



**Colorado Department of Revenue  
Liquor Enforcement Division  
Adoption of Rules on an Emergency Basis  
Colorado Liquor Rules, 1 C.C.R. 203-2**

**Emergency Rules**

**Revised Liquor Rules, 1 C.C.R. 203-2:**

Regulation 47-004.	Fermented Malt Beverages On or On/Off – Possession of Alcohol Liquors.
Regulation 47-008.	Fermented Malt Beverages – Limitations of License.
Regulation 47-009.	Fermented Malt Beverage and Wine Retailer Licenses Distance Requirement.
Regulation 47-010.	Items Approved for Sale in Fermented Malt Beverage and Wine Retailer Licenses.
Regulation 47-100.	Definitions.
Regulation 47-200.	Petitions for Statements of Position and Declaratory Orders Concerning the Colorado Liquor Code, Colorado Beer and Wine Code, Special Event Code, or Colorado Liquor Rules.
Regulation 47-302.	Changing, Altering, or Modifying Licensed Premises.
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Regulation 47-312.	Change of Location.
Regulation 47-313.	Tastings.
Regulation 47-318.	Owner-Manager.
Regulation 47-322.	Unfair Trade Practices and Competition.
Regulation 47-408.	Purchases by Retailers.
Regulation 47-426.	Delivery Sales by Off-Premises Licensees.
Regulation 47-505.	Methods of payment of fees, fines or other payments made to the State Licensing Authority.
Regulation 47-600.	Complaints against Licensees – Suspension, Revocation, and Fining of Licenses.
Regulation 47-605.	Responsible Alcohol Beverage Vendor.
Regulation 47-606.	Disciplinary and Denial Process for State Licensing Authority.
Regulation 47-912.	Identification.
Regulation 47-913.	Age of Employees.
Regulation 47-1000.	Qualifications for Special Event Permit.

**Statement of Emergency Justification and Adoption**

Pursuant to sections 24-4-103, 44-3-201, and 44-3-202, C.R.S., I, Mark Ferrandino, Executive Director of the Department of Revenue and State Licensing Authority, hereby adopt the aforementioned revised Colorado Liquor Rules, which are attached hereto.

Section 24-4-103(6), C.R.S., authorizes the State Licensing Authority to issue an emergency rule if the State Licensing Authority finds that the immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

I find: (1) the adoption of these revised rules, effective immediately, is necessary to comply with the statutory mandates of the Colorado Liquor Code, sections 44-3-101 to 44-3-1002, C.R.S., the Colorado Beer and Wine Code, sections 44-4-101 to 44-4-109, C.R.S.; and the Colorado Special Event Liquor Permits Code, sections 44-5-101 to 44-5-109, C.R.S.; (2) the adoption of these new and revised rules is imperatively necessary to preserve the public health, safety, and welfare; and (3) compliance with the notice and public hearing requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

### **Statutory Authority**

The statutory authority for the amendments to these rules is set forth in the statement of basis and purpose preceding each rule, and includes, but is not limited to, sections 44-3-202(1)(b), 44-3-202(1)(c), 44-3-202(1)(d), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(B), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(E), 44-3-202(2)(a)(I)(G), 44-3-202(2)(a)(I)(J), 44-3-202(2)(a)(I)(O), 44-3-202(2)(a)(I)(R), 44-3-301(9), 44-3-301(10), 44-3-901(6)(p), 44-3-901(11)(a), 44-4-102, 44-4-104, 44-4-105, 44-4-106(1), 44-4-107(1)(c), 44-4-107(3)(c), 24-4-104, 24-4-105, and 24-5-101, C.R.S. Specific references to the statutory authority is included in the basis and purpose of each rule.

### **Purpose**

The purpose of adopting these revised rules on an emergency basis is to re-adopt existing emergency rules without substantive amendments. In order to implement Proposition 125 in a timely fashion, the Division previously issued emergency rules on February 27, 2023 to effectuate the conversion of fermented malt beverage off-premises retailers to the new fermented malt beverage and wine retailer license type and issue guidance for retailers gaining the new privilege to sell vinous liquor in sealed containers in addition to their existing privilege of selling sealed malt beverages for off-premises consumption. Given the importance of the subject matter and the extensive work of industry members, the State Licensing Authority, and the Liquor Enforcement Division involved in the Liquor Advisory Group, there has not been sufficient time to engage in the permanent rulemaking process prior to the expiration of the existing emergency rules on June 27, 2023. As a result, adopting this second set of emergency rules to implement Proposition 125 is necessary to allow for completion of the permanent rulemaking process.

In accordance with the legislative declaration of section 44-3-102, C.R.S., the Colorado Liquor Code is deemed an exercise of the police powers of the State of Colorado for the protection of the economic and social welfare and the health, peace, and morals of the people of the State of Colorado. Regulation of the manufacture, distribution, and sale of alcohol beverages is regulated by the Colorado Liquor Code, Beer and Wine Code, and Special Event Liquor Permits Code as a matter of state-wide concern. The adoption of these revised emergency rules is imperatively necessary to ensure continued proper regulation and control over the administration and enforcement of articles 3, 4, and 5 of title 44 to meet these legislative charges and responsibilities and to preserve the public health, safety, and welfare of the State of Colorado.

The State Licensing Authority has scheduled a rulemaking working group session on June 20, 2023, as part of the permanent rulemaking process. The State Licensing Authority anticipates that these emergency

rules will be replaced by permanent rules to be adopted following consideration of all information in the record of the working group and a public rulemaking hearing. The permanent rulemaking process will afford interested persons an opportunity to submit written data, views, or arguments, or present the same orally, for the State Licensing Authority to consider prior to adopting permanent rules, in accordance with the rulemaking procedures outlined in section 24-4-103, C.R.S.

### **Adoption, Effective Date and Expiration**

The State Licensing Authority hereby adopts the forgoing revised rules on an emergency basis, effective immediately. The attached emergency rules will remain in effect until their expiration 120 days from the adoption date unless sooner terminated or replaced by permanent rules.

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Mark Ferrandino  
Executive Director/CEO  
Colorado Department of Revenue  
State Licensing Authority

Dated in Electronic Signature Above

## DEPARTMENT OF REVENUE

### Liquor and Tobacco Enforcement Division

#### COLORADO LIQUOR RULES

##### 1 CCR 203-2

#### Regulation 47-004. Fermented Malt Beverages **On or On/Off** - Possession of Alcohol Liquors.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to prohibit possession and consumption of ~~malt~~, vinous, or spirituous liquors on a fermented malt beverage **on or on/off** licensee's licensed premises.

- A. Except as provided by subsection 44-3-107(2), C.R.S., ~~no supplier, wholesaler, or no Fermented Malt Beverage On or On/Off~~ retailer licensed pursuant to article 4 of title 44, C.R.S., shall allow the sale, possession, or consumption of ~~malt~~, vinous, or spirituous liquor on its licensed premises.
- B. Except as provided in subsection 44-3-107(2), C.R.S., no person shall possess or consume ~~malt~~, vinous, or spirituous liquor on the licensed premises of a ~~supplier, wholesaler, or Fermented Malt Beverage On or On/Off~~ retailer licensed pursuant to article 4 of title 44, C.R.S.
- C. ~~Except as provided by subsection 44-3-107(2), C.R.S. no Fermented Malt Beverage and Wine Retailer licensed pursuant to article 4 of Title 44, C.R.S., shall allow the sale, possession, or consumption of spirituous liquor on its licensed premises.~~
- D. ~~Except as provided in subsection 44-3-107(2), C.R.S., no person shall possess or consume spirituous liquor on the licensed premises of a Fermented Malt Beverage and Wine Retailer licensed pursuant to article 4 of title 44, C.R.S.~~

#### Regulation 47-008. Fermented Malt Beverages - Limitations of License.

Basis and Purpose. The statutory authority for this regulation ~~includes, but is not limited to, is located at~~ subsections 44-3-202(1)(b), ~~44-3-202(2)(a)(I)(A), and 44-3-202(2)(a)(I)(RA),~~ C.R.S. The purpose of this regulation is to differentiate fermented malt beverage **on-premises retailers, fermented malt beverage and wine retailers, and fermented malt beverage on- and off-premises retailers licenses for on-premises consumption from off-premises consumption** and clarify what activities are permitted under each license type.

- A. ~~Except as provided by subsection 44-3-107(2), C.R.S., no person licensed for on-premises consumption pursuant to section 44-4-107(1)(b), C.R.S., shall sell fermented malt beverages in sealed containers, or permit the removal from the licensed premises of any fermented malt beverages in either sealed or unsealed containers.~~ Fermented Malt Beverage retailers licensed for on-premise consumption under 44-4-107(1)(b) shall not sell or permit the removal from the licensed premises of any fermented malt beverages in sealed containers unless:
  - 1. A special event is being conducted pursuant to subsection 44-3-107(2), C.R.S.; or
  - 2. A licensee is selling fermented malt beverages in sealed containers for take-out pursuant to 44-3-911(6)(a)(I)
- B. ~~Except as provided by subsection 44-3-901(6)(k)(II)(B), C.R.S., no person licensed for off-premises consumption pursuant to section 44-4-107(1)(a), C.R.S., shall sell any open~~

~~container of fermented malt beverage, or permit the consumption of any fermented malt beverages within the licensed premises.~~ Fermented Malt Beverage and Wine Retailers licensed for off-premises consumption under 44-4-107(1)(a)(1), C.R.S., shall not allow open containers of fermented malt beverage or wine on their licensed premises unless:

1. A sampling for the fermented malt beverage and wine retailer is being provided pursuant to subsection 44-3-901(6)(k)(II)(B), C.R.S.;
2. A tasting is being conducted by the fermented malt beverage and wine retailer pursuant to 44-3-901(6)(k)(IV), C.R.S.; or
3. A damaged or defective product is present in order to be returned and is stored outside the sales area of the licensed premises until such time that the product can be returned to the wholesaler.

C. Fermented Malt Beverages retailers licensed for both on- and off-premises consumption under 44-7-107(1)(c)(I), C.R.S., when using the privileges for on-premises consumption shall not allow removal of fermented malt beverages from its licensed premises, unless:

1. The fermented malt beverage retailer licensed for both on- and off-premises consumption is providing the fermented malt beverage for take-out pursuant to section 44-3-911(6)(a)(I), C.R.S.

**Regulation 47-009. Fermented Malt Beverage and Wine Retailer ~~Off-Premises~~ Licenses Distance Requirement.**

Basis and Purpose. The statutory authority for this regulation is found at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(R), ~~and 44-3-202(2)(a)(I)(O), and 44-3-301(12),~~ C.R.S. The purpose of this regulation is to clarify the ~~distance restrictions for new fermented malt beverage and wine retailer applicants as well as the~~ availability of the exception to the statutory distance requirement. ~~as it applies to fermented malt beverage off-premises licenses.~~

- A. The exceptions to the five hundred (500) foot distance restriction set forth in subsection 44-3-301(12)(a.5)(II)(A) and (B), C.R.S., shall apply only if, **prior to January 1, 2019**, the structure for which a building permit or certificate of occupancy has been timely applied for or received was intended for use as a fermented malt beverage retailer licensed premises at the time of submitting the application for the building permit or certificate of occupancy.

**Regulation 47-010. Items Approved for Sale in Fermented Malt Beverage and Wine Retailer ~~Off-Premises~~ Licenses.**

Basis and Purpose. The statutory authority for this regulation ~~includes, but is not limited to, is found at~~ subsections **44-4-107(3)(c)**, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(R), and 44-3-202(2)(a)(I)(O), C.R.S. The purpose of this regulation is to define how applicable licensees must report and demonstrate compliance concerning this specific statutory requirement.

- A. To demonstrate compliance with subsection 44-4-107(3), C.R.S., if applicable, the applicant or licensee must affirm on its new and annual renewal application that the license derives or will derive at least twenty (20) percent of its gross annual revenues from total sales from the sale of food items for consumption off the premises. The exceptions to the foregoing requirement, set forth in subsections 44-4-107(3)(d)(I) and (II), C.R.S., shall apply only if, **prior to January 1, 2019**, the structure for which a building permit or certificate of occupancy has been applied for or received was intended for use as a fermented malt beverage retailer licensed premises at

the time of submitting the application for a building permit or certificate of occupancy.

- B. Nothing within this regulation shall limit the authority of the state licensing authority to inspect books and records pursuant to Regulation 47-700, 1 C.C.R. 203-2, to verify this affirmation or compliance with this statutory requirement.

#### **Regulation 47-100. Definitions.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), ~~and~~ 44-3-202(2)(a)(I)(A), ~~and~~ 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to ensure consistent application and interpretation of common terms within the relevant articles.

