

**COLORADO DEPARTMENT OF REVENUE
LIQUOR ENFORCEMENT DIVISION
NEW RULES AND/OR CHANGES TO EXISTING RULES**

(Adopted)
1 C.C.R. 203-2

2015

Regulation 47-100. Definitions.

- B. "Manufacturer" means a Colorado licensed brewery, winery, limited winery, distillery, vintner's restaurant, distillery pub or brewpub as defined by C.R.S. 12-46-104 and 12-47-103.
- F. "Supplier" means a Colorado licensed manufacturer, brewpub, distillery pub, vintners restaurant, limited winery, non-resident manufacturer, wholesaler or importer of alcohol beverages.

Regulation 47-302. Changing, Altering, or Modifying Licensed Premises.

- D. This regulation shall be applicable to the holder of a manufacturer's license as specifically defined in Section 12-47-402, C.R.S., or a limited winery defined in section 12-47-403, C.R.S, only if the physical change, alteration, or modification involves any increase or decrease in the total size of the licensed premises or sales room locations. Neither the state or local licensing authority shall impose any additional fees for the processing or review of an application for a modification of premises for the holder of a manufacturer's license.

Regulation 47-303. License Renewal.

- F. Pursuant to section 12-47-302(2), C.R.S, any licensee whose license has been expired more than ninety (90) but less than one hundred eighty (180) days, may submit to the local licensing authority, or state licensing authority (for state-only issued licenses) an application for a reissued license, subject to section 12-47-302, C.R.S.
- G. Any licensee whose license has been expired for more than one hundred eighty (180) days must apply for a new license pursuant to section 12-47-311, C.R.S. and shall not purchase or sell any alcohol beverage until all required licenses have been obtained, unless otherwise authorized under these regulations.

Regulation 47-304. Transfer of Ownership and Changes in Licensed Entities.

- E. For all applicants for the issuance of a license by reason of a transfer of possession of the licensed premises by methods to include operation of law, a petition in bankruptcy pursuant to federal bankruptcy law, the appointment of a receiver, a foreclosure action by a secured party, or a court order dispossessing the prior licensee of all rights of possession pursuant to article 40 of title 13, C.R.S., the licensing authorities shall consider only the requirements of C.R.S. 12-47-307. The loss of possession of the licensed premises by the licensee does not in itself automatically invalidate, cancel or terminate the underlying license. An applicant who otherwise comes into possession of the licensed premises by operation of law, may apply for a transfer of the underlying license as

provided by law pursuant to C.R.S. 12-47-303. However, this provision does not prohibit a licensing authority from initiating any action as provided by law to suspend or revoke a license for loss of possession of the licensed premises.

Regulation 47-316. Advertising Practices

C. Media Advertising

1. Except as provided in Regulations 47-322(B) and 47-322(C) for on-site sales promotions and Sponsored Events, no supplier shall directly or indirectly furnish or pay for any advertising for or with respect to any one or more retail licensee by means of the internet, device applications (apps), radio or television broadcast, magazines, newspapers, pamphlets, or similar media, or by means of any sign not located on or in the licensed premises of the retailer which is advertised.
2. Except as provided in Regulations 47-322(B) and 47-322(C) for on-site sales promotions and Sponsored Events, suppliers that purchase internet, device applications (apps), radio or television advertising packages from third party advertising agencies:
 - a. May not authorize the advertising agency to apply any value attributable to the supplier's advertising package toward the advertising or promotion of any licensed retailer or their location.
 - b. May not authorize the advertising agency to combine supplier-purchased advertising packages with those purchased by licensed retailers, for the purpose and benefit of cooperative advertising.
3. For purposes of this paragraph C, a supplier's internet websites (including forums such as a supplier's Facebook page, blog or device applications (apps)) and electronic advertising messages delivered directly to consumers' private electronic devices, shall not be construed as "similar media."

Regulation 47-322. Unfair Trade Practices and Competition

Definitions: For purposes of this regulation:

"Supplier" means a Colorado-licensed wholesaler, manufacturer, limited winery, importer, non-resident manufacturer, brewpub, distillery pub, or vintner's restaurant.

"Retailer" means those persons licensed pursuant to sections 12-47-401(h) – (t) and (v), and 12-46-104(c), C.R.S. to sell alcohol beverages to the end consumer.

