



DEPARTMENT OF REVENUE

Liquor and Tobacco Enforcement Division

COLORADO CIGARETTE, TOBACCO PRODUCT, AND NICOTINE PRODUCT RETAILER RULES 1 CCR 203-1

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

Rule 7-311. Tobacco Festivals.

Basis and Purpose. The statutory authority for this rule includes, but is not limited to, subsections 44-7-104(5), 44-7-104.5(1)(a)(I), 18-18-102(5), and 44-7-105.5, C.R.S. The purpose of this rule is to authorize a retailer that holds a license pursuant to 44-7-104.5(1)(a)(I), C.R.S., to apply for a tobacco festival permit as defined in Rule 7-100(M).

A. Applications

1. A retailer licensed pursuant to 44-7-104.5 C.R.S. may apply for a tobacco festival permit with the Division. The applicant must:
 - a. Specify the premises for where the festival will be held.
 - b. Provide a site diagram and control plan to prevent anyone under 21 years of age from entering the festival as well as attendees not violating the Colorado Clean Indoor Air Act;
 - c. File an application at least thirty (30) calendar days before the festival is to be held;
 - d. Provide the hours of service of tobacco/nicotine products;
 - e. Affirm that the retailer has obtained any permits required by the local licensing authority;
 - f. Provide the number and dates of other tobacco festivals held by the retailer in the same calendar year as the festival being applied for will take place;
 - g. Provide explanation on how and where tobacco/nicotine products will be secured and stored when setting up for the festival, during the festival, and after the conclusion of the festival; and
 - h. Pay in full the application fee for a tobacco festival permit to the Division.
2. A separate tobacco festival permit application shall be required for each tobacco festival event.
3. The Division will post approved tobacco festival permits on its website.
4. A TOBACCO FESTIVAL PERMIT SHALL ONLY BE HELD BY ONE RETAILER. MULTIPLE TOBACCO FESTIVAL PERMITS MAY BE ISSUED TO MULTIPLE RETAILERS FOR THE SAME FESTIVAL LOCATION.
5. A TOBACCO FESTIVAL PERMIT HOLDER SHALL LIST, ON THE FORMS

PRESCRIBED BY THE DIVISION, EACH WHOLESALER AND MANUFACTURER OF
TOBACCO PRODUCTS PARTICIPATING IN THE TOBACCO FESTIVAL.

B. Local Authority

1. A local authority may create a local permit for tobacco festivals. If a local authority does not create a local permit under section 44-7-105.5(2)(d), C.R.S., an applicant need not obtain a local permit to conduct a tobacco festival. All local ordinances must be adhered to in addition to the rules set forth by the Division.

C. Restrictions

1. Pursuant to 44-7-105.5(2)(f) C.R.S., the tobacco festival permit holder must prohibit an individual who is under twenty-one years of age from taking part in the permitted tobacco festival. "Taking part in a festival" includes attending a tobacco festival, entering the permitted location of a tobacco festival, taking part in the sale of a tobacco product or nicotine product at a tobacco festival, working in the tobacco festival, or using any cigarette, tobacco product, or nicotine product at a tobacco festival.
2. A tobacco festival permit does not authorize the tobacco festival permit holder to use the tobacco festival premises for more than seventy-two (72) hours for any one festival, not including setup and tear down.

D. Unlawful Acts

1. The tobacco festival permit holder must not allow the sale, transfer, or use of gasoline, diesel fuel, or controlled substances as defined in 18-18-102(5) C.R.S. on the approved tobacco festival premises.
2. Alcohol may not be sold without a valid state license or permit issued pursuant to Articles 3, 4, or 5 of Title 44 C.R.S.

E. Smoking Permitted

1. The tobacco festival permit holder must designate areas where smoking may occur on the permitted premises.
 - a. Tobacco festival permit holders and any designated smoking areas must comply with the Colorado Clean Indoor Air Act in Part 2 of Article 14 of Title 25 C.R.S. Any violation of the Colorado Clean Indoor Air Act within a tobacco festival is also a violation of this rule.
2. The tobacco festival permit holder must display the following signage at every entrance and exit to the designated smoking areas of the tobacco festival:
 - a. "Smoking and/or vaping allowed. Persons under twenty-one years of age must not enter."
 - b. The dimension of the sign must be no less than 8.5 inches by 11 inches.

F. Limits on the Number of Tobacco Festival Permits

1. The number of tobacco festival permits issued for a retailer with more than ten retail locations must not exceed five permits per retailer calendar year.
2. The number of tobacco festival permits issued to a retailer with ten or fewer retail locations must not exceed five permits per retailer per calendar year.

G. Penalties

1. The Executive Director, and local licensing authority if applicable, may impose appropriate penalties against the retailer license based on a violation of ~~A~~Article 7 of ~~T~~itle 44 or these rules occurring during a tobacco festival.

