



Session 3 – Working Group July 19, 2022

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

Regulation 47-200. Petitions for Statements of Position and Declaratory Orders Concerning the Colorado Liquor Code, Colorado Beer Code, Special Event Code, or Colorado Liquor Rules.

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)(R), and 24-4-105(11), C.R.S. The purpose of this regulation is to establish clear and comprehensive procedures and considerations required for a statement of position and/or a declaratory order.

- A. Statements of Position. Any person may petition the Division for a statement of position concerning the applicability to the petitioner of any provision of the Colorado Liquor Code, Colorado Beer Code, Special Event Code, or Colorado Liquor Rules. **The petition must include the information set forth in paragraph (E)(1)-(E)(4)(5) of this regulation.**
- B. Service of Petition for Statement of Position. A letter for petition for a statement of position shall be served on the Division by mailing or emailing such petition to the Division with a copy sent on the same date to the local licensing authority in the county or municipality where the petitioner's licensed premises or proposed licensed premises are located, if applicable. Each petition for a statement of position shall contain a certification that the service requirements of this paragraph have been met.
- C. Time to Respond. The Division shall respond to a petition for statement of position in writing within forty-five (45) days of receiving such petition and set forth its position and the reasons therefore, or the grounds on which the division declines to provide a statement of position, pursuant to section 24-4-105(11), C.R.S., and/or paragraph (G) of this regulation.
- D. Declaratory Orders. Any person who has petitioned the Division for a statement of position and who is dissatisfied with the statement of position may petition the state licensing authority within forty-five (45) days of the issuance of the statement of position for a declaratory order pursuant to section 24-4-105(11), C.R.S. Furthermore, any person who has not received a response within forty-five (45) days, may petition the state licensing authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. The parties to any petition for a declaratory order pursuant to this regulation shall be the petitioner and the Division.
- E. Requirements for ~~of a~~ Petition for a Statement of Position or for a Petition for Declaratory Order. Each petition **for a statement of position or petition** for a declaratory order shall set forth the following:
 - 1. The name and address of the petitioner; whether the petitioner is licensed pursuant to the Colorado Liquor Code, Beer Code, or Special Events Code and if so, the type of license or permit and address of the licensed premises.
 - 2. The statute, rule, or order to which the petition relates.

3. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule or order to which the petition relates.
 4. A concise statement of the legal authorities if any, and such other reasons upon which petitioner relies.
 5. A concise statement of the **statement of position** or declaratory order sought by the petitioner.
- F. Service of Petition for Declaratory Order. A petition for a declaratory order shall be served on the state licensing authority by mailing such petition to the state licensing authority with a copy of the petition sent on the same date to the Division, the local licensing authority in the county or municipality where the petitioner's licensed premises or proposed licensed premises are located, and to the Revenue & Utilities Section of the Colorado Department of Law. Each petition for a declaratory order shall contain a certification that the service requirements of this paragraph have been met.
- G. Acceptance. **The Division will determine whether to entertain any petition for statement of position.** The state licensing authority will determine whether to entertain any petition for declaratory order. If **either the Division or** the state licensing authority decides it will not entertain a petition for declaratory order, it shall promptly notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:
1. **For a petition for declaratory order, t**The petitioner has failed to petition the Division for a statement of position, or if a statement of position has been issued, the petition for declaratory order was filed with the state licensing authority more than forty-five (45) days after issuance of the statement of position.
 2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule or order in question.
 3. The petition involves a subject, question or issue which is currently involved in a court action, an administrative action before the state or any local licensing authority, ongoing investigation conducted by the Division or a written complaint filed with the state licensing authority or Division.
 4. The petition seeks a ruling on a moot or hypothetical question, having no applicability to the petitioner.
 5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo.R.Civ.P. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule or order.
 6. **The petitioner failed to properly serve the petition pursuant to this regulation.**
 7. **The petitioner failed to include information required in paragraph (E) of this regulation.**
- H. Determination. If the state licensing authority determines that it will entertain the petition for declaratory order, it shall promptly so notify all parties involved, and the following procedures shall apply:
1. The state licensing authority may expedite the hearing, where the interests of the petitioner will not be substantially prejudiced thereby, by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the petitioner or the

Division to submit additional evidence and legal argument in writing. Any such request for additional information shall be served on all parties.