"Wholesaler" means those entities authorized to sell alcohol beverages at wholesale to licensed retailers, including wholesalers of malt liquors and fermented malt beverages, wholesalers of vinous and spirituous liquors, limited wineries, brewpubs, distillery pubs, and vintner's restaurants.

A. Sales of alcohol beverages.

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:
 - c. Products for use, but not for resale by the drink, by a non-profit organization or similar group, 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 manufacturer, wholesaler, brewpub, distillery pub, or vintner's restaurant, or invoiced at a minimum of cost to the retailer.

F. Consignment Sales and Lawful Product Returns

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:
 - f. Manufacturer's quality standards: To ensure freshness standards for malt liquor and fermented malt beverages, wholesalers 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.
 - v. If the wholesaler can substantiate that repeated replacement of the identical type and brand is ineffective (e.g. the wholesaler has replaced the same product at least twice), the wholesaler may instead substitute a product from the same brand family that is equal in value to the original purchase.
 - vi. If a seasonal product is out of the freshness standard, out of season and not available for replacement, a wholesaler may pick up the product from a retailer and replace it with a product from the same brand family that is equal or lessor in value to the original purchase.
 - vii. 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.

Regulation 47-323. Lawful Extension of Credit

2. "Retailer" means those persons licensed pursuant to Sections 12-47-401(1)(h) – (t) and (v) and 12-46-104(1)(c) to sell alcohol beverages to the end consumer.

Regulation 47-400. Licensed Breweries.

All brewers who are licensed pursuant to 12-47-402 C.R.S. and who sell their manufactured product directly to consumers for consumption of the product for either on-premises or off-premises consumption, must also obtain a wholesale license, pursuant to 12-47-406, C.R.S.

Regulation 47-408. Purchases by Retailers.

- B. All alcohol beverages possessed or maintained on the retail-licensed premises shall be only such alcohol beverages acquired as set forth in this regulation, or as may have come into possession upon the issuance of a license or temporary permit pursuant to section 12-47-303, C.R.S.
- C. Nothing herein shall authorize a retailer to purchase alcohol beverage stock for its licensed operations from any public or private auction.
- D. Records maintained by the licensee in compliance with 12-47-701, C.R.S., shall include all records of purchases of alcohol beverages.

Regulation 47-412. Wholesale Warehouse or Branch Houses.

- E. Any wholesaler licensed to distribute malt, vinous and/or spirituous liquors may establish and operate as many warehouses or branch houses as it sees fit for the sole purpose of storing, handling, distributing or dealing in such liquors. Malt liquor wholesalers may establish one salesroom for the purpose of selling malt liquor within the wholesale licensed premises.

Regulation 47-418. Restaurants.

- D. Restaurants must be maintained in a clean and sanitary condition, and shall maintain such food service license issued by the Colorado Department of Public Health and Environment in full force and effect at all times while selling alcohol beverages for consumption therein.
- E. Establishments operating as a "temporary retail establishment," "mobile retail establishment," or "pushcart" as defined in section 1-202, of 6 C.C.R. 1010-2, shall be considered not to have the necessary equipment or premises to qualify for a hotel and restaurant license.

Regulation 47-424. Engaging in Business.

No person, firm, corporation or association shall engage in the business of selling, offering to sell, using or soliciting orders for alcohol beverages from any Colorado licensed wholesaler or retailer except and unless said person, firm, corporation or association shall be a duly licensed brew pub, distillery pub, vintner's restaurant, manufacturer, wholesaler or importer as required by the laws of the State of Colorado.

Regulation 47-426. Delivery of Alcohol Beverages.

- B. Delivery Permitted.
 - 4. Have a licensed premises with the following conditions:
 - A. Open to the public a minimum of three (3) days a week; and

- B. Open to the public a minimum of five (5) hours each day the business is open; and
- C. Have signage viewable from a public road

Regulation 47-428. Manufacturer Sales Rooms.

