusion or ejection under the gaming regulations of any other state, the United States, any of its possessions or territories, or an Indian tribe which regulates gaming;

(e) Career or professional offenders or associates of career or professional offenders, and such others as defined by regulation of the commission.

(3) If the name and description of any person is placed on the exclusion list, the commission shall serve notice of that action upon the person by at least one of the following means:

(a) By personal service;

(b) By certified mail to the last-known address of the person; or

(c) By publication in one or more official newspapers in Teller and Gilpin Counties, Colorado. A person placed upon the exclusion list may contest that action by filing a written protest with the commission, and the protest shall be heard by the commission as a contested case.

(4) The commission may impose sanctions upon any licensee in accordance with the provisions of this article if such

licensee fails to exclude or eject from the licensed premises any person placed by the commission on the list of persons to

be excluded or ejected from licensed gaming establishments, which sanctions may include, but not be limited to, suspension, revocation, limitation, modification, denial, or restriction of any license.

12-47.1-1002 - Emergency listing of persons to be excluded or ejected.

(1) The commission, by rule and regulation, and notwithstanding the provisions of section 12-47.1-1001, may list persons to

be excluded or ejected from any licensed gaming establishment, effective October 1, 1991, if the commission finds that

listing such persons on an emergency basis is necessary to avoid danger to the public safety and if the public confidence and

trust would be maintained only if such persons were listed on such an emergency basis.

(2) Notwithstanding the provisions of section 24-4-103 (6), C.R.S., the listing of persons to be excluded or ejected

pursuant to this section expires one year after the adoption of the list, unless the provisions of section 12-47.1-1001 are

followed for permanent listing.

(3) With respect to the finding of danger to public safety, the commission shall consider whether the persons have been

listed on the list of persons excluded or ejected under the laws and regulations of the states of Nevada, New Jersey, South

Dakota, and any other states, the United States, its territories or possessions, or any Indian tribe regulating gaming.

(4) Any rule adopted pursuant to this section shall be followed within thirty days after such emergency listing by the procedures set forth in section 12-47.1-1001. A listing pursuant to this section must be vacated upon the conclusion of the rule-making proceeding initiated under section 12-47.1-1001 if a determination is made by the commission that a person should not have been placed on the list of persons to be excluded or ejected.

12-47.1-1101 - Exemption from federal law.

Pursuant to section 2 of an act of congress of the United States entitled "An Act to prohibit transportation of gambling devices in interstate and foreign commerce", approved January 2, 1951, designated 15 U.S.C. Secs. 1171 to 1177, inclusive, and in effect January 1, 1989, the state of Colorado acting by and through its elected and qualified members of its general assembly, does hereby, and in accordance with and in compliance with the provisions of section 2 of the act of congress, declare and proclaim that it is exempt from the provisions of section 2 of that act of congress of the United States, as regards gaming devices operated and used within the cities of Central, Black Hawk, and Cripple Creek, Colorado.

12-47.1-1102 - Shipments of devices and machines deemed legal.

All shipments of gaming devices, including slot machines, into this state, the registering, recording, and labeling of which has been duly made by the manufacturer or dealer thereof in accordance with sections 3 and 4 of an act of congress of the United States entitled "An Act to prohibit transportation of gambling devices in interstate and foreign commerce", approved January 2, 1951, designated as 15 U.S.C. Secs. 1171 to 1177, inclusive, and in effect on January 1, 1989, shall be deemed legal shipments thereof, for use only within the cities of Central, Black Hawk, and Cripple Creek, Colorado.

12-47.1-1103 - Possession of slot machines.

Notwithstanding any other laws of this state to the contrary, the possession of slot machines in this state by licensed manufacturers, distributors, and operators is legal if all the requirements, conditions, and provisions of this article and the rules and regulations promulgated pursuant to this article are met and complied with. However, nothing in this section shall

be deemed to authorize or permit any use of slot machines for any purpose, except as specifically authorized and provided for in this article and the rules and regulations promulgated pursuant to this article.

12-47.1-1201 - State historical fund - administration.

(1) The state treasurer shall make annual distributions, from the state historical fund created by subsection (5) (b) (II) of section 9 of article XVIII of the state constitution, in accordance with the provisions of subsection (5) (b) (III) of said section 9. The moneys remaining in the fund after such annual distribution shall be administered by the state historical society. The society shall make grants from said fund for the following historic preservation purposes:

(a) The identification, evaluation, documentation, study, and marking of buildings, structures, objects, sites, or areas important in the history, architecture, archaeology, or culture of this state, and the official designation of such properties;

(b) The excavation, stabilization, restoration, rehabilitation, reconstruction, or acquisition of such designated properties;

(c) Education and training for governmental entities, organizations, and private citizens on how to plan for and accommodate the preservation of historic structures, buildings, and districts as well as archaeological sites;

(d) Preparation, production, distribution, and presentation of educational, informational, and technical documents, guidance, and aids on historic preservation practices, standards, guidelines, techniques, economic incentives, protective mechanisms, and historic preservation planning.

(2) The society shall make grants primarily to public entities; except that the society may make grants to persons in the private sector so long as the person requesting the grant makes application through a municipality or a county. The selection of recipients and the amount granted to a recipient shall be determined by the society, which determination shall be based on the information provided in the applications submitted to the society.

(3) The society may expend a portion of the state historical fund to cover such reasonable costs as may be incurred in the selection, monitoring, and administration of grants for historic preservation purposes. The society may employ such personnel in accordance with section 13 of article XII of the state constitution as may be necessary to fulfill its duties in accordance with this section.

(4) The society shall have the authority to promulgate rules and regulations for the purpose of administering the state

historical fund, which rules and regulations may include criteria for consideration in awarding grants from such fund and standards for preservation which are acceptable to the society and which shall be employed by grant recipients.

12-47.1-1501 - Municipal limited gaming impact fund.

(1) There is hereby created in the office of the state treasurer the municipal limited gaming impact fund, referred to in this part 15 as the "fund", for the purpose of compensating the municipalities located in the counties of Gilpin and Teller, other than the City of Central, the City of Black Hawk, and the City of Cripple Creek, for various expenses incurred in response to the limited gaming permitted in the counties of Gilpin and Teller.

(2) Out of the fifty percent share of limited gaming proceeds to be transferred to the general fund pursuant to section 9 (5) (b) (II) of article XVIII of the state constitution prior to July 1, 2002, two percent shall be transferred annually to the fund by the state treasurer.

(3) Within thirty days of a transfer to the fund, the state treasurer shall make distributions to the governing bodies of the cities of Woodland Park and Victor in accordance with subsection (4) of this section for planning, construction, and maintenance of public facilities, for the provision of public services, and for the mitigation of such other impacts resulting from limited gaming as the governing body of each city may determine.

(4) Of the moneys transferred to the fund pursuant to subsection (2) of this section, seventy-five percent shall be distributed to the governing body of the City of Woodland Park, and twenty-five percent shall be distributed to the governing body of the City of Victor for the purposes set forth in this section.

(5) Each city shall deposit its share of moneys from the fund into a special account for expenditures related to limited gaming impacts. The governing body of each city receiving moneys from the fund shall prepare an annual report to the joint budget committee of the general assembly concerning the purposes for which such moneys were expended during the preceding year and the relationship of such uses to the impacts of limited gaming.

(6) Each city receiving moneys shall have discretion concerning the final determination of how to expend such moneys, and no such city shall be prohibited, after initial deposit into its special account, from transferring moneys to any other city account or fund as long as a record is kept of such transfer and the reasons therefor.

12-47.1-1502 - Repeal of part.

This part 15 is repealed, effective July 1, 2002.

12-47.1-1601 - Local government limited gaming impact fund.

(1) (a) There is hereby created in the office of the state treasurer the local government limited gaming impact fund, referred to in this part 16 as the "fund", for the purpose of providing financial assistance to designated local governments for documented gaming impacts. For the purposes of this part 16, "documented gaming impacts" means the documented expenses, costs, and other impacts incurred directly as a result of limited gaming permitted in the counties of Gilpin and Teller and on Indian lands.

(b) Following the final distribution of moneys from the contiguous county limited gaming impact fund made pursuant to section 12-47.1-1401, but in no event later than June 30, 1998, any unencumbered moneys remaining in the contiguous county limited gaming impact fund shall be transferred to the fund created by paragraph (a) of this subsection (1).

(c) Following the final distribution of moneys from the municipal gaming impact fund made pursuant to section 12-47.1-1501, but in no event later than August 31, 2002, any moneys remaining in the municipal gaming impact fund shall be transferred to the fund created by paragraph (a) of this subsection (1).

(2) Out of the fifty percent share to be transferred to the general fund pursuant to section 9 (5) (b) (II) of article XVIII of the state constitution, a percentage thereof, which shall be determined by the commission in consultation with the local government limited gaming impact advisory committee created in section 12-47.1-1602, shall be transferred annually to the fund.

(3) Except as otherwise provided in this subsection (3), in no event shall less than an aggregate total of eleven percent of the fifty percent share of the limited gaming fund to be transferred to the general fund pursuant to section 9 (5) (b) (II) of article XVIII of the state constitution be transferred annually to the fund. Commencing July 1, 2002, in no event shall less than an aggregate total of thirteen percent of the fifty percent share of the limited gaming fund to be transferred annually to the general fund pursuant to section 9 (5) (b) (II) of article XVIII of the state constitution be transferred to the fund. The local government limited gaming impact advisory committee shall request that the commission and the general assembly

approve funding for all documented gaming impacts upon local governments eligible for funding pursuant to subsection (4) of this section from the general fund share of gaming revenues if the committee determines that the documented gaming impacts upon eligible local governments exceed:

- (a) The amount of state gaming funds provided by the state constitution to affected counties;
- (b) The amount of locally derived revenues from gaming; and
- (c) The amount of revenue distributed pursuant to this section.

(4) (a) After considering the recommendations of the local government limited gaming impact advisory committee created in section 12-47.1-1602, the moneys from the local government limited gaming impact fund shall be distributed at the authority of the executive director of the department of local affairs to eligible local governmental entities upon their application for grants to finance planning, construction, and maintenance of public facilities and the provision of public services related to the documented gaming impacts.

(b) For the purposes of this part 16, the term "eligible local governmental entity" means the following local governmental entities:

(I) The counties of Boulder, Clear Creek, Grand, Jefferson, El Paso, Fremont, Park, Douglas, Gilpin, Teller, La Plata, Montezuma, and Archuleta;

(II) Any municipality located within the boundaries of any county set forth in subparagraph (I) of this paragraph (b), except the City of Central, the City of Black Hawk, and the City of Cripple Creek; and

(III) Any special district providing emergency services within the boundaries of any county set forth in subparagraph (I) of this paragraph (b).

(5) Notwithstanding the provisions of subparagraph (II) of paragraph (b) of subsection (4) of this section, neither the City of Woodland Park nor the City of Victor shall be eligible local governmental entities prior to July 1, 2002.

12-47.1-1602 - Local government limited gaming impact advisory committee - creation - duties.

(1) There is hereby created within the department of local affairs a local government limited gaming impact advisory committee, referred to in this section as the "committee". The committee shall be composed of the following thirteen members:

- (a) The executive director of the department of local affairs;
- (b) Two members, one of whom shall be appointed by and serve at the pleasure of the executive director of the department of public safety and one who shall be appointed by and serve at the pleasure of the executive director of the department of revenue;
- (c) Three members representing the counties eligible to receive moneys from the fund pursuant to section 12-47.1-1601
- (4) who shall serve at the pleasure of the boards and who shall be appointed as follows:
- (I) One member shall be appointed by the chairs of the boards of county commissioners from the counties impacted by gaming in the City of Cripple Creek who shall serve a term of four years, except the initial appointee who shall serve a term of two years;
- (II) One member shall be appointed by the chairs of the boards of county commissioners from the counties impacted by gaming in the City of Central and the City of Black Hawk who shall serve a term of four years; and
- (III) One member shall be appointed by the chairs of the boards of county commissioners from the counties impacted by tribal gaming who shall serve a term of four years.
- (d) Two members representing the municipalities eligible to receive moneys from the fund pursuant to section 12-47.1-1601 (4) to be appointed by the mayors of the municipalities and who shall serve at the pleasure of the mayors for terms of four years; except that one of the initial appointees shall serve a term of two years. Not more than one member shall be selected pursuant to this paragraph (d) from each of the groups of counties described in subparagraphs (I) to (III) of paragraph (c) of this subsection (1).
- (e) One member representing the special districts providing emergency services that are eligible to receive moneys from the fund pursuant to section 12-47.1-1601 (4) to be appointed by and who shall serve at the pleasure of the director of the emergency medical services and prevention division of the department of public health;
- (f) One member of the Colorado house of representatives to be appointed by the speaker of the house of representatives and who shall serve at the pleasure of the speaker;
- (g) One member of the Colorado senate to be appointed by the president of the senate and who shall serve at the pleasure of the president; and
- (h) Two members representing the governor, to be appointed by the governor and who shall serve at the pleasure of the governor.
- (2) The executive director of the department of local affairs shall convene the first meeting of the committee. The

committee shall select a chair of the committee, from among the committee members, who shall convene the committee from time to time as the committee deems necessary.

(3) The committee shall have the following duties:

(a) To establish a standardized methodology and criteria for documenting, measuring, assessing, and reporting the documented gaming impacts upon eligible local governmental entities;

(b) To review the documented gaming impacts upon eligible local governmental entities on a continuing basis;

(c) To review grant applications from eligible local governmental entities, individually or in cooperation with other eligible local governmental entities, based upon the needs of the entities and the documented gaming impacts on the entities;

(d) To make funding recommendations on a continuing basis to be considered by the executive director in making funding decisions for grant applications submitted by eligible local governmental entities pursuant to section 12-47.1-1601 (4) (a);

(e) To make requests as required by section 12-47.1-1601 (3) that the Colorado limited gaming control commission and the general assembly approve funding for all documented gaming impacts upon local governments eligible for funding pursuant to section 12-47.1-1601 (3).

ARTICLE 47.2. TRIBAL STATE GAMING COMPACT

12-47.2-101 - Tribal-state gaming compact.

In accordance with federal Indian gaming regulations in 25 U.S.C. 2710 (d) (3) (C), any Indian tribe having jurisdiction over the Indian lands upon which class III gaming activity is being conducted or is to be conducted shall request the governor of Colorado on behalf of this state to enter into negotiations for the purpose of entering into a tribal-state compact governing the conduct of gaming activities. Upon receiving such a request, the governor shall negotiate, after consultation with the Colorado limited gaming control commission created in section 12-47.1-301, with the Indian tribe in good faith to enter such a compact.

12-47.2-102 - Effective date of compact.

The tribal-state compact entered into between the governor and an Indian tribe governing gaming activities on the Indian

lands of the Indian tribe shall take effect when notice of approval of such compact by the secretary of the federal department of the interior has been published by said secretary in the federal register.

12-47.2-103 - Provisions of compact.

(1) Any tribal-state compact entered into pursuant to section 12-47.2-101 may include, but shall not be limited to, the following provisions:

(a) The application of the criminal and civil laws and regulations of the Indian tribe or of this state that are directly related to, and necessary for, the licensing and regulation of such activity;

(b) The allocation of criminal and civil jurisdiction between this state and the Indian tribe necessary for the enforcement of such laws and regulations;

(c) The assessment by this state of such activities in such amounts as are necessary to defray the costs of regulating such activity;

(d) Taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by this state for comparable activities;

(e) Remedies for breach of contract;

(f) Standards for the operation of such activity and maintenance of the gaming facility, including licensing; and

(g) Any other subjects that are directly related to the operation of gaming activities.

(2) It is the intent of the general assembly that the restrictions set forth in section 9 of article XVIII of the state constitution shall apply to limited gaming activities on tribal lands.

ARTICLE 60. RACING

PART 2. DIVISION OF RACING EVENTS

12-60-101 - Legislative declaration.

The general assembly declares that the provisions of this article are enacted in the exercise of the police powers of this

state for the protection of the health, peace, safety, and general welfare of the people of this state; for the purpose of promoting racing and the recreational, entertainment, and commercial benefits to be derived therefrom; to raise revenue for the general fund; to establish high standards of sport and fair play; for the promotion of the health and safety of the animals involved in racing events; and to foster honesty and fair dealing in the racing industry. To these ends, this article shall be liberally construed.

12-60-102 - Definitions - repeal.

As used in this article, unless the context otherwise requires:

(1) "Breakage" means the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of ten cents.

(2) "Circuit" means either the north circuit or the south circuit established within the state of Colorado for the racing of greyhounds pursuant to section 12-60-603 (2).

(3) "Class A track" means a track, located within the state of Colorado, at which a race meet of horses is conducted and which is not a class B track.

(4) (a) (I) "Class B track" means a track, located within the state of Colorado, at which a race meet of horses, consisting of thirty or more race days, is being conducted or was being conducted during the immediately preceding twelve months.

(II) This paragraph (a) is repealed, effective April 20, 2003.

(b) (I) "Class B track" means a track, located within the state of Colorado, at which a race meet of horses, consisting of fifty or more race days, is being conducted or was being conducted during the immediately preceding twelve months; except that, in its third year of operation and in each year thereafter, such a track must be the site of a race meet of horses consisting of sixty or more race days in order to maintain its class B status.

(II) (A) A track that qualified as a class B track during calendar year 2002 shall maintain its class B status for calendar year 2003 if it applies for a license to conduct, during 2003, a race meet of horses consisting of sixty or more race days or, if 2003 is the track's first or second year of operation, fifty or more race days.

(B) This subparagraph (II) is repealed, effective April 20, 2004.

(III) This paragraph (b) is effective April 21, 2003.

(5) "Commission" means the Colorado racing commission created in part 3 of this article.

(6) "Cross simulcasting" means either the receipt of a simulcast race of horses by a simulcast facility which is located on the premises of a track which is licensed to race greyhounds or the receipt of a simulcast race of greyhounds by a simulcast facility which is located on the premises of a track which is licensed to race horses.

(7) "Director" means the director of the division of racing events.

(8) "Division" means the division of racing events created in part 2 of this article.

(9) "Executive director" means the executive director of the department of revenue organized as provided in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(10) "Greyhound track" means a track, located within the state of Colorado, at which a race meet of greyhounds is conducted.

(11) "Horse track" means either a class A track or a class B track.

(12) "Host track" means either an in-state host track or an out-of-state host track.

(13) "In-state host track" means a track, located within the state of Colorado, at which a race meet of either horses or greyhounds is conducted.

(14) (a) "In-state simulcast facility" means a track which is operated by a licensee or an additional facility which is operated by and is the responsibility of a licensee who has held within the preceding twelve months or is licensed and scheduled to hold within the following twelve months a race meet of at least fifty race days or at least sixty race days if such twelve-month period includes any portion of the licensee's third or subsequent year of operating the licensee's track, which is located within the state of Colorado, and which is used for the handling of wagers placed on simulcast races received by such track or facility. The number of such additional facilities shall not exceed one per operating track. On and after July 1, 1993, through July 1, 1996, no licensee may operate any additional facility unless a horse race meet of at least fifty race days was conducted at a Colorado horse track during the immediately preceding year. Such additional facilities shall not be located within fifty miles of any track operated by another licensee which has held, within the previous twelve months, or is licensed and scheduled to hold, within the next twelve months, a race meet of no less than fifty race days or no less than sixty race days if such twelve-month period includes any portion of the track's third or subsequent year of operation, without the written consent of such other licensee. The commission shall establish by rule the means of obtaining such consent.

(b) If an additional facility is jointly owned or operated as a simulcast facility by two or more licensees, such additional

facility shall be deemed to be one of the additional simulcast facilities of only one of such licensees, as designated in writing to the commission.

(15) "Interstate common pool" means a pari-mutuel pool established at one location, usually but not necessarily at a host track, within which pool are combined comparable pari-mutuel pools of one or more simulcast facilities upon a race run at the host track for purposes of establishing payoff prices in the various states. There may be simulcast facilities in more than one state simultaneously combining pari-mutuel pools into the common pool of the host track. Where permitted by the laws and rules of the states in which the host track and the simulcast facilities are located and with the concurrence of the host track, the combined pari-mutuel pool may be established on a regional or other basis between two or more simulcast facilities and need not involve a merger into the host track's pari-mutuel pool. In such instances, one of the simulcast facilities shall serve as if it were the host track for the purposes of holding the common pool and calculating payoffs. The interstate common pool shall be as specified in the written simulcast racing agreement between the host track and the person operating the simulcast facility receiving such simulcast races.

(16) "Intrastate common pool" means a pari-mutuel pool, established for an in-state host track, which includes wagers made at the in-state host track as well as wagers made at in-state simulcast facilities on simulcast races of live races run at the in-state host track.

(17) "Licensee" means any person holding a current, valid race meet license issued pursuant to section 12-60-505 and any person holding a current, valid license or registration issued by the commission pursuant to section 12-60-503 and section 12-60-504. The commission, by rule, shall determine which occupational categories shall be licensed and which shall be registered. Except in connection with the licensing of race meets, the term "license" includes a registration and "applicant" includes an applicant for a registration.

(18) "Out-of-state host track" means a track, located within a state other than Colorado, which is licensed or otherwise properly authorized under the laws of such state to conduct live races of horses or greyhounds and to broadcast such races as simulcast races and which broadcasts such simulcast races to an in-state simulcast facility.

(19) "Out-of-state simulcast facility" means a track or other facility, located within a state other than Colorado, at which pari-mutuel wagers are placed on simulcast races pursuant to proper authorization under the laws of such state.

(20) "Pari-mutuel pool" means a wagering pool into which pari-mutuel wagers on a live race or on a simulcast race are taken.

(20.5) "Pari-mutuel wagering" means a form of wagering on the outcome of horse and greyhound races in which those who wager purchase tickets of various denominations on one or more horses or greyhounds from one or more pools and all like wagers from each race are pooled and the winning ticket holders are paid prizes from such pool in amounts proportional to the total receipts in the pool minus deductions authorized by statute.

(21) "Person" means any individual, partnership, firm, corporation, or association.

(22) "Race meet" means any live exhibition of racing involving horses registered within their breed or greyhounds, conducted at a track located within the state of Colorado and operated by a licensee under a license granted pursuant to section 12-60-505, where the pari-mutuel system of wagering is used.

(23) "Simulcast facility" means either an in-state simulcast facility or an out-of-state simulcast facility.

(24) "Simulcast race" means a live, audio-visual broadcast, transmitted simultaneously with the performance of a live race of horses or greyhounds by either an out-of-state host track or an in-state host track, which is received by a simulcast facility.

(25) "Special event" means all or part of a day's program of live racing of greyhounds run at an out-of-state host track.

The commission shall designate those greyhound race programs which shall be recognized as special events.

(26) "Track" or "racetrack" means a track which is located within the state of Colorado and at which a race meet of either horses or greyhounds is conducted under a license granted pursuant to section 12-60-505.

12-60-103 - Division and commission subject to termination.

The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the division of racing events created by section 12-60-201 and the Colorado racing commission created by section 12-60-301.

12-60-201 - Division of racing events - creation - representation.

(1) There is hereby created, within the department of revenue, the division of racing events, the head of which shall be the director of the division of racing events. The director shall be appointed by, and shall be subject to removal by, the executive

director of the department of revenue. The division of racing events, the Colorado racing commission created in section 12-60-301, and the director of the division of racing events shall exercise their respective powers and perform their respective duties and functions as specified in this article under the department of revenue as if the same were transferred to the department by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.; except that the commission shall have full and exclusive authority to promulgate rules related to racing without any approval by, or delegation of authority from, the department of revenue.

(2) The division shall make investigations and shall request the commission or the district attorney of any district, as appropriate, to prosecute, on behalf of and in the name of the division, suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the division.

12-60-202 - Director - qualifications - powers and duties.

(1) The director shall be qualified by training and experience to direct the work of the division; and, notwithstanding the provisions of section 24-5-101, C.R.S., shall be of good character and shall not have been convicted of any felony or gambling-related offense.

(2) The director shall devote his or her entire time and attention to the duties of the office and shall not be engaged in any other profession or occupation.

(3) The director, as administrative head of the division, shall direct and supervise all administrative and technical activities of the division. In addition to the duties imposed upon the director elsewhere in this article, it shall be the director's duty:

(a) To investigate, supervise, and administer the conduct of racing in accordance with the provisions of this article and the rules of the commission;

(b) To attend meetings of the commission or to appoint a designee to attend in the director's place;

(c) To employ and direct such personnel as may be necessary to carry out the purposes of this article, but no person shall be employed who has been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S. The director by agreement may secure and provide payment for such services as the director may deem necessary from any department, agency, or unit of the state government and may employ and compensate such consultants and technical assistants as may be required and as otherwise permitted by law. Personnel employed by the director shall

include but shall not be limited to a sufficient number of veterinarians, as defined in the "Colorado Veterinary Practice Act",
article 64 of this title so that at least one veterinarian employed by the director shall be present at every racetrack during weighing in of animals and at all times that racing is being conducted; and the director shall by rule authorize any such veterinarian to conduct physical examinations of animals, including without limitation blood and urine tests and other tests for the presence of prohibited drugs or medications, to ensure that the animals are in proper physical condition to race, to prohibit any animal from racing if it is not in proper physical condition to race, and to take other necessary and proper action to ensure the health and safety of racing animals and the fairness of races.

(d) To confer, as necessary or desirable and not less than once each month, with the commission on the conduct of racing;

(e) To make available for inspection by the commission or any member of the commission, upon request, all books, records, files, and other information and documents of the director's office;

(f) To advise the commission and recommend such rules and such other matters as the director deems necessary and advisable to improve the conduct of racing;

(g) To make a continuous study and investigation of the operation and the administration of similar laws which may be in effect in other states or countries, any literature on the subject which from time to time may be published or available, any federal laws which may affect the conduct of racing, and the reaction of Colorado citizens to existing and potential features of racing events in Colorado with a view to recommending or effecting changes that will tend to serve the purposes of this article;

(h) To annually prepare and submit to the commission, for its approval, a proposed budget for the ensuing fiscal year, which budget shall present a complete financial plan setting forth all proposed expenditures and anticipated revenues of the division. The fiscal year of the division shall commence on July 1 and end on June 30 of each year.

(i) To perform any other lawful acts which the director and the commission may consider necessary or desirable to carry out the purposes and provisions of this article.

12-60-203 - Investigators - peace officers.

(1) All investigators of the division of racing events and their supervisors, including the director and the executive director, shall for purposes of enforcement of this article be considered a peace officer, level II, as defined in section 18-1-901 (3) (I)

(III), C.R.S.

(2) Nothing in this section shall be construed to prohibit local sheriffs, police departments, and other local law enforcement agencies or the Colorado bureau of investigation from enforcing the provisions of this article or rules promulgated pursuant to this article, or from performing their other duties to the full extent permitted by law. All such sheriffs, police officers, district attorneys, other local law enforcement agencies, or the Colorado bureau of investigation shall have all the powers set forth in subsection (1) of this section.

12-60-204 - Board of stewards or judges.

The division shall establish a board of three stewards or judges to assist in supervising the conduct of any race meet. Two members of the board of stewards or judges shall be employees of the division. The remaining member shall be an employee of the track at which the race meet is held, shall be subject to the approval of the commission, and may be removed by the commission at any time for any reason which the commission deems good and sufficient.

12-60-301 - Racing commission - creation.

(1) There is hereby created, within the division of racing events, the Colorado racing commission. The commission shall consist of five members, all of whom shall be citizens of the United States and shall have been residents of this state for the past five years. The members shall be appointed by the governor, with the consent and approval of the senate. No member shall have been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S. No more than three of the five members shall be members of the same political party. At the first meeting of each fiscal year, a chair and vice-chair of the commission shall be chosen from the membership by a majority of the members. Membership and operation of the commission shall additionally meet the following requirements:

(a) Two members of the commission shall have been previously engaged in the racing industry for at least five years; one member shall be a practicing veterinarian who is currently licensed in Colorado and has been so licensed for not less than five years; one member shall have been engaged in business in a management-level capacity for at least five years; and one member shall be a registered elector of the state who is not employed in any profession or industry otherwise described in this paragraph (a); however, no more than two members of the commission shall be from the same congressional district,

and one member of the commission shall be from west of the continental divide.

(b) Initial members shall be appointed to the commission by the governor as follows: One member to serve until July 1, 1993, one member to serve until July 1, 1994, one member to serve until July 1, 1995, and two members to serve until July 1, 1996. All subsequent appointments shall be for terms of four years. No member of the commission shall be eligible to serve more than two consecutive terms.

(c) Any vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment. The member appointed to fill such vacancy shall be from the same category described in paragraph (a) of this subsection (1) as the member vacating the position.

(d) Any member of the commission may be removed by the governor at any time.

(e) The term of any member of the commission who misses more than two consecutive regular commission meetings without good cause shall be terminated and such member's successor shall be appointed in the manner provided for appointments under this section.

(f) Commission members shall be reimbursed for necessary travel and other reasonable expenses incurred in the performance of their official duties.

(g) Prior to confirmation by the senate, each member shall file with the secretary of state a financial disclosure statement in the form required and prescribed by the executive director. Such statement shall be renewed as of each January 1 during the member's term of office.

(h) The commission shall hold at least one meeting each month and such additional meetings as may be prescribed by rules of the commission. In addition, special meetings may be called by the chair, any two commission members, or the director, if written notification of such meeting is delivered to each member at least seventy-two hours prior to such meeting. Notwithstanding the provisions of section 24-6-402, C.R.S., in emergency situations in which a majority of the commission certifies that exigencies of time require that the commission meet without delay, the requirements of public notice and of seventy-two hours' actual advance written notice to members may be dispensed with, and commission members as well as the public shall receive such notice as is reasonable under the circumstances. Any action by the commission during such emergency meetings shall be limited to those issues relating to the emergency situation for which the meeting was called.

(i) A majority of the commission shall constitute a quorum, but the concurrence of a majority of the members appointed to the commission shall be required for any final determination by the commission.

12-60-302 - Organization and officers - duties - representation.

(1) All moneys payable to and collected by the department of revenue through the division shall be transmitted to the state treasurer. The state treasurer shall credit the same to the general fund, except for those moneys required by this article to be deposited in the horse breeders' and owners' awards and supplemental purse fund or in the racing commission cash fund.

(2) The commission shall maintain an office within the state and shall keep detailed records of all its meetings and of all the business transacted and of all the collections and disbursements. Publications of the commission circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136, C.R.S.

(3) The attorney general shall provide legal services for the division and the commission at the request of the executive director, the director, or the commission. The attorney general shall make reasonable efforts to ensure that there is continuity in the legal services provided and that the attorneys providing legal services to the division and the commission have expertise in such field.

12-60-401 - Director and commission members - position of trust - conflicts of interest.

(1) Appointment to the commission or to the position of director or employment in the division of racing events is declared to be a position of public trust, and therefore, in order to ensure the confidence of the people of the state in the integrity of the division and the commission, the director and members of the commission and the employees of the division shall be subject to this section. While serving as director or as a member of the commission or while employed by the division, no person nor any member of such person's immediate family shall:

(a) Hold any pecuniary interest in any racetrack operating within the state of Colorado nor in any kennel, stable, compound, or farm that houses animals licensed or registered to race within the state of Colorado;

(b) Wager money or any other chattel of value on the result of any race or race meet or sweepstakes conducted within the state of Colorado or conducted outside the state and simulcast into the state;

(c) Hold any pecuniary interest in any out-of-state host track or derive any pecuniary benefit from the racing of any animal at such track;

(d) Hold more than a five percent interest in any entity doing business with a track; or

(e) Have any interest of any kind in a license issued pursuant to this article, nor have any interest, direct or indirect, including employment, in any licensee, licensed premises, establishment, or business involved in or with pari-mutuel wagering.

