



## DEPARTMENT OF REVENUE

### Liquor and Tobacco Enforcement Division

## COLORADO LIQUOR RULES

### 1 CCR 203-2

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#### **Regulation 47-502. Excise Taxes, Surcharges, and Fees Reports.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), ~~and 44-3-503(2)~~, **AND 44-3-503(9)**, C.R.S. The purpose of this regulation is to establish procedures for reporting excise taxes, surcharges, and fees.

A. Manufacturers, wholesalers, and holders of a winery direct shipper's permit.

1. Reporting of alcohol beverages received or manufactured.

Each licensed manufacturer or wholesaler whose licensed premises are located within Colorado shall forward to the Department of Revenue on or before the 20<sup>th</sup> day of the month succeeding the month of receipt or manufacture of such alcohol beverage, a completed report. Wholesalers shall use form DR 0445 which shall include the date of receipt, supplier account number and name, invoice number, and gallons or liters received. A separate form shall be submitted for each commodity. Manufacturers shall use this form only if they are acting in a licensed wholesale capacity, and they shall include the amount of product manufactured. Manufacturers and wholesalers shall maintain upon the licensed premises, and make available for inspection by the state licensing authority or other agents of the department, documents or invoices supporting such reports.

2. Reporting and payment of excise taxes, surcharges, and fees - first sold.

Each Colorado licensed wholesaler or manufacturer shall, in addition to filing form DR 0445, also complete and file each month with the Department of Revenue form DR 0442. Form DR 0442 shall be filed on or before the 20<sup>th</sup> of the month succeeding the month reported. Payment of excise taxes, surcharges, and fees due shall accompany the filing of form DR 0442.

3. Reporting and payment of excise taxes, surcharges, and fees - upon manufacture or receipt.

Each Colorado licensed manufacturer or wholesaler electing this method of payment must in addition to the requirement in A.2. above, contact the Department of Revenue. The department may enter into a "memorandum of understanding" with the licensee stating that the taxes will be reported and paid upon manufacture or receipt of purchased product, rather than when the product was first sold by such licensee.

4. Reporting receipt of alcohol beverages for which excise taxes, surcharges, and fees

have previously been paid.

All Colorado licensed wholesalers receiving alcohol beverages, where the excise taxes, surcharges, and fees upon such alcohol beverages have already been reported and paid to the Department of Revenue by a Colorado licensed wholesaler or manufacturer, or where the liability for reporting and payment of such excise taxes, surcharges, and fees has been incurred by a manufacturer or some other licensed wholesaler, shall report receipt of such alcohol beverages on form DR 0445 and shall attach invoices evidencing receipt of such.

5. Reporting and payment of excise taxes, surcharges, and fees – Holders of a winery direct shipper's permit.

Each out-of-state winery must file with the Department of Revenue a separate return, on Form DR 0448, for each location with a Colorado Winery Direct Shipper's Permit. Form DR 0448 must be filed on or before the 20<sup>th</sup> of the month succeeding the month reported. Payment of excise taxes, surcharges, and fees due shall accompany the filing of form DR 0448.

6. Excise taxes, surcharges, and fees - credits, refunds.

- a. A Colorado manufacturer who transmits outside the state and there disposes of any alcohol beverages, upon which no state excise taxes, surcharges, and fees have been previously paid or liability incurred, may claim exemption from the payment of excise taxes thereon by submitting form DR 0443 as well as invoices or bills of lading evidencing such disposal. A Colorado wholesaler who shall transmit outside the state and there dispose of alcohol beverages, upon which excise taxes, surcharges, or fees have been previously paid or liability incurred, may claim credit for such taxes for which such wholesaler may be liable on form DR 0443 and shall attach a signed and itemized delivery receipt, invoice and bill of lading from a common carrier or affidavit showing such transaction.
- b. A Colorado manufacturer or wholesaler possessing alcohol beverages upon which state excise taxes, surcharges, or fees have been previously paid or liability incurred and which alcohol beverages have been rendered unsalable by reason of destruction or damage may claim exemption or credit for such taxes, surcharges, and fees for which such manufacturer or wholesaler may be liable by submitting an application for credit supported by a properly executed affidavit of destruction or damage. Nothing herein shall be construed to authorize claims for credit of taxes, surcharges, and fees paid on any alcohol beverages rendered unsalable by reason of spoilage. **NO REFUND OR CREDIT IS ALLOWED AFTER DECEMBER 31, 2025. THIS SUBPARAGRAPH (6)(B) IS REPEALED EFFECTIVE DECEMBER 31, 2030.**
- c. All claims for exemptions from excise taxes, surcharges, fees or claims for credit, shall be made on forms DR 0442 and DR 0443 on or before the 20<sup>th</sup> day of the month succeeding the date of disposal. In addition, all affidavits of destruction or damage, or invoices evidencing shipment outside of Colorado shall be submitted with said forms.

- B. Any manufacturer, holder of a winery direct shipper's permit, or wholesaler may, in lieu of forms required in this regulation, forward a computer-generated report in a format approved by the Department of Revenue. Such reports must be submitted within the same time frames as set forth above.

## **Regulation 47-100. Definitions.**

**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 ensure consistent application and interpretation of common terms within the relevant articles.

As used in these regulations, unless the context otherwise requires:

- A. Repealed.
- B. “Manufacturer” means a Colorado licensed brewery, winery, limited winery, distillery, vintner’s restaurant, distillery pub or brew pub as defined by section 44-3-103, C.R.S.
- C. “Nonresident manufacturer” means a Colorado licensee that manufactures malt liquor or fermented malt beverages outside the state of Colorado and has been issued a Brewer’s Notice by the Alcohol and Tobacco Tax and Trade Bureau.
- D. “On-site product sales promotion” means a sales promotion, featuring a particular brand of alcohol beverage, that is conducted on a retailer’s licensed premises by an alcohol beverage supplier. On-site product sales promotion may include drink specials, product sampling and the giveaway of consumer goods.
- E. “Sponsored event” means an event supported in whole or in part by a licensed supplier that is conducted at a retail licensed establishment.
- F. “Supplier” means a Colorado licensed brewery, winery, distillery, brew pub, distillery pub, vintner’s restaurant, limited winery, nonresident manufacturer, wholesaler or importer of alcohol beverages.
- G. “Retailer” or an entity “licensed to sell at retail” means those persons licensed pursuant to sections 44-3-401(1)(h) – (t), ~~and~~ (v – w), **AND (y – z)**, C.R.S., and section 44-4-104(1)(c), C.R.S. to sell alcohol beverages to the end consumer.
- H. “Unreasonable noise” means a level of noise that violates local noise ordinance standards, or where no local noise ordinance standard exists, a level of noise that would violate section 25-12- 103, C.R.S.
- I. “Wholesaler” means those entities authorized to sell alcohol beverages at wholesale to licensed retailers, including wholesalers of fermented malt beverages, malt liquors, vinous and spirituous liquors, limited wineries, brew pubs, distillery pubs, and vintner’s restaurants.
- J. “Sandwiches” as used in articles 3 and 5 of Title 44, C.R.S. are defined as single-serving items such as hamburgers, hot dogs, frozen pizzas, burritos, chicken wings, or items of a similar nature. “Light snacks” as used in articles 3 and 5 of Title 44, C.R.S. are defined as popcorn, pretzels, nuts, chips, or items of a similar nature.
- K. “Colorado Liquor Code” or “Liquor Code” means article 3 of title 44, C.R.S.
- L. “Colorado Beer and Wine Code” or “Beer and Wine Code” means article 4 of title 44, C.R.S.
- M. “Special Event Code” means article 5 of title 44, C.R.S.
- N. “Colorado Liquor Rules” means this regulatory article, 1 C.C.R. 203-2.

- O. "Division" means the State of Colorado Department of Revenue's Liquor Enforcement Division, except as provided otherwise.
- P. "Communal Outdoor Dining Area" means an outdoor space that is used for food and alcohol beverage service by two or more licensees licensed under article 3 or article 4 of title 44, C.R.S. as a:
1. Tavern;
  2. Hotel and Restaurant;
  3. Brew Pub;
  4. Distillery Pub;
  5. Vintner's Restaurant;
  6. Beer and Wine Licensee;
  7. Manufacturer that operates a sales room authorized under section 44-3-402(2) or (7), C.R.S.;
  8. Beer wholesaler that operates a sales room under section 44-3-407(1)(b)(I), C.R.S.;
  9. Limited Winery;
  10. Lodging ~~FACILITY and Entertainment Facility~~;
  11. ENTERTAINMENT FACILITY;
  12. Optional Premises; or
  13. Fermented Malt Beverage Retailer licensed for consumption on the premises.