- A. Any manufacturer of vinous or spirituous liquor, licensed pursuant to 12-47-402 C.R.S., a limited winery license issued pursuant to section 12-47-403, C.R.S., or beer (malt liquor) wholesaler licensed pursuant to section 12-47-406(1)(b), C.R.S., applying to operate a sales room as defined by section 12-47-103(31.5), shall submit an application for sales room to the state licensing authority.
- B. The applicant must send a copy of the application for the sales room concurrently to the state licensing authority and to the local licensing authority in the jurisdiction in which such sales room is proposed. All applications for sales rooms to be operated for no more than three (3) consecutive days shall be filed with both the local and state licensing authorities not less than ten (10) business days prior to the proposed opening date.
- C. The sales room application submitted to the state licensing authority and copies of the sales room application submitted to the local licensing authority shall be done in a manner that provides proof of date of delivery. This includes, but not limited to, email, facsimile, or certified mail.
- D. The local licensing authority may submit a response to the application to the state licensing authority including its determination whether or not the approval of the proposed sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, which may be determined by the local licensing authority without requiring a public hearing, or that the applicant cannot sufficiently mitigate any potential impacts identified by the local licensing authority. the local licensing authority submission to the state licensing authority shall be done in a manner that provides proof of date of delivery. This includes, but not limited to, email, facsimile, or certified mail.
- E. For proposed sales rooms operating more than three (3) consecutive days, the local licensing authority must submit its response to the state licensing authority within forty-five (45) days from the date of application to the state licensing authority.
- F. For proposed sales rooms operating not more than three (3) consecutive days, the local licensing authority must submit its response to the state licensing authority within eight (8) business days from the date of application to the state licensing authority.
- G. If the state licensing authority does not receive a response from the local licensing authority within the time frame as stated in paragraph E or F, the state licensing authority shall deem that the local licensing authority does not object to the sales room according to paragraph D.
- H. For additional sales rooms for vinous or spirituous liquor, the applicant must affirm to the state licensing authority that the applicant has complied with local zoning restrictions.
- I. The local licensing authority can request the state licensing authority take action in accordance with section 12-47-601, C.R.S. against a licensee who operates an approved sales room if the local licensing authority:
 - 1. Demonstrates that the licensee has engaged in an unlawful action set forth in section 12-47-901, et seq, C.R.S.
 - 2. Shows good cause as specified in section 12-47-103(9)(a), (9)(b) or (9)(d).

- J. Neither the state or local licensing authority shall impose any additional fees for the processing or review of an application for a sales room
- K. If a licensee that has a salesroom within its main licensed premises changes its location pursuant to Regulation 47-312, 1 C.C.R. 203-2, the licensee must apply for a new sales room license at its new location in accordance to this Regulation.
- L. Sales rooms that do not sell and serve alcohol for consumption on the licensed premises are exempt from local licensing review in accordance with paragraphs B, D, E, F, and G.

Regulation 47-500. Excise Tax Audits.

The Department of Revenue shall cause each original monthly summary report to be audited.

- A. If the audit reveals that the reporting brewpub, distillery pub, manufacturer or wholesaler shall have paid more tax, penalty, or interest than was actually due, the Department of Revenue shall issue to that brewpub, distillery pub, manufacturer or wholesaler a tax credit form reflecting the amount of overpayment. The brewpub, distillery pub, manufacturer or wholesaler may deduct the tax credit from any succeeding monthly report by attaching tax credit forms to the report.
- B. If such audit reveals that the reporting brewpub, distillery pub, manufacturer or wholesaler shall have paid less tax, penalty, or interest than was actually due, the Department of Revenue shall issue to that brewpub, distillery pub, manufacturer or wholesaler a notice of assessment form reflecting the amount of underpayment. The brewpub, distillery pub, manufacturer or wholesaler must return the assessment form, along with the remittance, payable to the Department of Revenue.

Regulation 47-902. Sanitary Requirements.

Each retail licensee selling alcohol beverages for consumption on the premises, shall maintain its establishment in clean and sanitary condition and if the licensed establishment is a restaurant licensed by the Colorado Department of Public Health and Environment , it shall maintain such license in full force and effect at all times while selling such beverages for consumption therein.

Regulation 47-904. Product Labeling, Substitution, Sampling and Analysis.

- C. Except manufacturers or malt liquor manufacturers with an onsite wholesale sales room, no licensee shall refill or permit the refilling of any alcohol beverage container with alcohol beverage or reuse any such container by adding distilled spirits or any substance, including water, to the original contents or any portion of such original contents. There shall be no prohibition against the use of carafes, pitchers or similar serving containers.
- F. The manufacturer or importer of any alcohol beverage product sold in Colorado must register said product with the Liquor Enforcement Division prior to the date of the product's initial intended date of sale. If required by applicable Federal laws or regulations, alcohol beverages sold in Colorado must have obtained either a "Certificate of Label Approval" or a "Certificate of Exemption" from the Alcohol and Tobacco Tax and Trade Bureau ("TTB").

