
DRAFT RULE REVISIONS

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Colorado Tobacco Rules
1-CCR-203-1

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

Rule 7-100. Definitions.

Basis and Purpose. The statutory authority for this rule includes, but is not limited to, sections 44-7-104(5), 18-13-121(5), 22-33-104(2)(b), 25-14-203(4), 44-3-103(50), and 44-30-103(18), C.R.S. The purpose of this rule is to ensure consistent application and interpretation of common terms within article 7 of title 44 and these rules.

- A. “Cigarette, tobacco product, or nicotine product” means (1) a product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or (2) Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including an electronic cigarette, cigar, cigarillo, or pipe. Notwithstanding any provision of this paragraph (A) to the contrary, “cigarette, tobacco product, or nicotine product” does not mean a product that the food and drug administration of the United States department of health and human services has approved as a tobacco use cessation product.
- B. “Cigar-Tobacco Bar” means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors shall not be defined as a “cigar-tobacco bar” and shall not thereafter be included in the definition regardless of sales figures.
- C. “Compliance Check” means the Division or local authority engaging a person under twenty-one years of age to enter a retail location to attempt the purchase of cigarettes, tobacco products, or nicotine products for purposes of ensuring compliance with article 7 of title 44.
- D. “Division” means the State of Colorado Department of Revenue’s Liquor Enforcement Division, except as provided otherwise.
- E. “Inspection” means a procedure conducted by the Division or local authority to determine whether a retailer is operating in compliance with the requirements of article 7 of title 44, the rules

promulgated thereunder, or any other applicable laws and regulations as they relate to the retailer's sale of cigarettes, tobacco products, or nicotine products.

- F. "Licensed Gaming Establishment" means any premises licensed pursuant to article 30 of title 44 for the conduct of gaming.
- G. "Minor" means a person under twenty-one years of age.
- H. "Indoor Age Restricted Retailer ~~On-premises Retailer~~" means a retailer that sells cigarettes, tobacco products, or nicotine products for consumers to use at the retail location. **The retailer must comply with the requirements in section 25-14-204(3), C.R.S., including, but not limited to:**
1. Prohibiting entry by any person under twenty-one years of age; and
 2. Displaying signage in at least one conspicuous place and at least four inches by six inches in size stating either:
 - a. "Smoking allowed. Persons under twenty-one years of age may not enter."; or
 - b. In the case of a retailer that desires to allow the use of ESDs but not other forms of smoking on the premises, "Vaping allowed. Persons under twenty-one years of age may not enter."
- I. "Off-premises Retailer" means a retailer that sells cigarettes, tobacco products, or nicotine products for consumers to use at a location other than the retail location.
- J. "Retailer" means the owner or operator of business of any kind at a specific location that sells cigarettes, tobacco products, or nicotine products to a user or consumer.
- K. "School" means a public, parochial, or nonpublic school that provides a basic academic education in compliance with school attendance laws for students in grades one through twelve. "Basic academic education" means the sequential program of instruction provided by an independent or parochial school, and such program shall include, but not be limited to, communication skills of reading, writing, and speaking, mathematics, history, civics, literature, and science.
- L. "Sell" or "sale" means any of the following: To exchange, barter, or traffic in; to solicit or receive an order for; to keep or expose for sale; to deliver for value or in any way other than gratuitously; to peddle or to possess with intent to sell; to traffic in for any consideration promised or obtained, directly or indirectly.

Rule 7-300. Large-Operators.

Basis and Purpose. The statutory authority for this rule includes, but is not limited to, subsections 44-7-104(5)(a)(I), and 44-7-104(5)(a)(II), C.R.S. The purpose of this rule is to establish large-operator application requirements and associated license fees for retail locations under the same corporate or business entity.

