



## Session 2 – Working Group June 28, 2022

If you have any comments or suggestions please email [dor\\_led\\_rulemaking@state.co.us](mailto: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) 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~~ a Petition **Statement of Position or 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 alltimes 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 awristband, 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 47-322. Unfair Trade Practices and Competition.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-102, 44-3-103, 44-3-201(1), 44-3-202(1)(b), 44-3-202(2)(a), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(G), 44-3-202(2)(a)(I)(R), 44-3-308, and 44-4-102, C.R.S. The purpose of this regulation is to establish certain permitted and prohibited trade practices between suppliers and retailers in order to clarify and prevent statutorily prohibited financial assistance between tiers.

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

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

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

- A. Sales of alcohol beverages.
1. No vinous or spirituous liquor may be sold by a vinous or spirituous liquor manufacturer or wholesaler to a retail licensee below the laid-in cost of said vinous and spirituous liquor products.
  2. No malt liquors or fermented malt beverages may be sold by a malt liquor/beverage manufacturer or wholesaler to a retail licensee below the laid-in cost of said malt liquor/beverage products.

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

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

B. On-site sales promotions

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

- a. A supplier-sponsored consumer sampling held at the licensed premises of a retailer licensed for on-premises consumption shall include only the alcohol beverages the retailer is licensed to sell.
  - b. The supplier shall only offer its alcohol beverage product to consumers during a supplier-sponsored consumer sampling.
  - c. A retailer or supplier shall not impose any charge to the consumer to enter or participate in the sampling.
  - d. Product used for sampling must be invoiced by the supplier, who is authorized to sell the alcohol beverages to licensed retailers pursuant to article 3 or 4 of title 44, as if sold to the retailer.
  - e. If all product listed in the sales invoice is consumed as permitted herein, the supplier may issue the retailer a credit against the entire amount of the original invoice.
  - f. Any remaining product must be returned to the wholesaler, or sold to the retailer at a minimum of the wholesaler's cost.
  - g. The supplier must be present and shall be the person who provides the sample to a consumer who is twenty-one (21) years of age or older.
  - h. Suppliers may provide or pay for any media announcement of a supplier-sponsored consumer sampling that primarily advertises the product, the location, and the date and time of the sampling. The name of the retail outlet may also be mentioned.
3. Off-Premises Giveaway. A supplier-sponsored consumer giveaway of sealed malt liquor or fermented malt beverages may be held at a retailer's premises licensed for off-premises consumption for the purpose of product sales promotion under the following conditions:
- a. A supplier-sponsored consumer giveaway held at the licensed premises of a retailer licensed for off-premises consumption is limited to either sealed malt liquor or fermented malt beverages, whichever the retailer is licensed to sell.
  - b. The supplier shall only offer its malt liquor or fermented malt beverages product to consumers during a supplier-sponsored consumer giveaway.
  - c. A retailer or supplier shall not impose any charge to the consumer to enter or participate in the giveaway.
  - d. Product used for the giveaway must be invoiced by a supplier, who is authorized to sell malt liquor or fermented malt beverage to licensed retailers pursuant to article 3 or 4 of title 44, as if sold to the retailer.
  - e. If all product listed in the sales invoice is given away as permitted herein, the supplier may issue the retailer a credit against the entire amount of the original invoice.
  - f. Any remaining product must be returned to the wholesaler, or sold to the retailer at a minimum of the wholesaler's cost.
  - g. The supplier must be present and shall be the person who gives the sealed container to consumers. The supplier must verify that each consumer is of lawful age prior to giving away the sealed container.
  - h. Suppliers may provide or pay for any media announcement of a supplier-

sponsored consumer giveaway that primarily advertises the product, the location, and the date and time of the giveaway. The name of the retail outlet may also be mentioned.

- i. The maximum amount of malt liquor or fermented malt beverages given to each consumer shall not exceed twenty-six (26) ounces.