**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)(a), 44-3-202(2)(a)(I)(A), 44-3-202(1)(b), 44-3-202(2)(a)(I)(J), ~~44-3-202(a)(I)(O)~~, 44-3-202(2)(a)(I)(R), ~~44-3-301(3)(a)(I)~~, 44-3-301(7), ~~44-3-303(1)(c)~~, 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 ~~a~~Article 40 of ~~the~~ Title 13, C.R.S., the licensing authorities shall consider ~~only~~ the requirements of section 44-3-303(1)(c)(I) ~~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 ~~A~~ selling licensee will surrender ~~ITS~~ 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 ~~A~~ retail liquor store license and ~~AN~~ 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 **A** retail liquor store's alcohol beverage inventory only:
  - a. For a selling licensee that only sells ~~all of~~ its **ENTIRE** alcohol beverage inventory to the acquiring licensee pursuant to subsection 44-3-409(6), C.R.S., but does not transfer ownership **OF ITS RETAIL LIQUOR STORE LICENSE** 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 **(5)** 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. FOR THE PURPOSES OF ENFORCING THE PROHIBITION ON BELOW-COST SALES AS SET FORTH IN REGULATION 47-321 AND REGULATION 47-322(A), THE ACQUIRING LICENSEE SHALL NOT SELL AN ALCOHOL BEVERAGE PRODUCT BELOW THE RETAILER'S COST. FOR PURPOSES OF THIS REGULATION, THE RETAILER'S COST IS DEFINED PURSUANT TO 44-3-409(6)(b)(II), C.R.S.~~
    - i. **THE ACQUIRING LICENSEE SHALL RETAIN RECORDS, INCLUDING BUT NOT LIMITED TO INVOICES OR COPIES OF INVOICES, SHOWING THAT THE AMOUNT THE SELLING LICENSEE CHARGED AND THE ACQUIRING LICENSEE PAID COMPLIED WITH SUBSECTION 44-3-409(6)(b)(II), C.R.S.**
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 ~~e~~**D**ivision 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)(I), C.R.S., must occur at least **THIRTY (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 (15) 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 APPLICABLE 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 ~~SUB~~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 ~~FROM THE STATE LICENSING AUTHORITY~~, change the location of its licensed premises to the ~~place~~-LOCATION 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 (12) 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 ~~SUBSECTIONS 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 ~~S~~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 ~~SUB~~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/ ~~OR~~ 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 SUBSECTION 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 SECTION 44-3-410, C.R.S., EXCEPT THAT, PURSUANT TO SUBSECTION 44-3-410(8)(B)(II), C.R.S., 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 SUBSECTION 44-3-103(21.3), C.R.S., BEFORE JANUARY 1, 2025.~~

#### **Regulation 47-313. Tastings.**

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(10), 44-3-409(1)(c)(III), ~~and 44-3-410(1)(a)(II)(B)~~, and 44-4-104(1)(c)(I)(A), C.R.S. The purpose of this regulation is to clarify who may conduct tastings and how open and unconsumed samples must be appropriately treated after a tasting. This regulation applies only to tastings conducted on the licensed premises of retail liquor stores, liquor- licensed drugstores, and fermented malt beverage and wine retailers pursuant to section 44-3-301(10), 44-3-409(1)(c)(III), ~~44-3-410(1)(a)(II)(B)~~, and 44-4-104(1)(c)(I)(A), C.R.S.

#### **A. Tastings.**

- 1. A tasting shall be conducted only by a person who has completed seller-server training that meets the standards established by the Division, and is:
  - a. A retail liquor store, liquor-licensed drugstore, or fermented malt beverage and wine retailer licensee or employee; or
  - b. A representative, employee, or agent of one of the following suppliers licensed by the state licensing authority:
    - i. Wholesaler;
    - ii. Brew pub;
    - iii. Distillery pub;
    - iv. Manufacturer;
    - v. Limited winery;
    - vi. Importer; or
    - vii. Vintner's restaurant.

- B. Following a tasting, the licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises, destroy the samples immediately following the

completion of the tasting, or store any open containers of unconsumed alcohol beverages in a secure area outside the sales area of the licensed premises for use only at a tasting conducted at a later time or date. A secure area means:

1. A designated area, including, but not limited to, a closet, cabinet, or safe;
  2. That is upon the licensed premises and not accessible to consumers; and
  3. Is secured by a locking mechanism at all times while any open containers of unconsumed alcohol beverages are stored for use at a future tasting.
- C. To ensure alcohol samples are provided to a patron free of charge, as required by section 44-3-301(10)(c)(X), C.R.S., the licensee shall not charge or accept any money for a tasting, directly or indirectly, including for any education provided in connection with a tasting, or to reserve a spot at a tasting event, regardless of whether the money charged is donated to a charity or is refunded. Education shall not be considered to be provided in connection with a tasting if the tasting occurs after the education event has concluded and is available to any adult patron of the licensee, free of charge.
- D. To comply with the obligation not to serve more than four individual samples to a patron during a tasting, as required by section 44-3-301(10)(c)(IX), C.R.S., the licensee shall implement a means of tracking how many samples each patron is provided, which may include the use of a wristband, or other means of accurately tracking individual patron consumption.
- E. To comply with the obligation not to serve samples to a patron over the maximum allowed volume per alcohol type, as required by section 44-3-301(10)(c)(I)(B)(III), C.R.S., a licensee serving alcohol beverages mixed with non-alcohol beverage product shall either:
1. Serve no more than the maximum allowed volume per alcohol type, per sample, of a premixed beverage, if the mixing of the alcohol is not done in public view during the tasting event; or
  2. Mix the alcohol beverage with the non-alcohol beverage in public view during the tasting event, wherein only the maximum allowable amount of alcohol beverage is incorporated into each mixed drink, per sample.

#### **Regulation 47-314. Limited Liability Company.**

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)(J), 44-3-202(2)(a)(I)(R), and 44-3-307(1), C.R.S. The purpose of this regulation is to establish reporting and disclosure requirements for the identification of a limited liability company's managers, and applicable members and their relevant financial interests in order to promote transparency and avoid violations of statutorily prohibited overlapping financial interests.

- A. A Limited Liability Company may conduct any business that a partnership with limited partners may lawfully conduct and may not conduct any business that is prohibited by law to such partnership. Such limited liability company shall be in full conformity with **SECTION 7-80-101 ET SEQ.**, C.R.S.
- B. Each Limited Liability Company licensed pursuant to Article 3 or Article 4, of Title 44, shall report changes of any of its managers, or members having a 10% or more interest in the license, except that any transfer of a controlling interest shall be reported regardless of its size, within 30 days from the date of the change, and shall submit said information to the respective local or state licensing authorities on forms approved by the Division.

## **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
- 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 47-316. Advertising Practices.**

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)(G), 44-3-202(2)(a)(I)(O), 44-3-202(2)(a)(I)(R), ~~and 44-3-308, 44-3-409(2)(a)(II)(B), 44-3-410(2)(a)(II)(B), AND 44-4-107(4)(a)(II),~~ C.R.S. The purpose of this regulation is to establish certain permitted and prohibited advertising practices between suppliers and retailers.

- A. Consumer Advertising Specialties
  - 1. “Consumer advertising specialties” shall mean those items primarily designed to advertise or promote a specific alcohol beverage brand or supplier, that are intended and designed to be carried away by the consumer, and that have negligible value. Consumer advertising specialties are considered to be of negligible value if the suppliers’ cost to purchase the consumer advertising specialties is less than ten (10) dollars per item. Apparel items are considered to be of negligible value if the suppliers’ cost to purchase a single apparel item is less than twenty-five (25) dollars per item. For purposes of this regulation, glassware, plates, and barware such as jiggers, bar tins,

and utensils do not qualify as consumer advertising specialties.

2. Suppliers may provide consumer advertising specialties of negligible value free of charge to a licensed retailer, so long as the consumer advertising specialties contain an advertising message that promotes the supplier or their products, and do not contain any information, markings, or logos that are specific to a retailer.
3. Consumer advertising specialties that contain any information, markings, or logos specific to a licensed retailer may not be provided free of charge, but must be purchased by a retailer at a minimum of the supplier's cost.
4. Licensees must have available for inspection those customary business records that verify these transactions, in accordance with section 44-3-701, C.R.S., and for the time frame specified in Regulation 47-700.

B. Point-of-Sale Advertising

1. "Point-of-sale advertising" shall mean alcohol beverage brand-specific or supplier-specific promotional materials, within a retailer's licensed premises. Such items may also include a retailer's name and address.
2. Suppliers may provide the following point-of-sale advertising materials of negligible value to licensed retailers free of charge for use within retail premises: display decorations of negligible value, table tents, table tent holders, sports schedules and brackets, case cards, serving trays, condiment trays, bar utensil caddies, stir rods, strainers, presses, check and credit card holders, shakers, pitchers, table mats, bar mats, alcohol beverage lists or menus, menu cards, menu holders, calendars, napkins, napkin holders, coasters, stir sticks, and similar items of negligible value, as approved by the Division.
3. A supplier may advertise, within **A retailer's licensed** premises, alcohol beverage products, consumer mail-in rebate offers, consumer giveaways, sweepstakes, contests, and cross promotions with non-alcohol beverage products. Suppliers may also provide contest and sweepstakes information and consumer entry forms.
4. Supplier Rebates for Consumers and Supplier Coupons

Supplier rebates and coupons, as contemplated in this regulation, are a permitted method of alcohol beverage product promotion if they are intended to reach the consumer through permitted advertising practices, and to provide the consumer with a direct financial benefit through the redemption process. Rebates and coupons may not be used as a means of financial assistance to licensed retailers or as a means to influence or control a retailer's product selection.

- a. A supplier's "consumer rebate" provides a consumer with cash back after the consumer has purchased a supplier's product and has provided proof of product purchase upon redemption.
  - i. A supplier may provide consumer rebate certificates to consumers through point-of-sale advertising (such as tear pads, shelf talkers, case cards, or other point-of-sales materials), package inserts, or other printed or electronic media.
  - ii. A supplier's consumer rebate certificate may not be redeemed through a licensed retailer.

- b. A supplier's "instant redeemable coupon" provides a consumer with a discount off of the retailer's selling price of an alcohol beverage product, at the time it is redeemed through a licensed retailer.
  - i. Licensed retailers may redeem suppliers' instant redeemable coupons only after they have been made available to consumers through general print or electronic media directed at the consumer; package inserts; or, a supplier's representative or agent, who is not the retailer or their agent, who is providing coupons to consumers at the retail premises for the purpose of product promotion.
  - ii. Licensed retailers are prohibited from accepting and redeeming any supplier-issued instant redeemable coupons unless redemption included presentation of the coupon by a consumer with the purchase of the product advertised therein, or in accordance with other applicable redemption rules specified by the supplier or their marketing agents.
  - iii. Suppliers are prohibited from providing their instant redeemable coupons directly to licensed retailers, **INCLUDING, BUT NOT LIMITED TO, THROUGH THE USE OF A RETAILER'S BONA FIDE LOYALTY OR REWARD PROGRAM OR ON THE RETAILER'S MOBILE APPLICATION OR WEBSITE. SUPPLIERS MAY PROVIDE ~~except when said~~ INSTANT REDEEMABLE** coupons **THAT** are packaged with, or attached to, each individual product package before such products are delivered to a licensed retailer.
  - iv. Suppliers may never reimburse licensed retailers for suppliers' instant redeemable coupons, **OR PROVIDE ANY FINANCIAL ASSISTANCE TO THE RETAILER, DIRECTLY OR INDIRECTLY.** Redemption must be through a third party that is independent from the supplier and the retailer.
  - v. Retailers must have available for inspection, applicable business and banking records that verify these transactions, in accordance with 44-3-701, C.R.S., and for the time frame specified in Regulation 47-700. Verification may include the retailer's reconciliation of coupons redeemed to related products sold to consumers.

