

DEPARTMENT OF REVENUE

Liquor Enforcement Division

Colorado Liquor Rules – Changes from SB 18-243

1 C.C.R. 203-2

July 23, 2018

1. FMB ON & OFF LICENSE

- No more new or renewed FMB On & Off licenses. Existing FMB On & Off licenses must convert to either an FMB On license or an FMB Off license.

§ 12-46-104(1)(c)(II), C.R.S. [p. 3]

§ 12-46-107(1)(c), C.R.S. [p. 4-5]

- New food requirements for certain FMB Off licensees, with some exceptions.

§ 12-46-107(3), C.R.S. [p. 5-6]

The Division is drafting a rule that would define the way in which applicable licensees will demonstrate their compliance with the food requirements. Specifically, requiring licensees to affirm compliance on their applications. Furthermore, the state licensing authority and the local licensing authority shall have the authority to request additional documentation to demonstrate compliance.

2. AGE OF EMPLOYEES

- An employee must be at least 18 years old to perform all alcohol beverage related functions at an FMB On license, FMB Off license, RLS license, or LLDS license.

§ 12-46-106(1), C.R.S. [p. 4]

§ 12-47-901(5)(p)(I)(B), (II), C.R.S. [p. 25-26]

- An employee must be at least 21 years old to make a delivery for an FMB Off license, RLS license, or LLDS license.

§ 12-46-106(1), C.R.S. [p. 4]

§ 12-47-901(5)(p)(III), C.R.S. [p. 26]

The Division is amending Regulation 47-426 regarding “Delivery of Alcohol Beverages”, Regulation 47-913 regarding “Age of Employees”, and Regulation 47-1012 regarding “Special Event Permit – Permitted Age of Servers” to reflect these statutes.

3. DELIVERY

- An FMB On & Off license shall no longer deliver.

§ 12-46-107(1)(c), C.R.S. [p. 4]

- There are new delivery requirements and conditions for an FMB Off license, RLS license, or LLDS license.

§ 12-46-107(6), C.R.S. [p. 7]

§ 12-47-407(3), C.R.S. [p. 18]

§ 12-47-408(3), C.R.S. [p. 20-21]

The Division is amending Regulation 47-426 regarding “Delivery of Alcohol Beverages” to reflect this statute.

4. DISTANCE RESTRICTIONS

- An FMB Off license or an RLS license shall not relocate within 1500 feet or 3000 feet, as applicable, of an RLS license.

§ 12-47-301(9)(a)(I)(B)-(C), C.R.S. [p. 9]

- An RLS license or an LLDS license shall not locate within 1500 feet or 3000 feet, as applicable, of an RLS license or an LLDS license.

§ 12-47-301(12)(a), C.R.S. [p. 11]

§ 12-47-407(1)(a)(II), C.R.S. [p. 16-17]

§ 12-47-408(1)(a)(I), C.R.S. [p. 19]

- A new FMB Off license shall not locate within 500 feet of an RLS license, with exceptions.

§ 12-47-301(12)(a.5), C.R.S. [p. 11-12]

- A FMB Off license shall not locate within 500 feet of a school, with exceptions.

§ 12-47-313(1)(e), C.R.S. [p. 15-16]

The Division is amending only Regulation 47-326(A) regarding “Distance Restriction – Applicability and Measurement” to add the applicability to FMB Off licenses. The Division believes no other regulatory amendments are required.

5. TASTINGS

- There are new tastings permissions and responsibilities.

§ 12-47-301(10)(c)-(d), C.R.S. [p. 10-11]

The Division is drafting a rule clarifying the expectations for securely storing open and unconsumed samples for future tastings. Additionally, the Division is proposing to draft a rule clarifying which suppliers may and which suppliers may not participate in tastings. More specifically, clarifying that out of state manufacturers who don't hold an importers license are not allowed to participate in tastings.

6. TRADE PRACTICE

- There is clarity regarding who may pour and serve at a tasting.

§ 12-47-301(10)(c)-(d), C.R.S. [p. 10-11]

The Division is drafting a rule under Regulation 47-322(L) regarding "Unfair Trade Practices" to reflect this statute.

