



## DEPARTMENT OF REVENUE

### Liquor and Tobacco Enforcement Division

## COLORADO LIQUOR RULES

### 1 CCR 203-2

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#### **Regulation 47-304. Transfer of Ownership and Changes in Licensed Entities.**

**Basis and Purpose.** The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-107(1), 44-3-202(2)(a)(I)(A), 44-3-202(1)(b), 44-3-202(2)(a)(I)(J), 44-3-202(2)(a)(I)(R), 44-3-301(7), 44-3-303(3)(b), 44-3-308, 44-3-409(6), and 44-3-409(7), C.R.S. The purpose of this regulation is to establish reporting and disclosure requirements for the identification of applicants, licensees, and their relevant financial interests to promote transparency and prevent the occurrence of statutorily prohibited financial interests between the manufacturing, wholesale, and retail tiers.

#### **A. Corporations and Limited Liability Companies**

1. If the applicant for any license under Articles 3 or Article 4 of Title 44 is a corporation or limited liability company, it shall submit with the application, the names, addresses, and individual history records of all of its principal officers, directors, or managers, and a copy of its articles of incorporation or articles of organization; and if a foreign entity, evidence of its qualification to do business within this state. In addition, each applicant shall submit the names, addresses, and individual history records of all persons owning 10% or more of the outstanding or issued capital stock, or persons holding a 10% or more membership interest.
2. Any transfer of capital stock or any change in principal officers or directors of any corporation holding a license under the provisions of the Liquor or Beer and Wine Codes and which is not subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended, shall be reported to the respective licensing authorities within thirty (30) days after such transfer or change. With the report, the licensee shall submit the names, addresses, and individual history records for any new officer, director, or stockholder acquiring 10% or more outstanding capital stock, as well as the corporate minutes verifying the transactions. Licensees that are subject to the Securities and Exchange Act of 1934, as amended, shall be required to do the same, except that they shall not be required to report any single transfer of outstanding capital stock of less than 10%.
3. Any transfer of membership interest or any change in managers of any limited liability company holding a license shall be reported to the respective licensing authorities within thirty (30) days after such transfer or change. With the report, the licensee shall submit the names, addresses, and individual history records for any new manager, or member acquiring 10% or more membership interest.

#### **B. Partnerships**

1. If the applicant for any license under articles 3 or 4 of title 44 is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership it shall submit with the application, the names, addresses, and individual history records of all of its general or managing partners, and a copy of its partnership agreement; and, if a foreign entity, evidence of its qualification to do business within this state. In addition, each applicant shall submit the names, addresses, and individual history records of any other partner holding a 10% or more partnership interest.
2. Any transfer of partnership interest or any change in general or managing partners of any partnership holding a license shall be reported to the respective licensing authorities within thirty (30) days after such transfer or change. With the report, the licensee shall submit the names, addresses, and individual history records for any new general or managing partner, or any other partner acquiring 10% or more partnership interest.

C. Municipalities and Other Governmental Entities

1. If the applicant for any license under articles 3 or 4 of Title 44 is a municipality or other governmental entity, it shall submit with the application, the name, address and individual history record of at least one member of its governing body, or at least one person hired or appointed by its governing body, to serve as an officer or director; except that, pursuant to section 44-3-107(1), C.R.S., a person who has an interest in a liquor license may not be listed as an officer or director on a license owned, or to be owned, by a municipality or other governmental entity if that person individually manages or receives any direct financial benefit from the operation of such license. If the governing body of a municipality or other governmental entity hires or appoints more than one officer or director, the name, address and individual history record of each such officer or director shall be submitted with the application.
2. Any change in the officers or directors of a license held by a municipality or other governmental entity shall be reported to the respective licensing authorities within thirty (30) days after such change. With the report, the licensee shall submit the names, addresses, and individual history records for any new officers or directors.

D. Entity Conversions

1. Any licensee that qualifies for an entity conversion pursuant to section 7-90-201, C.R.S., et. seq., or similar law enacted by other states, shall not be required to file a transfer of ownership application pursuant to section 44-3-303, C.R.S. upon statutory conversion, but shall submit a report containing suitable evidence of conversion within thirty (30) days of such conversion. Such evidence shall include, but not be limited to, recognition of conversion by the Colorado Secretary of State. In addition, within thirty (30) days of the conversion, the licensee shall submit the names, addresses, and individual history records of any new officers, directors, managers, general or managing partners, and all persons having an ownership interest of 10% or more.

