



COLORADO
Department of Revenue

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Colorado Department of Revenue
Liquor Enforcement Division
Adoption of New and Revised Rules on an Emergency Basis
Colorado Liquor Rules, 1 C.C.R. 203-2

Emergency Rules

Revised Liquor Rules, 1 C.C.R. 203-2:

- Regulation 47-002. Fermented Malt Beverages – Advertising Practices. (Repealed)
- Regulation 47-006. Fermented Malt Beverages – Identification and Labeling. (Repealed)
- Regulation 47-008. Fermented Malt Beverages – Limitations of License.
- Regulation 47-100. Definitions.
- Regulation 47-322. Unfair Trade Practices and Competition.
- Regulation 47-326. Distance Restriction – Applicability and Measurement.
- Regulation 47-426. Delivery of Alcohol Beverages.
- Regulation 47-904. Product Labeling, Substitution, Sampling and Analysis.
- Regulation 47-913. Age of Employees.
- Regulation 47-918. Removal of Alcohol Beverages from Premises.
- Regulation 47-930. Testing of Alcohol Content – Malt Liquor and Fermented Malt Beverage. (Repealed)
- Regulation 47-1000. Qualifications for Special Event Permit.
- Regulation 47-1010. Special Event Permit – Possession of Beverages.
- Regulation 47-1012. Special Event Permit – Permitted Age of Servers.
- Regulation 47-1022. Donated Alcohol Beverages in Sealed Containers for Auction for Fundraising Purposes.

New Liquor Rules, 1 C.C.R. 203-2:

- Regulation 47-104. Winery Direct Shipper's Permits.
- Regulation 47-313. Tastings.
- Regulation 47-315. Lodging and Entertainment License.
- Regulation 47-321. Bona Fide Loyalty or Rewards Programs – Discontinued Sales – Close-Out Sales.
- Regulation 47-901. Public Consumption of Alcohol Beverages.

Statement of Emergency Justification and Adoption

Pursuant to sections 24-4-103, 44-3-202, and 44-3-501, C.R.S., I, Michael S. Hartman, Executive Director of the Department of Revenue and State Licensing Authority, hereby adopt the aforementioned new and revised Colorado Liquor Rules, which are attached hereto.

Section 24-4-103(6), C.R.S., authorizes the State Licensing Authority to issue an emergency rule if the State Licensing Authority finds that the immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

I find: (1) the adoption of these new and revised rules effective January 1, 2019, is imperatively necessary to comply with the statutory mandates of the Colorado Liquor Code, sections 44-3-101 to 44-3-1002, C.R.S., the Colorado Beer Code, sections 44-4-101 to 44-4-109, C.R.S., and the Colorado Special Event Liquor Permits Code, sections 44-5-101 to 44-5-108, C.R.S.; (2) the adoption of these new and revised rules is imperatively necessary to preserve the public health, safety, and welfare; and (3) compliance with the notice and public hearing requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

Statutory Authority

The statutory authority for these new and revised rules is found at the following subsections: 44-3-102, 44-3-104(6), 44-3-201(1), 44-3-202(2)(a)(I)(A), 44-3-202(1)(b), 44-3-202(2)(a), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(G), 44-3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(M), 44-3-202(2)(a)(I)(O), 44-3-202(2)(a)(I)(R), 44-3-308, 44-3-313(1)(d), 44-3-313(1)(e), 44-3-409(3), 44-3-410(3), and 44-4-107(1)(c), C.R.S.

Purpose

With two exceptions, discussed below, the purpose of adopting these new and revised rules on an emergency basis is to establish requirements and procedures to implement, and to ensure compliance with, the following bills:

House Bill 18-1096 (Concerning the Eligibility of Certain Entities to Apply for a Special Event Permit.)

Senate Bill 18-067 (Concerning the Ability of Certain Organizations Conducting a Special Event to Auction Alcohol Beverages in Sealed Containers for Fundraising Purposes under Specified Circumstances.)

Senate Bill 18-124 (Concerning the Removal of the Thirty-Day Waiting Period Related to the Sale of Imported Alcohol Beverages.)

Senate Bill 18-138 (Concerning Authorization for Retail Sellers of Alcohol Beverages for On-Premises Consumption to Sell Remaining Inventory to Another On-Premises Retail Seller of Alcohol Beverages with Whom There Is Common Ownership When No Longer Licensed to Sell Alcohol Beverages for On-Premises Consumption.)