5. Supplier Sponsored Consumer Contests and Related Displays

A supplier may advertise, within retail premises, alcohol beverage products, via consumer mail-in rebate offers, consumer give-a-ways, sweepstakes, contests, and cross promotions with non-alcohol beverage products. Suppliers may also provide contest and sweepstakes information and consumer entry forms. Further, suppliers may provide items to be given away in a consumer give-a-way, sweepstake, or contest, to a retailer with the purpose of the item being displayed in the retail licensed premises during the contest period, subject to the regulations below, to be given away in a consumer give-away, sweepstake or contest.

For consumer give-a-ways, sweepstake or contests, (collectively "Consumer Contest") the following regulations shall apply:

- a. No item provided as part of a Consumer Contest may be awarded to, received by or otherwise kept by the licensee or any of the licensee's employees or an employee's immediate or extended family members.



- b. No item provided as part of a Consumer Contest may be awarded to, received by or otherwise kept by a supplier licensee that is providing alcohol beverage products to the retail licensee or any of the supplier licensee's employees or any supplier licensee's employee's immediate or extended family members.
- c. Any item(s) to be given away in a Consumer Contest must be awarded and given to the winning consumer within the time afforded by this regulation. Otherwise the item(s) must be returned to the supplier who will be responsible for awarding the item(s) to the winner.
- d. If the actual item(s) that is(are) part ~~of~~ **OF** the Consumer Contest are delivered to the retail license premises with the intention of displaying the item during the contest period, the item(s) shall be delivered together with an invoice made out to the retail licensee for not less than the actual cost of the item(s). The retail licensee shall be responsible for and required to pay the invoice cost for the item unless the retail licensee can establish to the satisfaction of the Division that the item(s) was(were) in fact presented to the winning consumer in accordance with the rules of the Consumer Contest. Both the retail licensee and the supplier of the item shall each maintain in their respective records proof establishing that the item(s) was(were) delivered to the winning consumer. Such records shall include but not be limited to a signed acknowledgement of receipt of the item(s) by the winning consumer which acknowledgment shall include a valid form of identification proving the identity of the consumer, the consumer's name, address, phone number, e-mail address (if available) and the date on which the item was presented to the consumer. In addition, the records shall include the name and position of the person or persons presenting the item to the consumer sufficient so that the Division can verify that the item was presented to the Consumer Contest winner.
- e. The Consumer Contest, including the drawing period, shall not last longer than 60 days.
- f. In the event that the supplier does not have the signed acknowledgement of receipt from the consumer within 30 days of the end of the Consumer Contest, it is the responsibility of both the retail licensee and the supplier, that payment in full of the invoice by the retail licensee is made to the supplier for the item(s). Absent payment within 24 hours of the expiration of the 30 day period, no supplier representing the brand advertised in the Consumer Contest shall be permitted to sell or otherwise provide any product to the retail licensee until the invoice is paid in full.
- g. Entrance into the Consumer Contest is not contingent on any purchases.
- h. The actual item(s) that is (are) part of the Consumer Contest may be on display in the licensed premises **OF THE RETAILER** only during the period of the Consumer Contest. At the end of the contest period, the item(s) may be stored at the retailer location for no more than 30 days following the end of the Consumer Contest period.
- i. The item(s) must be properly identified in signage as a prize that is part of the Consumer Contest, e.g. "Win this Umbrella."
- j. Signage shall display the starting date and ending date of the Consumer Contest, the name of the company providing the item(s), and all other relevant

terms and conditions of the Consumer Contest.

C. Media Advertising

1. Except as provided in Regulations 47-322(B) and 47-322(C), and subsection (C)(3) of this regulation, no supplier shall directly or indirectly furnish or pay for any advertising for or with respect to any one or more retail licensee by means of the internet, device applications (apps), radio or television broadcast, magazines, newspapers, pamphlets, or similar media, or by means of any sign not located on or in the licensed premises of the retailer which is advertised.
2. Except as provided in Regulations 47-322(B) and 47-322(C), suppliers that purchase internet, device applications (apps), radio or television advertising packages from third party advertising agencies:
  - a. May not authorize the advertising agency to apply any value attributable to the supplier's advertising package toward the advertising or promotion of any licensed retailer or their location.
  - b. May not authorize the advertising agency to combine supplier-purchased advertising packages with those purchased by licensed retailers, for the purpose and benefit of cooperative advertising.
3. A supplier may directly or indirectly advertise for or with respect to any one (1) or more retailers that sell the supplier's alcohol beverages, via the supplier's internet websites (including forums such as a supplier's Facebook page, blog or device applications (apps)) and electronic advertising messages delivered directly to consumers' private electronic devices.
4. Closed-circuit television advertising networks, or similar advertising networks, that deliver advertising messages to consumers are permitted in retail licensed premises with the following conditions:
  - a. A supplier may not provide a licensed retailer with any electronic equipment necessary to deliver network advertising.
  - b. A licensed retailer may not receive revenues, directly or indirectly, from licensed suppliers who advertise on the network. Revenue from non-alcohol beverage suppliers who advertise on the same network, which can be clearly distinguished by the network advertiser from supplier revenues, are permitted provided that the retailer can document that the source of the revenue is not a licensed supplier.
  - c. The advertising network and all related advertising receipts and distributions must be controlled by third party entities who are not licensed pursuant to **Article 3 or 4 of Title 44**, and who are wholly independent, in both form and substance, of any licensed supplier or retailer.

D. 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 **Articles 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.

E. Except as otherwise provided for in this regulation, no supplier shall directly or indirectly pay to

any retailer, and no retailer shall accept, any value or consideration in connection with or for the right or privilege of posting or maintaining any advertising message, on or in, or relating to a retailer's licensed premises.

**Regulation 47-317. Market Research - Non-Licensed Locations.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of 1 C.C.R. 203-2, Regulation 47-317 is to provide guidance regarding the circumstances and processes under which consumer market research may be conducted on non-licensed premises.

Market research alcohol beverage consumer taste tests on an unlicensed liquor premises are authorized subject to the following guidelines:

- A. The research company may contact people and conduct taste tests at shopping malls or other public meeting places, but the taste tests must take place in a non-public area.
- B. All participants must be 21 years of age or older and not exhibit visible signs of intoxication.
- C. There shall be no charge or fee to participate in the taste test, however, the participant may be paid for participating in the market research.
- D. The product tasted must come through the 3-tier system to a Colorado wholesaler and the excise tax on the product has been paid.
- E. The product must be purchased from a liquor licensee authorized to sell alcohol beverages for off-premises consumption.
- F. The research company must notify the Division in writing of the date, time and location of the tasting prior to the taste tests **BY EMAIL AT [DOR\\_LED@STATE.CO.US](mailto:DOR_LED@STATE.CO.US)**.
- G. Taste tests will be limited to two days per week between the hours of 2:00 PM and 8:00 PM at each location and to a maximum of 100 participants.
- H. Results of market research where competitors' products are being used may not be used in advertising.
- I. Failure to follow this regulation could result in the loss of the ability to conduct marketing research pursuant to this regulation.

**Regulation 47-318. Owner-Manager.**

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)(B), 44-3-202(2)(a)(I)(J), and 44-3-202(a)(I)(R), C.R.S. The purpose of this regulation is to define the difference between a licensee/owner and a manager, and to clarify the allowable method of payment to the manager.

- A. Each license under the Liquor Code or the Beer and Wine Code must be held by the owner of the establishment. "Owner" means the person or persons whose proprietary interest is such that they bear risk of loss other than as an insurer, and have opportunity to gain profit from operation or sale of the establishment.

In determining who is the "owner", elements considered other than risk of loss and opportunity for profit will include, but are not limited to: who has the right of possession of the licensed premises, who controls the licensee, who guarantees its debts, who is beneficiary under its insurance policies, who acknowledges liability for federal, state or local taxes.

- B. Owners may hire managers, and managers may be compensated on the basis of profits made, gross or net. In such cases, (except through an I.R.S. qualified retirement account), the financial interests of the manager(s) must be reported on the forms prescribed by the Division. The manager may be required to complete an individual history report and be subject to a background check. A license may not be held in the name of the manager.
- C. A spouse or partner in a civil union of a licensee may hold a license in their own right if they are the owner of the licensed establishment, regardless of whether they file separate or joint income tax returns.
- D. A partnership interest, limited or general, a joint venture interest, or ownership of a share or shares in a corporation which is licensed, constitutes ownership.

**Regulation 47-319. Liquor-Licensed Drugstore Manager Permit.**

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)(B), 44-3-202(2)(a)(I)(R), 44-3-410(6), and 44-3-427, C.R.S. The purpose of this regulation is to provide guidance and clarity to licensees regarding statutory requirements found in sections 44-3-410(6) and 44-3-427, C.R.S. involving manager's permits and when a permitted manager is required.

- A. A liquor-licensed drugstore permitted manager is a person who has been designated by the licensee as a person who is in actual control of the liquor-licensed drugstore's alcohol beverage operations, including purchases of alcohol beverages from a licensed wholesaler in accordance with sections 44-3-410(6) and 44-3-427(1), C.R.S.
- B. A liquor-licensed drugstore shall have a permitted manager on duty and working on the licensed premises during all hours of operation.
- C. A liquor-licensed drugstore licensee must submit an application for each permitted manager with the Division on forms approved by the State Licensing Authority. The manager permit is an annual permit that is renewed every year.
- D. All liquor-licensed drugstore alcohol orders shall only be made by a person who has a valid manager permit pursuant to section 44-3-427, C.R.S.