E. All reports required by this regulation shall be made on forms supplied by the Division.

F. For all applicants for the issuance of a license by reason of a transfer of possession of the licensed premises by methods to include operation of law, a petition in bankruptcy pursuant to federal bankruptcy law, the appointment of a receiver, a foreclosure action by a secured party, or a court order dispossessing the prior licensee of all rights of possession pursuant to article 40 of title 13, C.R.S., the licensing authorities shall consider only the requirements of section 44-3-307, C.R.S. The loss of possession of the licensed premises by the licensee does not in itself automatically invalidate, cancel or terminate the underlying license. An applicant who

otherwise comes into possession of the licensed premises by operation of law, may apply for a transfer of the underlying license as provided by law pursuant to section 44-3-303, C.R.S. This provision does not prohibit a licensing authority from initiating any action as provided by law to suspend or revoke a license for loss of possession of the licensed premises.

- G. No application for a transfer of ownership may be received or acted upon by either the state or local licensing authority if the previous licensee has surrendered its license and had it canceled by either authority prior to submission of the transfer application. In cases where cancellation has occurred prior to the submission of a transfer of ownership application, the license applicant shall follow the procedures for a new license application pursuant to section 44-3-311, C.R.S.
- H. Transfer of alcohol beverage inventory between retail liquor store licenses, when selling licensee will surrender license, pursuant to subsections 44-3-409(6) and (7), C.R.S.
  - 1. As used in this paragraph H, an “acquiring licensee” means a licensed retail liquor store purchasing or attempting to purchase the inventory of a selling licensee. A “selling licensee” means a licensed retail liquor store that is surrendering its license.
  - 2. Transfer of retail liquor store license and alcohol beverage inventory to another retail liquor store pursuant to 44-3-409(6) and (7), C.R.S.
    - a. An acquiring licensee that purchases the alcohol beverage inventory of a selling licensee, subject to approval from the state and local licensing authorities, may also apply for a transfer of ownership for the selling licensee’s retail liquor store license if the acquiring licensee is eligible to obtain additional retail liquor store licenses pursuant to subsection 44-3-409(4)(b)(iii), C.R.S.;
    - i. Upon approval of a transfer of ownership, a separate retail liquor store license will be issued to the acquiring licensee pursuant to subsections 44-3-301(3)(a)(i), and 44-3-409(6)(f)(ii), C.R.S.
  - 3. Transfer of retail liquor store’s alcohol beverage inventory only:
    - a. For a selling licensee that only sells all of its alcohol beverage inventory to the acquiring licensee pursuant to subsection 44-3-409(6), C.R.S., but does not transfer ownership pursuant to subsection 44-3-409(7), C.R.S., the selling licensee’s retail liquor store license shall be considered canceled, invalid, and surrendered. Neither the state nor local licensing authorities shall issue a new retail liquor store license at the location or within 1,500 feet of the location of the canceled, invalidated, or surrendered retail liquor store license for the next five years after the date the retail liquor store license is canceled, invalidated, or considered surrendered.
    - b. The acquiring licensee must transport the alcohol beverage inventory from the selling licensee and may only transport the alcohol beverages to the acquiring licensee’s licensed premises or to one of the other licensed premises owned by the acquiring licensee.
    - c. **FOR THE PURPOSES OF ENFORCING THE PROHIBITION ON BELOW COST SALES, THE ACQUIRING LICENSEE SHALL NOT SELL AN ALCOHOL BEVERAGE PRODUCT BELOW THE RETAILER’S COST, AS DEFINED IN REGULATION 47-321(A)(3), OF THE SELLING LICENSEE, UNLESS AN EXCEPTION UNDER REGULATION 47-321 APPLIES.**

4. Notice to state and local licensing authorities

- a. For sales or transfers of alcohol beverage inventory pursuant to subparagraph (H)(2) or (H)(3) of this regulation, prior to or at the time of removing the acquired alcohol beverages from the selling licensee, the acquiring licensee shall provide notice to the division and local licensing authority of the specific alcohol beverage inventory transported to the licensed premises of and/or to any other licensed premises owned by the acquiring licensee, specifying which alcohol beverages were transported to each such licensed premises.

