



DEPARTMENT OF REVENUE

Liquor and Tobacco Enforcement Division

COLORADO LIQUOR RULES

1 CCR 203-2

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)~~, 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 20th 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 20th 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) 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 20th 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 20th day of the month succeeding the date of **SALE OR EXPORT** ~~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 **44-3-103**, 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 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. Optional Premises; ~~or~~
 12. Fermented Malt Beverage Retailer licensed for consumption on the premises; ~~OR:~~
 13. ENTERTAINMENT FACILITY

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(1)(b)~~, 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; ~~AND~~ 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 ten percent (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, AND addresses, ~~and individual history records~~ for any ~~new~~ officer, director, or stockholder ~~HOLDING~~acquiring TEN PERCENT (10%) or more outstanding OR ISSUED capital stock, as well as the corporate minutes verifying the transactions. THE LICENSEE SHALL ALSO SUBMIT AN INDIVIDUAL HISTORY RECORD FOR ANY NEW OFFICER, DIRECTOR, OR SHAREHOLDER HOLDING TEN PERCENT (10%) OR MORE OUTSTANDING ISSUED CAPITAL STOCK. Licensees that are subject to the Securities and Exchange Act of 1934, as amended, shall be required to do the same, except that A REPORT SHALL NOT BE REQUIRED FOR TRANSFERS OF SUCH STOCK TOTTALLING LESS THAN TEN PERCENT (10%) IN ANY ONE (1) YEAR, BUT ANY TRANSFER OF A CONTROLLING INTEREST SHALL BE REPORTED REGARDLESS OF SIZE. 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, ASSOCIATIONS, AND COMPANIES

1. If the applicant for any license under ~~A~~articles 3 or 4 of ~~T~~itle 44 is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership, ASSOCIATION, OR LIMITED LIABILITY COMPANY, it shall submit with the application; the names, addresses, and individual history records of all of its general or managing partners, DIRECTORS, OR MANAGING MEMBERS, and a copy of its partnership agreement, ARTICLES OF ASSOCIATION, 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 any other partner holding a TEN PERCENT (10%) or more partnership interest. OR ANY MEMBER HOLDING TEN PERCENT (10%) OR MORE MEMBERSHIP 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, AND addresses, ~~and individual history records~~ for any ~~new~~ general or managing partner, or any other partner HOLDING TEN PERCENT (10%) or more partnership interest. THE LICENSEE SHALL ALSO SUBMIT AN INDIVIDUAL HISTORY RECORD FOR ANY NEW GENERAL OR MANAGING PARTNER, OR ANY OTHER PARTNER HOLDING TEN PERCENT (10%) OR MORE PARTNERSHIP INTEREST.
3. ANY TRANSFER OF MEMBERSHIP INTEREST OR ANY CHANGE IN OFFICERS, DIRECTORS, OR MANAGERS OF ANY LIMITED LIABILITY COMPANY OR ASSOCIATION 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 AND ADDRESSES FOR ANY MANAGER, OFFICER, DIRECTOR, OR MEMBER HOLDING TEN PERCENT (10%) OR MORE MEMBERSHIP INTEREST. THE LICENSEE SHALL ALSO SUBMIT AN INDIVIDUAL HISTORY RECORD FOR ANY NEW MANAGER, OFFICER, DIRECTOR, OR MEMBER HOLDING TEN PERCENT (10%) OR MORE MEMBERSHIP INTEREST.

C. Municipalities and Other Governmental Entities

1. If the applicant for any license under ~~A~~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 ~~†~~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 **OR TRANSFER 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 **THE 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.

3.5 TRANSPORT OF THE ALCOHOL BEVERAGE INVENTORY

- 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.

3.6 COSTS ASSOCIATED WITH THE ALCOHOL BEVERAGE INVENTORY FOR PURPOSES OF BELOW COST SALES

- c. **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. BOTH THE SELLING LICENSEE AND THE ACQUIRING LICENSEE SHALL GIVEN NOTICE TO THE STATE AND LOCAL LICENSING AUTHORITIES OF THE SALE OR TRANSFER OF THE INVENTORY NOT LESS THAN FIFTEEN (15) DAYS BEFORE THE SALE OCCURS.
- b. 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 Division and local licensing authority of the specific alcohol beverage inventory transported to the licensed premises of and/or to any other licensed premises owned by the acquiring licensee, specifying which alcohol beverages were transported to each such licensed premises.

5. Notice to wholesalers and satisfaction of debt.

- a. The notification to every wholesaler that sold alcohol beverages to the selling licensee within the prior four (4) months from the sale of the alcohol beverage inventory, as required under subsection 44-3-409(6)(d)(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 47-314. ~~Limited Liability Company Repealed.~~

~~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), G.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 7-80-101, G.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 47-316. 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 **TO THE SUPPLIER. THE RETAILER MAY NOT ACT AS AN INTERMEDIARY FOR THE SUPPLIER OR THE CONSUMER**
 - 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. **SUPPLIERS ARE PROHIBITED FROM PROVIDING THEIR CONSUMER REBATE CERTIFICATES 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 WEBSITE OR MOBILE APPLICATION.**
 - 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 BY SUPPLIERS 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. LICENSED RETAILERS ARE ALSO PROHIBITED FROM PROVIDING AN INSTANT REDEEMABLE COUPON THROUGH THE RETAILER'S BONA FIDE LOYALTY OR REWARD PROGRAM, OR ON THE RETAILER'S MOBILE APPLICATION OR WEBSITE.
- 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. ~~except when said coupons are packaged with, or attached to, each individual product package before such products are delivered to a licensed retailer.~~
- iv. Suppliers SHALL NOT DIRECTLY ~~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.
- vi. SUPPLIERS MAY PROVIDE SUPPLIERS' INSTANT REDEEMABLE COUPONS AVAILABLE TO THE PUBLIC THROUGH GENERAL PRINT OR ELECTRONIC MEDIA DIRECTED AT THE CONSUMER; PACKAGE INSERTS; OR THROUGH A SUPPLIER'S REPRESENTATIVE OR AGENT, WHO IS PROVIDING COUPONS TO THE CONSUMERS AT THE RETAIL PREMISES FOR THE PURPOSE OF PRODUCT PROMOTION. SUPPLIERS MAY ALSO PROVIDE THEIR INSTANT REDEEMABLE COUPONS PACKAGED WITH, OR ATTACHED TO, EACH INDIVIDUAL PRODUCT BEFORE SUCH PRODUCTS ARE DELIVERED TO A LICENSED RETAILER.

