



COLORADO

Department of Revenue

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BULLETIN 20-03

Colorado Liquor Enforcement Division Notice Guidance Regarding LED Response to COVID-19

APRIL 1, 2020

The Liquor Enforcement Division (LED) would like to thank all of our stakeholders for your patience while our dedicated team developed this bulletin. As we move forward during these challenging and dynamic circumstances, we are committed to remaining flexible and innovative so your businesses can continue to operate to the extent permitted by any applicable executive orders and public health orders. In addition to complying with all applicable restrictions and requirements mandated by the Governor of Colorado and the Colorado Department of Public Health and Environment (CDPHE), regulated liquor businesses are strongly encouraged to observe social distancing requirements pursuant to state and federal guidelines. Liquor licensees that have been allowed to stay open and have consumers standing in line to purchase and takeout alcohol beverages must implement social distancing requirements pursuant to state-issued orders, including CDPHE's Public Health Order 20-24, as amended and updated. This includes measures to ensure patrons remain at least six (6) feet apart from one another as they wait to purchase/takeout their alcohol beverage order. We urge everyone to do their part to slow the spread of the coronavirus while supporting our liquor industries to sustain business within Colorful Colorado. The relaxation of certain laws and regulations during this crisis is temporary, and applicable laws and regulations will return to normal operation once this situation is contained and the relevant executive orders and public health orders are no longer in effect.

All liquor licensees' must remain vigilant about the following:

- Preventing sales to minors;
- Refusing sales to visibly intoxicated customers;
- Following "tied house" laws and regulations; and
- Following "trade practice" laws and regulations, including the prohibition on consignment sales, bribery, exclusive outlet sales arrangements, and prohibited things of value given by suppliers to retail licensees and by retail licensees to consumers; and
- Implementing social distancing requirements in CDPHE's Public Health Order 20-24, as amended and updated the PHO.

While the LED's offices are currently closed to the public, our licensing section is fully operational. Licensing staff are working from home, and to a lesser extent from the office, to make sure we are processing applications, emailing licensing clerks and stakeholders, and answering the phones.

Our investigators are out in the field, making sure all liquor establishments engaged in authorized sales through takeout and delivery are taking all necessary precautions to implement social distancing requirements. Please do not be surprised by our investigators contacting licensees via remote technology to perform inspections of your liquor licensed premises. Our investigators are here to help compliant businesses continue to operate, where authorized, during this challenging time. LED has received a small number of complaints about liquor businesses that are not complying with executive orders and public health orders imposing social distancing requirements, and LED has taken swift action to educate these licensees. Failure to comply may also lead to disciplinary action against a liquor license, enforcement actions under a public health order, or both.

While LED is working diligently to develop and implement innovative solutions, where possible, to keep the industry running, licensees must take care not to push the boundaries of the additional privileges extended to them during this emergency beyond their reasonable limits. Abuses by a few could lead to repeal or non-extension of these additional privileges for all. Keep in mind that while state leaders are actively finding ways to help support the liquor industry during this crisis, they must keep public safety at the forefront of their decisions. All agencies with law enforcement authority, including but not limited to the LED, Colorado State Patrol, Colorado Department of Public Health and Environment (CDPHE), Colorado Attorney General, and local city and county law enforcement and public health agencies will enforce compliance with the terms of the Governor's executive orders and any public health orders issued by CDPHE.

Executive Orders/Public Health Orders Timeline

Executive orders and public health orders related to COVID-19 are available at <https://covid19.colorado.gov/public-health-executive-orders-explained>, and are subject to amendment.

3/20/2020	Executive Order D 2020 011 Temporary Suspension of Enforcement on On-Premise Retail Licensees and Breweries to Sell, Deliver or Provide Alcohol for Take-out: Temporarily suspended liquor license requirements that prohibit takeout and delivery sale of alcohol beverages for certain liquor licensees.
3/22/2020	Public Health Order 20-24 Implementing Fifty Percent Reduction in Nonessential Business In-Person Work and Extreme Social Distancing: Ordered all Colorado employers, except critical businesses, to reduce the number of people congregating in the workplace by 50%, and to implement extreme social distancing within the workplace. This Order defined hotels, grocery stores, gas stations, convenience stores, restaurants and bars (for takeout/delivery only), among others, as critical businesses.
3/25/2020	Executive Order D 2020 017 Ordering Coloradans to Stay at Home Due to the Presence of COVID-19 in the State: Ordered the entire state of Colorado to stay at home, subject to limited exceptions, beginning Thursday, March 26, at 6:00 a.m. and lasting until April 11, 2020. The Order defines restaurants/bars (for takeout/delivery only as defined in Executive Order D 2020 011) and liquor stores as critical retail establishments allowed to remain open for business during the stay at home order, subject to social distancing requirements. Frequently Asked Questions and additional detailed information on the Executive