5. Notice to wholesalers and satisfaction of debt.

- a. The notification to every wholesaler that sold alcohol beverages to the selling licensee within the prior four (4) months from the sale of the alcohol beverage inventory, as required under subsection 44-3-409(6)(d)(l), C.R.S., must occur at least 30 days prior to the alcohol beverage inventory sale. A copy of the notification provided to the wholesaler must be submitted to the state and local licensing authorities with the notice set forth in subsection 44-3-406(6)(c), C.R.S.
  - i. The notice to the wholesaler shall be made by certified mail, electronic mail, or by another method agreed to in writing between the wholesaler and selling licensee.
- b. Within fifteen business days after receiving the notice sent pursuant to subparagraph (H)(5)(a) of this rule, a wholesaler shall notify the acquiring licensee and the selling licensee of any outstanding debt owed by the selling licensee to the wholesaler for the products being sold or transferred.
- c. If an acquiring licensee receives notice of an outstanding debt owed by the selling licensee pursuant to subparagraph (H)(5)(b) of this rule, the acquiring licensee shall first satisfy the selling licensee's debt with the wholesaler. The acquiring licensee shall pay any remaining money owed for the purchased inventory after payment has been made to any wholesalers that notified the acquiring licensee in a manner consistent with the agreement between the selling licensee and the acquiring licensee.
- d. If agreed to by the selling licensee and wholesaler, the selling licensee may return all or a portion of the selling licensee's inventory to the wholesaler from which it purchased the selling licensee's inventory in lieu of a monetary payment to satisfy outstanding debt owed to the wholesaler pursuant to Regulation 47- 322(G)(3)(h).
  - i. Should the wholesaler accept a return of all or a portion of the inventory of the selling licensee, the selling licensee must report this transfer of product to the state and local licensing authority in writing prior to or at the time that the inventory is removed from the selling licensee.

**Regulation 47-312. Change of Location.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(R), 44-3-301(9), 44-3-309, and 44-3-410, C.R.S. The purpose of this regulation is to establish procedures for a licensee requesting to change the location of the licensed premises, and provide factors the licensing authority must consider when evaluating a change for approval or rejection.

- A. When a licensee desires to change the location of its licensed premises from the location named in an existing license, it shall make application to the applicable licensing authorities for permission to change location of its licensed premises, except that an application for change of location shall not be required for the demolition and reconstruction of the building in which the original licensed premises was located.
- B. Applications to change location shall be made upon forms prepared by the state licensing authority and shall be complete in every detail. Each such application shall state the reason for such change, and in case of a retail license, shall be supported by evidence that the proposed change will not conflict with the desires of the adult inhabitants and the reasonable requirements of the neighborhood in the vicinity of the new location.
  - 1. An application to change the location of a retail license shall contain a report of the local licensing authority of the town, city, county, or city and county in which the license is to be exercised. Such report shall describe the findings of the local licensing authority concerning the reasonable requirements of the neighborhood and the desires of the adult inhabitants with respect to the new location, except that pursuant to section 44-3-312(2)(a), C.R.S., the needs of the neighborhood shall not be considered for a change of location for a club license.
  - 2. When a licensee is required by lease, lease renewal, condemnation, or reconstruction to move its licensed premises to a new address that is located within the same shopping center, campus, fairground, or similar retail center, the local or state licensing authority may, at its discretion, waive the neighborhood needs and desires assessment requirements should it determine that the new location remains within the same neighborhood as the old location.
- C. For retail licenses, no change of location shall be permitted until the state licensing authority has, after approval of the local licensing authority, considered the application and such additional information as it may require, and approved of such change. The licensee shall, within sixty (60) days of approval, change the location of its licensed premises to the place specified therein. Once at the new location, the licensee shall no longer conduct the manufacture or sale of alcohol beverages at the former location. A local licensing authority may, at its discretion, extend the time to change the location of the licensed premises, for good cause shown. However, no extension that is beyond twelve (12) months from the original date of approval shall be granted.
- D. For those licensees not subject to approval by the local licensing authority, no change of location shall be permitted until the state licensing authority has considered the application and such additional information as it may require, and approved of such change. The licensee shall, within sixty (60) days of approval, change the location of its licensed premises to the place specified therein. Once at the new location, the licensee shall no longer conduct the manufacture or sale of alcohol beverages at the former location. The state licensing authority may, at its discretion, extend the time to change the location, for good cause shown. However, no extension that is beyond twelve months from the original date of approval shall be granted.
- E. Once the licensee has changed the location of its licensed premises, the permit to change

location shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains until the license is renewed.