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 **SIXTY (60)** days.
- f. In the event that the supplier does not have the signed acknowledgement of receipt from the consumer within **THIRTY (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 **TWENTY-FOUR (24)** hours of the expiration of the **THIRTY (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 **THIRTY (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 ~~A~~article 3 or 4 of ~~T~~itle 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 ~~A~~article 5 of ~~T~~itle 44, and related regulations, and such organization does not otherwise hold a retail license pursuant to ~~A~~articles 3 or 4 of ~~T~~itle 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 47-318. 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. ~~THE FOLLOWING TYPES OF INTERESTS CONSTITUTE OWNERSHIP IN A LICENSE: AA~~ partnership interest, limited or general; a joint venture interest; ~~A MEMBERSHIP INTEREST IN A LIMITED LIABILITY COMPANY, ASSOCIATION, OR ORGANIZATION~~ or ownership of a share or shares in a corporation, ~~OR A SOLE PROPRIETORSHIP, which is licensed, constitutes ownership.~~

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, ~~THE RETAILER’S~~ 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, shelve, 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 ~~INSERT A~~ specifically named food or food products or food generally” ~~OR A and~~ similar statements ~~SUGGESTING PAIRING OF relating- AN~~ alcohol beverages ~~s-WITH OR to A TYPE OF~~ 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 ~~A~~article 5 of ~~T~~itle 44, and related regulations, and such organization does not otherwise hold a retail license pursuant to ~~A~~articles 3 or 4 of ~~T~~itle 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 47-322. 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 ~~A~~articles 3 or 4 of ~~T~~itle 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 ~~A~~articles 3 or 4 of ~~T~~itle 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**rticle 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~~ER~~
~~outlet~~ may also be mentioned.
 - i. The maximum amount of malt liquor or fermented malt beverages given to each consumer shall not exceed twenty-six (26) ounces.

C. Sponsored events: Lawful Advertising

- 1. Suppliers may provide sponsorship fees to advertise at charitable or civic events that are temporary in nature, where the supplier's sponsorship fee affords the supplier exclusive signage rights at the retail premises, and where sponsorship proceeds are received directly by the charity or civic endeavor, and not by a licensed retailer.
- 2. Suppliers may provide a sponsorship fee to advertise in ballparks, resorts, racetracks, stadiums, concert venues or entertainment districts as long as such sponsorship fee is not paid to a person or entity holding a retail license at such venue, directly or

indirectly, and is not intended to influence the product selection of such retailer. The retailer's product selection for the event may not change as a condition of the event sponsorship and the products of the supplier's competitors may not be excluded.

3. Suppliers may provide or pay for any media announcement of a sponsored event that primarily advertises the product, the location, and the date and time of the event. The name of the retail outlet may also be mentioned.
4. Suppliers providing sponsorship fees to advertise at the aforementioned venues may also provide those items and services authorized under regulations 47-316, 47-320, and 47- 322 to the licensed retailers at, or in conjunction with, the sponsored event.

D. Retailer entertainment

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

1. Food, beverages, entertainment, or recreation are provided when, and where, suppliers or supplier representatives are participating or present.
2. Entertainment may include tickets or admission fees for athletic or sporting events, concerts, artistic performances, festivals, and similar forms of entertainment.
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 **A**rticle 5 of **T**itle 44, the exemption set forth in section 44-5-108, C.R.S., provisions of **A**rticle 3 of **T**itle 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~~articles 3 or 4 of ~~T~~itle 44, C.R.S.

M. Value of Labor

1. Definitions for purposes of this subsection (~~M~~):
 - a. "Deliver" or "delivering" is the act of a supplier bringing and unloading its alcohol beverage~~S 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~~S 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~~S product~~ or ~~alcohol beverage product~~ promotional materials, including ~~alcohol beverage product~~ signs, consumer advertising specialties, or point-of-sale advertising FOR THE ALCOHOL BEVERAGES, 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~~S 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~~S 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~~S 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~~S product~~ while delivering, merchandising, price stamping, rotating, servicing, or stocking its own alcohol beverage~~S product~~.

- b. A supplier may only service the portion of the retailer's alcohol beverage dispensing equipment used for dispensing its alcohol beverage ~~S 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 (~~LM~~)(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.
- 5. A SUPPLIER SHALL NOT REQUIRE ANOTHER SUPPLIER TO PERFORM THE KINDS OF LABOR DESCRIBED IN SUBSECTIONS (M)(2) OR (M)(4) OF THIS REGULATION.

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.

O. SUPPLIERS INFLUENCE ON RETAILERS

- 1. 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.

P. NON-PROFITS, CHARITABLE, OR OTHER QUALIFYING ORGANIZATIONS

- 1. NOTHING IN THIS REGULATION SHALL APPLY TO NON-PROFITS, 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 47-326. 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 ~~A~~articles 3 or 4 of ~~T~~itle 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 47-405. 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 47-407. 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~~ SUBSECTION 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~~ SUBSECTION 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.