

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

Emergency Rule

Regulation 47-1101 – Delivery and Takeout Sales Authorized Under Executive Order(s)

Statement of Emergency Justification and Adoption

Pursuant to sections 24-4-103, 44-3-201, and 44-3-202, C.R.S., I, Heidi Humphreys, Deputy Executive Director/Chief Operating Officer of the Department of Revenue and State Licensing Authority, hereby adopt the aforementioned Colorado Liquor Rule, which is 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 this rule, 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.; (2) the adoption of this rule is 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 this rule includes but is not limited to subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(M), 44-3-202(2)(a)(I)(R), 44-3-601, and 24-104(4)(a), C.R.S.

Purpose

The State Licensing Authority is adopting this rule on an emergency basis due to the ongoing threat to public health in the state of Colorado caused by the spread of novel coronavirus 2019 (COVID-19). On March 11, 2020, the Governor of Colorado declared a State of Emergency related to the presence of COVID-19 in the state of Colorado. On March 13, 2020, the President of the United States declared a National Emergency due to COVID-19.

In order to slow the spread of COVID-19, the Colorado Department of Public Health and Environment (CDPHE) issued Public Health Order 20-22 (PHO 20-22) on March 16, 2020. PHO 20-22 was updated and extended on March 19, 2020. Many of the establishments subject to PHO 20-22 hold licenses issued under articles 3, 4, and 5 of title 44.

In order to minimize the economic impacts of PHO 20-22, the Governor of Colorado issued Executive Order D 2020 011 – Ordering the Temporary Suspension of Certain Regulatory Statutes Due to the Presence of COVID-19 on March 20, 2020. Executive Order D 2020 011 suspends certain provisions of articles 3 and 4 of title 44 to allow certain persons licensed to sell alcohol beverages for on-premises consumption to also sell alcohol beverages through delivery and takeout.

On March 25, 2020, the Governor of Colorado issued Executive Order D 2020 017 – Ordering Coloradans to Stay at Home Due to the Presence of COVID-19 in the State. In conjunction with Executive Order 2020 017, CDPHE issued Public Health Order 20-24 Implementing Stay at Home Requirements (PHO 20-24), which was updated on March 26, 2020. The updated PHO 20-24 expressly authorizes the continued operation of “Restaurants and Bars (for takeout/delivery only as necessary under Executive Order D 2020 011 and PHO 20-22, as amended).”

Further, in light of the ongoing impact of COVID-19, it is possible the Governor of Colorado may find it necessary to issue executive orders subsequent to Executive Order D 2020 011 which extend, amend, expand, or limit the suspension of statutory license limitations related to the sale of alcohol beverages through delivery or takeout.

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, Colorado Beer Code, and Special Event Liquor Permits Code as a matter of statewide concern. In light of the ongoing impact of COVID-19 and Executive Order D 2020 011, the adoption of this emergency rule 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 in order to preserve the public health, safety, and welfare of the State of Colorado. In particular, adopting this rule on an emergency basis will ensure the preservation of the public health, safety, and welfare of the State of Colorado by establishing requirements for businesses licensed under articles 3 and 4 of title 44 that sell alcohol beverages through delivery and takeout under Executive Orders D 2020 011 and/or any subsequent executive order(s). The requirements established in this emergency rule address topics including acceptable containers of alcohol beverages sold through delivery and takeout, labeling of containers, age verification procedures, and necessary recordkeeping.

Adoption, Effective Date, and Expiration

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

Heidi Humphreys Digitally signed by Heidi Humphreys
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Heidi Humphreys
Deputy Executive Director/Chief Operating Officer
Colorado Department of Revenue
State Licensing Authority

Date