(2) Failure to comply with the provisions of this section shall be grounds for removal from office.

(3) For purposes of this section, "immediate family" means a person's spouse and any children actually living with the person.

12-60-501 - Regulation of race meets and racing-related businesses.

(1) (a) The commission shall license and regulate all race meets with pari-mutuel wagering held in this state at which horses or greyhounds participate, and shall cause the places where such race meets are held to be visited and inspected at least once a year by its members or employees, and shall require all such places to be constructed, maintained, and operated in accordance with the laws of this state and the rules of the commission.

(b) The commission shall license and regulate all kennels and stables housing racing animals in connection with a race meet, shall cause such kennels and stables to be visited and inspected at least once a year by its members or employees, and shall require all such places to be constructed, maintained, and operated in accordance with the laws of this state and the rules of the commission.

(2) (a) In particular, the commission shall, at its own expense, regulate the operations of pari-mutuel machines and equipment, the operations of all money rooms, accounting rooms, and sellers' and cashiers' windows, and the weighing of jockeys and of greyhounds, and shall take or cause to be taken saliva, urine, blood, or other body fluid samples or biopsy or necropsy specimens from horses and greyhounds selected by the commission or its employees on a random basis at race meets provided for under this article or when concerns are raised as to a particular animal, including but not limited to the winner of a race, and shall test and determine such samples or specimens or cause such samples or specimens to be tested and determined. For such purposes, the commission, at its expense and in addition to other employees, shall employ or contract with competent veterinary doctors, accountants, chemists, and other persons necessary to supervise the conduct of race meets and to ascertain that this article and the rules of the commission are strictly complied with. The commission shall also seek innovative and efficient methods of testing animals for prohibited drugs and medication, while ensuring animal safety and maintaining the integrity of racing. Through its bidding process, the commission shall invite laboratories to include

proposals for testing procedures and methods that would maintain or improve the effectiveness of test results and minimize testing cost incurred by the state or the racing industry.

(b) The commission shall establish and require compliance with internal control procedures for licensees, including accounting and reporting procedures.

(c) The commission shall license and regulate persons who manufacture or operate totalisators and shall require all totalisators to be manufactured, maintained, and operated in accordance with the laws of this state and rules of the commission.

(3) The commission shall license and regulate all in-state simulcast facilities conducting pari-mutuel wagering and shall require all such in-state simulcast facilities to be maintained and operated in accordance with the laws of this state and rules of the commission.

(4) The commission shall, at its own expense, specifically regulate the operation by in-state simulcast facilities of pari-mutuel machines and equipment, the operation of all money and accounting facilities, and the operation of sellers' and cashiers' windows and ensure that the in-state simulcast facility is handling wagering as part of the pari-mutuel system of the appropriate track or simulcast facility and as part of the appropriate pari-mutuel pool, as designated in section 12-60-703. For such purposes, the commission, at its own expense, and in addition to other employees, shall employ the competent personnel necessary to supervise the wagering through in-state simulcast facilities and to ascertain that this article and the rules of the commission are strictly complied with.

12-60-502 - Delegation of authority to issue certain licenses and registrations.

The commission shall delegate to the division the authority to issue all business and occupational licenses and registrations contemplated in this article, and shall promulgate rules containing standards for such delegation. The commission shall not delegate its duty to issue or renew race meet licenses.

12-60-503 - Rules of the commission - licensing.

(1) (a) The commission shall make reasonable rules for the control, supervision, fingerprinting, identification, and direction of applicants, registrants, and licensees, including rules providing for the supervising, disciplining, suspending, fining, and barring

from racing of all persons required to be licensed or registered by this article and for the holding, conducting, and operating of all races, race meets, racetracks, and in-state simulcast facilities conducted pursuant to this article. It shall announce the place, time, number of races per day, duration of race meets, as provided in section 12-60-603, and types of race meets.

(b) The commission may issue a temporary or conditional license or registration for up to a maximum of ninety days for any license or registration authorized under this article.

(2) (a) Every person holding a license or registration under this article, every person operating an in-state simulcast facility, and every owner or trainer of any horse or greyhound licensed to enter any racing contest under this article shall comply with all rules and orders issued by the commission. It is unlawful for any person to work upon the premises of a racetrack without first obtaining from the commission a license or registration for such activity. The commission may waive this licensing or registration requirement for such occupational categories as the commission, in its discretion, deems unnecessary to be licensed or registered. This licensing or registration requirement does not apply to the members of the commission or its employees or to persons whose only participation is individually as spectator or bettor. It is unlawful for any person who owns or leases a racing animal to allow such animal to race in this state without first obtaining an owner's license or registration from the commission, as prescribed by the rules of the commission. The commission in its discretion may extend the validity of any license issued for a period not to exceed three years, and the fee for such license shall be increased proportionately; except that no temporary or conditional license or registration shall be issued for a period longer than ninety days. It is unlawful for any person to hold any race meet with pari-mutuel wagering without obtaining a license therefor. It is unlawful for any person to operate an in-state simulcast facility unless that person is a licensee that has been licensed within the year to hold a race meet or is a licensee that has a written simulcast racing agreement with the in-state host track or out-of-state host track from which the simulcast race is broadcast and has filed a copy of the written simulcast racing agreement with the commission prior to operation as an in-state simulcast facility.

(b) (Deleted by amendment, L. 93, p. 1210, § 1, effective July 1, 1993.)

(3) No person holding a license under this article shall extend credit to another person for participation in pari-mutuel wagering.

(1) Every application for a business license, excluding applications for initial or renewal race meet licenses pursuant to sections 12-60-505 and 12-60-511, shall be made under oath and filed with the commission and shall set forth such information as the rules of the commission may require in connection with the application.

(2) To determine whether a license shall be granted, the commission shall have the right to examine the financial and other records of the applicant and to compel the production of records and documents.

(3) The commission has discretion to grant or deny a business license if it finds that any applicant or any of the directors, officers, or original stockholders of a corporate applicant have violated any of the provisions of this article or any rules of the commission, or failed to pay any of the sums required under this article, or as it determines, from such application, the character, financial ability, and experience of each individual applicant or the officers and director of each corporate applicant to be for the best interests of the state and the racing industry.

(4) When conducting investigations pursuant to this section, to the extent possible, the commission shall utilize investigative information of other state racing jurisdictions. The commission may investigate an existing licensee who is seeking to acquire ownership of another existing license.

(5) Any unexpired license held by any person who has been convicted by the commission of violating any of the provisions of this article or any rule of the commission, or who has willfully or fraudulently made any false statement in any application for a license, or who fails to pay to the commission any and all sums required under the provisions of this article is subject to cancellation or revocation by the commission.

(6) The commission shall have the power to issue subpoenas for the appearance of persons and the production of documents and other things in connection with applications before the commission or in the conduct of investigations.

12-60-505 - Meet licenses.

(1) Every initial application for a license to hold race meets under this article shall be made under oath and shall be filed with the commission on or before a day fixed by the commission and shall set forth the time, the place, and the number of days such meet shall continue; the kind of racing proposed to be conducted; the full name and address of the applicant and, if a corporation, the names and addresses of all of its officers and directors and all of the holders of each class of its stock and the amount of stock of each class so owned by each stockholder; the location of the racetrack and whether the same is

owned or leased; the names and residences of the owners of all property leased by such applicant; a statement of the assets and liabilities of such applicant; a description of the qualifications and experience of the applicant if an individual or of its officers and directors if a corporation; a full disclosure of all holding or intermediary companies associated with the applicant, as well as their shareholders, all contracts that relate to the race meet, audited balance sheets of corporate applicants, excluding nonprofit associations, and the terms and conditions of all contracts by which the applicant has received credit; a description of the land uses within a radius of two miles of the establishment in which such race meet is proposed to be conducted; and such incidental information as the rules of the commission may require in connection with the application.

(2) Upon the filing of such application, the commission shall fix a date for a hearing on the application, and said applicant shall give public notice of the time and place of such hearing by publication in one issue of a daily or weekly newspaper of general circulation in the area in which it is proposed to conduct such race meet and by posting on the site of such proposed race meet a notice, in form and size to be determined by the commission, that such application has been filed and the date and place of the hearing thereon. At the time and place mentioned in said notice, the commission shall conduct a public hearing at which evidence for and against the granting of the application may be presented.

(3) Except as otherwise limited by the provisions of this article, in considering an application for a license under this section, the commission may give consideration to the number of licenses already granted, and to the location of tracks previously licensed, and to the sentiments and character of the community in which the proposed race meets are to be conducted, and to the ability, character, and experience of each individual applicant or the officers and directors of each corporate applicant. The commission may require of every applicant for a license to hold a race meet, except a public nonprofit association, nonprofit corporation, or nonprofit fair, including the Colorado state fair and all county fairs, who has not, within five years prior to making an application for a license to hold a race meet, operated a race meet in the county, city, or city and county in which it is proposed to hold such race meet, a recommendation in writing of the board of county commissioners of said county in the event the race meet is to be held in unincorporated areas of said county or of the governing board of a city or city and county if the proposed race meet is to be held within a city or city and county. The commission may take such recommendation into consideration before granting or refusing such licenses. The commission may deny a license to operate a new racetrack to a person who is already licensed to operate a racetrack within this or any other state if, in the opinion of the commission, the granting of such license would discourage legitimate competition from other qualified applicants. The commission shall investigate any applicant and shall require the applicant to pay the actual

cost of investigating the application as part of the fees and costs imposed pursuant to section 12-60-506. The applicant shall advance the moneys necessary for the investigation to the commission, and the commission shall return any unused portion of such moneys to the applicant at the conclusion of the commission's investigation. The advance of such moneys may either be made directly to the commission or the moneys may be deposited into escrow in a manner approved by the commission.

(4) The commission may grant or refuse licenses to conduct race meets under this article as it determines, from such application, the character, financial ability, and experience of each individual applicant or the officers and directors of each corporate applicant, the sentiments of the community and the character of the area wherein it is proposed to conduct such race meets, and the evidence presented at such hearing, to be for the best interests of the state, the racing industry, and the area in which it is proposed to conduct such race meets.

(5) The commission has discretion to grant or deny a race meet license if it finds that any applicant has, or any of the directors, officers, or original stockholders of a corporate applicant have, violated any of the provisions of this article or any rules of the commission or failed to pay any of the sums required under this article.

(6) Every license issued under this article shall specify the number of days said licensed race meet shall continue and the number of races per day. No license shall be granted to any individual who is not a bona fide resident of Colorado nor to any foreign corporation. Every applicant shall agree that, if granted a license under this article, such applicant will not thereafter sell, mortgage, or otherwise pledge or dispose of any of the assets listed and described on the application for a license or a renewal license without thirty days' prior notice to the commission, which may approve or disapprove the disposition of assets upon good cause shown. The charter of all corporate applicants shall contain a provision that, when a cumulative ten percent or more of the voting stock of such corporation is to be sold, mortgaged, or otherwise pledged or transferred, thirty days' prior notice shall be given to the commission. The corporation shall pay an investigation fee to the commission as part of the fees and costs imposed pursuant to section 12-60-506. The commission shall approve or disapprove of the disposition of such stock, upon good cause shown, within ninety days of such filing of a completed application for transfer. The commission has the power to ascertain if any capital stock of any corporate applicant or licensee is held with the intent to mislead or deceive the commission for an undisclosed principal. The involvement of an undisclosed principal shall be grounds for the denial, suspension, or revocation of a license.

(7) Upon petition by the licensee and a finding by the commission that it is impossible or impractical for a licensee, because of fire or act of God or other unforeseeable emergency not caused or participated in by the licensee, to conduct a

race meet upon the dates allocated or upon a racetrack designated by the commission to the licensee, other dates and locations may be substituted and granted to the licensee. A licensee so petitioning may be granted the right to lease and utilize any other licensee's facilities for the term of the petitioning licensee's annual permit or any portion thereof, but said grant shall not be construed to allow any licensee more days of racing in any year than are prescribed by this article.

(8) When conducting investigations pursuant to subsections (3) and (6) of this section, to the extent possible, the commission shall utilize investigative information of other state racing jurisdictions. The commission may investigate an existing licensee who is seeking to acquire ownership of another existing license to conduct race meets.

12-60-506 - Application - fee - waiver of confidentiality.

(1) In connection with the issuance of licenses or registrations, the commission shall establish investigation and application fees.

(2) The application form created by the commission shall include a waiver of any right of confidentiality and a provision which allows the information contained in the application to be accessible to law enforcement agents of this or any other state or the government of the United States. The waiver of confidentiality shall extend to any financial or personnel record, wherever maintained.

12-60-507 - Investigation - denial, suspension, and revocation actions against licensees - unlawful acts.

(1) The commission upon its own motion may, and upon complaint in writing of any person shall, investigate the activities of any licensee or applicant within the state or any person upon the premises of a track. In addition to its authority under any other provision of this article, the commission may issue a letter of admonition to a licensee, fine a licensee, suspend a license, deny an application for a license, or revoke a license, if such person has committed any of the following violations:

(a) Disregarding or violating any provision of this article or any rule promulgated by the commission in the interests of the public and in conformance with the provisions of this article;

(b) Been convicted of, or entered a plea of guilty or nolo contendere to, a criminal charge under the laws of this or any other state or of the United States, or entered into a plea bargain for acts or omissions that, if committed in Colorado, would

have been grounds for discipline in this state. A certified copy of the judgment of the court in which any such conviction occurred shall be presumptive evidence of such conviction in any hearing under this article. This paragraph (b) shall be applied in accordance with section 24-5-101, C.R.S.

(c) Current prosecution or pending charges in any jurisdiction against the applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant, for any felony; except that, at the request of the applicant or the person charged, the commission shall defer decision upon such application during the pendency of such charge;

(d) Fraud, willful misrepresentation, or deceit in racing;

(e) Failure to disclose to the commission complete ownership or beneficial interest in a racing animal entered to be raced;

(f) Misrepresentation or attempted misrepresentation in connection with the sale of a racing animal or other matter pertaining to racing or registration of racing animals;

(g) Failure to comply with any order or rulings of the commission, the stewards, the judges, or a racing official pertaining to a racing matter;

(h) Ownership of any interest in or participation by any manner in any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise;

(i) Employing or harboring unlicensed persons on the premises of a racetrack;

(j) Being a person, employing a person, or being assisted by any person who is not of good record or good moral character;

(k) Discontinuance of or ineligibility for the activity for which the license was issued;

(l) Being currently under suspension or revocation of a racing license in another racing jurisdiction, or having been subject to disciplinary action by the racing commission or equivalent agency of another jurisdiction for acts or omissions that, if committed in Colorado, would have been grounds for discipline in this state; except that this paragraph (l) shall not furnish the basis for the imposition of fines;

(m) Possession on the premises of a racetrack of:

(I) Firearms; or

(II) A battery, buzzer, electrical device, or other appliance other than a whip which could be used to alter the speed of a racing animal in a race or while working out or schooling;

(n) Possession, on the premises of a racetrack, by a person other than a licensed veterinarian of:

(I) A hypodermic needle, hypodermic syringe, or other similar device;

(II) Any substance, compound items, or combination thereof of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a racing animal unless specifically authorized by the commission veterinarian;

(o) Cruelty to or neglect of a racing animal;

(p) Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of such act immediately to the stewards, the judges, or the commission;

(q) Causing, attempting to cause, or participating in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of such act immediately to the stewards, the judges, or the commission;

(r) Entering, or aiding and abetting the entry of, a racing animal ineligible or unqualified for the race entered;

(s) Willfully or unjustifiably entering or racing of any animal in any race under any name or designation other than the name or designation assigned to such animal by and registered with the official recognized registry for that breed of animal, or willfully soliciting, instigating, engaging in or in any way furthering any act by which any racing animal is entered or raced in any race under any name or designation other than the name or designation duly assigned by and registered with the official recognized registry for that breed of animal;

(t) Aiding or abetting any person in the violation of any rule of the commission;

(u) Racing at a racetrack without having a racing animal registered to race at that racetrack;

(v) Being on the premises of a racetrack for which the licensee is required to be licensed without being able to show proof of gainful employment at that racetrack.

(2) Any person who fails to pay within the time period established by rule a fine imposed pursuant to this article shall pay, in addition to the fine due, a penalty amount equal to the fine. Any person who submits to the department of revenue through the division a check in payment of a fine or license fee requirement imposed pursuant to this article, which check is not honored by the financial institution upon which it is drawn, shall pay, in addition to the fine or fee due, a penalty amount equal to the fine or fee. All moneys received pursuant to a penalty amount imposed by this subsection (2) shall be credited to the general fund of the state.

(3) Any person aggrieved by a final action or order of the commission may appeal such action to the Colorado court of appeals.

12-60-507.5 - License - mandatory disqualification - criteria.

(1) The commission shall deny a license to any applicant on the basis of any of the following criteria:

(a) Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article;

(b) Failure of the applicant to provide information, documentation, and assurances required by this article or requested by the commission, failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria;

(c) Conviction of the applicant, or any of its officers or directors, or any of its general partners, or any stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant, of any of the following:

(I) Any gambling-related offense or theft by deception;

(II) Any crime involving fraud or misrepresentation committed within ten years prior to the date of the application, notwithstanding the provisions of section 24-5-101, C.R.S.;

(d) Current prosecution or pending charges in any jurisdiction against the applicant, or against any person listed in paragraph (c) of this subsection (1), for any of the offenses enumerated in said paragraph (c); except that, at the request of the applicant or the person charged, the commission shall defer decision upon such application during the pendency of such charge.

12-60-508 - Hearings - review.

(1) Except as otherwise provided in this section, all proceedings before the commission with respect to the denial, suspension, or revocation of licenses or the imposition of fines shall be conducted pursuant to the provisions of sections 24-4-104 and 24-4-105, C.R.S.

(2) Such proceedings shall be held in the county where the commission has its office or in such other place as the commission may designate. The commission shall notify the applicant or licensee by mailing by first-class mail a copy of the written notice required to the last address furnished by the applicant or licensee to the commission.

(3) (a) The commission may delegate its authority to conduct hearings and impose discipline with respect to the denial or suspension of licenses or the imposition of a fine to the division, through its board of stewards or judges, or a hearing officer. Proceedings before the division, through its board of stewards or judges, or a hearing officer shall not be governed by the procedural or other requirements of sections 24-4-104 and 24-4-105, C.R.S., but rather shall be conducted in accordance with rules adopted by the commission.

(b) The commission may direct that any hearing be conducted before an administrative law judge appointed pursuant to part 10 of article 30 of title 24, C.R.S.

(4) The commission, the division, through its board of stewards or judges, and any hearing officer shall have the authority to administer oaths and affirmations, sign and issue subpoenas and order the production of documents and other evidence, and regulate the course of the hearing, pursuant to rules adopted by the commission.

(5) Any party aggrieved by a final order or ruling issued by the division, through its board of stewards or judges, or a hearing officer shall have a right to appeal such order or ruling to the commission, pursuant to procedural rules which shall be adopted by the commission. The aggrieved party may petition the commission for a stay of execution pending appeal to the commission.

12-60-509 - Liability insurance - bond for race meets.

(1) For the protection of the public and the exhibitors, contestants, and visitors, every person licensed to conduct a race meet under the provisions of this article shall carry public liability insurance in the form of a contract and with a company to be approved by the commission.

(2) An organization representing the majority of the owners of racing animals participating in any race meet may require the licensee conducting such race meet to provide and deliver to the commission evidence of a bond signed by a surety company authorized to do business in this state, in an amount sufficient to cover all awards and purses due to the contestants at such race meet and conditioned that said licensee will pay and discharge all obligations to said contestants in connection with the race meet.

(2.5) (a) Notwithstanding the provisions of subsection (2) of this section, every person licensed to conduct a race meet other than a horse race meet who has been licensed in this state for five consecutive years and who, during this period, has not had any actions on the bond or other evidence demonstrating a lack of financial responsibility required in subsection (2)

of this section may be exempted from the requirement to file such bond or other evidence of financial responsibility.

(b) If any actions are subsequently brought against the licensee, the commission may reinstate the requirement of a bond or any other evidence of financial responsibility meeting the requirements of section 11-35-101, C.R.S.

12-60-510 - Racing of standardbred harness horses.

(1) Notwithstanding any other provision of this article to the contrary, the commission shall grant licenses to conduct the racing of standardbred harness horses pursuant to the provisions of this article and in accordance with subsections (2) and (3) of this section.

(2) The licenses granted may be issued to conduct not more than three race meets in any one year at a racetrack specifically designed and used for the racing of no animals other than standardbred harness horses, but such race meets may not be held on the same dates as race meets authorized by the commission for animals other than standardbred harness horses that are held within forty miles of the track licensed for the racing of standardbred harness horses. In addition, licenses may be issued by the commission to conduct three race meets for the racing of standardbred harness horses in any one year at any racetrack at which horse race meets are held and which is not within forty miles of any other racetrack licensed for the racing of horses or the racing of standardbred harness horses.

(3) No tracks licensed for the racing of standardbred harness horses may be located within forty miles of one another, but such tracks may be located within forty miles of any track licensed for the racing of animals other than standardbred harness horses subject to the limitations in subsection (2) of this section.

(4) The provisions of subsection (3) of this section shall not restrict the right of a county to conduct extended standardbred harness horse race meets, upon being licensed by the state racing commission, at a county fairground if such race meets are not within fifteen miles of any race track licensed in Colorado for the racing of horses.

12-60-511 - Eligibility to operate race meets - renewal or revocation.

(1) (a) No person shall be eligible to operate a race meet under a license issued under the provisions of this article unless such person is the owner or controls the possession of a properly constructed racetrack suitable for the conduct of racing

and improved with safe and suitable grandstands, equipped with reasonably sanitary accommodations and also such accommodations, including track conditions, as the commission may require for the care and control of the animals racing at such meet, and also such other improvements as, in the opinion of the commission, may be required for the protection of the public, human and animal participants, and others likely to be present at such race meet. In consideration of the location of the track and other structures and erections and the probable capacity requirements to accommodate the crowd and the number of people that will reasonably be expected to occupy such grandstands and attend such race meets, a major racing operation license shall not be issued for the racing of horses at a class A track which is within forty miles of any other major racing operation licensed under this article for the racing of horses at a class A track; nor shall a major racing operation license be issued for the racing of horses at a class B track which is within forty miles of any other major racing operation licensed under this article for the racing of horses at a class B track. In no event shall any racing operation licensed under this article for the racing of horses at a horse track located within forty miles of the Colorado state fair and industrial exposition conduct race meets of horses on the same dates as the race meets of horses at the state fair.

(b) As used in paragraph (a) of this subsection (1), "major racing operation" means nonprofit corporations and commercial tracks conducting race meets which exceed fifteen racing days.

(2) A license shall not be issued for the racing of greyhounds within forty miles of any other racing operation licensed under this article for the racing of greyhounds. This provision shall not apply to races conducted by any state, county, or other fair association holding not more than one race meet annually for a period not exceeding six days.

(3) Applications for renewal of such license shall be filed with the commission on or before a day fixed by the commission and shall set forth the name of the applicant and if a corporation the names and addresses of its officers and directors with a list attached thereto of the names and addresses of all the holders of its stock, as of a date not more than thirty days prior to the filing of such application, and the amount of voting stock held by each stockholder. If any of its voting stock is known by any applicant to be registered in the name of a person not the actual owner thereof, such list shall also show the name and address of such actual owner.

(4) Said application shall set forth the proposed dates of race meets, the dates within such race meets on which the applicant intends to conduct racing at such meetings and the number of races intended to be run on such dates, and the address of the establishment where such meets are to be held and shall have attached thereto the most recent financial statement of the applicant as of a date not more than twelve months prior to the date of the application for renewal of such license. Such application shall also contain such other information as the rules of the commission may provide to ensure that

such licensee is conducting race meets in accordance with the provisions of this article and the rules of the commission. To determine whether an application for renewal of such license to conduct race meets shall be granted, the commission shall have the right to examine the financial and other records of the licensee, to compel the production of records and documents, to conduct hearings, to summon witnesses, and to administer oaths.

(5) (a) As soon as is practicable after the date fixed for the filing of applications for renewal, the commission shall meet and determine the granting or denial thereof. If the commission finds that the applicant has fully complied with the requirements and conditions for renewal, the application for renewal shall be granted, and the commission shall allot and assign to the respective applicants, in the manner stated in this subsection (5), dates for race meets and dates for racing within the race meet and the number of races on such dates.

(b) Except as otherwise provided in this article, in its sound discretion, the commission may allot different dates for race meets, different dates for racing within a race meet, and a different number of races on such dates from those requested in the application for renewal. In making such allotment of dates, the commission shall do so in its sound discretion and shall endeavor to allot to each applicant the dates requested in the respective applications so filed by the applicants, after giving due consideration to all factors involved, including the interests of the respective applicants and the public and the best interests of racing, and avoiding, whenever possible, conflicts in live greyhound race dates between greyhound tracks in the same circuit or a conflict in live horse race dates between class A tracks or between class B tracks located within fifty miles of each other; except that the commission may allot dates to a state, county, or other fair commission or association holding not more than one race meet annually for a period not exceeding six days, notwithstanding that such dates conflict with the dates allotted to another applicant conducting live racing of the same type animals. When the granting of requested initial or renewal race dates would result in a conflict, the commission, in its discretion, may grant race dates so as to avoid such conflict to the extent possible, giving preference to requests for race dates from license applicants whose licensed race meet in the previous year included such race dates.

(6) In the event the commission finds that any applicant for a renewal of a license to conduct race meets under this article has violated any of the provisions of this article or any rule of the commission, or has willfully or fraudulently made any false statement in an original application for a license to hold race meets or for the renewal of such license, or has failed to pay the commission any sums required by this article, or lacks the ability, experience, or finances to conduct race meets, the commission may refuse to grant a renewal of such license.

(7) Any unexpired license held by any person who has been convicted by the commission of violating any of the

provisions of this article or any rule of the commission, or who has willfully or fraudulently made any false statement in any application for a license to hold a race meet or for the renewal of such license, or who fails to pay to the commission any and all sums required under the provisions of this article is subject to cancellation or revocation by the commission. Such cancellation shall be made only after a summary hearing before the commission, of which three days' notice in writing shall be given the licensee specifying the grounds for the proposed cancellation and at which hearing the licensee shall be given an opportunity to be heard in person and by counsel in opposition to the proposed cancellation. No license shall be granted or continued to any licensee for any race meet licensed under this article who has made default in any payment of any premium or prizes on any race meets held under this article or who has failed to meet any monetary obligations in connection with any race meet held in this state.

12-60-512 - Division of racing events - access to records.

The division, for purposes of this article, shall have full authority to procure, at the expense of the division, any records furnished to or maintained by any law enforcement agency in the United States, including state and local law enforcement agencies in Colorado and other states for the purposes of carrying out its responsibilities. Upon request from the Colorado bureau of investigation, the division shall provide copies of any and all information obtained pursuant to this part 5.

12-60-601 - Underage wagering.

- (1) No person under the age of eighteen years shall purchase, redeem, or attempt to purchase or redeem any pari-mutuel ticket.
- (2) No person shall sell any pari-mutuel ticket to a person under the age of eighteen years.
- (3) Any person who violates this section commits a class 2 petty offense, and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

12-60-602 - Simulcast facilities and simulcast races - unlawful act - repeal.

- (1) It is unlawful for any person to accept or place wagers on any simulcast race within the state of Colorado except under

the provisions of this article. It is lawful to conduct pari-mutuel wagering on simulcast races of horses or greyhounds which are received by an in-state simulcast facility authorized and operated pursuant to this article.

(2) Cross simulcasting between an in-state host track or an out-of-state host track and an in-state simulcast facility, or between an in-state host track and an out-of-state simulcast facility, is permissible.

(3) A race meet of greyhounds which is conducted at an in-state host track may be received as a simulcast race by any simulcast facility; except that, notwithstanding any consent granted pursuant to the provisions of section 12-60-102 (14), an in-state simulcast facility which is located within fifty miles of a greyhound track may not receive simulcast races of greyhounds on any day on which such greyhound track is running live greyhound races, unless the licensee of such greyhound track consents thereto.

(4) (a) (I) A race meet of horses which is conducted at an in-state host track may be received as a simulcast race by any simulcast facility; except that, notwithstanding any consent granted pursuant to the provisions of section 12-60-102 (14), an in-state simulcast facility which is located within fifty miles of a horse track which has held within the previous twelve months or is licensed and scheduled to hold within the next twelve months a horse race meet of no less than thirty race days may not receive simulcast races of horses on any day on which such horse track is running live horse races unless the licensee of such horse track consents thereto.

(II) This paragraph (a) is repealed, effective April 20, 2003.

(b) (I) A race meet of horses which is conducted at an in-state host track may be received as a simulcast race by any simulcast facility; except that, notwithstanding any consent granted pursuant to the provisions of section 12-60-102 (14), an in-state simulcast facility which is located within fifty miles of a horse track which has held within the previous twelve months or is licensed and scheduled to hold within the next twelve months a horse race meet of no less than fifty race days, or no less than sixty race days if such twelve-month period includes any portion of the track's third or subsequent year of operation, may not receive simulcast races of horses on any day on which such horse track is running live horse races unless the licensee of such horse track consents thereto.

(II) This paragraph (b) is effective April 21, 2003.

(5) (a) An in-state simulcast facility may receive only special event greyhound races from an out-of-state host track and, in addition, on any day on which an in-state simulcast facility receives greyhound simulcast races from an out-of-state host track and on which one or more in-state host tracks are running live greyhound races, such in-state simulcast facility shall receive and conduct pari-mutuel wagering on the broadcast signal of simulcast greyhound races from at least one such

in-state host track, if such broadcast signal is made available to it on usual and customary terms and conditions, including price. The commission shall approve no more than fifteen special events per year.

(b) (I) (A) An in-state simulcast facility which is located on the premises of a class B track may receive, each year, up to a total of two hundred fifty days of simulcast horse races from an out-of-state host track. Such total includes, and is not in addition to, the days on which live racing is held. This sub-subparagraph (A) is repealed, effective April 20, 2003.

(B) A facility which is reopening as a track pursuant to section 12-60-503 (2) (b) may receive three days of simulcast horse races from an out-of-state host track for each day of live horse racing for which the commission has granted it a race date for the subsequent year. A day of simulcast horse races, for the purposes of this paragraph (b), shall not include a day on which live horse races are conducted at the horse track at which the simulcast facility is located or a day on which the simulcast facility receives only simulcast races of horses from a race meet conducted at an in-state host track.

(I.5) (A) An in-state simulcast facility which is located on the premises of a horse track which runs a horse race meet of at least fifty live race days or at least sixty live race days if such horse race meet is held during any portion of the track's third or subsequent year of operation may receive, each year, three days of simulcast horse races from an out-of-state host track for each day of live horse racing conducted at such horse track during such year.

(B) This subparagraph (I.5) is effective April 21, 2003.

(II) (A) An in-state simulcast facility which is not located on the premises of a horse track which runs a horse race meet of at least thirty live race days may only receive a broadcast signal of a simulcast horse race conducted at an out-of-state host track through an in-state simulcast facility which is located on the premises of a horse track which runs a horse race meet of at least thirty live race days or through a facility which is reopening as a track pursuant to section 12-60-503 (2) (b) and which has qualified to receive broadcasts of such simulcast horse race pursuant to the provisions of subparagraph (I) of this paragraph (b).

(B) This subparagraph (II) is repealed, effective April 20, 2003.