**Regulation 47-320. Signs and Interior Displays.**

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)(G), 44-3-202(2)(a)(I)(H), 44-3-202(2)(a)(I)(R), and 44-3-308, C.R.S. The purpose of this regulation is to establish certain permitted and prohibited sign and display practices between suppliers and retailers in order to clarify and prevent statutorily prohibited financial assistance between tiers.

- A. For purposes of this regulation, "signs" shall mean any visual message intended for the consumer that is located within, or on the exterior of, licensed premises for the purpose of displaying advertising messages or other information related to alcohol beverage suppliers or their products.
- B. A supplier's signs, illuminated or otherwise, that may be provided free of charge to a licensed retailer, shall be composed of any standard, pre-manufactured material such as paper, plastic, glass (including mirrored glass), cloth, metal, or programmable electronic components, and shall have no other utilitarian value. Murals and other permanently installed works of art that are not comprised of pre-manufactured materials may not be provided to a licensed retailer free of charge, but must be paid for by the retailer at a price not less than the suppliers' actual

cost.

- C. The term “displays within such premises,” hereinafter referred to as “interior displays,” shall mean all non-refrigerated racks, bins, barrels, casks, shelving, or similar items, the primary function of which is to hold, shelf, or display alcohol beverages within retail premises.
- D. A supplier's standard interior display that may be provided free of charge to a licensed retailer, shall have no other utilitarian value other than that of being purely for display purposes. Any interior display containing any property other than that authorized in paragraph C above, may not be given or loaned to a licensed retailer, but must be sold at a price not less than the supplier's actual cost.
- E. Advertising statements on signs and interior displays that are permitted to be provided free of charge to a retailer, shall primarily consist of a supplier's name, brand name, trade name, or trademarks; words or phrases, such as “on tap,” “on draft,” “in bottles,” “in cans,” “beverages,” “beverage department,” “ice cold,” “take home,” and similar copy; and words or phrases such as “delicious with (specifically named food or food products or food generally)” and similar statements relating alcohol beverages to food and constituting a part of the supplier's standard advertising. Permitted language may also include a retailer's name and address, the retailer-established selling price of alcohol beverages, and retailer-specific promotional announcements, provided that the sign or interior display, in its totality, primarily advertise the supplier or its products.
- F. No supplier shall directly or indirectly pay to any retailer, and no retailer shall accept, any value or consideration in connection with, or for the right or privilege of, installing or maintaining any sign or interior display on, or in, or relating to, a retailer's licensed premises.
- G. 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 **Articles 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.

#### **Regulation 47-321. Bona Fide Loyalty or Rewards Programs – Discontinued Sales – Close-Out Sales.**

**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)(G), 44-3-202(2)(a)(I)(O), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to clarify how applicable licensees may sell alcohol beverages below cost under limited statutory exceptions.

- A. A retailer licensed pursuant to **section 44-3-409** or **44-3-410**, or subsection 44-4-107(1)(a), C.R.S., shall not sell alcohol beverages to consumers at a price that is below the retailer's cost, as listed on the invoice, unless the sale is of discontinued or close-out alcohol beverages. For purposes of this subsection:
  - 1. “Discontinued” means when a manufacturer or importer discontinues the production, importation, or market availability of a specific alcohol beverage product. A retailer's decision to stop making available the alcohol beverage product for purchase by a consumer does not qualify as a discontinued product.
  - 2. To qualify as a “close-out” sale, the following conditions must be satisfied:
    - a. The close-out sale must include and liquidate, by sale or destruction, all of

the retailer's current inventory of a specific alcohol beverage product as of the date the close-out sale begins.

- b. The retailer is prohibited from selling the specific alcohol beverage product that was involved in the close-out sale at a price below cost for a period of two (2) years commencing on the date the last item included in the close-out sale is liquidated.

B. A retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., shall not be prohibited from operating a bona fide loyalty or rewards program for alcohol beverages the retailer is licensed to sell so long as the price for the product is not below the retailer's costs as listed on the invoice. For purposes of subsections (B) and (C) of this regulation:

1. "Bona fide loyalty program" means a structured program used by a retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., to encourage participants to continue to shop at the retailer's licensed business by allowing participants access to special pricing on products by virtue of being a member of the bona fide loyalty program.
2. "Bona fide rewards program" means a structured program used by a retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., to encourage participants to continue to shop at the retailer's licensed business by allowing participants to accrue program benefits, in the form of points or other accrual-based methods of reward, through the purchase of alcohol beverages, to be redeemed in the form of a discount upon a subsequent sales transaction on alcohol beverage products only.
3. "Retailer's cost" means: ~~the actual proportionate invoice price charged by the wholesaler, per item, including 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.~~
  - a. ~~IF PURCHASED FROM A WHOLESALER, THE ACTUAL PROPORTIONATE INVOICE PRICE CHARGED BY THE WHOLESALER, PER ITEM, INCLUDING 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.~~
  - b. ~~IF PURCHASED FROM A SELLING LICENSEE PURSUANT TO SUBSECTION 44-3-409(6), C.R.S., AND REGULATION 47-304(H)(3), THE COST PAID BY THE ACQUIRING LICENSEE, AS DEFINED IN SUBSECTION 44-3-409(6)(b)(II), C.R.S.~~
4. "Price" means the amount an alcohol beverage product is listed for sale to consumers by the retailer, before applicable taxes, and before application of bona fide loyalty or rewards program benefits in the form of a discount.
5. A supplier shall not provide to a retailer, and a retailer shall not accept from a supplier, any financial assistance in connection with a bona fide loyalty or rewards program.
6. Bona fide rewards program benefits shall be structured so that both the accrual and redemption of benefits is applied without discrimination across all brands and labels of alcohol beverages. However, bona fide rewards program benefits may

differentiate in accrual and redemption rate for classes of alcohol products (beer, wine, spirits).

- C. A retailer described in subsection (B) of this regulation shall maintain and make available those business records regarding all bona fide loyalty or rewards program transactions consistent with Regulation 47-700, 1 C.C.R. 203-2. A retailer described in subsection (B) of this regulation must maintain, at a minimum, the following records regarding its bona fide loyalty or rewards program:
1. Documentation regarding the value of loyalty or rewards program benefits and how those benefits may be accrued and redeemed by participants;
  2. Documentation showing the loyalty or rewards program benefits actually accrued and redeemed by each participant, organized by a unique customer identification number assigned to each participant;
  3. Invoices showing the retailer's cost of the individual alcohol beverage product to which any consumer loyalty or rewards benefit was applied or redeemed; and
  4. Receipts for every alcohol beverage sale to which loyalty or rewards program benefits are redeemed, showing the price for every alcohol beverage and the amount of such benefits.

#### **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, 44-3-407(1.5), and 44-4-102, C.R.S. The purpose of this regulation is to establish certain permitted and prohibited trade practices between suppliers and retailers in order to clarify and prevent statutorily prohibited financial assistance between tiers.

Suppliers and their agents or employees may not attempt to control a retail licensee's product purchase selection by engaging in unfair trade practices or competition.

Nothing in this regulation shall apply to non-profit, charitable, or other qualifying organizations, when such organization conducts licensed events pursuant to the requirements contained in **Article 5** of **Title 44** and related regulations, and such organization does not otherwise hold a retail license pursuant to **Article 3** or **4** of **Title 44**. However, nothing herein shall authorize any financial assistance for the purpose of altering or influencing an organization's product selection for said events.

Retailers may not accept any prohibited financial assistance as described herein, and suppliers are prohibited from directly or indirectly engaging in the following unfair practices:

- A. Sales of alcohol beverages.
1. No vinous or spirituous liquor may be sold by a vinous or spirituous liquor manufacturer or wholesaler to a retail licensee below the laid-in cost of said vinous and spirituous liquor products.
  2. No malt liquors or fermented malt beverages may be sold by a malt liquor/beverage manufacturer or wholesaler to a retail licensee below the laid-in cost of said malt liquor/beverage products.
  3. Product cost per case will be determined utilizing a "Last In/First Out" basis unless a supplier has adequate records to verify that the actual cost of said products was less



than the most recent shipment received.

4. A wholesaler's laid-in cost is defined as the actual proportionate invoice price and freight charge to that wholesaler or distributor, plus applicable state and federal taxes of any given product. An in-state manufacturer's laid-in cost is defined as the actual costs of the manufacturer, plus applicable state and federal taxes.
5. Certain sales of alcohol beverages below cost are not designed or intended to influence or control a retailer's product selection. The following exceptions to below cost product sales are therefore permitted:
  - a. Product lines that will be discontinued by a supplier for a minimum of at least one year may be sold below cost at market value.
  - b. A wholesaler's aged inventory of vinous and spirituous liquors for which the current market value has fallen substantially below the wholesaler's original purchase cost, after a period of twelve (12) months, and for which a recovery of the original cost through an increase in market value is unlikely. For aged inventories sold to retailers below their cost due to market-below-cost conditions, wholesalers shall maintain the following records for a minimum of three years:
    - i. Original purchase invoice.
    - ii. Aged inventory schedule verifying slow sales and drop in market value.
    - iii. Other factors that had an effect on a decrease in market value (e.g. overproduction, poor media critique).
  - c. Products for use, but not for resale by the drink, by a non-profit organization or similar group, as defined in section 44-5-102, C.R.S., on a retailer's licensed premises, may be invoiced to a retailer at no cost. The invoice for said products must detail the products provided and the group for whose benefit it is provided. At the conclusion of the organization's event any unused product must be returned to the wholesaler, brew pub, distillery pub, or vintner's restaurant, or invoiced at a minimum of laid in cost to the retailer.
6. Suppliers authorized to sell alcohol beverages to licensed retailers pursuant to ~~A~~articles 3 or 4 of ~~T~~itle 44, may offer product discounts to licensed retailers that meet the requirements of paragraph A, and the following additional conditions:
  - a. "Product Discount" shall mean a price reduction negotiated between supplier and retailer before the sale and delivery of alcohol beverage products, and where a description of the products subject to discount, and the dollar amount of the discount, is finalized and recorded in the supplier's sales records.
  - b. Discount programs are not subject to time limitations, and any discount program that will affect more than a single sales transaction and sales invoice are permitted, provided that no invoice, by itself, reflects a zero cost or below-cost sale.
  - c. Product discounts that are conditioned upon a retailer's commitment to prominently display the supplier's products are prohibited.
7. Any rebate, whereby a monetary value is returned by a supplier to a retailer, in cash,

account credit, or free goods, as a reward or compensation for meeting a pre-specified purchase goal, is prohibited.