- A. “Licensed, licensee, and licensed premises” mean persons or premises issued a license or permit under Articles 3, Articles 4 and Article 5 of Title 44.
- B. “Manufacturer” means a Colorado licensed brewery, winery, limited winery, distillery, vintner’s restaurant, distillery pub or brew pub as defined by C.R.S. 44-4-104 and 44-3-103.
- C. “Nonresident manufacturer” means a Colorado licensee that manufactures malt liquor or fermented malt beverages outside the state of Colorado and has been issued a Brewer’s Notice by the Alcohol and Tobacco Tax and Trade Bureau.
- D. “On-site product sales promotion” means a sales promotion, featuring a particular brand of alcohol beverage, that is conducted on a retailer’s licensed premises by an alcohol beverage supplier. On-site product sales promotion may include drink specials, product sampling and the giveaway of consumer goods.
- E. “Sponsored event” means an event supported in whole or in part by a licensed supplier that is conducted at a retail licensed establishment.
- F. “Supplier” means a Colorado licensed brewery, winery, distillery, brew pub, distillery pub, vintner’s restaurant, limited winery, nonresident manufacturer, wholesaler or importer of alcohol beverages.
- G. “Retailer” or an entity “licensed to sell at retail” means those persons licensed pursuant to sections 44-3-401(1)(h) – (t) and (v – w), C.R.S., and section 44-4-104(1)(c), C.R.S. to sell alcohol beverages to the end consumer.
- H. “Unreasonable noise” means a level of noise that violates local noise ordinance standards, or where no local noise ordinance standard exists, a level of noise that would violate section 25-12-103, C.R.S.
- I. “Wholesaler” means those entities authorized to sell alcohol beverages at wholesale to licensed retailers, including wholesalers of fermented malt beverages, malt liquors, vinous and spirituous liquors, limited wineries, brew pubs, distillery pubs, and vintner’s restaurants.
- J. “Sandwiches” as used in articles 3 and 5 of Title 44, C.R.S. are defined as single serving items such as hamburgers, hot dogs, frozen pizzas, burritos, chicken wings, or items of a similar nature. “Light snacks” as used in articles 3 and 5 of Title 44, C.R.S. are defined as popcorn, pretzels, nuts, chips, or items of a similar nature.
- K. “Colorado Liquor Code” or “Liquor Code” means article 3 of title 44, C.R.S.

- L. “Colorado Beer and Wine Code” or “Beer and Wine Code” means article 4 of title 44, C.R.S.
- M. “Special Event Code” means article 5 of title 44, C.R.S.
- N. “Colorado Liquor Rules” means this regulatory article, 1 C.C.R. 203-2.
- O. “Division” means the State of Colorado Department of Revenue’s Liquor Enforcement Division, except as provided otherwise.
- P. “Communal Outdoor Dining Area” means an outdoor space that is used for food and alcohol beverage service by two or more licensees licensed under article 3 or article 4 of title 44, C.R.S. as a:
  - 1. Tavern;
  - 2. Hotel and Restaurant;
  - 3. Brew Pub;
  - 4. Distillery Pub;
  - 5. Vintner’s Restaurant;
  - 6. Beer and Wine Licensee;
  - 7. Manufacturer that operates a sales room authorized under section 44-3-402(2) or (7), C.R.S.;
  - 8. Beer wholesalers that operates a sales room under section 44-3-407(1)(b)(I), C.R.S.;
  - 9. Limited Winery;
  - 10. Lodging and Entertainment Facility;
  - 11. Optional Premises; or
  - 12. Fermented Malt Beverage Retailer licensed for consumption on the premises.

**Regulation 47-200. Petitions for Statements of Position and Declaratory Orders Concerning the Colorado Liquor Code, Colorado Beer and Wine Code, Special Event Code, or Colorado Liquor Rules.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(R), and 24-4-105(11), C.R.S. The purpose of this regulation is to establish clear and comprehensive procedures and considerations required for a statement of position and/or a declaratory order.

- A. Statements of Position. Any person may petition the Division for a statement of position concerning the applicability to the petitioner of any provision of the Colorado Liquor Code, Colorado Beer and Wine Code, Special Event Code, or Colorado Liquor Rules. The petition must include the information set forth in paragraph (E)(1)-(E)(6) of this regulation.
- B. Service of Petition for Statement of Position. A letter for petition for a statement of position shall be served on the Division by mailing or emailing such petition to the Division with a copy

sent on the same date to the local licensing authority in the county or municipality where the petitioner's licensed premises or proposed licensed premises are located, if applicable. Each petition for a statement of position shall contain a certification that the service requirements of this paragraph have been met.

- C. Time to Respond. The Division shall respond to a petition for statement of position in writing within forty-five (45) days of receiving such petition and set forth its position and the reasons therefore, or the grounds on which the division declines to provide a statement of position, pursuant to section 24-4-105(11), C.R.S., and/or paragraph (G) of this regulation.
- D. Declaratory Orders. Any person who has petitioned the Division for a statement of position and who is dissatisfied with the statement of position may petition the state licensing authority within forty-five (45) days of the issuance of the statement of position for a declaratory order pursuant to section 24-4-105(11), C.R.S. Furthermore, any person who has not received a response within forty-five (45) days, may petition the state licensing authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. The parties to any petition for a declaratory order pursuant to this regulation shall be the petitioner and the Division.
- E. Requirements for a Petition for a Statement of Position or a Petition for Declaratory Order. Each petition for a statement of position or petition for a declaratory order shall set forth the following:
1. The name and address of the petitioner; whether the petitioner is licensed pursuant to the Colorado Liquor Code, Beer and Wine Code, or Special Events Code and if so, the type of license or permit and address of the licensed premises.
  2. The statute, rule, or order to which the petition relates.
  3. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule or order to which the petition relates.
  4. A concise statement of the legal authorities if any, and such other reasons upon which petitioner relies.
  5. A concise statement of the statement of position or declaratory order sought by the petitioner.
  6. The Statement of Position previously issued if the petitioner is filing a Petition for a Declaratory Order.
- F. Service of Petition for Declaratory Order. A petition for a declaratory order shall be served on the state licensing authority by mailing such petition to the state licensing authority with a copy of the petition sent on the same date to the Division, the local licensing authority in the county or municipality where the petitioner's licensed premises or proposed licensed premises are located, and to the Revenue & Utilities Section of the Colorado Department of Law. Each petition for a declaratory order shall contain a certification that the service requirements of this paragraph have been met.
- G. Acceptance. The Division will determine whether to entertain any petition for statement of position. The state licensing authority will determine whether to entertain any petition for declaratory order. If either the Division or the state licensing authority decides it will not entertain a petition, it shall promptly notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:



1. For a petition for declaratory order, the petitioner has failed to petition the Division for a statement of position, or if a statement of position has been issued, the petition for declaratory order was filed with the state licensing authority more than forty-five (45) days after issuance of the statement of position.
2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule or order in question.
3. The petition involves a subject, question or issue which is currently involved in a court action, an administrative action before the state or any local licensing authority, ongoing investigation conducted by the Division or a written complaint filed with the state licensing authority or Division.
4. The petition seeks a ruling on a moot or hypothetical question, having no applicability to the petitioner.
5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo.R.Civ.P. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule or order.
6. The petitioner failed to properly serve the petition pursuant to this regulation.
7. The petitioner failed to include information required in paragraph (E) of this regulation.

H. Determination. If the state licensing authority determines that it will entertain the petition for declaratory order, it shall promptly so notify all parties involved, and the following procedures shall apply:

1. The state licensing authority may expedite the hearing, where the interests of the petitioner will not be substantially prejudiced thereby, by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the petitioner or the Division to submit additional evidence and legal argument in writing. Any such request for additional information shall be served on all parties.
2. If the state licensing authority determines that an evidentiary hearing or legal argument is necessary to a ruling on the petition, the state licensing authority shall issue a Notice to Set to all parties and on the date so set, a hearing shall be conducted in conformance with section 24-4-105, C.R.S.
3. In ruling on a petition for declaratory order, the state licensing authority may take administrative notice of general, technical or scientific facts within its knowledge, so long as the fact is specified in the record or is brought to the attention of the parties before final decision and every party is afforded an opportunity to controvert the fact so noticed.
4. Every declaratory order shall be promptly decided and issued in writing, specifying the basis in fact and law for the order.
5. Any other interested person may seek leave of the state licensing authority to intervene in the proceeding and such leave may be granted if the licensing authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested person.

6. A declaratory order shall constitute final agency action subject to judicial review pursuant to section 24-4-106, C.R.S.
- I. Record Retention and Reliability. Files of all requests, statements of position, and declaratory orders will be maintained and relied upon by the Division for a period of five (5) years, unless the statement of position or declaratory order is superseded by a statutory or regulatory change, amended by the Division, or amended or reversed by the state licensing authority. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.

### **Regulation 47-302. Changing, Altering, or Modifying Licensed Premises.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), ~~and~~ 44-3-202(2)(a)(I)(D), ~~and~~ 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to establish procedures for a licensee seeking to make material or substantial alterations to the licensed premises, and provide factors the licensing authority must consider when evaluating such alterations for approval or rejection.

- A. After issuance of a license, the licensee shall make no physical change, alteration or modification of the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the latest approved plans and specifications on file with the state and local licensing authorities without application to, and the approval of, the respective licensing authorities.

For purposes of this regulation, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior approval, shall include, but not be limited to, the following:

1. Any increase or decrease in the total size or capacity of the licensed premises.
2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes the sale or distribution of alcohol beverages within the licensed premises.
3. Any substantial or material enlargement of a bar, relocation of a bar, or addition of a separate bar. However, the temporary addition of bars or service areas to accommodate seasonal operations shall not require prior approval unless the additional service areas are accompanied by an enlargement of the licensed premises.
4. An outside service area located on a property owned by a municipality, a city and county, or the unincorporated area of a county, and that the licensee possesses in accordance with subsection (B)(2) of this regulation, may be approved by the state and local licensing authorities upon the annual filing of a modification of premises application, due at the time of initial application or at the time of renewal, on a form approved by the State Licensing Authority, and payment of the associated modification of licensed premises fee as set forth in Regulation 47-506, provided that:
  - a. The proposed outside service area located on property owned by the municipality, city and county, or unincorporated areas of a county, is immediately adjacent to the licensed premises;
  - b. The licensed premises, as temporarily modified, will comprise a definite contiguous area;

- c. Plans and specifications identifying the outside service area, including dates of seasonal operation (if applicable), accompany the form and fee;
    - d. Licensees shall maintain records of the dates alcohol service occurs on the outside service area if such space is used seasonally or sporadically, and must provide records to the Division upon request; and
    - e. All outside service areas are closed to motor vehicle traffic by physical barriers during all times that alcohol service occurs.
  5. Any material change in the interior of the premises that would affect the basic character of the premises or the physical structure detailed in the latest approved plans and specifications on file with the state and local licensing authorities. However, the following types of modifications will not require prior approval, even if a local building permit is required: painting and redecorating of premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment; and any non-structural remodeling where the remodel does not expand or reduce the existing area designed for the display or sale of alcohol beverage products.
  6. The destruction or demolition, and subsequent reconstruction, of a building that contained the retailer's licensed premises shall require the filing of new building plans with the local licensing authority, or in the case of manufacturers and wholesalers, with the state licensing authority. However, reconstruction shall not require an application to modify the premises unless the proposed plan for the newly-constructed premises materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications detailed in the latest approved plans and specifications on file with the state and local licensing authorities.
  7. Nothing herein shall prohibit a licensee from modifying its licensed premises to include in the licensed premises a public thoroughfare, if the following conditions are met:
    - a. The licensee has been granted an easement for the public thoroughfare for the purpose of transporting alcohol beverages;
    - b. The public thoroughfare is authorized solely for pedestrian and non-motorized traffic;
    - c. The inclusion of the public thoroughfare is solely for the purpose of transporting alcohol beverages between licensed areas, and no sale or consumption will occur on or within the public thoroughfare; and
    - d. Any other conditions as established by the local licensing authority.
  8. The addition of a noncontiguous location to the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S.
  9. Modification of the licensed premises to include a communal outdoor dining area, subject to the requirements of section 44-3-912, C.R.S., and Regulation 47-1103.
- B. In making its decision with respect to any proposed changes, alterations or modifications, the licensing authority must consider whether the premises, as changed, altered or modified, will

meet all of the pertinent requirements of the Colorado Liquor or Beer **and Wine** Codes and related regulations. Factors to be taken into account by the licensing authority shall include, but not be limited to, the following:

1. The reasonable requirements of the neighborhood and the desires of the adult inhabitants.
  2. The possession, by the licensee, of the changed premises by ownership, lease, rental or other arrangement.
  3. Compliance with the applicable zoning laws of the municipality, city and county or county.
  4. Compliance with the distance prohibition in regard to any public or parochial school or the principal campus of any college, university, or seminary.
  5. The legislative declaration that the Colorado Liquor and Beer **and Wine** Codes are an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state.
- C. If permission to change, alter or modify the licensed premises is denied, the licensing authority shall give notice in writing and shall state grounds upon which the application was denied. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the licensing authority within fifteen (15) days after the date of notice.
- D. This regulation shall be applicable to the holder of a manufacturer's license as specifically defined in Section 44-3-402, C.R.S., or a limited winery defined in section 44-3-403, C.R.S., only if the physical change, alteration, or modification involves any increase or decrease in the total size of the licensed premises, including the addition of a noncontiguous location to the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S. Except, any change, alteration, or modification of a sales room, shall be reported in accordance with subsection (A).
- E. The state licensing authority shall not impose any additional fees for the processing or review of an application for a modification of premises for the holder of a manufacturer's license, except for applications to modify the premises through the addition of a noncontiguous location to the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S.

#### **Regulation 47-304. Transfer of Ownership and Changes in Licensed Entities.**

**Basis and Purpose.** The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-107(1), **44-3-202(2)(a)(I)(A)**, 44-3-202(1)(b), 44-3-202(2)(a)(I)(J), 44-3-202(2)(a)(I)(R), 44-3-301(7), 44-3-303(3)(b), and 44-3-308, C.R.S. The purpose of this regulation is to establish reporting and disclosure requirements for the identification of applicants, licensees, and their relevant financial interests to promote transparency and prevent the occurrence of statutorily prohibited financial interests between the manufacturing, wholesale, and retail tiers.

