

Colorado Department of Revenue
Liquor Enforcement Division
Regulatory Agenda – Rule Review
1. C.C.R. 203-2
2014

Regulation 47-312. Change of Location.

- A. When a licensee for the manufacture or sale of alcohol beverages desires to change the location of its licensed premises from that named in an existing license, it shall make application to the applicable licensing authorities for permission to change location to the place where such license is to be exercised, except that an application for change of location shall not be required for the demolition and reconstruction of the building in which the original licensed premises was located.
- B. Applications to change location shall be made upon forms prepared by the state licensing authority and shall be complete in every detail. Each such application shall state the reason for such change, and in case of a retail license, shall be supported by evidence that the proposed change will not conflict with the desires of the adult inhabitants and the reasonable requirements of the neighborhood in the vicinity of the new location. An application to change the location of a retail license shall contain a report of the local licensing authority of the town, city, county, or city and county in which the license is to be exercised. Such report shall describe the findings of the local licensing authority concerning the reasonable requirements of the neighborhood and the desires of the adult inhabitants with respect to the new location, except that in the change of location for a club license, the needs of the neighborhood need not be considered. When a licensee is required by lease, lease renewal, condemnation, or reconstruction to move its licensed premises to a new address that is located within the same shopping center, campus, fairground, or similar retail center, the local or state licensing authority may, at its discretion, waive the neighborhood needs and desires assessment requirements should it determine that the new location remains within the same neighborhood as the old location.
- C. For retail licenses, no change of location shall be permitted until the state licensing authority has, after approval of the local licensing authority, considered the application and such additional information as they may require, and ~~issued a permit for~~ APPROVE OF such change. The permit shall be effective on the date of issuance, and the licensee shall, within sixty (60) days, change the location of its licensed premises to the place specified therein. Once at the new location, the licensee shall no longer conduct the manufacture or sale of alcohol beverages at the former location. A local licensing authority may, at its discretion, extend the time to change the location of the licensed premises, for good cause shown. However, no extension that is beyond twelve (12) months from the original date of approval shall be granted.
- D. For those licensees not subject to approval by the local licensing authority, no change of location shall be permitted until the state licensing authority has considered the application

and such additional information as it may require, and ~~issued a permit for~~ APPROVE OF such change. The permit shall be effective on the date of issuance and the licensee shall, within sixty (60) days, change the location of its licensed premises to the place specified therein. Once at the new location, the licensee shall no longer conduct the manufacture or sale of alcohol beverages at the former location. The state licensing authority may, at its discretion, extend the time to change the location, for good cause shown. However, no extension that is beyond twelve months from the original date of approval shall be granted.

- E. Once the licensee has changed its licensed location, the permit to change location shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains.
- F. For retail licenses no change of location shall be allowed except to another location within the same city, town, county, or city and county in which the license as originally issued was to be exercised.
- G. Upon application for change of location, public notice shall be required by the local licensing authority in accordance with Section 12-47-311, C.R.S.

H. Prohibited Area.

A licensee located within 500 feet from any public or parochial school or principal campus of any college, university or seminary may apply for a change of location within the same prohibited area in accordance with the requirements of Section 12-47-301(9), C.R.S., but may not apply for a change of location within any other prohibited area as defined within Section 12-47-313, C.R.S.

Regulation 47-314. Limited Liability Company.

- A. A Limited Liability Company may conduct any business that a partnership with limited partners may lawfully conduct and may not conduct any business that is prohibited by law to such partnership. Such limited liability company shall be in full conformity with 7 80-101, C.R.S.
- B. Each Limited Liability Company licensed pursuant to this Article or Article 46, of Title 12, shall report changes of any of its managers within 30 days from the date of the change, and shall submit said information to the respective local or state licensing authorities on forms approved by the Department of Revenue, Liquor Enforcement Division. A report shall also be required for changes of any member having a 10% or more interest in the licensee.

