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

Emergency Rules

Regulation 47-009 – Fermented Malt Beverage Off-Premises Licenses Distance Requirement.
Regulation 47-010 – Items Approved for Sale in Fermented Malt Beverage Off-Premises Licenses.

Statement of Emergency Justification and Adoption

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

Subsection 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 rules, effective December 5, 2018, is necessary to comply with the statutory mandates of the Colorado Liquor Code, sections 44-3-101 to 44-3-1002, C.R.S., and the Colorado Beer Code, sections 44-4-101 to 44-4-109, C.R.S.; (2) the adoption of these new rules is 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 new Regulation 47-009 is found at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(O), and 44-3-202(2)(a)(I)(R), C.R.S.

The statutory authority for new Regulation 47-010 is found at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(O), 44-3-202(2)(a)(I)(R), and 44-4-107(3)(c), C.R.S.

Purpose

The purpose of new Regulation 47-009 is to clarify the applicability of the exception to the distance requirement set forth in subsections 44-3-301(12)(a.5)(II)(A) and (B), C.R.S., to certain fermented malt beverage off-premises licenses.

The purpose of new Regulation 47-010, is to specify how licensees subject to the food sales requirement in subsection 44-4-107(3), C.R.S., must report and demonstrate compliance with this statutory requirement, and to clarify the applicability of the exceptions to this requirement set forth in subsection 44-4-107(3)(d)(I) and (II), C.R.S. to certain fermented malt beverage off-premises licenses.

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 is regulated by the Colorado Liquor Code as a matter of statewide concern. It is imperatively necessary to provide licensees and applicants with the State Licensing Authority's interpretation of the foregoing requirements and exceptions in statute to ensure continued proper regulation and control over the administration and enforcement of articles 3 and 4 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 State Licensing Authority filed a permanent rulemaking notice for these rules on December 5, 2018. A public hearing on the proposed permanent rule will take place on January 14, 2019. That process will include the opportunity for substantial stakeholder and public participation.

Adoption

The State Licensing Authority is adopting these rules on an emergency basis to assure the public is provided with notice of the State Licensing Authority's interpretation and application of the requirements and exceptions set forth in subsections 44-3-301(12)(a.5) and 44-4-107(3), C.R.S., and to resolve confusion that has arisen regarding the proper interpretation of these statutes since they went into effect on June 4, 2018. Because applications for licensure pursuant to these statutes are ongoing, immediate clarity is needed, and cannot await the permanent rulemaking process.

These emergency rules are effective December 5, 2018, and will remain in effect until their expiration upon 120 days from the adoption date unless sooner terminated or replaced by a permanent rule.



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

12/4/18
Date