##### **A. Corporations and Limited Liability Companies**

1. If the applicant for any license under Articles 3 or Article 4 of Title 44 is a corporation or limited liability company, it shall submit with the application, the names, addresses, and individual history records of all of its principal officers, directors, or managers, and a copy of its articles of incorporation or articles of organization; and if a foreign entity, evidence of its qualification to do business within this state. In addition, each applicant shall submit the names, addresses, and individual history records of all persons owning

10% or more of the outstanding or issued capital stock, or persons holding a 10% or more membership interest.

2. Any transfer of capital stock or any change in principal officers or directors of any corporation holding a license under the provisions of the Colorado Liquor or Beer and Wine Code and which is not subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended, shall be reported to the respective licensing authorities within thirty (30) days after such transfer or change. With the report, the licensee shall submit the names, addresses, and individual history records for any new officer, director, or stockholder acquiring 10% or more outstanding capital stock, as well as the corporate minutes verifying the transactions. Licensees that are subject to the Securities and Exchange Act of 1934, as amended, shall be required to do the same, except that they shall not be required to report any single transfer of outstanding capital stock of less than 10%.
3. Any transfer of membership interest or any change in managers of any limited liability company holding a license shall be reported to the respective licensing authorities within thirty (30) days after such transfer or change. With the report, the licensee shall submit the names, addresses, and individual history records for any new manager, or member acquiring 10% or more membership interest.

#### B. Partnerships

1. If the applicant for any license under articles 3 or 4 of title 44 is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership it shall submit with the application, the names, addresses, and individual history records of all of its general or managing partners, and a copy of its partnership agreement; and, if a foreign entity, evidence of its qualification to do business within this state. In addition, each applicant shall submit the names, addresses, and individual history records of any other partner holding a 10% or more partnership interest.
2. Any transfer of partnership interest or any change in general or managing partners of any partnership holding a license shall be reported to the respective licensing authorities within thirty (30) days after such transfer or change. With the report, the licensee shall submit the names, addresses, and individual history records for any new general or managing partner, or any other partner acquiring 10% or more partnership interest.

#### C. Municipalities and Other Governmental Entities

1. If the applicant for any license under articles 3 or 4 of Title 44 is a municipality or other governmental entity, it shall submit with the application, the name, address and individual history record of at least one member of its governing body, or at least one person hired or appointed by its governing body, to serve as an officer or director; except that, pursuant to section 44-3-107(1), C.R.S., a person who has an interest in a liquor license may not be listed as an officer or director on a license owned, or to be owned, by a municipality or other governmental entity if that person individually manages or receives any direct financial benefit from the operation of such license. If the governing body of a municipality or other governmental entity hires or appoints more than one officer or director, the name, address and individual history record of each such officer or director shall be submitted with the application.
2. Any change in the officers or directors of a license held by a municipality or other governmental entity shall be reported to the respective licensing authorities within thirty (30) days after such change. With the report, the licensee shall submit the

names, addresses, and individual history records for any new officers or directors.

D. Entity Conversions

1. Any licensee that qualifies for an entity conversion pursuant to section 7-90-201, C.R.S., et. seq., or similar law enacted by other states, shall not be required to file a transfer of ownership application pursuant to section 44-3-303, C.R.S. upon statutory conversion, but shall submit a report containing suitable evidence of conversion within thirty (30) days of such conversion. Such evidence shall include, but not be limited to, recognition of conversion by the Colorado Secretary of State. In addition, within thirty (30) days of the conversion, the licensee shall submit the names, addresses, and individual history records of any new officers, directors, managers, general or managing partners, and all persons having an ownership interest of 10% or more.

E. All reports required by this regulation shall be made on forms supplied by the Division.

F. For all applicants for the issuance of a license by reason of a transfer of possession of the licensed premises by methods to include operation of law, a petition in bankruptcy pursuant to federal bankruptcy law, the appointment of a receiver, a foreclosure action by a secured party, or a court order dispossessing the prior licensee of all rights of possession pursuant to article 40 of title 13, C.R.S., the licensing authorities shall consider only the requirements of section 44-3-307, C.R.S. The loss of possession of the licensed premises by the licensee does not in itself automatically invalidate, cancel or terminate the underlying license. An applicant who otherwise comes into possession of the licensed premises by operation of law, may apply for a transfer of the underlying license as provided by law pursuant to section 44-3-303, C.R.S. This provision does not prohibit a licensing authority from initiating any action as provided by law to suspend or revoke a license for loss of possession of the licensed premises.

G. No application for a transfer of ownership may be received or acted upon by either the state or local licensing authority if the previous licensee has surrendered its license and had it canceled by either authority prior to submission of the transfer application. In cases where cancellation has occurred prior to the submission of a transfer of ownership application, the license applicant shall follow the procedures for a new license application pursuant to section 44-3-311, C.R.S.

**Regulation 47-312. Change of Location.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(R), 44-3-301(9), 44-3-309, and 44-3-410, C.R.S. The purpose of this regulation is to establish procedures for a licensee requesting to change the location of the licensed premises, and provide factors the licensing authority must consider when evaluating a change for approval or rejection.

A. When a licensee desires to change the location of its licensed premises from the location named in an existing license, it shall make application to the applicable licensing authorities for permission to change location of its licensed premises, except that an application for change of location shall not be required for the demolition and reconstruction of the building in which the original licensed premises was located.

B. Applications to change location shall be made upon forms prepared by the state licensing authority and shall be complete in every detail. Each such application shall state the reason for such change, and in case of a retail license, shall be supported by evidence that the proposed change will not conflict with the desires of the adult inhabitants and the reasonable requirements of the neighborhood in the vicinity of the new location.

1. An application to change the location of a retail license shall contain a report of the local

licensing authority of the town, city, county, or city and county in which the license is to be exercised. Such report shall describe the findings of the local licensing authority concerning the reasonable requirements of the neighborhood and the desires of the adult inhabitants with respect to the new location, except that pursuant to section 44-3-312(2)(a), C.R.S., the needs of the neighborhood shall not be considered for a change of location for a club license.

2. When a licensee is required by lease, lease renewal, condemnation, or reconstruction to move its licensed premises to a new address that is located within the same shopping center, campus, fairground, or similar retail center, the local or state licensing authority may, at its discretion, waive the neighborhood needs and desires assessment requirements should it determine that the new location remains within the same neighborhood as the old location.
- C. For retail licenses, no change of location shall be permitted until the state licensing authority has, after approval of the local licensing authority, considered the application and such additional information as it may require, and approved of such change. The licensee shall, within sixty (60) days of approval, change the location of its licensed premises to the place specified therein. Once at the new location, the licensee shall no longer conduct the manufacture or sale of alcohol beverages at the former location. A local licensing authority may, at its discretion, extend the time to change the location of the licensed premises, for good cause shown. However, no extension that is beyond twelve (12) months from the original date of approval shall be granted.
- D. For those licensees not subject to approval by the local licensing authority, no change of location shall be permitted until the state licensing authority has considered the application and such additional information as it may require, and approved of such change. The licensee shall, within sixty (60) days of approval, change the location of its licensed premises to the place specified therein. Once at the new location, the licensee shall no longer conduct the manufacture or sale of alcohol beverages at the former location. The state licensing authority may, at its discretion, extend the time to change the location, for good cause shown. However, no extension that is beyond twelve months from the original date of approval shall be granted.
- E. Once the licensee has changed the location of its licensed premises, the permit to change location shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains until the license is renewed.
- F. For retail licenses no change of location shall be allowed except to another location within the same city, town, county, or city and county in which the license was originally issued. Except, a retail liquor store licensed on or before January 1, 2016, may apply to move its permanent location to another place within or outside the municipality or county in which the license was originally granted. Once approved, the retail liquor store licensee shall change the location of its premises within three (3) years after such approval.
1. A change of location for a fermented malt beverage and wine retailer or retail liquor store will be approved only if the new location satisfies the distance requirements in section 44-3-301(9)(a)(I)(B)-(C), C.R.S.
  2. It is unlawful for a licensee to sell any alcohol beverage at a new location until permission is granted by the state licensing and local licensing authorities.
- G. Upon application for change of location, public notice shall be required by the local licensing authority in accordance with Section 44-3-311, C.R.S.
- H. A licensee located within 500 feet from any public or parochial school or principal campus of any

college, university or seminary may apply for a change of location within the same prohibited area in accordance with the requirements of section 44-3-301(9), C.R.S., but may not apply for a change of location within any other prohibited area as defined within section 44-3-313, C.R.S.

- I. A licensee that is in lawful possession of its alcohol beverage inventory at the time it receives approval from the local and state licensing authorities to change the location of its licensed premises, may continue to possess its alcohol beverage inventory for sale at the new location.

### **Regulation 47-313. Tastings.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), 44-3-301(10), 44-3-409(1)(c)(III), and 44-3-410(1)(a)(II)(B), ~~and 44-4-104(1)(c)(I)(A)~~, C.R.S. The purpose of this regulation is to clarify who may conduct tastings and how open and unconsumed samples must be appropriately treated after a tasting. This regulation applies only to tastings conducted on the licensed premises of retail liquor stores, ~~and~~ liquor-licensed drugstores, ~~and fermented malt beverage and wine retailers~~ pursuant to section 44-3-301(10), 44-3-409(1)(c)(III), ~~and 44-3-410(1)(a)(II)(B)~~, ~~and 44-4-104(1)(c)(I)(A)~~, C.R.S.

#### A. Tastings.

1. A tasting shall be conducted only by a person who has completed seller-server training that meets the standards established by the Division, and is:
  - a. A retail liquor store, ~~or~~ liquor-licensed drugstore, ~~or fermented malt beverage and wine retailer~~ licensee or employee; or
  - b. A representative, employee, or agent of one of the following suppliers licensed by the state licensing authority:
    - i. Wholesaler;
    - ii. Brew pub;
    - iii. Distillery pub;
    - iv. Manufacturer;
    - v. Limited winery;
    - vi. Importer; or
    - vii. Vintner's restaurant.

- B. Following a tasting, the licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises, destroy the samples immediately following the completion of the tasting, or store any open containers of unconsumed alcohol beverages in a secure area outside the sales area of the licensed premises for use only at a tasting conducted at a later time or date. A secure area means:

1. A designated area, including, but not limited to, a closet, cabinet, or safe;
2. That is upon the licensed premises and not accessible to consumers; and



3. Is secured by a locking mechanism at all times while any open containers of unconsumed alcohol beverages are stored for use at a future tasting.
- C. To ensure alcohol samples are provided to a patron free of charge, as required by section 44-3-301(10)(c)(X), C.R.S., the licensee shall not charge or accept any money for a tasting, directly or indirectly, including for any education provided in connection with a tasting, or to reserve a spot at a tasting event, regardless of whether the money charged is donated to a charity or is refunded. Education shall not be considered to be provided in connection with a tasting if the tasting occurs after the education event has concluded and is available to any adult patron of the licensee, free of charge.
  - D. To comply with the obligation not to serve more than four individual samples to a patron during a tasting, as required by section 44-3-301(10)(c)(IX), C.R.S., the licensee shall implement a means of tracking how many samples each patron is provided, which may include the use of a wristband, or other means of accurately tracking individual patron consumption.
  - E. To comply with the obligation not to serve samples to a patron over the maximum allowed volume per alcohol type, as required by section 44-3-301(10)(c)(I)(B)(III), C.R.S., a licensee serving alcohol beverages mixed with non-alcohol beverage product shall either:
    1. Serve no more than the maximum allowed volume per alcohol type, per sample, of a pre-mixed beverage, if the mixing of the alcohol is not done in public view during the tasting event; or
    2. Mix the alcohol beverage with the non-alcohol beverage in public view during the tasting event, wherein only the maximum allowable amount of alcohol beverage is incorporated into each mixed drink, per sample.

**Regulation 47-318. Owner-Manager.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), **44-3-202(2)(a)(I)(A)**, 44-3-202(2)(a)(I)(B), 44-3-202(2)(a)(I)(J), and 44-3-202(a)(I)(R), C.R.S. The purpose of this regulation is to define the difference between a licensee/owner and a manager, and to clarify the allowable method of payment to the manager.

- A. Each license under the **Colorado-Liquor Code** or the **Beer and Wine Codes** must be held by the owner of the establishment. "Owner" means the person or persons whose proprietary interest is such that they bear risk of loss other than as an insurer, and have opportunity to gain profit from operation or sale of the establishment.

In determining who is the "owner", elements considered other than risk of loss and opportunity for profit will include, but are not limited to: who has the right of possession of the licensed premises, who controls the licensee, who guarantees its debts, who is beneficiary under its insurance policies, who acknowledges liability for federal, state or local taxes.

- B. Owners may hire managers, and managers may be compensated on the basis of profits made, gross or net. In such cases, (except through an I.R.S. qualified retirement account), the financial interests of the manager(s) must be reported on the forms prescribed by the Division. The manager may be required to complete an individual history report and be subject to a background check. A license may not be held in the name of the manager.
- C. A spouse of a licensee may hold a license in their own right if they are the owner of the licensed establishment, regardless of whether they file separate or joint income tax returns.
- D. A partnership interest, limited or general, a joint venture interest, or ownership of a share

or shares in a corporation which is licensed, constitutes ownership.