H. SALES AND TAXES

1. ANY SALE AT A TOBACCO FESTIVAL MUST GO THROUGH THE TOBACCO FESTIVAL PERMITTEE'S POINT OF SALE SYSTEM AND MAY NOT BE SOLD BY A PARTICIPATING WHOLESALER OR MANUFACTURER.
2. PRIOR TO THE FESTIVAL TAKING PLACE, THE PERMITTEE MUST PURCHASE THE PRODUCTS TO BE SOLD AT THE FESTIVAL FROM A WHOLESALER AND HAVE PROOF OF PURCHASE AND TAXES PAID AVAILABLE FOR INSPECTION BY THE DIVISION AT THE FESTIVAL LOCATION.

I. ENFORCEMENT

1. THE DIVISION SHALL ENFORCE A VIOLATION OF THE TOBACCO CODE OR TOBACCO REGULATION AGAINST THE HOLDER OF A TOBACCO FESTIVAL PERMIT.
2. IF A VIOLATION OF ARTICLE 7 OF TITLE 44 OR THE TOBACCO REGULATION OCCURS DURING A TOBACCO FESTIVAL AND THE LICENSEE RESPONSIBLE CAN BE IDENTIFIED, THE DIVISION MAY CHARGE AND IMPOSE APPROPRIATE PENALTIES ON THE LICENSEE. IF THE RESPONSIBLE PARTY CANNOT BE IDENTIFIED, THE DIVISION MAY SEND WRITTEN NOTICE TO EVERY LICENSEE IDENTIFIED ON THE PERMIT APPLICATION(S) FOR THE LOCATION IN WHICH THE TOBACCO FESTIVAL TOOK PLACE AND MAY FINE EACH LICENSEE THE SAME DOLLAR AMOUNT.

Rule 7-100. Definitions.

Basis and Purpose. The statutory authority for this rule includes, but is not limited to, sections 44-7-104(5), 18-13-121(5), 22-33-104(2)(b), 25-14-204(3), 25-14-203(4), 44-3-103(50), and 44-30-103(18), C.R.S. The purpose of this rule is to ensure consistent application and interpretation of common terms within Article 7 of Title 44 C.R.S., and these rules.

- A. "Cigarette, tobacco product, or nicotine product" means (1) a product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or (2) Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including an electronic cigarette, cigar, cigarillo, or pipe. Notwithstanding any provision of this paragraph (A) to the contrary, "cigarette, tobacco product, or nicotine product" does not mean a product that the Food and Drug Administration of the United States Department of Health and Human Services has approved as a tobacco use cessation product.
- B. "Cigar-Tobacco Bar" means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors shall not be defined as a "cigar-tobacco bar" and shall not thereafter be included in the definition regardless of sales figures.
- C. "Compliance Check" means the Division or local authority engaging a person under twenty-one years of age to enter a retail location to attempt the purchase of cigarettes, tobacco products, or nicotine products for purposes of ensuring compliance with Article 7 of Title 44 C.R.S.,.
- D. "Division" means the State of Colorado Department of Revenue's Liquor Enforcement Division, except as provided otherwise.
- E. "Inspection" means a procedure conducted by the Division or local authority to determine whether a retailer is operating in compliance with the requirements of Article 7 of Title 44 C.R.S., the rules promulgated thereunder, or any other applicable laws and regulations as they relate to the retailer's sale of cigarettes, tobacco products, or nicotine products.
- F. "Licensed Gaming Establishment" means any premises licensed pursuant to Article 30 of Title 44 C.R.S., for the conduct of gaming.
- G. "Minor" means a person under twenty-one (21) years of age.
- H. "Indoor Age Restricted Retailer" means a retailer that sells cigarettes, tobacco products, or nicotine products for consumers to use at the retail location. The retailer must comply with the requirements in section 25-14-204(3), C.R.S., including, but not limited to:
 - 1. Prohibiting entry by any person under twenty-one years of age; and
 - 2. Displaying signage in at least one conspicuous place and at least four inches by six inches in size, stating either:
 - a. "Smoking allowed. Persons under twenty-one (21) years of age may not enter."; or
 - b. In the case of a retailer that desires to allow the use of ESDs but not other forms of smoking on the premises, "Vaping allowed. Persons under twenty-one years of age may not enter."
- I. "Off-premises Retailer" means a retailer that sells cigarettes, tobacco products, or nicotine products for consumers to use at a location other than the retail location.

- J. "Retailer" means the owner or operator of A business of any kind at a specific location that sells cigarettes, tobacco products, or nicotine products to a user or consumer.
- K. "RETAIL LOCATION" MEANS A COMMERCIAL LOCATION. A RETAIL LOCATION CANNOT BE A RESIDENTIAL LOCATION.
- L. "School" means a public, parochial, or nonpublic school that provides a basic academic education in compliance with school attendance laws for students in grades one through twelve. "Basic academic education" means the sequential program of instruction provided by an independent or parochial school, and such program shall include, but not be limited to, communication skills of reading, writing, and speaking, mathematics, history, civics, literature, and science.
- M. "Sell" or "sale" means any of the following: To exchange, barter, or traffic in; to solicit or receive an order for; to keep or expose for sale; to deliver for value or in any way other than gratuitously; to peddle or to possess with intent to sell; to traffic in for any consideration promised or obtained, directly or indirectly.
- N. "Tobacco Festival" means an age-restricted, off-site tobacco event pursuant to 44-7-105.5, C.R.S., held by a retailer licensed pursuant to 44-7-104.5, C.R.S.