C. Sponsored events: Lawful Advertising

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

D. Retailer entertainment

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

1. Food, beverages, entertainment, or recreation are provided when, and where, suppliers or supplier representatives are participating or present.
2. Entertainment may include tickets or admission fees for athletic or sporting events, concerts, artistic performances, festivals, and similar forms of entertainment.
3. Recreation may include fees associated with participation in athletic or sports-related activities.
4. For any supplier-provided retailer entertainment, the supplier is prohibited from providing the costs associated with lodging and travel, other than nominal ground transportation.
5. Suppliers must maintain records sufficient to verify those entertainment expenses associated with retailers and their employees. Failure to maintain such records shall not be a per se violation of this regulation, but could constitute a violation of section 44-3-701, C.R.S. or Regulation 47-700.

E. Alcohol Beverage Samples for Retailers

1. Wholesalers, or those licensed to sell at wholesale pursuant to article 3 and 4 of title 44, may furnish or give a limited amount of alcohol beverage samples to retailers licensed solely for on-premises under the following conditions:
  - a. The retailer's class of liquor license permits the sale of the type of



beverage offered as a sample.

- b. The providing of samples is not conditioned upon future purchases of alcohol beverages, or as compensation for any previous alcohol beverage purchase.
  - c. The retailer has not purchased the product SKU of the alcohol beverage offered as a sample within the previous six (6) months.
  - d. The wholesaler provides not more than 3.0 liters per brand of spirituous liquor, not more than 3.0 liters per brand of vinous liquor, and not more than one six-pack, or 72-ounce equivalent, per brand of malt liquor or fermented malt beverage so packaged. If a particular brand is not available in a size meeting the quantity limitations stated herein, a wholesaler may furnish the next available larger size.
  - e. Only the retailer and its employees are authorized to taste or test those alcohol beverages given as samples, as provided herein. Nothing shall authorize a retailer to sell any samples provided or to use such the same for consumer tastings.
2. Wholesalers, or those licensed to sell at wholesale pursuant to article 3 and 4 of title 44, may furnish or give a limited amount of alcohol beverage samples to retailers licensed solely for off-premises under the following conditions:
- a. The retailer's class of liquor license permits the sale of the type of beverage offered as a sample.
  - b. The providing of samples is not conditioned upon future purchases of alcohol beverages, or as compensation for any previous alcohol beverage purchase.
  - c. The wholesaler provides not more than 3.0 liters per brand of spirituous liquor, not more than 3.0 liters per brand of vinous liquor, and not more than one six-pack per brand of malt liquor or fermented malt beverage so packaged. If a particular brand is not available in a size meeting the quantity limitations stated herein, a wholesaler may furnish the next available larger size.
  - d. The wholesaler is present at the time of consumption and maintains sole possession of the container after sampling. Samples, in the quantities described herein, may be left in the retailer's possession if the container seal is left intact, but must be removed from the licensed premises at the end of the day.

F. Wholesaler Trade Shows and Trade Events

1. For purposes of this Regulation 47-322(F):
- a. "Trade show" means an event to which more than fourteen (14) authorized attendees are invited and which is organized and conducted by or on behalf of one or more wholesalers, as defined in Regulation 47-100(I), for the purpose of exhibiting and providing information regarding alcohol beverage products and services offered by the participating wholesaler(s), to retailers licensed to buy such alcohol beverage products from the wholesaler(s), and to provide samples of such alcohol beverage products for consumption during the event.
  - b. "Trade event" means an event to which fourteen (14) or fewer authorized attendees are invited and which is organized and conducted by or on behalf of one or more wholesalers, as defined in Regulation 47-100(I), for the purpose of exhibiting and providing information regarding alcohol beverage products and services offered by the participating wholesaler(s), to retailers licensed to buy such alcohol beverage products from the wholesaler(s), and to provide

samples of such alcohol beverage products for consumption during the event.

