

Regulation 47-009. Fermented Malt Beverage and Wine Retailer 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), 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.

- 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 for the structure has been timely applied for or received ~~on or prior to January 1, 2019. 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 Licenses.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, 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 for the structure has been applied for or received ~~on or prior to January 1, 2019. 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 47-322. 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, 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, 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 ~~or to fermented malt beverage on/off premises retailers~~ 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.
 - ~~e. The retailer has not purchased the product SKU of the alcohol beverage offered as a sample within the previous six (6) months.~~
 - cd. 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.

- de. 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.
 - e. Neither manufacturers that do not hold a wholesaler license, nor retail licensees that do not have the privilege to sell at wholesale associated with their licenses, may provide alcohol beverage samples to retailers under subparagraph (1).
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 47-405. Festival 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), 44-3-404(10), and 44-3-601(9), C.R.S. The purpose of this regulation is to address eligibility, requirements, and restrictions for festival permits under section 44-3-404, C.R.S.

A. Festival Permits.

1. The following license types are eligible to obtain a festival permit or participate in a festival for which a permit has been obtained:
 - a. A manufacturer license under section 44-3-402, C.R.S.;
 - b. A limited winery license under section 44-3-403, C.R.S.;
 - c. A wholesaler's license under section 44-3-407, C.R.S.;
 - d. A beer and wine license under section 44-3-411, C.R.S.;

- e. A hotel and restaurant license under section 44-3-413, C.R.S.;
 - f. A tavern license under 44-3-414, C.R.S.;
 - g. A brew pub license under 44-3-417, C.R.S.;
 - h. A vintner's restaurant license under 44-3-422, C.R.S.; and
 - i. A distillery pub license under 44-3-426, C.R.S.
2. For purposes of this regulation, the term "permittee" means a licensee under Regulation 47-405(A)(1) that has received a festival permit under this Regulation 47-405.
3. A festival may be held on the following premises, subject to the approval of the state licensing authority and the local licensing authority, if applicable:
- a. On the licensed premises of a licensee eligible to obtain a festival permit, so long as the licensed premises has been modified in accordance with Regulation 47-302 to exclude the area where the festival will be held; or
 - b. On an otherwise unlicensed premises with permission from the premises owner.

B. Initial Festival Permit Application

1. Only licensees listed in Regulation 47-405(A) may file a festival permit application with the state licensing authority. The initial festival permit application must be filed with the state licensing authority, and, if applicable the local licensing authority, at least thirty (30) calendar days before the date the first festival is to be held, and must include:
- a. The eligible license type and license number of the festival permit applicant;
 - b. A description of the licensed premises for the first festival, including whether the licensed premises for the festival is located on an existing licensed premises that has been modified;
 - c. The date of the first festival;
 - d. Duration of the festival, which cannot exceed seventy-two (72) hours;
 - e. A processing fee of fifty dollars (\$50 USD);
 - f. Contact information of a primary contact for each participating licensee including name, title, phone number and email address;
 - g. Any special event permit application that has been or will be filed in connection with the festival;
 - h. Confirmation that the applicant has provided notification to the local licensing authority of the location and date of the initial festival;

- i. A security and control plan, which must be provided to and agreed to by each participating licensee, which specifies:
 - i. Hours of service of alcohol beverages;
 - ii. Entries and exits;
 - iii. How and where alcohol will be secured and stored when setting up for the festival, during the festival, and after conclusion of the festival;
 - iv. How visibly intoxicated parties will be handled; and
 - v. How the licensee plans to prevent persons under twenty-one (21) years of age from consuming or purchasing alcohol beverages.
 - j. Active Colorado liquor license numbers not under suspension for the applicant and each participating licensee;
 - k. Identification of any violations at a festival committed by the applicant or any participating licensee during the preceding three years; and
 - l. Such other information as required on form approved by the state licensing authority.
2. The applicant must apply with the state licensing authority and, if applicable, the local licensing authority, at least thirty (30) calendar days before holding the initial festival under the festival permit. If the applicant does not provide the application to one or both of the applicable licensing authorities at least thirty (30) calendar days before holding the initial festival, the application will be denied by the state licensing authority.
 3. A festival permit must be approved by the state licensing authority before the first festival can be held.
 4. Once a permittee files an initial festival permit application, it may only add participating licensees for the initial festival set forth in subpart (B)(1)(j) of this regulation by providing written notice to the state and local licensing authority, at least fifteen (15) calendar days prior to the first festival, as calculated pursuant to section 2-4-108, C.R.S.