Regulation 47-316. Advertising Practices

A. Consumer Advertising Specialties

1. "Consumer advertising specialties" shall mean those items designed to advertise or promote a specific alcohol beverage brand or supplier, that have a utilitarian function to the consumer in addition to product promotion and that are intended and designed to be carried away by the consumer. Consumer advertising specialties shall include: t-shirts, caps, visors, bottle or can openers, cork screws, printed recipes, pencils, pens, pins,

buttons, matches, computer flash and jump drives (not to exceed 8 GB), computer mouse pads, shopping bags, key chains, paper or plastic cups and plates, and similar items of negligible value, as approved by the Liquor Enforcement Division. For purposes of this regulation, glassware and plates do not qualify as consumer advertising specialties.

2. Suppliers may provide consumer advertising specialties free of charge to a licensed retailer, so long as they contain an advertising message that promotes the supplier or their products, and do not contain any information, markings, or logos that are specific to a retailer.
3. Consumer advertising specialties that contain any information, markings, or logos specific to a licensed retailer may not be provided free of charge, but must be purchased by a retailer at a minimum of the supplier's cost.
4. Suppliers must have available for inspection those customary business records that verify these transactions, in accordance with 12-47-701, C.R.S., and for the time frame specified in Regulation 47-700.

B. Point-of-Sale Advertising

1. "Point-of-sale advertising" shall mean alcohol beverage brand-specific or supplier-specific promotional materials, within a retailer's licensed premises. Such items may also include a retailer's name and address.
2. Suppliers may provide the following point-of-sale advertising materials to licensed retailers free of charge for use within retail premises: display decorations of negligible value, table tents, table tent holders, sports schedules and brackets, case cards, serving trays, condiment trays, bar utensil caddies, stir rods, strainers, presses, check and credit card holders, shakers, pitchers, table mats, bar mats, alcohol beverage lists or menus, menu cards, menu holders, calendars, napkins, napkin holders, coasters, stir sticks, and similar items of negligible value, as approved by the Liquor Enforcement Division.
3. A supplier may advertise, within retail premises, alcohol beverage products, consumer mail-in rebate offers, consumer giveaways, sweepstakes, contests, and cross promotions with non-alcohol beverage products. Suppliers may also provide contest and sweepstakes information and consumer entry forms.
4. **Supplier Rebates for Consumers and Supplier Coupons**

Supplier rebates and coupons, as contemplated in this regulation, are a permitted method of alcohol beverage product promotion if they are intended to reach the consumer through permitted advertising practices, and to provide the consumer with a direct financial benefit through the redemption process. Rebates and coupons may not be used as a means of financial assistance to licensed retailers or as a means to influence or control a retailer's product selection.

- a. A supplier's "consumer rebate" provides a consumer with cash back after the consumer has purchased a supplier's product and has provided proof of product purchase upon redemption.

- i. A supplier may provide consumer rebate certificates to consumers through point-of-sale advertising (such as tear pads, shelf talkers, case cards, or other point-of-sales materials), package inserts, or other printed or electronic media.
 - ii. A supplier's consumer rebate certificate may not be redeemed through a licensed retailer.
- b. A supplier's "instant redeemable coupon" provides a consumer with a discount off of the retailer's selling price of an alcohol beverage product, at the time it is redeemed through a licensed retailer.
- i. Licensed retailers may redeem suppliers' instant redeemable coupons only after they have been made available to consumers through general print or electronic media directed at the consumer; package inserts; or, a supplier's representative or agent, who is not the retailer or their agent, who is providing coupons to consumers at the retail premises for the purpose of product promotion.
 - ii. Licensed retailers are prohibited from accepting and redeeming any supplier-issued instant redeemable coupons unless redemption included presentation of the coupon by a consumer with the purchase of the product advertised therein, or in accordance with other applicable redemption rules specified by the supplier or their marketing agents.
 - iii. Suppliers are prohibited from providing their instant redeemable coupons directly to licensed retailers, except when said coupons are packaged with, or attached to, each individual product package before such products are delivered to a licensed retailer.
 - iv. Suppliers may never reimburse licensed retailers for suppliers' instant redeemable coupons.
Redemption must be through a third party that is independent from the supplier and the retailer.
 - v. Retailers must have available for inspection, applicable business and banking records that verify these transactions, in accordance with 12-47-701, C.R.S., and for the time frame specified in Regulation 47-700. Verification may include the retailer's reconciliation of coupons redeemed to related products sold to consumers.