## **Regulation 47-322. Unfair Trade Practices and Competition.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-102, 44-3-103, 44-3-201(1), 44-3-202(1)(b), 44-3-202(2)(a), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(G), 44-3-202(2)(a)(I)(R), 44-3-308, and 44-4-102, C.R.S. The purpose of this regulation is to establish certain permitted and prohibited trade practices between suppliers and retailers in order to clarify and prevent statutorily prohibited financial assistance between tiers.

Suppliers and their agents or employees may not attempt to control a retail licensee's product purchase selection by engaging in unfair trade practices or competition.

Nothing in this regulation shall apply to non-profit, charitable, or other qualifying organizations, when such organization conducts licensed events pursuant to the requirements contained in article 5 of title 44 and related regulations, and such organization does not otherwise hold a retail license pursuant to article 3 or 4 of title 44. However, nothing herein shall authorize any financial assistance for the purpose of altering or influencing an organization's product selection for said events.

Retailers may not accept any prohibited financial assistance as described herein, and suppliers are prohibited from directly or indirectly engaging in the following unfair practices:

### **A. Sales of alcohol beverages.**

1. No vinous or spirituous liquor may be sold by a vinous or spirituous liquor manufacturer or wholesaler to a retail licensee below the laid-in cost of said vinous and spirituous liquor products.
2. No malt liquors or fermented malt beverages may be sold by a malt liquor/beverage manufacturer or wholesaler to a retail licensee below the laid-in cost of said malt liquor/beverage products.
3. Product cost per case will be determined utilizing a "Last In/First Out" basis unless a supplier has adequate records to verify that the actual cost of said products was less than the most recent shipment received.
4. A wholesaler's laid-in cost is defined as the actual proportionate invoice price and freight charge to that wholesaler or distributor, plus applicable state and federal taxes of any given product. An in-state manufacturer's laid-in cost is defined as the actual costs of the manufacturer, plus applicable state and federal taxes.
5. Certain sales of alcohol beverages below cost are not designed or intended to influence or control a retailer's product selection. The following exceptions to below cost product sales are therefore permitted:
  - a. Product lines that will be discontinued by a supplier for a minimum of at least one year may be sold below cost at market value.
  - b. A wholesaler's aged inventory of vinous and spirituous liquors for which the current market value has fallen substantially below the wholesaler's original purchase cost, after a period of twelve (12) months, and for which a recovery of the original cost through an increase in market value is unlikely. For aged inventories sold to retailers below their cost due to market-below-cost

conditions, wholesalers shall maintain the following records for a minimum of three years:

- i. Original purchase invoice.
    - ii. Aged inventory schedule verifying slow sales and drop in market value.
    - iii. Other factors that had an effect on a decrease in market value (e.g. overproduction, poor media critique).
  - c. Products for use, but not for resale by the drink, by a non-profit organization or similar group, as defined in section 44-5-102, C.R.S., on a retailer's licensed premises, may be invoiced to a retailer at no cost. The invoice for said products must detail the products provided and the group for whose benefit it is provided. At the conclusion of the organization's event any unused product must be returned to the wholesaler, brew pub, distillery pub, or vintner's restaurant, or invoiced at a minimum of laid-in cost to the retailer.
6. Suppliers authorized to sell alcohol beverages to licensed retailers pursuant to articles 3 or 4 of title 44, may offer product discounts to licensed retailers that meet the requirements of paragraph A, and the following additional conditions:
- a. "Product Discount" shall mean a price reduction negotiated between supplier and retailer before the sale and delivery of alcohol beverage products, and where a description of the products subject to discount, and the dollar amount of the discount, is finalized and recorded in the supplier's sales records.
  - b. Discount programs are not subject to time limitations, and any discount program that will affect more than a single sales transaction and sales invoice are permitted, provided that no invoice, by itself, reflects a zero cost or below-cost sale.
  - c. Product discounts that are conditioned upon a retailer's commitment to prominently display the supplier's products are prohibited.
7. Any rebate, whereby a monetary value is returned by a supplier to a retailer, in cash, account credit, or free goods, as a reward or compensation for meeting a pre-specified purchase goal, is prohibited.
8. Suppliers authorized to sell alcohol beverages to licensed retailers pursuant to articles 3 or 4 of title 44, may offer account credits to licensed retailers under the following conditions:
- a. Any account credit offered on previously issued sales invoices must be in direct relation to previous product purchases, lawful returns pursuant to this regulation or other legitimate commercial transactions as authorized under articles 3 or 4 of title 44, C.R.S. and related regulations.
  - b. Credits that cannot be connected with authorized business transactions, as described herein, will be considered unlawful financial assistance, and are therefore prohibited.
  - c. Both the seller and retail licensee shall maintain copies of sales invoices and evidence of payment related to the transactions described in this section, in accordance with 44-3-701, C.R.S., and for the time frame specified in

Regulation 47-700.

9. Wholesaler invoices provided to retail liquor store, fermented malt beverage **and wine retailer off-premises**, and liquor licensed drugstore licensees must clearly designate a price paid for each product, which shall not be less than the wholesaler's laid-in cost of each product. At no point may a retail liquor store, fermented malt beverage **and wine retailer off-premises**, or liquor licensed drugstore licensee receive any products from a wholesaler at less than laid-in cost.
- B. On-site sales promotions
1. Suppliers may conduct an on-site product sales promotion at a retailer's licensed premises subject to the following conditions:
    - a. Free goods of any value may be provided to the public, provided that a supplier's representative or authorized agent, who is not the retailer or a retail employee/agent, is physically present to award free goods to the public. Suppliers shall not require a customer purchase in order for the customer to receive the free goods.
    - b. If only consumer advertising specialties, as described in Regulation 47-316(A), are to be provided at the promotion, neither suppliers or their agents need be present for their distribution.
    - c. Suppliers are prohibited from providing anything other than the items specified in Regulation 47-316(A) to retailers or their employees at on-site product sales promotions.
    - d. Suppliers may provide or pay for any media announcement of an on-site product sales promotion that primarily advertises the product, the location, and the date and time of the promotion. The name of the retail outlet may also be mentioned.
    - e. Retailers may at their own cost advertise in advance a supplier's product sales promotion.
    - f. No supplier may require that a retailer change its product selection as a condition of conducting a product sales promotion. Retailers may at their option change their product selection in support of a product sales promotion.
    - g. Competitors' products may not be excluded during a product sales promotion.
  2. On-Premises Sampling. A supplier-sponsored consumer sampling of alcohol beverages may be held at a retailer's premises licensed for on-premises consumption for the purpose of product sales promotion under the following conditions:
    - a. A supplier-sponsored consumer sampling held at the licensed premises of a retailer licensed for on-premises consumption shall include only the alcohol beverages the retailer is licensed to sell.
    - b. The supplier shall only offer its alcohol beverage product to consumers during a supplier-sponsored consumer sampling.
    - c. A retailer or supplier shall not impose any charge to the consumer to enter or participate in the sampling.

- d. Product used for sampling must be invoiced by the supplier, who is authorized to sell the alcohol beverages to licensed retailers pursuant to article 3 or 4 of title 44, as if sold to the retailer.
  - e. If all product listed in the sales invoice is consumed as permitted herein, the supplier may issue the retailer a credit against the entire amount of the original invoice.
  - f. Any remaining product must be returned to the wholesaler, or sold to the retailer at a minimum of the wholesaler's cost.
  - g. The supplier must be present and shall be the person who provides the sample to a consumer who is twenty-one (21) years of age or older.
  - h. Suppliers may provide or pay for any media announcement of a supplier-sponsored consumer sampling that primarily advertises the product, the location, and the date and time of the sampling. The name of the retail outlet may also be mentioned.
3. Off-Premises Giveaway. A supplier-sponsored consumer giveaway of sealed malt liquor or fermented malt beverages may be held at a retailer's premises licensed for off-premises consumption for the purpose of product sales promotion under the following conditions:
- a. A supplier-sponsored consumer giveaway held at the licensed premises of a retailer licensed for off-premises consumption is limited to either sealed malt liquor or fermented malt beverages, whichever the retailer is licensed to sell.
  - b. The supplier shall only offer its malt liquor or fermented malt beverages product to consumers during a supplier-sponsored consumer giveaway.
  - c. A retailer or supplier shall not impose any charge to the consumer to enter or participate in the giveaway.
  - d. Product used for the giveaway must be invoiced by a supplier, who is authorized to sell malt liquor or fermented malt beverage to licensed retailers pursuant to article 3 or 4 of title 44, as if sold to the retailer.
  - e. If all product listed in the sales invoice is given away as permitted herein, the supplier may issue the retailer a credit against the entire amount of the original invoice.
  - f. Any remaining product must be returned to the wholesaler, or sold to the retailer at a minimum of the wholesaler's cost.
  - g. The supplier must be present and shall be the person who gives the sealed container to consumers. The supplier must verify that each consumer is of lawful age prior to giving away the sealed container.
  - h. Suppliers may provide or pay for any media announcement of a supplier-sponsored consumer giveaway that primarily advertises the product, the location, and the date and time of the giveaway. The name of the retail outlet may also be mentioned.

- i. The maximum amount of malt liquor or fermented malt beverages given to each consumer shall not exceed twenty-six (26) ounces.

C. Sponsored events: Lawful Advertising

1. Suppliers may provide sponsorship fees to advertise at charitable or civic events that are temporary in nature, where the supplier's sponsorship fee affords the supplier exclusive signage rights at the retail premises, and where sponsorship proceeds are received directly by the charity or civic endeavor, and not by a licensed retailer.
2. Suppliers may provide a sponsorship fee to advertise in ballparks, resorts, racetracks, stadiums, concert venues or entertainment districts as long as such sponsorship fee is not paid to a person or entity holding a retail license at such venue, directly or indirectly, and is not intended to influence the product selection of such retailer. The retailer's product selection for the event may not change as a condition of the event sponsorship and the products of the supplier's competitors may not be excluded.
3. Suppliers may provide or pay for any media announcement of a sponsored event that primarily advertises the product, the location, and the date and time of the event. The name of the retail outlet may also be mentioned.
4. Suppliers providing sponsorship fees to advertise at the aforementioned venues may also provide those items and services authorized under regulations 47-316, 47-320, and 47-322 to the licensed retailers at, or in conjunction with, the sponsored event.

D. Retailer entertainment

Suppliers may provide food, beverages, entertainment, recreation, or the costs associated with the same, to a retailer and its employees at meetings, social events, conferences, trainings, or other similar events, subject to the following:

1. Food, beverages, entertainment, or recreation are provided when, and where, suppliers or supplier representatives are participating or present.
2. Entertainment may include tickets or admission fees for athletic or sporting events, concerts, artistic performances, festivals, and similar forms of entertainment.
3. Recreation may include fees associated with participation in athletic or sports-related activities.
4. For any supplier-provided retailer entertainment, the supplier is prohibited from providing the costs associated with lodging and travel, other than nominal ground transportation.
5. Suppliers must maintain records sufficient to verify those entertainment expenses associated with retailers and their employees. Failure to maintain such records shall not be a per se violation of this regulation, but could constitute a violation of section 44-3-701, C.R.S. or Regulation 47-700.

E. Alcohol Beverage Samples for Retailers

1. Wholesalers, or those licensed to sell at wholesale pursuant to article 3 and 4 of title 44, may furnish or give a limited amount of alcohol beverage samples to retailers licensed solely for on-premises under the following conditions:

- a. The retailer's class of liquor license permits the sale of the type of beverage offered as a sample.
  - b. The providing of samples is not conditioned upon future purchases of alcohol beverages, or as compensation for any previous alcohol beverage purchase.
  - c. The retailer has not purchased the product SKU of the alcohol beverage offered as a sample within the previous six (6) months.
  - d. The wholesaler provides not more than 3.0 liters per brand of spirituous liquor, not more than 3.0 liters per brand of vinous liquor, and not more than one six-pack, or 72-ounce equivalent, per brand of malt liquor or fermented malt beverage so packaged. If a particular brand is not available in a size meeting the quantity limitations stated herein, a wholesaler may furnish the next available larger size.
  - e. Only the retailer and its employees are authorized to taste or test those alcohol beverages given as samples, as provided herein. Nothing shall authorize a retailer to sell any samples provided or to use such the same for consumer tastings.
2. Wholesalers, or those licensed to sell at wholesale pursuant to article 3 and 4 of title 44, may furnish or give a limited amount of alcohol beverage samples to retailers licensed solely for off-premises under the following conditions:
- a. The retailer's class of liquor license permits the sale of the type of beverage offered as a sample.
  - b. The providing of samples is not conditioned upon future purchases of alcohol beverages, or as compensation for any previous alcohol beverage purchase.
  - c. The wholesaler provides not more than 3.0 liters per brand of spirituous liquor, not more than 3.0 liters per brand of vinous liquor, and not more than one six-pack per brand of malt liquor or fermented malt beverage so packaged. If a particular brand is not available in a size meeting the quantity limitations stated herein, a wholesaler may furnish the next available larger size.
  - d. The wholesaler is present at the time of consumption and maintains sole possession of the container after sampling. Samples, in the quantities described herein, may be left in the retailer's possession if the container seal is left intact, but must be removed from the licensed premises at the end of the day.

F. Wholesaler Trade Shows and Trade Events

1. For purposes of this Regulation 47-322(F):
  - a. "Trade show" means an event to which more than fourteen (14) authorized attendees are invited and which is organized and conducted by or on behalf of one or more wholesalers, as defined in Regulation 47-100(I), for the purpose of exhibiting and providing information regarding alcohol beverage products

and services offered by the participating wholesaler(s), to retailers licensed to buy such alcohol beverage products from the wholesaler(s), and to provide samples of such alcohol beverage products for consumption during the event.