C. Local festival permit from the Local Licensing Authority.

1. If required by the local licensing authority, the festival permit applicant must also obtain a local festival permit. The licensee must file the festival permit application with the Division at the same time they file with any local licensing authority.
2. If the licensee filing the festival permit application holds a limited winery license, or a winery license, then a festival permit from the local licensing authority is not required.
3. A festival permit from a local licensing authority is not required if the festival permit applicant also applies for a special event liquor permit issued under article 5 of title 44.

D. Subsequent Festival Permit Application(s).

1. Festival Participation Limits

- a. Each permittee may hold up to but no more than a total of nine (9) festivals in a twelve (12) month period. This Paragraph 1(a) will expire on December 31, 2023.
- b. A licensee may participate in up to fifty-two festivals each calendar year, including up to nine festivals held under a festival permit issued to the licensee under subsection 44-3-404(1)(c), C.R.S.
- c. Each permittee may hold up to but no more than a total of nine (9) festivals in a calendar year. This Paragraph 1(c) will take effect on January 1, 2024.

2. The permittee must notify the state licensing authority, and the local licensing authority if required under Section C above, at least thirty (30) calendar days before holding any subsequent festivals under the festival permit, by filing a subsequent festival permit application. If the applicant does not provide the application to the applicable licensing authorities at least thirty (30) calendar days prior to the subsequent festival, the application will be denied by the state licensing authority. Each subsequent festival permit application must include:

- a. The festival permit number;
- b. The festival permit expiration date;
- c. The festival permittee license name;
- d. A description of the licensed premises where the festival will be held, **including whether the licensed premises for the festival is located on an existing licensed premises that has been modified;**
- e. The date of the festival;
- f. Duration of the festival, which cannot exceed seventy-two (72) hours;
- g. The dates of all prior festivals occurring under the festival permit;
- h. The number of prior festivals that have previously occurred under the festival permit;
- i. A processing fee of fifty dollars (\$50 USD);
- j. Contact information of a primary contact for each participating licensee including name, title, phone number and email address;
- k. Any special event permit application that has been or will be filed in connection with the festival;
- l. Confirmation that the applicant has provided notification to the local licensing

authority of the location and dates of each festival;

- m. A security and control plan, which must be provided to and agreed to by each participating licensee, which specifies:
 - i. Hours of service of alcohol beverages;
 - ii. Entries and exits;
 - iii. How and where alcohol will be secured and stored when setting up for the festival, during the festival, and after conclusion of the festival;
 - iv. How visibly intoxicated parties will be handled; and
 - v. How the licensee plans to prevent persons under twenty-one (21) years of age from consuming or purchasing alcohol beverages.
 - n. Active Colorado liquor license numbers not under suspension for the applicant and each participating licensee;
 - o. Identification of any violations at a festival committed by the applicant or any participating licensee during the preceding three years; and
 - p. Such other information as required on form approved by the state licensing authority.
- 3. If the subsequent festival permit application is being filed in a different jurisdiction than the initial festival permit application, the permittee must ensure that an original festival permit application is filed with the subsequent festival jurisdiction's local licensing authority, if applicable.
 - 4. A subsequent festival permit application is deemed approved if held in the same jurisdiction as the initial festival unless the state and, if applicable, the local licensing authority provides the permittee with a notice of denial at least seventy-two hours prior to the date of the subsequent festival.
 - 5. The permittee must file the subsequent festival permit application, but other eligible licensees may jointly participate under the festival permit issued to the permittee, unless timely denied by the state or local licensing authority.
 - 6. Once a permittee files a subsequent festival permit application, it may only add participating licensees for that subsequent festival set forth in subpart (D)(2)(n) of this regulation by providing written notice to the state and local licensing authority, at least fifteen (15) calendar days prior to that subsequent festival, as calculated pursuant to section 2-4-108, C.R.S.

E. Festival Tastings and Sales.

- 1. For purposes of this regulation 47-405, "festival tastings" is defined as consumption on the premises of a festival permit.

2. The permittee and licensees participating in the festival may conduct festival tastings and sales of their respective alcohol beverages during the festival which the permittee or licensee could conduct at their respective licensed premises.
 - a. Manufacturers of vinous and spirituous liquors may conduct festival tastings and sales of their products at a festival pursuant to the abilities granted to them under 44-3-402(2)(a) and/or 44-3-402(7)(a), C.R.S.
 - b. Manufacturers of malt liquors may conduct festival tastings and sales of their products at a festival as long as they possess a valid sales room license pursuant to 44-3-407(1)(b)(II)(A), C.R.S.
3. Regulation 47-313 on tastings applies to Retail Liquor Store, Liquor Licensed Drugstore, and fermented malt beverage and wine retailer licensees and does not apply to festival tastings.