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 a 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 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 and electronic advertising messages delivered directly to consumers' private electronic devices, shall not be construed as "similar media."
4. Closed-circuit television advertising networks, or similar advertising networks, that deliver advertising messages to consumers are permitted in retail licensed premises with the following conditions:
- a. A supplier may not provide a licensed retailer with any electronic equipment necessary to deliver network advertising.
 - b. A licensed retailer may not receive revenues, directly or indirectly, from licensed suppliers who advertise on the network. Revenue from non-alcohol beverage suppliers who advertise on the same network, which can be clearly distinguished by the network advertiser from supplier revenues, are permitted provided that the retailer can document that the source of the revenue is not a licensed supplier.
 - c. The advertising network and all related advertising receipts and distributions must be controlled by third party entities who are not licensed pursuant to article 46 or 47 of title 12, and who are wholly independent, in both form and substance, of any licensed supplier or retailer.
- D. 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 48 of title 12, and related regulations, and such organization does not otherwise hold a retail license pursuant to articles 46 or 47 of title 12. However, nothing herein shall authorize any financial assistance for the purpose of altering or influencing an organization's product selection for said events.
- E. Except as otherwise provided for in this regulation, no supplier shall directly or indirectly pay to any retailer, and no retailer shall accept, any value or consideration in connection with or for the right or privilege of posting or maintaining any advertising message, on or in, or relating to a retailer's licensed premises.

Regulation 47-318. Owner-Manager.

- A. Each license under the Colorado Liquor or Beer Codes must be held by the owner of the establishment, which is licensed. "Owner" means the person or persons whose proprietary interest is such that they bear risk of loss other than as an insurer, and have opportunity to gain profit from operation or sale of the establishment.

In determining who is the "owner", elements considered beside risk of loss and opportunity for profit will include: Possession, who controls the licensee, who guarantees its debts, who is beneficiary under its insurance policies, who acknowledges liability for federal, state or local taxes.

- B. Owners may hire managers, and managers may be compensated on the basis of profits made, gross or net. A license may not be held in the name of the manager.
- C. A spouse of a licensee may hold a license in their own right if they are the owner of the licensed establishment, regardless of whether they file separate or joint income tax returns.
- D. A partnership interest, limited or general, a joint venture interest, or ownership of a share or shares in a corporation which is licensed, constitutes ownership.

Regulation 47-320. Signs and Interior Displays.

- A. For purposes of this regulation, "signs" shall mean any visual message intended for the consumer that is located within, or on the exterior of, licensed premises for the purpose of displaying advertising messages or other information related to alcohol beverage suppliers or their products.
- B. A supplier's signs, illuminated or otherwise, that may be provided free of charge to a licensed retailer, shall be composed of any standard, pre-manufactured material such as paper, plastic, glass (including mirrored glass), cloth, metal, or programmable electronic components, and shall have no other utilitarian value.
- C. The term "displays within such premises," hereinafter referred to as "interior displays," shall mean all non- refrigerated racks, bins, barrels, casks, shelving, or similar items, the primary function of which is to hold, shelve, or display alcohol beverages within retail premises.
- D. A supplier's standard interior display that may be provided free of charge to a licensed retailer, shall have no other utilitarian value other than that of being purely for display purposes. Any interior display containing any property other than that authorized in paragraph C above, may not be given or loaned to a licensed retailer, but must be sold at a price not less than the supplier's actual cost.
- E. Advertising statements on signs and interior displays that are permitted to be provided free of charge to a retailer, shall primarily consist of a supplier's name, brand name, trade name, or trademarks; words or phrases, such as "on tap," "on draft," "in bottles," "in cans," "beverages," "beverage department," "ice cold," "take home," and similar copy; and words or phrases such as "delicious with (specifically named food or food products or food generally)" and similar statements relating alcohol beverages to food and constituting a part of the supplier's standard advertising. Permitted language may also include a retailer's name and address, the retailer- established selling price of alcohol beverages, and retailer-specific promotional announcements, provided that the sign or interior display, in its totality, primarily advertise the supplier or its products.
- F. No supplier shall directly or indirectly pay to any retailer, and no retailer shall accept, any value or consideration in connection with, or for the right or privilege of, installing or