(II.5) (A) An in-state simulcast facility which is not located on the premises of a horse track which runs a horse race meet of at least fifty live race days, or at least sixty live race days if such horse race meet is held during any portion of the track's third or subsequent year of operation, may only receive a broadcast signal of a simulcast horse race conducted at an out-of-state host track through an in-state simulcast facility which is located on the premises of a horse track which runs a horse race meet of at least fifty live race days, or at least sixty live race days if such horse race meet is held during any

portion of the track's third or subsequent year of operation, or through a facility which is reopening as a track pursuant to section 12-60-503 (2) (b) and which has qualified to receive broadcasts of such simulcast horse race pursuant to the provisions of subparagraph (I.5) of this paragraph (b).

(B) This subparagraph (II.5) is effective April 21, 2003.

(III) On any day on which an in-state simulcast facility receives simulcast horse races, either directly from an out-of-state host track or through another in-state simulcast facility or facility which is reopening as a track, and on which one or more in-state host tracks are running live horse races, such in-state simulcast facility shall receive and conduct pari-mutuel wagering on the broadcast signal of simulcast horse races from at least one such in-state host track, if such broadcast signal is made available to it on usual and customary terms and conditions, including price, as determined by the commission.

(IV) On any day on which an in-state host track is running live races of horses, such track may receive no more than four simulcast races of horses from an out-of-state host track; except that the commission may, in its discretion, increase the number of allowable simulcasts for good cause shown by a licensee. All simulcasting or horse races shall comply with the provisions of the federal "Interstate Horseracing Act of 1978", 15 U.S.C. secs. 3001-3007, as amended.

(V) (A) For purposes of administering this paragraph (b), each operating year of an in-state simulcast facility located on the premises of a class B track shall be deemed to begin on April 21 and end on the following April 20. Simulcast days allotted to such a facility pursuant to this paragraph (b) may be used at any time during the operating year, but unused days remaining as of the end of one operating year may not be carried forward to the next operating year.

(B) Repealed.

(C) During operating year 2003-2004 and thereafter, an in-state simulcast facility located on the premises of a class B track may begin to receive its allotted number of days of simulcast horse races pursuant to subparagraph (I.5) of this paragraph (b) immediately, notwithstanding that no live racing has yet taken place at such track during such operating year, if such track has applied for a license to conduct, during such operating year, a race meet of horses consisting of fifty or more race days or, if such operating year includes all or part of the track's third or subsequent year of operation, sixty or more race days. The number of simulcast days allotted shall be based on the number of days of live racing for which the license is sought, using the formula set forth in subparagraph (I.5) of this paragraph (b).

(6) An in-state simulcast facility having a written simulcast racing agreement with an in-state or out-of-state host track pursuant to section 12-60-503 (2) may receive simulcast races, as specified in subsections (2) to (5) of this section, on any

day, including a day not within the race meet of such in-state simulcast facility which is also a track and a day on which no live race is conducted within the race meet of such in-state simulcast facility which is also a track.

(7) Repealed.

12-60-603 - Duration of meets.

(1) (a) It is unlawful to conduct any race meet at which wagering is permitted except under the provisions of this article. It

is lawful to conduct pari-mutuel wagering on live horse or greyhound races which are part of a race meet licensed and

conducted pursuant to this article. The duration of any horse race meet at a class B track shall be at least fifty race days, or

at least sixty live race days if such horse race meet is held during any portion of the track's third or subsequent year of

operation; except that the commission may prescribe a lesser number of race days in the event of unforeseen

circumstances or acts of God.

(b) A race day is any period of twenty-four hours beginning at 12 midnight Colorado time and included in the period of a

race meet and upon which day live racing is held. Dark days within a race meet shall not be counted as race days. Days on

which an in-state simulcast facility which is a track receives simulcast races but does not conduct live races shall not be

counted as race days. Subject to the provisions of this article, the number and kind of race meets to be held at any one track

shall be determined by the commission; however, race meet days for both horses and greyhounds shall be permitted on

Sundays; except that no live Sunday greyhound racing shall be permitted while live horse racing is in progress at any horse

track within forty miles.

(c) In order to promote live racing of both horses and greyhounds throughout the state of Colorado, the commission, when

determining the number and kind of race meets held and the dates and times of races held at such race meets, may take

into consideration the interests of the racing industry as a whole throughout the state but shall give particular consideration

to the racing dates and times requested by or assigned to the following:

(I) In the case of greyhound tracks, other greyhound tracks in the same circuit;

(II) In the case of class A tracks, other class A tracks; and

(III) In the case of class B tracks, other class B tracks.

(d) The commission shall determine, consistent with all other provisions of this article, the total number of races

conducted and performances held during any race meet.

(2) (a) For the operation of greyhound tracks, the state shall be divided into one north and one south circuit, which consist, respectively, of the areas north and south of a latitudinal line drawn through the location of the Douglas County courthouse in the town of Castle Rock as of June 6, 1991.

(b) The commission shall license greyhound tracks which are located in the north circuit for race meets of a duration of up to one hundred twenty consecutive days, unless the license applicant, in its application, requests nonconsecutive days or a shorter period. The commission shall license greyhound tracks which are located in the south circuit for race meets of a duration of up to one hundred eighty consecutive days, unless the license applicant, in its application, requests nonconsecutive days or a shorter period.

(c) Each greyhound track shall be licensed by the commission to conduct only one race meet in any twelve-month period. Upon approval by the commission, a licensed greyhound track shall be permitted to contract with another licensed greyhound track within the same circuit to conduct part or all of the race meet days granted it at such other greyhound track; except that, unless the transferring greyhound track operates a race meet, without any transfer of race days, at its home greyhound track during the twelve-month period immediately following the last race meet day so transferred, such transferred race dates in such following twelve-month period shall be assigned by the commission to the transferee greyhound track, in addition to the race meet dates of the transferee greyhound track which are otherwise authorized pursuant to this subsection (2), upon application by the transferee greyhound track for such race dates if the transferee greyhound track otherwise meets all requirements for conducting a greyhound race meet.

(d) The commission shall schedule race meets of greyhounds so that there is a race meet, but not more than one race meet, being conducted at a greyhound track in both the north and the south circuits at all times; except that race meets of greyhounds may be scheduled to run concurrently in the same circuit if the greyhound tracks running the concurrent meets are not closer to each other than one hundred miles.

12-60-701 - License fees and Colorado-bred horse race requirement - repeal.

(1) Subject to the provisions of section 12-60-702 (1), for the privilege of conducting racing under a license issued under, and of operating an in-state simulcast facility pursuant to the provisions of, this article, a licensee for the racing of greyhounds and an operator of an in-state simulcast facility which receives simulcast races of greyhounds shall pay to the department of revenue through the division five percent, and on and after July 1, 1994, four and one-half percent, of the

gross receipts derived from pari-mutuel wagering during any such race meet or placed on such simulcast races.

(2) (a) (I) For the privilege of conducting racing under a license issued under, and of operating an in-state simulcast facility pursuant to the provisions of, this article, a licensee for the racing of horses and an operator of an in-state simulcast facility which receives simulcast races of horses shall pay to the department of revenue through the division three-fourths of one percent of the gross receipts of the pari-mutuel wagering at any such race meet or placed on such simulcast races; except that a licensee for the racing of horses at a class B track race meet shall pay to the department of revenue through the division the greater of the actual cost of regulation of such race meet by the commission, up to a maximum of two thousand five hundred dollars per race day, or three-fourths of one percent of the gross receipts of the pari-mutuel wagering at any such race meet.

(II) In addition to the amount paid to the department of revenue through the division in subparagraph (I) of this paragraph

(a), a licensee for the racing of horses and an operator of an in-state simulcast facility which receives simulcast races of horses shall pay to Colorado state university for allocation to its school of veterinary medicine one-fourth of one percent of the gross receipts of all pari-mutuel wagering, except on win, place, or show, at such horse race meet or placed on such simulcast races, to be used for racing-related equine research. To receive research funding under this subparagraph (II), an institution or individual must describe and report to the commission on all projects upon completion.

(b) In addition to any moneys to be paid pursuant to paragraph (a) of this subsection (2), a licensee for the racing of

horses and an operator of an in-state simulcast facility which receives simulcast races of horses shall pay to the department of revenue through the division one-half of one percent of the gross receipts of pari-mutuel wagering on win, place, and show and one and one-half percent of the gross receipts from all other pari-mutuel wagering at any such race meet or placed on such simulcast races for the horse breeders' and owners' awards and supplemental purse fund established in section 12-60-704.

(c) (I) The operator of a simulcast facility which receives simulcast races of horses shall retain five percent of the gross receipts of pari-mutuel wagering placed on such simulcast races at that facility, to be used to cover the particular expenses incurred in operating a simulcast facility.

(II) (A) Of the five percent of gross receipts retained pursuant to subparagraph (I) of this paragraph (c), the operator of a

simulcast facility that is not located at a class B track and that receives simulcast races of horses shall remit to the operator of the class B track from which such simulcast races were received one-fifth, representing one percent of the gross receipts of pari-mutuel wagering placed on such simulcast races at the simulcast facility.

(B) This subparagraph (II) is repealed, effective April 21, 2003.

(3) For the purpose of encouraging the breeding, within the state, of race horses registered within their breeds, at least one race of each day's live horse race meet shall consist exclusively of Colorado-bred horses, if Colorado-bred horses are available. This requirement shall not apply to an in-state simulcast facility which is a horse track and which receives simulcast races of horses on any given race meet day but does not conduct a live horse race on such day.

12-60-702 - Unlawful to wager, exception - excess - taxes- repeal.

(1) (a) It is unlawful to conduct pool selling or bookmaking, or to circulate handbooks, or to bet or wager on any race meet licensed under the provisions of this article other than by the pari-mutuel method.

(b) It is unlawful for any licensee for the racing of greyhounds or any operator of an in-state simulcast facility that receives simulcast races of greyhounds to take more than nineteen and one-half percent, of the gross receipts of any pari-mutuel wagering on such races or simulcast races or for a licensee for the racing of horses or an operator of an in-state simulcast facility that receives simulcast races of horses to take more than eighteen and one-half percent of the gross receipts on win, place, and show wagering on such races or simulcast races or more than twenty-five percent of the gross receipts from all other pari-mutuel wagering on such races or simulcast races.

(c) Each licensee for the racing of horses shall pay as purses for the races in any horse race meet conducted at its in-state host track fifty percent of the breakage attributable thereto, and fifty percent of the track's commission. For purposes of this paragraph (c), the track's commission means the maximum allowable percentage which may be taken, pursuant to paragraph (b) of this subsection (1), by a licensee for the racing of horses from the gross receipts from all pari-mutuel wagering placed on such races at the in-state host track, after deduction of the amounts specified in sections 12-60-701 (2) (a) and (2) (b) and 12-60-704 (2).

(d) For each horse race meet it conducts, a licensee shall file with its license application with the commission an agreement between such licensee and the organization which represents the majority of the owners of horses participating at such race meet. Such agreement shall specify the purse structure which shall apply to the races conducted at such horse race meet, including minimum purses per race and any conditions relating to overpayments or underpayments.

(d.5) For each greyhound race meet it conducts, a licensee shall file with its license application with the commission an

agreement between such licensee and the organization which represents the majority of kennel owners participating at such race meet. Such agreement shall specify the purse structure which shall apply to the races conducted at such greyhound race meet.

(e) (I) Each licensee for the racing of greyhounds shall pay on a weekly basis as purses for the races in any greyhound race meet conducted at its in-state host track five percent of the gross receipts from all pari-mutuel wagering on such races.

(II) Each operator of an in-state simulcast facility which receives simulcast races of horses or greyhounds shall pay to purse funds for the racing of horses or greyhounds, respectively, depending on the animals taking part in each simulcast race, and to such in-state or out-of-state tracks and simulcast facilities as described in the simulcast agreement filed with the commission such percentages of the gross pari-mutuel wagering on such simulcast races, after deduction of any signal fee required by an out-of-state host track or an in-state host track, paid during the current year or any previous year, and the applicable amounts specified in subsection (2) (b) of this section, in section 12-60-701 (1) (a), (2) (a), (2) (b), and (2) (c), and in section 12-60-704 (2), as shall be specified in such simulcast agreement.

(III) (A) To defray operating expenses, the operator of a simulcast facility located at a class B track may retain up to twenty percent of the net purses earned and payable to the horse purse fund as provided in subparagraph (II) of this paragraph (e).

(B) This subparagraph (III) is repealed, effective April 20, 2003.

(f) Horse purse funds and greyhound purse funds payable by a licensee or an operator pursuant to this section shall be retained by such licensee or operator in a trust account in a commercial bank located in Colorado until such date as the purse funds are paid to the horse or greyhound owners or to the host track for payment to the horse or greyhound owners; except that:

(I) The amount in any such trust account shall not exceed the maximum amount of such accounts which is insured in full by the federal deposit insurance corporation; and

(II) Subject to prior approval by the commission, the operator of a horse track may withdraw moneys from such trust account to make up for shortfalls in the amounts of revenue derived from other sources which were reasonably anticipated to cover payments made on purses during a licensed race meet held at such track in the current year or a prior year.

(g) It is unlawful for any licensee to compute breaks in the pari-mutuel system in excess of ten cents. If, during any race

meet conducted under this law, there are underpayments of the amount actually due to the wagerers, the amount of the excess of such underpayments over and above overpayments to wagerers, at the expiration of thirty days from the end of said meet, shall revert and belong to the state of Colorado and be paid to the department of revenue through the division and become a part of its funds, and it shall not be retained by the licensee under whose license such race meet was held.

(h) Fifty percent of the breakage at any horse race meet shall be retained by the licensee under whose license such horse race meet was held and the remainder shall be paid as purses for the races conducted at such race meet. The breakage at any greyhound race meet shall be retained by the licensee under whose license such greyhound race meet was held. The breakage on any simulcast race of horses or greyhounds received by an in-state simulcast facility shall be retained by the operator of such in-state simulcast facility; except that, in the case of simulcast races of horses received from an in-state host track, fifty percent of the breakage shall be paid to the licensee of such in-state host track within sixty days after the end of the race meet from which such simulcast race was broadcast and the remainder shall be paid as purses for the races conducted at such in-state host track.

(i) The proceeds derived from all unclaimed pari-mutuel tickets for each greyhound race meet shall be retained by the licensee under whose license such greyhound race meet was held and, after a period of one year following the end of such race meet, shall revert and belong to such licensee and shall be used by the licensee for capital improvements to the track at which the race meet was held.

(j) The proceeds derived from all unclaimed pari-mutuel tickets for each simulcast race of greyhounds received by an in-state simulcast facility shall be retained by the operator of such simulcast facility and, after a period of one year following such simulcast race, shall revert and belong to such operator; except that, in the case of simulcast races received from an in-state host track, such proceeds shall be paid to the licensee of such in-state host track within sixty days after the end of the race meet from which the simulcast race was broadcast and, after a period of one year following the end of such race meet, shall revert and belong to such licensee and shall be used by the licensee for capital improvements to the track at which the race meet was held.

(2) (a) In the event the federal government or any federal governmental agency imposes a levy on said licensee by a tax on the money so wagered and upon and against its receipts, the licensee may collect, in addition to the percentage and breaks allowed in this section, the amount of the tax so levied.

(b) The tax and breaks and license fee provided for in this article shall be in lieu of all other license fees and privilege

taxes or charges by the state of Colorado or any county, city, town, or other municipality or taxing body for the privilege of conducting any race meet provided for in this article and licensed by the authority of this article; except that any county, city, town, or other municipality or taxing body which imposed any fee, tax, or charge prior to July 1, 1982, on the money so wagered, or upon and against the licensee's receipts, or for the privilege of conducting any race meet provided for and licensed by authority of this article shall have the authority to amend, repeal and reenact, or repeal any such fee, tax, or charge and impose a new or different fee or tax on the money so wagered, or upon and against the licensee's receipts, or for the privilege of conducting any race meet provided for and licensed by authority of this article, and no provision of this article shall affect the authority of such county, city, town, or other municipality or taxing body with respect to such fees or taxes unless such provision specifically refers to this paragraph (b). Notwithstanding subsection (1) of this section, it is lawful for the licensee to take such fee or tax from the gross receipts on pari-mutuel wagering; and in such cases the licensee shall pay the fee or tax directly to the county, city, town, or other municipality or taxing body.

(3) Unless expressly authorized by this article, no person may act for consideration as an agent or courier for another person for the purpose of placing wagers or cashing or redeeming winning pari-mutuel tickets. In addition to the remedies otherwise provided for violations of this article, the commission may petition any court of competent jurisdiction for an order enjoining a violation of this subsection (3).

12-60-703 - Pari-mutuel pools for race meets and simulcast races.

(1) The pari-mutuel pool for a horse race meet and for simulcast races of such race meet shall be an intrastate common pool; except that, if such simulcast races are received by an out-of-state simulcast facility, the pari-mutuel pool may be an interstate common pool, and, in that case, it shall be operated by the in-state host track conducting such horse race meet.

(2) The pari-mutuel pool for a greyhound race meet and for simulcast races of such race meet shall be an intrastate common pool; except that, if such simulcast races are received by an out-of-state simulcast facility, the pari-mutuel pool may be an interstate common pool, and, in that case, it shall be operated by the in-state host track conducting such greyhound race meet.

(3) An in-state simulcast facility receiving simulcast races from an out-of-state host track may participate either in a pari-mutuel pool into which only the pari-mutuel wagers on such simulcast races which are placed at such in-state simulcast

facility are taken or in an interstate common pool. The commission shall permit an operator of an in-state simulcast facility participating in an interstate common pool to adopt the takeout percentage of the out-of-state host track for such interstate common pool, so long as such in-state simulcast facility's takeout does not exceed twenty percent of win, place, and show wagering and twenty-five percent of all other pari-mutuel wagering on such simulcast races.

12-60-703.5 - Limitations on pari-mutuel wagering.

(1) Wagers on pari-mutuel horse or greyhound races conducted in or out of this state may only be placed upon the premises of a racetrack or an in-state simulcast facility licensed by the commission or such out-of-state racetrack or simulcast facility as authorized by the commission. No wagering or betting on the results of any of the races licensed under this article shall be conducted outside a licensed or approved racetrack or simulcast facility.

(2) (a) No person or agent or employee of any person shall place, receive, offer, or agree to place or receive a wager on a parimutuel horse or greyhound race, conducted in or broadcast in this state, by messenger, telephone, telegraph, facsimile machine, or other electronic device; except that this subsection (2) shall not apply to associations or simulcast facilities licensed by the commission. Nothing in this section shall be construed to prohibit gambling as provided in section 18-10-102
(2) (d), C.R.S.

(b) Any person who violates paragraph (a) of this subsection (2) commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

12-60-704 - Creation of horse breeders' and owners' awards and supplemental purse fund - awards - advisory committee - sunset review.

(1) There is hereby created a fund, to be known as the horse breeders' and owners' awards and supplemental purse fund, referred to in this section as the "fund", which shall consist of moneys deposited thereto by the commission for the purposes of this section, to be held by the state treasurer, which moneys are hereby appropriated to be paid out to owners and breeders of Colorado-bred horses as provided in this section and by rules of the commission. Such rules shall provide for an administrative fee to be paid to the Colorado horse breeder associations for registering and maintaining breeding records for the administration of the fund. Such fees shall not exceed five percent of the total moneys generated by the unclaimed pari-mutuel tickets and such moneys provided by section 12-60-701 (2) (b).

(2) Those moneys derived pursuant to section 12-60-701 (2) (b) shall be paid to the department of revenue through the division for the fund on the fifteenth day of the calendar month immediately following the month in which such sum was received. In addition, the proceeds derived from all unclaimed pari-mutuel tickets for each horse race meet and for each simulcast race of horses received by an in-state simulcast facility shall be paid to the department of revenue through the division for the fund after a period of one year following the end of such race meet.

(3) (a) There is hereby created an advisory committee of nine persons to advise the commission relative to the breeders', owners', and stallion awards and supplemental purses. The committee shall be composed of members of the Colorado horse breeder associations, including one breeder of Arabians, the Colorado fair circuit associations, two members of the betting public, and other Colorado licensed horse racetracks. Committee members shall serve without compensation. Appointments shall be made by the commission, and terms of office shall be for three years, with the initial appointments to be made so that three members shall serve for three years, three members shall serve for two years, and three members shall serve for one year. Vacancies, when occurring, shall be filled by the commission for the remainder of the term of any said vacancy.

(b) Repealed.

(c) After moneys from the fund have been distributed to the respective breeder associations, further distribution shall be governed by the bylaws of such associations. Nothing in this section shall be construed to prohibit the distribution of moneys from the fund to owners and breeders of Colorado-bred horses that are otherwise eligible under the bylaws of such associations and that run in races outside Colorado.

(4) Notwithstanding section 24-30-204, C.R.S., the commission may establish by rule a period for distribution of moneys in the fund which is not consistent with the state's general fiscal-year period.

12-60-705 - Payments to state - disposition.

(1) Except as otherwise provided in sections 12-60-701, 12-60-702 (1), and 12-60-704, all sums referred to in sections 12-60-701, 12-60-702 (1), and 12-60-704, including all sums collected for license fees and fines pursuant to the provisions of this article, shall be paid to the department of revenue through the division on the business day following the day of each performance, and the licensee shall make a return as required by rules of the commission.

(2) All moneys collected by the department of revenue through the division shall, on the next business day following the

receipt thereof, be transmitted to the state treasurer, who shall credit the same to the general fund of the state or to the horse breeders' and owners' awards and supplemental purse fund as provided in section 12-60-704. The department of revenue shall have all the powers, rights, and duties provided in article 21 of title 39, C.R.S., to carry out such collection.

(3) The general assembly shall annually appropriate from the general fund the necessary costs of administration of the division and the commission which shall be based upon estimates of such costs submitted by the division to the office of state planning and budgeting in accordance with part 3 of article 37 of title 24, C.R.S. It is recognized that the racing and pari-mutuel wagering industry must be administered and funded on an industry-wide basis and that the license and other fees collected from any single aspect of the industry will not necessarily be equal to the costs of the division's or commission's administration of that aspect of the industry. In making its annual appropriation from the general fund for the necessary costs of administration of the division and the commission, the general assembly shall consider the overall costs of the division and commission and not require that any aspect of the division's and commission's activities be self-funded.

(4) Any person who fails to make a return or pay any tax required under this article shall be liable for penalties and interest as follows:

(a) A penalty of the greater of fifteen dollars for each failure to make a return and for each failure to pay a tax when due, or ten percent thereof plus one-half percent per month from the date when due, not exceeding eighteen percent, in the aggregate; and

(b) Interest on any tax due, from the date due, at the rate specified in section 39-21-110.5, C.R.S.

12-60-706 - Agreement of this state.

In the event any county or municipality development revenue bonds are issued in reliance on the provisions of this article, the state of Colorado does hereby covenant and agree with the holders of any such bonds that the state will not limit or alter the rights or powers of the owners of such bonds or to repeal, amend, or otherwise directly or indirectly modify this article or the effect thereof as to the assessments, fees, charges, pledged revenues, or any combination thereof in such a manner as to impair adversely any such outstanding bonds, until all such bonds have been paid and discharged in full or provision for their payment and redemption has been fully made. Such covenant and agreement may be included in any agreement with the holders of such bonds.

12-60-801 - Criminal penalties.

(1) Except as provided in section 12-60-601, any person who commits any of the acts enumerated in section 12-60-507 (1)

other than those which also constitute crimes under the "Colorado Criminal Code", title 18, C.R.S., commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

(2) Any person who violates any rule of the commission promulgated under the authority granted in this article, other than

those which also constitute crimes under the "Colorado Criminal Code", title 18, C.R.S., commits a class 2 petty offense

and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

(3) The penalties set forth in this section are cumulative and do not preclude the imposition of civil or administrative

penalties, sanctions, actions against licenses or registrations, or any other penalties otherwise authorized.

12-60-802 - Cancellation of license.

In case of a willful violation of this article by a person holding a license, the commission, upon conviction of the offender,

may cancel the offender's license, and such cancellation shall operate as a forfeiture of all rights and privileges granted by

the commission and of all sums of money paid to the department of revenue through the division by the offender, and the

action of the commission in this respect shall be final.

12-60-803 - Exclusion from licensed premises.

The commission or the division may exclude from any and all licensed premises any person who has been convicted of a

felony under the laws of this or any other state or of the United States, subject to the provisions of section 24-5-101, C.R.S.

Any person so excluded by the commission or the division has a right to a hearing before the commission as to the basis of

such exclusion, subject to the provisions of section 24-4-104, C.R.S. No such person shall enter or remain upon premises

owned by any licensee conducting a race meet or operating a simulcast facility under the jurisdiction of the commission, and

all such persons, upon discovery or recognition, shall be forthwith excluded or ejected from such premises. Any person so

ejected or excluded from the premises of any licensee shall be denied admission to its premises and the premises of all other

licensees of the commission until permission for entering has thereafter been obtained from the commission. The commission may also exclude any person from such licensed premises who willfully violates any of the provisions of this article or any rule issued by the commission.

12-60-901 - Repeal of article - review of functions.

This article is repealed, effective July 1, 1999. Prior to such repeal, the division and its functions shall be reviewed as provided for in section 24-34-104, C.R.S.

TITLE 16. CRIMINAL PROCEEDINGS

CODE OF CRIMINAL PROCEDURE

ARTICLE 13. SPECIAL PROCEEDINGS

PART 3. ABATEMENT OF PUBLIC NUISANCE

16-13-301 - Definitions.

As used in this part 3, unless the context otherwise requires:

(1) "Action to abate a public nuisance" means any action authorized by this part 3 to restrain, remove, terminate, prevent, abate, or perpetually enjoin a public nuisance.

(2) "Building" means a structure which has the capacity to contain, and is designed for the shelter of, man, animals, or property, including any house, office building, store, warehouse, or structure of any kind, whether or not such building is permanently affixed to the ground upon which it is situated, and any trailer, semitrailer, trailer coach, mobile home, or other vehicle designed or used for occupancy by persons for any purpose.

(2.2) "Drive-by crime" means a first degree assault as defined in section 18-3-202, C.R.S., second degree assault as defined in section 18-3-203, C.R.S., attempted first degree or second degree assault, felony menacing as defined in section 18-3-206, C.R.S., or illegal discharge of a firearm as defined in section 18-12-107.5, C.R.S., any of which is committed while utilizing a vehicle for means of concealment or transportation.

(2.3) "Public nuisance act" means any of the crimes, offenses, or violations set forth in section 16-13-303 (1) (a) to (1) (m), regardless of the location where the act occurred.

(2.5) "Real property" means all lands and franchises and interests in land located within this state, including water rights, mineral rights, oil and gas rights, space rights, condominium rights, and air rights, and any and all other things usually included within said term. "Real property" includes any and all interests in such property less than full title, such as easements, incorporeal hereditaments, and every estate, interest, or right, legal or equitable.

(2.7) "Seizing agency" means any agency which is charged with the enforcement of the laws of this state, of any other state, or of the United States and which has participated in a seizure or has been substantially involved in effecting a forfeiture through the development of evidence underlying the claim for forfeiture or through legal representation pursuant to this part 3. The department of corrections and the division of wildlife in the department of natural resources shall be deemed to be included under this definition.

(3) "Vehicle" means any device of conveyance capable of moving itself or of being moved from place to place upon wheels or track or by water or air, whether or not intended for the transport of persons or property, and includes any place therein adapted for overnight accommodation of persons or animals or for the carrying on of business.

16-13-303 - Class 1 public nuisance.

(1) Every building or part of a building including the ground upon which it is situate and all fixtures and contents thereof, every vehicle, and any real property shall be deemed a class 1 public nuisance when:

(a) Used as a public or private place of prostitution or used as a place where the commission of soliciting for prostitution, as defined in section 18-7-202, C.R.S., pandering, as defined in section 18-7-203, C.R.S., keeping a place of prostitution, as defined in section 18-7-204, C.R.S., or pimping, as defined in section 18-7-206, C.R.S., occurs;

(b) (I) Used, or designed and intended to be used, as gambling premises, as defined in section 18-10-102 (5), C.R.S., or as a place where any gambling device or gambling record, as such terms are defined in section 18-10-102 (3) and (7), C.R.S., is kept;

(II) Used for transporting gambling proceeds, records, or devices as defined in section 18-10-102 (3), (6), and (7), C.R.S.;

(c) (I) Used for unlawful manufacture, cultivation, growth, production, processing, sale, or distribution or for storage or

possession for any unlawful manufacture, sale, or distribution of any controlled substance, as defined in section 18-18-102

(5), C.R.S., or any other drug the possession of which is an offense under the laws of this state, or any imitation controlled substance, as defined in section 18-18-420 (3), C.R.S.;

(II) Used for unlawful possession of any controlled substance, as defined in section 18-18-102 (5), C.R.S., except for possession of less than eight ounces of marihuana;

(d) Used for a purpose declared by a statute of this state to be a class 1 public nuisance;

(e) (I) Used as a place where the commission of felony theft by receiving, as specified in section 18-4-410, C.R.S., occurs or as a place where misdemeanor theft by receiving, as specified in said section, repeatedly occurs;

(II) Used for transporting property which is the subject of felony theft by receiving, as specified in section 18-4-410, C.R.S., or used for repeatedly transporting property which is the subject of misdemeanor theft by receiving, as specified in said section;

(f) Used for the unlawful manufacture, sale, or distribution of drug paraphernalia, as defined in section 18-18-426, C.R.S.;

(g) Used for prostitution of a child, as defined in section 18-7-401, C.R.S., or used as a place where the commission of soliciting for child prostitution, as defined in section 18-7-402, C.R.S., pandering of a child, as defined in section 18-7-403, C.R.S., keeping a place of child prostitution, as defined in section 18-7-404, C.R.S., pimping of a child, as defined in section 18-7-405, C.R.S., or inducement of child prostitution, as defined in section 18-7-405.5, C.R.S., occurs;

(h) Used for the sexual exploitation of children pursuant to part 4 of article 6 of title 18, C.R.S.;

(h.5) Repealed.

(h.6) Used in violation of section 43-10-114, C.R.S.;

(i) Used in the commission of any felony not otherwise included in this section;

(j) Used in the commission of felony vehicular eluding pursuant to section 18-9-116.5, C.R.S.;

(k) Used in the commission of hit and run with serious bodily injury or death pursuant to section 42-4-1601 (1), (2) (b), and (2) (c), C.R.S.;

(l) Used in committing a drive-by crime, as defined in section 16-13-301 (2.2); or

(m) (I) Used, or designed and intended to be used, as gaming premises, or as a place where any gaming device, as such term is defined in section 12-47.1-103 (10), C.R.S., or gaming record is kept, in violation of article 47.1 of title 12, C.R.S., or in violation of article 20 of title 18, C.R.S.;

(II) Used for transporting adjusted gross proceeds or gaming devices as such terms are defined in section 12-47.1-103 (1) and (10), C.R.S., or records in violation of the provisions of article 47.1 of title 12, C.R.S., or in violation of article 20 of title 18, C.R.S.;

(III) Used for the unlawful manufacture, production, sale, distribution, or for storage or possession for any unlawful manufacture, sale, or distribution of any gaming device, as defined in section 12-47.1-103 (10), C.R.S., or any other gaming device, equipment, key, electronic or mechanical device, slot machine, bogus chips, counterfeit chips, cards, coins, gaming billets, cheating device, thieving device, tools, drills, or wires used in violation of article 47.1 of title 12, C.R.S., or in violation of article 20 of title 18, C.R.S.

(1.5) All equipment, mechanical systems, or machinery, or parts thereof, shall be deemed to be a class 1 public nuisance at the location of the automatic dialing system when used for soliciting with an automatic dialing system containing a prerecorded message in violation of section 18-9-311 (1), C.R.S.