2. If the state licensing authority determines that an evidentiary hearing or legal argument is necessary to a ruling on the petition, the state licensing authority shall issue a Notice to Set to all parties and on the date so set, a hearing shall be conducted in conformance with section 24-4-105, C.R.S.
 3. In ruling on a petition for declaratory order, the state licensing authority may take administrative notice of general, technical or scientific facts within its knowledge, so long as the fact is specified in the record or is brought to the attention of the parties before final decision and every party is afforded an opportunity to controvert the fact so noticed.
 4. Every declaratory order shall be promptly decided and issued in writing, specifying the basis in fact and law for the order.
 5. Any other interested person may seek leave of the state licensing authority to intervene in the proceeding and such leave may be granted if the licensing authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested person.
 6. A declaratory order shall constitute final agency action subject to judicial review pursuant to section 24-4-106, C.R.S.
- I. Record Retention and Reliability. Files of all requests, statements of position, and declaratory orders will be maintained and relied upon by the Division for a period of five (5) years, unless the statement of position or declaratory order is superseded by a statutory or regulatory change, amended by the Division, or amended or reversed by the state licensing authority. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.

Regulation 47-313. Tastings.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), 44-3-301(10), 44-3-409(1)(c)(III), and 44-3-410(1)(a)(II)(B), C.R.S. The purpose of this regulation is to clarify who may conduct tastings and how open and unconsumed samples must be appropriately treated after a tasting. This regulation applies only to tastings conducted on the licensed premises of retail liquor stores and liquor-licensed drugstores pursuant to section 44-3-301(10), 44-3-409(1)(c)(III), and 44-3-410(1)(a)(II)(B), C.R.S.

A. Tastings.

1. A tasting shall be conducted only by a person who has completed seller-server training that meets the standards established by the Division, and is:
 - a. A retail liquor store or liquor-licensed drugstore licensee or employee; or
 - b. A representative, employee, or agent of one of the following suppliers licensed by the state licensing authority:
 - i. Wholesaler;
 - ii. Brew pub;

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

Regulation 47-405. 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.

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 at least ten (10) business 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;
 - c. The date of the first festival;
 - d. Duration of the festival, which cannot exceed seventy-two (72) hours;
 - e. The annual processing fee of twenty-five dollars (\$25 USD);
 - f. A list of eligible licensees participating in the first festival;
 - g. Contact information of a primary contact for each participating licensee including ~~the~~ name, title, phone number and email address ~~of the primary contact~~;
 - h. Any special event permit application that has been or will be filed in connection with the festival; ~~and~~
 - i. A security and control plan for each participating licensee approved by the state and local licensing authority, which specifies hours of service, entries and exits, how and where alcohol will be contained and stored during the festival, how and when alcohol will be removed at the conclusion of the festival, how visibly intoxicated parties will be handled, and how the licensee plans to prohibit youth access to alcohol;

- 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;
 - l. A plan to have water available to patrons; and
 - m. 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 ten (10) business 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 (10) **business 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.

C. Local licensing permit.

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. A local licensing permit under Regulation 47-405(C)(1) is not required for a limited winery licensee under Regulation 47-405(A)(2), a winery license under Regulation 47-405(A)(1), or an applicant licensee under Regulation 47-405(A) that also applies for special event liquor permit issued under article 5 of title 44.

D. Expiration of Permit.

A festival permit under this regulation is valid for twelve (12) months from the date the initial festival permit is issued.

E. Subsequent Festival Permit Application(s).

1. Each permittee or eligible licensee participating in a festival under this regulation may hold or participate in no more than a total of nine (9) festivals, in a twelve (12) month period.
2. The permittee must notify the state licensing authority, and if applicable the local licensing authority, at least ten (10) business 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 one or both of the applicable licensing authorities at least ten (10) **business days prior to the subsequent festival**, the application will be denied by the State licensing authority. The 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 subsequent festival will be held;