maintaining any sign or interior display on, or in, or relating to, a retailer's licensed premises.

- G. 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 48 of title 12, and related regulations, and such organization does not otherwise hold a retail license pursuant to articles 46 or 47 of title 12. However, nothing herein shall authorize any financial assistance for the purpose of altering or influencing an organization's product selection for said events.

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, or vintner's restaurant.

"Retailer" means those persons licensed pursuant to sections 12-47-401(h) – (t) 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, and vintner's restaurants.

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 48 of title 12 and related regulations, and such organization does not otherwise hold a retail license pursuant to article 46 or 47 of title 12. 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, wholesaler's 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. over-production, poor media critique).
 - 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, or vintner's restaurant, or invoiced at a minimum of cost to the retailer.
6. Suppliers authorized to sell alcohol beverages to licensed retailers pursuant to articles 46 or 47 of title 12, 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 46 or 47 of title 12, 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 46 or 47 of title 12, 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 12-47-701, C.R.S., and for the time frame specified in Regulation 47-700.

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.
 - 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. Supplier-sponsored consumer sampling of alcohol beverages that is held in establishments licensed for on- premises consumption for the purpose of product sales promotion, are permitted under the following conditions:
 - a. Product used for sampling must be invoiced by a supplier, who is authorized to sell alcohol beverages to licensed retailers pursuant to article 46 or 47 of title 12, as if sold to the retailer.
 - b. A retailer may not impose any charge to the consumer to enter or participate in the sampling.
 - c. 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.
 - d. Any remaining product must be returned to the wholesaler, or sold to the retailer at a minimum of the seller's cost.
 - e. Supplier representatives or their authorized agents may provide alcohol beverage samples directly to the consumer, if the product has been delivered to the retail premises pursuant to the conditions described herein, and the retailer has so consented.
 - f. 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.

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 12-47-701, 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 46 and 47 of title 12, 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 46 and 47 of title 12, 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.

F. 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 may withdraw product from the retailer's inventory and replace it with new product, without additional charge, under the following conditions:
 - i. The product to be withdrawn is undamaged and in its original packaging.
 - ii. The retailer purchased the original product from the wholesaler providing the replacement, or the current wholesaler is acting as an authorized successor wholesaler.
 - iii. The wholesaler replaces the product with the identical product SKU, the identical quantity, and the identical package.
 - iv. 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.
 - 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. Evidence of 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.

G. 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 12-47-202(2)(b), C.R.S.

H. 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.

I. Equipment rentals

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

J. Other goods

Suppliers may not provide a retailer with any other goods below a supplier's cost except those items expressly permitted by articles 46, 47, or 48 of title 12, C.R.S, and related regulations.

When a supplier also deals in items of commerce that are not regulated by articles 46, 47, or 48 of title 12, only the following restrictions shall apply:

1. The unregulated item(s) may not be on the same invoice as the alcohol beverages sold.
2. The unregulated item(s) may not be provided as an inducement, or require purchase of alcohol beverages.
3. 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.

K. 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 46 or 47 of title 12, 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 46 or 47 of title 12, C.R.S.

L. Value of labor

1. Suppliers may provide labor at no cost as it relates to product delivery, price stamping, rotation and stocking. The cleaning of beverage dispensing equipment and supplier-provided displays may also be provided at no cost.
2. Suppliers may, upon retail premises, organize, construct, and maintain displays of those alcohol beverages that they sell. Such supplier-constructed displays shall be accessible by the consumer.
3. Cost of labor provided to a retailer for services such as the installation of a dispensing system shall be at least at a minimum of that employee's hourly wage.