(2) All fixtures and contents of any building, structure, vehicle, or real property which is a class 1 public nuisance under subsection (1) of this section and all property which is a class 1 public nuisance under subsection (1.5) of this section are subject to seizure, confiscation, and forfeiture as provided in this part 3. In addition, the personal property of every kind and description, including currency and other negotiable instruments and vehicles, used in conducting, maintaining, aiding, or abetting any class 1 public nuisance is subject to seizure, confiscation, and forfeiture, as provided in this part 3.

(3) The following shall be deemed class 1 public nuisances and be subject to forfeiture and distributed as provided in section 16-13-311 (3), and no property rights shall exist in them:

(a) All currency, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for any public nuisance act; or

(b) All proceeds traceable to any public nuisance act; or

(c) All currency, negotiable instruments, and securities used or intended to be used to facilitate any public nuisance act.

(4) Whenever it is established, in an action brought pursuant to this part 3, that a person has received proceeds derived from any public nuisance act, the court shall award to the plaintiff a money judgment of forfeiture for the amount of said proceeds shown to have been derived from any public nuisance act or for an amount shown to have been derived from a series of similar acts which fall within a pattern of public nuisance acts. The person subjected to such a money judgment may claim a setoff equal to the fair market value of the property forfeited if he shows that said property is traceable to the

public nuisance act upon which the money judgment is predicated.

(5) (a) In any action seeking forfeiture of property pursuant to this part 3, any person contesting the forfeiture shall establish such person's standing as a true owner of the property.

(b) The factors to be considered by the court in determining whether a person is a true owner, as described in paragraph

(a) of this subsection (5), shall include, but shall not be limited to, the following:

(I) Whether the person was the primary user or possessor of the property;

(II) Whether the property is titled in the person, unless the property was titled in or conveyed to the person in order to avoid a forfeiture;

(III) How much of the consideration paid for the purchase of the property was furnished by the person.

(c) The court shall consider the totality of the circumstances in determining whether a person is a true owner, but it is not necessary that a person contesting the forfeiture establish all of the factors enumerated in paragraph (b) of this subsection

(5) in order for the court to find that the person is a true owner.

(5.1) (a) In any action to forfeit property pursuant to this part 3, the plaintiff, in addition to any other matter which must be proven in the plaintiff's case in chief, shall prove by a preponderance of evidence that possession of the property is unlawful, or that the owner of the property was a party to the creation of the public nuisance.

(b) As used in paragraph (a) of this subsection (5.1), an owner was a "party to the creation of the public nuisance" if it is established that:

(I) The owner was involved in the public nuisance act; or

(II) The owner knew or reasonably should have known of the public nuisance act.

(5.2) It shall be an affirmative defense that, and the property of a person who was not involved in the public nuisance act or acts shall not be forfeited if, the person establishes by a preponderance of evidence that the person took all reasonable steps to abate the public nuisance and took all reasonable steps to prevent the property from becoming a public nuisance or from becoming involved in the public nuisance act.

(6) Whenever the evidence adduced in an action pursuant to this part 3 shows a substantial connection between currency and the acts specified in subparagraph (I) of paragraph (c) of subsection (1) of this section, a rebuttable presumption shall arise that said currency is property subject to forfeiture. A substantial connection exists if:

(a) Currency in the aggregate amount of one thousand dollars or more was seized at or close to the time that evidence of the acts specified in subparagraph (I) of paragraph (c) of subsection (1) of this section was developed or recovered; and

(b) (I) Said amount of currency was seized on the same premises or in the same vehicle where evidence of said acts was developed or recovered; or

(II) Said amount of currency was seized from the possession or control of a person engaged in said acts; or

(III) Traces of a controlled substance were discovered on the currency or an animal trained in the olfactory detection of controlled substances indicated the presence of the odor of a controlled substance on the currency as testified to by an expert witness.

(7) Currency seized pursuant to this part 3 may be placed in an interest-bearing account during the proceedings pursuant to this part 3 if so ordered by the court upon the motion of any party. Photocopies of portions of the bills shall serve as evidence at all hearings. The account and all interest accrued shall be forfeited or returned to the prevailing party in lieu of the currency.

(8) The provisions of subsection (6) of this section shall not be construed so as to limit the introduction of any other competent evidence offered to prove that seized currency is a public nuisance.

16-13-304 - Class 2 public nuisance.

(1) The following are deemed to be a class 2 public nuisance:

(a) Any place where people congregate, which encourages a disturbance of the peace, or where the conduct of persons in or about that place is such as to annoy or disturb the peace of the occupants of or persons attending such place, or the residents in the vicinity, or the passersby on the public street or highway; or

(b) Any public or private place or premises which encourages professional gambling, unlawful use, sale, or distribution of imitation controlled substances, as defined in section 18-18-420 (3), C.R.S., drugs, controlled substances, as defined in section 18-18-102 (5), C.R.S., or other drugs the possession of which is an offense under the laws of this state, furnishing or selling intoxicating liquor to minors, furnishing or selling fermented malt beverages to persons under the age of twenty-one, solicitation for prostitution, or traffic in stolen property; or

(b.5) Any public or private place or premises used for soliciting by means of a prerecorded message in violation of section 18-9-311 (1), C.R.S.; or

(c) Any public or private place used for a purpose declared to be a class 2 public nuisance by any other statute of this

state.

16-15-102 - Ex parte order authorizing the interception of wire, oral, or electronic communications.

(1) (a) An ex parte order authorizing or approving the interception of any wire, oral, or electronic communication may be issued by any judge of competent jurisdiction of the state of Colorado upon application of the attorney general or a district attorney, showing by affidavit that there is probable cause to believe that evidence will be obtained of the commission of any one of the crimes enumerated in this subsection (1) or that one of said enumerated crimes will be committed:

(I) Murder in the first or second degree as defined in sections 18-3-102 and 18-3-103, C.R.S.;

(II) Kidnapping in the first or second degree as defined in sections 18-3-301 and 18-3-302, C.R.S.;

(III) Gambling, meaning professional gambling, as defined in section 18-10-102 (8), C.R.S., and subject to prosecution under section 18-10-103 (2), C.R.S.;

(IV) Robbery as defined in section 18-4-301, C.R.S., aggravated robbery as defined in section 18-4-302, C.R.S., or burglary in the first or second degree as defined in sections 18-4-202 and 18-4-203, C.R.S.;

(V) Bribery as defined in section 18-8-302, C.R.S., compensation for past official behavior as defined in section 18-8-303, C.R.S., attempt to influence a public servant as defined in section 18-8-306, C.R.S., designation of supplier as defined in section 18-8-307, C.R.S., or misuse of official information as defined in section 18-8-402, C.R.S.;

(VI) Dealing in controlled substances as covered by part 3 of article 22 of title 12, C.R.S., as such offenses are subject to prosecution as felonies;

(VII) Crimes dangerous to life, limb, or property, meaning extortion, as defined as menacing by use of a deadly weapon in section 18-3-206, C.R.S., theft by means other than the use of force, threat, or intimidation as defined in section 18-4-401 (5), C.R.S., arson as defined in sections 18-4-102 to 18-4-105, C.R.S., as these offenses are subject to prosecution as felonies, assault in the first or second degree as defined in sections 18-3-202 and 18-3-203, C.R.S.;

(VII.5) Escape, as defined in section 18-8-208, C.R.S., or introducing contraband in the first or second degree, as defined in sections 18-8-203 and 18-8-204, C.R.S.;

(VIII) A criminal conspiracy as defined in section 18-2-201, C.R.S., to commit any of the aforementioned enumerated crimes;

(IX) Limited gaming as defined in article 47.1 of title 12, C.R.S., or in violation of article 20 of title 18, C.R.S.

(b) Anything to the contrary notwithstanding, an ex parte order for wiretapping or eavesdropping may be issued only for a crime specified in this subsection

(1) for which a felony penalty is authorized upon conviction.

(2) Each application for an order authorizing or approving the interception of any wire, oral, or electronic communication shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

(a) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(b) A complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including: Details as to the particular offense that has been, is being, or is about to be committed, except as provided in subsection (17) of this section, a particular description of the nature and location of the facilities from which, or the place where, the communication is to be intercepted; a particular description of the type of communication sought to be intercepted; and the identity of the person, if known, committing the offense and whose communications are to be intercepted;

(c) A complete statement as to whether or not other investigative procedures have been tried and failed, or why they reasonably appear to be unlikely to succeed if tried, or to be too dangerous;

(d) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, there shall be required a particular description of the facts establishing probable cause to believe that additional communications of the same type will occur thereafter.

(e) A complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire, oral, or electronic communications involving any of the same persons, facilities, or places specified in the application, and the action taken by the judge on each such application; and

(f) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain those results.

(3) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(4) Upon an application, the judge may enter an ex parte order, as requested or as modified, authorizing or approving the interception of any wire, oral, or electronic communication within the territorial jurisdiction of the court in which the judge is sitting and outside that jurisdiction but within the United States in the case of a mobile interception device, if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause for belief that a person is committing, has committed, or is about to commit a particular offense enumerated in this section;

(b) There is probable cause for belief that particular communications concerning that offense will be obtained through the interception;

(c) Normal investigative procedures have been tried and have failed, or reasonably appear to be unlikely to succeed if tried, or to be too dangerous;

(d) Except as provided in subsection (17) of this section, there is probable cause for belief that the facilities from which or the place where the wire, oral, or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of an offense or are leased to, listed in the name of, or commonly used by the person alleged to be involved in the commission of the offense.

(5) Each order authorizing or approving wiretapping or eavesdropping shall specify:

(a) The identity of the person, if known, whose communications are to be intercepted;

(b) Except as otherwise provided in subsection (17) of this section, the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(c) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(d) The identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

(e) The period of time during which an interception is authorized, including a statement as to whether or not the interception automatically terminates when the described communication is first obtained.

(6) No order entered under this section may authorize or approve the interception of any wire, oral, or electronic communication for any period longer than is necessary to achieve the objective of the authorization nor in any event longer than thirty days. Such thirty-day period begins the first day on which the investigative or law enforcement officer begins to conduct an interception under the order or ten days after the order is entered, whichever occurs earlier. An extension of an order may be granted but only upon application for an extension made in accordance with subsection (2) of this section and the court making the findings required by subsection (4) of this section. The period of the extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception under this section, and must terminate upon attainment of the authorized objective, or in any event in thirty days. No more than one extension may be granted for any order entered under this section. In the event that the intercepted communication is in a code or foreign language and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception made pursuant to this section may be conducted in whole or in part by government personnel or by an individual operating pursuant to a contract with the government and acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

(7) If an order authorizing interception is entered pursuant to this section, the order may require reports to be made to the judge who issued the order, showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such report shall be made at such times as the judge may require.

(8) (a) The contents of any wire, oral, or electronic communication intercepted by any means authorized by this section shall, if possible, be recorded on tape, wire, or other comparable device. The recording of the contents of any wire, oral, or electronic communication under this subsection (8) shall be done in such a way as will protect the recording from editing or other alterations. Immediately upon expiration of the period of the order, or extension thereof, the recording shall be made available to the judge issuing the order and sealed under his directions. Custody of the recording shall be wherever the judge orders.

A recording shall not be destroyed except upon an order of the judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of this section. The presence of the seal provided for by this subsection (8), or a satisfactory explanation for the absence thereof, is a prerequisite for the use or disclosure of the contents of any wire, oral, or electronic communication or evidence derived under this section.

(b) Applications made and orders granted under this section shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. The applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction, and shall not be destroyed except on order of the judge to whom presented, and in any event shall be kept for ten years. Information obtained pursuant to a court order authorizing interception of wire, oral, or electronic communications shall not be used, published, or divulged except in accordance with the provisions of this article.

(c) Any violation of the provisions of this subsection (8) may be punished as contempt of court.

(d) Within a reasonable time, but not later than ninety days after the filing of an application for an order of approval under this section, which application is denied, or after the termination of the period of an order or extensions thereof, the judge to whom the application was presented shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine in his discretion is in the interest of justice, notice of the following:

(I) The fact of the entry of the order or application;

(II) The date of the entry and the period of authorized, approved, or disapproved interception, or the denial of the application; and

(III) The fact that during the period wire, oral, or electronic communications were or were not intercepted. The judge, upon the filing of a motion, may, in his discretion, make available to any such person or his counsel for inspection such portions of the intercepted communications, applications, and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge of competent jurisdiction, the serving of the matter required by this paragraph (d) may be postponed.

(9) The contents of any intercepted wire, oral, or electronic communication or the evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a state court, unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the court if it finds that it was not possible to furnish the party with the information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving this information.

(10) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the state of Colorado, or a political subdivision thereof, may move to suppress the contents of any intercepted wire, oral, or electronic communication or the evidence derived therefrom on the grounds that: The communication was unlawfully intercepted; the order of authorization or approval under which it was intercepted is insufficient on its face; or the interception was not made in conformity with the order of authorization or approval. This motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire, oral, or electronic communication or the evidence derived therefrom shall not be received as evidence. The remedies and sanctions provided for in this section with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this section involving such communications.

(11) In addition to any other right to appeal, the state of Colorado has the right to appeal from an order granting a motion to suppress made under subsection (10) of this section, or the denial of an application for an order of approval, if the person making or authorizing the application certifies to the judge granting the motion or denying an application that the appeal is not taken for purposes of delay. Such appeal shall be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

(12) Any investigative or law enforcement officer who, by any means authorized by this section, has obtained knowledge of the contents of any wire, oral, or electronic communication or the evidence derived therefrom may disclose such contents to another investigative or law enforcement officer to the extent that this disclosure is appropriate in the proper performance of the official duties of the officer making or receiving the disclosure.

(13) Any investigative or law enforcement officer who, by any means authorized by this section, has obtained knowledge of the contents of any wire, oral, or electronic communication or the evidence derived therefrom may use those contents to the extent the use is appropriate in the official performance of his official duties.

(14) Any person who has received, by any means authorized by this section, any information concerning a wire, oral, or electronic communication or any evidence derived therefrom, intercepted in accordance with the provisions of this section, may disclose the contents of that communication or derivative evidence while giving testimony in any criminal proceeding in any court of this state or in a grand jury proceeding.

(15) No otherwise privileged wire, oral, or electronic communication intercepted in accordance with, or in violation of, the provisions of this section shall

lose its privileged character.

(16) When an investigative or law enforcement officer, while engaged in intercepting wire, oral, or electronic communications in the manner authorized in this section, intercepts wire, oral, or electronic communications relating to an offense other than one specified in the order of authorization or approval, the contents thereof and the evidence derived therefrom may be disclosed or used as provided in subsections (12) and (13) of this section only if an offense other than one specified in the order is an offense which constitutes a felony under Colorado statutes. The contents thereof and the evidence derived therefrom, as authorized by this section, may be used under subsection (14) of this section only when authorized or approved by a judge of competent jurisdiction when the judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this section. This application shall be made as soon as practicable.

(17) (a) The requirements of paragraph (b) of subsection (2), paragraph (d) of subsection (4), and paragraph (b) of subsection (5) of this section relating to the specification of the facilities from which, or the place where, the communications are to be intercepted do not apply if:

(I) In the case of an application with respect to the interception of an oral communication:

(A) The application is made by an investigative or law enforcement officer and is approved by the attorney general or the district attorney of the district in which the application is sought;

(B) The application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

(C) The judge finds that such specification is not practical; and

(II) In the case of an application with respect to the interception of a wire or electronic communication:

(A) The application is made by an investigative or law enforcement officer and is approved by the attorney general or the district attorney of the district in which the application is sought;

(B) The application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing of a purpose, on the part of that person, to thwart interception by changing facilities; and

(C) The judge finds that such purpose has been adequately shown.

(b) An interception of a communication under an order with respect to which the requirements of paragraph (b) of subsection (2), paragraph (d) of subsection (4), and paragraph (b) of subsection (5) of this section do not apply pursuant to the provisions of paragraph (a) of this subsection (17) shall not

begin until the facilities from which, or the place where, the communication is to be intercepted is ascertained by the person implementing the interception

order. A provider of wire or electronic communications service that has received an order pursuant to subparagraph (II) of paragraph (a) of this subsection

(17) may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court, upon notice to the government, shall decide such a motion expeditiously.

(18) (a) Any other provision of this article notwithstanding, any investigative or law enforcement officer specifically designated by the attorney general or a district attorney may intercept wire, oral, or electronic communications for a period not to exceed twenty-four hours under the following circumstances:

(I) When an emergency situation exists that involves the holding of hostages or kidnapping by the use of physical force, a deadly weapon, or an explosive device, and there is imminent danger of serious bodily injury or death to any person; and

(II) There are reasonable and sufficient grounds present upon which an order could be entered to authorize such interception.

(b) Any emergency interception shall terminate upon attainment of the authorized objective as set forth in subparagraph (I) of paragraph (a) of this subsection (18) or at the end of the twenty-four-hour period, whichever comes first.

(c) The investigative or law enforcement officer designated pursuant to paragraph (a) of this subsection (18) and the official making such designation shall submit an application for the interception of wire, oral, or electronic communications to a judge of competent jurisdiction within the twenty-four-hour period described in paragraph (a) of this subsection (18). Such application shall be submitted regardless of whether or not the interception was terminated within the twenty-four-hour period. Such application shall comply in all respects with the requirements of this section and sections 16-15-101, 16-15-103, and 16-15-104.

(d) If, after the application described in paragraph (c) of this subsection (18) is made, the application is denied, any interception shall immediately cease. In such case, all recordings shall be sealed by the court as soon as practicable, and any communication intercepted shall be treated as a communication which has been obtained in violation of section 18-9-305, C.R.S., and an inventory shall be served in accordance with this article. Any such communication shall not be admissible in any legal action against any person whose communication was intercepted.

(e) All provisions of this article shall be applicable with respect to the execution of any interception under emergency circumstances.

(f) Repealed.

TITLE 18. CRIMINAL CODE

ARTICLE 1. PROVISIONS APPLICABLE TO OFFENSES GENERALLY

PART 9. DEFINITIONS

18-1-901 - Definitions.

(1) Definitions set forth in any section of this title apply wherever the same term is used in the same sense in another section of this title unless the definition is specifically limited or the context indicates that it is inapplicable.

(2) The terms defined in section 18-1-104 and in section 18-1-501, as well as the terms defined in subsection (3) of this section, are terms which appear in various articles of this code. Other terms which need definition but which are used only in a limited number of sections of this code are defined in the particular section or article in which the terms appear.

(3) (a) "To aid" or "to assist" includes knowingly to give or lend money or extend credit to be used for, or to make possible or available, or to further the activity thus aided or assisted.

(b) "Benefit" means any gain or advantage to the beneficiary including any gain or advantage to another person pursuant to the desire or consent of the beneficiary.

(c) "Bodily injury" means physical pain, illness, or any impairment of physical or mental condition.

(d) "Deadly physical force" means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death.

(e) "Deadly weapon" means any of the following which in the manner it is used or intended to be used is capable of producing death or serious bodily injury:

(I) A firearm, whether loaded or unloaded;

(II) A knife;

(III) A bludgeon; or

(IV) Any other weapon, device, instrument, material, or substance, whether animate or inanimate.

(f) "Deface" means to alter the appearance of something by removing, distorting, adding to, or covering all or a part of the thing.

(g) "Dwelling" means a building which is used, intended to be used, or usually used by a person for habitation.

(h) "Firearm" means any handgun, automatic, revolver, pistol, rifle, shotgun, or other instrument or device capable or intended to be capable of discharging bullets, cartridges, or other explosive charges.

(i) "Government" includes the United States, any state, county, municipality, or other political unit, any branch, department, agency, or subdivision of any of the foregoing, and any corporation or other entity established by law to carry out any governmental function.

(j) "Governmental function" includes any activity which a public servant is legally authorized to undertake on behalf of government.

(k) "Motor vehicle" includes any self-propelled device by which persons or property may be moved, carried, or transported from one place to another by land, water, or air, except devices operated on rails, tracks, or cables fixed to the ground or supported by pylons, towers, or other structures.

(l) (I) "Peace officer, level I," means a police officer, undersheriff, deputy sheriff, Colorado state patrol officer pursuant to section 24-33.5-212, C.R.S., marshal, or security officer employed by any state institution of higher education pursuant to the limitations set forth in section 24-7-103, C.R.S., who is employed by the state or any city, city and county, town, or county within this state and who is certified pursuant to section 24-31-305, C.R.S. "Peace officer, level I," has the authority to enforce all the laws of the state of Colorado while acting within the scope of his authority and in the performance of his duties.

(II) (A) "Peace officer, level Ia," means any sheriff; district attorney; assistant district attorney; deputy district attorney; special deputy district attorney; the attorney general of the state, the deputy attorney general, and any deputy or assistant attorney general assigned to a criminal enforcement function in the office of the attorney general; authorized investigator of a county or district attorney, the attorney general, or the executive director of the department of public safety; agent of the Colorado bureau of investigation pursuant to section 24-33.5-409, C.R.S.; parole officers or community program agents pursuant to article 2 of title 17, C.R.S.; any investigator employed by the department of corrections; or any officer of the Southern Ute Indian police force or Ute Mountain Ute Indian police force who is certified pursuant to part 3 of article 31 of title 24, C.R.S., or otherwise qualified under section 24-31-305 (2), C.R.S. "Peace officer, level Ia," has the authority to enforce all the laws of the state of Colorado while acting within the scope of the officer's authority and in the performance of the officer's duties.

(B) Any investigator who is employed by the department of corrections may be certified pursuant to section 24-31-305, C.R.S.

(III) "Peace officer, level II," means an inspector of the state licensing authority under the "Colorado Beer Code" or the liquor enforcement division under section 12-47-904, C.R.S., or part 5 of article 35 of title 24, C.R.S.; an authorized investigator of the state lottery division pursuant to section 24-35-205 (3) or 24-35-206 (7), C.R.S.; any authorized investigator and the director of the division of gaming and the executive director of the department of revenue pursuant to section 12-47.1-204, C.R.S.; any fire arson investigator appointed by the chief of any fire department and approved by the sheriff or the chief of police of the jurisdiction in which such fire arson investigator performs duties; any officer, guard, or supervisory employee within the department of corrections, except any investigator employed by the department of

corrections; a security guard employed by the state of Colorado; a security officer as defined in section 24-7-101, C.R.S.; a district wildlife manager, special district wildlife manager, or parks and recreation officer defined as a peace officer pursuant to section 33-1-102, C.R.S., and acting under the authority of a peace officer pursuant to sections 33-6-101 and 33-15-101, C.R.S.; an investigator for the division of racing events and the investigator's supervisors, including the director of the division of racing events pursuant to section 12-60-203, C.R.S., or a railroad employee defined as a peace officer pursuant to section 40-32-104.5, C.R.S., who shall have access to Colorado bureau of investigation fugitive and stolen property records. "Peace officer, level II," has the authority to enforce all the laws of the state of Colorado while acting within the scope of his authority and in the performance of his duties, and section 18-1-106 (1.5) and section 18-3-107 shall apply to "peace officer, level II".

(IV) "Peace officer, level III," means a chief security officer for the general assembly pursuant to section 2-2-402, C.R.S., a coroner, the commissioner of agriculture or his or her designee acting under the "Farm Products Act" or the "Commodity Handler Act" pursuant to sections 12-16-114 and 12-16-210, C.R.S., under the "Animal Protection Act" pursuant to section 35-42-107 (4), C.R.S., or under the "Pet Animal Care and Facilities Act" pursuant to section 35-80-109 (6), C.R.S., an adult probation officer, a juvenile probation officer pursuant to section 19-2-926, C.R.S., a brand inspector pursuant to section 35-53-128, C.R.S., an employee of a district attorney's office assigned to administer an offender diversion program, a student loan investigator, an officer or member of the Colorado national guard while acting under call of the governor in cases of emergency or civil disorder, a member of the public utilities commission, port of entry personnel acting as peace officers pursuant to section 42-8-104, C.R.S., toll road owners acting as peace officers under section 43-3-304, C.R.S., or any other person designated as a peace officer unless otherwise specified in this section as a level I, level Ia, level II, or level IIIa peace officer. "Peace officer, level III," has the authority to enforce all the laws of the state of Colorado while acting within the scope of his or her authority and in the performance of his or her duties.

(IV.5) (A) "Peace officer, level IIIa," means any person authorized by any city, city and county, town, or county within this state to act as a reserve police officer, reserve deputy sheriff, or reserve marshal for certain specific and limited periods of time while such person is authorized to be on duty and acting at the express direction or under the direct supervision of a peace officer, level I, or a sheriff. Peace officer, level IIIa, has the authority to enforce all the laws of the state of Colorado while actually on duty for the city, city and county, town, or county and while acting within the scope of his or her authority and in the performance of his or her duties subject to the restrictions and requirements provided in this subparagraph (IV.5) and subparagraph (IV.7) of this paragraph (I).

(B) A peace officer, level IIIa, must have received certification from the peace officers standards and training board, referred to in this section as the "P.O.S.T. board", pursuant to article 31 of title 24, C.R.S. Any city, city and county, town, or county assigning duties to a peace officer, level IIIa, beyond those included in the P.O.S.T. board training shall assume the responsibility for ensuring that such peace officer, level IIIa, is adequately trained for such duties. Any expenses associated with such training shall be authorized by the city, city and county, town, or county. If the jurisdiction allows or requires such peace officer, level IIIa, to carry or use a firearm while on duty, such peace officer, level IIIa, shall be certified for firearms proficiency with the same frequency and subject to the same requirements as a peace officer, level I, in the jurisdiction. No other peace officer, level IIIa, shall be authorized to enforce the laws of the state of Colorado except those complying with the training requirements set forth in this subparagraph (IV.5).

(C) The peace officer, level IIIa, must be in uniform when an assignment is carried out, and said uniform must be readily distinguishable from the uniform worn by peace officers, level I, or sheriffs of the jurisdiction, either because such uniform bears a patch or because such uniform is of a different color than the uniform worn by peace officers, level I, or sheriffs in the jurisdiction. However, when a peace officer, level IIIa, is assigned to extradition or surveillance duties, the peace officer, level IIIa, need not be in uniform.

(D) When performing extradition duties, the peace officer, level IIIa, must be accompanied by a peace officer, level I, or a sheriff. When performing surveillance duties, the assignment of the peace officer, level IIIa, shall be confined to such surveillance duties, and he or she shall not perform any other activities related to law enforcement.

(E) A peace officer, level IIIa, serves without compensation but may be reimbursed at the discretion of the city, city and county, town, or county for any authorized out-of-pocket expenses incurred in the course of his or her duties. The city, city and county, town, or county shall pay the cost for workers' compensation benefits for injuries incurred by a peace officer, level IIIa, while on duty and while acting within the scope of assigned duties. A peace officer, level IIIa, is an authorized volunteer for purposes of article 10 of title 24, C.R.S.

(IV.7) For the purposes of subparagraph (IV.5) of this paragraph (I):

(A) "Direct supervision" means an assignment given by a peace officer, level I, or a sheriff to a peace officer, level IIIa, which assignment is carried out in the personal presence of, or in direct radio or telephone contact with, and under the immediate control of the peace officer, level I, or sheriff. The peace officer, level IIIa, must be in uniform while such assignment is carried out, except when performing extradition or surveillance duties as otherwise provided in subparagraph (IV.5) of this paragraph (I).

(B) "Express direction" means a defined task-specific assignment given by a peace officer, level I, or a sheriff to a peace officer, level IIIa. The peace officer, level I, or sheriff need not be present while such assignment is being carried out by the peace officer, level IIIa. The peace officer, level IIIa, must be in uniform while such assignment is carried out, except when performing extradition or surveillance duties as otherwise provided in subparagraph (IV.5) of this paragraph (I).

(V) Unless otherwise provided for in this paragraph (I), a reference to "peace officer" in this title means a person qualified and authorized to carry a firearm, conduct arrests, and enforce the laws of the state of Colorado. A person serving as a citizen auxiliary is not a peace officer, and the P.O.S.T. board shall not require such persons to be certified.

(m) "Pecuniary benefit" means benefit in the form of money, property, commercial interests, or anything else, the primary significance of which is economic gain.

(n) "Public place" means a place to which the public or a substantial number of the public has access, and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, playgrounds, and the common areas of public and private buildings and facilities.

(o) "Public servant" means any officer or employee of government, whether elected or appointed, and any person participating as an advisor, consultant, process server, or otherwise in performing a governmental function, but the term does not include witnesses.

(p) "Serious bodily injury" means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.

(q) "Tamper" means to interfere with something improperly, to meddle with it, or to make unwarranted alterations in its condition.

(r) "Thing of value" includes real property, tangible and intangible personal property, contract rights, choses in action, services, confidential information, medical records information, and any rights of use or enjoyment connected therewith.

(s) "Utility" means an enterprise which provides gas, sewer, electric, steam, water, transportation, or communication services, and includes any carrier, pipeline, transmitter, or source, whether publicly or privately owned or operated.

TITLE 18. CRIMINAL CODE

ARTICLE 10. GAMBLING

18-10-101 - Legislative declaration - construction.

(1) It is declared to be the policy of the general assembly, recognizing the close relationship between professional gambling and other organized crime, to restrain all persons from seeking profit from gambling activities in this state; to restrain all persons from patronizing such activities when conducted for the profit of any person; to safeguard the public against the evils induced by common gamblers and common gambling houses; and at the same time to preserve the freedom of the press and to avoid restricting participation by individuals in sport and social pastimes which are not for profit, do not affect the public, and do not breach the peace.

(2) All the provisions of this article shall be liberally construed to achieve these ends and administered and enforced with a view to carrying out the declaration of policy stated in subsection (1) of this section.

18-10-102 - Definitions.

As used in this article, unless the context otherwise requires:

(1) "Gain" means the direct realization of winnings; "profit" means any other realized or unrealized benefit, direct or indirect, including without limitation benefits from proprietorship, management, or unequal advantage in a series of transactions.

(2) "Gambling" means risking any money, credit, deposit, or other thing of value for gain contingent in whole or in part upon lot, chance, the operation of a gambling device, or the happening or outcome of an event, including a sporting event, over which the person taking a risk has no control, but does not include:

(a) Bona fide contests of skill, speed, strength, or endurance in which awards are made only to entrants or the owners of entries;

(b) Bona fide business transactions which are valid under the law of contracts;

(c) Other acts or transactions now or hereafter expressly authorized by law;

(d) Any game, wager, or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only, and in which no person is participating, directly or indirectly, in professional gambling; or

(e) Repealed.

(f) Any use of or transaction involving a crane game, as defined in section 12-47.1-103 (5.5), C.R.S.

(3) "Gambling device" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine; except that the term does not include a crane game, as defined in section 12-47.1-103 (5.5), C.R.S.

(4) "Gambling information" means a communication with respect to any wager made in the course of, and any information intended to be used for, professional gambling. In the application of this definition the following shall be presumed to be intended for use in professional gambling: Information as to wagers, betting odds, or changes in betting odds. Legitimate news reporting of an event for public dissemination is not gambling information within the meaning of this article.

(5) "Gambling premises" means any building, room, enclosure, vehicle, vessel, or other place, whether open or enclosed, used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found is presumed to be intended to be used for professional gambling.

(6) "Gambling proceeds" means all money or other things of value at stake or displayed in or in connection with professional gambling.

(7) "Gambling record" means any record, receipt, ticket, certificate, token, slip, or notation given, made, used, or intended to be used in connection with professional gambling.

(8) "Professional gambling" means:

(a) Aiding or inducing another to engage in gambling, with the intent to derive a profit therefrom; or

(b) Participating in gambling and having, other than by virtue of skill or luck, a lesser chance of losing or a greater chance of winning than one or more of the other participants.