- A. A retailer that operates more than ten retail locations under the same corporate or business entity, including franchises, may, subject to the requirements of this Rule 7-300, apply as a large-operator and use one application to obtain licenses for each retail location.
- B. A large-operator application shall be made upon forms prescribed by the Division. The Division will not consider an application that is not complete in every material detail, or which is not accompanied by the remittance in full of the whole amount of the large-operator license fee established in Rule 7-500. Every large-operator application shall identify each retail location operated by the large-operator and shall include the business address, owner/manager information, phone number, and email address for each retail location.
- C. The large-operator applicant must provide approved local licenses for any and all retail locations subject to local licensing with the application.
- D. The large-operator license fee shall be considered a single fee, and it shall be paid in one transaction. In order to cover the direct and indirect costs of administration and enforcement of article 7, of title 44, C.R.S, the large-operator license fee shall be calculated based on the number of retail locations operated by the large-operator.
- E. Notwithstanding the use of a large-operator application and the payment of the relevant large-operator application fee, each retail location operated by the large-operator shall be issued a separate license from the Division. The use of a large-operator application and payment of a large-operator fee shall not preclude the Division from conducting compliance checks and investigations for each separate retail location and pursuing administrative penalties on each separate license possessed and operated by the large-operator.

Rule 7-305. Temporary State Licenses.

Basis and Purpose. The statutory authority for this rule includes, but is not limited to, subsection 44-7-104(5), C.R.S. The purpose of this rule is to authorize persons to apply for a temporary state license, pursuant to which a retailer may sell cigarettes, tobacco products, and nicotine products, for a period not to exceed thirty (30) days, following the purchase of a retail location previously licensed to another person.

- A. A person that wishes to sell cigarettes, tobacco products, or nicotine products at a specific retail location acquired through the sale or transfer of a licensee's business to that person, and that has not yet applied for an annual state license pursuant to section 44-7-104.5, C.R.S., may apply for a temporary state license for that retail location.
- B. A temporary state license application shall be made upon forms prescribed by the Division. The Division will not consider an application that is not complete in every material detail, or which is not accompanied by the remittance in full of the whole amount of the temporary state license fee established in Rule 7-500. Every temporary state license application shall include the business address, owner/manager information, phone number, and email address for the retail location.
- C. A temporary state license is not renewable, and shall remain in effect until the earlier of:
 - 1. Thirty (30) days from the date a temporary state license application is approved for a specific retail location; or
 - 2. The date the Division approves or denies an application for a state license under section 44-7-104.5, C.R.S., for the same specific retail location.
- D. An application for a temporary state license may be denied for good cause. The Division shall deny any application for a temporary state license submitted by a retailer that is subject to an order issued by the Division pursuant to subsection 44-7-106(1)(c)(III), C.R.S., prohibiting a retailer from selling cigarettes, tobacco products, or nicotine products, which order renders the retailer ineligible to apply for a state license for three years following the date of the order.
- E. The Division shall approve or deny a temporary state license application within five (5) business days after receiving the application.

Rule 7-500. Fees.

Basis and Purpose. The statutory authority for this rule includes, but is not limited to, subsections 44-7-104(5), 44-7-104.5(1), and 44-7-104.7(3)(b), C.R.S. The purpose of this rule is to establish fees for certain licenses and permits that may be issued by the Division.

Below are the fees established by the Executive Director:

License Fees

Cigarette, Tobacco Product, or Nicotine Product Retailer License*	\$400.00
(* - classifications include: Indoor Age Restricted On-Premises Retailer; Off-Premises Retailer; and Cigar-Tobacco Bar).	
Temporary License	\$35.00
Cigarette, Tobacco Product, or Nicotine Product Retailer License Renewal.....	\$400.00
Large-Operator License(s)	\$400.00*
(* - retailers who have more than 10 retail locations under the same corporate or business entity may apply, simultaneously and on one form, for licenses for all retail locations that sell cigarettes, tobacco products, and nicotine products. The large-operator license fee, which is to be paid in one transaction regardless of number of licensed retail locations applied for, is to be calculated on a per-retail location basis in order to cover the direct and indirect costs of administration and enforcement of Article 7, Title 44, C.R.S.).	
Permit Fees	
Delivery Permit	\$250.00
Permit Renewal	\$250.00