- e. The date of the subsequent festival;
 - f. Duration of the festival, which cannot exceed seventy-two (72) hours;
 - g. A list of eligible licensees participating in the subsequent festival(s);
 - h. The dates of all prior festivals occurring under the festival permit;
 - i. The number of prior festivals that have previously occurred under the festival permit;
 - j. Contact information of a primary contact **for each participating licensee** including ~~the~~ name, title, phone number and email address ~~of the primary contact~~;
 - k. Any special event permit application that has been or will be filed in connection with the festival; ~~and~~
 - l. **A security and control plan for each participating licensee approved by the state and local licensing authority, which specifies hours of service, entries and exits, how and where alcohol will be contained and stored, how and when alcohol will be removed at the conclusion of the festival, how visibly intoxicated parties will be handled, and how the licensee plans to prohibit youth access to alcohol;**
 - m. **Active Colorado liquor license numbers not under suspension for the applicant and each participating licensee;**
 - n. **Identification of any violations at a festival committed by the applicant or any participating licensee during the preceding three years;**
 - o. **A plan to have water available to patrons; 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 application 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.**

F. Festival Tastings.

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 of their respective alcohol beverages during the festival that the permittee or licensee could conduct at their respective licensed premises.
 - a. Supplier licensees which are eligible to participate in festivals and have a duly licensed sales room may offer festival tastings of the products that they offer for consumption on their licensed sales room premises.
3. Regulation 47-313 on tastings applies to Retail Liquor Store licensees and Liquor Licensed Drugstore licensees and does not apply to festival tastings.

G. Festival Sales.

1. The permittee and licensees participating in the festival may engage in the same retail sales of their respective alcohol beverages during the festival that the permittee and licensees participating in the festival could conduct at their respective licensed premises.
 - a. Supplier licensees which are eligible to participate in festivals and do not have a duly licensed sales rooms may not offer their products to the public during a festival.
- ~~1. Festival permittees are prohibited from participating in an Entertainment District, unless they meet the licensing requirements pursuant to section 44-3-103(15), C.R.S. and are an approved member of the Promotional Association.~~
- ~~2. Festival permittees may be located adjacent to a common consumption area if all retail alcohol sales adhere to all rules applicable to common consumption areas, more generally, including required container parameters, and the prohibition on consumption of alcohol beverages from containers not meeting the requirements established.~~
- ~~3. Festival permittees are prohibited from utilizing common consumption areas for customer service and consumption unless the festival permittee is a member of the promotional association or entertainment district associated with the common consumption area.~~

H. Denials.

1. The state licensing authority may deny a festival permit or subsequent festival permit application if:
 - a. A documented history of violations under article 3 of title 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 article 3 of title 44, these regulations, or ordinances or regulations of a local licensing authority.

I. Violations.

1. Violating Licensee Identified
 - a. If a violation occurs during a festival permitted under this regulation and the

licensee participating in the festival that is 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 licensee **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 ~~S~~state and local licensing authorities shall consider it a mitigating factor if the licensee 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 licensee participating in the festival that is 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 sub~~sequent~~**section** does not apply to the revocation of the licensee's license under section 44-3-601, C.R.S., or Regulation 47-603.

Regulation 47-422. Arts License.

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), and 44-3-419, C.R.S. The purpose of this regulation is to define "production and performances of an artistic or cultural nature" required to qualify for an arts license

- A. For the purposes of determining eligibility for an arts license pursuant to section 44-3-419, C.R.S., "productions and performances of an artistic or cultural nature" include **all forms of theatrical and other performing arts, the display or exhibition of all forms of the visual arts, and activities conducted on the licensed premises in furtherance of the proper purposes of arts organizations:**
 1. All forms of theatrical and other performing arts;
 2. An exhibition or presentation of art or objects of cultural significance, such as those commonly held in art or history museums or galleries; and
 3. An education seminar on an artistic or cultural subject.
- B. ~~An organization otherwise complying with section 44-3-419, C.R.S. shall be deemed to be engaged in a production or performance at all times that visual art is on exhibit for viewing within the licensed premises.~~ For the purposes of determining eligibility for an arts license pursuant to section 44-3-419, C.R.S., a "patron" is a person who attends or observes the production or performance of an artistic or cultural nature for the purpose of supporting the nonprofit arts organization.
- C. The arts license must only be used to sell alcohol for consumption only to patrons present at the licensed premises for the productions and performances of the artistic or cultural nature.

- D. Alcohol beverages may be served pursuant to an arts license to adult patrons of a private function held on the arts licensed premises if the private function includes attendance at the productions and/or performances detailed in subparagraph (A) above.

Regulation 47-605. Responsible Alcohol Beverage Vendor and Permitted Tastings by Retail Liquor Stores and Liquor-Licensed Drugstores

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-1002(2), C.R.S. The purpose of this regulation is to establish curricula required to be considered a responsible alcohol beverage vendor.