- b. "Trade event" means an event to which fourteen (14) or fewer authorized attendees are invited and which is organized and conducted by or on behalf of one or more wholesalers, as defined in Regulation 47-100(I), for the purpose of exhibiting and providing information regarding alcohol beverage products and services offered by the participating wholesaler(s), to retailers licensed to buy such alcohol beverage products from the wholesaler(s), and to provide samples of such alcohol beverage products for consumption during the event.
- c. "Hosting on-premises retailer" means a retailer licensed for on-premises consumption on whose licensed premises a trade show or trade event is held.
- d. "Authorized attendees" means, and shall be limited to:
  - i. Officers, directors, and employees of a retail licensee that is licensed to sell the type of alcohol beverages to be exhibited and sampled during the trade show or trade event;
  - ii. Other individuals affiliated with one or more retail licensees as independent consultants or experts; and
  - iii. No more than one adult guest of each individual authorized to attend the trade show or trade event under subparagraphs (d)(i)-(ii).

2. Trade shows or trade events are subject to the following requirements and limitations:

- a. A trade show or trade event shall take place only with the permission of, and on the licensed premises of, a hosting on-premises retailer that is licensed to sell the type of alcohol beverages to be exhibited and sampled during the trade show or trade event.
- b. A trade show or trade event shall not be open to the general public, and shall be limited to authorized attendees registered (either in advance or at the door). The wholesaler(s) participating in the trade show or trade event shall maintain registration records containing, at a minimum, the date of the trade show or trade event, the name of the hosting on-premises retailer, the name of each authorized attendee who attended the trade show or trade event, and the name of the licensed retailer(s) with which each authorized attendee is associated. The registration records from the trade show or trade event shall be available for inspection by the Division during the trade show or trade event and shall be provided to the Division within ten (10) days of the conclusion of the trade show or trade event.
- c. By agreement, the participating wholesaler(s), the hosting on-premises retailer or both (including such entities' agents and employees) may serve samples of alcohol beverage product(s) to authorized attendees during a trade show or trade event. Such samples shall be provided to authorized attendees free of charge.
  - i. The entity or entities responsible for the serving of the alcohol beverage products during a trade show or trade event shall be



responsible for any violations of the Liquor Code, Beer and Wine Code, or Special Event Code, and/or any regulation promulgated pursuant thereto, related to the serving of alcohol beverage products during a trade show or trade event, including, but not limited to, violations related to service of alcohol beverages to a visibly intoxicated person or to a person under twenty-one years of age.

- d. Alcohol beverage products used for a trade show or trade event must comply with all applicable product registration and labeling requirements, including those set forth in Regulation 47-904(F) and (G).
- e. All taxes, fees and surcharges required by section 44-3-503, C.R.S., must be paid for all alcohol beverage products used in a trade show or trade event.
- f. Invoices for alcohol beverage products used for a trade show or trade event must be clearly labeled as a "No-Cost Trade Show/Event Inventory Record" and shall be subject to the following requirements:
  - i. Any wholesaler participating in a trade show or trade event must invoice any alcohol beverage products to be used in the trade show or trade event to the hosting on-premises retailer. Notwithstanding any other rule or regulation to the contrary contained in 1 CCR 203-2, the wholesaler shall invoice the hosting on-premises retailer for alcohol beverage products to be used in a trade show or trade event at no cost.
  - ii. The hosting on-premises retailer must receive all wholesalers' invoice(s) for alcohol beverage products to be used in the trade show or trade event prior to the commencement of the trade show or trade event, and shall retain such invoice(s) for their records.
  - iii. Any wholesaler(s) participating in a trade show or trade event shall provide the Division with copies of all invoice(s) to be issued in accordance with this paragraph (F)(2)(f) as an accounting for all the alcohol beverage products intended to be used during the trade show, and the anticipated drop-off and pick-up dates for such alcohol product, at least three (3) days prior to the commencement of the trade show.
  - iv. In order to account for unanticipated changes in the alcohol beverage products to be used during a trade show or trade event, any Wholesaler(s) participating in a trade show or trade event may provide the Division with an "Amended No-cost Trade Show/Event Inventory Record" before the commencement of the scheduled trade show or trade event, provided the wholesaler(s) complied with the provisions of paragraph (F)(2)(f)(iii) of this regulation in the first instance.
  - v. At the conclusion of the trade show or trade event, any alcohol beverage product(s) invoiced for use during the trade show or trade event (whether opened or unopened) shall be removed from the hosting on-premises retailer's licensed premises by the wholesaler(s), or destroyed.
    - A. Any alcohol beverage product(s) invoiced for use during the

trade show or trade event remaining on the hosting on-premises retailer's licensed premises at the conclusion of the trade show or trade event, and awaiting wholesaler pick-up, must be held in a secure area of the hosting on-premises retailer's licensed premises, kept separate from, and clearly labeled to distinguish such alcohol beverage product(s) from, the host on-premises retailer's stock, by affixing a copy of the most current invoice issued pursuant to paragraph (F)(2)(f)(iii), or (F)(2)(f)(iv) of this regulation, and marking such invoice with the anticipated pick-up date of the alcohol beverage product(s), which shall be no more than thirty (30) days after the conclusion of the Trade Show or Trade Event.

B. Allowing any alcohol beverage product(s) invoiced for use during the trade show or trade event (whether opened or unopened) to remain on the hosting on-premises retailer's licensed premises after the conclusion of the thirty (30) day pick-up window allowed for in paragraph (F)(2)(f)(v)(A) above, shall be deemed a violation of this Regulation, for which both the wholesaler(s), and hosting on-premises retail licensee shall be responsible.

g. No delivery or exchange of alcohol beverage product(s) between a participating wholesaler and authorized buyer of same shall take place during the trade show or trade event.

h. A hosting on-premises retailer shall not be deemed to be receiving unlawful financial assistance from the wholesaler(s) participating in the trade show or trade event, so long as the hosting on-premises retailer does not directly benefit from the sale of any alcohol beverage product exhibited to or sampled by authorized attendees during the trade show or trade event.

i. All documents and information required to be provided to the Division pursuant to paragraphs (F)(2)(b) and (F)(2)(F) of this regulation, shall be provided using a method authorized by the Division (which, at the Division's discretion, may be through uploading the records to an online location specified by the Division or through electronic mail).

3. This Regulation 47-322(F) shall not apply to:

a. Events similar to those addressed in this Regulation that are organized and conducted as special events pursuant to, and in compliance with article 5 of title 44, the exemption set forth in section 44-5-108, C.R.S., provisions of article 3 of title 44 applicable to special events, and Regulations 47-1000 through 47-1022, 1 CCR 203-2.

b. Tastings conducted by a licensed winery pursuant to section 44-3-402(2), C.R.S.; by a limited winery, pursuant to section 44-3-403(2)(e), C.R.S.; by a distillery, pursuant to section 44-3-402(7), C.R.S.; by a beer wholesaler, pursuant to section 44-3-407(1)(b), C.R.S.; or as part of a festival permit, pursuant to section 44-3-404, C.R.S.

G. Consignment Sales and Lawful Product Returns

1. Wholesalers are prohibited from making consignment sales to retailers.

2. A consignment sale is an arrangement whereby a wholesaler invoices and delivers alcohol beverages to a retailer who is under no obligation to pay for such beverages until they are resold. Consignment sales also afford the retailer the right to return product to the wholesaler for any reason.
3. Wholesalers are permitted to accept a return of alcohol beverages previously sold to retailers for ordinary and usual commercial reasons and to provide account credit or product exchange. Such commercial reasons for return shall be limited to the following:
  - a. Defective products: Products qualifying under this exception are those that are upon delivery, or later become, unmarketable due to contamination or deterioration of product ingredients, leaking containers, damaged labels, or missing, damaged or compromised container seals.
  - b. Broken containers or short-filled containers/cases: Nothing shall prevent a retailer from making a claim for the replacement of alcohol beverages that were delivered by a wholesaler in a damaged or incomplete condition, and nothing shall prevent a wholesaler from granting credible claims.
  - c. Error in products delivered: Any discrepancy between a retailer's product order and the products delivered may be corrected by the wholesaler within a reasonable period after delivery.
  - d. Discontinued products: When a manufacturer or importer discontinues the production, importation, or market availability of a product, a retailer may return any remaining product to the original wholesaler. A retailer's decision to discontinue a product does not qualify.
  - e. Manufacturer's product change: When a manufacturer has changed the formula, proof, label or container of an alcohol beverage, wholesalers may withdraw the product from the retailer's inventory and replace it with the newly-manufactured product.
  - f. Manufacturer's quality standards: To ensure freshness standards for malt liquor and fermented malt beverages, wholesalers, with retailer consent, may withdraw product from the retailer's inventory and replace it with new product, without additional charge, under the following conditions:
    - i. Out of freshness standard is defined as: a product that has a pre-printed freshness date on the alcohol beverage container that is no more than thirty (30) days away from the current date.
    - ii. The product to be withdrawn is undamaged and in its original packaging.
    - iii. The retailer purchased the original product from the wholesaler providing the replacement, or the current wholesaler is acting as an authorized successor wholesaler.
    - iv. The wholesaler replaces the product with the identical product SKU, the identical quantity, and the identical package, or with a product from the same manufacturer's portfolio that is equal to or lesser in value to the original purchase.
    - v. A wholesaler may sell a product to another retailer that was picked up because it was within thirty (30) days prior to the freshness date.

The sale of this replaced product to another retailer can only be done once.

- g. Retailer's seasonal operation: For those retailers who are only open for business a portion of the year due solely to seasonal influences, or for venues that operate only during scheduled events, a wholesaler may remove and grant credit for those products that are likely to spoil or violate a manufacturer's freshness standards.
  - h. Wholesalers that have lawfully exercised their claim to a retailer's inventory as secured creditors.
  - i. Products in a retailer's inventory that may no longer be sold due to statutory or regulatory changes or disciplinary actions over which the wholesaler and retailer had no control.
  - j. Within thirty days of evidence of an expiration or a lawful surrender and cancellation of a retail liquor license by the state licensing authority.
  - k. Holders of special events permits that have unsold alcohol beverages after the licensed event.
4. A return of product for the following reasons does not qualify as a return for ordinary and usual commercial reasons:
- a. A retailer's overstocked inventory or slow-moving products.
  - b. Products for which there is only a limited-time or seasonal demand, such as holiday decanters or seasonal brands.

H. Warehousing of products for a retailer

Wholesalers shall not furnish free warehousing to retailers by delaying delivery of alcohol beverages beyond the time that payment for the product is received or, if a retailer is purchasing on credit, delaying final delivery of products beyond the close of the period of time for which credit is lawfully extended pursuant to 44-3-202(2)(b), C.R.S.

I. Product resets

Resets by a supplier are permitted, but a competitor's alcohol beverage products may not be disturbed during the reset process, unless the in-state seller of the competing products has been given 72 hours written notice, during normal and customary business hours, and is not present at the time designated for the reset activity. Suppliers may furnish a retailer with a recommended shelf plan or shelf schematic.

J. Equipment rentals

All equipment rentals by a supplier to a retailer must be at fair market value.

K. Other goods

Suppliers may not provide a retailer with any other goods below fair market value except those items expressly permitted by articles 3, 4, or 5 of title 44, C.R.S, and related regulations.

When a supplier also deals in items of commerce that are not regulated by articles 3, 4, or 5 of

title 44, only the following restrictions shall apply:

1. The unregulated item(s) may not be provided as an inducement, or require purchase of alcohol beverages.
2. Any equipment or other goods provided free of charge (e.g. energy drink refrigerated coolers) shall not be provided in conjunction with alcohol sales or promotions.

L. Indirect financial assistance through third party arrangements

1. A supplier's furnishing of any equipment, supplies, services, money, or other things of value to a third party that is not licensed pursuant to article 3 or 4 of title 44, C.R.S. where the benefits resulting from such things of value flow to individual licensed retailers through written agreements or otherwise, is prohibited.
2. A supplier will not be in violation of this regulation when the unlicensed third party provides the prohibited item or service to a retailer without the supplier's knowledge, and the supplier could not have reasonably foreseen that the item or service would flow to a retailer.
3. Retailers that collude with unlicensed third parties to obtain prohibited financial assistance through a third-party arrangement between a third party and a licensed supplier shall be in violation of this regulation.
4. It shall not be a violation for a supplier to furnish items or services to a retailer that are otherwise specifically authorized by regulation or any provision within articles 3 or 4 of title 44, C.R.S.

M. Value of Labor

1. Definitions for purposes of this subsection (L):
  - a. "Deliver" or "delivering" is the act of a supplier bringing and unloading its alcohol beverage product from its delivery vehicle onto the retailer's licensed premises or permitted retail warehouse storage location. "Deliver" or "delivering" does not include a supplier bringing and unloading its alcohol beverage product from a permitted retail warehouse storage location to a retailer's licensed premises.
  - b. "Merchandise" or "merchandising" is the act of organizing, constructing, maintaining, or stocking a display of alcohol beverage product or alcohol beverage product promotional materials, including alcohol beverage product signs, consumer advertising specialties, or point-of-sale advertising, within the retailer's licensed premises.
  - c. "Price stamp" or "price stamping" is the act of affixing the retail price of alcohol beverage product to its respective shelf, refrigerator, or any other similar location within the retailer's licensed premises.
  - d. "Rotate" or "rotating" is the act of moving alcohol beverage product from the rear to the front of any shelf, refrigerator, or similar location within the retailer's licensed premises.
  - e. "Service" or "servicing" is the act of replacing, staging, and/or tapping kegs within a retail premises. "Service" or "servicing" also includes performing

necessary cleaning of alcohol beverage dispensing equipment, to the extent necessary for the maintenance of reasonable standards of purity, cleanliness, and health.