- c. "Hosting on-premises retailer" means a retailer licensed for on- premises consumption on whose licensed premises a trade show or trade event is held.
  - d. "Authorized attendees" means, and shall be limited to:
    - i. Officers, directors, and employees of a retail licensee that is licensed to sell the type of alcohol beverages to be exhibited and sampled during the trade show or trade event;
    - ii. Other individuals affiliated with one or more retail licensees as independent consultants or experts; and
    - iii. No more than one adult guest of each individual authorized to attend the trade show or trade event under subparagraphs (d)(i)-(ii).
2. Trade shows or trade events are subject to the following requirements and limitations:
- a. A trade show or trade event shall take place only with the permission of, and on the licensed premises of, a hosting on-premises retailer that is licensed to sell the type of alcohol beverages to be exhibited and sampled during the trade show or trade event.
  - b. A trade show or trade event shall not be open to the general public, and shall be limited to authorized attendees registered (either in advance or at the door). The wholesaler(s) participating in the trade show or trade event shall maintain registration records containing, at a minimum, the date of the trade show or trade event, the name of the hosting on-premises retailer, the name of each authorized attendee who attended the trade show or trade event, and the name of the licensed retailer(s) with which each authorized attendee is associated. The registration records from the trade show or trade event shall be available for inspection by the Division during the trade show or trade event and shall be provided to the Division within ten (10) days of the conclusion of the trade show or trade event.
  - c. By agreement, the participating wholesaler(s), the hosting on-premises retailer or both (including such entities' agents and employees) may serve samples of alcohol beverage product(s) to authorized attendees during a trade show or trade event. Such samples shall be provided to authorized attendees free of charge.
    - i. The entity or entities responsible for the serving of the alcohol beverage products during a trade show or trade event shall be responsible for any violations of the Liquor Code, Beer Code, or Special Event Code, and/or any regulation promulgated pursuant thereto, related to the serving of alcohol beverage products during a trade show or trade event, including, but not limited to, violations related to service of alcohol beverages to a visibly intoxicated person or to a person under twenty-one years of age.
  - d. Alcohol beverage products used for a trade show or trade event must comply with all applicable product registration and labeling requirements, including those set forth in Regulation 47-904(F) and (G).
  - e. All taxes, fees and surcharges required by section 44-3-503, C.R.S., must be paid for all alcohol beverage products used in a trade show or trade event.
  - f. Invoices for alcohol beverage products used for a trade show or trade event must be clearly labeled as a "No-Cost Trade Show/Event Inventory Record" and shall be subject to the following requirements:

- i. Any wholesaler participating in a trade show or trade event must invoice any alcohol beverage products to be used in the trade show or trade

event to the hosting on-premises retailer. Notwithstanding any other rule or regulation to the contrary contained in 1 CCR 203-2, the wholesaler shall invoice the hosting on-premises retailer for alcohol beverage products to be used in a trade show or trade event at no cost.