(9) "Repeating gambling offender" means any person who is convicted of an offense under section 18-10-103 (2) or sections 18-10-105 to 18-10-107 or sections 12-47.1-809 to 12-47.1-811 or 12-47.1-818 to 12-47.1-832 or 12-47.1-839, C.R.S., or sections 18-20-103 to 18-20-114 within five years after a previous misdemeanor conviction under these sections or a former statute prohibiting gambling activities, or at any time after a previous felony conviction under any of the mentioned sections. A conviction in any jurisdiction of the United States of an offense which, if committed in this state, would be professional gambling shall warrant a prosecution in this state as a repeating gambling offender.

(10) "Vintage slot machine" means any model slot machine, as defined in section 12-47.1-103 (26), C.R.S., that was introduced on the market prior to January 1, 1984.

18-10-103 - Gambling - professional gambling - offenses.

(1) A person who engages in gambling commits a class 1 petty offense.

(2) A person who engages in professional gambling commits a class 1 misdemeanor. If he is a repeating gambling offender, it is a class 5 felony.

18-10-104 - Gambling devices - gambling records - gambling proceeds.

(1) Except as provided in subsection (2) of this section, all gambling devices, gambling records, and gambling proceeds are subject to seizure by any peace officer and may be confiscated and destroyed by order of a court acquiring jurisdiction.

Gambling proceeds shall be forfeited to the state and shall be transmitted by court order to the general fund of the state.

(2) If a gambling device is a vintage slot machine and is not operated for gambling purposes for profit or for business purposes, it shall not be confiscated or destroyed pursuant to subsection (1) of this section. If a gambling device is confiscated and the owner shows that such gambling device is a vintage slot machine and is not used for gambling purposes, the court acquiring jurisdiction shall order such vintage slot machine returned to the person from whom it was confiscated.

18-10-105 - Possession of a gambling device or record.

(1) Except as provided in subsection (1.5) of this section, a person who owns, manufactures, sells, transports, possesses, or engages in any transaction designed to affect the ownership, custody, or use of a gambling device or gambling record, knowing that it is to be used in professional gambling, commits possession of a gambling device or record.

(1.5) The sale, transportation, manufacture, and remanufacture of gambling devices, including the acquisition of essential parts therefor and the assembly of such parts, is permitted if such devices are sold, transported, manufactured, and remanufactured only for transportation in interstate or foreign commerce when such transportation is not prohibited by any applicable foreign, state, or federal law. Storage of gambling devices is also permitted but only for purposes of

manufacturing, remanufacturing, and transporting such devices in interstate or foreign commerce when their transportation is not prohibited. Such activities may be conducted only by persons who have registered with the United States government pursuant to the provisions of chapter 24 of Title XV of the United States Code, as amended. Such gambling devices shall not be openly displayed, except to legal buyers, or sold for use in Colorado regardless of where purchased, nor manufactured, remanufactured, or stored for purposes of manufacture, remanufacture, and transportation in violation of any applicable state or federal law. For purposes of this subsection (1.5), "legal buyer" means a buyer who resides in another state or country which does not restrict the possession of the specific gambling device in question.

(2) Possession of a gambling device or record or violation of subsection (1.5) of this section is a class 2 misdemeanor. If the offender is a repeating gambling offender, it is a class 6 felony.

18-10-106 - Gambling information.

(1) Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore, or other means or knowingly installs or maintains equipment for the transmission or receipt of gambling information commits a class 3 misdemeanor. If the offender is a repeating gambling offender, it is a class 6 felony.

(2) Facilities and equipment furnished by a public utility in the regular course of business, and which remain the property of the utility while so furnished, shall not be seized except in connection with an alleged violation of this article by the public utility and shall be forfeited only upon conviction of the public utility therefor.

18-10-107 - Gambling premises.

(1) Whoever as owner, lessee, agent, employee, operator, or occupant knowingly maintains, aids, or permits the maintaining of gambling premises commits maintaining gambling premises.

(2) All gambling premises are common nuisances which shall be subject to abatement as provided by law.

(3) Maintaining gambling premises is a class 3 misdemeanor. If the offender is a repeating gambling offender, it is a class 6 felony.

18-10-108 - Exceptions.

Nothing contained in this article shall be construed to modify, amend, or otherwise affect the validity of any provisions contained in articles 9, 47.1, and 60 of title 12, C.R.S.

ARTICLE 17. COLORADO ORGANIZED CRIME CONTROL ACT

18-17-102 - Legislative declaration.

The general assembly hereby finds that organized crime in the state of Colorado, as well as nationwide, is a highly sophisticated, diversified, and widespread activity that annually consumes millions of dollars locally and billions of dollars nationally from this state's and the nation's economy through unlawful conduct and the illegal use of force, fraud, and corruption. Organized crime derives a major portion of its power through money procured from such illegal endeavors as syndicated and organized gambling, loan-sharking, the theft of property and fencing of stolen property, the illegal importation, manufacture, and distribution of drugs and other controlled substances, and other forms of social exploitation. This money and power are increasingly being used to infiltrate and corrupt legitimate business and labor organizations and to subvert and corrupt our democratic processes. Organized crime activities within this state weaken the stability of this state's and the nation's economy, harm innocent investors and competing organizations, impede free competition, threaten the peace and health of the public, endanger the domestic security, and undermine the general welfare of the state and its citizens. The general assembly further finds that organized crime continues to grow and flourish because of defects in the evidence-gathering process of the law which inhibits the development and use of the legally admissible evidence necessary to bring criminal and other sanctions or remedies to bear on the unlawful activities of those engaged in organized crime and because the sanctions and remedies presently available to the state are unnecessarily limited in scope and impact. Therefore, the general assembly declares that it is the purpose of this article to seek the eradication of organized crime in this state by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime.

18-17-103 - Definitions.

As used in this article, unless the context otherwise requires:

(1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other functionally similar tangible item.

(2) "Enterprise" means any individual, sole proprietorship, partnership, corporation, trust, or other legal entity or any chartered union, association, or group of individuals, associated in fact although not a legal entity, and shall include illicit as well as licit enterprises and governmental as well as other entities.

(3) "Pattern of racketeering activity" means engaging in at least two acts of racketeering activity which are related to the conduct of the enterprise, if at least one of such acts occurred in this state after July 1, 1981, and if the last of such acts occurred within ten years (excluding any period of imprisonment) after a prior act of racketeering activity.

(4) "Person" means any individual or entity holding or capable of holding a legal or beneficial interest in property.

(5) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any conduct defined as "racketeering activity" under 18 U.S.C. 1961 (1) (A), (1) (B), (1) (C), and (1) (D); or

(b) Any violation of the following provisions of the Colorado statutes or any criminal act committed in any jurisdiction of the United States which, if committed in this state, would be a crime under the following provisions of the Colorado statutes:

(I) Offenses against the person, as defined in sections 18-3-102 (first degree murder), 18-3-103 (second degree murder), 18-3-104 (manslaughter), 18-3-202 (first degree assault), 18-3-203 (second degree assault), 18-3-204 (third degree assault), 18-3-206 (menacing), 18-3-207 (criminal extortion), 18-3-301 (first degree kidnapping), and 18-3-302 (second degree kidnapping);

(II) Offenses against property, as defined in sections 18-4-102 (first degree arson), 18-4-103 (second degree arson), 18-4-104 (third degree arson), 18-4-105 (fourth degree arson), 18-4-202 (first degree burglary), 18-4-203 (second degree burglary), 18-4-301 (robbery), 18-4-302 (aggravated robbery), 18-4-303 (aggravated robbery of controlled substances), 18-4-401 (theft), 18-4-402 (theft of rental property), 18-4-409 (aggravated motor vehicle theft), 18-4-410 (theft by receiving), and 18-4-501 (criminal mischief);

(III) Offenses involving computer crime, as defined in article 5.5 of this title;

(IV) Offenses involving fraud, as defined in sections 18-5-102 (forgery), 18-5-104 (second degree forgery), 18-5-105 (criminal possession of forged instrument), 18-5-109 (criminal possession of forgery devices), 6-16-111, C.R.S., (felony charitable fraud), 18-5-206 (defrauding a secured creditor or debtor), and 18-5-403 (bribery in sports);

(V) Offenses involving the family relation, as defined in section 18-6-403 (sexual exploitation of children);

(VI) Offenses relating to morals, as defined in sections 18-7-102 (wholesale promotion of obscenity or promotion of obscenity), 18-7-203 (pandering), 18-7-206 (pimping), 18-7-402 (soliciting for child prostitution), 18-7-403 (pandering of a child), 18-7-404 (keeping a place of child prostitution), and 18-7-405 (pimping of a child);

(VII) Offenses involving governmental operations, as defined in sections 18-8-302 (bribery), 18-8-303 (compensation for past official behavior), 18-8-306 (attempt to influence a public servant), 18-8-402 (misuse of official information), 18-8-502 (first degree perjury), 18-8-503 (second degree perjury), 18-8-603 (bribe-receiving by a witness), 18-8-606 (bribing a juror), 18-8-608 (intimidating a juror), 18-8-609 (jury-tampering), 18-8-610 (tampering with physical evidence), 18-8-703 (bribing a witness or victim), 18-8-704 (intimidating a witness or victim), and 18-8-707 (tampering with a witness or victim);

(VIII) Offenses against public peace, order, and decency, as defined in sections 18-9-303 (prohibited wiretapping) and 18-9-304 (prohibited eavesdropping);

(IX) Gambling, as defined in sections 18-10-103 (2) (professional gambling), 18-10-105 (possession of a gambling device or record), 18-10-106 (transmission of receipt of gambling information), and 18-10-107 (maintaining gambling premises);

(X) Offenses relating to firearms and weapons, as defined in sections 18-12-102 (possessing an illegal weapon or a dangerous weapon), 18-12-107.5 (illegal discharge of a firearm), and 18-12-109 (possession, use, or removal of explosives or incendiary devices or the possession of components thereof);

(XI) Offenses involving the making, financing, or collection of loans, as defined in sections 18-15-102 (extortionate extension of credit), 18-15-104 (engaging in criminal usury), 18-15-105 (financing extortionate extensions of credit), 18-15-106 (financing criminal usury), 18-15-107 (collection of extensions of credit by extortionate means), and 18-15-108 (possession or concealment of records of criminal usury);

(XII) Fraud upon the department of revenue, as defined in section 39-21-118, C.R.S.;

(XIII) Securities offenses, as defined in sections 11-51-401 and 11-51-603 (registration of brokers and dealers), 11-51-301

and 11-51-603 (registration of securities), and 11-51-501 and 11-51-603 (fraud and other prohibited practices) C.R.S.;

(XIV) Offenses relating to controlled substances (part 3 of article 22 of title 12, C.R.S., and article 18 of this title);

(XV) Offenses relating to taxation, as defined in section 39-22-621, C.R.S.;

(XVI) Offenses relating to limited gaming, as defined in article 47.1 of title 12, C.R.S., or article 20 of this title; and

(XVII) Offenses relating to telecommunications crime as set forth in section 18-9-309.

(6) "Unlawful debt" means a debt incurred or contracted in an illegal gambling activity or business or which is unenforceable under state or federal law in whole or in part as to principal or interest because of the law relating to usury.

ARTICLE 20. OFFENSES RELATED TO LIMITED GAMING

18-20-101 - Legislative declaration.

The general assembly hereby finds, determines, and declares that the strict control of limited gaming in this state is necessary for the immediate and future preservation of the public peace, health, and safety.

18-20-102 - Definitions - terms used.

(1) As used in this article, unless this article otherwise provides or unless the context otherwise requires, terms used in this article shall have the same meanings as those set forth in article 47.1 of title 12, C.R.S.

(2) The term "repeating gambling offender" means any person who is convicted of an offense under section 18-10-103

(2), sections 18-10-105 to 18-10-107, or sections 18-20-103 to 18-20-114 or sections 12-47.1-809 to 12-47.1-811 or

12-47.1-818 to 12-47.1-832 or 12-47.1-839, C.R.S., within five years after a previous misdemeanor conviction under said

sections or under a former statute prohibiting gambling activities or at any time after a previous felony conviction under any

of said sections. A conviction in any jurisdiction of the United States of an offense which, if committed in this state, would

be professional gambling shall constitute a previous conviction for purposes of a prosecution in this state as a repeating

gambling offender.

18-20-103 - Violations of taxation provisions - penalties.

(1) Any person who:

(a) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed by article 47.1 of title 12,

C.R.S., commits a class 5 felony;

(b) Fails to pay tax due under article 47.1 of title 12, C.R.S., within thirty days after the date the tax becomes due

commits a class 1 misdemeanor;

(c) Fails to file a return required by article 47.1 of title 12, C.R.S., within thirty days after the date the return is due

commits a class 1 misdemeanor;

(d) Violates section 12-47.1-603 (1) (b) or (1) (c), C.R.S., two or more times in any twelve-month period commits a class

5 felony;

(e) Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under or in connection with

any matter arising under any title administered by the commission or a return, affidavit, claim, or other document which is

fraudulent or is false as to any material fact, whether or not such falsity or fraud is with the knowledge or consent of the

person authorized or required to present such return, affidavit, claim, or document commits a class 5 felony.

(2) For purposes of this section, "person" includes corporate officers having control or supervision of, or responsibility for,

completing tax returns or making payments pursuant to article 47.1 of title 12, C.R.S.

18-20-104 - False statement on application - violations of rules or provisions of article 47.1 of title 12, C.R.S., as felony.

Any person who knowingly makes a false statement in any application for a license or in any statement attached to the

application, or who provides any false or misleading information to the commission or the division, or who fails to keep books

and records to substantiate the receipts, expenses, or uses resulting from limited gaming conducted under article 47.1 of title

12, C.R.S., as prescribed in rules or regulations promulgated by the commission, or who falsifies any books or records which

relate to any transaction connected with the holding, operating, and conducting of any limited card games or slot machines,

or who knowingly violates any of the provisions of article 47.1 of title 12, C.R.S., or any rule or regulation adopted by the

commission or any terms of any license granted under said article 47.1, commits a class 5 felony.

18-20-105 - Slot machines - shipping notices.

(1) Any slot machine manufacturer or distributor shipping or importing a slot machine into the state of Colorado shall provide to the Colorado limited gaming control commission created in section 12-47.1-301, C.R.S., at the time of shipment a copy of the shipping invoice which shall include, at a minimum, the destination, the serial number of each machine, and a description of each machine. Any person within the state of Colorado receiving a slot machine shall, upon receipt of the machine, provide to the Colorado limited gaming control commission upon a form available from the commission information showing at a minimum the location of each machine, its serial number, and description. Such report shall be provided regardless of whether the machine is received from a manufacturer or any other person. Any machine licensed pursuant to section 12-47.1-803, C.R.S., shall be licensed for a specific location, and movement of the machine from that location shall be reported to said commission within the time period set out in rules promulgated pursuant to section 12-47.1-803 (1) (d), C.R.S. Any person violating any provision of section 12-47.1-803, C.R.S., commits a class 5 felony. Any slot machine which is not in compliance with article 47.1 of title 12, C.R.S., is declared contraband and may be summarily seized and destroyed after notice and hearing.

(2) Slot machines which because of age and condition bear no manufacturer serial number shall be assigned a serial number by a remanufacturer of slot machines. Such new serial number shall be duly recorded as required by federal regulations.

(3) The director of the division of gaming appointed pursuant to section 12-47.1-201, C.R.S., may approve a change to the registration of a slot machine under circumstances constituting an emergency. If said director approves such an emergency change, the registration of the slot machine shall not be suspended pending the filing of a supplemental application.

18-20-106 - Cheating.

(1) It is unlawful for any person, whether he is an owner or employee of, or a player in, an establishment, to cheat at any limited gaming activity.

(2) For purposes of article 47.1 of title 12, C.R.S., "cheating" means to alter the selection of criteria which determine:

- (a) The result of a game; or
- (b) The amount or frequency of payment in a game.

(3) Any person issued a license pursuant to article 47.1 of title 12, C.R.S., violating any provision of this section commits a class 6 felony, and any other person violating any provision of this section commits a class 1 misdemeanor. If the person is a repeating gambling offender, the person commits a class 5 felony.

18-20-107 - Fraudulent acts.

(1) It is unlawful for any person:

(a) To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(b) To place, increase, or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing, or decreasing a bet or determining the course of play contingent upon that event or outcome;

(c) To claim, collect, or take, or attempt to claim, collect, or take, money or anything of value in or from a limited gaming activity with intent to defraud and without having made a wager contingent thereon, or to claim, collect, or take an amount greater than the amount won;

(d) Knowingly to entice or induce another to go to any place where limited gaming is being conducted or operated in violation of the provisions of article 47.1 of title 12, C.R.S., with the intent that the other person play or participate in that limited gaming activity;

(e) To place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets;

(f) To reduce the amount wagered or to cancel a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets;

(g) To manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a slot machine, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game;

(h) To, by any trick or slight of hand performance, or by fraud or fraudulent scheme, cards, or device, for himself or another, win or attempt to win money or property or a representative of either or reduce a losing wager or attempt to reduce a losing wager in connection with limited gaming;

(i) To conduct any limited gaming operation without a valid license;

(j) To conduct any limited gaming operation on an unlicensed premises;

(k) To permit any limited gaming game or slot machine to be conducted, operated, dealt, or carried on in any limited gaming premises by a person other than a person licensed for such premises pursuant to article 47.1 of title 12, C.R.S.;

(l) To place any limited gaming games or slot machines into play or display such games or slot machines without the authorization of the Colorado limited gaming control commission;

(m) To employ or continue to employ any person in a limited gaming operation who is not duly licensed or registered in a position whose duties require a license or registration pursuant to article 47.1 of title 12, C.R.S.; or

(n) To, without first obtaining the requisite license or registration pursuant to article 47.1 of title 12, C.R.S., be employed, work, or otherwise act in a position whose duties would require licensing or registration pursuant to said article.

(2) Any person issued a license pursuant to article 47.1 of title 12, C.R.S., violating any provision of this section commits a class 6 felony, and any other person violating any provision of this section commits a class 1 misdemeanor. If the person is a repeating gambling offender, the person commits a class 5 felony.

18-20-108 - Use of device for calculating probabilities.

(1) It is unlawful for any person at a licensed gaming establishment to use, or possess with the intent to use, any device to assist:

(a) In projecting the outcome of the game;

(b) In keeping track of the cards played;

(c) In analyzing the probability of the occurrence of an event relating to the game; or

(d) In analyzing the strategy for playing or betting to be used in the game, except as permitted by the Colorado limited gaming control commission.

(2) Any person issued a license pursuant to article 47.1 of title 12, C.R.S., violating any provision of this section commits a

class 6 felony and any other person violating any provision of this section commits a class 1 misdemeanor. If the person is a repeating gambling offender, the person commits a class 5 felony.

18-20-109 - Use of counterfeit or unapproved chips or tokens or unlawful coins or devices - possession of certain unlawful devices, equipment, products, or materials.

(1) It is unlawful for any licensee, employee, or other person to use counterfeit chips in any limited gaming activity.

(2) It is unlawful for any person, in playing or using any limited gaming activity designed to be played with, to receive, or to be operated by chips or tokens approved by the Colorado limited gaming control commission or by lawful coin of the United States of America:

(a) Knowingly to use anything other than chips or tokens approved by the Colorado limited gaming control commission or lawful coin, legal tender of the United States of America, or to use coin not of the same denomination as the coin intended to be used in that limited gaming activity; or

(b) To use any device or means to violate the provisions of article 47.1 of title 12, C.R.S.

(3) It is unlawful for any person to possess any device, equipment, or material which he knows has been manufactured, distributed, sold, tampered with, or serviced in violation of the provisions of article 47.1 of title 12, C.R.S.

(4) It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his or her employment within an establishment, to have on his or her person or in his or her possession any device intended to be used to violate the provisions of article 47.1 of title 12, C.R.S.

(5) It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his or her employment within an establishment, to have on his or her person or in his or her possession while on the premises of any licensed gaming establishment any key or device known to have been designed for the purpose of and suitable for opening, entering, or affecting the operation of any limited gaming activity, drop box, or electronic or mechanical device connected thereto, or for removing money or other contents therefrom.

(6) Possession of more than one of the devices, equipment, products, or materials described in this section shall give rise to a rebuttable presumption that the possessor intended to use them for cheating.

(7) It is unlawful for any person to use or possess while on the premises any cheating or thieving device, including but not

limited to, tools, drills, wires, coins, or tokens attached to strings or wires or electronic or magnetic devices, to facilitate the alignment of any winning combination or to facilitate removing from any slot machine any money or contents thereof, unless the person is a duly authorized gaming employee acting in the furtherance of his or her employment.

(8) Any person issued a license pursuant to article 47.1 of title 12, C.R.S., violating any provision of this section commits a class 6 felony, and any other person violating any provision of this section commits a class 1 misdemeanor. If the person is a repeating gambling offender, the person commits a class 5 felony.

18-20-110 - Cheating game and devices.

(1) It is unlawful for any person playing any licensed game in licensed gaming premises to:

(a) Knowingly conduct, carry on, operate, or deal or allow to be conducted, carried on, operated, or dealt any cheating or thieving game or device; or

(b) Knowingly deal, conduct, carry on, operate, or expose for play any game or games played with cards or any mechanical device, or any combination of games or devices, which have in any manner been marked or tampered with or placed in a condition or operated in a manner the result of which tends to deceive the public or tends to alter the normal random selection of characteristics or the normal chance of the game which could determine or alter the result of the game.

(2) Any person issued a license pursuant to article 47.1 of title 12, C.R.S., violating any provision of this section commits a class 6 felony, and any other person violating this section commits a class 1 misdemeanor. If the person is a repeating gambling offender, the person commits a class 5 felony.

18-20-111 - Unlawful manufacture, sale, distribution, marking, altering, or modification of equipment and devices associated with limited gaming - unlawful instruction.

(1) It is unlawful to manufacture, sell, or distribute any cards, chips, dice, game, or device which is intended to be used to violate any provision of article 47.1 of title 12, C.R.S.

(2) It is unlawful to mark, alter, or otherwise modify any associated equipment or limited gaming device in a manner that:

(a) Affects the result of a wager by determining win or loss; or

(b) Alters the normal criteria of random selection, which affects the operation of a game or which determines the outcome of a game.

(3) It is unlawful for any person to instruct another in cheating or in the use of any device for that purpose, with the knowledge or intent that the information or use so conveyed may be employed to violate any provision of article 47.1 of title 12, C.R.S.

(4) Any person issued a license pursuant to article 47.1 of title 12, C.R.S., violating any provision of this section commits a class 6 felony, and any other person violating any provision of this section commits a class 1 misdemeanor. If the person is a repeating gambling offender, the person commits a class 5 felony.

18-20-112 - Unlawful entry by excluded and ejected persons.

(1) It is unlawful for any person whose name is on the list promulgated by the Colorado limited gaming control commission pursuant to section 12-47.1-1001 or 12-47.1-1002, C.R.S., to enter the licensed premises of a limited gaming licensee.

(2) It is unlawful for any person whose name is on the list promulgated by the Colorado limited gaming control commission pursuant to section 12-47.1-1001 or 12-47.1-1002, C.R.S., to have any personal pecuniary interest, direct or indirect, in any limited gaming licensee, licensed premises, establishment, or business involved in or with limited gaming or in the shares in any corporation, association, or firm licensed pursuant to article 47.1 of title 12, C.R.S.

(3) Any person violating the provisions of this section commits a class 5 felony.

18-20-113 - Personal pecuniary gain or conflict of interest.

(1) It is unlawful for any person to issue, suspend, revoke, or renew any license pursuant to article 47.1 of title 12, C.R.S., for any personal pecuniary gain or any thing of value, as defined in section 18-1-901 (3) (r), or for any person to violate any of the provisions of part 4 of article 47.1 of title 12, C.R.S.

(2) Any person violating any of the provisions of this section commits a class 3 felony.

18-20-114 - False or misleading information - unlawful.

(1) It is unlawful for any person to provide any false or misleading information under the provisions of article 47.1 of title 12, C.R.S.

(2) Any person violating any of the provisions of this section commits a class 5 felony.

18-20-115 - Exceptions.

Nothing contained in this article shall be construed to modify, amend, or otherwise affect the validity of any provisions contained in article 10 of this title.

TITLE 23. HIGHER EDUCATION AND VOCATIONAL TRAINING COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION

ARTICLE 60. COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION

PART 1. GENERAL PROVISIONS – STATE BOARD

23-60-106 - Notification concerning gaming schools.

The board shall notify the limited gaming control commission created in section 12-47.1-301, C.R.S., of any educational program or school offering instruction in occupations relating to limited gaming or any other gambling.

TITLE 24. GOVERNMENT – STATE ADMINISTRATION

ARTICLE 1. ADMINISTRATIVE ORGANIZATION ACT OF 1968

24-1-117 - Department of revenue - creation.

(1) There is hereby created a department of revenue, the head of which shall be the executive director of the department of revenue, who shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109.

(2) The department of revenue and the office of director of revenue, created by article 35 of this title, and their powers, duties, and functions are transferred by a type 2 transfer to the department of revenue.

(3) The powers, duties, and functions of the secretary of state with respect to fermented malt beverages and malt, vinous, and spirituous liquors under the provisions of articles 46 to 48 of title 12, C.R.S., are transferred by a type 2 transfer to the department of revenue.

(4) (a) The department of revenue shall consist of the following divisions:

(I) Division of enforcement;

(II) Motor vehicle division;

(III) Motor carrier services division;

(IV) Liquor enforcement division;

(V) State lottery division;

(VI) Division of racing events, including the Colorado racing commission;

(VII) Division of gaming, including the Colorado limited gaming control commission; and

(VIII) Such other divisions, sections, and units as the executive director of the department of revenue may create pursuant to section 24-35-103.

(b) Repealed.

ARTICLE 35. DEPARTMENT OF REVENUE

PART 2. STATE LOTTERY DIVISION

24-35-201 - Definitions.

As used in this part 2, unless the context otherwise requires:

(1) "Commission" means the Colorado lottery commission.

(2) "Director" means the director of the state lottery division.

(3) "Division" means the state lottery division.

(4) "Executive director" means the executive director of the department of revenue.

(5) "Lottery" means any lottery created and operated pursuant to this part 2, including, without limitation, the game commonly known as lotto, in which prizes are awarded on the basis of designated numbers conforming to numbers selected at random, electronically or otherwise, by or at the direction of the commission.

24-35-202 - State lottery division - creation - location - enterprise status.

(1) (a) There is hereby created, within the department of revenue, the state lottery division, the head of which shall be the director of the state lottery division, who shall be appointed and subject to removal by the executive director of the department of revenue in accordance with section 13 of article XII of the state constitution. The state lottery division shall be headquartered in the city of Pueblo in facilities provided at the expense of the lottery division.

(b) The state lottery division and the Colorado lottery commission, created in section 24-35-207, shall constitute an enterprise for the purposes of section 20 of article X of the state constitution, so long as the commission retains the authority to issue revenue bonds and the division receives less than ten percent of its total annual revenues in grants, as defined in section 24-77-102 (7), from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this section, the state lottery division and the Colorado lottery commission shall not be subject to any of the provisions of section 20 of article X of the state constitution.

(2) The state lottery division, including the Colorado lottery commission created in section 24-35-207, and the director of the state lottery division shall exercise their powers and perform their duties and functions specified in this part 2 under the department of revenue as if the same were transferred to the department by a type 1 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of this title.

(3) For purposes of part 2 of article 72 of this title, the records of the division and the commission shall be public records, as defined in section 24-72-202 (6), regardless of whether the state lottery division and the Colorado lottery commission constitute an enterprise pursuant to section 24-35-202 (1).

24-35-203 - Function of division.

The function of the division is to establish, operate, and supervise the lottery authorized by section 2 of article XVIII of the state constitution, as approved by the electors at the 1980 general election.

24-35-204 - Director - qualifications - powers and duties.

(1) The director shall be qualified by training and experience to direct a lottery and the work of the division; and, notwithstanding the provisions of section 24-5-101, shall be of good character and shall not have been convicted of any felony or gambling-related offense.

(2) The director shall devote his entire time and attention to the duties of his office and shall not be engaged in any other profession or occupation.

(3) The director, as administrative head of the division, shall direct and supervise all its administrative and technical activities. In addition to the duties imposed upon the director elsewhere in this part 2, it shall be the director's duty:

(a) To supervise and administer the operation of the lottery in accordance with the provisions of this part 2 and the rules and regulations of the commission;

(b) To attend meetings of the commission or to appoint a designee to attend in his place;

(c) To employ and direct such personnel as may be necessary to carry out the purposes of this part 2, but no person shall be employed who has been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101. The director by agreement may secure and, pursuant to section 24-35-210 (2), provide payment for such services as he may deem necessary from any department, agency, or unit of the state government and may employ and compensate such consultants and technical assistants as may be required and as otherwise permitted by law.

(d) To license, in accordance with the provisions of section 24-35-206 and the rules and regulations of the commission, as agents to sell lottery tickets such persons as in his opinion will best serve the public convenience and promote the sale of tickets or shares;

(e) To deny, suspend, or revoke any lottery license subject to the provisions of section 24-4-104. The director may designate an administrative law judge, pursuant to part 10 of article 30 of this title, to take evidence and to make findings and report them to the director.

(f) To confer, as necessary or desirable and not less than once each month, with the commission on the operation of the lottery;

(g) To make available for inspection by the commission or any member of the commission, upon request, all books,

records, files, and other information and documents of his office;

(h) To advise the commission and recommend such rules and regulations and such other matters as he deems necessary and advisable to improve the operation of the lottery;

(i) With the concurrence of the commission or pursuant to commission requirements and procedures, to enter into contracts for materials, equipment, and supplies to be used in the operation of the lottery, for the design and installation of games or lotteries, and for promotion of the lottery. No contract shall be legal or enforceable that provides for the management of the lottery or for the entire operation of its games by any private person, firm, or corporation, because management of the lottery and control over the operation of its games shall remain with the state. Except for advertising and promotional contracts, when a contract is awarded, a performance bond satisfactory to the commission, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the state, in an amount set annually by the commission shall be delivered to the state and shall become binding on the parties upon execution of the contract.

(j) To make a continuous study and investigation of the operation and the administration of similar laws which may be in effect in other states or countries, any literature on the subject which from time to time may be published or available, and any federal laws which may affect the operation of the lottery, and the reaction of Colorado citizens to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to serve the purposes of this part 2;

(k) To furnish monthly to the state treasurer and the commission a full and complete statement of lottery revenues, prize disbursements, and other expenses for each month. All reports required by this paragraph (k) shall be public, and copies of all such reports shall be sent to the governor, the speaker of the house of representatives, the president of the senate, and the minority leaders of both houses.

(l) To annually prepare and submit to the commission, for its approval, a proposed budget for the ensuing fiscal year, which budget shall present a complete financial plan setting forth all proposed expenditures and anticipated revenues of the division. The fiscal year of the division shall commence on July 1 and end on June 30 of each year. For the fiscal year commencing July 1, 1982, the director shall prepare a proposed budget and shall submit it to the commission for approval by the commission at the earliest feasible time.

(m) To take such action as may be necessary to protect the security and integrity of the lottery games;

(n) To determine the manner of payment of prizes to the holders of winning tickets or shares, which determination shall

include consideration of whether a prize should be awarded as a lump sum or as an amortized annuity in light of the "Internal Revenue Code of 1986", as amended, and the rules and regulations promulgated pursuant thereto;

(o) To determine such other matters as necessary or desirable for the efficient and economical operation and administration of the lottery; and

(p) To perform any other lawful acts which he and the commission may consider necessary or desirable to carry out the purposes and provisions of this part 2.