- f. "Stock" or "stocking" is the act of placing or replenishing alcohol beverage product on any shelf, refrigerator, or similar location within the retailer's licensed premises.
2. In a supplier's sole discretion, and if allowed by the retailer, a supplier may deliver, merchandise, price stamp, rotate, service, and stock its alcohol beverage product on the retailer's licensed premises at no cost to the retailer.
    - a. A supplier is prohibited from materially disturbing another supplier's alcohol beverage product while delivering, merchandising, price stamping, rotating, servicing, or stocking its own alcohol beverage product.
    - b. A supplier may only service the portion of the retailer's alcohol beverage dispensing equipment used for dispensing its alcohol beverage product.
  3. A retailer is prohibited from requiring a supplier to provide any labor to the retailer, including, but not limited to, merchandising, price stamping, rotating, servicing, or stocking activities, as an express or implied condition of the delivery, purchase, or future purchases between the supplier and retailer.
  4. Unless otherwise permitted under this Regulation, the Liquor Code, or the Beer and Wine Code, or unless the retailer pays the supplier at the normal hourly rate of the employee performing the labor, a supplier is prohibited from providing to a retailer, and a retailer is prohibited from accepting from a supplier, any labor other than the kinds of labor described in subsection (L)(2) of this Regulation, including, but not limited to:
    - a. Cleaning, repairing, or otherwise maintaining the interior or exterior of a retailer's premises;
    - b. Operating the retailer's powered mechanical equipment, other than pallet jacks; or
    - c. Performing inventory for the retailer's records.
- N. Prohibition.
1. Except as otherwise provided by the Colorado Liquor Code, Colorado Beer and Wine Code, or Colorado Liquor Rules, a supplier is prohibited from disturbing another supplier's alcohol beverage product.

~~Regulation 47-322(A)(9) is effective July 1, 2019.~~

#### **Regulation 47-408. Purchases by Retailers.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(O), 44-3-202(2)(a)(I)(R), 44-3-411, 44-3-413, 44-3-414, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-422, 44-3-426, and 44-3-428, C.R.S. The purpose of this regulation is to establish purchase requirements for retailers.

- A. Every person or entity licensed under the Colorado Liquor or Beer and Wine Codes to sell at

retail shall purchase all alcohol beverage inventory, for the operation of its business, from a person or entity licensed to sell at wholesale pursuant to article 3 or 4 of title 44, C.R.S., except that:

1. A retailer licensed for on-premises consumption only may purchase not more than two thousand dollars' worth of such alcohol beverages during a calendar year from a retail liquor store or a liquor-licensed drugstore.
- B. All alcohol beverages possessed or maintained on the retail-licensed premises shall be only such alcohol beverages acquired as set forth in this regulation, or as may have come into possession upon the issuance of a license or temporary permit pursuant to section 44-3-303, C.R.S.
- C. Nothing herein shall authorize a retailer to purchase alcohol beverage inventory for its licensed operations from any public or private auction.
- D. Records maintained by the licensee in compliance with section 44-3-701, C.R.S. and regulation 47-700, 1 C.C.R. 203-2 shall include all records of purchases of alcohol beverages.
- E. Purchases of malt liquor and fermented malt beverages by retailers including a retailer's purchase at the wholesaler's licensed location(s) must be from the wholesaler designated within the territory rights pursuant to section 44-3-407(1)(b)(I).

#### **Regulation 47-426. Delivery Sales by Off-Premises Licensees.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-4-107(1)(c), 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(O), 44-3-202(2)(a)(I)(R), 44-3-409(3), 44-3-410(3), and 44-3-601, C.R.S. The purpose of this regulation is to permit fermented malt beverage **and wine retailer off-premises** licensees, retail liquor stores, and liquor licensed drug stores to deliver alcohol beverage products to consumers within the requirements, restrictions, and limitations outlined in the regulation in accordance with the statutory provisions under which limited retail delivery activities are authorized.

##### **A. Delivery Permitted.**

A retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., may deliver such alcohol beverages authorized by its license to any location off the licensed premises, pursuant to the following restrictions:

1. Order.
  - a. The order for the alcohol beverages which are to be delivered, must be taken by the licensee or an ordering service acting as an agent of the licensee pursuant to a written agreement entered into with the licensee. Licensee shall provide a copy of said agreement to the Division prior to any orders being accepted by licensee's agent.
  - b. The order may be taken by written order, by telephone, in person, or via internet communication with the licensee or its agent.
  - c. The person placing the order must provide the licensee with their name, date of birth, and delivery address. Under no circumstances shall a person under twenty-one (21) years of age be permitted to place an order for alcohol beverages.

2. Delivery.
  - a. Delivery of alcohol beverages shall only be made to a person twenty-one (21) years of age or older at the address specified in the order.
  - b. Delivery must be made by the licensee or the licensee's employee who is at least twenty-one (21) years of age and is using a vehicle owned or leased by the licensee to make the delivery.
  - c. The licensee or the licensee's employee who delivers the alcohol beverages shall note and log at the time of delivery the name and identification number, of the person the alcohol beverages are delivered to. Under no circumstances shall a person under twenty-one (21) years of age be permitted to receive a delivery of alcohol beverages.
  - d. A licensee must derive no more than fifty (50) percent of its gross annual revenues from total sales of alcohol beverages that the licensee delivers.
3. Licensees who deliver alcohol beverages shall maintain as a part of their required records, pursuant to 44-3-701, C.R.S., all records of delivery including delivery orders, receipt logs and journals. These records shall be maintained by the licensee for sixty (60) days. Failure to maintain accurate or complete records shall be a violation of this regulation.
4. Have a licensed premises with the following conditions:
  - a. Open to the public a minimum of three (3) days a week; and
  - b. Open to the public a minimum of five (5) hours each day the business is open; and
  - c. Have signage viewable from a public road.
5. Permit required.
  - a. Effective July 1, 2019, the state licensing authority will accept complete delivery permit applications from any applicant of or retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S.
  - b. Effective July 1, 2020, any retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., must hold a valid delivery permit issued by the state licensing authority to deliver alcohol beverages pursuant to the Colorado Liquor Code, the Colorado Beer and Wine Code, and this regulation.
  - c. The applicant must affirm on its delivery permit application that the applicant derives or will derive no more than fifty (50) percent of its gross annual revenues from total sales of alcohol beverages that the applicant delivers. However, nothing within this subsection (A)(5)(c) shall limit the authority of the state licensing authority to inspect books and records pursuant to Regulation 47-700, 1 C.C.R. 203-2, to verify this affirmation or compliance with this statutory requirement.



- da. A delivery permittee shall display its delivery permit at all times in a prominent place on its licensed premises. A delivery permittee shall not be required to hold or carry a copy of its delivery permit in the delivery vehicle.
- eb. A delivery permit shall not be required for a retailer to deliver alcohol beverages within its customary parking area.

B. Suspension or Revocation.

Any delivery made in violation of Title 44, Articles 3 and Article 4, or in violation of this regulation may be grounds for suspension or revocation of the licensee's license and/or delivery permit by the state licensing authority as provided for in section 44-3-601, C.R.S.

**Regulation 47-505. Methods of payment of fees, fines or other payments made to the State Licensing Authority.**

**Basis and Purpose.** The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(B), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(R), 44-3-601, 44-4-104, 44-4-105 and 44-5-104, C.R.S. The purpose this regulation is to establish acceptable methods of payment for fees, fines (including fines in lieu of suspension) and other payments to the state licensing authority under the Colorado Liquor Code, the Colorado Beer and Wine Code, the Special Event Code or the Colorado Liquor Rules, other than excise taxes, surcharges and fees pursuant to section 44-3-503, C.R.S.

- A. This regulation sets forth acceptable methods of payment to the state licensing authority, as applicable, of the following:
  - 1. Any license, permit, application or other fee required under 44-3-501, 44-4-104, 44-4-105 and 44-5-104, C.R.S., and regulation 47-506;
  - 2. Any fine imposed by the state licensing authority, including any fine in lieu of suspension, under section 44-3-601 and Regulations 47-600 and 47-603.
  - 3. Any voluntary payment of the costs of an investigation pursuant to an assurance of voluntary compliance under Regulation 47-601.
- B. This regulation shall not apply to payment of any excise tax, surcharge or fee required under section 44-3-503, C.R.S.
- C. The method of payment for any of the fees, fines or other payments set forth in paragraph (A) of this Regulation shall be in the form of:
  - 1. An online payment using the Division's online payment portal accessible through a link posted on the Division's website;
  - 2. A check, including a certified or cashier's check, or money order, made payable to "DOR Liquor Enforcement Division" and mailed or delivered to the Division's main office location; or
  - 3. Cash, provided that:
    - a. any cash payment must be hand delivered to an employee of the Division at the Division's main office location during normal business hours.

**Regulation 47-600. Complaints against Licensees – Suspension, Revocation, and Fining of Licenses.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(E), 44-3-202(2)(a)(I)(R), and 44-3-601, C.R.S. The purpose of this regulation is to establish general processes and procedures required for the licensing authority to suspend, revoke, or fine a license for violations of any law, or rule or regulation of the state licensing authority.

- A. Whenever a written complaint shall be filed with a licensing authority, alleging a violation by any licensee for the manufacture or sale of alcohol beverages with a violation of any law or of any of the rules or regulations adopted by the state licensing authority, the licensing authority shall investigate, as deemed appropriate, the allegations.
- B. If it shall appear therefrom or shall otherwise come to the attention of the licensing authority appears from an investigation that there is reasonable cause to believe that a licensee has violated any such law, rule or regulation, the licensing authority may issue and cause to be served upon such licensee a notice of hearing and order to show cause why its license should not be suspended, revoked, or fined. Notice of discipline by the state licensing authority shall be issued pursuant to the procedures set forth in Regulation 47-606.
- C. A hearing shall be held at a place and time designated by the licensing authority on the day stated in the notice, or upon such other day as may be set for good cause shown. Hearings for the state licensing authority shall be conducted in accordance with the procedures set forth in Regulation 47-606. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation, and shall be allowed to give evidence and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged, evidence and statements in mitigation and/or aggravation of the offense shall also be permitted.
- D. In the event the licensee is found not to have violated any law, rule or regulation, the charges against the licensee will be dismissed. If the licensee is found to have violated some law, rule or regulation, the licensee's license may be suspended, revoked, or fined. When making a determination to suspend, revoke, or fine a license—including the amount of fine to impose—a licensing authority shall consider the severity of the violation(s) based on the provisions established in Regulation 47-603.
- E. Every licensee whose license has been suspended by any licensing authority shall, if ordered by the licensing authority, post two notices in conspicuous places, one on the exterior and one on the interior of its premises, for the duration of the suspension. The notices shall be two feet in length and fourteen inches in width containing lettering not less than ½ " in height, and shall be in the following form:

NOTICE OF SUSPENSION  
ALCOHOL BEVERAGE LICENSES ISSUED  
FOR THESE PREMISES HAVE BEEN  
SUSPENDED BY ORDER OF THE STATE-LOCAL LICENSING  
AUTHORITY FOR VIOLATION OF THE COLORADO LIQUOR/BEER **AND**  
**WINE** CODE

Advertising or posting signs to the effect that the premises have been closed or business suspended for any reason other than by order of the Department suspending alcohol beverage license, shall be deemed a violation of this rule.

- F. During any period of active license suspension, when such suspension has not otherwise been stayed by a licensing authority through the payment of a fine pursuant to section 44-3-601(3) through (8), C.R.S., the licensee shall not permit the selling, serving, giving away, or consumption of alcohol beverages on the licensed premises.
- G. For purposes of calculating a fine to be paid, including in lieu of an active suspension, “between”, as used in subsections 44-3-601(1)(c) and 44-3-601(3)(b), C.R.S., shall include the minimum and maximum fine amounts permitted by statute.

**Regulation 47-605. Responsible Alcohol Beverage Vendor ~~and Permitted Tastings by Retail Liquor Stores and Liquor-Licensed Drugstores~~**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-1002(2), C.R.S. The purpose of this regulation is to establish curricula required to be considered a responsible alcohol beverage vendor.

To be considered a responsible alcohol beverage vendor at any licensed premises, or to serve beverage alcohol at tastings held in retail liquor stores, **fermented malt beverage and wine retailers**, or liquor licensed drugstores, the following standards must be complied with.

**A. Initial Certification Training Program Standards**

- 1. To be designated as a responsible alcohol beverage vendor, all employees of a licensee selling/serving alcohol beverages, and any owner or manager who directly supervises such employees, must attend a training program approved by the Division.
- 2. Once a licensee is designated a responsible alcohol beverage vendor, all new employees involved in the sale, handling and service of alcoholic beverages must complete the training described in this regulation within 90 days of date of hire.
- 3. The program must include at least two (2) hours of instruction time.
- 4. The program must provide written documentation of attendance and successful passage of a test on the knowledge of the required curriculum for each attendee.
  - a. Attendees that can speak and write English must successfully pass a written test with a score of 70% or better.
  - b. Attendees that cannot speak or write English may be offered a verbal test, provided the same questions are given as are on the written test and the results of the verbal test are documented with a passing score of 70% or better.
- 5. Program providers may, at their discretion, conduct class surveys or discussions to help determine a program’s effectiveness. This time shall not be counted as part of the program’s instruction time.
- 6. Program providers may, at their discretion, omit curriculum not applicable to the licensee being trained so long as the provider provides the Division with written notice of the reason for omission in advance.