RULE 7-1200. DELIVERY PERMITS.

BASIS AND PURPOSE. THE STATUTORY AUTHORITY FOR THIS RULE INCLUDES, BUT IS NOT LIMITED TO, SECTIONS 44-7-103, 44-7-104(5), AND 44-7-104.7(3), C.R.S. THE PURPOSE OF THIS RULE IS TO CLARIFY THE APPLICATION AND RENEWAL PROCESS TO OBTAIN A TOBACCO DELIVERY PERMIT, THE TERM OF THE TOBACCO DELIVERY PERMIT, AND THE REQUIREMENTS FOR THE DELIVERY PERMIT HOLDER TO DELIVER CIGARETTES, NICOTINE PRODUCTS OR TOBACCO PRODUCTS TO A PERSON WHO IS TWENTY-ONE (21) YEARS OF AGE OR OLDER.

A. APPLICATION

1. A RETAILER LICENSED PURSUANT TO ARTICLE 7 OF TITLE 44, MAY APPLY FOR A DELIVERY PERMIT WHEN APPLYING FOR A TOBACCO RETAIL LICENSE OR ANYTIME DURING THE TERM OF THE LICENSE.
2. A RETAILER LICENSED PURSUANT TO ARTICLE 7 OF TITLE 44, MAY RENEW ITS LICENSE AND DELIVERY PERMIT AT THE SAME TIME.

B. TERM OF DELIVERY PERMIT

1. A DELIVERY PERMIT SHALL BE VALID FOR NO LONGER THAN ONE YEAR, AND SHALL ONLY BE VALID IF A RETAILER IS LICENSED PURSUANT TO ARTICLE 7 OF TITLE 44.
2. IF A RETAILER LICENSED PURSUANT TO ARTICLE 7 OF TITLE 44, OBTAINS A DELIVERY PERMIT AFTER BEING ISSUED A TOBACCO RETAIL LICENSE, THE DELIVERY PERMIT SHALL EXPIRE AFTER ONE (1) YEAR, OR ON THE DATE WHICH THE TOBACCO RETAIL LICENSE EXPIRES, WHICHEVER IS SHORTER.

C. REQUIREMENTS

1. A RETAILER LICENSED PURSUANT TO ARTICLE 7 OF TITLE 44 MAY DELIVER CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS TO A PERSON WHO IS TWENTY-ONE (21) YEARS OF AGE OR OLDER IF THEY:
 - a. COMPLY WITH THE REQUIREMENTS OF SUBSECTION 44-7-104.7(3)(B), C.R.S.;
 - b. THE RETAILER LICENSED PURSUANT TO ARTICLE 7 OF TITLE 44 MUST

RECEIVE THE ORDER FOR DELIVERY AT ITS RETAIL LOCATION;

- c. THE ORDER FOR DELIVERY MUST ORIGINATE FROM THE RETAIL LOCATION;
 - d. THE ORDER SHALL NOT BE DELIVERED TO AN EVENT, INCLUDING BUT NOT LIMITED TO, AN EVENT LICENSED PURSUANT TO SECTION 44-5-101 ET SEQ. C.R.S., AN EVENT LICENSED PURSUANT TO SECTION 44-3-404, C.R.S., A FARMERS MARKET OR A MUSICAL EVENT.
 - e. FOR EACH DELIVERY ORDER, THE RETAILER LICENSED PURSUANT TO ARTICLE 7 OF TITLE 44 MUST MAINTAIN A RECORD FOR ONE (1) YEAR SHOWING:
 - i. THE DATE AND TIME THE ORDER WAS RECEIVED;
 - ii. THE ORDER NUMBER, RECEIPT NUMBER, OR OTHER INVOICING NUMBER MAINTAINED DURING THE REGULAR COURSE OF BUSINESS;
 - iii. THE DATE AND TIME OF THE DELIVERY;
 - iv. THE TYPE OF IDENTIFICATION USED TO VERIFY THE AGE OF THE PERSON WHO IS RECEIVING THE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS; AND
 - v. THE ADDRESS OF THE DELIVERY.
2. FOR PURPOSES OF THIS RULE, A PLACE THAT IS LICENSED PURSUANT TO ARTICLE 7 OF TITLE 44, INCLUDES A RETAIL LOCATION OF A RETAILER LICENSED PURSUANT TO ARTICLE 7 OF TITLE 44, AND ANY LOCATION(S) WHERE A TOBACCO FESTIVAL PERMIT HAS BEEN ISSUED PURSUANT TO 44-7-105.5, C.R.S.