



**COLORADO**

**Department of Revenue**

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## **BULLETIN 18-05**

### **REFERENCE: PRIVATE ALCOHOL EVENTS - COMPLIANCE**

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### **COLORADO LIQUOR ENFORCEMENT DIVISION**

This bulletin is being issued to provide guidance concerning liquor compliance issues for persons who desire to hold private events at which alcohol beverages will be served.

The Colorado Liquor, Beer and Special Event Codes, Title 12, Articles 46, 47 and 48 of the Colorado Revised Statutes, along with the Colorado Liquor Rules, 1 CCR 203-2, are designed to regulate the manufacture and sale of alcohol beverages. Colorado law broadly defines the terms “sell or sale” to mean any of the following:

To exchange, barter, or traffic in; to solicit or receive an order for except through a licensee licensed under this article or article 46 or 48 of this title; to keep or expose for sale; to serve with meals; to deliver for value or in any way other than gratuitously; to peddle or to possess with intent to sell; to possess or transport in contravention of this article; to traffic in for any consideration promised or obtained, directly or indirectly. (§ 12-47-103(34), C.R.S.)

Colorado law also generally prohibits the consumption of alcohol in public, except within the licensed premises of a business holding a liquor license that allows for on-premises consumption (for example, tavern, brew pub, and hotel and restaurant licenses).

It is illegal to consume malt, vinous, or spirituous liquor in any public place except on any licensed premises permitted under this article to sell such liquor by the drink for consumption thereon.... (§ 12-47-901(1)(h), C.R.S.)

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Other types of liquor licenses are only permitted to sell alcohol beverages at their licensed premises, but consumption of the alcohol beverages may only take place at locations off their licensed premises (for example, retail liquor stores and liquor-licensed drug stores). Such off-premises licensees are not permitted to sell alcohol beverages at any location other than their licensed premises.

In order to provide guidance under the Colorado Liquor, Beer and Special Events Codes, as well as the Colorado Liquor Rules, the following is a non-exhaustive list of examples of situations in which either a sale of alcohol or consumption of alcohol in a public place in violation of Colorado law would occur:

Sales of Alcohol Beverages:

1. Charging a fee in exchange for anything that includes alcohol beverages is considered selling alcohol beverages. For example, selling a coaster and providing a “free” beer with the coaster, is a sale of alcohol beverages.
2. Soliciting or accepting any money in exchange for providing alcohol beverages, even if it is called a “donation,” is considered selling alcohol beverages.
3. Soliciting or accepting anything of value in exchange for alcohol beverages, is considered a sale of alcohol beverages.
4. A third party entity (other than a liquor licensee) serving as the middle man between private parties and a liquor licensee, is considered selling alcohol beverages. For example, if an unlicensed entity buys alcohol beverages from a retail liquor licensee, and then invoices the private party for the cost of the alcohol beverages, the unlicensed entity is selling alcohol beverages—even if it doesn’t make a profit from the sale.

Public v. Private Events (with alcohol consumption)

1. If invitations for an event are made through public or some forms of social media, and the event is open to anyone to attend, it is a public, not a private, event.
2. An event the general public may attend is a public, not a private, event.

The following examples are of situations that would not be considered the unlawful sale of alcohol beverages:

1. A private party host purchases alcohol beverages for a private event from a person licensed to sell alcohol for off-premises consumption (e.g., a licensed retail liquor store, or liquor-licensed drug store), and provides it to persons attending the event, as long as those attending the event are not charged for the alcohol, and there is nothing of value exchanged. For example, an

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- entrance or “cover” charge, even if it is referred to as a “donation,” would be considered selling alcohol beverages in violation of Colorado law.
2. A private party host purchases alcohol beverages from a person licensed to sell alcohol for off-premises consumption (e.g., a retail liquor store or liquor-licensed drug store) and hires a separate, third party company to provide bartending services at the private event. Such bartending services are commonly provided by catering or bartending companies. The third party caterer or bartender may not provide the alcohol beverages to be served, and may not be compensated in conjunction with the alcohol beverages, other than charging for the labor involved in bartending and serving alcohol beverages. For example, the company may not charge a corkage fee, a service fee associated with a volume of alcohol, a room/storage fee associated with a volume of alcohol, an increased fee associated with the consumption of alcohol beverages, or a fee for delivery of the alcohol beverages. Any fee charged must be limited to a fee for providing bartending and alcohol beverage service only, which may not be tied to the volume of alcohol beverages served. Similarly, a catering/bartending company may pick up alcohol beverages its client has purchased from a retail liquor store or liquor licensed drug store, and bring it to the private event, but may not charge a fee for doing so. Nor may the catering/bartending company purchase the alcohol beverages itself, and then invoice its client for the alcohol beverages, even if does not mark up the price of the alcohol beverages.
  3. While a company holding a retail liquor store license is not permitted to sell alcohol beverages at a private event, because the licensee is only permitted to sell alcohol beverages within its licensed premises, a person owning an interest in a retail liquor store may also own an interest in a catering or bartending service company. However, care must be taken to separate the operations and transactions of the retail liquor store and the catering/bartending company, to avoid engaging in unlawful conduct. For example, a retail liquor licensee and a catering/bartending company should be separate legal entities, should not share vehicles (including delivery vehicles), and should not commingle bank accounts. The retail liquor store should not be involved in providing catering/bartending services, and the catering/bartending company may not sell alcohol beverages. A retail liquor licensee may deliver alcohol beverages to a person 21 years of age or older, pursuant to Regulation 47-426, 1 CCR 203-2, but a catering/bartending service company may not engage in ordering or delivery services.

If you have any questions about this Bulletin, please contact the LED at (303) 205-2306.