- F. For retail licenses no change of location shall be allowed except to another location within the same city, town, county, or city and county in which the license was originally issued. Except, a retail liquor store licensed on or before January 1, 2016, may apply to move its permanent location to another place within or outside the municipality or county in which the license was originally granted. Once approved, the retail liquor store licensee shall change the location of its premises within three (3) years after such approval.
  - 1. A change of location for a fermented malt beverage and wine retailer or retail liquor store will be approved only if the new location satisfies the distance requirements in section 44-3-301(9)(a)(I)(B)-(C), C.R.S.
  - 2. It is unlawful for a licensee to sell any alcohol beverage at a new location until permission is granted by the state licensing and local licensing authorities.
- G. Upon application for change of location, public notice shall be required by the local licensing authority in accordance with Section 44-3-311, C.R.S.
- H. A licensee located within 500 feet from any public or parochial school or principal campus of any college, university or seminary may apply for a change of location within the same prohibited area in accordance with the requirements of section 44-3-301(9), C.R.S., but may not apply for a change of location within any other prohibited area as defined within section 44-3-313, C.R.S.
- I. A licensee that is in lawful possession of its alcohol beverage inventory at the time it receives approval from the local and state licensing authorities to change the location of its licensed premises, may continue to possess its alcohol beverage inventory for sale at the new location.
- J. PURSUANT TO 44-3-410(8)(b)(I) C.R.S., THE STATE AND LOCAL LICENSING AUTHORITIES SHALL NOT APPROVE THE CHANGE OF LOCATION FOR A LIQUOR LICENSED DRUGSTORE LICENSED PURSUANT TO 44-3-410 C.R.S., EXCEPT THAT PURSUANT TO 44-3-410(8)(B)(II), THE STATE AND LOCAL LICENSING AUTHORITIES MAY APPROVE A CHANGE OF LOCATION FOR A LIQUOR LICENSED DRUGSTORE LICENSE THAT WAS ISSUED TO AN INDEPENDENT PHARMACY, AS DEFINED IN 44-3-103(21.3) C.R.S., BEFORE JANUARY 1, 2025.

#### **Regulation 47-315. Entertainment Facility License.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103(15.5), 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(R), and 44-3-428, C.R.S. The purpose of this regulation is to describe those sports and entertainment activities which qualify an establishment as an entertainment facility. Additionally, the purpose of this regulation is to describe how to determine the primary business of an entertainment facility.

- A. In addition to other statutory requirements, an entertainment facility license may be issued to a qualifying entertainment facility.
  - 1. An “entertainment facility” means an establishment:
    - a. In which the primary business is to provide the public with sports or entertainment activities within its licensed premises; and

- b. That, incidental to its primary business, sells and serves alcohol beverages at retail for consumption on the licensed premises and has sandwiches and light snacks available for consumption on the licensed premises.
- B. To qualify as an entertainment facility, the applicant or entertainment licensee must demonstrate that its primary business is to provide qualifying sports or entertainment activities within its licensed premises.
  - 1. To qualify as a sports activity, the activity must provide the public with an opportunity to participate in, or to observe others who participate in, an activity such as a game, recreation, team or individual sport, or an activity of a similar nature. Examples of qualifying sports activities include, but are not limited to, the following:
    - a. Arcade games;
    - b. Billiards;
    - c. Bowling;
    - d. Golf; or
    - e. Laser tag.
  - 2. To qualify as an entertainment activity, the activity must provide the public with an opportunity to participate in or observe others who participate in an activity that is primarily artistic, cultural, educational, or entertaining, or an activity of a similar nature. Examples of qualifying entertainment activities include, but are not limited to, the following:
    - a. Artistic exhibitions, films, or performances;
    - b. Arts and crafts classes;
    - c. Cooking classes;
    - d. Amusement rides; or
    - e. Spa experiences.
      - i. For purposes of this regulation, to qualify as a “spa experience” the facility must offer at least three (3) of the following treatments and experiences:
        - A. Facials;
        - B. Massage therapy;
        - C. Skin treatment;
        - D. Body wraps; or
        - E. Body waxing
- f. **WEDDINGS AND WEDDING RECEPTIONS** *[The Division received this*

*feedback from industry, and the Division would like working group/ public input on this change]*

3. The following activities shall not qualify as entertainment activities for purposes of an entertainment facility:
  - a. Any activity not described in subparagraphs (B)(1) or (B)(2) of this regulation; and
  - b. Shopping for or receiving goods or personal services, including but not limited to hair care or nail care services.
- C. An activity that would otherwise qualify under subparagraphs (B)(1) and (B)(2) of this regulation, shall not qualify if the activity involves the use of a deadly weapon as defined by subsection 18-1- 901(3)(e), C.R.S., or creates a substantial health and safety risk to any person.
- D. Determining the primary business of an entertainment facility.
  1. To satisfy the requirement that the primary business of an entertainment facility is to provide the public with sports or entertainment activities, and that serving and selling alcohol beverages is incidental thereto, the entertainment facility's annual gross revenues from the sale of sports or entertainment activities must exceed fifty (50) percent of the entertainment facility's total annual gross sales revenues.