Regulation 47-906. Container Size

- B. No Colorado licensed retailer licensed under Article 47 for the sale of alcohol beverages for the consumption on the premises shall purchase or have in its possession upon or about the licensed premises spirituous liquor of over fourteen (14) percent alcohol by volume in any container of less than 375 milliliters, or vinous liquors of over fourteen (14) percent alcohol by volume in any container of less than 375 milliliters, and no vinous or spirituous liquors, regardless of alcohol content, shall be purchased or possessed on the licensed premises in any flat or flask-shaped container of less than twenty-four (24) ounce capacity. The provisions of this subsection B, shall not apply to an aggregate package of alcohol beverages that are, upon manufactured packaging and sale to a retailer, at least 375 milliliters in aggregate, and provided that the individual containers within the aggregate package are opened by the licensee prior to serving consumers, and that neither the seal nor any other device that can be used to seal the container is provided by the licensee to the consumer.

Regulation 47-908. Automatic and Electronic Dispensing Systems.

The installation of automatic and electronic dispensing systems by on-premises consumption licensees is authorized provided that the following requirements are complied with:

- C. Such equipment shall not be coin operated nor be able to accept other payment methods and shall be operated personally and directly only by the licensee or employees thereof. Provided, however, this subsection (C) does not apply to a dispensing system that is located at a licensed premises where the regular consumption of malt liquors, fermented malt beverages, vinous liquor or spirituous liquor by persons over the age of twenty-one is authorized under the following conditions:
1. Prior to activation of such device, the licensee or their employee has determined the patron is (1) twenty-one (21) years of age or older, and (2) is otherwise legally able to be served an alcohol beverage; and
 2. Such activation of the device is conducted by the licensee or employee thereof; and
 3. Such activation provides the ability to dispense no more than thirty-two (32) ounces of malt liquor or fermented malt beverage; or fourteen (14) ounces of vinous liquor; or two (2) ounces of spirituous liquor, per person, before reactivation is allowed; and
 4. The licensee or their employees shall monitor the sale, service, and consumption of any alcohol beverages from the dispensing system to ensure compliance with the Colorado Liquor Code and Rules.
 5. No alcohol shall be dispensed past the time in accordance to sections 12-47-901(5) or 12-47-301(10)(f), C.R.S. and any un-dispensed alcohol after such time will be forfeited and not be able to be dispensed at a later time. this paragraph (5) does not prohibit a refund of unused credit to a consumer.

Any dispensing device used solely by the licensee or their employees is not subject to paragraph C.

REGULATION 47-942. POWDERED ALCOHOL REGULATION.

Pursuant to section 12-47-401(2), C.R.S., “if the federal alcohol and tobacco tax and trade bureau [(the “TTB”)] approves the purchase, sale, possession, or manufacturing of powdered alcohol in the United States, the State Licensing Authority shall adopt rules establishing a mechanism for regulating the manufacture, purchase, sale, possession and use of powdered alcohol.” The TTB has granted label approval for powdered alcohol products in the United States. The State Licensing Authority will engage in a process and adopt rules in order to establish a comprehensive mechanism to regulate the manufacture, purchase, sale, possession and use of powdered alcohol in Colorado by January 1, 2017. Until such mechanism is established and rules are adopted by the State Licensing Authority, the manufacture, purchase, sale, possession, and use of powdered alcohol is prohibited.

Regulation 47-1016. Special Event Permittee - Purchase and Storage of Alcohol Beverages.

Special event permittees may purchase the kinds of alcohol beverages they are authorized by such permits to sell from a licensed wholesaler, brewpub, distillery pub, limited winery, vintner’s restaurant, retail liquor store, or liquor-licensed drugstore.

- F. A licensed wholesaler may deliver alcohol beverages purchased by a special event permittee to the storage location in accordance to paragraphs A, B, C and D, but such storage cannot be more than two (2) business days prior to the date for the special event. If a licensed wholesaler donates alcohol to the special event permittee, the wholesaler may pick up such unused donated alcohol beverage products from the storage area in accordance to paragraphs A, B, C and D. Such removal of unused donated alcohol beverage products must occur within two (2) business days after the end of the special event permit.

Regulation 47-1020. Alcohol Beverage Donations.

- A. For purposes of this regulation, "wholesaler" means an entity licensed to sell alcohol beverages at wholesale to special event permit holders, including wholesalers of malt liquor and fermented malt beverages, wholesalers of vinous and spirituous liquors, limited wineries, brewpubs, distillery pubs and vintner’s restaurants.