Regulation 47-323. Lawful Extension of Credit

1. "Supplying licensee" means those persons authorized pursuant to articles 46 and 47 of title 12, C.R.S. to sell fermented malt beverage, malt liquor, vinous liquor, and spirituous liquors to licensed retailers.
2. "Retailer" means those persons licensed pursuant to Sections 12-47-401(1)(h) – (t) and 12-46-104(1)(c) to sell alcohol beverages to the end consumer.
3. "Cash" means United States currency.
4. "Cash equivalent" means a financial transaction or negotiable instrument other than cash, including: bank drafts (business or personal check, cashier's check, certified check) money order, any other type of completed electronic funds transfer, or a supplying licensee's lawfully-issued credit to a retailer's account. Nothing in this regulation shall require a supplying licensee to make available all of the aforementioned types of cash equivalent.
5. "Alcohol beverage purchase" means the date upon which the alcohol beverage is delivered to the retailer and the retailer takes possession.

B. Transaction Requirements and Restrictions:

1. Regarding retailers' alcohol beverage purchases on credit, supplying licensees are prohibited from extending credit to any retailer for a period in excess of thirty (30) days.
2. A supplying licensee's delivery of alcohol beverages to a retailer must be accompanied by a sales invoice that shows the name of the retailer, the place of delivery (address of the

licensed location), the invoice date, the date of delivery, a full description of the alcohol beverages delivered and accepted, a full description of any items on backorder to be delivered on a different date, and the price and terms of sale.

3. If there are discrepancies between the product described in the original sales invoice and the actual delivery, handwritten amendments shall be made to the invoice to reflect any corrections and shall be initialed by an authorized representative of the retailer or supplying licensee. Invoiced product that will be delivered on another date must be re-invoiced by the supplying licensee to reflect the date upon which the actual delivery took place.
4. Where there is lawful ownership of multiple, separately-licensed retail locations, each location must be considered separate and distinct with respect to alcohol beverage purchases. Therefore, a supplying licensee shall consider each location as separate and distinct for the purpose of extending credit. For retailers holding a resort complex class of hotel and restaurant license, all areas within the resort complex must be considered as a single location for the purpose of extending credit.

C. Calculation of Lawful Credit Period:

1. The lawful credit period is thirty (30) calendar days.
2. For the purpose of determining compliance with this regulation, the credit period shall commence on the alcohol beverage purchase and conclude on the date of full legal discharge from all indebtedness arising from the sales transaction related to the delivery, except as otherwise provided in paragraph G of this regulation.
3. If the final day of the lawful credit period falls on a Saturday, Sunday, or legal holiday, the final day shall be the next business day.
4. For the purpose of calculating the lawful credit period only, a retailer's acceptance of an alcohol beverage delivery and sales invoice verifying the delivery is a per se acceptance of the delivery and sales terms.
5. Errors and refusals of delivered product must be noted on either licensee's copy of the sales invoice by an authorized representative of either licensee.

D. Required Payment During Lawful Credit Period:

1. A retailer's payment on a supplying licensee's credit sale shall be recognized as the earlier of:
 - a. The date the payment is deposited by the supplying licensee, or
 - b. The date the transaction is recorded in the licensee's accounting records, or
 - c. The date the supplying licensee or its authorized representative receives the retailer's payment in person, or

- d. The date a retailer can reasonably verify, through its own books and records, tender of payment to a supplying licensee. In order to ensure compliance with this regulation, retailers must make available to the supplying licensee, upon their request, those records that verify the date of tender.
2. The following shall not be considered a lawful discharge of indebtedness for the purpose of advancing any additional credit to a retailer:
 - a. Business or personal checks that are returned to the supplying licensee as unpaid if replacement funds are not tendered within the lawful credit period.
 - b. Dispute claims filed by a retailer to a credit card provider for credit card advances it had previously authorized for product delivery, except as otherwise provided in paragraph G of this regulation.
 - c. A compromise of indebtedness between supplying licensee and retailer that is commercially unreasonable.
 - d. An assignment of a supplying licensee's accounts receivable for third party collection, when the discharge of indebtedness is dependent upon collection from the retailer.
 - e. The supplying licensee's temporary credit to a retailer's account, thereby providing the appearance that a retailer is eligible for additional credit.