#### **Regulation 47-407. Liquor-Licensed Drugstore.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), **44-3-301(12)(a)**, and 44-3-410, C.R.S. The purpose of this regulation is to clarify and establish requirements to qualify for the liquor-licensed drugstore license.

- A. In addition to the requirements of Title 44, Articles 3 and Article 4 C.R.S., liquor-licensed drugstore licensees shall also comply with the requirements as set forth by Article 42.5 of Title 12 C.R.S., and the Rules and Regulations of the State Board of Pharmacy.
- B. It is the intent of this regulation to require liquor-licensed drugstore licensees to maintain a bona fide pharmacy and drugstore, and not a mere pretext of such for obtaining a liquor-licensed drugstore license. Liquor-licensed drugstore licensees shall conduct and maintain a bona fide pharmacy and drugstore operation at all times as a condition for this class of license. Bona fide conditions shall include:
  1. The prescription compounding area must be operational and staffed by a licensed pharmacist, fifty percent of the time, each month, during which alcohol beverages are sold or dispensed in sealed containers.
  2. Prescription drugs and controlled substances are sold or dispensed pursuant to lawful prescription orders in conformance with applicable laws and rules, during all times of operation as described in B. 1. of this regulation.
- C. A licensed pharmacist shall be an owner, an employee, or contract company within the premises of the licensee and all records and documents regarding the ownership and/or employment shall be made available to the State Licensing Authority or its duly authorized representatives upon demand. If utilizing a contract company to provide pharmacy services, the licensee maintains responsibility for all liquor laws and regulations.

- D. Pursuant to section 44-3-410(2)(a)(II), C.R.S. a liquor-licensed drugstore may not sell malt, vinous, or spirituous liquors to consumers at a price that is below the liquor-licensed drugstore's cost to purchase the malt, vinous, or spirituous liquors. The term "a price that is below the liquor-licensed drugstore's cost" as used in this paragraph is defined as the actual proportionate invoice price charged by the wholesaler (per item), plus applicable state and federal taxes. All invoices must clearly designate a price paid for each product, which shall not be less than the wholesaler's laid-in cost for each product. At no point may a liquor-licensed drugstore receive any products from a wholesaler at less than laid-in cost.

E. ~~Additional liquor-licensed drugstore locations:~~

~~1. After January 1, 2017, a liquor-licensed drugstore licensee may apply for additional liquor-licensed drugstore licenses as long as they meet the requirements of section 44-3-410(1)(b)(I-IV), C.R.S. The application for an additional liquor-licensed drugstore will be a single application form approved by the Division. The application process will include the transfer of ownership of at least two retail liquor stores, the change of location to the new licensed premises and the merger and conversion of a new liquor-licensed drugstore.~~

~~2. In determining the distance measurements for liquor-licensed drugstores, the measurement of either 1500 feet or 3000 feet, as applicable, is defined as the straight-line distance measured from the midpoint of the principal doorway of the proposed licensed premises (as determined by the applicants/licensees).~~

~~2. In order for a liquor-licensed drugstore to obtain additional licenses pursuant to section 44-3-410(1)(b) et al, C.R.S., the liquor-licensed drugstore must transfer ownership of at least two retail liquor stores within the same jurisdiction where the applicant premises is located and change the location of one of the retail liquor stores to the new liquor-licensed drugstore location. If there are fewer than two retail liquor stores within the jurisdiction of the applicant premises, the applicant may transfer ownership of one retail liquor store located within the same local licensing jurisdiction, if applicable, and transfer ownership of one or two other liquor stores, as applicable, both of which are located in a jurisdiction adjacent to the jurisdiction where the applicant premises is located.~~

~~3. In order to qualify to apply for an additional liquor-licensed drugstore license pursuant to section 44-3-410(1)(b) et al, C.R.S. the licensee shall provide evidence to the state and local licensing authorities that at least twenty percent of the licensee's gross annual income derived from total sales during the prior twelve months at the drugstore premises for which a new or renewal license is sought is from the sale of food items as defined by the State Licensing Authority by rule.~~