To be considered a Responsible Alcohol Beverage Vendor at any licensed premises, or to serve beverage alcohol at tastings held in retail liquor stores or liquor licensed drugstores, the following standards must be complied with.

- A) Initial Certification Training Program Standards
- 1) A training program must be attended by the resident on-site owner (if applicable) or a manager, and all employees selling/serving alcohol beverages
 - 2) Once a licensee is designated a "Responsible Vendor," all new employees involved in the sale, handling and service of alcoholic beverages must complete the training described in this regulation within 90 days of date of hire
 - 3) The program must include at least (2) hours of instruction time.
 - 4) The program must provide written documentation of attendance and successful passage of a test on the knowledge of the required curriculum for each attendee
 - a) Attendees that can speak and write English must successfully pass a written test with a score of 70% or better
 - b) Attendees that cannot speak or write English may be offered a verbal test, provided the same questions are given as are on the written test and the results of the verbal test are documented with a passing score of 70% or better
 - 5) Program providers may, at their discretion, conduct class surveys or discussions to help determine a program's effectiveness. This time shall not be counted as part of the program's instruction time.
 - 6) Program providers may, at their discretion, omit curriculum not applicable to the licensee being trained so long as the provider provides the Division with notice for the reason of omission.
- B) Initial certification training class core curriculum
- 1) Discussion concerning alcohol's effects on the human body
 - a) Alcohol's physical effects
 - b) Visible signs of intoxication

- c) Recognizing the signs
 - d) Poly-substance interactions, including but not limited to, interaction with marijuana, prescriptions and over-the-counter medication, and other substances.
- 2) Liquor Liability
 - a) Civil liability
 - b) Criminal liability
 - c) Administrative liability (License Sanctions)
 - d) Liability for licensee and/or managers for the actions of employees
- 3) Sales to visibly Intoxicated persons
 - a) Colorado law provisions
 - b) Recognition and prevention, including identifying signs of visible alcohol and drug impairment.
 - c) Intervention techniques
 - d) Related laws or issues
 - (1) DUI/DWAI
 - (2) Reg. 47-900
- 4) Sales to minors
 - a) Colorado law provisions
 - b) Sale and service
 - c) Permitting consumption
- 5) Acceptable forms of Identification (Reg. 47-912)
 - a) How to check identification - protocol
 - b) Spotting false identification
 - c) Mistakes made in verification
- 6) Other key state laws and rules affecting owners, managers, sellers, and servers
 - a) Age requirements for servers and sellers
 - b) Provisions for confiscating fraudulent identifications

- c) Removal of liquor from on-premises licensed establishment
- d) Patrons prohibited from bringing liquor onto licensed premises
- e) Permitted hours of sale and service
- f) Conduct of establishment
- g) Nudity and prohibited entertainment
- h) Permitting inspections by state and local licensing and enforcement authorities
- i) Reporting changes in ownership and management
- j) Licensee responsible for activities occurring within licensed premises
- k) Tastings in retail liquor stores and liquor licensed drugstores
- l) Prohibited purchases
- m) On-premises and off-premises delivery and takeout rules
- n) Commonly arising issues with delivery and takeout sales

C) Information for Owners and Managers

- 1) Local Licensing and Enforcement
 - a) Encourage to become familiar with local law provisions
 - b) Encourage to develop a relationship with local agencies
- 2) State Licensing and Enforcement
 - a) Contact Information for the Division
 - b) Become familiar with state laws and regulations
 - c) Encourage to develop a relationship with area investigator
- 3) Recommendations for Licensees
 - a) Establish policies and procedures.
 - b) Establish a record keeping system to document activities and events
 - c) Contact local authority on incident reporting expectations

D) Training programs based on type of licensed establishment and portability of training

- 1) Training program curriculum may be tailored by Division-certified training program providers to on-premises only licensed establishments, to off-premises only licensed establishments, or to both on-premises and off-premises combined. Except as noted below, all approved training programs shall include the curriculum contained in

paragraphs B and C of this regulation.