F. Denials.

1. The state licensing authority may deny a festival permit or subsequent festival permit application if:
 - a. A documented history of violations under article 3 of title 44 of these regulations by the permittee or any participating licensee;
 - b. The permittee or any participating licensee is ineligible for a festival permit;
 - c. An application is incomplete or late; or
 - d. There is a finding that the application, if granted, would result in violations of article 3 of title 44, these regulations, or ordinances or regulations of a local licensing authority.

G. Violations.

1. Violating Licensee Identified
 - a. If a violation occurs during a festival permitted under this regulation and the permittee or the jointly participating licensee(s) responsible for the violation can be identified, the state and local licensing authorities may impose appropriate penalties pursuant to section 44-3-601, C.R.S., Regulation 47-602, and Regulation 47-603 on the identified permittee or the jointly participating licensee(s) per violation.
 - b. Pursuant to section 44-3-601(9), C.R.S., when a permittee or participating licensee violates provisions of the Liquor Code that prohibit the service of an alcohol beverage to a minor or a visibly intoxicated person, the state and local licensing authorities shall consider it a mitigating factor if the permittee or the jointly participating licensee(s) responsible for a violation is a responsible alcohol beverage vendor as defined in section 44-3-1002, C.R.S., and pursuant to the requirements of Regulation 47-605.

2. Violating Licensee Cannot be Identified
 - a. If a violation occurs during a festival permitted under this regulation and the permittee or the jointly participating licensee(s) responsible for the violation cannot be identified, the state licensing authority may send a written notice to every licensee identified on the festival permit application or subsequent permit application, respectively, and may fine each the same dollar amount, which cannot exceed twenty-five (25) dollars per licensee or two hundred dollars in the aggregate per violation.
 - b. A joint fine levied pursuant to this subsection does not apply to the revocation or suspension of the licensee's license under section 44-3-601, C.R.S., or Regulation 47-603.
 - c. A joint fine levied pursuant to this section need not be reported as a substantive violation on the underlying liquor license renewal application for any permittee or jointly participating licensee assessed such a fine.
3. If a violation occurs during a special event festival as defined in Regulation 47-1014(B), a single penalty shall be imposed for a violation under this regulation and Regulation 47-1014(B) to avoid a double penalty for the same conduct.

Regulation 47-410. Retail Warehouse Storage Permit.

Basis and Purpose. The statutory authority for this regulation includes, but it not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(K), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to establish parameters and clarify circumstances under which licensed retailers may keep or store alcohol beverages in permitted warehouses, ~~except that a and limitations on the same if the retail licensee is a~~ liquor licensed drugstore licensed under section 44-3-410, C.R.S., ~~is not eligible for a retail warehouse storage permit.~~

- A. No alcohol beverages shall be stored or kept in or upon any premises that is not duly licensed, however, the state licensing authority may issue a warehouse storage permit to retail licensees licensed pursuant to article 3 of title 44, C.R.S. for the storage only of permitted alcohol beverages in one, but not more than three (3), locations other than the licensed premises. The application for such permit shall specify the address of the proposed storage location and shall include documentation that the licensee is in possession of said premises by way of ownership, lease, or other arrangement.
 1. For off-premises licensed retailers, ~~except as set forth in subparagraph (4) of this paragraph (A)~~, alcohol beverages permitted for storage within a storage warehouse shall include vinous and spirituous liquors only.
 2. For on-premises licensed retailers, alcohol beverages permitted for storage within a storage warehouse shall include fermented malt beverages and malt, vinous and spirituous liquors. However, fermented malt beverages or malt liquor stored in a permitted warehouse shall only be stored for a period not to exceed ten days after date of delivery, so as not to interfere with manufacturers' freshness standards.
 3. Notwithstanding any provision of this regulation, a liquor-licensed drugstore shall not

store alcohol beverages off the licensed premises, and is not eligible for a retail warehouse storage permit pursuant to section 44-3-410(5)(a), C.R.S.

4. For a Fermented Malt Beverage and Wine Retailer licensed for consumption off the licensed premises pursuant to subsection 44-4-104(1)(c)(I)(A), C.R.S., vinous liquors only may be permitted for storage within a storage warehouse.
- B. Title to all alcohol beverages, stored or kept pursuant to a warehouse storage permit shall be vested in such permit holder.
- C. Alcohol beverages may not be sold or delivered to consumers from the permitted warehouse premises, however, deliveries from wholesalers may be accepted at the permitted warehouse premises.
- D. Any retail licensee obtaining a warehouse storage permit, shall provide a copy of said permit to the local licensing authority and shall display such permit in a prominent place within their licensed premises and within the permitted warehouse premises.