24-35-205 - Contractors supplying gaming equipment - disclosures.

(1) Any person, firm, association, or corporation (referred to in this section as "supplier") which enters into a contract to supply gaming materials or equipment for use in the operation of the state lottery shall first disclose to the lottery commission:

(a) In addition to the supplier's business name and address, the names and addresses of the following:

(I) If the supplier is a partnership, all of the general and limited partners;

(I.5) If the supplier is a limited liability company, all of the members;

(II) If the supplier is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

(III) If the supplier is an association, the members, officers, and directors;

(IV) If the supplier is a corporation, the officers, directors, and each owner or holder, directly or indirectly, of any equity security or other evidence of ownership of any interest in such corporation; except that, in the case of owners or holders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those owning or holding five percent or more of such publicly held securities need be disclosed;

(V) If the supplier is a subsidiary or intermediary company, the intermediary company, holding company, or parent company involved therewith, and the officers, directors, and stockholders of each; except that, in the case of owners or holders of publicly held securities of an intermediary company or holding company that is a publicly traded corporation, only the names and addresses of those owning or holding five percent or more of such publicly held securities need be disclosed;

(b) If the supplier is a corporation, all the states in which the supplier is incorporated to do business, and the nature of that business;

(c) Other jurisdictions in which the supplier has contracts to supply gaming materials or equipment;

(d) The details of any criminal conviction, state or federal, of the supplier or any person whose name and address are required by paragraph (a) of this subsection (1). This paragraph (d) applies irrespective of any of the laws of the state to the contrary regarding expungement or sealed records.

(e) The details of any disciplinary action taken by any state against the supplier or any person whose name and address are required by paragraph (a) of this subsection (1) regarding any matter related to the selling, leasing, offering for sale or lease, buying, or servicing of gaming materials or equipment;

(f) A statement of the gross receipts realized in the preceding year from the sale, lease, or distribution of gaming materials or equipment to states operating lotteries and to private persons licensed to conduct gambling, which statement shall differentiate that portion of the gross receipts attributable to transactions with states operating lotteries from that portion of the gross receipts attributable to transactions with private persons licensed to conduct gambling;

(g) The name and address of any source of gaming materials or equipment for the supplier;

(h) The number of years the supplier has been in the business of supplying gaming materials or equipment;

(i) Such other information, accompanied by such documents, as the commission, by rule or regulation, may require as being necessary or appropriate in the public interest to accomplish the purposes of this part 2.

(2) If the supplier is a subsidiary or intermediary company, the intermediary company, holding company, or parent company involved therewith shall supply the same information required by this section of the supplier.

(3) The costs of any investigation into the background of the apparent successful bidder shall be assessed against the bidder and shall be paid by the bidder at the time of billing by the state. Such investigation may be conducted by the commission or the attorney general, and no contract may be signed until the investigation is completed. Investigators shall have peace officer authority during the period of investigation.

(4) No person, firm, association, or corporation contracting to supply gaming equipment or materials to the state for use in the operation of the state lottery shall be directly or indirectly connected with any person, firm, association, or corporation licensed as a sales agent under this part 2, any employee of the department of revenue, the director, or the members of the commission.

(5) No contract shall be formed with any supplier if:

(a) A person disclosed pursuant to paragraph (a) or (g) of subsection (1) of this section is a person who has been

convicted of a felony or gambling-related offense, who has engaged in any form of illegal gambling, who is not of good character and reputation relevant to the secure and efficient operation of the lottery, or who has been convicted of a crime involving fraud or misrepresentation. However, when a felony conviction, other than a gambling-related offense, is an issue in the formation of a contract with a supplier, the director may determine that the supplier is otherwise of good character and reputation. The director's determination shall be submitted to a three-member panel who shall approve or reject such determination. The panel's decision shall constitute final agency action for purposes of section 24-4-106. The panel shall be composed of the chairman of the lottery commission, the executive director of the department of revenue, and the secretary of state. Upon such determination and approval, the director may enter into a contract with the supplier.

(b) A disciplinary action disclosed pursuant to paragraph (e) of subsection (1) of this section was resolved adversely to the supplier.

(6) No contract for the supply of gaming materials or equipment for use in the operation of the state lottery shall be enforceable against the state if the provisions of this section are not complied with.

(7) In the case of any procurement for a contract for lottery tickets, lottery consulting services, or lottery terminals or equipment having a value of one hundred thousand dollars or more, or in the case of procurement for a contract for drawing equipment regardless of value, each prospective corporate supplier shall, prior to entering into a contract, provide a verified affidavit as to ownership, if any, of any interest, direct or indirect, in any operator of a casino, jai alai fronton, racetrack, or other gaming establishment, a current personal financial statement, and individual federal and state income tax returns from the past three years for each of its officers and each of the directors. The executive director of the department of revenue shall determine, depending upon the organization of each company, by rule or regulation, which officers of any parent, intermediary, and holding companies, and which directors of the supplier or of a parent, intermediary, or holding company, are affiliated with the lottery and are required to file a current personal financial statement and individual federal and state income tax returns from the past three years. The provision of said affidavit, financial statement, and tax returns shall not be required at the time of submission of the prospective corporate supplier's bid or proposal.

(8) (a) Any contractor which has entered into a contract to supply gaming materials or equipment to the lottery shall report to the commission any change in, addition to, or deletion from the information disclosed to the commission in accordance with the provisions of subsections (1) (a), (1) (d), (1) (e), (2), and (7) of this section. Such report shall be written and addressed to the division and shall be mailed or delivered to the division within thirty days of the date such change in, addition to, or deletion from the information takes place or becomes effective.

(b) Any costs associated with an investigation regarding the information disclosed in such report shall be paid by the contractor who shall remit such costs within thirty days of billing by the division.

(c) (I) If such report contains any information, or if the commission receives any information from any source other than the contractor, which information would have prohibited the director from awarding the contract to the contractor if the information had been provided or had been effective before the director awarded the contract, the director may terminate the contract with the concurrence of the commission following an investigation.

(II) If such report contains any information, or if any information is discovered by the commission from any source other than the contractor, which information would have given the director discretion to refuse to enter the contract had the information been provided or been effective before the director awarded the contract, the director, with the concurrence of the commission and following an investigation, may terminate the contract.

(III) Any termination shall be accomplished in accordance with the termination provisions of the contract.

(9) Every contract for the supply of gaming equipment or material shall provide the following:

(a) The director shall exclude from lottery facilities an employee of a contractor who has been convicted of a felony.

(b) The director shall also exclude employees of a contractor from participating in activities involving the gaming materials or equipment supplied pursuant to the contract.

24-35-206 - Licenses.

(1) The director shall issue, suspend, revoke, and renew licenses for lottery sales agents pursuant to subsection (3) of this section and rules and regulations adopted by the commission. Licensing rules and regulations shall include requirements relating to the financial responsibility of the licensee, the accessibility of the licensee's place of business or activity to the public, the sufficiency of existing licenses to serve the public interest, the volume of expected sales, the character of the licensee, the security and efficient operation of the lottery, the licensed agent recovery reserve authorized in section 24-35-219, and other matters necessary to protect the public interest and trust in the lottery and to further the sales of lottery tickets or shares. Rules and regulations shall also require that licenses be prominently displayed in areas visible to the public.

(2) (a) A license shall be revoked upon a finding that the licensee:

(I) Has provided false or misleading information to the division;

(II) Has been convicted of any gambling-related offense;

(III) Has endangered the security of the lottery;

(IV) Has become a person whose character is no longer consistent with the protection of the public interest and trust in the lottery; or

(V) Has intentionally refused to pay a prize in his possession to a person entitled to receive the prize under this article.

(b) A license may be suspended, revoked, or not renewed for any of the following causes:

(I) A change of business location;

(II) An insufficient sales volume;

(III) A delinquency in remitting money owed to the lottery;

(IV) The endangering of the efficient operation of the lottery;

(V) Any violation of this part 2 or any rule or regulation adopted pursuant to this part 2; or

(VI) Conviction of any felony.

(3) Procedures for issuance, suspension, revocation, and renewal of licenses shall be in accordance with article 4 of this

title, and the director shall have all the powers and shall be subject to all the requirements of article 4 of this title in

conducting any hearings relating to the granting, suspension, revocation, or renewal of licenses. When a felony conviction or

a conviction involving fraud is an issue in the issuance, suspension, revocation, or renewal of a lottery sales agent's license,

the director's determination shall be submitted to a three-member panel who shall approve or reject such determination. The

panel's decision shall constitute final agency action for the purposes of section 24-4-106. The panel shall be composed of the

chairman of the lottery commission, the executive director of the department of revenue, and the secretary of state.

(4) Licensed sales agents may include persons, firms, associations, or corporations, profit or nonprofit, but the following

are ineligible for any license as a sales agent:

(a) Any person who will engage in business exclusively as a lottery sales agent;

(b) Any person who has been convicted of a gambling-related offense, notwithstanding the provisions of section 24-5-101;

(c) Any person who is or has been a professional gambler or gambling promoter;

(d) Any person who has engaged in bookmaking or any other form of illegal gambling;

(e) Any person who is not of good character and reputation, notwithstanding the provisions of section 24-5-101, in the

community in which he resides;

(f) Any person who has been convicted of a crime involving misrepresentation, notwithstanding the provisions of section 24-5-101;

(g) Any firm or corporation in which a person defined in paragraph (b), (c), (d), (e), or (f) of this subsection (4) has a proprietary, equitable, or credit interest;

(h) Any organization in which a person defined in paragraph (b), (c), (d), (e), or (f) of this subsection (4) is an officer, director, or managing agent, whether compensated or not; or

(i) Any organization in which a person defined in paragraph (b), (c), (d), (e), or (f) of this subsection (4) is to participate in the management or sales of lottery tickets or shares.

(4.5) Licensed sales agents may include persons, firms, associations, or corporations, profit or nonprofit, but the following may be determined to be ineligible for any license as a sales agent:

(a) Any person who has been convicted of a felony or a crime involving fraud, notwithstanding the provisions of section 24-5-101;

(b) Any firm or corporation in which a person defined in paragraph (a) of this subsection (4.5) has a proprietary, equitable, or credit interest;

(c) Any organization in which a person defined in paragraph (a) of this subsection (4.5) is an officer, director, or managing agent, whether compensated or not; or

(d) Any organization in which a person defined in paragraph (a) of this subsection (4.5) is to participate in the management or sales of lottery tickets or shares.

(5) Each licensed sales agent shall keep a complete set of books of account, correspondence, and all other records necessary to show fully the lottery transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination of the division or its duly authorized representatives. The division may require any licensed sales agent to furnish such information as the division considers necessary for the proper administration of this part 2 and may require an audit to be made of such books of account and records on such occasions as the division considers necessary by an auditor, selected by the commission or the director, who shall likewise have access to all such books and records of the licensee, and the licensee may be required to pay the expense thereof.

(6) All licenses for lottery sales agents shall specify the place such sales shall take place, and no license shall be effective upon residential premises.

(7) The costs of any investigation into the background of an applicant seeking a license for a lottery sales agent shall be assessed against the applicant and shall be paid by the applicant at the time of billing by the state. Such investigation may be conducted by the commission or the attorney general. Investigators shall have peace officer authority during the period of investigation.

(8) If there are more applications to operate lotto than there are outlets available, then at least one hundred locations will be decided by a drawing by lot with the balance of all lotto outlets to be located at the direction of the division. Any person licensed as a lottery sales agent pursuant to the provision of this section shall be eligible to enter into this drawing by lot to determine if such person will be allowed to operate a lotto game at the same location.

(9) If the rental payments for the business premises of any lottery sales agent are based in whole or in part on a percentage of retail sales, and the computation of retail sales in the rental agreement does not specifically include the sale of tickets or shares in the lottery, the compensation received by the sales agent, which compensation is determined by the commission pursuant to section 24-35-208 (2) (h), and not the gross revenues from the sale of lottery tickets or shares shall be the amount of the retail sale for the purpose of computing the rental payment.

24-35-207 - Colorado lottery commission - creation.

(1) There is hereby created, within the state lottery division, the Colorado lottery commission, consisting of five members, all of whom shall be citizens of the United States and residents of this state, appointed by the governor, with the consent of the senate. No member shall have been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101. No more than three of the five members shall be members of the same political party. A chairman and a vice-chairman of the commission shall be chosen from the membership by a majority of the members at the first meeting of each fiscal year.

(2) At least one member of the commission shall have been a law enforcement officer for not less than five years; at least one member shall be an attorney admitted to the practice of law in Colorado for not less than five years; and at least one member shall be a certified public accountant who has practiced accountancy in Colorado for at least five years.

(3) Initial members shall be appointed to the commission by the governor as follows: One member to serve until July 1, 1983, one member to serve until July 1, 1984, one member to serve until July 1, 1985, and two members to serve until July 1,

1986. All subsequent appointments shall be for terms of four years, subject to continuation of the division pursuant to section 24-35-218. No member of the commission shall be eligible to serve more than two terms.

(4) Any vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment.

(5) Any member of the commission may be removed by the governor at any time and for any reason.

(6) Commission members shall receive as compensation for their services one hundred dollars for each day they are in

attendance at any official commission meeting and shall be reimbursed for necessary traveling and other reasonable

expenses incurred in the performance of their official duties. Upon appointment, and prior to confirmation by the senate,

each member shall file with the secretary of state a financial disclosure statement in the form required to be filed by elected

state officials. Such statement shall be renewed as of each January 1 during the member's term of office. The chairman of

the lottery commission shall also be reimbursed for necessary traveling and other reasonable expenses incurred in the

performance of his duties related to his participation on the three-member panel established in sections 24-35-205 (5) (a)

and 24-35-206 (3).

(7) (a) The commission shall hold at least one meeting each month and such additional meetings as may be prescribed by

rules of the commission. In addition, special meetings may be called by the chairman, any two commission members, or the

director, upon delivery of seventy-two hours' written notice to each member. Notwithstanding the provisions of section

24-6-402, in emergency situations in which a majority of the commission certifies that exigencies of time require that the

commission meet without delay, the requirements of public notice and of seventy-two hours' written notice to members may

be dispensed with, and commission members as well as the public shall receive such notice as is reasonable under the

circumstances.

(b) For purposes of part 4 of article 6 of this title, the commission shall be a state public body, as defined in section

24-6-402 (1) (d), regardless of whether the state lottery division and the Colorado lottery commission constitute an

enterprise pursuant to section 24-35-202 (1).

(8) A majority of the commission shall constitute a quorum, and the concurrence of a majority of the commission shall be

required for any final determination by the commission. The commission shall keep a complete and accurate record of all its

meetings.

24-35-208 - Commission - powers and duties.

(1) In addition to any other powers and duties set forth in this part 2, the commission shall have the following powers and duties:

(a) To promulgate rules and regulations governing the establishment and operation of a state lottery as it deems necessary to carry out the purposes of this part 2. The director shall prepare and submit to the commission written recommendations concerning proposed rules and regulations for this purpose.

(b) To conduct hearings upon complaints charging violations of this part 2 or rules and regulations promulgated pursuant to this part 2, other than any hearings relating to the granting, suspension, revocation, or renewal of licenses for lottery sales agents, and to conduct such other hearings as may be provided by rules of the commission;

(c) To carry on a continuous study and investigation of the lottery throughout the state for the purpose of ascertaining any defects in this part 2 or in the rules and regulations issued under this part 2 whereby any abuses in the administration and operation of the lottery or any evasion of this part 2 or the rules and regulations may arise or be practiced, for the purpose of formulating recommendations for changes in this part 2 and the rules and regulations to prevent such abuses and evasions, to guard against the use of this part 2 and the rules and regulations as a cloak for the carrying on of organized gambling and crime, and to insure that the law and rules and regulations shall be in such form and be so administered as to serve the true purposes of this part 2;

(d) To report immediately to the governor, the attorney general, the speaker of the house of representatives, the president of the senate, the minority leaders of both houses, and such other state officers, as from time to time the commission deems appropriate, any matters which it deems to require an immediate change in the laws of this state in order to prevent abuses and evasions of this part 2 or rules and regulations promulgated thereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery;

(e) To require such special reports from the director as it may consider desirable;

(f) Repealed.

(g) To authorize and issue revenue bonds pursuant to the provisions of section 24-35-221; and

(h) To annually set the amount of the performance bond required of persons entering into contracts to provide materials, equipment, or supplies used in the operation of the lottery or to design or install games or lotteries.

(2) Rules and regulations promulgated pursuant to subsection (1) of this section shall include, but shall not be limited to, the following:

(a) The types of lotteries to be conducted, but no lottery conducted under this part 2 shall be based upon the game of chance commonly known as bingo, nor shall any lottery be conducted which depends upon the outcome of any athletic contest except races at state-licensed dog or horse tracks if approved by the Colorado racing commission;

(b) The price of tickets or shares in the lottery, but no ticket or share in any instant lottery shall be less than one dollar;

(c) The numbers and sizes of the prizes on the winning tickets or shares;

(d) The manner of selecting the winning tickets or shares; however, all drawings shall be held in public, and the actual selection of winning tickets or shares shall not be performed by an employee of the lottery or a member of the commission.

All drawings shall be witnessed by an independent certified public accountant, and all drawing equipment used in such public

drawings must be examined prior to and after each public drawing by an independent certified public accountant.

(e) The frequency of the drawing or selection of winning tickets or shares, without limitation;

(f) Without limit to number, the types of locations at which tickets or shares may be sold;

(g) The method to be used in selling tickets or shares, but all sales shall be on a cash-only basis;

(h) The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public;

(i) The manner in which lottery sales revenues are to be collected;

(j) The allocation of the total revenues accruing from the sale of lottery tickets or shares and from all other sources among:

(I) The payment of prizes to the holders of winning tickets or shares; and

(II) The payment of costs incurred in the operation and administration of the lottery, including the expenses of the division, and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials.

(III) Repealed.

(k) The payment of costs incurred for investigation or background checks, which shall be paid by the suppliers or licensees pursuant to sections 24-35-205 and 24-35-206.

24-35-209 - Conflict of interest.

(1) Members of the commission and employees of the division are declared to be positions of public trust and, therefore, in order to insure the confidence of the people of the state in the integrity of the division, its employees, and the commission, the following restrictions shall apply:

(a) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall have any personal pecuniary interest in any lottery or in the sale of any lottery tickets or shares or in any corporation, association, or firm contracting with the state to supply gaming equipment or materials for use in the operation of the lottery or in any corporation, association, or firm licensed as a sales agent under this part 2. Employment by any political subdivision, or service on the governing body or on any board, agency, or commission of any political subdivision, which is entitled to receive a portion of the proceeds of the lottery shall not constitute an interest prohibited by this section, except for the purposes of appointment to or service on the commission.

(b) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall receive any gift, gratuity, employment, or other thing of value from any person, corporation, association, or firm that contracts with or that offers services, supplies, materials, or equipment used by the division in the normal course of its operations; except that such persons may accept on an infrequent basis in the normal course of business certain nonpecuniary items of insignificant value, as shall be recommended by the director and as shall be established by the commission by rule and regulation promulgated pursuant to section 24-35-208 (1).

(c) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall purchase any ticket for any lottery conducted under this part 2, nor shall any such person be eligible to receive any prize awarded in such a lottery.

(d) No person, corporation, or firm that contracts with the division or that offers services, supplies, materials, or equipment used by the division in the normal course of its operations shall offer any gift, gratuity, employment, or other thing of value to any commission member, employee of the division, or members of their immediate families except as authorized by rules and regulations promulgated pursuant to paragraph (b) of this subsection (1).

(e) In no event shall a member of the commission or employee of the division or any member of their immediate families accept any item permitted by paragraph (b) of this subsection (1) if such acceptance is based on an agreement or understanding that such person's vote, opinion, judgment, or actions will thereby be influenced.

(1) There is hereby created, in the office of the state treasurer, the lottery fund. The initial appropriation to the division, and all subsequent revenues of the division not earlier paid as prizes, shall be paid into the lottery fund. All expenses of the division, including the expenses of organized crime investigation and prosecution relating to the lottery, shall be paid from the lottery fund. For the purposes of this section and section 24-35-208, "expenses" do not include amounts expended for lottery prizes. Prizes for the lottery shall be paid only from the lottery fund or from moneys collected from the sale of lottery tickets or shares. Amounts for prizes and expenses are hereby appropriated to the division, except as provided in subsection (2) of this section.

(2) In addition to the initial appropriation to the division, all moneys paid into the lottery fund through June 30, 1983, shall be available immediately, without further appropriation, for the purposes of said fund. After June 30, 1983, expenses of the division shall be paid from the lottery fund only as appropriated by the general assembly.

(3) Upon request, it is the duty of the state treasurer to report to the director or the commission the amount of money on hand in the lottery fund. All accounts and expenditures from the lottery fund shall be certified by the director and paid by the state treasurer upon warrants drawn by the controller. The controller is authorized as directed to draw warrants payable out of the lottery fund upon vouchers therefor properly certified.

(4) Repealed.

(4.1) (a) The amount to be transferred from the lottery fund to the conservation trust fund shall be forty percent of the net proceeds of the lottery for the preceding fiscal quarter after payment of the expenses of the division and any prizes for the lottery and after reserving sufficient moneys, as of the end of the fiscal year, to ensure the operation of the lottery for the ensuing fiscal year. Beginning with the fourth quarter of fiscal year 1998-99, and each fiscal year thereafter, distributions of net lottery proceeds to the conservation trust fund shall be made in accordance with the provisions of section 33-60-104 (1) (a), C.R.S.

(b) (I) From the fourth quarter of fiscal year 1992-93 through the fourth quarter of fiscal year 1997-98, the general assembly shall annually appropriate ten percent of the net proceeds of the lottery to the division of parks and outdoor recreation in the department of natural resources to be used for the purposes provided in paragraph (c) of this subsection (4.1). Beginning with the first quarter of fiscal year 1998-99 and each fiscal year thereafter, distributions of net lottery proceeds to the division of parks and outdoor recreation shall be made in accordance with the provisions of paragraph (b) of subsection (1) of section 33-60-104, C.R.S.

(II) The appropriation of moneys from the state lottery for capital construction shall be consistent with part 13 of article 3 of title 2, C.R.S., until such time as said part 13 is repealed.

(c) The lottery money available for appropriation to the division of parks and outdoor recreation pursuant to paragraph (b) of this subsection (4.1) shall be appropriated and expended for the acquisition and development of new state parks, new state recreation areas, or new recreational trails, for the expansion of existing state parks, state recreation areas, or recreational trails, or for capital improvements of both new and existing state parks, state recreation areas, or recreational trails. Except as provided in section 33-60-105, C.R.S., in addition to appropriation for the division's capital construction budget, said lottery money may be appropriated for the division's operating budget for expenditures attributable to the maintenance and operation of state parks, state recreation areas, or recreational trails, or any portions thereof, that have been acquired or developed with lottery money.

(d) This subsection (4.1) shall become effective on September 1, 1998, or on any earlier date on which the lease-purchase obligations undertaken by the state pursuant to subsection (4) of this section are discharged.

(5) Repealed.

(6) The state treasurer shall invest the moneys in the lottery fund so long as said moneys are timely available to pay the expenses of the division, to pay the prizes to the lottery winners, to make authorized transfers to the conservation trust fund, and to fund the annual appropriations authorized by subsection (4) or (4.1) of this section. Investments shall be those otherwise permitted by state law, and interest or any other return on the investments shall be paid into the lottery fund.

(7) The division shall be operated so that, after the initial state appropriation, it shall be self-sustaining.

(8) No claim for the payment of any expense of the division or the payment of any lottery prize can be made unless it is against the lottery fund or against moneys collected from the sale of lottery tickets or shares. No other moneys of the state of Colorado shall be used or obligated to pay the expenses of the division or prizes of the lottery.

(9) The total disbursements for lottery prizes shall be no less than fifty percent of the total revenue accruing from the sale of lottery tickets or shares.

(10) (a) (I) The state treasurer shall distribute the net lottery proceeds in the lottery fund which are attributable to the 1988-89 fiscal year on September 1, 1989, in accordance with subsection (4) of this section. Distributions from the lottery fund for the 1989-90 fiscal year through the third quarter of fiscal year 1992-93 shall be on a quarterly basis, with the distribution of net lottery proceeds for the first quarter occurring on December 1 of such fiscal year, distribution of net

lottery proceeds for the second quarter occurring on March 1 of such fiscal year, distribution of net lottery proceeds for the third quarter occurring on June 1 of such fiscal year, and distribution of net lottery proceeds for the fourth quarter occurring on September 1 following the close of such fiscal year.

(II) Beginning with the proceeds from the fourth quarter of fiscal year 1992-93 through the fourth quarter of fiscal year 1997-98, distributions shall be made in the manner provided in section 33-60-103, C.R.S. Net lottery proceeds to be distributed to the conservation trust fund, as computed pursuant to this section, shall be transferred to the conservation trust subaccount of the lottery fund, which subaccount is hereby created, once each month. Such transfers shall be made from net lottery proceeds reflected in the monthly statement required to be filed pursuant to section 24-35-204 (3) (k) for the period ending sixty days prior to each monthly distribution. The state treasurer shall invest all moneys in the conservation trust subaccount in investments permitted by state law. Notwithstanding subsection (6) of this section, interest or any other return on such investments shall be distributed to the conservation trust fund with other moneys in the conservation trust subaccount pursuant to section 33-60-103, C.R.S.

(III) Beginning with the first quarter of fiscal year 1998-99, distributions shall be made on a quarterly basis in accordance with the provisions of section 33-60-104, C.R.S., with the distribution of net lottery proceeds for the first quarter occurring on December 1 of such fiscal year, distribution of net lottery proceeds for the second quarter occurring on March 1 of such fiscal year, distribution of net lottery proceeds for the third quarter occurring on June 1 of such fiscal year, and distribution of net lottery proceeds for the fourth quarter occurring on September 1 following the close of such fiscal year.

(b) Repealed.

(11) The general assembly may establish priorities in the general appropriation act for expenditures for projects to be financed from net lottery proceeds appropriated for capital construction. Such priorities shall govern the use of quarterly distributions from the lottery fund in order to assure that available revenues are used to fund higher priority projects before they are used to fund lower priority projects.

24-35-211 - Audits and annual reports.

(1) The lottery fund shall be audited at least annually by or under the direction of the state auditor, who shall submit a report of the audit to the legislative audit committee. The expenses of the audit shall be paid from the lottery fund.

(2) The commission and director shall make an annual report by March 1 of each year to the governor, the general assembly, and the legislative audit committee, which shall include a summary of the division's activities for the previous year, a statement of lottery revenues, prize disbursements, expenses of the division, allocation of remaining revenues, and any recommendations for change in the statutes which the commission or director deems necessary or desirable. The report shall be public.

24-35-212 - Prizes.

(1) The right of any person to a prize is not assignable; except that payment of any prize may be paid to:

(a) The estate of a deceased prizewinner; or

(b) Any person pursuant to a voluntary assignment of the right to receive future annual prize payments, in whole or in part, if the assignment is made pursuant to an appropriate judicial order of the district court located in the city and county of Denver or the judicial district where the assignor resides or where the commission's headquarters are located.

(1.5) (a) A copy of the petition for an order described in paragraph (b) of subsection (1) of this section and of all notices of any hearing in the matter shall be served on the commission no later than ten days prior to any hearing or entry of any order.

(b) The commission may intervene as of right in any such proceeding solely to protect the interests of the commission but shall not be deemed an indispensable or necessary party.

(c) The court receiving the petition is authorized to issue an order approving the assignment and directing the commission to pay to the assignee all future prize payments so assigned upon finding that all of the following conditions have been met:

(I) The assignment has been memorialized in writing and executed by the assignor and is subject to Colorado law;

(II) The assignor provides a sworn declaration to the court attesting to the facts that the assignor has had the opportunity to be represented by independent legal counsel in connection with the assignment, has received independent financial and tax advice concerning the effects of the assignment, and is of sound mind and not acting under duress; and

(III) The proposed assignment does not and will not include or cover payments or portions of payments subject to offsets pursuant to subsection (5) of this section, unless appropriate provision is made in the order to satisfy the obligations giving

rise to the offset.

(d) Within ten days of receipt of a certified copy of a court order granted pursuant to this subsection (1.5), the commission shall acknowledge in writing to both the assignor and the assignee its agreement to make the payments in accordance with the provisions of the order. The commission shall make such payments pursuant to said order.

(e) The commission shall not adopt rules and regulations for the implementation of this subsection (1.5) that are more restrictive than the provisions of this subsection (1.5), that impose requirements in addition to those set forth in this subsection (1.5), or that are inconsistent with the expressed intent of the general assembly.

(f) The commission is authorized to establish a reasonable fee to defray any administrative expenses of the commission associated with assignments made pursuant to this section. The fee amounts shall reflect the direct and indirect costs associated with processing the assignments.

(1.6) No voluntary assignment under this section shall be effective unless and until the national office of the federal internal revenue service advises the chairman of the Colorado lottery commission that the voluntary assignment of prizes pursuant to appropriate judicial order will not affect the federal income tax treatment of prizewinners who do not assign their prizes.

(2) Notwithstanding any provision of this part 2 to the contrary, the commission may authorize licensed sales agents to retain all prizes pursuant to the rules of the commission for the persons entitled to such prizes for one hundred eighty days after the termination dates of the lottery games for which the prizes were won. Such prizes shall be held in trust on behalf of the division for payment to the persons so entitled. No separate accounting of such prizes needs to be made by the licensed sales agent unless requested by the director. Any person who fails to claim a prize during the one-hundred-eighty-day period shall forfeit all rights to the prize, and the amount of the prize shall become the property of the licensee. All other unclaimed prizes shall be retained by the division for the persons entitled to such prizes for the one-hundred-eighty-day period. Any person who fails to claim a prize which is held by the division or its designee during such time shall forfeit all rights to the prize, and the amount of the prize shall remain in the lottery fund.

(3) The division shall be discharged of all liability upon the payment of any prize pursuant to this part 2.

(4) Any prize won by a person under eighteen years of age who purchased a winning ticket in violation of section 24-35-214 (1) (c) shall be forfeited. If a person otherwise entitled to a prize or a winning ticket is under eighteen years of age, the director may direct payment of the prize by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of such minor.

(5) Prior to the payment of any lottery winnings required by rule and regulation of the commission to be paid only at the lottery offices, the department of revenue shall require the winner to submit the winner's social security number and federal employer identification number, if applicable, and shall check the social security number of the winner with those certified by the department of human services for the purpose of the state lottery winnings offset as provided in section 26-13-118, C.R.S. The social security number and the federal employer identification number shall not become part of the public record of the department of revenue. If the social security number of a lottery winner appears among those certified by the department of human services, the department of revenue shall suspend the payment of such winnings until the requirements of section 26-13-118, C.R.S., are met. If, after consulting with the department of human services, the department of revenue determines that the lottery winner owes a child support debt pursuant to section 14-14-104, C.R.S., or owes child support arrearages as part of an enforcement action pursuant to article 5 of title 14, C.R.S., or owes child support arrearages which are the subject of enforcement services provided pursuant to section 26-13-106, C.R.S., then the department of revenue shall withhold from the amount of winnings paid to the lottery winner an amount equal to the amount of child support debt or child support arrearages which are due or, if the amount of winnings is less than or equal to the amount of child support debt or arrearages due, shall withhold the entire amount of the lottery winnings. Any moneys so withheld shall be transmitted to the state treasurer for disbursement by the department of human services as directed in section 26-13-118, C.R.S.