~~"Evidence" as used in paragraph 4 is defined, at a minimum, as an affidavit from the licensee that the requirements of paragraph 4 are met. The licensee shall produce documents in support of the affidavit, if requested by the state and local licensing authorities.~~

~~4. "Food items" as used in paragraph 4 is defined as any raw, cooked, or processed edible substance, ice and beverage, other than any beverage containing alcohol, intended for use or for sale in whole or in part for human consumption.~~

~~5. Pursuant to section 44-3-410(1)(b)(IV)(B), C.R.S., a licensee of a new or renewed additional liquor-licensed drugstores must be open to the public. "Open to the public" as used in this paragraph means that the licensed premises must be open to the~~

general public and that alcohol beverages may be purchased without any membership requirement or added cost.

F. On or after January 1, 2017, a liquor-licensed drugstore licensee shall not purchase malt, vinous or spirituous liquors from a wholesaler on credit and shall effect payment upon delivery of the alcohol beverages. Allowed payments include cash, credit/debit cards, check, money orders, certified check, EFT transfer and any other method of payment approved by the Division.

G. A liquor-licensed drugstore must obtain and maintain certification as a responsible vendor in accordance with section 44-3-1001, C.R.S. In order to comply with this regulation, the liquor-licensed drugstore licensee shall complete an on-line registration with the Liquor Enforcement Division which shall contain the following information:

1. The name of each employee who is subject to seller-server training and the date of last training class.
2. An electronic image of the certificate or card issued to each employee by a certified responsible vendor trainer evidencing completion of such training.

If the on-line registration process is not available, the liquor-licensed drugstore licensee is responsible for maintaining such information until the on-line registration process is available and shall provide such information to the state or local licensing authorities upon request.

H. Wholesalers, including brew pubs, distillery pubs, vintner's restaurants and limited wineries shall take orders for alcohol beverage sales to a liquor-licensed drugstore only from a permitted manager of such liquor-licensed-drugstore who has a valid manager's permit under section 44-3-427, C.R.S.

**Regulation 47-950. Display of Alcohol Beverages Immediately Adjacent to Soft Drinks, Fruit Juices, Cereal, Candy, or Toys, crossover alcohol products, and Non-Alcoholic Alternative Beverages.**

Basis and Purpose. The statutory authority for this regulation includes but is not limited to subsections 44-3-108(1), 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(H), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to prevent consumer confusion regarding whether a beverage contains alcohol and to help prevent sales of alcohol beverages to persons under 21 years of age, and to assist individuals recovering from substance use disorders.

A. Definitions as used in this regulation.

1. "Immediately adjacent" means directly touching or immediately bordering one another from above, below, or the side, for example, on a shelf directly above or below another shelf; or on a shelf, cooler shelf, or display (including permanent or temporary displays) that is adjacent to another shelf, cooler shelf, or display. "Immediately adjacent" does not include a separate aisle or shelving units or cooler shelving units on the opposite side of an aisle.
2. "Crossover alcohol product" is a product containing an alcohol beverage(s), whether liquid or frozen, that uses a trademark or branding of a non-alcohol beverage on its labeling, marketing, or packaging.
3. "Low or non-alcoholic alternative beverages" means beverages with an alcohol content of less than 0.5% alcohol by volume that are marketed to adults as alcohol-beverage-like substitutions for beer, wine, and spirits, including but not limited

to products marketed as near beer; low or non-alcoholic beer, seltzers, or wine; or non-alcoholic cocktails (sometimes called mocktails or virgin cocktails) or other products that are marketed as alcohol substitutes.

- B. Alcohol Beverages Immediately Adjacent to Soft Drinks, Fruit Juices, Cereal, Candy, or Toys. Any liquor-licensed drug store, fermented malt beverage and wine 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, cereal, 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, cereal, 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:

“CONTAINS ALCOHOL 21+  
YOU MUST BE 21 TO PURCHASE ALCOHOL”
    - d. ~~For liquor licensees that are required to post this sign and have been in operation prior to January 1, 2025, must post this sign by June 1, 2025, a liquor licensee that is required to post this sign and has not been in operation prior to January 1, 2025, must post this sign immediately.~~
  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.
- C. Display of crossover alcohol products.
1. Liquor-licensed drug stores, fermented malt beverage and wine retailers, or fermented malt beverage on/off premises licensees shall not display a crossover alcohol product immediately adjacent to a non-alcohol beverage, whether liquid or frozen, from which the right to use the trademark or brand has been obtained (e.g., displaying the “hard” (alcoholic) version of an iced tea next to the nonalcoholic ice tea beverage of the same brand).
- D. Display of non-alcoholic alternative beverages
1. Liquor-licensed drug stores, fermented malt beverage and wine retailers, or fermented malt beverage on/off premises licensees may display non-alcoholic alternative beverages immediately adjacent to an alcohol beverage.