8. Suppliers authorized to sell alcohol beverages to licensed retailers pursuant to Articles 3 or 4 of Title 44, may offer account credits to licensed retailers under the following conditions:
  - a. Any account credit offered on previously issued sales invoices must be in direct relation to previous product purchases, lawful returns pursuant to this regulation or other legitimate commercial transactions as authorized under Articles 3 or 4 of Title 44, C.R.S. and related regulations.
  - b. Credits that cannot be connected with authorized business transactions, as described herein, will be considered unlawful financial assistance, and are therefore prohibited.
  - c. Both the seller and retail licensee shall maintain copies of sales invoices and evidence of payment related to the transactions described in this section, in accordance with 44-3-701, C.R.S., and for the time frame specified in Regulation 47-700.
9. Wholesaler invoices provided to retail liquor store, fermented malt beverage and wine retailer, and liquor licensed drugstore licensees must clearly designate a price paid for each product, which shall not be less than the wholesaler's laid-in cost of each product. At no point may a retail liquor store, fermented malt beverage and wine retailer, or liquor licensed drugstore licensee receive any products from a wholesaler at less than laid-in cost.

B. On-site sales promotions

1. Suppliers may conduct an on-site product sales promotion at a retailer's licensed premises subject to the following conditions:
  - a. Free goods of any value may be provided to the public, provided that a supplier's representative or authorized agent, who is not the retailer or a retail employee/agent, is physically present to award free goods to the public. Suppliers shall not require a customer purchase in order for the customer to receive the free goods.
  - b. If only consumer advertising specialties, as described in Regulation 47-316(A), are to be provided at the promotion, neither suppliers or their agents need be present for their distribution.
  - c. Suppliers are prohibited from providing anything other than the items specified in Regulation 47-316(A) to retailers or their employees at on-site product sales promotions.
  - d. Suppliers may provide or pay for any media announcement of an on-site product sales promotion that primarily advertises the product, the location, and the date and time of the promotion. The name of the retail outlet may also be mentioned.
  - e. Retailers may at their own cost advertise in advance a supplier's product sales promotion.
  - f. No supplier may require that a retailer change its product selection as a

condition of conducting a product sales promotion. Retailers may at their option change their product selection in support of a product sales promotion.

g. Competitors' products may not be excluded during a product sales promotion.

2. On-Premises Sampling. A supplier-sponsored consumer sampling of alcohol beverages may be held at a retailer's premises licensed for on-premises consumption for the purpose of product sales promotion under the following conditions:

a. A supplier-sponsored consumer sampling held at the licensed premises of a retailer licensed for on-premises consumption shall include only the alcohol beverages the retailer is licensed to sell.

b. The supplier shall only offer its alcohol beverage product to consumers during a supplier-sponsored consumer sampling.

c. A retailer or supplier shall not impose any charge to the consumer to enter or participate in the sampling.

d. Product used for sampling must be invoiced by the supplier, who is authorized to sell the alcohol beverages to licensed retailers pursuant to ~~A~~article 3 or 4 of ~~T~~itle 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~~ER~~~~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 ~~A~~article 3 or 4 of ~~T~~itle 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~~ER may also be mentioned.
- i. The maximum amount of malt liquor or fermented malt beverages given to each consumer shall not exceed twenty-six (26) ounces.

C. Sponsored events: Lawful Advertising

- 1. Suppliers may provide sponsorship fees to advertise at charitable or civic events that are temporary in nature, where the supplier's sponsorship fee affords the supplier exclusive signage rights at the retail premises, and where sponsorship proceeds are received directly by the charity or civic endeavor, and not by a licensed retailer.
- 2. Suppliers may provide a sponsorship fee to advertise in ballparks, resorts, racetracks, stadiums, concert venues or entertainment districts as long as such sponsorship fee is not paid to a person or entity holding a retail license at such venue, directly or indirectly, and is not intended to influence the product selection of such retailer. The retailer's product selection for the event may not change as a condition of the event sponsorship and the products of the supplier's competitors may not be excluded.
- 3. Suppliers may provide or pay for any media announcement of a sponsored event that primarily advertises the product, the location, and the date and time of the event. The name of the retail outlet may also be mentioned.
- 4. Suppliers providing sponsorship fees to advertise at the aforementioned venues may also provide those items and services authorized under regulations 47-316, 47-320, and 47- 322 to the licensed retailers at, or in conjunction with, the sponsored event.

D. Retailer entertainment

Suppliers may provide food, beverages, entertainment, recreation, or the costs associated with the same, to a retailer and its employees at meetings, social events, conferences, trainings, or other similar events, subject to the following:

- 1. Food, beverages, entertainment, or recreation are provided when, and where, suppliers or supplier representatives are participating or present.
- 2. Entertainment may include tickets or admission fees for athletic or sporting events, concerts, artistic performances, festivals, and similar forms of entertainment.
- 3. Recreation may include fees associated with participation in athletic or sports-related activities.

4. For any supplier-provided retailer entertainment, the supplier is prohibited from providing the costs associated with lodging and travel, other than nominal ground transportation.
5. Suppliers must maintain records sufficient to verify those entertainment expenses associated with retailers and their employees. Failure to maintain such records shall not be a per se violation of this regulation, but could constitute a violation of section 44-3-701, C.R.S. or Regulation 47-700.

E. Alcohol Beverage Samples for Retailers

1. Wholesalers, or those licensed to sell at wholesale pursuant to ~~A~~article 3 and 4 of ~~T~~itle 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 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 sixpack, 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.
  - d. Only the ~~retailer and its~~ OWNER(S) OR employees OF THE RETAILER 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 SAMPLES ~~the same~~ for consumer tastings.
  - e. Neither manufacturers that do not hold a wholesaler license, nor retail licensees that do not have the privilege to sell at wholesale associated with their licenses, may provide alcohol beverage samples to retailers under subparagraph (1).
2. Wholesalers, or those licensed to sell at wholesale pursuant to ~~A~~article 3 and 4 of ~~T~~itle 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.
  - i. A wholesaler may hold a trade show or a trade show event on its licensed premises in a designated area. The wholesaler shall not open trade show events to the general public.
- 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 **THE** same shall take place during the trade show or trade event.

h. A hosting on-premises retailer shall not be deemed to be receiving unlawful financial assistance from the wholesaler(s) participating in the trade show or trade event, so long as the hosting on-premises retailer does not directly benefit from the sale of any alcohol beverage product exhibited to or sampled by authorized attendees during the trade show or trade event.

i. All documents and information required to be provided to the Division pursuant to paragraphs (F)(2)(b) and (F)(2)(F) of this regulation, shall be provided using a method authorized by the Division (which, at the Division's discretion, may be through uploading the records to an online location specified by the Division or through electronic mail).

3. This Regulation 47-322(F) shall not apply to:

a. Events similar to those addressed in this Regulation that are organized and

conducted as special events pursuant to, and in compliance with **Article 5 of Title 44**, the exemption set forth in section 44-5-108, C.R.S., provisions of **Article 3 of Title 44** applicable to special events, and Regulations 47-1000 through 47-1022, 1 CCR 203-2.

- b. Tastings conducted by a licensed winery pursuant to section 44-3-402(2), C.R.S.; by a limited winery, pursuant to section 44-3-403(2)(e), C.R.S.; by a distillery, pursuant to section 44-3-402(7), C.R.S.; by a beer wholesaler, pursuant to section 44-3-407(1)(b), C.R.S.; or as part of a festival permit, pursuant to section 44-3-404, C.R.S.

G. Consignment Sales and Lawful Product Returns

1. Wholesalers are prohibited from making consignment sales to retailers.
2. A consignment sale is an arrangement whereby a wholesaler invoices and delivers alcohol beverages to a retailer who is under no obligation to pay for such beverages until they are resold. Consignment sales also afford the retailer the right to return product to the wholesaler for any reason.
3. Wholesalers are permitted to accept a return of alcohol beverages previously sold to retailers for ordinary and usual commercial reasons and to provide account credit or product exchange. Such commercial reasons for return shall be limited to the following:
  - a. Defective products: Products qualifying under this exception are those that are upon delivery, or later become, unmarketable due to contamination or deterioration of product ingredients, leaking containers, damaged labels, or missing, damaged or compromised container seals.
  - b. Broken containers or short-filled containers/cases: Nothing shall prevent a retailer from making a claim for the replacement of alcohol beverages that were delivered by a wholesaler in a damaged or incomplete condition, and nothing shall prevent a wholesaler from granting credible claims.
  - c. Error in products delivered: Any discrepancy between a retailer's product order and the products delivered may be corrected by the wholesaler within a reasonable period after delivery.
  - d. Discontinued products: When a manufacturer or importer discontinues the production, importation, or market availability of a product, a retailer may return any remaining product to the original wholesaler. A retailer's decision to discontinue a product does not qualify.
  - e. Manufacturer's product change: When a manufacturer has changed the formula, proof, label or container of an alcohol beverage, wholesalers may withdraw the product from the retailer's inventory and replace it with the newly-manufactured product.
  - f. Manufacturer's quality standards: To ensure freshness standards for malt liquor and fermented malt beverages, wholesalers, with retailer consent, may withdraw product from the retailer's inventory and replace it with new product, without additional charge, under the following conditions:
    - i. Out of freshness standard is defined as: a product that has a pre-printed freshness date on the alcohol beverage container that is

no more than thirty (30) days away from the current date.