E. Indebtedness Beyond the Lawful Credit Period:

1. Any supplying licensee that has not received full payment on a sales invoice on or before the conclusion of the 30 day lawful credit period, as calculated pursuant to paragraph D of this regulation, has not engaged in a per se violation of this regulation, but is prohibited from extending additional credit to the indebted retailer.
2. A supplying licensee shall not advance any additional credit to the indebted retailer until the past due indebtedness is fully discharged.
3. A supplying licensee may continue to sell alcohol beverage products to the indebted retailer only if cash or cash equivalent is provided at the time of each additional delivery.
4. A supplying licensee's normal and customary business practice related to the assessment of finance charges on credit balances that exceed 30 days is not a per se violation of this regulation.

F. Record Keeping Requirements for Supplying Licensees:

1. Pursuant to Section 12-47-701, C.R.S., licensees shall keep and maintain business records necessary to fully show the business transactions of such licensee. The following additional minimum requirements shall be met in order to demonstrate compliance with this regulation.

- a. Before a supplying licensee extends credit to a retailer, it shall review the credit status of the retailer's account to determine whether any unpaid balance remains on a credit sale that is beyond the lawful credit period for such sale. The supplying licensee shall develop a procedure that documents this credit verification process, and shall be obligated to demonstrate compliance upon any review by the state licensing authority.
 - b. The supplying licensee shall maintain sufficient records that verify the commencement of the lawful credit period.
 - c. A supplying licensee that extends credit to retailers shall develop a method of verifying and documenting the date(s) of payment, and the final discharge of indebtedness of each sales invoice if it recognizes a payment date sooner than the date of its final accounting entry. This may include the retention of postmarked envelopes, hand written receipt ledgers, hand written acknowledgement of receipt on the supplying licensee's copy of a sales invoice, or other accounting records developed by the supplying licensee.
 - d. A supplying licensee that extends credit to retailers shall keep a record of those retailers that did not discharge indebtedness within the lawful credit period, and evidence that subsequent sales were cash or cash equivalent on delivery until the indebtedness was discharged.
2. A retailer's records may supplement the supplying licensee's records in determining compliance with record keeping requirements, but shall not mitigate a supplying licensee's lack of compliance.
- G. Dispute Resolution: The purpose of this section shall be solely for the purpose of determining if a supplying licensee may continue to extend credit to a retailer when transaction amounts in dispute cannot be resolved within the lawful credit period. Nothing herein shall restrict the licensees from exercising their contractual rights in civil disputes.
1. If there is a good faith dispute by a retailer as to the validity or reasonableness of the amount owed or the payment made to the supplying licensee, then the retailer shall give written notice to the supplying licensee prior to the close of the lawful credit period. The retailer shall include the disputed amount due or payment tendered, the invoice number, and a detailed reason for the dispute.
 2. Upon receipt of written notification, the supplying licensee shall determine its position and respond within 15 days of the retailer's written notification. The supplying licensee may continue to extend 30 days credit on new purchases pending the resolution of the dispute, so long as the retailer has provided written notice as described in paragraph G.1., and has tendered payment for all amounts not in dispute.
 3. For purposes of this regulation, the amount of a qualifying price dispute shall be calculated as the disputed price differential times the number of cases purchased. For example, if the supplying licensee invoices a case of alcohol beverage at \$11.00 per case, and the retailer's records reflect a negotiated case deal of \$10.00, then the amount in dispute for purposes of this regulation is calculated as \$1.00 times the number of cases purchased.