- 2) Combined training programs must include all of the curriculum contained in paragraphs B and C of this regulation. Persons certified in a combined training program may use the certification in both on- and off-premises licensed establishments.
- 3) On-premises only training programs may exclude from their curriculum subparagraph B(6)(k) of this regulation relating to liquor store tasting events. Persons certified in an on- premises only training program may use their certification only in an on-premises licensed establishment.
- 4) Off-premises only training programs may exclude from their curriculum subparagraphs B(6)(c), (d), (f), and (g) relating to activities at on-premises businesses. Persons certified in an off-premises only training program may use their certification only in an off-premises licensed establishment.
- 5) Program providers may, at their discretion, omit curriculum not applicable to the licensee being trained so long as the provider provides the Division with notice for the reason of omission.

E) Recertification requirements

- 1) Recertification must occur every two (2) years, inclusive of a grace period of thirty (30) days.
- 2) Recertification shall be accomplished in any of the following manners:
 - a) Documented successful passage of a written or verbal test with a score of 70% or better administered by a Division-approved program trainer in person, including virtually through a live program, which demonstrates knowledge of new and existing alcohol beverage laws
 - (1) Completion of a course is not required before the test is administered
 - (2) Failure to pass the first administration of the test shall require attendance at either a recertification course or an initial certification training program
 - b) Documented attendance and completion of a recertification course
 - c) Documented attendance and completion of an initial certification training program
- 3) Recertification course
 - a) The curriculum must cover any and all changes in the law or regulations that affect the curriculum contained in the initial certification program
 - b) The course must provide a refresher on the following topics:
 - (1) Sales to intoxicated persons
 - (2) Sales to minors

- (3) Legal sales hours
 - (4) Civil and criminal liabilities for law violations
 - c) No minimum instruction time or testing requirements shall apply
 - d) Records Retention The certified seller – server training program providers for the Responsible Alcohol Beverage Vendor Program must keep proof of attendance and records of successful completion of the training for a minimum of three (3) years and make the records available to the Division upon request.
- F) Certification as a Responsible Alcohol Beverage Vendor Trainer
- 1) To seek Division approval as a Responsible Alcohol Beverage Vendor trainer, an individual or business entity must submit the following information:
 - a) A Responsible Vendor Trainer Application; and
 - b) A copy of the Responsible Alcohol Beverage Vendor training course curriculum, to include all electronic files, transcripts, or recordings.
 - 2) Approved training providers must renew approval with the Division every two (2) years to ensure continued compliance with statutory and regulatory standards.
- G) Denials, Revocations, and Suspensions of Training Providers
- 1) The Division may deny, revoke, or suspend a training provider's approval if the Division finds any of the following:
 - a) The approved training provider does not comply with the minimum standards found in this regulation;
 - b) The approved training provider is not teaching from a Responsible Alcohol Beverage Vendor training program submitted to the Division; or
 - c) A training provider perpetuates a fraud in records or certification.

Regulation 47-912. Identification.

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(a)(I)(R), 44-3-410(2)(a)(IV), and 44-3-901(11)(a), C.R.S. The purpose of this regulation is to define adequate identification criteria for purposes of demonstrating age, and establish the factors of an affirmative defense available to a licensee for an alleged sale to a minor.

A. Except as otherwise provided in section 44-3-901(11), C.R.S., licensees may refuse to sell alcohol beverages to any person if unable to verify the person is at least twenty-one years of age. Verification of age can be done by either:

1. Producing adequate identification of age, including any verified digital identification, that is valid and unexpired. Identification of age is adequate if it contains a picture and date of birth and is one of the following:

a. Any type of driver's license, or identification card issued by any state within the United States, the District of Columbia, any U.S. Territory, or any foreign country, including Canada or Mexico;

b. A United States military identification card or any other identification card issued by the United States government including, but not limited to, a permanent resident card, alien registration card, or consular card;

c. A passport, or passport identification card;

d. A valid consular identification card from any foreign country; or

2. Using a biometric identity verification device. For purpose of this regulation, “biometric identity verification device” means a device that instantly verifies the identity and age of a person by an electronic scan of a biometric characteristic of the person, such as a fingerprint, iris, face, or other biometric characteristic, or any combination of these characteristics; references the person’s identity and age against any record of identification described in paragraph (A)(1) of this regulation; and contemporaneously provides the licensee with identity and age verification for the person utilizing the device. Prior to using a biometric identity verification device to verify the identity and age of a person for purposes of this paragraph (A)(2), the licensee shall ensure the device provider has systems in place to:

a. Verify the authenticity of any identification records by an electronic authentication process;

b. Verify the identity of, and relevant identifying information about, the person through a secondary, electronic authentication process or set of processes utilizing commercially available data, such as a public records query or a knowledge-based authentication quiz; and

c. Securely link the authenticated record to biometric characteristics contemporaneously collected from the person and store the authenticated record in a centralized, highly secured, encrypted biometric database.