7. LLDS EXPANSION

- There is new language solidifying the qualification for LLDS expansion of an existing license.

§ 12-47-408(4)(b)(IV), C.R.S. [p. 21]

- There is a new license that will qualify for LLDS expansion.

§ 12-47-408(4)(b)(V), C.R.S. [p. 21-22]

The Division believes the statute speaks for itself, and no regulatory amendments are required.

8. FINE OR SUSPENSION

- There are conditions the licensing authority is prohibited from considered when imposing a suspension or a fine for a violation of § 12-47-901(5)(a)(I), C.R.S.

§ 12-47-601(7.5)(c), C.R.S. [p. 22-23]

The Division believes the statute speaks for itself, and no regulatory amendments are required.

9. PUBLIC CONSUMPTION

- A person may consume any alcohol beverage in any public place, with exceptions, and where public consumption has been authorized appropriately by ordinance, resolution, or rule.

§ 12-47-901(1)(h)(VII), C.R.S. [p. 24]

The Division is drafting a rule requiring the applicable licensing authorities to provide the Division with a copy of its relevant ordinance, resolution, or rule and other relevant information.

10. POSSESSION ON PREMISES

- A person with an FMB Off license may have an open container of FMB on the licensed premises only if it is for retailer sampling.

§ 12-47-901(5)(k)(II)(B), C.R.S. [p. 25]

- An FMB Off license, RLS license, or LLDS license may have an open container of alcohol beverage, respectively, that is damaged or defective if it is marked for return to the wholesaler.

§ 12-47-901(5)(k)(V), C.R.S. [p. 25]

The Division is drafting a rule under Regulation 47-322(F) regarding “Unfair Trade Practices” to clarify these statutes. Specifically, concerning the returns of breakage to wholesalers.

11. FMB ON LICENSE CONTROL REGARDING THE REMOVAL OF ALCOHOL BEVERAGES

- A FMB On license is subject to the existing requirements regarding not allowing the removal of alcohol beverages from the licensed premises and the posting of the related warning sign.

§ 12-47-901(9)(b), C.R.S. [p. 26]

The Division believes the statute speaks for itself, and no regulatory amendments are required.

12. IDENTIFICATION CHECK

- A FMB Off license is subject to the mandatory identification requirements, with exception to those persons who reasonably appear to be 50 years old or older.

§ 12-47-901(10), C.R.S. [p. 26-27]

The Division believes the statute speaks for itself, and no regulatory amendments are required.

13. RETAIL SALE TO CUSTOMER

- An FMB Off license, RLS license, or LLDS license shall not sell alcohol beverages, respectively, below cost. However, this does not prohibit a bona fide loyalty or rewards program so long as the price for the alcohol beverages are not below the retailer's cost for the product.

§ 12-46-107(4)(a), C.R.S. [p. 6]

§ 12-47-407(2)(a)(II), C.R.S. [p. 17]

§ 12-47-408(2)(a)(II), C.R.S. [p. 19-20]

The Division is drafting a new regulation to clarify these statutes. These regulations will be consistent in how rules were drafted concerning LLDS sales after SB16-197. The Division is looking for input from the industry in regards to the regulation for the bona fide loyalty programs.

14. CONSOLIDATED ENTITY, BUT NO PURCHASE OR CREDIT COMMINGLING

- An FMB Off license, RLS license, or LLDS license with multiple licenses for multiple licensed premises may operate under a consolidated entity. However, this does not permit the commingling of alcohol beverages purchases or credit extensions for multiple licensed premises.

§ 12-46-107(5), C.R.S. [p. 7]

§ 12-47-407(2)(b), C.R.S. [p. 17-18]

§ 12-47-408(8), C.R.S. [p. 22]

The Division believes the statute speaks for itself, and no regulatory amendments are required.

15. EFFECT ON COMPETITION

- The licensing authorities must consider the effect on competition when approving or denying a second or additional license for all retail licenses, except RLS licenses and LLDS licenses.

§ 12-47-301(2), C.R.S. [p. 8]

The Division believes the statute speaks for itself, and no regulatory amendments are required.