	Order is found at https://drive.google.com/file/d/16nO05S6q0AGBew32r0NYelifwk11uDMO/view .
3/25/2020	Amended Public Health Order 20-24 Implementing Stay at Home Requirements: Ordered Colorado residents to stay and home and implemented stricter social distancing requirements for critical businesses in keeping with the Governor's stay at home order, including restaurants and bars (takeout and delivery only), grocery stores, hotels, and beverage manufacturers.
3/26/2020	Updated Public Health Order 20-24 Implementing Stay at Home Requirements: Updated Public Health Order 20-24, clarifying, among other things, that gas stations and convenience stores, restaurants and bars (takeout/delivery only), and liquor stores are critical businesses.
3/27/2020	Executive Order D 2020 015 Authorizing the Executive Director of Certain State Agencies to Promulgate and Issue Emergency Rules Extending the Expiration Date of Licenses and Other Documents Due to the Presence of COVID-19: Authorized adoption of emergency rules to extend license or permit expirations, but only if renewals may not be completed online.

Renewal of Licenses and Permits

Please continue to send applications, renewals, etc. in a timely fashion for processing as our licensing staff is continuing to sustain levels of service for our customers. Currently, LED is reviewing the renewal process for a possible extension or an ability to renew licenses and permits through a State online portal, pursuant to Executive Order D 2020 015. As more information becomes available regarding this topic, we will update all external stakeholders.

Sealed Containers and Mixed Drinks

While Executive Order D 2020 011 is in effect, certain licensed retailers who are normally limited to selling alcohol beverages for on-premises consumption may sell sealed alcohol beverages to consumers for off-premises consumption via takeout or delivery, as long as food, such as meals and/or sandwiches and/or light snacks, is included with alcohol beverage orders. Both food and alcohol beverages sold for takeout or delivery must be reflected on the same receipt or transaction. Executive Order D 2020 011 applies to the following types of retail licensees:

- Hotel and Restaurant to include Resort Complex and Related Facilities. Hotel licensees may continue to sell food and beverages to hotel guests via room service, mini-bar, and takeout within the premises.
- Brew Pub
- Distillery Pub
- Vintner's Restaurant
- Fermented Malt Beverage (FMB) On-Premises
- Tavern
- Beer and Wine
- Lodging and Entertainment
- Club licensees can only sell only to club members.

In addition, while Executive Order D 2020 011 is in effect, breweries operating an approved sales room may sell alcohol beverages in sealed containers through takeout and delivery

Pursuant to emergency Regulation 47-1001, 1 CCR 203-2, alcohol beverages sold through delivery or takeout must be in a sealed container as defined in Section 44-3-103(51), C.R.S., or in a cup or other container closed securely with a lid taped securely to the cup or other container. Plastic lids are acceptable as long as any holes in the lid are covered with tape, and no straw is inserted through the lid and contents of the cup are not removed once sealed until the beverage is delivered to a person who is at least 21 years of age in their residence. Purchasers and persons delivering alcohol are subject to state and local laws prohibiting drinking or possessing open containers of alcohol beverages in public and in motor vehicles. In addition, all cups or other containers shall be affixed with a label containing a warning statement, with a minimum fourteen (14) font size, stating as follows: **"WARNING DO NOT OPEN OR REMOVE SEAL WHILE IN TRANSIT. Purchasers are subject to state and local laws prohibiting drinking or possessing open containers of alcoholic beverages in motor vehicles, including section 42-4-1305, C.R.S."**

All licensees are subject to the following:

- All liquor licensees' shall follow the emergency Regulation 47-1001, 1 CCR 203-2, Delivery and Takeout Sales Authorized Under Executive Order(s).
- All licensees' shall follow the CDPHE Public Health Order's social distancing requirements.
- Patrons must not be permitted to congregate in groups at liquor licensed establishments during pick-up. Employees and patrons are required to maintain six feet of separation to the greatest extent possible while at a liquor licensed establishment.
- Businesses shall only sell alcohol to individuals who are at least 21 years of age and shall verify age at the time of delivery or when picking up a takeout order.
- All deliveries that include alcohol beverages must be made by an employee of the licensee business. Deliveries of food only may be completed by a third-party service.

Ordering Guidance

All the above-listed license types may receive *orders* online, in person, telephonically, or through a third-party vendor.

- Licensees may only sell to individuals who are at least 21 years of age (the individual placing the order must provide their name, date of birth, and delivery address). The employee making the delivery must verify the information provided in the order upon delivery;
- Deliveries may only be made to the address provided at the time of the Order. Persons making the deliveries must be at least the age of 21 and an employee of the licensee. Persons delivering must verify the age of the individual receiving the alcohol beverage(s).
- Licensees must also retain all records regarding the ordering and delivery of alcohol beverages pursuant to section 44-3-701, C.R.S.
- See emergency Regulation 47-1101, 1 CCR 203-2, for additional information and requirements.