(6) Notwithstanding any provision of this section to the contrary, all or any part of a prize won by a person may be pledged as collateral for a loan; however, the pledging of all or any part of such prize creates no liability to the state of Colorado.

24-35-213 - Legal services.

(1) The attorney general shall provide legal services for the division and the commission at the request of the director or the commission. The attorney general shall make reasonable efforts to ensure that there is continuity in the legal services provided and that the attorneys providing legal services to the division and the commission have expertise in such field.

(2) The director shall cause the attorney general to make investigations and to prosecute and defend, on behalf of and in the name of the division, suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the division.

(3) Expenses of the attorney general incurred in the performance of his responsibilities under this section shall be paid from the lottery fund.

24-35-214 - Unlawful acts.

(1) It is unlawful for any person:

(a) To sell a lottery ticket or share at a price greater than or less than that fixed by the commission; however, a lottery ticket or share which is offered at no additional charge in conjunction with the sale of a product or service shall not be deemed to violate this section unless the offer is made to a person under eighteen years of age;

(b) To sell a lottery ticket or share unless authorized or licensed by the director to do so, but this shall not prevent lottery tickets or shares from being given as gifts;

(c) To sell a lottery ticket or share to any person under eighteen years of age or for any person under eighteen years of age to purchase a lottery ticket or share, but this shall not prevent receipt of a lottery ticket or share given as a gift to a person under eighteen years of age;

(d) To sell a lottery ticket or share at any place other than that place authorized and specified on the license.

24-35-215 - Penalties.

(1) In addition to any other penalties which may apply, any person violating any of the provisions of section 24-35-214 commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

(2) Any person violating the sale restrictions of section 24-35-214 (1) (c) may also be proceeded against pursuant to section 18-6-701, C.R.S., for contributing to the delinquency of a minor.

(3) Any person issuing, suspending, revoking, or renewing contracts pursuant to section 24-35-205 or licenses pursuant to section 24-35-206 for any personal pecuniary gain or any thing of value as defined in section 18-1-901 (3) (r), C.R.S., or any person violating any of the provisions of section 24-35-209, commits a class 3 felony and shall be punished as provided in section 18-1-105, C.R.S.

(4) Any person violating any of the provisions of this part 2 relating to disclosure by providing any false or misleading

information commits a class 6 felony and shall be punished as provided in section 18-1-105, C.R.S.

24-35-216 - Advertising.

Any promotional advertising regarding the lottery shall set forth the odds of winning and the average return on the dollar in prize money to the public. All promotional advertising expenses shall be paid from the lottery fund. Within eighteen months of May 4, 1990, all lotto tickets shall include a statement, in bold or clear type, that lotto jackpot winners will be paid by means of an annuity.

24-35-217 - Other laws inapplicable.

Any other state or local law in conflict with this part 2 shall be inapplicable, but this section shall not be construed to supersede or affect the provisions of article 9 of title 12, C.R.S.

24-35-218 - Division subject to termination.

(1) (a) Unless continued or reestablished by the general assembly acting by bill, the division shall terminate on July 1, 2009.

(b) The state auditor shall conduct an analysis and evaluation of the performance of the division. The analysis and evaluation shall be completed by January 1, 1998. The state auditor shall submit a written report, and such supporting materials as may be requested, to the general assembly no later than January 15, 1999.

(c) In conducting the analysis and evaluation, the state auditor shall take into consideration, but not be limited to considering, the following factors:

(I) The amount of revenue generated by the lottery for the conservation trust fund and the percentage that amount bears to total state revenues;

(II) The administrative and other expense of lottery dollar collections as compared to revenue derived;

(III) An evaluation of the performance of lottery equipment contractors and licensed sales agents;

(IV) Whether there has been an increase in organized crime related to gambling within the state;

(V) A comparison of the participation in illegal gambling before and after the establishment of the lottery;

(VI) The competitive effect of the lottery on other forms of legal gambling in this state, both profit and nonprofit in nature;

(VII) A socioeconomic profile of persons who play the lottery;

(VIII) Whether the commission encourages public participation in its decisions rather than participation only by the people it regulates;

(IX) Whether the division's complaint, investigation, and disciplinary procedures adequately protect the public;

(X) Whether the division performs its statutory duties efficiently and effectively;

(XI) Whether administrative or statutory changes are necessary to improve the operation of the lottery in the best interests of the state's citizens;

(XII) Any other matters of concern about the operation and functioning of the lottery.

(d) Prior to the termination, continuation, reestablishment, or revision of the division's functions, a committee of reference in each house of the general assembly shall hold a public hearing thereon to consider the report provided by the state auditor, said hearing to include the factors set forth in paragraph (c) of this subsection (1).

(2) Repealed.

24-35-219 - Licensed agent recovery reserve - payments from reserve - revocation of license.

(1) There is hereby created in the lottery fund the licensed agent recovery reserve, which shall be used under the direction of the division in the manner prescribed in this section.

(2) (a) Beginning January 1, 1988, each licensed sales agent shall pay to the division a fee.

(b) The amount of such fee and the frequency with which it shall be collected shall be established by the commission pursuant to rule and regulation.

(c) All fees collected by the division pursuant to paragraph (b) of this subsection (2) shall be transmitted to the state treasurer, who shall credit the same to the lottery fund, which fees shall be maintained administratively as part of the licensed agent recovery reserve. Any interest earned on the investment of such fees in the fund shall be credited at least annually to said reserve.

(d) No moneys shall be appropriated from the general fund for the payment of any expenses incurred under this section,
and no such expenses shall be charged against the state.

(3) When a licensed sales agent has failed to remit any moneys owed to the lottery under rule and regulation, the division shall transfer moneys in the amount equivalent to the unpaid amount from the licensed agent recovery reserve to the lottery fund.

(4) If the division is required to make a transfer pursuant to subsection (3) of this section, the director shall revoke the sales agent's license in accordance with the provisions of section 24-35-206 (3). If the license is revoked, the sales agent shall not be eligible to be licensed again until he has repaid in full the amount paid from the licensed agent recovery reserve.

24-35-221 - Revenue bonds - authority - issuance - requirements - covenants.

(1) (a) The commission may, by resolution which meets the requirements of subsection (2) of this section, authorize and issue revenue bonds in an amount not to exceed ten million dollars in the aggregate for expenses of the division. Such bonds may be issued only after approval by both houses of the general assembly either by act or joint resolution and after approval by the governor in accordance with section 39 of article V of the state constitution. Such bonds shall be payable only from moneys allocated to the division for expenses of the division pursuant to section 24-35-210 (1).

(b) All bonds issued by the commission shall provide that:

(I) No holder of any such bond may compel the state or any subdivision thereof to exercise its appropriation or taxing power; and

(II) The bond does not constitute a debt of the state and is payable only from the net revenues allocated to the division for expenses as designated in such bond.

(2) (a) Any resolution authorizing the issuance of bonds under the terms of this section shall:

(I) State the date of issuance of the bonds;

(II) State a maturity date or dates during a period not to exceed thirty years from the date of issuance of the bonds;

(III) State the interest rate or rates on, and the denomination or denominations of, the bonds;

(IV) State the medium of payment of the bonds and the place where the bonds will be paid.

(b) Any resolution authorizing the issuance of bonds under the terms of this section may:

(I) State that the bonds are to be issued in one or more series;

(II) State a rank or priority of the bonds;

(III) Provide for redemption of the bonds prior to maturity, with or without premium.

(3) Any bonds issued pursuant to the terms of this section may be sold at public or private sale. If bonds are to be sold at a public sale, the commission shall advertise the sale in such manner as the commission deems appropriate. All bonds issued pursuant to the terms of this section shall be sold at a price not less than the par value thereof, together with all accrued interest to the date of delivery.

(4) Notwithstanding any provisions of the law to the contrary, all bonds issued pursuant to this section are negotiable.

(5) (a) A resolution pertaining to issuance of bonds under this section may contain covenants as to:

(I) The purpose to which the proceeds of sale of the bonds may be applied and to the use and disposition thereof;

(II) Such matters as are customary in the issuance of revenue bonds including, without limitation, the issuance and lien position of other or additional bonds; and

(III) Books of account and the inspection and audit thereof.

(b) Any resolution made pursuant to the terms of this section shall be deemed a contract with the holders of the bonds, and the duties of the commission under such resolution shall be enforceable by any appropriate action in a court of competent jurisdiction.

(6) Bonds issued under this section and bearing the signatures of members of the commission in office on the date of the signing thereof shall be valid and binding obligations, regardless of whether, prior to the delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon have ceased to be members of the commission.

(7) (a) Except as otherwise provided in the resolution authorizing the bonds, all bonds of the same issue under this section shall have a prior and paramount lien on the net revenues pledged therefor. The commission may provide for preferential security for any bonds, both principal and interest, to be issued under this section to the extent deemed feasible and desirable by such commission over any bonds that may be issued thereafter.

(b) Bonds of the same issue or series issued under this section shall be equally and ratably secured, without priority by reason of number, date, sale, execution, or delivery, by a lien on the net revenue pledged in accordance with the terms of the resolution authorizing the bonds.

**ARTICLE 77. STATE FISCAL POLICIES RELATING TO SECTION 20 OF
ARTICLE X OF THE STATE CONSTITUTION**

24-77-103 - Limitation on state fiscal year spending.

(1) For fiscal year 1993-94 and each fiscal year thereafter, state fiscal year spending shall not exceed an amount equal to:

(a) State fiscal year spending for the previous fiscal year; as modified by

(b) An amount equal to a percentage calculated pursuant to subsection (2) of this section times the state fiscal year spending for the previous fiscal year, as adjusted for qualification and disqualification of enterprises and as reduced by an amount equal to:

(I) Annual debt service changes; and

(II) Refunds made pursuant to section 20 (1) and (3) (c) of article X of the state constitution; and

(III) The amount of any revenues resulting from approval by a majority of the registered electors of the state voting on the issue at a statewide election held after 1991; as modified by

(c) To the extent not otherwise included in state fiscal year spending for the previous fiscal year, an amount equal to:

(I) Annual debt service changes; and

(II) Refunds made pursuant to section 20 (1) and (3) (c) of article X of the state constitution; and

(III) An amount of any revenues resulting from approval by a majority of the registered electors of the state voting on the issue at a statewide election held after 1991.

(2) (a) For purposes of paragraph (b) of subsection (1) of this section, the percentage of allowable increase in state fiscal year spending shall equal the sum of inflation as modified by the percentage change in state population in the prior calendar year.

(b) (I) Except as otherwise provided in subparagraph (II) of this paragraph (b), the percentage change in state population for any given calendar year shall be the percentage change between the estimate of state population due to be issued by the United States bureau of census in December of such calendar year with a reference date of July 1 of the same calendar year and the estimate of state population due to be issued by the United States bureau of census in December of the same calendar year with a reference date of July 1 of the immediately preceding calendar year.

(II) For any calendar year for which an estimate of state population is not issued due to the federal census of the United

States bureau of census, the percentage change in state population for such calendar year shall be the percentage change between the state population as reported in the federal census conducted by the United States bureau of census due in December of such calendar year and the estimate of state population due to be issued by the United States bureau of census in December of the same year with a reference date of July 1 of the immediately preceding calendar year.

(III) The department of local affairs shall notify the president of the senate, the speaker of the house of representatives, the governor, and the chairman of the joint budget committee of the general assembly of the percentage change in state population calculated pursuant to this paragraph (b) no later than January 15 following the calendar year for which such percentage is calculated. Such percentage shall not be subject to later modification based upon any subsequent revision of census counts or population estimates issued by the United States bureau of the census.

(3) The base for the calculation of state reserve increases for fiscal year 1992-93 shall be the state unrestricted year-end fund balances of the state general fund and of all state cash funds for fiscal year 1991-92. For purposes of this section, the amount of said state unrestricted year-end fund balances does not constitute and shall not be included in state fiscal year spending for fiscal year 1992-93.

(4) For purposes of complying with the limitation on state fiscal year spending set forth in subsection (1) of this section, the state may refuse to accept any moneys, in whole or in part, from any enterprise in any given fiscal year, notwithstanding any law to the contrary.

(5) For purposes of complying with the limitation on state fiscal year spending set forth in subsection (1) of this section, the state may refuse to accept any gift, including but not limited to real property, for which state expenditures would be required for the maintenance and operation of such gift and which does not include sufficient revenues for said purposes.

(6) (a) For purposes of complying with the limitation on state fiscal year spending set forth in subsection (1) of this section, any moneys continuously appropriated by a permanent statute or constitutional provision shall be included in the general appropriation bill for informational purposes.

(b) The authority to expend such moneys shall be modified only by duly enacted amendment to the permanent statute or constitutional provision which continuously appropriates such moneys.

(c) Except as otherwise provided in this paragraph (c), any moneys continuously appropriated by a permanent statute or constitutional provision shall be subject to revenue and expenditure limits established annually by the general assembly as provided by law for the purpose of complying with the limitation on state fiscal year spending set forth in subsection (1) of

this section. The provisions of this paragraph (c) shall not apply to moneys continuously appropriated to the limited gaming control commission pursuant to section 9 of article XVIII of the state constitution.

(7) For purposes of complying with the limitation on state fiscal year spending set forth in subsection (1) of this section, each state institution of higher education shall prepare a written report for each quarter of the fiscal year which shall include the total amount of net revenues generated during such period from any facility, activity, or operation managed by such state institution of higher education which is an enterprise and the total amount of such net revenues and any other thing of value received by such state institution of higher education from such enterprises. Such report shall be filed with the president of the senate, the speaker of the house of representatives, and the chairman of the joint budget committee no later than thirty days after the close of such period.

24-77-106 - Establishment of annual allowable revenues by general assembly.

(1) The general assembly hereby finds and declares that:

(a) Section 20 of article X of the state constitution limits state fiscal year spending;

(b) Subject to certain exclusions specified in section 20 of article X of the state constitution, all state general fund expenditures and all state cash fund expenditures are included in the limitation on state fiscal year spending;

(c) The legislative powers of the general assembly, including but not limited to its plenary power of appropriation, authorize and require the general assembly to assure compliance with the limitation on state fiscal year spending and to make fundamental fiscal policy decisions establishing the level of activity of all departments and agencies of state government, except for the limited gaming control commission created pursuant to section 9 (2) of article XVIII of the state constitution; and

(d) Consonant with the exercise of such legislative powers, the general assembly must establish limits on the revenues collected and expenditures made by all departments and agencies of state government, except for the limited gaming control commission created pursuant to section 9 (2) of article XVIII of the state constitution.

(2) Except as otherwise provided in this subsection (2), for the 1993-94 fiscal year and fiscal years thereafter, the general assembly, in the general appropriation bill or by separate bill, shall prescribe the total amount of revenues that may be collected by each department and agency of state government for the fiscal year. The amount prescribed by the general

assembly pursuant to this subsection (2) shall be based upon the determination of the limitation on state fiscal year spending under section 20 of article X of the state constitution and upon decisions establishing the level of activity of all departments and agencies of state government. The provisions of this subsection (2) shall not apply to the limited gaming control commission created in section 9 (2) of article XVIII of the state constitution.

TITLE 26. HUMAN SERVICES CODE

ARTICLE 2. PUBLIC ASSISTANCE

PART 1. COLORADO PUBLIC ASSISTANCE ACT

26-2-104 - Public assistance programs - electronic benefits transfer service - rules.

(1) (a) The state department is hereby designated as the single state agency to administer or supervise the administration of public assistance programs in this state in cooperation with the federal government pursuant to the social security act and this article. The state department shall establish public assistance programs consisting of assistance payments and social services to be made available to eligible individuals, including but not limited to old age pensions, the Colorado works program, aid to the needy disabled, and aid to the blind.

(b) The state department may review any decision of a county department and may consider any application upon which a decision has not been made by the county department within a reasonable time to determine the propriety of the action or failure to take timely action on an application for public assistance. The state department shall make such additional investigation as it deems necessary and shall, after giving the county department an opportunity to rebut any findings or conclusions of the state department that the action or delay in taking action was a violation of or contrary to state department rules, make such decision as to the granting of assistance payments and the amount thereof as in its opinion is justifiable pursuant to the provisions of this article and the rules of the state department. Applicants or recipients affected by such decisions of the state department, upon request, shall be given reasonable notice and opportunity for a fair hearing by the state department.

(2) (a) The state department is authorized to implement an electronic benefits transfer service for administering the delivery of public assistance payments and food stamps to recipients. The electronic benefits transfer service shall be

designed to allow clients access to cash benefits through automated teller machines or similar electronic technology. The electronic benefits transfer service shall allow clients eligible for food stamps access to food items through the use of point of sale terminals at retail outlets. Only those businesses that offer products or services related to the purpose of the public assistance benefits shall be allowed to participate in the electronic benefits transfer service through the use of point of sale terminals. Clients shall not be allowed to access cash benefits through the electronic benefits transfer service from automated teller machines in this state located in licensed gaming establishments as defined in section 12-47.1-103 (15), C.R.S., in-state simulcast facilities as defined in section 12-60-102 (14), C.R.S., tracks for racing as defined in section 12-60-102 (26), C.R.S., commercial bingo facilities as defined in section 12-9-102 (2.3), C.R.S., stores or establishments in which the principal business is the sale of firearms, or retail establishments licensed to sell malt, vinous, or spirituous liquors pursuant to part 3 of article 47 of title 12, C.R.S. In the development and implementation of the service, the state department shall consult with representatives of those persons, agencies, and organizations that will use or be affected by the electronic benefits transfer service, including program clients, to assure that the service is as workable, effective, and efficient as possible. The electronic benefits transfer service shall be applicable to the public assistance programs described in subsection (1) of this section and to food stamps as described in part 3 of this article. The state department shall contract in accordance with state purchasing requirements with any entity for the development and administration of the electronic benefits transfer service. In order to ensure the integrity of the electronic benefits transfer service, the system developed pursuant to this section shall use, but is not limited to, security measures such as individual personal identification numbers, photo identification, or fingerprint identification. The security method or methods selected shall be those that are most efficient and effective. The state board shall establish by rule a policy and procedure to limit losses to a client after the client reports that the electronic benefits transfer card or benefits have been lost or stolen. The state department may authorize county departments of social services to charge a fee to a client to cover the costs related to issuing a replacement electronic benefits transfer card.

(b) The state board is authorized to promulgate rules necessary to implement and administer the electronic benefits transfer service created in this subsection (2). Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(c) The state department is authorized to request federal waivers as necessary to administer the electronic benefits transfer service.

TITLE 29. GOVERNMENT – LOCAL, SPECIAL STATUTORY AUTHORITIES

ARTICLE 24. COLORADO TRAVEL AND TOURISM AUTHORITY

29-24-110 - Collection of contributions - amount - custody and disbursement.

(1) (a) In order for the authority to carry out the provisions and intent of this article, for the calendar quarter which begins October 1, 1994, and ends December 31, 1994, and annually thereafter, the board of directors of the authority may notify businesses in the business categories specified in section 29-24-112 and any other businesses affected by travel and tourism in Colorado of the existence and activities of the authority and may request that such businesses make a contribution to support the operations and activities of the authority. Such notices may include a pledge form or other document upon which businesses may express a commitment to make the requested contribution by a specified date.

(b) Except as otherwise provided in this subsection (1), the amount of the contribution requested shall not exceed ten dollars per ten thousand dollars of the contributing business's gross revenue for the quarter. For any business which falls within the business category described in section 29-24-112 (1) (a) and not within any other business category, the amount of the contribution requested shall not exceed three dollars and fifty cents per ten thousand dollars of the contributing business's gross revenue for the quarter. The maximum contribution requested from any business shall not exceed ten thousand dollars per year irrespective of gross revenue.

(c) The amounts set forth in this subsection (1) may be increased, the contribution may be made a requirement with refundability, the collection of a required contribution may be terminated, or any combination of such actions may be taken if approved in accordance with the procedures described in section 29-24-111.

(d) For purposes of this section, "business" includes any corporation, limited liability company, partnership, individual, sole proprietorship, joint-stock company, joint venture, or other private legal entity and includes all activities conducted by such entity, its subsidiaries, or its affiliates in any of the business categories specified in section 29-24-112 or in any business category made subject to a required contribution pursuant to section 29-24-111.

(e) (I) For purposes of this section, "gross revenue" means all revenue directly attributable to the operation of a business covered by this article; except that "gross revenue" does not include:

(A) Income which is unrelated to the travel and tourism industry, including but not limited to investment income, incidental

income, income attributable to increases in the valuation of real and personal property, and income attributable to increases in the value of stock of a business, its subsidiaries, or its affiliates;

(B) Income attributable to activities or operations of a business, its subsidiaries, or its affiliates which occur primarily outside of the state of Colorado; and

(C) Income from grants, donations, contributions, or other gratuitous transfers to a business, its subsidiaries, or its affiliates which are not made in exchange for products or services provided by the business to the grantor, donor, contributor, or transferor.

(II) Notwithstanding subparagraph (I) of this paragraph (e), for any business licensed pursuant to section 12-47.1-501, C.R.S., "gross revenue" means "adjusted gross proceeds", as defined in section 12-47.1-103 (1), C.R.S., less any amounts paid as gaming taxes on such adjusted gross proceeds pursuant to section 12-47.1-601, C.R.S.

(f) (I) Any business which is licensed pursuant to section 12-47.1-501, C.R.S., shall receive a credit against the contribution imposed pursuant to this section for an amount equal to the amount of any transfer to the Colorado tourism promotion fund pursuant to section 12-47.1-701 (4), C.R.S., which is attributable to such business.

(II) Notwithstanding any other provision of this article, a business shall not be entitled to a refund of amounts transferred to the Colorado tourism promotion fund pursuant to section 12-47.1-701 (4), C.R.S.

(2) The contribution may be collected by the authority or by any agent in accordance with the terms of an agreement between the authority and the agent.

(3) If the authority elects to contract with an agent for collection of the contribution:

(a) The board shall notify such agent of a change in the amount of the contribution pursuant to section 29-24-111 not later than the first day of the quarter preceding the quarter in which the change is to be effective; and

(b) The contribution collected pursuant to this section shall be kept separate and distinct from other moneys collected by the agent. Contribution shall be transferred or paid over to the authority by the agent as soon as possible after collection, less the amount negotiated between the authority and the agent as the agent's fees for effecting collection.

(4) (a) Each business made subject to a required contribution in accordance with section 29-24-111 shall keep a complete set of books of account and all other records necessary to show fully all activities of such business in any of the business categories specified in section 29-24-112 and in any business category made subject to a required contribution in accordance with section 29-24-111 and all revenues of the business associated with such activities. The authority may require any business subject to a required contribution to furnish such information as it considers necessary for the proper

enforcement and administration of this section and may require an audit to be made of such books of account and records on such occasions as it may consider necessary by an auditor to be selected by the authority. The expense of such audit shall be paid by the authority.

(b) Except in accordance with judicial order or as otherwise provided by law, information obtained by the authority or its representative or by an auditor selected by the authority shall be kept confidential and not be divulged to any person or entity except as necessary for enforcement and administration of this section. Nothing in this section shall be construed to prohibit the delivery of copies of documents obtained by the authority or on its behalf to a duly authorized agent of the business to which such documents pertain.

(c) Any official, employee, or agent of the authority who violates paragraph (b) of this subsection (4) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars, or by imprisonment in the county jail for not less than six months nor more than two years, or by both such fine and such imprisonment. Such person shall, in addition to such penalties, be subject to removal or dismissal from their position with the authority.

(d) This subsection (4) shall only be effective if the contribution is required pursuant to an order issued and approved in accordance with section 29-24-111.

TITLE 30. GOVERNMENT – COUNTY POWERS AND FUNCTIONS GENERAL

ARTICLE 15. REGULATION UNDER POLICE POWER

PART 4. GENERAL REGULATIONS

30-15-401 - General regulations.

(1) In addition to those powers granted by sections 30-11-101 and 30-11-107 and by parts 1, 2, and 3 of this article, the board of county commissioners has the power to adopt ordinances for control or licensing of those matters of purely local concern which are described in the following enumerated powers:

(a) (I) (A) To provide for and compel the removal of rubbish, including trash, junk, and garbage, from lots and tracts of

land within the county, except industrial tracts of ten or more acres and agricultural land currently in agricultural use as the term agricultural land is defined in section 39-1-102 (1.6), C.R.S., and from the alleys behind and from the sidewalk areas in front of such property at such time, upon such notice, and in such manner as the board of county commissioners may prescribe by ordinance, including removal performed by the county upon notice to and failure of the property owner to remove such rubbish, and to assess the reasonable cost thereof, including five percent for inspection and other incidental costs in connection therewith, upon the lots and tracts from which such rubbish has been removed. Ordinances passed by a board of county commissioners for the removal of rubbish pursuant to this sub-subparagraph (A) shall include provisions for applying for and exercising an administrative entry and seizure warrant issued by a county or district court having jurisdiction over the property from which rubbish shall be removed. Any assessment pursuant to this sub-subparagraph (A) shall be a lien against such lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. In case such assessment is not paid within a reasonable time specified by ordinance, it may be certified by the clerk to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of assessments pursuant to this sub-subparagraph (A).

(B) A county court or district court having jurisdiction over property from which rubbish shall be removed pursuant to the ordinances authorized by sub-subparagraph (A) of this subparagraph (I) shall issue an administrative entry and seizure warrant for the removal of such rubbish. Such warrant shall be issued upon presentation by a county of ordinance provisions which meet the requirements of sub-subparagraph (A) of this subparagraph (I) and a sworn or affirmed affidavit stating the factual basis for such warrant, evidence that the property owner has received notice of the violation and has failed to remove the rubbish within a reasonable prescribed period of time, a general description of the location of the property which is the subject of the warrant, a general list of any rubbish to be removed from such property, and the proposed disposal or temporary impoundment of such rubbish, whichever the court deems appropriate. Within ten days following the date of issuance of an administrative entry and seizure warrant pursuant to the provisions of this sub-subparagraph (B), such warrant shall be executed in accordance with directions by the issuing court, a copy of such issued warrant shall be provided or mailed to the property owner, and proof of the execution of such warrant, including a written inventory of any property impounded by the executing authority, shall be submitted to the court by the executing authority.

(I.5) (A) To provide for and compel the removal of weeds and brush from residential lots of one acre or less within the

county and from the alleys behind and from the sidewalk areas in front of such property at such time, upon such notice, and in such manner as the board of county commissioners may prescribe by ordinance, including removal performed by the county upon notice to and failure of the property owner to remove such weeds and brush, and to assess the reasonable cost thereof, including ten percent for inspection and other incidental costs in connection therewith, upon the property from which such weeds have been removed. Ordinances passed by a board of county commissioners for the removal of weeds and brush pursuant to this sub-subparagraph (A) shall include provisions for applying for and exercising an administrative entry and seizure warrant issued by a county or district court having jurisdiction over the property from which weeds and brush shall be removed. Any assessment pursuant to this sub-subparagraph (A) shall be a lien against such property until paid and shall have priority over all other liens except general taxes and prior special assessments.

(B) In case such assessment is not paid within a reasonable time specified by ordinance, it may be certified by the clerk to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessments pursuant to this sub-subparagraph (B).

(C) A county court or district court having jurisdiction over property from which weeds and brush shall be removed pursuant to the ordinances authorized by sub-subparagraph (A) of this subparagraph (I.5) shall issue an administrative entry and seizure warrant for the removal of such weeds and brush. Such warrant shall be issued upon presentation by a county of ordinance provisions which meet the requirements of sub-subparagraph (A) of this subparagraph (I.5) and a sworn or affirmed affidavit stating the factual basis for such warrant, evidence that the property owner has received notice of the violation and has failed to remove the weeds and brush within a reasonable prescribed period of time, a general description of the location of the property which is the subject of the warrant, and the proposed disposal of such weeds and brush. Within ten days following the date of issuance of an administrative entry and seizure warrant pursuant to the provisions of this sub-subparagraph (C), such warrant shall be executed in accordance with directions by the issuing court, a copy of such issued warrant shall be provided or mailed to the property owner, and proof of the execution of such warrant shall be submitted to the court by the executing authority.

(II) To inspect vehicles proposed to be operated in the conduct of the business of transporting ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials and to determine, among other things, that any such vehicle has the following:

(A) A permanent cover of canvas or equally suitable or superior material designed to cover the entire open area of the body of such vehicle;

(B) A body so constructed as to be permanently leakproof as to such discarded materials;

(C) Extensions of sideboards and tailgate, if any, constructed of permanent materials;

(III) To contract with persons in the business of transporting and disposing of ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials to provide such services, but in no event on an exclusive territorial basis, to every lot and tract of land requiring such services within the unincorporated area of the county or in conjunction with the county on such terms as shall be agreed to by the board of county commissioners. Nothing in this subparagraph

(III) shall be deemed to preclude the owner or tenant of any such lot or tract from removing discarded materials from his lot, so long as appropriate standards of safety and health are observed.

(IV) To regulate the activities of persons in the business of transporting ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials within the unincorporated area by requiring each such person to secure a license from the county and charging a fee therefor to cover the cost of administration and enforcement and by requiring adherence to such reasonable standards of health and safety as may be prescribed by the board of county commissioners and to prohibit any person from commercially collecting or disposing of ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials within the unincorporated area without a license and when not in compliance with such standards of health and safety as may be prescribed by the board;

(V) To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease, limited to the following:

(A) In addition to the authority given counties under section 18-4-511, C.R.S., to restrain, fine, and punish persons for dumping rubbish, including trash, junk, and garbage, on public or private property;

(B) In addition to the authority given counties under section 25-1-612, C.R.S., to restrain, fine, and punish persons for dumping dead animals on public or another person's private property;

(C) To adopt reasonable regulations for controlling pollution caused by wood smoke;

(D) In addition to the authority given counties under article 5 of title 35, C.R.S., to establish mosquito control areas, to assess the whole cost thereof against those persons especially benefitted by the service, and, if a person's portion of the assessment is not paid within a reasonable time as specified by ordinance, to direct that the assessment, which shall be a lien against the property of such person, be certified by the county clerk and recorder to the county treasurer for collection

in the same manner as other taxes are collected;

(VI) To require every person in the business of transporting ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials to and from disposal sites to have, before commencing such operations, in such motor vehicle a motor vehicle liability insurance policy or evidence of such policy issued by an insurance carrier or insurer authorized to do business in the state of Colorado in the sum of not less than one hundred fifty thousand dollars for damages for or on account of any bodily injury to or the death of each person as the result of any one accident, in the sum of not less than one hundred fifty thousand dollars for damages to the property of others as the result of any one accident, and in the total sum of not less than four hundred thousand dollars for damages for or on account of any bodily injury to or the death of all persons and for damages to the property of others. Any liability for failure to comply with the requirements of this subparagraph (VI) shall be borne by the individual, partnership, or corporation who owns such vehicle.

(b) To prevent and suppress riots, routs, affrays, disturbances, and disorderly assemblies in any public or private place;

(c) To suppress bawdy and disorderly houses and houses of ill fame or assignation; to suppress gaming and gambling houses, lotteries, and fraudulent devices and practices for the purpose of gaining or obtaining money or property; and to regulate the promotion or wholesale promotion of obscene material and obscene performances, as defined in part 1 of article 7 of title 18, C.R.S.;

(d) To restrain and punish loiterers and prostitutes;

(d.5) To discourage juvenile delinquency through the imposition of curfews applicable to juveniles, the restraint and punishment of loitering by juveniles, and the restraint and punishment of defacement of, including the affixing of graffiti to, buildings and other public or private property by juveniles. For purposes of this paragraph (d.5), "juvenile" means a juvenile as defined in section 19-2-103 (10), C.R.S.

