
DRAFT RULE REVISIONS - Regulation 47-436

Date: August 24, 2023
Colorado Liquor Rules
1-CCR-203-2

If you have any comments or suggestions please email dor_led_rulemaking@state.co.us so your comments can be reviewed and placed in the record. Thank you for your participation and input.

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.
- j. Notice or approval from the local licensing authority; and
- k. 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.

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