- ii. The product to be withdrawn is undamaged and in its original packaging.
  - iii. The retailer purchased the original product from the wholesaler providing the replacement, or the current wholesaler is acting as an authorized successor wholesaler.
  - iv. The wholesaler replaces the product with the identical product SKU, the identical quantity, and the identical package, or with a product from the same manufacturer's portfolio that is equal to or lesser in value to the original purchase.
  - v. A wholesaler may sell a product to another retailer that was picked up because it was within thirty (30) days prior to the freshness date. The sale of this replaced product to another retailer can only be done once.
- g. Retailer's seasonal operation: For those retailers who are only open for business a portion of the year due solely to seasonal influences, or for venues that operate only during scheduled events, a wholesaler may remove and grant credit for those products that are likely to spoil or violate a manufacturer's freshness standards.
  - h. Wholesalers that have lawfully exercised their claim to a retailer's inventory as secured creditors.
  - i. Products in a retailer's inventory that may no longer be sold due to statutory or regulatory changes or disciplinary actions over which the wholesaler and retailer had no control.
  - j. Within thirty days of evidence of an expiration or a lawful surrender and cancellation of a retail liquor license by the state licensing authority.
  - k. Holders of special events permits that have unsold alcohol beverages after the licensed event.
4. A return of product for the following reasons does not qualify as a return for ordinary and usual commercial reasons:
- a. A retailer's overstocked inventory or slow-moving products.
  - b. Products for which there is only a limited-time or seasonal demand, such as holiday decanters or seasonal brands.

#### H. Warehousing of products for a retailer

Wholesalers shall not furnish free warehousing to retailers by delaying delivery of alcohol beverages beyond the time that payment for the product is received or, if a retailer is purchasing on credit, delaying final delivery of products beyond the close of the period of time for which credit is lawfully extended pursuant to 44-3-202(2)(b), C.R.S.

#### I. Product resets

Resets by a supplier are permitted, but a competitor's alcohol beverage products may not be

disturbed during the reset process, unless the in-state seller of the competing products has been given 72 hours written notice, during normal and customary business hours, and is not present at the time designated for the reset activity. Suppliers may furnish a retailer with a recommended shelf plan or shelf schematic.

J. Equipment rentals

All equipment rentals by a supplier to a retailer must be at fair market value.

K. Other goods

Suppliers may not provide a retailer with any other goods below fair market value except those items expressly permitted by **A**rticles 3, 4, or 5 of **T**itle 44, C.R.S. and related regulations.

When a supplier also deals in items of commerce that are not regulated by **A**rticles 3, 4, or 5 of **T**itle 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 **A**rticle 3 or 4 of **T**itle 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 **A**rticles 3 or 4 of **T**itle 44, C.R.S.

M. Value of Labor

1. Definitions for purposes of this subsection (L):
  - a. "Deliver" or "delivering" is the act of a supplier bringing and unloading its alcohol beverage product from its delivery vehicle onto the retailer's licensed premises or permitted retail warehouse storage location. "Deliver" or "delivering" does not include a supplier bringing and unloading its alcohol beverage product from a permitted retail warehouse storage location to a retailer's licensed premises.
  - b. "Merchandise" or "merchandising" is the act of organizing, constructing, maintaining, or stocking a display of alcohol beverage product or alcohol

beverage product promotional materials, including alcohol beverage product signs, consumer advertising specialties, or point-of-sale advertising, within the retailer's licensed premises.

- c. "Price stamp" or "price stamping" is the act of affixing the retail price of alcohol beverage product to its respective shelf, refrigerator, or any other similar location within the retailer's licensed premises.
  - d. "Rotate" or "rotating" is the act of moving alcohol beverage product from the rear to the front of any shelf, refrigerator, or similar location within the retailer's licensed premises.
  - e. "Service" or "servicing" is the act of replacing, staging, and/or tapping kegs within a retail premises. "Service" or "servicing" also includes performing necessary cleaning of alcohol beverage dispensing equipment, to the extent necessary for the maintenance of reasonable standards of purity, cleanliness, and health.
  - f. "Stock" or "stocking" is the act of placing or replenishing alcohol beverage product on any shelf, refrigerator, or similar location within the retailer's licensed premises.
2. In a supplier's sole discretion, and if allowed by the retailer, a supplier may deliver, merchandise, price stamp, rotate, service, and stock its alcohol beverage product on the retailer's licensed premises at no cost to the retailer.
- a. A supplier is prohibited from materially disturbing another supplier's alcohol beverage product while delivering, merchandising, price stamping, rotating, servicing, or stocking its own alcohol beverage product.
  - b. A supplier may only service the portion of the retailer's alcohol beverage dispensing equipment used for dispensing its alcohol beverage product.
3. A retailer is prohibited from requiring a supplier to provide any labor to the retailer, including, but not limited to, merchandising, price stamping, rotating, servicing, or stocking activities, as an express or implied condition of the delivery, purchase, or future purchases between the supplier and retailer.
4. Unless otherwise permitted under this Regulation, the Liquor Code, or the Beer and Wine Code, or unless the retailer pays the supplier at the normal hourly rate of the employee performing the labor, a supplier is prohibited from providing to a retailer, and a retailer is prohibited from accepting from a supplier, any labor other than the kinds of labor described in subsection (L)(2) of this Regulation, including, but not limited to:
- a. Cleaning, repairing, or otherwise maintaining the interior or exterior of a retailer's premises;
  - b. Operating the retailer's powered mechanical equipment, other than pallet jacks; or
  - c. Performing inventory for the retailer's records.

N. Prohibition.

1. Except as otherwise provided by the Liquor Code, Beer and Wine Code, or Colorado Liquor Rules, a supplier is prohibited from disturbing another supplier's alcohol

beverage product.

### **Regulation 47-323. Unlawful Extension of Credit.**

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)(O), 44-3-202(2)(a)(I)(R), and 44-3-202(2)(b), C.R.S. The purpose of this regulation is to reinforce federal regulations and establish certain permitted and prohibited credit extension practices between suppliers and retailers.

A. Definitions: For purposes of this regulation, the following definitions are applicable:

1. "Supplying licensee" means those persons authorized pursuant to ~~A~~articles 3 and 4 of ~~T~~itle 44, C.R.S. to sell fermented malt beverage, malt liquor, vinous liquor, and spirituous liquors to licensed retailers.
2. "Retailer" means those persons licensed pursuant to sections 44-3-401(1)(h) – (t), ~~and~~ (v) – (w), ~~(y) - (z)~~, and 44-4-104(1)(c), C.R.S. to sell alcohol beverages to the end consumer. Except the term "retailer" as used in this regulation shall not include a liquor-licensed drugstore that receives a license after January 1, 2017, which shall not purchase alcohol beverage on credit or accept an offer or extension of credit from a licensee and shall effect payment upon delivery of the alcohol beverage pursuant to section 44-3-410(2)(b), C.R.S.
3. "Cash" means United States currency.
4. "Cash equivalent" means a financial transaction or negotiable instrument other than cash, including: bank drafts (business or personal check, cashier's check, certified check) money order, any other type of completed electronic funds transfer, or a supplying licensee's lawfully-issued credit to a retailer's account. Nothing in this regulation shall require a supplying licensee to make available all of the aforementioned types of cash equivalent.
5. "Alcohol beverage purchase" means the date upon which the alcohol beverage is delivered to the retailer and the retailer takes possession.

B. Transaction Requirements and Restrictions:

1. Regarding retailers' alcohol beverage purchases on credit, supplying licensees are prohibited from extending credit to any retailer for a period in excess of thirty (30) days.
2. A supplying licensee's delivery of alcohol beverages to a retailer must be accompanied by a sales invoice that shows the name of the retailer, the place of delivery (address of the licensed location), the invoice date, the date of delivery, a full description of the alcohol beverages delivered and accepted, a full description of any items on backorder to be delivered on a different date, and the price and terms of sale.
3. If there are discrepancies between the product described in the original sales invoice and the actual delivery, handwritten amendments shall be made to the invoice to reflect any corrections and shall be ~~INITIALED~~~~initialed~~ by an authorized representative ~~S~~ of ~~BOTH~~ the retailer ~~AND THE~~ ~~or~~ supplying licensee. Invoiced product that will be delivered on another date must be reinvoyced by the supplying licensee to reflect the date upon which the actual delivery took place.
4. Where there is lawful ownership of multiple, separately-licensed retail locations, each location must be considered separate and distinct with respect to alcohol beverage

purchases. Therefore, a supplying licensee shall consider each location as separate and distinct for the purpose of extending credit. For retailers holding a resort complex or a campus liquor complex class of hotel and restaurant license, all related facilities within the resort complex or the campus liquor complex must be considered as a single location for the purpose of extending credit.

C. Calculation of Lawful Credit Period:

1. The lawful credit period is thirty (30) calendar days.
2. For the purpose of determining compliance with this regulation, the credit period shall commence on the alcohol beverage purchase and conclude on the date of full legal discharge from all indebtedness arising from the sales transaction related to the delivery, except as otherwise provided in paragraph G of this regulation.
3. If the final day of the lawful credit period falls on a Saturday, Sunday, or legal holiday, the final day shall be the next business day.
4. For the purpose of calculating the lawful credit period only, a retailer's acceptance of an alcohol beverage delivery and sales invoice verifying the delivery is a per se acceptance of the delivery and sales terms.
5. Errors and refusals of delivered product must be noted on either licensee's copy of the sales invoice by an authorized representative of either licensee.

D. Required Payment During Lawful Credit Period:

1. A retailer's payment on a supplying licensee's credit sale shall be recognized as the earlier of:
  - a. The date the payment is deposited by the supplying licensee, or
  - b. The date the transaction is recorded in the licensee's accounting records, or
  - c. The date the supplying licensee or its authorized representative receives the retailer's payment in person, or
  - d. The date a retailer can reasonably verify, through its own books and records, tender of payment to a supplying licensee. In order to ensure compliance with this regulation, retailers must make available to the supplying licensee, upon their request, those records that verify the date of tender.
2. The following shall not be considered a lawful discharge of indebtedness for the purpose of advancing any additional credit to a retailer:
  - a. Business or personal checks that are returned to the supplying licensee as unpaid if replacement funds are not tendered within the lawful credit period.
  - b. Dispute claims filed by a retailer to a credit card provider for credit card advances it had previously authorized for product delivery, except as otherwise provided in paragraph G of this regulation.
  - c. A compromise of indebtedness between supplying licensee and retailer that is commercially unreasonable.
  - d. An assignment of a supplying licensee's accounts receivable for third party

collection, when the discharge of indebtedness is dependent upon collection from the retailer.