#### **Regulation 47-1101. Delivery and Takeout Sales By On-Premises Licensees.**

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)(R), 44-3-601, 44-3-911, and 24-4-104(4)(a), C.R.S. The purpose of this regulation is to exercise proper regulation and control over the manufacture, distribution and sale of alcohol beverages, promoting the social welfare, the health, peace and morals of the people of the State. This regulation establishes a permit for on-premises licensees authorized to engage in such sales by section 44-3-911, C.R.S., which allows persons issued a license under sections 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-418,

44-3-422, 44-3-426, 44-3-428, or 44-3-432, C.R.S., to sell alcohol beverages through delivery and takeout. Section 44-3-911, C.R.S., also allows a person issued a license under sections 44-4-104(1)(c)(I)(A) or 44-34-104(1)(c)(III), C.R.S., to sell alcohol beverages via takeout, and a person issued a license under sections 44-3-412, 44-3-415, 44-3-416, 44-3-419, 44-3-420, and 44-3-421, C.R.S., to sell alcohol beverages via delivery. This regulation also addresses age verification, container, and other requirements and related recordkeeping for alcohol beverages sold through delivery or takeout by on premises licensees authorized to engage in such sales by section 44-3-911, C.R.S.

- A. The requirements of paragraphs (B), (C), (D), and (E) of this Regulation 47-1101 apply to persons issued a license under sections 44-3-411, 44-3-412, 44-3-413, 44-3-414, 44-3-415, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-421, 44-3-422, 44-3-426, 44-3-428, 44-3-432, 44-4-104 (1)(c)(I)(A), or 44-4-104 (1)(c)(III), C.R.S.
- B. Unless the governor has declared a disaster emergency under part 7 of article 33.5 of title 24, no persons issued a license identified in paragraph (A) of this regulation may sell alcohol beverages through takeout and/or delivery pursuant to section 44-3-911, C.R.S., unless the licensee has first obtained a permit from the state licensing authority and paid the relevant fee established in Regulation 47-506.
  - 1. If a person issued a license identified in paragraph (A) of this regulation applies for a takeout and/or delivery permit while a disaster emergency declared by the governor under part 7 of article 33.5 of title 24 is in effect, that person may continue engaging in takeout and/or delivery sales once the disaster emergency is rescinded or expired. However, the licensee shall cease all takeout and/or delivery sales if the state or local licensing authority denies the licensee's application for a takeout or delivery permit.
  - 2. An applicant for a permit must affirm on its takeout and/or delivery permit application that the applicant derives, or will derive, no more than fifty (50) percent of its gross annual revenues from total sales of food and alcohol beverages from the sale of alcohol beverages through takeout orders and orders that the licensee delivers.
    - a. This subparagraph (B)(2) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24; and
    - b. Nothing within this subparagraph (B)(2) shall limit the authority of the state licensing authority or the local licensing authority, if applicable, to inspect books and records pursuant to Regulation 47-700, 1 C.C.R. 203-2, to verify the affirmation or compliance with this statutory requirement.
  - 3. A takeout and/or delivery permittee shall display its takeout and/or delivery permit at all times in a prominent place on its licensed premises. The takeout and delivery permittee's employee making a delivery shall be required to carry, or have immediate access to, a copy of the takeout and delivery permit in the delivery vehicle. The copy of the permit may be electronic.
- C. If the relevant local licensing authority creates a permit for takeout and delivery pursuant to section 44-3-911(4)(C), C.R.S., no persons issued a license identified in paragraph (A) of this regulation may engage in sales of alcohol beverages through takeout or delivery unless the licensee holds takeout and/or delivery permits from both the state and local licensing authorities.
  - 1. This subparagraph (c) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24.