Regulation 47-436. Retail Establishment Permit, Including but not Limited to Art Galleries.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 2-4-107, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), 44-3-424, 44-3-501(1)(t), 44-3-502, and 44-3-505, C.R.S. The purpose of this regulation is to address eligibility, requirements, restrictions, and fees for retail establishments, which includes art galleries, that wish to obtain a permit under 44-3-424, C.R.S.

A. Application

1. Eligible retail establishments may obtain a retail establishment permit by submitting an application and the required fees. The application must include:
 - a. The name of the applicant;
 - b. The physical address of the applicant where the service will occur;
 - c. The state sales tax number of the applicant;
 - d. A copy of a deed or lease in the exact name of the applicant reflecting possession of the premises for at least one year after the date of the application;
 - e. A diagram of the premises that reflects the area within the premises where alcohol beverages will be stored, served, possessed and consumed;
 - f. Each date and the start and end times that the applicant will provide complimentary beverages to its customers under the permit, if granted;
 - g. The license number and license type of any liquor license(s) held by the applicant, if any;
 - h. Fees

- i. The annual state retail establishment permit fee is seventy-two dollars (\$72.00). This fee is allocated by statute as follows:
 - A. Fifty dollars (\$50.00) to the Liquor Enforcement Division and State Licensing Authority Cash Fund;
 - B. Eighteen dollars and seventy cents (\$18.70) to the Old Age Pension Fund, which is eighty-five percent (85%) of the remainder of the fee; and
 - C. Three dollars and thirty cents (\$3.30) to the General Fund.
 - ii. The annual local retail establishment permit fee is twenty-five dollars (\$25.00). This fee is allocated by statute as follows:
 - A. Twenty-one dollars and twenty-five cents (\$21.25) to the Old Age Pension Fund, which is eighty-five percent (85%) of the fee; and
 - B. Three dollars and seventy-five cents (\$3.75) to the local license authority.
 - iii. A local licensing authority may also charge a local application fee, in an amount determined by the local licensing authority to cover actual and necessary expenses, in an amount not to exceed two hundred dollars (\$200). The entire local application fee is retained by the local licensing authority.
- i. Notice or approval from the local licensing authority; and
 - j. Affirmations that the applicant:
 - i. Qualifies as a retail establishment;
 - ii. Does not have more than 25 employees;
 - iii. Does not have retail sales that exceed five million dollars per year;
 - iv. Does not sell firearms, motor vehicles, marijuana, gasoline, or diesel fuel;
 - v. Does not educate students from kindergarten to twelfth grade;
 - vi. Does not provide child care;
 - vii. Is not a convenience store;
 - viii. Does not sell alcohol beverages by the drink;
 - ix. Will not serve alcohol beverages for more than four hours in any twenty-four hour period, and no more than 24 days per calendar year;
 - A. All service shall occur during the twenty-four hour period beginning with the first hour of service. However, the four-hour service period does not need to be consecutive.

- x. Will not intentionally allow more than 250 people to be on its premises at one time when alcohol beverages are being served;
 - xi. Will not serve or distribute alcohol beverages between 2 a.m. and 7 a.m.
 - xii. Will not allow alcohol beverages to be removed from the retail establishment by a customer.
 2. Once an applicant receives a retail establishment permit, it may only change the dates and times that the permittee will provide complimentary beverages to its customers set forth in subpart (2)(a)(vi) of this regulation by providing fifteen (15) calendar days written notice to the state and local licensing authority, as calculated pursuant to section 2-4-108, C.R.S.

B. Serving

1. The age of servers under this regulation is set forth in Regulation 47-913(H).
2. Serving sizes
 - a. The serving size of complimentary malt liquor cannot exceed twelve ounces.
 - b. The serving size of a complimentary vinous liquor cannot exceed five ounces. The vinous liquor can be mixed with a non-alcoholic beverage to make a larger serving size.
 - c. The serving size of a complimentary spirituous liquor cannot exceed one and one-half ounces. The spirituous liquor can be mixed with a non-alcoholic beverage to make a larger serving size.
 - d. The serving size of a pre-mixed alcohol beverage drink cannot exceed twelve ounces.
 - e. Pre-mixed alcohol beverages or mixed drinks made in public view cannot exceed the maximum allowed amount of alcohol beverage in each drink, as set forth in this subsection (a-c), served to a consumer.