Senate Bill 18-173 (Concerning the Ability of Certain Establishments Licensed to Sell Alcohol Beverages for On-Premises Consumption that Serve Food to Allow a Customer to Remove One Opened Container of Partially Consumed Vinous Liquor From the Licensed Premises.)

Senate Bill 18-243 (Concerning the Retail Sale of Alcohol Beverages, and, in Connection Therewith, Making an Appropriation.)

Senate Bill 16-197 (Concerning the Retail Sale of Alcohol Beverages, and, in Connection Therewith, Restricting the Issuance of New Liquor-Licensed Drugstore and Retail Liquor Store Licenses Except Under Specified Circumstances; Allowing Liquor-Licensed Drugstore and Retail Liquor Store Licensees to Obtain Additional Licenses Under Limited Circumstances; Repealing the Limit on the Alcohol Content of Fermented Malt Beverages on January 1, 2019; And Making An Appropriation.)

The foregoing bills either recently went into effect or will become effective on January 1, 2019.

In addition, two new regulations are being adopted on an emergency basis to address confusion and uncertainty that has arisen regarding two license types. First, the purpose of adopting Regulation 47-104 (Winery Direct Shipper's Permits) on an emergency basis is to address confusion and uncertainty that has arisen with respect to the scope of, and limitations on, a winery direct shipper's permittee's privileges. The industry and state and local licensing authorities need immediate guidance to ensure compliance with the law regarding this license type. Second, the purpose of adopting new Regulation 47-315 (Lodging and Entertainment License) on an emergency basis is to address confusion and uncertainty that has arisen with respect to the kinds of activities that qualify as "sports" or "entertainment," and to set forth the method for determining the primary business of a lodging and entertainment facility. Because applications for lodging and entertainment licenses are ongoing, the industry and state and local licensing authorities need immediate guidance to properly evaluate applications for lodging and entertainment licenses.

In an effort to have these new and amended rules in place on January 1, 2019, the Liquor Enforcement Division ("Division") filed a notice of proposed rulemaking hearing on September 27, 2018 (SOS Tracking No. 2018-00498), conducted a series of working group meetings, and held a permanent rulemaking hearing on November 1, 2018. However, on December 5, 2018, after discovering it had inadvertently failed to submit a draft of the proposed rules to the Department of Regulatory Agencies, as required by section 24-4-103(2.5)(a), C.R.S., the Division terminated the original rulemaking proceeding (SOS Tracking No. 2018-00498) and initiated a second permanent rulemaking proceeding (SOS Tracking No. 2018-00658).

There is not enough time to complete a second permanent rulemaking process for these Emergency Rules prior to January 1, 2019. As a result, it is necessary to adopt these rules on an emergency basis.

In accordance with the legislative declaration of section 44-3-102, C.R.S., the Colorado Liquor Code is deemed an exercise of the police powers of the State of Colorado for the protection of the economic and social welfare and the health, peace, and morals of the people of the State of Colorado. Regulation of the manufacture, distribution, and sale of alcohol beverages under the

Colorado Liquor Code, Beer Code and Special Event Liquor Permits Code is a matter of statewide concern. It is imperatively necessary to adopt these new and amended rules to ensure proper regulation and control over the administration and enforcement of articles 3, 4, and 5 of title 44 to meet these legislative charges and responsibilities in order to preserve the public health, safety, and welfare of the State of Colorado.

The substance of these emergency rules is the same as in the permanent rules that already have a public hearing date set for January 14, 2019, at 9:00 A.M., at the Marijuana Enforcement Division, 1707 Cole Blvd, Suite 300, Golden, CO 80401; in the “Red Rocks” conference room. That process will include the opportunity for additional substantial stakeholder and public participation.

Adoption, Effective Date and Expiration

The State Licensing Authority hereby adopts the forgoing new and revised rules on an emergency basis, effective January 1, 2019. Prior versions of the forgoing revised rules, contained in 1 C.C.R. 203-2, are hereby repealed and replaced by the attached emergency rules, which will remain in effect until their expiration upon 120 days from the adoption date unless sooner terminated or replaced by permanent rules.

Michael S. Hartman
Executive Director
Colorado Department of Revenue
State Licensing Authority

Date