B. It shall be an affirmative defense to any administrative action brought against a licensee for alleged sale to a minor if the licensee meets its burden of proof to establish, by a preponderance of the evidence, that:

1. The minor presented fraudulent identification of the type established in paragraph (A)(1) of this regulation, and the licensee possessed an identification book issued within the past ~~three-two~~ (2) years, which contained a sample of the specific kind of identification presented for compliance purposes, or;

2. The licensee used and relied upon a biometric identity verification device that indicated the minor was twenty-one years of age or older, in accordance with paragraph (A)(2) of this regulation.

3. A licensee asserting the affirmative defense, as described in Paragraph (B)(2) of this regulation, shall be responsible for obtaining, and providing to the Division, all records necessary to establish that a biometric identity verification device was used as age verification for the transaction in question.

C. If a liquor-licensed drug store elects to use a biometric identity verification device at a selfcheckout machine or other mechanism described in section 44-3-410(2)(a)(III), C.R.S., it shall not allow a consumer to complete the alcohol beverage purchase without assistance from and completion of the entire transaction by an employee of the liquor-licensed drugstore.

Regulation 47-918. Removal of Alcohol Beverages from Premises.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, ~~is located at~~ subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to make clear ~~the circumstances under which alcohol may be removed from an on-premises licensee's licensed premises, with the limited exceptions found in section 44-3-423, C.R.S. that knowingly permitting the removal of any alcohol beverages from an on-premises licensee's licensed premises is not permitted and the circumstances under which a licensee may be charged notwithstanding the posting of signs as outlined in subsection 44-3-901(10)(a)(II), C.R.S.~~

- A. Except as provided by ~~Articles 3, 4, or 5 of Title 44, section 44-3-423 C.R.S., or subsection 44-3-107(2), C.R.S.~~ no licensee, manager or agent of any establishment licensed for on-premises consumption shall knowingly or recklessly permit the removal from the licensed premises of any alcohol beverages in sealed or unsealed containers.
1. Licensees that post signs as specified in subsection 44-3-901(10)(a)(II)(A), C.R.S., must post the signs at all exits in a location that can be easily identified and read by patrons using those exits.
 2. Regardless of whether a licensee posts a sign as specified in subsection 44-3-901(10)(a)(II)(A), C.R.S., the licensee may be charged with knowingly permitting the removal of an alcohol beverage from the licensed premises if the licensee shows reckless disregard for the prohibitions against alcohol beverage removal from the licensed premises ~~that are applicable to their license or permit type., which may include permitting the removal of an alcohol beverage from the licensed premises three times within a twelve month period, regardless of whether the three incidents occur on the same day or separate days. A licensee may be charged with knowingly permitting the removal of an alcohol beverage from the licensed premises upon the third occurrence of alcohol beverage removal from the licensed premises.~~
- B. Licensees who may permit a patron to remove a partially consumed bottle of vinous liquor pursuant to section 44-3-423, C.R.S., shall reseal the bottle with a cork or other commercially manufactured stopper.
- C. Patrons transporting a partially consumed bottle of vinous liquor in a motor vehicle shall comply with the requirements of section 42-4-1305, C.R.S.
- D. Wholesalers may remove sealed and unsealed containers of alcohol beverages from liquor licensed premises that had been introduced during the retailer sampling.
- E. ~~Licensees who may permit a patron to remove an alcohol beverage from the licensed premises pursuant to a takeout and delivery permit shall comply with the requirements of regulation 47-1101 and section 44-3-911, C.R.S.~~
- F. ~~Festival participants permitted pursuant to 44-3-404, C.R.S., and Communal Outdoor Dining Area participants permitted pursuant to 44-3-912, C.R.S. may be located adjacent to a common consumption area and serve alcohol beverages for consumption in the common consumption area as long as all alcohol beverages consumed in the common consumption area meet all requirements of container signage and markings as established in 44-3-910, C.R.S. No consumption from sealed containers is permissible in common consumption areas~~