Breweries and Brew pubs

Brew pubs MAY sell for off-premises consumption. Brew pubs can normally sell alcohol beverages for on-premises consumption and malt liquor of their own manufacture in sealed

containers for off-premises consumption. Brew pubs cannot normally deliver alcohol beverages, including malt liquor of their own manufacture. Under the Executive Order D 2020-011, brew pubs can now sell alcohol beverages for off-premises consumption via takeout and delivery.

Breweries that hold a wholesale license with an approved sales room MAY sell for off-premises consumption via takeout and delivery. Breweries holding a wholesale license can normally sell for on-premises consumption and off-premises consumption via takeout if they have a sales room approved by the State Licensing Authority. While Executive Order D 2020-011 is in effect, if a brewery has an approved sales room, it can also sell for off-premises consumption via delivery. If the brewery does not have an approved sales room, it cannot sell for off-premises consumption to the public.

Manufacturer Distilleries and Wineries

Per Executive Order D 2020 011, manufacturer breweries with approved sales rooms, brew pubs, and distillery pubs are temporarily exempted from certain statutes that restrict them from delivering or allowing for certain takeout purchases of alcohol.

At this time, manufacturer distilleries and wineries are not exempted from delivery laws and cannot deliver alcohol beverages to consumers. Manufacturer distilleries and wineries are still allowed to sell their own manufactured products in sealed containers to go as long as their business is open and operating per local and state public health and stay at home orders.

Wineries that hold a winery direct shipper's permit MAY continue to ship wine directly to personal consumers, as long as they comply with section 44-3-104, C.R.S., and Regulation 47-104, 1 CCR 203-2. If you do not have a Wine Direct Shippers Permit you may apply online. To obtain your registration code and URL address, please call (303) 205-2300 or email dor_liqlicensing@state.co.us.

Distilleries operating an approved sales room MAY continue to sell alcohol beverages to consumers for off-premises consumption via takeout but MAY NOT sell alcohol beverages to consumers through delivery. Distilleries are manufacturer licensees who can obtain "sales room" permits to sell their products for on-premises consumption and off-premises consumption via takeout, but, unlike breweries, they are not specifically mentioned in the Executive Order D 2020-011. Currently, Executive Order D 2020 011 does not permit distilleries with an approved sales room to sell spirituous liquors for off-premises consumption via delivery.

Refilling of sealed containers

Pursuant to Regulation 47-904(C), 1 CCR 203-2: "Except manufacturers or malt liquor manufacturers with an onsite wholesale sales room, no licensee shall refill or permit the refilling of any alcohol beverage container with alcohol beverage or reuse any such container by adding distilled spirits or any substance, including water, to the original contents or any portion of such original contents." At no time should retail liquor establishments be refilling alcohol beverage containers for off-premises consumption. These establishments would include the following: Hotel & Restaurant, Beer & Wine, Clubs, Lodging and Entertainment, Tavern, and Optional Premises.

The only license types that can refill containers are Manufacturers of malt, vinous, and spirituous liquors, to include Distillery Pub, Brew Pub, Limited Wineries, Wineries, Breweries, and Distilleries.

Limits on Orders

Currently, there is no limit to the number of alcohol beverages an individual may order with a food purchase for takeout or delivery. Alcohol beverage sales for takeout shall not be provided to a visibly intoxicated person. As discussed above, a valid proof of identity that confirms the individual is at least 21 years old is required.

Delivery Services

All on-premises retailers' deliveries that include alcohol beverages must be made by an employee of the licensed business who is at least twenty-one years of age (21).

Orders for food ONLY may be completed by a third-party service provider. These providers cannot deliver alcohol beverages because they do not hold a liquor license, they have no training in responsible vendor training, and they may be under 21-years of age.

Consignment Sales, Extensions of Credit and Product Returns

Federal and State consignment sales, extensions of credit, and product returns laws and regulations remain in effect, except as provided in Bulletin 20-02 (Lawful Product Returns for Event Cancellations Attributable to COVID-19 Concerns), dated March 13, 2020. At present, there have been no other measures taken to alter these Federal or State laws and regulations due to COVID-19. LED is open to hearing stakeholder ideas as this situation evolves.

Shipments

Third-party carriers cannot ship malt or spirituous alcohol beverages to consumers except on behalf of the holder of a valid winery direct shipper's permit and in compliance with section 44-3-104, C.R.S., and Regulation 47-104, 1 CCR 203-2.

Product Registration – Malt Beverages Intrastate

Intrastate malt beverage registration can be completed on the LED website www.colorado.gov/pacific/enforcement/liquor; go to "Helpful Links"; select "Brand Registrations"; select In-State Malt Liquor (Beer) Brand Registrations Process.

Businesses Selling Alcohol Without A Liquor License

Please report any business selling alcoholic beverages without a liquor license to dor_led@state.co.us or 1-877-662-4643.

If you have any further questions, please contact 303-205-2300 or dor_led@state.co.us.