C. Expiration

1. A permit issued under this regulation is valid for one year from the date the permit is issued.

D. Renewal

1. A permittee may renew an application for a retail establishment permit by submitting a renewal application containing all of the information contained in subsection (A)(1) of this regulation and payment of a state license fee of \$72, a local license fee of \$25, and any application fees as established by the applicable local licensing authority and, paid pursuant to Regulation 47-505.
2. Once an applicant receives a retail establishment permit, it may only change the dates that the permittee will provide complimentary beverages to its customers set forth in

subpart (A)(1)(vi) of this regulation by providing 15 calendar days written notice to the state and local licensing authority, as calculated pursuant to section 2-4-108, C.R.S.

E. Denials

1. The state or local licensing authority may deny a retail establishment permit application if the applicant fails to establish that it is able to offer complimentary alcohol beverages without violating section 44-3-424, C.R.S., or creating a public safety risk to the neighborhood of the applicant's retail establishment.
2. Neither the state nor the local licensing authority can deny an applicant based solely on the retail establishment's proximity to any public or private school, or principal campus of a college, university or seminary.

F. Alcohol

1. Alcohol beverages served under this permit must be purchased from a retail liquor store, liquor licensed drug store, fermented malt beverages and wine retailer, or a fermented malt beverage on/off premises retailer.
2. A retail establishment cannot serve malt beverages past the expiration date.
3. A retail establishment shall not permit customers to remove complimentary alcohol beverages from the premises of the retail establishment.
4. Following each event serving complimentary alcohol beverages, a retail establishment shall promptly destroy any unconsumed patrons serving containers and remove all open and unconsumed alcohol beverages from the sales area of the retail establishment.
5. Any open containers of unconsumed alcohol beverages or sealed containers of alcohol beverages shall be stored in a secure area outside the sales area of the retail establishment for use only at an approved event conducted at a later time or date. A secure area means:
 - a. A designated area, including, but not limited to, a closet, cabinet, or safe;
 - b. That is located at the retail establishment and not accessible to customers or any employees of the retail establishment under the age of twenty one (21); and
 - c. Is secured by a locking mechanism at all times while any open containers of unconsumed alcohol beverages are stored for use at a future event.

G. Violations

1. An applicant violates this regulation if it:
 - a. Violates any portion of article 3 of title 44;
 - b. Violates any requirement set forth in this regulation;
 - c. Fails to truthfully provide the information set forth in subpart (A)(1) of this regulation on its initial or renewal applications; or

- d. Charges an entrance fee or cover charge in exchange for offering complimentary alcohol beverages.

H. Penalties

1. The state and local licensing authorities may impose appropriate penalties pursuant to section 44-3-601, C.R.S., Regulation 47-602, and Regulation 47-603 for violations of article 3 of title 44 and this regulation.

Regulation 47-504. Payment of Excise Taxes by Non-licensees.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-106(4), 44-3-202(1)(b) and 44-3-503(2), C.R.S. The purpose of this regulation is to establish standards and procedures for excise taxes, surcharges, and fees payment and collection required of certain non- licensees.

- A. Persons twenty-one years of age or older, not licensed pursuant to this article, arriving at any airport in this state on an air flight originating in a foreign country who is thereby subject to customs clearance at the airport, may lawfully possess up to ~~one gallon or four liters (one imperial gallon), whichever measure is applicable,~~ the following amounts of an alcohol beverage without liability for the Colorado excise tax thereon::
 1. 2.25 gallons or 288 ounces of malt liquor;
 2. 2.25 gallons or 288 ounces of hard cider;
 3. 9 liters of vinous liquor; and
 4. 6 liters of spirituous liquor.
- B. Excise taxes on alcohol beverages in excess of the amounts listed in section (A) of this regulation ~~aforsaid four (4) liters (or one imperial gallon)~~ shall be paid to the Colorado Department of Revenue in the amounts set forth in section 44-3-503, C.R.S. Persons in possession of such alcohol beverages at the time of their arrival in Colorado shall be liable for the payment of excise taxes and fees thereon, and such payment shall be made within thirty (30) days of the date such alcohol beverages arrive in Colorado.
- ~~C.B.~~ Notwithstanding the above, persons receiving vinous liquors in this state pursuant to the provisions of section 44-3-104 C.R.S., are exempt from payment of excise taxes, surcharges, and fees on such vinous liquors.

Regulation 47-900. Conduct of Establishment.