(e) To control unleashed or unclaimed animals, except those animals defined in section 35-44-101 (1), C.R.S.;

(f) To use the county jail for the confinement or punishment of offenders, subject to such conditions as are imposed by law and with the consent of the board of county commissioners;

(g) To authorize the acceptance of a bail bond when any person has been arrested for the violation of any ordinance and a continuance or postponement of trial is granted. When such bond is accepted, it shall have the same validity and effect as bail bonds provided for under the criminal statutes of this state.

(h) To control and regulate the movement and parking of motor vehicles on public property; except that the posted speed

limit on any state highway located within the county shall be deemed a matter of statewide interest. The county may establish fire lanes and emergency vehicle access on public or private property zoned commercial or residential and provide for fines and punishment of violators.

(i) To regulate and license escort bureaus, escorts, and escort bureau runners to the extent permitted under article 25.5 of title 12, C.R.S.;

(j) To regulate and license secondhand dealers to the extent permitted under article 13 of title 18, C.R.S.;

(k) To regulate and license pawnbrokers as provided in section 12-56-102, C.R.S.;

(k.5) To require registration of persons who engage in door-to-door selling of merchandise or goods and the delivery thereof within the county; except that nonprofit organizations which are exempt from the income tax imposed under article 22 of title 39, C.R.S., and schools shall not be subject to county requirements imposed under this paragraph (k.5);

(l) (I) To adopt reasonable regulations for the operation of establishments open to the public in which persons appear in a state of nudity for the purpose of entertaining the patrons of such establishment; except that such regulations shall not be tantamount to a complete prohibition of such operation. Such regulations may include the following:

(A) Minimum age requirements for admittance to such establishments;

(B) Limitations on the hours during which such establishments may be open for business; and

(C) Restrictions on the location of such establishments with regard to schools, churches, and residential areas.

(II) The board of county commissioners may enact ordinances which provide that any establishment which engages in repeated or continuing violations of regulations adopted by the board shall constitute a public nuisance. The county attorney of such county, or the district attorney acting pursuant to section 16-13-302, C.R.S., may bring an action in the district court of such county for an injunction against the operation of such establishment in a manner which violates such regulations.

(III) Nothing in the regulations adopted by the board of county commissioners pursuant to this paragraph (l) shall be construed to apply to the presentation, showing, or performance of any play, drama, ballet, or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher education, or other similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

(m) (I) In addition to the authority given counties in article 12 of title 25, C.R.S., to enact ordinances which regulate noise

on public and private property except as provided in subparagraph (II) of this paragraph (m); prohibit the operation of any vehicle that is not equipped with a muffler in constant operation and is not properly maintained to prevent an increase in the noise emitted by the vehicle above the noise emitted when the muffler was originally installed; and prohibit the operation of any vehicle having a muffler that has been equipped or modified with a cutoff and bypass or any similar device or modification. For the purposes of this paragraph (m), "vehicle" shall have the same meaning as that set forth in section 42-1-102 (112), C.R.S.

(II) Ordinances enacted to regulate noise on public and private property pursuant to subparagraph (I) of this paragraph

(m) shall not apply to:

(A) Property used for purposes which are exempt, pursuant to section 25-12-103, C.R.S., from noise abatement; and

(B) Property used for: Manufacturing, industrial, or commercial business purposes; public utilities regulated pursuant to title 40, C.R.S.; and oil and gas production subject to the provisions of article 60 of title 34, C.R.S.

(n) To provide for and compel the removal of snow on sidewalks within the county, at such time, upon such notice, and in such manner as the board of county commissioners may prescribe by ordinance, including removal performed by the county upon notice to and failure of the property owner to remove such snow and to assess the whole cost thereof, and other incidental costs in connection therewith, upon the property from which such snow has been removed;

(n.5) To ban open fires to a degree and in a manner that the board of county commissioners deems necessary to reduce the danger of wildfires within those portions of the unincorporated areas of the county where the danger of forest or grass fires is found to be high, based on competent evidence; except that no ban under this paragraph (n.5) shall affect the sale of fireworks;

(o) In addition to the authority given counties under sections 30-10-513.5 and 30-15-401.5, to enact ordinances to restrain and punish any person who gives, makes, or causes to be given a false alarm of fire and to assess costs associated with such false alarms;

(o.5) To provide by ordinance for the regulation and licensing of alarm systems which transmit information to law enforcement or other public safety officials located within the county;

(p) In addition to the authority given counties under article 7 of title 29, C.R.S., and part 7 of article 20 of this title, to establish by ordinance and regulation the fees for certificates, permits, licenses, and passes for users in order to provide the funds for recreational facility development and to offset the costs of emergency search and rescue operations on public

lands and the construction, operation, and maintenance of recreation paths on public property; except that areas, lakes, properties, and facilities under the control and management of the division of parks and outdoor recreation or the division of wildlife shall be exempt from any such fees for certificates, permits, licenses, passes, or any other special charges;

(q) To provide for and compel the removal of any building or structure, except for a building or structure on affected land subject to the "Colorado Mined Land Reclamation Act", as the term "affected land" is defined in section 34-32-103 (1.5), C.R.S., or on lands subject to the "Colorado Surface Coal Mining Reclamation Act", pursuant to article 33 of title 34, C.R.S., the condition of which presents a substantial danger or hazard to public health, safety, or welfare, or any dilapidated building of whatever kind which is unused by the owner, or uninhabited because of deterioration or decay, which condition constitutes a fire hazard, or subjects adjoining property to danger of damage by storm, soil erosion, or rodent infestation, or which becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter, at such time, upon such notice, and in such manner as the board of county commissioners may prescribe by ordinance, including the removal performed by the county upon notice to and failure of the property owner to remove such building or structure, and to assess the whole cost of such removal, including incidental costs and a reasonable fee for inspection which fee shall not exceed five percent of the total amount due in connection therewith, upon the property from which such building or structure has been removed. Any assessment pursuant to this paragraph (q) shall be a lien against such property until paid. If such assessment is not paid within a reasonable time as specified by ordinance, it may be certified by the clerk and recorder to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected.

(1.5) In addition to any other powers, the board of county commissioners has the power to adopt a resolution or an ordinance prohibiting minors from possessing cigarettes or tobacco products, as defined by section 39-28.5-101 (5), C.R.S.

(2) (a) Such ordinances shall apply throughout the unincorporated area of the county including public and state lands and to any incorporated town or city which elects by ordinance or resolution to have the provisions thereof apply.

(b) Any regulation imposed prior to January 1, 1980, by resolution adopted under any provision of law may, upon suitable accommodation to the pertinent ordinance adoption procedure set forth in this part 4, be reimposed by ordinance. In such cases the resolution shall continue in force and effect until the ordinance which replaces it becomes effective.

(c) Nothing in this part 4 shall be construed to affect any proceeding arising under or pursuant to the provisions of law in

effect immediately prior to January 1, 1980.

(3) Paragraph (a) of subsection (1) of this section shall not apply to the transportation of sludge and fly ash or to the transportation of hazardous materials, as defined in the rules and regulations adopted by the chief of the Colorado state patrol pursuant to section 42-20-104 (1), C.R.S.

(4) Paragraph (a) of subsection (1) of this section shall not apply to the transporting of ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials which are collected by a city, county, city and county, town, or other local subdivision within its jurisdictional limits, provided every vehicle so engaged in transporting the discarded materials has conformed to vehicle standards at least as strict as those prescribed in subparagraph (II) of paragraph (a) of subsection (1). Such governing body shall not grant an exclusive territory or regulate rates for the collection and transportation of ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials.

(5) Any provision of paragraph (a) of subsection (1) of this section to the contrary notwithstanding, the governing body of a city and county shall not be precluded from adopting ordinances, regulations, codes, or standards or granting permits issued pursuant to home rule authority; except that such governing body shall not grant an exclusive territory or regulate rates for the collection and transportation of ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials.

(6) If the board of county commissioners or the governing body of any other local governmental entity is providing waste services, including the collection and transportation of ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials, within the limits of any county or other local subdivision on or after April 19, 1994, any private person seeking also to offer those services shall first give a one-year public notice advising of the intent to offer the services. If a private person or persons are providing waste services within the limits of any county or other local subdivision on or after April 19, 1994, any board of county commissioners or the governing body of any other local governmental entity seeking also to offer those services shall first give a one-year public notice advising of the intent to offer the services. The public notice shall be given in a local newspaper of general circulation in the area served by the waste service provider. The requirements of this subsection (6) shall not apply to any municipality or city and county subject to subsection (7.5) of this section.

(7) (a) Notwithstanding any other provision of law, nothing in this section shall prohibit the providing of waste services by a private person, if that person is in compliance with applicable rules and regulations, within the limits of any municipality or

city and county if those services also are provided by a governmental body within the limits of that governmental unit. The governmental body may not compel industrial or commercial establishments or multifamily residences of eight or more units to use or pay user charges for waste services provided by the governmental body in preference to those services provided by a private person.

(b) Subject to the limitation set forth in subsection (6) of this section and notwithstanding paragraph (a) of this subsection

(7) and subsection (7.5) of this section or any other provision of law, nothing in this section shall prohibit the providing of

waste services by a private person within the limits of any county or other local subdivision if that person is in compliance

with applicable rules and regulations. If services also are provided by a governmental body within the limits of the county or

other local subdivision, the governmental body shall not compel any resident, including, but not limited to, an owner or tenant

of industrial or commercial establishments or multifamily residences, to use or pay user charges for waste services provided

by the governmental body in preference to those services provided by a private person.

(7.5) (a) Any requirement that municipal residents use or pay user charges for residential waste services pursuant to

paragraph (a) of subsection (7) of this section may be affected by utilization of the initiative and referendum power reserved

to the municipal electors in section 1 (9) of article V of the Colorado constitution.

(b) The governing body of any municipality or city and county that chooses, after April 19, 1994, to require use of or to

commence the imposition of a fee for residential waste services pursuant to paragraph (a) of subsection (7) of this section

in all or any portion of the jurisdiction, including any portion of the jurisdiction annexed after April 19, 1994, may do so

subject to the following requirements:

(I) The governing body shall provide written notice to any private person who lawfully provides waste services within the

jurisdiction and shall give a six-month public notice in a newspaper of general circulation within the jurisdiction prior to

requiring the use or initial imposition of the fee. The notice shall include:

(A) The date upon which, and the area within the jurisdiction where, requiring use of or billing for residential waste

services will commence; and

(B) An explanation of the option to request an opportunity to submit a proposal to provide residential waste services to

that area.

(II) Any person may, within thirty days following publication or receipt of the notice, request in writing the opportunity to

submit a proposal to provide residential waste services within the portion of the jurisdiction where required use of those

services or imposition of the fee will commence. A request for an opportunity to submit a proposal shall suspend required

use of the services or imposition of the residential waste services fee until a request for proposal process, as set forth in paragraph (c) of this subsection (7.5), is completed. Any person who has requested in writing an opportunity to submit a proposal to provide residential waste services pursuant to this subparagraph (II) is eligible to participate in the proposal process. If no written request is received within the time permitted, the governing body may proceed to require use of or impose a fee for residential waste services without conducting a request for proposal process as set forth in paragraph (c) of this subsection (7.5).

(III) Any municipality or city and county that complies with paragraph (c) of this subsection (7.5) shall not be subject to the provisions of section 31-12-119, C.R.S.

(IV) The requirements set forth in this subsection (7.5) shall not apply to any municipality or city and county that is legally requiring use of or imposing a fee for residential waste services within its jurisdiction pursuant to paragraph (a) of subsection (7) of this section on April 19, 1994, and, having complied with the notice requirements of subsection (6) of this section applicable at the time of the initiation of such residential waste services, chooses to extend the requirement for use of or imposition of the fee for residential waste services to areas within the jurisdiction that have not been annexed after April 19, 1994.

(c) The governing body shall conduct any request for a proposal process required pursuant to this subsection (7.5) as follows:

(I) The governing body shall mail a request for proposals to all private persons who are eligible to submit a proposal. The request for proposals shall include a description of the portion of the jurisdiction to which residential waste services will be provided and shall request a proposed price of providing those services.

(II) When the jurisdiction issuing the request for proposals chooses to submit a proposal, a certification of an independent auditor stating that the public entity's proposed price is not based on subsidization from entity revenue streams or operations unrelated to the provision of waste services shall be appended to the proposal.

(III) Following review of all proposals properly submitted, the governing body shall award a contract for the provision of residential waste services based upon the criteria set forth in the request for proposals.

(d) As used in this subsection (7.5), "residential waste services" means the collection and transportation of ashes, trash, waste, rubbish, garbage or industrial waste products, or any other discarded materials from sources other than industrial or commercial establishments or multifamily residences of eight or more units.

(7.7) (a) If the governing body of a jurisdiction selects a proposal submitted by the jurisdiction, any private person who

submitted a proposal may request a review of the selection as provided in this subsection (7.7). A request for review shall be submitted to the governing body in writing within ten days following selection of the jurisdiction's proposal. The filing of a request shall suspend the award until the completion of the review provided in this subsection (7.7).

(b) (I) Upon receipt of a request, the governing body, or its designee, shall promptly select a reviewing auditor to conduct the review. The reviewing auditor shall commence and complete its review as expeditiously as practicable.

(II) As a part of that review, the reviewing auditor shall afford the person who submitted the request for review the opportunity to present the reviewing auditor his or her views with respect to the governing body's determination, subject to any reasonable procedures, guidelines, and limitations as the reviewing auditor may prescribe, including but not limited to requiring that those views be expressed in writing and submitted by a specific date and time. No person shall be permitted to alter any previously submitted proposal in any respect.

(III) The reviewing auditor shall review each of the proposals submitted, but the review shall be limited to determining:

(A) Whether the selection of the jurisdiction's proposal was made in a manner contrary to the procedure set forth in subsection (7.5) of this section or in the request for proposals;

(B) Whether the selection of the jurisdiction's proposal was clearly erroneous in light of the criteria set forth in the request for proposals; and

(C) Whether the certification of an independent auditor provided pursuant to subparagraph (II) of paragraph (c) of subsection (7.5) of this section is materially inaccurate.

(IV) Should the reviewing auditor find that the governing body's selection of a proposal was improper, the determination of the governing body shall be void, and the governing body shall reconsider as expeditiously as is practicable all proposals timely submitted and determine which proposals it will accept, giving due regard to the determination of the reviewing auditor. No person shall be entitled to alter any previously submitted proposal in any respect. If the reviewing auditor finds that the governing body's selection of a proposal was proper, the selection shall be valid and conclusive and shall not be subject to further challenge or review.

(V) The reviewing auditor's fee for performing a review pursuant to this subsection (7.7) shall be paid by the private person requesting the review; except that, if the governing body's selection of a proposal is found to be improper by the reviewing auditor, the municipality or city and county shall pay the fee.

(c) As used in this subsection (7.7), a reviewing auditor shall be a qualified, licensed, independent public accountant or

public accounting firm selected by the governing body and shall certify to the governing body in writing that it is not being retained currently, has not been retained within the previous five years, and currently has no basis for believing it will be retained in the future by the governing body, any persons who have submitted proposals, or, to the accountant's or firm's knowledge after due inquiry, any of the governing body's or person's affiliates, partners, or relatives for the performance of accounting or other services.

(8) No ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power pursuant to this section or section 30-11-101 (1) (f) or (1) (g) or 30-11-107 (1) (u), (1) (w), (1) (y), (1) (z), or (1) (bb) or 25-1-507 (1) (g) or (1) (h) or 25-1-711 (1) (d) or (1) (e), C.R.S., shall apply within the corporate limits of any incorporated municipality, nor to any municipal service, function, facility, or property whether owned by or leased to the incorporated municipality, outside the municipal boundaries, unless the municipality consents. If the municipality consents that any ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power shall apply within the municipality or to municipal services, functions, facilities, or property outside the municipal boundaries, such ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power shall be uniform within the municipality and the applicable unincorporated areas of the county, unless the county and the municipality agree otherwise pursuant to part 2 of article 1 of title 29, C.R.S.

(9) (a) No ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power pursuant to this section shall apply within the jurisdictional boundaries of any special district enumerated in this subsection (9), nor to any special district service, function, facility, or property whether owned by or leased to the special district outside the special district boundaries if such ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power would duplicate or interfere with any service or facility authorized and provided by such special district or contravene any power authorized and exercised by such special district, unless the county is specifically empowered by law to exercise authority with respect thereto, or the county and the special district agree otherwise pursuant to part 2 of article 1 of title 29, C.R.S.

(b) For purposes of this subsection (9), "special district" means any special district established pursuant to article 1 of title 32, C.R.S., the three lakes water and sanitation district established pursuant to article 10 of title 32, C.R.S., the urban drainage and flood control district established pursuant to article 11 of title 32, C.R.S., any metropolitan sewage disposal district established pursuant to part 4 of article 4 of title 32, C.R.S., any drainage district established pursuant to article 20 of title 37, C.R.S., the Cherry Creek basin water quality authority established pursuant to article 8.5 of title 25, C.R.S., any regional service authority established pursuant to article 7 of title 32, C.R.S., and the regional transportation district

established pursuant to article 9 of title 32, C.R.S.

TITLE 31. GOVERNMENT – MUNICIPAL POWERS AND FUNCTIONS OF CITIES AND TOWNS

ARTICLE 15. EXERCISE OF MUNICIPAL POWERS

PART 4. POLICE REGULATIONS

31-15-401 - General police powers.

(1) In relation to the general police power, the governing bodies of municipalities have the following powers:

(a) To regulate the police of the municipality and pass and enforce all necessary police ordinances;

(b) To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease;

(c) To declare what is a nuisance and abate the same and to impose fines upon parties who may create or continue nuisances or suffer nuisances to exist;

(d) (I) To provide for and compel the removal of weeds, brush, and rubbish of all kinds from lots and tracts of land within such municipalities and from the alleys behind and from the sidewalk areas in front of such property at such time, upon such notice, and in such manner as such municipalities prescribe by ordinance, and to assess the whole cost thereof, including five percent for inspection and other incidental costs in connection therewith, upon the lots and tracts of land from which the weeds, brush, and rubbish are removed. The assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

(II) In case such assessment is not paid within a reasonable time specified by ordinance, it may be certified by the clerk to the county treasurer who shall collect the assessment, together with a ten percent penalty for cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessments.

(e) To prevent and suppress riots, routs, affrays, noises, disturbances, and disorderly assemblies in any public or private place;

(f) To prevent fighting, quarreling, dog fights, cock fights, and all disorderly conduct;

(g) To suppress bawdy and disorderly houses and houses of ill fame or assignation within the limits of the municipality or within three miles beyond, except where the boundaries of two municipalities adjoin the outer boundaries of the municipality; to suppress gaming and gambling houses, lotteries, and fraudulent devices and practices for the purpose of gaining or obtaining money or property; and to regulate the promotion or wholesale promotion of obscene material and obscene performances, as defined in part 1 of article 7 of title 18, C.R.S.;

(h) To restrain and punish loiterers, mendicants, and prostitutes;

(i) To prohibit and punish for cruelty to animals;

(j) To establish and erect jails, correction centers, and reform schools for the reformation and confinement of loiterers and disorderly persons and persons convicted of violating any municipal ordinance, to make rules and regulations for the government of the same, and to appoint necessary officers and assistants therefor;

(k) To use the county jail for the confinement or punishment of offenders, subject to such conditions as are imposed by law, and with the consent of the board of county commissioners;

(l) To authorize the acceptance of a bail bond when any person has been arrested for the violation of any ordinance and a continuance or postponement of trial is granted. When such bond is accepted, it shall have the same validity and effect as bail bonds provided for under the criminal statutes of this state.

(m) (I) To regulate and to prohibit the running at large and keeping of animals, including fowl, within the municipality and to otherwise provide for the regulation and control of such animals including, but not limited to, licensing, impoundment, and disposition of impounded animals.

(II) In case any municipality neglects or refuses to pass an ordinance in conformity with this paragraph (m), anyone impounding an animal running at large within the limits of said municipality shall notify the state board of stock inspection commissioners, and said animal shall be disposed of by said board as provided in article 44 of title 35, C.R.S.

(n) To regulate and license pawnbrokers as provided in section 12-56-102, C.R.S.;

(o) To enact and enforce ordinances prohibiting gambling and the use of any gambling device, as said terms are defined in section 18-10-102, C.R.S., in a park, on a public way, or on a street; except that in enacting and enforcing said ordinances, a municipality, notwithstanding any other provision of law to the contrary, may also prohibit social gambling in or on parks, public ways, or streets. Nothing in this paragraph (o) shall be construed as prohibiting pari-mutuel betting or wagering under article 60 of title 12, C.R.S.

(p) (I) To adopt reasonable regulations for the operation of establishments open to the public in which persons appear in a state of nudity for the purpose of entertaining the patrons of such establishment; except that such regulations shall not be tantamount to a complete prohibition of such operation. Such regulations may include the following:

(A) Minimum age requirements for admittance to such establishments;

(B) Limitations on the hours during which such establishments may be open for business; and

(C) Restrictions on the location of such establishments with regard to schools, churches, and residential areas.

(II) The governing body of the municipality may enact ordinances which provide that any establishment which engages in repeated or continuing violations of regulations adopted by the governing body shall constitute a public nuisance. In addition to the power provided for in paragraph (c) of this subsection (1) the governing body of the municipality may bring an action for an injunction against the operation of such establishment in a manner which violates such regulations.

(III) Nothing in the regulations adopted by the governing body of the municipality pursuant to this paragraph (p) shall be construed to apply to the presentation, showing, or performance of any play, drama, ballet, or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher education, or other similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

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ARTICLE 43. TRANSPORTATION GENERAL AND ADMINISTRATIVE

ARTICLE 1. GENERAL AND ADMINISTRATIVE

PART 2. THE HIGHWAY LAW

43-1-220 - Sources of funds - assumption of obligations.

(1) All receipts from the following sources shall be paid into and credited to the state highway fund as soon as received from:

(a) Such appropriation as may, from time to time, be made by law to the state highway fund from excise tax revenues;

(b) All revenue accruing to the state highway fund under the provisions of law, by way of excise taxation from the imposition of any license, registration fee, or other charge with respect to the operation of any motor vehicle upon any public highways in this state, and the proceeds from the imposition of any excise tax on gasoline or other liquid motor fuel;

(c) (I) The limited gaming fund. The receipts from the limited gaming fund shall be segregated from other receipts paid into the state highway fund.

(II) In accordance with the provisions of section 12-47.1-701 (1) (c) (I), C.R.S., the receipts from the limited gaming fund are to be used on public roads and highways leading to and within a fifty-mile radius of any limited gaming community for:

(A) Any proposed or anticipated transportation needs attributable to limited gaming; and

(B) Any reimbursement for emergency repairs and modifications attributed to limited gaming that the department has performed during the previous fiscal year.

(III) For purposes of this paragraph (c), "limited gaming community" means any town, city, or unincorporated portion of a county or any Indian lands where limited gaming is authorized, and "proposed or anticipated transportation needs" includes but is not limited to the acquisition of rights-of-way and easements for the construction, improvement, repair, and maintenance of public roads and highways.

(2) All receipts from the following sources shall be paid into and credited to the state highway supplementary fund as soon as received from:

(a) Such appropriations as may, from time to time, be made by law to the state highway supplementary fund;

(b) All receipts from the sale of bonds that may be authorized by the people of the state for state highway purposes;

(c) The federal government or any department thereof for the purpose of constructing, improving, or maintaining state highways, and from all public donations for such purpose. All such donations shall be paid to the credit of the state highway supplementary fund for such particular purpose as may be indicated by the donor. The state treasurer shall not receive any gift for such purpose without the approval of the board.

(d) Private investors representing advances for or purchase price of state highway fund revenue anticipation warrants;

(e) All moneys for state highway purposes from sources other than those specified in subsection (1) of this section;

(f) Contributions, revenues, or income pursuant to section 43-1-1205.

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Section 9. Limited gaming permitted. (1) Any provisions of section 2 of this article XVIII or any other provisions of this constitution to the contrary notwithstanding, limited gaming in the City of Central, the City of Black Hawk, and the City of Cripple Creek shall be lawful as of October 1, 1991.

(2) The administration and regulation of this section 9 shall be under an appointed limited gaming control commission, referred to in this section 9 as the commission; said commission to be created under such official or department of government of the state of Colorado as the general assembly shall provide by May 1, 1991. Such official or the director of the department of government shall appoint the commission by July 1, 1991. The commission shall promulgate all necessary rules and regulations relating to the licensing of limited gaming by October 1, 1991, in the manner authorized by statute for the promulgation of administrative rules and regulations. Such rules and regulations shall include the necessary defining of terms that are not otherwise defined.

(3) Limited gaming shall be subject to the following:

(a) Limited gaming shall take place only in the existing Colorado cities of: the City of Central, county of Gilpin, the City of Black Hawk, county of Gilpin, and the City of Cripple Creek, county of Teller. Such limited gaming shall be further confined to the commercial districts of said cities as said districts are respectively defined in the city ordinances adopted by: the City of Central on October 7, 1981, the City of Black Hawk on May 4, 1978, and the City of Cripple Creek on December 3, 1973.

(b) Limited gaming shall only be conducted in structures which conform, as determined by the respective municipal governing bodies, to the architectural styles and designs that were common to the areas prior to World War I and which conform to the requirements of applicable respective city ordinances, regardless of the age of said structures.

(c) No more than thirty-five percent of the square footage of any building and no more than fifty percent of any one floor of such building, may be used for limited gaming.

(d) Limited gaming operations shall be prohibited between the hours of 2:00 o'clock a.m. and 8:00 o'clock a.m.

(e) Limited gaming may occur in establishments licensed to sell alcoholic beverages.

(4) As certain terms are used in regards to limited gaming:

(a) "Adjusted gross proceeds" means the total amount of all wagers made by players on limited gaming less all payments to players; said payments to players being deemed to include all payments of cash premiums, merchandise, tokens, redeemable game credits, or any other thing of value.

(b) "Limited gaming" means the use of slot machines and the card games of blackjack and poker, each game having a maximum single bet of five dollars.

(c) "Slot machine" means any mechanical, electrical, video, electronic, or other device, contrivance, or machine which, after insertion of a coin, token, or similar object, or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens, redeemable game credits, or any other thing of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner.

(5) (a) Up to a maximum of forty percent of the adjusted gross proceeds of limited gaming shall be paid by each licensee, in addition to any applicable license fees, for the privilege of conducting limited gaming. Such percentage shall be established annually by the commission according to the criteria established by the general assembly in the implementing legislation to be enacted pursuant to paragraph (c) of this subsection (5). Such payments shall be made into a limited gaming fund that is hereby created in the state treasury.

(b) (I) From the moneys in the limited gaming fund, the state treasurer is hereby authorized to pay all ongoing expenses of the commission and any other state agency, related to the administration of this section 9. Such payment shall be made upon proper presentation of a voucher prepared by the commission in accordance with statutes governing payments of liabilities incurred on behalf of the state. Such payment shall not be conditioned on any appropriation by the general assembly.

(II) At the end of each state fiscal year, the state treasurer shall distribute the balance remaining in the limited gaming fund, except for an amount equal to all expenses of the administration of this section 9 for the preceding two-month period, according to the following guidelines: fifty percent shall be transferred to the state general fund or such other fund as the general assembly shall provide; twenty-eight percent shall be transferred to the state historical fund, which fund is hereby created in the state treasury; twelve percent shall be distributed to the governing bodies of Gilpin county and Teller county in proportion to the gaming revenues generated in each county; the remaining ten percent shall be distributed to the governing bodies of the cities of: the City of Central, the City of Black Hawk, and the City of Cripple Creek in proportion to the gaming revenues generated in each respective city.

(III) Of the moneys in the state historical fund, from which the state treasurer shall also make annual distributions, twenty percent shall be used for the preservation and restoration of the cities of: the City of Central, the City of Black Hawk, and the City of Cripple Creek, and such moneys shall be distributed, to the governing bodies of the respective cities, according to the proportion of the gaming revenues generated in each respective city. The remaining eighty percent in the state historical fund shall be used for the historic preservation and restoration of historical sites and municipalities throughout the state in a manner to be determined by the general assembly.

(c) The general assembly shall enact, amend, or repeal such laws as are necessary to implement the provisions of this section 9, by May 1, 1991.

(d) The general assembly shall make a general fund appropriation to the limited gaming fund, in the form of a loan, to provide the state treasurer sufficient funds to cover any and all organizational and administrative expenses in connection with this section 9, to be effective no later than July 1, 1991. This loan shall be repaid to the general fund by and at the discretion of the state treasurer at the end of any fiscal year, out of the adjusted gross proceeds paid into the limited gaming fund, not sooner than July 1, 1992 and such repayment may be extended to not later than July 1, 1997. Any repayment shall be made before the state treasurer makes any distributions under subparagraph (II) of paragraph (b) of this subsection (5).

(e) The general assembly shall enact provisions for the special licensing of qualifying nonprofit charitable organizations desiring to periodically host charitable gaming activities in licensed gaming establishments.

(f) If any provision of this section 9 is held invalid, the remainder of this section 9 shall remain unimpaired.

(6) Local vote on legality of limited gaming - election required. (a) Except as provided in paragraph (e) of this subsection (6), limited gaming shall not be lawful within any city, town, or unincorporated portion of a county which has been granted constitutional authority for limited gaming within its boundaries unless first approved by an affirmative vote of a majority of the electors of such city, town, or county voting thereon. The question shall first be submitted to the electors at a general, regular, or special election held within thirteen months after the effective date of the amendment which first adds such city, county, or town to those authorized for limited gaming pursuant to this constitution; and said election shall be conducted pursuant to applicable state or local government election laws.

(b) If approval of limited gaming is not obtained when the question is first submitted to the electors, the question may be submitted at subsequent elections held in accordance with paragraph (d) of this subsection (6); except that, once approval is obtained, limited gaming shall thereafter be lawful within the said city, town, or unincorporated portion of a county so long as the city, town, or county remains among those with constitutional authority for limited gaming within their boundaries.

(c) Nothing contained in this subsection (6) shall be construed to limit the ability of a city, town, or county to regulate the conduct of limited gaming as otherwise authorized by statute or by this constitution.

(d) (I) The question submitted to the electors at any election held pursuant to this subsection (6) shall be phrased in substantially the following form: "Shall limited gaming be lawful within ?"

(II) The failure to acquire approval of limited gaming in the unincorporated portion of a county shall not prevent lawful limited gaming within a city or town located in such county where such approval is acquired in a city or town election, and failure to acquire such approval in a city or town election shall not prevent lawful limited gaming within the unincorporated area of the county in which such city or town is located where

such approval is acquired in an election in the unincorporated area of a county.

(III) If approval of limited gaming is not acquired when the question is first submitted in accordance with this subsection (6), the question may be submitted at subsequent elections so long as at least four years have elapsed since any previous election at which the question was submitted.

(e) Nothing contained in this subsection (6) shall be construed to affect the authority granted upon the initial adoption of this section at the 1990 general election, or the conduct and regulation of gaming on Indian reservations pursuant to federal law.

(f) For purposes of this subsection (6), a "city, town, or county" includes all land and buildings located within, or owned and controlled by, such city, town, or county or any political subdivision thereof. "City, town, or county" also includes the city and county of Denver.

Enacted by the People November 6, 1990 -- Effective upon proclamation of the Governor, January 3, 1991. (For the text of the initiated measure and the votes cast thereon, see L. 91, p. 2037.); (6) enacted November 3, 1992 -- Effective upon proclamation of the Governor, January 14, 1993. (For the text of the amendment and the votes cast thereon, see L. 92, p. 2313 and L. 93, p. 2156.)