- ii. The hosting on-premises retailer must receive all wholesalers' invoice(s) for alcohol beverage products to be used in the trade show or trade event prior to the commencement of the trade show or trade event, and shall retain such invoice(s) for their records.
- iii. Any wholesaler(s) participating in a trade show or trade event shall provide the Division with copies of all invoice(s) to be issued in accordance with this paragraph (F)(2)(f) as an accounting for all the alcohol beverage products intended to be used during the trade show, and the anticipated drop-off and pick-up dates for such alcohol product, at least three (3) days prior to the commencement of the trade show.
- iv. In order to account for unanticipated changes in the alcohol beverage products to be used during a trade show or trade event, any Wholesaler(s) participating in a trade show or trade event may provide the Division with an "Amended No-cost Trade Show/Event Inventory Record" before the commencement of the scheduled trade show or trade event, provided the wholesaler(s) complied with the provisions of paragraph (F)(2)(f)(iii) of this regulation in the first instance.
- v. At the conclusion of the trade show or trade event, any alcohol beverage product(s) invoiced for use during the trade show or trade event (whether opened or unopened) shall be removed from the hosting on-premises retailer's licensed premises by the wholesaler(s), or destroyed.
  - A. Any alcohol beverage product(s) invoiced for use during the trade show or trade event remaining on the hosting on-premises retailer's licensed premises at the conclusion of the trade show or trade event, and awaiting wholesaler pick-up, must be held in a secure area of the hosting on-premises retailer's licensed premises, kept separate from, and clearly labeled to distinguish such alcohol beverage product(s) from, the host on-premises retailer's stock, by affixing a copy of the most current invoice issued pursuant to paragraph (F)(2)(f)(iii), or (F)(2)(f)(iv) of this regulation, and marking such invoice with the anticipated pick-up date of the alcohol beverage product(s), which shall be no more than thirty (30) days after the conclusion of the Trade Show or Trade Event.
  - B. Allowing any alcohol beverage product(s) invoiced for use during the trade show or trade event (whether opened or unopened) to remain on the hosting on-premises retailer's licensed premises after the conclusion of the thirty (30) day pick-up window allowed for in paragraph (F)(2)(f)(v)(A) above, shall be deemed a violation of this Regulation, for which both the wholesaler(s), and hosting on-premises retail licensee shall be responsible.
- g. No delivery or exchange of alcohol beverage product(s) between a participating wholesaler and authorized buyer of same shall take place during the trade show or trade event.
- h. A hosting on-premises retailer shall not be deemed to be receiving unlawful financial assistance from the wholesaler(s) participating in the trade show or trade event, so long as the hosting on-premises retailer does not directly benefit from the sale of any alcohol beverage product exhibited to or sampled by

authorized attendees during the trade show or trade event.

- i. All documents and information required to be provided to the Division pursuant to paragraphs (F)(2)(b) and (F)(2)(F) of this regulation, shall be provided using a method authorized by the Division (which, at the Division's discretion, may be through uploading the records to an online location specified by the Division or through electronic mail).
3. This Regulation 47-322(F) shall not apply to:
    - a. Events similar to those addressed in this Regulation that are organized and conducted as special events pursuant to, and in compliance with article 5 of title 44, the exemption set forth in section 44-5-108, C.R.S., provisions of article 3 of title 44 applicable to special events, and Regulations 47-1000 through 47-1022, 1 CCR 203-2.
    - b. Tastings conducted by a licensed winery pursuant to section 44-3-402(2), C.R.S.; by a limited winery, pursuant to section 44-3-403(2)(e), C.R.S.; by a distillery, pursuant to section 44-3-402(7), C.R.S.; by a beer wholesaler, pursuant to section 44-3-407(1)(b), C.R.S.; or as part of a festival permit, pursuant to section 44-3-404, C.R.S.

#### G. Consignment Sales and Lawful Product Returns

1. Wholesalers are prohibited from making consignment sales to retailers.
2. A consignment sale is an arrangement whereby a wholesaler invoices and delivers alcohol beverages to a retailer who is under no obligation to pay for such beverages until they are resold. Consignment sales also afford the retailer the right to return product to the wholesaler for any reason.
3. Wholesalers are permitted to accept a return of alcohol beverages previously sold to retailers for ordinary and usual commercial reasons and to provide account credit or product exchange. Such commercial reasons for return shall be limited to the following:
  - a. Defective products: Products qualifying under this exception are those that are upon delivery, or later become, unmarketable due to contamination or deterioration of product ingredients, leaking containers, damaged labels, or missing, damaged or compromised container seals.
  - b. Broken containers or short-filled containers/cases: Nothing shall prevent a retailer from making a claim for the replacement of alcohol beverages that were delivered by a wholesaler in a damaged or incomplete condition, and nothing shall prevent a wholesaler from granting credible claims.
  - c. Error in products delivered: Any discrepancy between a retailer's product order and the products delivered may be corrected by the wholesaler within a reasonable period after delivery.
  - d. Discontinued products: When a manufacturer or importer discontinues the production, importation, or market availability of a product, a retailer may return any remaining product to the original wholesaler. A retailer's decision to discontinue a product does not qualify.
  - e. Manufacturer's product change: When a manufacturer has changed the formula, proof, label or container of an alcohol beverage, wholesalers may withdraw the product from the retailer's inventory and replace it with the newly-manufactured product.
  - f. Manufacturer's quality standards: To ensure freshness standards for malt liquor