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)(L), 44-3-202(2)(a)(I)(M), 44-3-202(2)(a)(I)(P), and 44-3-202(2)(a)(I)(R), C.R.S. 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 as a matter of statewide concern. The purpose of this regulation is to exercise proper regulation and control over the sale of alcohol beverages, promoting the social welfare, the health, peace and morals of the people of the State, and to establish uniform standards of decency, orderliness, and service within the licensed industry. Additionally, Sections 14 and 16 of Article XVIII of the Constitution of

Colorado do not permit open and public consumption of marijuana and the State Licensing Authority deems liquor licensed premises to be public places.

A. Orderliness, loitering, serving of intoxicated persons.

Each person licensed under Article 3, Article 4, and Article 5 of Title 44, and any employee or agent of such licensee shall conduct the licensed premises in a decent, orderly and respectable manner, and shall not serve a known habitual drunkard or any person who displays any visible signs of intoxication, nor shall they permit a known habitual drunkard or any person who displays any visible signs of intoxication to remain on the licensed premises without an acceptable purpose, nor shall the licensee, their employee or agent knowingly permit any activity or acts of disorderly conduct as defined by and provided for in ~~18-9-106 Section 18-92022106~~, C.R.S., nor shall a licensee permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the licensed establishment is located.

B. Attire and conduct of employees and patrons.

No person licensed under Article 3, Article 4, and Article 5 of Title 44, nor any employee or agent of such person licensed under these Articles shall engage in or permit the following:

1. Employment or use of any person in the sale or service of alcohol beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
2. Employment or use of the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in paragraph number (1) above.
3. Any person on the licensed premises touching, caressing or fondling the breasts, buttocks, anus, or genitals of any other person.
4. Any employee or person on the licensed premises wearing or using any device or covering of any kind, which exposes or simulates the breasts, genitals, anus, pubic hair or any other portion thereof.

C. Entertainment.

Live entertainment is permitted on any licensed premises, except that:

1. No person licensed under Article 3, Article 4, and Article 5 of Title 44, nor any employee or agent of such person licensed under these Articles shall engage in or permit any person to perform acts of or acts which simulate:
 - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - b. The touching, caressing or fondling of the breasts, buttocks, anus or genitals.
 - c. The displaying of pubic hair, anus, vulva or genitals.
2. No licensee nor any employee or agent of such licensee shall engage in or permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

3. No licensee nor any employee or agent of such licensee shall engage in or permit any person to remain in or upon the licensed premises who exposes to public view any portion of their genitals or anus.
4. No licensee nor any employee or agent of such licensee shall wear or use any device or covering of any kind that exposes or simulates the breasts, genitals, anus, pubic hair or other portion thereof.

D. Visual displays.

No person licensed under Article 3, Article 4, and Article 5 of Title 44, nor any employee or agent of such person licensed under these Articles, shall engage in or permit on the licensed premises the showing of film, still pictures, electronic reproduction, or other visual reproductions depicting:

1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
2. Any person being touched, caressed or fondled on the breasts, buttocks, anus or genitals.
3. Scenes wherein a person displays the vulva or the anus or the genitals.
4. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

E. Marijuana consumption.

No person or entity licensed under Article 3, 4, or 5 of Title 44, C.R.S. shall permit the consumption of marijuana and/or marijuana products as defined in sections 14 and 16 of Article XVIII of the Constitution of Colorado on any licensed premises.

F. Local ordinances.

This regulation shall not be deemed to authorize or permit any conduct, behavior or attire on licensed premises which is otherwise prohibited by any city or county ordinances.

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), 44-3-202(2)(a)(I)(R), ~~44-3-424(1)(b)(X) and (XI)~~, 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.
2. Fermented Malt Beverage and Wine Retailer Licensees.
 - 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.

H. Retail Establishment Permittee licensed pursuant to article 3, of title 44, C.R.S.

1. A retail establishment permittee shall not permit a person eighteen years of age or older and under twenty-one years of age to sell, dispense, or participate in the sale or dispensing of an alcohol beverage, unless the person is supervised by another person who is on the permitted premises and is at least twenty-one years of age.

Regulation 47-916. Advertising - Alcohol Content.

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)(H), and 44-3-202(2)(a)(I)(N), C.R.S. The purpose of this regulation is to provide guidance regarding certain prohibited advertising practices of malt, vinous, or spirituous liquor licensees regarding the alcohol content of beverages sold, distributed, or dispensed on the licensed premises.