- e. The supplying licensee's temporary credit to a retailer's account, thereby providing the appearance that a retailer is eligible for additional credit.

E. Indebtedness Beyond the Lawful Credit Period:

1. Any supplying licensee that has not received full payment on a sales invoice on or before the conclusion of the 30 day lawful credit period, as calculated pursuant to paragraph D of this regulation, has not engaged in a per se violation of this regulation, but is prohibited from extending additional credit to the indebted retailer.
2. A supplying licensee shall not advance any additional credit to the indebted retailer until the past due indebtedness is fully discharged.
3. A supplying licensee may continue to sell alcohol beverage products to the indebted retailer only if cash or cash equivalent is provided at the time of each additional delivery.
4. A supplying licensee's normal and customary business practice related to the assessment of finance charges on credit balances that exceed 30 days is not a per se violation of this regulation.

F. Record Keeping Requirements for Supplying Licensees:

1. Pursuant to Section 44-3-701, C.R.S., licensees shall keep and maintain business records necessary to fully show the business transactions of such licensee. The following additional minimum requirements shall be met in order to demonstrate compliance with this regulation.
  - a. Before a supplying licensee extends credit to a retailer, it shall review the credit status of the retailer's account to determine whether any unpaid balance remains on a credit sale that is beyond the lawful credit period for such sale. The supplying licensee shall develop a procedure that documents this credit verification process, and shall be obligated to demonstrate compliance upon any review by the state licensing authority.
  - b. The supplying licensee shall maintain sufficient records that verify the commencement of the lawful credit period.
  - c. A supplying licensee that extends credit to retailers shall develop a method of verifying and documenting the date(s) of payment, and the final discharge of indebtedness of each sales invoice if it recognizes a payment date sooner than the date of its final accounting entry. This may include the retention of postmarked envelopes, hand written receipt ledgers, hand written acknowledgement of receipt on the supplying licensee's copy of a sales invoice, or other accounting records developed by the supplying licensee.
  - d. A supplying licensee that extends credit to retailers shall keep a record of those retailers that did not discharge indebtedness within the lawful credit period, and evidence that subsequent sales were cash or cash equivalent on delivery until the indebtedness was discharged.
2. A retailer's records may supplement the supplying licensee's records in determining compliance with record keeping requirements, but shall not mitigate a supplying



licensee's lack of compliance.

G. **Dispute Resolution:** The purpose of this section shall be solely for the purpose of determining if a supplying licensee may continue to extend credit to a retailer when transaction amounts in dispute cannot be resolved within the lawful credit period. Nothing herein shall restrict the licensees from exercising their contractual rights in civil disputes.

1. If there is a good faith dispute by a retailer as to the validity or reasonableness of the amount owed or the payment made to the supplying licensee, then the retailer shall give written notice to the supplying licensee prior to the close of the lawful credit period. The retailer shall include the disputed amount due or payment tendered, the invoice number, and a detailed reason for the dispute.
2. Upon receipt of written notification, the supplying licensee shall determine its position and respond within 15 days of the retailer's written notification. The supplying licensee may continue to extend 30 days credit on new purchases pending the resolution of the dispute, so long as the retailer has provided written notice as described in paragraph G.1., and has tendered payment for all amounts not in dispute.
3. For purposes of this regulation, the amount of a qualifying price dispute shall be calculated as the disputed price differential times the number of cases purchased. For example, if the supplying licensee invoices a case of alcohol beverage at \$11.00 per case, and the retailer's records reflect a negotiated case deal of \$10.00, then the amount in dispute for purposes of this regulation is calculated as \$1.00 times the number of cases purchased.
4. The supplying licensee is prohibited from extending 30 days credit on new purchases if the retailer fails to claim disputes in the manner described in this section or fails to make full payment of undisputed amounts on or before the end of the lawful credit period. A retailer's action to stop or delay payment on any financial transaction does not qualify as proper written notice to a supplying licensee of a good faith dispute.
5. Once a dispute is resolved, a retailer will have 30 days to pay any amount due and/or a supplying licensee will have the same period of time to adjust its records to reflect the outcome. If the dispute resolution process is unsuccessful after good faith efforts by both parties, and any amount due would otherwise be placed for collection, the supplying licensee must cease the extension of credit to the retailer and shall conduct any future sale of alcohol beverages for cash or cash equivalent on delivery.
6. Supplying licensees and retailers shall keep sufficient records to document those disputes that are used as justification for the continued extension of credit, which would otherwise be prohibited.

H. **Unlawful Financial Assistance:**

1. Except as provided for in paragraph G of this regulation, a supplying licensee who continues to extend credit to a retailer who has not fully discharged indebtedness through the lawful means described in this regulation, or who fails to exercise due diligence with the requirements of this regulation, may be sanctioned by the state licensing authority for providing unlawful financial assistance to a retailer, as provided for in Section 44-3-308(1)(a), C.R.S. and related regulations.
2. Except as provided for in paragraph G of this regulation, a retailer who fails to pay the amounts due to the supplying licensee after the conclusion of the lawful credit period, and who receives further sales on credit from that supplying licensee, may be sanctioned by the state licensing authority for receipt of unlawful financial assistance

from the supplying licensee, as provided for in Section 44-3-308(3)(a), C.R.S. and related regulations. Unlawful financial assistance shall inure to the retailer after the supplying licensee has made final demand for payment through written correspondence or other means of commercial debt collection and has made subsequent sales on credit.

**Regulation 47-324. Concurrent Application Review.**

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)(C), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to establish procedural requirements in the event an applicant with local authority approval or a local licensing authority requests the state licensing authority to conduct a concurrent application review.

- A. A local licensing authority, or a license applicant with local authority approval, can request that the state licensing authority conduct a concurrent review of a new license application prior to the local licensing authority's final approval of the license application. Local licensing authorities who permit a concurrent review will continue to independently review the applicant's license application for the purpose of establishing the reasonable requirements of the neighborhood, the suitability of the character, record and reputation of the applicant and its principals, the fitness of the applicant's premises for occupancy in compliance with the provisions of Articles 3 and Article 4 of Title 44 C.R.S., and any other provisions required for local authority determination as provided for in these articles.
- B. When conducting a concurrent application review, the state licensing authority will advise the local licensing authority of any items that it finds that could result in the denial of the license application. Upon correction of the noted discrepancies, the state licensing authority will notify the local licensing authority of its conditional approval of the license application subject to the final approval by the local licensing authority. The state licensing authority will then issue the applicant's state liquor license upon receiving evidence of final approval by the local licensing Authority.
- C. All applications submitted for concurrent review must be accompanied by all applicable state license and application fees. Any applications that are later denied or withdrawn will allow for a refund of license fees only. All application fees provided by an applicant shall be retained by the respective licensing authority.

**Regulation 47-326. Distance Restriction - Applicability and Measurement.**

Basis and Purpose. The statutory authority for this regulation ~~is~~ 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(a)(I)(F), 44-3-202(2)(a)(I)(R), and 44-3-313(1)(d), C.R.S. The purpose of this regulation is to prohibit, with limited exceptions, the location of the licensed premises within range of a defined school in accordance with subsection 44-3-313(1)(d), C.R.S.

- A. Except as provided for in this regulation, no retail license shall be issued to or held by any person where alcohol beverages are sold if the licensed premises is located within 500 feet of any public or parochial school or the principal campus of any college, university or seminary. Said distance shall be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which alcohol beverages are to be sold, using a route of direct pedestrian access, measured as a person would walk safely and properly, without trespassing, with right angles at crossings and with the observance of traffic regulations and traffic signals.
- B. The restriction stated herein shall not be applicable to the following:

1. The renewal or reissuance of a license once granted, as long as the original license has not been expired for a period greater than two (2) years. However, nothing herein shall authorize the renewal of a license beyond ninety (90) days from the date of expiration. Reissuance shall mean the issuance of a new license pursuant to the requirements of section 44-3-311 and 44-3-313, C.R.S.
2. Proposed licensed premises located on land owned by a municipality.
3. Proposed licensed premises on land owned by the state.
4. Any liquor license in effect and actively doing business before any principal campus has been constructed within the prohibited area. "Actively doing business" shall mean that the licensee is engaged in the regular sale of alcohol beverages and otherwise meeting the requirements of Articles 3 or 4 of Title 44, C.R.S.
5. Any club-licensed premises located within the principal campus of any college, university, or seminary that limits its membership to the faculty or staff of the institution.
6. A campus liquor complex.
7. A retailer licensed pursuant to subsection 44-4-107(1)(b), C.R.S.

#### **Regulation 47-328. Entertainment Districts.**

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)(C), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to establish a mechanism for a local licensing authority to notify the state licensing authority when an entertainment district is created or modified within the local licensing authority's jurisdiction so that the state licensing authority is aware of the entertainment district and the varying local ordinances governing entertainment districts in accordance with the provisions of subsection 44-3-301(11), C.R.S.

Within fifteen (15) days of the creation of an entertainment district pursuant to section 44-3-301(11), C.R.S., a local licensing authority shall notify the state licensing authority of the entertainment district, and provide (1) a map of the entertainment district and any common consumption areas, (2) a list of licensed premises attached to any common consumption area, and (3) the hours of operation for any common consumption area and attached licensed premises. Changes to an existing entertainment district shall be reported to the state licensing authority by the local licensing authority within fifteen (15) days of such changes.

#### **Regulation 47-400. Licensed Breweries, Distilleries, and Wineries.**

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), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to clarify that a brewery, distillery or a winery must hold a wholesaler's license in order to sell its product directly to consumers.