4. The supplying licensee is prohibited from extending 30 days credit on new purchases if the retailer fails to claim disputes in the manner described in this section or fails to make full payment of undisputed amounts on or before the end of the lawful credit period. A retailer's action to stop or delay payment on any financial transaction does not qualify as proper written notice to a supplying licensee of a good faith dispute.
5. Once a dispute is resolved, a retailer will have 30 days to pay any amount due and/or a supplying licensee will have the same period of time to adjust its records to reflect the outcome. If the dispute resolution process is unsuccessful after good faith efforts by both parties, and any amount due would otherwise be placed for collection, the supplying licensee must cease the extension of credit to the retailer and shall conduct any future sale of alcohol beverages for cash or cash equivalent on delivery.
6. Supplying licensees and retailers shall keep sufficient records to document those disputes that are used as justification for the continued extension of credit, which would otherwise be prohibited.

Regulation 47-324. Concurrent Application Review.

- A. A local licensing authority, or a license applicant with local authority approval, can request that the state licensing authority conduct a concurrent review of a new license application prior to the local licensing authority's final approval of the license application. Local licensing authorities who permit a concurrent review will continue to independently review the applicant's license application for the purpose of establishing the reasonable requirements of the neighborhood, the suitability of the character, record and reputation of the applicant and its principals, the fitness of the applicant's premises for occupancy in compliance with the provisions of Articles 46 and Article 47 of Title 12 C.R.S., and any other provisions required for local authority determination as provided for in these articles.
- B. When conducting a concurrent application review, the state licensing authority will advise the local licensing authority of any items that it finds that could result in the denial of the license application. Upon correction of the noted discrepancies, the state licensing authority will notify the local licensing authority of its conditional approval of the license application subject to the final approval by the local licensing authority. The state licensing authority will then issue the applicant's state liquor license upon receiving evidence of final approval by the local licensing authority.
- C. All applications submitted for concurrent review must be accompanied by all applicable state license and application fees. Any applications that are later denied or withdrawn will allow for a refund of license fees only. All application fees provided by an applicant shall be retained by the respective licensing authority.

Regulation 47-326. Distance Restriction – Applicability and Measurement.

- A. Except as provided for in this regulation, no license shall be issued to or held by any person where malt, vinous, or spirituous liquor is sold if the licensed premises is located within 500 feet of any public or parochial school or the principal campus of any college, university or seminary; said distance to be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which malt,

vinous, or spirituous liquors are to be sold, using a route of direct pedestrian access, measured as a person would walk safely and properly, without trespassing, with right angles at crossings and with the observance of traffic regulations and traffic signals.

B. The restriction stated herein shall not be applicable to the following:

1. The renewal or reissuance of a license once granted, as long as the original license has not been expired for a period greater than two (2) years. However, nothing herein shall authorize the renewal of a license beyond ninety (90) days from the date of expiration. Reissuance shall mean the issuance of a new license pursuant to the requirements of section 12-47-311 and 12-47-313, C.R.S.
2. Proposed licensed premises located on land owned by a municipality.
3. Proposed licensed premises on land owned by the state.
4. Any liquor license in effect and actively doing business before any principal campus has been constructed within the prohibited area. "Actively doing business" shall mean that the licensee is engaged in the regular sale of alcohol beverages and otherwise meeting the requirements of articles 46 or 47 of title 12, C.R.S.
5. Any club-licensed premises located within the principal campus of any college, university, or seminary that limits its membership to the faculty or staff of the institution.

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 away from the licensed premises, must also obtain a wholesale license, pursuant to 12-47-406, C.R.S.

Regulation 47-402. Confiscated Shipments.

All shipments or cargoes of alcohol beverages received into the state of Colorado, except those shipments or cargoes originating from a Colorado licensed supplier as shipper, or delivered to a Colorado licensed in-state supplier as consignee and subject to its order, shall be subject to confiscation, impounding or other disposal as may be determined by the Executive Director of the Department of Revenue as ex-officio State Licensing Authority.