No licensee for the sale or distribution of malt, vinous or spirituous liquor shall, upon or in proximity to, or referring to the licensed premises, use, advertise or exhibit, or permit to be used, published or exhibited, any sign, advertisement, display, notice, symbol or other device which advertises, indicates, implies or infers an alcohol content of alcohol beverages sold, distributed or dispensed upon such premises, of an amount or percentage greater or lesser than the actual alcohol content of such beverages.

Regulation 47-918. Removal of Alcohol Beverages from Premises.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections ~~42-4-1305~~, 44-3-202(1)(b), ~~and~~ 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), 44-3-423, 44-3-901(10), and 44-3-911, C.R.S. The purpose of this regulation is to make clear the circumstances under which alcohol may be removed from an on-premises licensee's licensed premises.

- A. Except as provided by Articles 3, 4, or 5 of Title 44, no licensee, manager or agent of any establishment licensed for on-premises consumption shall knowingly or recklessly permit the removal from the licensed premises of any alcohol beverages in sealed or unsealed containers.
1. Licensees that post signs as specified in subsection 44-3-901(10)(a)(II)(A), C.R.S., must post the signs at all exits in a location that can be easily identified and read by patrons using those exits.
 2. Regardless of whether a licensee posts a sign as specified in subsection 44-3-901(10)(a)(II)(A), C.R.S., the licensee may be charged with knowingly permitting the removal of an alcohol beverage from the licensed premises if the licensee shows reckless disregard for the prohibitions against alcohol beverage removal from the licensed premises that are applicable to their license or permit type.

- B. Licensees who may permit a patron to remove a partially consumed bottle of vinous liquor pursuant to section 44-3-423, C.R.S., shall reseal the bottle with a cork or other commercially manufactured stopper.
- C. Patrons transporting a partially consumed bottle of vinous liquor in a motor vehicle shall comply with the requirements of section 42-4-1305, C.R.S.
- D. Wholesalers may remove sealed and unsealed containers of alcohol beverages from liquor licensed premises that had been introduced during the retailer sampling.
- E. Licensees who may permit a patron to remove an alcohol beverage from the licensed premises pursuant to a takeout and delivery permit shall comply with the requirements of regulation 47-1101 and section 44-3-911, C.R.S.

Regulation 47-920. Solicitation of Drinks.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, ~~is located at~~ subsections 44-3-202(1)(b), and 44-3-202(2)(a)(I)(M), C.R.S. The purpose of this regulation is to prohibit the solicitation of a drink or the purchase of a drink for the solicitor, whether the solicitor is an employee, agent, or any person on the licensed premises.

- A. No licensee, manager or agent shall employ or permit upon any premises licensed for on-premises consumption, any employee, waiter, waitress, entertainer, host or hostess to mingle with patrons and personally beg, procure, or solicit the purchase or sale of drinks or alcohol beverages for the use of the one begging, procuring or soliciting or for the use of any other employee.
- B. No licensee, manager or agent selling alcohol beverages for consumption on the premises shall permit anyone to loiter in or about said premises who solicits or begs any patron or customer of, or visitor in, such premises to purchase any drinks or alcohol beverages for the one soliciting or begging.

Regulation 47-922. Gambling.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections ~~18-10-102(2), 18-10-102(3), 18-10.5-102(2), 18-10.5-102(3.5), 18-10.5-102(6),~~ 44-3-202(1)(b), 44-3-202(2)(a)(I)(M), ~~and~~ 44-3-901(6)(n), ~~and 44-30-103(30)(a),~~ C.R.S. The purpose of this regulation is to clarify and define prohibited and permitted activities, games, and equipment on the licensed premises concerning gambling.

- A. Activities prohibited.
 - 1. No person licensed under Article 3, Article 4 ~~and or~~ Article 5 of Title 44 to sell at retail shall authorize or permit on the licensed premises any gambling, or use of any gambling machine or device, or the use of any machine which may be used for gambling, ~~or the use of any simulated gambling device,~~ except as specifically authorized for a racetrack, pursuant to Article 32 of Title 44, C.R.S., or for limited gaming, pursuant to Article 30 of Title 44, C.R.S.
 - 2. No person licensed under ~~these~~ Articles 3, Article 4 ~~and or~~ Article 5 of Title 44 shall authorize or permit on the licensed premises the holding of any lottery, except as authorized by Article 40 of Title 44, C.R.S., ~~4973~~ and any rules and regulations promulgated thereunder. Nothing in this regulation shall be deemed to prohibit the conducting of games of chance authorized by the bingo and raffles law (~~Part 6 of Article 219 of Title 2412,~~ C.R.S. ~~4973~~).