- A. All brewers who are licensed pursuant to 44-3-402, C.R.S. and who sell their manufactured product directly to consumers for consumption of the product for either on-premises or off-premises consumption must also obtain a wholesale license, pursuant to 44-3-407, C.R.S.
- B. All manufacturers who are licensed pursuant to section 44-3-402, C.R.S, who sell their product to licensed retailers must also obtain a wholesale license pursuant to section 44-3-407, C.R.S.

## **Regulation 47-402. Confiscated Shipments.**

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)(E), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to define the Department of Revenue's Executive Director's authority with respect to a prohibited delivery of alcohol beverages into the state of Colorado.

All shipments or cargoes of alcohol beverages received into the state of Colorado, except those shipments or cargoes originating from a Colorado licensed supplier as shipper, or delivered to a Colorado licensed in-state supplier as consignee and subject to its order, shall be subject to confiscation, impounding or other disposal as may be determined by the State Licensing Authority.

## **Regulation 47-404. Foreign Trade Zones.**

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)(K), C.R.S. The purpose of this regulation is to permit applicable stock storage in an established foreign trade zone within the state of Colorado.

Persons licensed as importers of vinous or spirituous liquors, or as importers of malt liquor or fermented malt beverages, or as non-resident manufacturers of malt liquor or fermented malt beverages, may maintain stocks of alcohol beverages in an established "foreign trade zone" in Colorado as defined in section 7-49.5-103(4), C.R.S.

## **Regulation 47-405. Festival Permit.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections ~~44-3-202(1)(b)~~, 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), 44-3-404(10), and 44-3-601(9), C.R.S. The purpose of this regulation is to address eligibility, requirements, and restrictions for festival permits under section 44-3-404, C.R.S.

### **A. Festival Permits.**

1. The following license types are eligible to obtain a festival permit or participate in a festival for which a permit has been obtained:
  - a. A manufacturer license under section 44-3-402, C.R.S.;
  - b. A limited winery license under section 44-3-403, C.R.S.;
  - c. A wholesaler's license under section 44-3-407, C.R.S.;
  - d. A beer and wine license under section 44-3-411, C.R.S.;
  - e. A hotel and restaurant license under section 44-3-413, C.R.S.;
  - f. A tavern license under 44-3-414, C.R.S.;
  - g. A brew pub license under 44-3-417, C.R.S.;

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

B. Initial Festival Permit Application

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

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

C. Local festival permit from the Local Licensing Authority.

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

D. Subsequent Festival Permit Application(s).

1. Festival Participation Limits

- a. Each permittee may hold up to but no more than a total of nine (9) festivals in a twelve (12) month period. This Paragraph 1(a) will expire on December 31, 2023.
  - b. A licensee may participate in up to fifty-two festivals each calendar year, including up to nine festivals held under a festival permit issued to the licensee under subsection 44-3-404(1)(c), C.R.S.
  - c. Each permittee may hold up to but no more than a total of nine (9) festivals in a calendar year. This Paragraph 1(c) will take effect on January 1, 2024.
2. The permittee must notify the state licensing authority, and the local licensing authority if required under Section C above, at least thirty (30) calendar days before holding any subsequent festivals under the festival permit, by filing a subsequent festival permit application. If the applicant does not provide the application to the applicable licensing authorities at least thirty (30) calendar days prior to the subsequent festival, the application will be denied by the state licensing authority. Each subsequent festival permit application must include:
- a. The festival permit number;
  - b. The festival permit expiration date;
  - c. The festival permittee license name;
  - d. A description of the licensed premises where the festival will be held, including whether the licensed premises for the festival is located on an existing licensed premises that has been modified;
  - e. The date of the festival;
  - f. Duration of the festival, which cannot exceed seventy-two (72) hours;
  - g. The dates of all prior festivals occurring under the festival permit;
  - h. The number of prior festivals that have previously occurred under the festival permit;
  - i. A processing fee of fifty dollars (\$50 USD);
  - j. Contact information of a primary contact for each participating licensee including name, title, phone number and email address;
  - k. Any special event permit application that has been or will be filed in connection with the festival;
  - l. Confirmation that the applicant has provided notification to the local licensing authority of the location and dates of each festival;

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

E. Festival Tastings and Sales.

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



2. The permittee and licensees participating in the festival may conduct festival tastings and sales of their respective alcohol beverages during the festival which the permittee or licensee could conduct at their respective licensed premises.
  - a. Manufacturers of vinous and spirituous liquors may conduct festival tastings and sales of their products at a festival pursuant to the abilities granted to them under **SUBSECTIONS 44-3-402(2)(a) and/or 44-3-402(7)(a), C.R.S.**
  - b. ~~Manufacturers of~~ **A WHOLESALER'S BEER LICENSEE THAT SELLS** malt liquors may conduct festival tastings and sales of their products at a festival **ONLY IF ~~as long as~~** they possess a valid sales room license pursuant to **SUBSECTION 44-3-407(1)(b)(II)(A), C.R.S.**
    - i. **A WHOLESALER'S BEER LICENSEE THAT DOES NOT POSSESS A VALID SALES ROOM LICENSE PURSUANT TO SUBSECTION 44-3-407(1)(b)(II)(A) MAY NOT CONDUCT FESTIVAL TASTINGS AND SALES OF THEIR PRODUCTS AT A FESTIVAL.**
3. Regulation 47-313 on tastings applies to Retail Liquor Store, Liquor Licensed Drugstore, and fermented malt beverage and wine retailer licensees and does not apply to festival tastings.

F. Denials.

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

G. Violations.

1. Violating Licensee Identified
  - a. If a violation occurs during a festival permitted under this regulation and the permittee or the jointly participating licensee(s) responsible for the violation can be identified, the state and local licensing authorities may impose appropriate penalties pursuant to section 44-3-601, C.R.S., Regulation 47-602, and Regulation 47-603 on the identified permittee or the jointly participating licensee(s) per violation.

- b. Pursuant to section 44-3-601(9), C.R.S., when a permittee or participating licensee violates provisions of the Liquor Code that prohibit the service of an alcohol beverage to a minor or a visibly intoxicated person, the state and local licensing authorities shall consider it a mitigating factor if the permittee or the jointly participating licensee(s) responsible for a violation is a responsible alcohol beverage vendor as defined in section 44-3-1002, C.R.S., and pursuant to the requirements of Regulation 47-605.
- 2. Violating Licensee Cannot be Identified
  - a. If a violation occurs during a festival permitted under this regulation and the permittee or the jointly participating licensee(s) responsible for the violation cannot be identified, the state licensing authority may send a written notice to every licensee identified on the festival permit application or subsequent permit application, respectively, and may fine each the same dollar amount, which cannot exceed twenty-five (25) dollars per licensee or two hundred dollars in the aggregate per violation.
  - b. A joint fine levied pursuant to this subsection does not apply to the revocation or suspension of the licensee's license under section 44-3-601, C.R.S., or Regulation 47-603.
  - c. A joint fine levied pursuant to this section need not be reported as a substantive violation on the underlying liquor license renewal application for any permittee or jointly participating licensee assessed such a fine.
- 3. If a violation occurs during a special event festival as defined in Regulation 47-1014(B), a single penalty shall be imposed for a violation under this regulation and Regulation 47-1014(B) to avoid a double penalty for the same conduct.

**Regulation 47-406. Wholesaler Dealer - Importation.**

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)(K), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to define importation requirements and define responsible parties participating in importation.

- A. At the time alcohol beverages cross the Colorado state line and are imported into this state for the purpose of being sold, offered for sale or used in this state, all such alcohol beverages shall be the sole and exclusive property of, and subject to the unrestricted power of disposal of, a duly licensed Colorado wholesale dealer.
- B. All shipments or importations of alcohol beverages into this state which have originated from a winery, distillery, brewery or wholesaler and which originating shipper is not duly licensed as required by the laws of Colorado relating to alcohol beverages are hereby prohibited.
- C. A licensed Colorado manufacturer or wholesaler may import, for laboratory analysis or sampling only, up to twelve (12) liters per year of vinous or spirituous liquors of any one brand, or up to five (5) cases of malt liquor and fermented malt beverage per year of any one brand. Importation of alcohol beverages as provided in this subpart C need not originate from a licensed shipper or

importer. All applicable excise taxes on any alcohol beverages imported into Colorado pursuant to this subpart C shall be reported and paid by the Colorado licensed manufacturer or wholesaler first receiving said alcohol beverages.

1. "Sampling" as used in this subpart C shall mean that only the employees of anyone licensed pursuant to this article shall taste or test the alcohol beverages which may be sampled as provided herein. The sale or distribution by anyone of any alcohol beverages imported pursuant to this subpart C, except as provided in this subpart C, is prohibited.

#### **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) B-4~~ 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:~~ DEFINITIONS.

- ~~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 SECTION 44-3-410(8)(a)(I), C.R.S., 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 SECTION 44-3-410(8)(a)(II), C.R.S., 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 ~~ONLINE~~~~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 ~~ONLINE~~~~on-line~~ registration process is not available, the liquor-licensed drugstore licensee is responsible for maintaining such information until the ~~ONLINE~~~~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~~~~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~~ ~~P~~products, and ~~LOW OR~~ 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~~ ~~DRUGSTORE~~, 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~~ **DRUGSTORES**, 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~~ **DRUGSTORES**, 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-PREMISE~~ ~~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 ~~A~~article 33.5 of ~~T~~itle 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 ~~A~~article 33.5 of ~~T~~itle 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 ~~PERCENT~~ (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 ~~A~~article 33.5 of ~~T~~itle 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~~e) does not apply if the governor has declared a disaster emergency under part 7 of ~~A~~article 33.5 of ~~T~~itle 24.
- D. Any licensee authorized to engage in sales of alcohol beverages through delivery or takeout pursuant ~~T~~O 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 **AN** 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 **SUBPARAGRAPH 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 ~~A~~ article 33.5 of ~~T~~ title 24, no persons issued a license identified in paragraph (A) of this regulation shall sell more than the following amounts of alcohol beverage~~S~~ 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), ~~C.R.S.~~, and Regulation 47-602.