**B. Initial certification training class core curriculum**

- 1. Discussion concerning alcohol’s effects on the human body

- a. Alcohol's physical effects
  - b. Visible signs of intoxication
  - c. Recognizing the signs
  - d. Poly-substance interactions, including but not limited to, interaction with marijuana, prescriptions and over-the-counter medication, and other substances.
2. Liquor Liability
    - a. Civil liability
    - b. Criminal liability
    - c. Administrative liability (License Sanctions)
    - d. Liability for licensee and/or managers for the actions of employees
3. Sales to visibly Intoxicated persons
    - a. Colorado law provisions
    - b. Recognition and prevention, including identifying signs of visible alcohol and drug impairment.
    - c. Intervention techniques
    - d. Related laws or issues
      - i. DUI/DWAI
      - ii. Reg. 47-900
4. Sales to minors
    - a. Colorado law provisions
    - b. Sale and service
    - c. Permitting consumption
5. Acceptable forms of Identification (Reg. 47-912)
    - a. How to check identification - protocol
    - b. Spotting false identification
    - c. Mistakes made in verification
6. Other key state laws and rules affecting owners, managers, sellers, and servers
    - a. Age requirements for servers and sellers

- b. Provisions for confiscating fraudulent identifications
- c. Removal of liquor from on-premises licensed establishment
- d. Patrons prohibited from bringing liquor onto licensed premises
- e. Permitted hours of sale and service
- f. Conduct of establishment
- g. Nudity and prohibited entertainment
- h. Permitting inspections by state and local licensing and enforcement authorities
- i. Reporting changes in ownership and management
- j. Licensee responsible for activities occurring within licensed premises
- k. Tastings in retail liquor stores, ~~and~~ liquor licensed drugstores, and fermented malt beverage and wine retailers
- l. Prohibited purchases
- m. On-premises and off-premises delivery and takeout rules
- n. Commonly arising issues with delivery and takeout sales

C. Information for Owners and Managers

1. Local Licensing and Enforcement

- a. Encourage to become familiar with local law provisions
- b. Encourage to develop a relationship with local agencies

2. State Licensing and Enforcement

- a. Contact Information for the Division
- b. Become familiar with state laws and regulations
- c. Encourage to develop a relationship with area investigator

3. Recommendations for Licensees

- a. Establish policies and procedures.
- b. Establish a record keeping system to document activities and events
- c. Contact local authority on incident reporting expectations

D. Training programs based on type of licensed establishment and portability of training

1. Training program curriculum may be tailored by Division-certified training program providers to on-premises only licensed establishments, to off-premises only licensed establishments, or to both on-premises and off-premises combined. Except as noted below, all approved training programs shall include the curriculum contained in paragraphs B and C of this regulation.
  2. Combined training programs must include all of the curriculum contained in paragraphs B and C of this regulation. Persons certified in a combined training program may use the certification in both on- and off-premises licensed establishments.
  3. On-premises only training programs may exclude from their curriculum subparagraph B(6)(k) of this regulation relating to ~~liquor store tastings at retail liquor stores, liquor licensed drugstores, and fermented malt beverage and wine retailers events~~. Persons certified in an on-premises only training program may use their certification only in an on-premises licensed establishment.
  4. Off-premises only training programs may exclude from their curriculum subparagraphs B(6)(c), (d), (f), and (g) relating to activities at on-premises businesses. Persons certified in an off-premises only training program may use their certification only in an off-premises licensed establishment.
  5. Responsible alcohol beverage vendor trainers may request approval from the Division in writing to omit curriculum that is not detailed in paragraphs (D)(3) and/or (D)(4), and is not applicable to the licensee being trained. Once approved by the Division, the responsible alcohol beverage vendor trainer can provide the modified training to other licensees where the reason for omission is the same.
- E. Recertification requirements for responsible alcohol beverage vendor certified sellers/servers
1. Recertification must occur every two (2) years, inclusive of a grace period of thirty (30) days for the licensee to retain the responsible alcohol beverage vendor designation.
  2. Recertification shall be accomplished in any of the following manners:
    - a. Documented successful passage of a written or verbal test with a score of 70% or better administered by a Division-approved program trainer in person, including virtually through a live program, which demonstrates knowledge of new and existing alcohol beverage laws
      - i. Completion of a course is not required before the test is administered
      - ii. Failure to pass the first administration of the test shall require attendance at either a recertification course or an initial certification training program
    - b. Documented attendance and completion of a recertification course
    - c. Documented attendance and completion of an initial certification training program
  3. Recertification course
    - a. The curriculum must cover any and all changes in the law or regulations that affect the curriculum contained in the initial certification program
    - b. The course must provide a refresher on the following topics:

- i. Sales to intoxicated persons
  - ii. Sales to minors
  - iii. Legal sales hours
  - iv. Civil and criminal liabilities for law violations
- c. No minimum instruction time or testing requirements shall apply
  - d. Records Retention The certified seller – server training program providers for the Responsible Alcohol Beverage Vendor Program must keep proof of attendance and records of successful completion of the training for a minimum of three (3) years and make the records available to the Division upon request.

**F. Certification and renewal of certification as a responsible alcohol beverage vendor trainer**

- 1. To seek Division approval as a responsible alcohol beverage vendor trainer, an individual or business entity must submit the following information:
  - a. A Responsible Vendor Trainer Application; and
  - b. A copy of the responsible alcohol beverage vendor training course curriculum, to include any written or electronic materials to be shown to attendees, and an outline of the planned presentation.
- 2. Within thirty (30) days of providing the first training, the trainer shall provide a video or audio recording of the training material or lecture.
- 3. Approved training providers must renew approval with the Division every two (2) years beginning with a certification cycle of January 1, 2023 and closing January 1, 2025 to ensure continued compliance with statutory and regulatory standards.

**G. Denials, Revocations, and Suspensions of Training Providers**

- 1. The Division may deny, revoke, or suspend a training provider's approval if the Division finds any of the following:
  - a. The approved training provider does not comply with the minimum standards found in this regulation;
  - b. The approved training provider is teaching from a responsible alcohol beverage vendor training program that is materially different than the version submitted to the Division for approval; or
  - c. A training provider made misstatements, omissions, misrepresentations, or untruths in connection with seeking certification or renewal of certification.

**Regulation 47-606.- Disciplinary and Denial Process for State Licensing Authority**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to sections 44-3-202(1)(b), 44-3-202(1)(c), 44-3-202(1)(d), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(E), 44-3-202(2)(a)(I)(R), 44-3-601, 44-3-901, 24-4-104, 24-4-105, and 24-5-101 C.R.S The purpose of this

regulation is to establish what entity conducts the administrative hearings for the state licensing authority, the procedures governing administrative hearings, and other general hearings issues.

A. Initiation of Disciplinary Actions.

1. If the state licensing authority, on its own initiative or based on a complaint, has reasonable cause to believe that a licensee has violated the Liquor Code, the Beer and Wine Code, the Special Event Code, the Colorado Liquor Rules, or any of the state licensing authority's orders, the state licensing authority shall issue and serve upon the licensee an order to show cause as to why its license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.
2. The order to show cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended, revoked, restricted, fined, or subject to other disciplinary sanction should the charges contained in the notice be sustained upon final hearing.
3. A respondent that has been served with an order to show cause shall be entitled to a hearing regarding the matters addressed therein.

B. License Denials.

1. If the state licensing authority denies an application, the state licensing authority shall inform the applicant in writing of the reasons for the denial in a notice of denial, mailed to the denied applicant at the last-known address as shown by the records of the Division and to the local licensing authority if a local license has been granted. A notice of denial shall be deemed to have been received three days after the date of mailing, if sent by mail.
2. If the denial of the application is based on a criminal conviction, the state licensing authority shall consider the factors set forth in section 24-5-101, C.R.S., and shall provide the written notice required in subsections 24-5-101(7) and (8), C.R.S.
3. A denied applicant that has been served with a notice of denial may request a hearing within the time set forth in the notice of denial by making a written request for a hearing to the Division. The request must be submitted by United States mail, by hand delivery, or by email at dor\_led@state.co.us. The request must be sent to the mailing address of the Division's headquarters, as listed on the Division's website. Include "Attn: Hearing Request" in the mailing address. The written request for a hearing must be received by the Division within the time stated in the notice of denial. An untimely request for hearing will not be considered.
4. A denied applicant that timely requests a hearing following issuance of a notice of denial shall be served with a Notice of Grounds for Denial and shall be entitled to a hearing regarding the matters addressed therein.

C. General Procedures – Administrative Hearings.

1. Hearing Location. Hearings will generally be conducted by the Department of Revenue's Hearings Division. Hearings will be held virtually, unless otherwise ordered by the hearing officer for good cause. If the hearing officer orders an in-person hearing, the hearing will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer. Good cause for in-person hearings includes unusual circumstances where justice, judicial economy, and convenience of the parties would be



served by holding a hearing in person.

2. Scope of Hearing Regulations. This Regulation shall be construed to promote the just and efficient determination of all matters presented.
3. Right to Legal Counsel. Any denied applicant or respondent has a right to legal counsel throughout all processes described in regulations associated with the denial of an application and disciplinary action. Such counsel shall be provided solely at the denied applicant's or respondent's expense. Unless a denied applicant or respondent is an entity that satisfies the exception in section 13-1-127(2), C.R.S., the denied applicant or respondent must be represented by an attorney admitted to practice law in the state of Colorado.

D. When a Responsive Pleading is Required.

1. A respondent shall file a written answer with the hearings division and the Division within 30 days after the date of mailing of any order to show cause. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a respondent fails to file a required answer, the Hearing Officer, upon motion, may enter a default against that person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this Regulation, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.
2. A denied applicant shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any Notice of Grounds for Denial. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a denied applicant fails to file a required answer, the hearing officer, upon motion, may enter a default against that person pursuant to section 24-4-105(2)(b), C.R.S. For good cause shown, as described in this Regulation, the hearing officer may set aside the entry of default within ten days after the date of such entry.

E. Hearing Notices.

1. Notice to Set. The Division shall send a notice to set a hearing to the denied applicant or Respondent in writing by electronic mail or, if an electronic mail address is unknown, by first-class mail to the last mailing address of record.
2. Notice of Hearing. The Hearings Division shall notify the Division and denied applicant or Respondent of the date, place, time, and nature of the hearing regarding denial of the license application or whether discipline should be imposed against the Respondent's license at least 30 days prior to the date of such hearing, unless otherwise agreed to by both parties. This notice shall be sent to the Denied applicant or Respondent in writing by first-class mail to the last mailing address of record. Hearings shall be scheduled and held as soon as is practicable.
  - aA. If an order of summary suspension has been issued pursuant to Regulation 47-602, the hearing on the order to show cause will be scheduled and held promptly.
  - bA. Continuances may be granted for good cause, as described in this Regulation, shown. A motion for a continuance must be timely.
  - cB. Good Cause for Continuance. Good cause for a continuance may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry

or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause for a continuance normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness' testimony can be taken by telephone or by deposition; or failure of an attorney or a party timely to prepare for the hearing.

F. Prehearing Matters Generally.

1. Prehearing Conferences Once a Hearing is Set. Prehearing conferences may be held at the discretion of the hearing officer upon request of any party, or upon the hearing officer's own motion. If a prehearing conference is held and a prehearing order is issued by the hearing officer, the prehearing order will control the course of the proceedings. Such prehearing conferences will be held virtually or by telephone, unless otherwise ordered by the hearing officer.
2. Depositions. Depositions are generally not allowed; however, a hearing officer has discretion to allow a deposition if a party files a written motion and can show why such deposition is necessary to prove its case. When a hearing officer grants a motion for a deposition, C.R.C.P. 30 controls. Hearings will not be continued because a deposition is allowed unless (a) both parties stipulate to a continuance and the hearing officer grants the continuance, or (b) the hearing officer grants a continuance over the objection of any party in accordance with paragraphs (E)(2)(b) and (c) of this Regulation.
3. Prehearing Statements Once a Hearing is Set. Prehearing Statements are required and unless otherwise ordered by the hearing officer, each party shall file with the hearing officer and serve on each party a prehearing statement no later than seven calendar days prior to the hearing. Parties shall also exchange exhibits at that time. Parties shall not file exhibits with the hearing officer. Parties shall exchange exhibits by the date on which prehearing statements are to be filed. Prehearing statements shall include the following information:
  - aA. Witnesses. The name, mailing address, and telephone number of any witness whom the party may call at hearing, together with a detailed statement of the expected testimony.
  - bB. Experts. The name, mailing address, and brief summary of the qualifications of any expert witness a party may call at hearing, together with a statement that details the opinions to which each expert is expected to testify. These requirements may be satisfied by the incorporation of an expert's resume or report containing the required information.
  - cC. Exhibits. A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and denied applicant or respondent using letters.
  - dD. Stipulations. A list of all stipulations of fact or law reached.

4. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on that party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the prehearing statement; (2) it would not prejudice other parties; and (3) it would not necessitate a delay of the hearing.
5. Consequence of Not Filing a Prehearing Statement Once a Hearing is Set. If a party does not timely file a prehearing statement, the hearing officer may impose appropriate sanctions including, but not limited to, striking proposed witnesses and exhibits.