B. Equipment prohibited.

1. No person licensed under Article 3, Article 4 ~~or and~~ Article 5 of Title 44 to sell at retail shall authorize, permit or possess on the licensed premises any table, machine, apparatus or device of a kind normally used for the purpose of gambling, ~~or a simulated gambling device~~, except as specifically authorized and when licensed for limited gaming, pursuant to Article 30 of Title 44 C.R.S. Prohibited equipment shall include video poker machines and other devices, defined either as slot machines pursuant to ~~section C.R.S. 44-30-103(30)(a), C.R.S., and/or~~ gambling devices ~~pursuant to C.R.S. 18-10-102, and simulated gambling devices.~~

C. Equipment permitted.

1. Nothing in this regulation shall be deemed to prohibit the use of bona fide amusement devices, such as pinball machines or pool tables, provided however that such devices do not and cannot be adjusted to pay anything of value, and that such devices are not used for gambling, ~~as defined in C.R.S. 18-10-102, as the same may be amended from time to time.~~
2. A licensee is permitted to conduct, on its licensed premises, tournaments or competitions involving games of skill as permitted by ~~subsection C.R.S. 18-10-102(2)(a), C.R.S.,~~ including the awarding of prizes or other things of value to participants, in connection with the use or operation of devices such as and including, but not limited to:
 - a. Pool tables
 - b. Billiard tables
 - c. Pinball machines
 - d. Foosball machines
 - e. Basketball games
 - f. Air hockey games
 - g. Shuffleboard games
 - h. Dart games
 - i. Bowling games
 - j. Golf Games
3. Licensees will not be considered in violation of this regulation if they permit, on their licensed premises, card or similar games of chance to be played between natural persons whereas no person is engaging in gambling ~~as defined by C.R.S. 18-10-102(2).~~

D. Inspections and records.

1. Licensees shall keep a complete set of records, including operating manuals, concerning any game machine or device maintained on their licensed premises. Licensees ~~that who~~ do not own their machines or devices shall be required to maintain

- a copy of their current contract with the vendor. This contract at a minimum shall detail the division of profits between the parties and how monies will be accounted for, including the payment of any monies, credits, or any other thing of value to customers of the licensee. Copies of any outstanding notes or loans between the parties must also be maintained by the licensee.
2. Licensees shall make available without delay to agents of the state or local licensing authority access to the interiors of any machine or device **or simulated gambling device**, maintained upon the licensed premises to assist in the determination of whether or not said machine or device is permitted or prohibited equipment.

E. Definitions

1. For purposes of this rule, “gambling device” means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine; except that the term does not include a crane game, as defined in section 44-30-103(9), C.R.S.
2. For purposes of this rule, “simulated gambling device” means a mechanically or electronically operated machine, network, system, program, or device that is used by an entrant and that displays simulated gambling displays on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by a person conducting the game or by that person's partners, affiliates, subsidiaries, agents, or contractors; except that the term does not include bona fide amusement devices, as authorized in section 44-3-103(47), that pay nothing of value, cannot be adjusted to pay anything of value, and are not used for gambling.
 - a. “Simulated gambling device” includes:
 - i. A video poker game or any other kind of video card game;
 - ii. A video bingo game;
 - iii. A video craps game;
 - iv. A video keno game;
 - v. A video lotto game;
 - vi. A video roulette game;
 - vii. A pot-of-gold;
 - viii. An eight-liner;
 - ix. A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols;
 - x. An electronic gaming machine, including a personal computer of any size or configuration that performs any of the functions of an electronic gaming machine;

retailer, or fermented malt beverage on/off premises licensee that locates, places, or displays (including permanent or temporary displays) alcohol beverages immediately adjacent to soft drinks, fruit juices, bottled water, candy, or toys, shall:

1. Place signage that is clearly visible to consumers on any such shelves, cooler shelves, or displays (including permanent or temporary displays) that contains alcohol beverages and is immediately adjacent to soft drinks, fruit juices, bottled water, candy, or toys. This signage must:
 - a. Be at least 8.5 x 5.5 inches or 4.2 x 11 inches, depending on the orientation of the sign;
 - b. Use a font size of at least 40 points in black ink; and
 - c. State "THESE PRODUCTS ARE ALCOHOL BEVERAGES AVAILABLE FOR SALE ONLY TO PERSONS WHO ARE 21 YEARS OF AGE AND OLDER."
2. Signage may contain only retailer store branding or logos, but may not contain branding or logos of any alcohol beverage brand, manufacturer, or wholesaler.