

**DEPARTMENT OF REVENUE**

**Liquor Enforcement Division**

**COLORADO LIQUOR RULES**

**1 CCR 203-2**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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**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(a)(I)(R), 44-3-410(2)(a)(IV), and 44-3-901(11), 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 unable to produce adequate identification of age that is valid and unexpired. Identification of age, INCLUDING ANY VALID AND VERIFIED DIGITAL IDENTIFICATION, is adequate if it contains a picture and date of birth and is one of the following, OR IF IDENTIFICATION OF AGE IS VERIFIED THROUGH A BIOMETRIC IDENTITY VERIFICATION DEVICE AS SET FORTH IN PARAGRAPH (C) BELOW verify the person is at least twenty-one years of age. Verification of age can be done by either:

41. 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;

~~2. Repealed.~~

3b. 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;

4c. A passport, or passport identification card;

~~5. Repealed.~~

~~6. Repealed.~~

7d. 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 OF THE PERSON, THROUGH A FINGERPRINT, IRIS IMAGE, FACIAL IMAGE 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 COMMERCIALY 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 ~~THE~~ MINOR PRESENTED FRAUDULENT IDENTIFICATION OF THE TYPE ESTABLISHED IN PARAGRAPH (A)(1) ABOVE OF THIS REGULATION, AND THE LICENSEE POSSESSED AN IDENTIFICATION BOOK ISSUED WITHIN THE PAST THREE 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 PARAGRAPHS PARAGRAPH (A) AND (C) OF (A)(2) OF THIS REGULATION. ~~AS AN AFFIRMATIVE DEFENSE, THE BURDEN OF PROOF IS ON THE LICENSEE TO ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THAT THE MINOR PRESENTED FRAUDULENT IDENTIFICATION.~~
  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. ~~The identification types defined in paragraph (A) of this regulation fulfill the requirements of a valid identification stated in section 44-3-901(11)(a), C.R.S. "BIOMETRIC IDENTITY VERIFICATION DEVICE" MEANS A DEVICE THAT INSTANTLY VERIFIES THE IDENTITY AND AGE OF A PERSON BY AN ELECTRONIC SCAN OF A BIOMETRIC OF THE PERSON, THROUGH A FINGERPRINT, IRIS IMAGE, FACIAL IMAGE, 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) OF THIS REGULATION; AND CONTEMPORANEOUSLY PROVIDES THE ALCOHOL BEVERAGE RETAILER WITH AGE VERIFICATION FOR THE CUSTOMER UTILIZING THE DEVICE. IF A LIQUOR-LICENSED DRUG STORE 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), C.R.S., 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.~~

[Please Note – For clarity, the redline changes to this Regulation reflect proposed changes to the Regulation as *it will be*, effective January 1, 2020. Currently, the changes to the Regulation from the 2019 rulemaking year have been adopted by the State Licensing Authority, but will not become effective until January 1, 2020].