G. Conduct of Hearings.

1. The hearing officer shall cause all hearings to be electronically recorded.
2. The hearing officer may allow a hearing, or any portion of the hearing, to be conducted in real time by telephone or other electronic means. If a party is appearing by telephone, the party must provide actual copies of the exhibits to be offered into evidence at the hearing to the hearing officer when the prehearing statement is filed. Electronic filings will be accepted at: dor\_regulatoryhearings@state.co.us.
3. The hearing officer shall administer oaths to all witnesses at hearing. The hearing officer may question any witness.
4. The hearing, including testimony and exhibits, shall be open to the public unless otherwise ordered by the hearing officer in accordance with a specific provision of law.
  - aA. Reports and other information that would otherwise be confidential pursuant to subsection 44-3-202(1)(d), C.R.S., may be introduced as exhibits at hearing.
  - bB. Any party may move the hearing officer to seal an exhibit or order other appropriate relief if necessary to safeguard the confidentiality of evidence.
5. Court Rules.
  - aA. To the extent practicable, the Colorado Rules of Evidence apply. Unless the context requires otherwise, whenever the word "court," "judge," or "jury" appears in the Colorado Rules of Evidence, such word shall be construed to mean a hearing officer. A hearing officer has discretion to consider evidence not admissible under such rules, including but not limited to hearsay evidence, pursuant to section 24-4-105(7), C.R.S.
  - bB. To the extent practicable, the Colorado Rules of Civil Procedure apply. However, Colorado Rules of Civil Procedure 16 and 26-37 do not apply, although parties are encouraged to voluntarily work together to resolve the case, simplify issues, and exchange information relevant to the case prior to a hearing. Unless the context otherwise requires, whenever the word "court" appears in a rule of civil procedure, that word shall be construed to mean a hearing officer.

6. Exhibits.
    - aA. All documentary exhibits must be paginated by the party offering the exhibit into evidence.
    - bB. The Division shall use numbers to mark its exhibits.
    - cC. The denied applicant or respondent shall use letters to mark its exhibits.
  7. The hearing officer may proceed with the hearing or enter a default judgment if any party fails to appear at hearing after proper notice.
- H. Post Hearing. After considering all the evidence, the hearing officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an initial decision subject to review by the state licensing authority pursuant to the Colorado Administrative Procedure Act and this paragraph H.
1. Exception(s) Process. Any party may appeal an initial decision to the State licensing authority pursuant to the Colorado Administrative Procedure Act by filing written exception(s) within 30 days after the date of mailing of the initial decision to the denied applicant or respondent and the Division. The written exception(s) shall include a statement giving the basis and grounds for the exception(s). Any party who fails to properly file written exception(s) within the time provided in these regulations shall be deemed to have waived the right to an appeal. A copy of the exception(s) shall be served on all parties. The address of the state licensing authority is: state licensing authority, 1707 Cole Boulevard, Suite 350, Lakewood CO 80401.
  2. Designation of Record. Any party that seeks to reverse or modify the Initial Decision of the hearing officer shall file with the state licensing authority, within 20 days from the mailing of the Initial Decision, a designation of the relevant parts of the record and of the parts of the hearing transcript which shall be prepared, and advance the costs therefore. A copy of this designation shall be served on all parties. Within ten days thereafter, any other party may also file a designation of additional parts of the transcript of the proceedings which is to be included and advance the cost therefore. No transcript is required if the review is limited to a pure question of law. A copy of this designation of record shall be served on all parties.
  3. Deadline Modifications. The state licensing authority may modify deadlines and procedures related to the filing of exceptions to the initial decision upon motion by either party for good cause shown.
  4. No Oral Argument Allowed. Requests for oral argument will not be considered.
- I. No Ex Parte Communication. Ex parte communication shall not be allowed at any point following the formal initiation of the hearing process. A party or counsel for a party shall not initiate any communication with a hearing officer or the state licensing authority, or with conflicts counsel representing the hearing officer or state licensing authority, pertaining to any pending matter unless all other parties participate in the communication or unless prior consent of all other parties (and any pro se parties) has been obtained. Parties shall provide all other parties with copies of any pleading or other paper submitted to the hearing officer or the state licensing authority in connection with a hearing or with the exceptions process.

- J. Liquor Enforcement Division representation. The Division shall be represented by the Colorado Department of Law.

**Regulation 47-912. Identification.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), 44-3-410(2)(a)(IV), and 44-3-901(11)(a), C.R.S. The purpose of this regulation is to define adequate identification criteria for purposes of demonstrating age, and establish the factors of an affirmative defense available to a licensee for an alleged sale to a minor.

- A. Except as otherwise provided in section 44-3-901(11), C.R.S., licensees may refuse to sell alcohol beverages to any person if unable to verify the person is at least twenty-one years of age. Verification of age can be done by either:
1. Producing adequate identification of age, including any verified digital identification, that is valid and unexpired. Identification of age is adequate if it contains a picture and date of birth and is one of the following:
    - a. Any type of driver's license, or identification card issued by any state within the United States, the District of Columbia, any U.S. Territory, or any foreign country, including Canada or Mexico;
    - b. A United States military identification card or any other identification card issued by the United States government including, but not limited to, a permanent resident card, alien registration card, or consular card;
    - c. A passport, or passport identification card;
    - d. A valid consular identification card from any foreign country; or
  2. Using a biometric identity verification device. For purpose of this regulation, "biometric identity verification device" means a device that instantly verifies the identity and age of a person by an electronic scan of a biometric characteristic of the person, such as a fingerprint, iris, face, or other biometric characteristic, or any combination of these characteristics; references the person's identity and age against any record of identification described in paragraph (A)(1) of this regulation; and contemporaneously provides the licensee with identity and age verification for the person utilizing the device. Prior to using a biometric identity verification device to verify the identity and age of a person for purposes of this paragraph (A)(2), the licensee shall ensure the device provider has systems in place to:
    - a. Verify the authenticity of any identification records by an electronic authentication process;
    - b. Verify the identity of, and relevant identifying information about, the person through a secondary, electronic authentication process or set of processes utilizing commercially available data, such as a public records query or a knowledge-based authentication quiz; and
    - c. Securely link the authenticated record to biometric characteristics contemporaneously collected from the person and store the authenticated record in a centralized, highly secured, encrypted biometric database.

- B. It shall be an affirmative defense to any administrative action brought against a licensee for alleged sale to a minor if the licensee meets its burden of proof to establish, by a preponderance of the evidence, that:
1. The minor presented fraudulent identification of the type established in paragraph (A)(1) of this regulation, and the licensee possessed an identification book issued within the past two (2) years, which contained a sample of the specific kind of identification presented for compliance purposes, or;
  2. The licensee used and relied upon a biometric identity verification device that indicated the minor was twenty-one years of age or older, in accordance with paragraph (A)(2) of this regulation.
  3. A licensee asserting the affirmative defense, as described in Paragraph (B)(2) of this regulation, shall be responsible for obtaining, and providing to the Division, all records necessary to establish that a biometric identity verification device was used as age verification for the transaction in question.
- C. If a liquor-licensed drugstore **or fermented malt beverage and wine retailer** elects to use a biometric identity verification device at a self checkout machine or other mechanism described in section 44-3-410(2)(a)(III) **or 44-4-107(4)(b)**, C.R.S., **respectively**, it shall not allow a consumer to complete the alcohol beverage purchase without assistance from and completion of the entire transaction by an employee of the liquor-licensed drugstore **or fermented malt beverage and wine retailer**.

### **Regulation 47-913. Age of Employees.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), ~~and 44-3-202(2)(a)(I)(R)~~, **44-3-901(6)(p)**, **and 44-4-106(1)**, C.R.S. The purpose of this regulation is to define permitted and prohibited roles for a liquor licensee's employees based upon the employee's age.

- A. Nothing within this regulation shall authorize a licensee to permit a person under the age of eighteen (18) to sell, dispense, serve, or participate in the sale, dispensing, or service of alcohol beverages.
- B. Except as otherwise provided by this regulation, a licensee shall not permit a person who is at least eighteen (18) years of age but less than twenty-one (21) years of age to sell, dispense, or serve alcohol beverages unless the employee is supervised by another person who is on the licensed premises and is at least twenty-one (21) years of age.
- C. Tavern and lodging and entertainment licensees that do not regularly serve meals.
1. Employees or agents of the licensee must be at least twenty-one (21) years of age to handle and otherwise act with respect to malt, vinous, and spirituous liquors in the same manner as that person does with other items sold at retail and to sell such alcohol beverages or check identification of the customers of the retail outlet.
- D. Retail liquor store and liquor-licensed drugstore licensees.
1. Retail liquor store and liquor-licensed drugstore licensees may permit a person who is at least eighteen (18) years of age to sell, serve, or participate in the sale or service of malt, vinous, and spirituous liquor without the need for supervision contained in subsection (B) of this Regulation.

2. Retail liquor store and liquor-licensed drugstore licensees shall not permit a person who is less than twenty-one (21) years of age to deliver malt, vinous, and spirituous liquor pursuant to Regulation 47-426, 1 C.C.R. 203-2.

E. Fermented malt beverage licensees.

1. ~~Fermented Malt Beverage On or On/Off Retail Licenses: Subsections (A) and (B) of this regulation apply for fermented malt beverage retailers licensed for on premises and on/off premises consumption. Fermented malt beverage licensees may permit a person who is at least eighteen (18) years of age to sell, serve, or participate in the sale or service of fermented malt beverages.~~
2. ~~Fermented Malt Beverage and Wine Retailer Licensees. Fermented malt beverage licensees for sales for consumption off the licensed premises shall not permit a person who is less than twenty-one (21) years of age to deliver fermented malt beverages pursuant to Regulation 47-426, 1 C.C.R. 203-2.~~
  - a. Fermented malt beverage and wine retailer licensees may permit a person under eighteen (18) years of age who is supervised by a person on the premises eighteen (18) years of age or older to be employed on the licensed premises and handle fermented malt beverages or wine in the same respect as other items sold at retail, except a person under the age of eighteen (18) years of age shall not:
    - i. sell or dispense fermented malt beverages or wine;
    - ii. check age identification; or
    - iii. make deliveries beyond the customary parking area of the licensed premises
  - b. Fermented malt beverage and wine retailer licensees may permit a person who is at least eighteen (18) years of age, to sell, serve, or participate in the sale or service of fermented malt beverages or vinous liquor.
  - c. Fermented malt beverage and wine retailer licensees shall not permit a person who is less than twenty-one (21) years of age to deliver fermented malt beverages or vinous liquor pursuant to Regulation 47-426, 1 C.C.R. 203-2.

F. Special event permit holders:

1. No person under eighteen (18) years of age may sell, serve, dispense or handle alcohol beverages.
2. Malt, vinous, and spirituous liquors special event permittees, and fermented malt beverage special event permittees, may permit a person who is at least eighteen (18) years of age but less than twenty-one (21) years of age to sell, serve, dispense, or handle alcohol beverages when said person is under the direct supervision of a person who is at least twenty-one (21) years of age.

G. Wholesalers and Manufacturers licensed pursuant to article 3, of title 44, C.R.S.

1. Employees or agents of the licensee who are at least eighteen (18) years of age may

handle and otherwise act with respect to alcohol beverages in the same manner as such person would with other items sold at wholesale, as long as they are under the direct supervision of a person who is at least twenty-one (21) years of age. However, persons under the age of twenty-one (21) shall not sell malt, vinous, or spirituous liquors or check identification of the customers of the permitted sales room.

**Regulation 47-1000. Qualifications for Special Event Permit.**

Basis and Purpose. The statutory authority for this regulation includes but is not limited to subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), and 44-5-102, C.R.S. The purpose of this regulation is to define the types of organizations that qualify for a special event permit.

A special event permit under the Special Event Code may be issued to:

- A. An organization, whether or not presently licensed under the Liquor Code or Beer and Wine Code, that:
  - 1. Has been incorporated under the laws of this state for social, fraternal, patriotic, political, educational, or athletic purposes, and not for pecuniary gain
  - 2. Is a regularly chartered branch, lodge, or chapter of a national organization or society organized for social, fraternal, patriotic, political, educational, or athletic purposes and is nonprofit in nature.
  - 3. Is a regularly established religious or philanthropic institution.
  - 4. Is a state institution of higher education, to include each principal campus of such institution.
- B. Any municipality, county, or special district.
- C. Any political candidate who has filed the necessary reports and statements with the secretary of state pursuant to article 45 of title 1, C.R.S. As used in this regulation:
  - 1. "Political" as used in article 5 of title 44, shall mean any political organization or political party;
  - 2. "Political organization" means any group of registered electors who, by petition for nomination of an unaffiliated candidate as provided in section 1-4-802, C.R.S., places upon the official general election ballot nominees for public office pursuant to section 1-1-104(24), C.R.S. as defined in section 1-1-104, C.R.S.; and
  - 3. "Political party" means either a major political party or a minor political party pursuant to 1-1-104(25), C.R.S. However, no permit shall be required for those individuals or candidates campaigning or running for public office and who sponsor fund raising activities when such activities are held in a private residence and there is no cash bar in operation.
- D. An entity that is either a state agency, the Colorado Wine Industry Development Board created in section 35-29.5-103, C.R.S., or an instrumentality of a municipality or county, provided that the entity promotes:
  - 1. Alcohol beverages manufactured in the state; or
  - 2. Tourism in an area of the state where alcohol beverages are manufactured.