
DRAFT RULE REVISIONS - LRWG Session #2

Date: July 14, 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 47-322. 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.

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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.

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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 off-premises~~, 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 off-premises~~, 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.

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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.
 - ~~c. 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.
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).

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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

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- 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 47-322(A)(9) is effective July 1, 2019.~~

Regulation 47-506. Fees.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-301(2)(c), 44-3-501(3)-(4), and 44-3-911(4)(a)(III), C.R.S. The purpose of this regulation is to establish fees for certain applications, notices, reports, and services.

Below are the fees set by the State Licensing Authority pursuant to sections 44-3-501(3) and 44-3-501(4), C.R.S.

Alternating Proprietor Licensed Premises	\$150.00
Application for New License	\$1,100.00
Application for Renewal of a License	\$50.00 \$125.00
<i>(This fee will be effective from July 1, 2023, to June 30, 2024)</i>	
Application for Renewal of a License.....	\$250.00
<i>(This fee will be effective beginning July 1, 2024)</i>	
Application for Transfer License	\$1,100.00
Application for Transfer & Conversion for an Additional Liquor-Licensed Drugstore	\$1,100.00
Branch Warehouse or Warehouse Storage Permit	\$100.00
Change of Corporate or Trade Name	\$50.00
Change of Location	\$150.00
Concurrent Review	\$100.00
Corporate/LLC Change (Per Person)	\$100.00
Duplicate Liquor License	\$50.00
Limited Liability Change	\$100.00
Manager Permit Registration (Liquor-Licensed Drugstore)	\$100.00
Master File Background	\$250.00
Master File Location Fee (Per Location)	\$25.00
Modification of License Premises (City or County)	\$150.00
<i>(except that a Temporary Modification of licensed premises to accommodate an outside service area Located on a sidewalk shall only incur an annual fee of \$75.00, as outlined in Regulation 47-302(A)(4)).</i>	
New Product Registration (Per Unit)	\$0.00
Non-Contiguous Location (Winery/Limited Winery) Application Fee	\$125.00
Non-Contiguous Location (Winery/Limited Winery) Renewal Fee	\$100.00
Optional Premises Added to H&R License (Per Unit)	\$100.00
Retail Warehouse Storage Permit	\$100.00
Sole Source Registration	\$100.00
Takeout and Delivery Permit Application Fee.....	\$11.00
Takeout and Delivery Permit Renewal Fee	\$11.00

Winery Direct Shipment Permit	\$100.00
Subpoena Testimony (Per Hour)	\$50.00

Minimum of four (4) hours of appearance or on-call or travel time to court and mileage, meals, and lodging at state employee per-diem rate. Actual hourly rate for all hours in excess of four (4) hours.

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.

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- 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 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 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., ~~1973~~ 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 2442, C.R.S. 1973~~).
- B. Equipment prohibited.
1. No person licensed under Article 3, Article 4 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, C.R.S., 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.
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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 gaming 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" shall have the meaning set forth in subsection 18-10-102(3), C.R.S.
2. For purposes of this rule, "simulated gambling device" shall have the meaning set forth in subsection 18-10.5-102(6), C.R.S.
3. For purposes of this rule, "gambling" shall have the meaning set forth in subsections 18-10-102(2) and 18-10.5-102(3.5), C.R.S.

New Regulation 47-950. Display of Alcohol Beverages Immediately Adjacent to Soft Drinks, Fruit Juices, Bottled Water, Candy, or Toys.

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), 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.

A. Definition.

1. As used in this regulation, "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.

B. Alcohol Beverages Immediately Adjacent to Soft Drinks, Fruit Juices, Bottled Water, Candy, or Toys. Any retail liquor store, 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, 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 11 inches;
 - b. Use a font size of at least 16 points in black ink; and
 - c. State "THIS PRODUCT IS AN ALCOHOL BEVERAGE AVAILABLE FOR SALE ONLY TO PERSONS WHO ARE 21 YEARS OF AGE AND OLDER."