and fermented malt beverages, wholesalers, with retailer consent, may withdraw product from the retailer's inventory and replace it with new product, without additional charge, under the following conditions:

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

H. Warehousing of products for a retailer

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

I. Product resets



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

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

J. Equipment rentals

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

K. Other goods

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

When a supplier also deals in items of commerce that are not regulated by articles 3, 4, or 5 of title 44, only the following restrictions shall apply:

1. The unregulated item(s) may not be provided as an inducement, or require purchase of alcohol beverages.
2. Any equipment or other goods provided free of charge (e.g. energy drink refrigerated coolers) shall not be provided in conjunction with alcohol sales or promotions.

L. Indirect financial assistance through third party arrangements

1. A supplier's furnishing of any equipment, supplies, services, money, or other things of value to a third party that is not licensed pursuant to article 3 or 4 of title 44, C.R.S. where the benefits resulting from such things of value flow to individual licensed retailers through written agreements or otherwise, is prohibited.
2. A supplier will not be in violation of this regulation when the unlicensed third party provides the prohibited item or service to a retailer without the supplier's knowledge, and the supplier could not have reasonably foreseen that the item or service would flow to a retailer.
3. Retailers that collude with unlicensed third parties to obtain prohibited financial assistance through a third-party arrangement between a third party and a licensed supplier shall be in violation of this regulation.
4. It shall not be a violation for a supplier to furnish items or services to a retailer that are otherwise specifically authorized by regulation or any provision within articles 3 or 4 of title 44, C.R.S.

M. Value of Labor

1. Definitions for purposes of this subsection (L):
  - a. "Deliver" or "delivering" is the act of a supplier bringing and unloading its alcohol beverage product from its delivery vehicle onto the retailer's licensed premises or permitted retail warehouse storage location. "Deliver" or "delivering" does not include a supplier bringing and unloading its alcohol beverage product from a permitted retail warehouse storage location to a retailer's licensed premises.
  - b. "Merchandise" or "merchandising" is the act of organizing, constructing, maintaining, or stocking a display of alcohol beverage product or alcohol beverage product promotional materials, including alcohol beverage product signs, consumer advertising specialties, or point-of-sale advertising, within the retailer's licensed premises.
  - c. "Price stamp" or "price stamping" is the act of affixing the retail price of alcohol beverage product to its respective shelf, refrigerator, or any other similar location

within the retailer's licensed premises.

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

**N. Prohibition.**

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

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

**Regulation 47-405. 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 for a primary contact of the applicant 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. 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) days, 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.
1. 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 application. If the applicant does not provide the application to one or both of the applicable licensing authorities at least ten (10) days, the application will be denied by the State licensing authority. The subsequent festival 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 for a primary contact of the applicant, 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. Such other information as required on forms approved by the State Licensing Authority.
3. A subsequent festival application is deemed approved unless the state licensing authority provides the permittee with a notice of denial at least seventy-two hours prior to the date of the subsequent festival.
4. The permittee must file the subsequent festival application, but other eligible licensees may jointly participate under the festival permit issued to the permittee, unless timely denied by the

state licensing authority.

F. Festival Tastings.

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.

G. Festival Sales.

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.

H. Denials.

1. The state licensing authority may deny a festival permit or subsequent festival 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.
- 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 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.
- b. A joint fine levied pursuant to this subsequent 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 seminary 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.
- 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.
- 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

- E. 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.

**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 beverage 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 44-3-407(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. ~~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.~~