D. Any licensee authorized to engage in sales of alcohol beverages through delivery or takeout pursuant section 44-3-911, C.R.S., and this regulation shall comply with the following requirements and limitations:

1. Orders for delivery or takeout that include alcohol beverages may be accepted by only the licensee or its employees at the licensed premises, which may be accepted by telephone, in person, or via internet communication. No order for delivery may be solicited or accepted by a delivery driver or from a delivery vehicle. All orders for delivery shall be documented in a written order prepared by the licensee or its employees.
2. When receiving a delivery order, the licensee must obtain and record the name and date of birth of the person placing the order and the delivery address for the order. Under no circumstances shall a person under twenty-one (21) years of age be permitted to place an order for takeout or delivery of alcohol beverages.
3. Delivery of orders that include alcohol beverages shall be made only to a person twenty-one (21) years of age or older at the address specified in the customer's delivery order.
4. Delivery of orders that include alcohol beverages shall not be made to any public place, including public parks, streets, alleys, roads, or highways.
5. Delivery must be made by an employee of the licensee who is at least twenty-one (21) years of age, and who has completed a seller server training program established under section 44-3-1001, C.R.S., and maintained recertification under the requirements of Regulation 47-605. Use of third-party delivery services is prohibited.
6. The licensee's employee who delivers the alcohol beverages shall note and log at the time of delivery the name and identification number of the person receiving the delivery of the alcohol beverages. Under no circumstances shall a person under twenty-one (21) years of age be permitted to receive a delivery of alcohol beverages.
7. Licensees who deliver alcohol beverages shall maintain all records relating to delivery, including delivery orders, receipt logs and journals, as part of their records required pursuant to section 44-3-701, C.R.S. These records shall be maintained by the licensee for sixty (60) days. Failure to maintain accurate or complete records is a violation of this regulation.
8. Licensees engaged in delivery shall comply with section 42-4-1305, C.R.S., and any local laws, ordinances or regulations, addressing prohibitions on open containers of alcohol beverages in motor vehicles.
9. Any alcohol beverage sold to a consumer through delivery or takeout under this regulation, which may include cocktails or mixed drinks, shall be in a sealed container.
  - a. For the purposes of this regulation "sealed container" means a "sealed container" as defined in subsection 44-3-103(51), C.R.S., and shall also include a container filled with alcohol beverage, that is new, has never been used, and has a tamper evident secure lid or cap designed to prevent consumption without removal of the lid or cap. "Sealed container" does not include a container with a lid with sipping holes or openings for straws or a container made of paper or polystyrene foam. "Tamper evident" means a lid or cap that has been sealed with tamper-evident material, including, but not

limited to, wax dip, heat shrink wrap, or adhesive tape or that is secured in such a manner that is visibly apparent if the container has been opened or tampered with.

- b. Persons issued a license identified in paragraph (A) of this regulation may not refill sealed containers as defined in subsection (D)(9)(a) or offer any such refilled containers for sale.
  - c. Any sealed container of alcohol beverages sold pursuant to this regulation shall not exceed the relevant volume limits identified in paragraph (E) of this regulation.
- 10. Any sealed container containing an alcohol beverage that is sold for takeout or delivery under this regulation, other than an alcohol beverage sealed by its manufacturer, shall identify the licensee that sold the beverage and include a warning statement, with a minimum fourteen (14) font size, stating as follows: "WARNING: DO NOT OPEN OR REMOVE SEAL WHILE IN TRANSIT. Purchasers are subject to state and local laws and regulations prohibiting drinking or possessing open containers of alcoholic beverages in motor vehicles, including section 42-4-1305, C.R.S."
- 11. Licensees who sell alcohol beverages through delivery or takeout pursuant to this regulation are responsible for compliance with all laws and regulations prohibiting the sale of alcohol beverages to an underage person or to a visibly intoxicated person.
- 12. Licensees shall only sell alcohol beverages through takeout and delivery between the hours of 7 a.m. and 12 midnight.
- E. Unless the governor has declared a disaster emergency under part 7 of article 33.5 of title 24, no persons issued a license identified in paragraph (A) of this regulation shall sell more than the following amounts of alcohol beverage to a consumer as part of a takeout or delivery order:
  - 1. 1,500 milliliters, or approximately 50.8 fluid ounces, of vinous liquors; and
  - 2. 144 fluid ounces, or approximately 4,259 milliliters, of malt liquor, fermented malt beverages, and hard cider, and
  - 3. One liter, or approximately 33.8 fluid ounces, of spirituous liquors.
- F. A violation of this regulation by a licensee, or by any of the agents, servants, or employees of a licensee, may result in disciplinary action, up to and including license revocation, pursuant to section 44-3-601(1), C.R.S., and may result in summary suspension of a license pursuant to section 44-3-601(2) and Regulation 47-602.