

## NOTICE OF RULEMAKING HEARING

### Department of Revenue Liquor Enforcement Division

The State Licensing Authority of the Colorado Department of Revenue, Liquor Enforcement Division (“Division”), will consider the promulgation of amendments to its Rules and Regulations as authorized by the Colorado Liquor Code, sections 44-3-101 *et seq.*, C.R.S. For specific information and language concerning the proposed changes and new rules, please refer to the contents of this Notice and to the proposed rules that are set forth following this notice and are available on the Division’s website, [www.colorado.gov/enforcement/liquor](http://www.colorado.gov/enforcement/liquor).

### STATUTORY AUTHORITY FOR RULEMAKING

The State Licensing Authority promulgates these rules pursuant to the authority granted in section 44-3-202, C.R.S., of the Colorado Liquor Code and section 24-4-103, C.R.S., of the Administrative Procedure Act.

### SUBJECT OF RULEMAKING

The proposed rules and relevant information are posted on Division’s website, [www.colorado.gov/enforcement/liquor](http://www.colorado.gov/enforcement/liquor). In addition, the proposed rules attached to this Notice are fully incorporated herein.

The State Licensing Authority will consider the promulgation of the following list of new rules and/or existing rules with proposed changes. For specific information and language concerning the proposed changes, please refer to the proposed rules that are set forth with this Notice, posted on Division’s website, and posted on the Colorado Secretary of State’s website.

### RULES TO BE CONSIDERED FOR AMENDMENT OR ADOPTION

The Rules to be considered for amendment or adoption are described as follows:

Regulation 47-912. Identification.

### RULEMAKING RECORD AND PUBLIC PARTICIPATION

1. Official Rulemaking Record. The official record for purposes of the rulemaking hearing to be held on January 14, 2020 will include any written comments or oral testimony submitted or presented.
2. Written Comments. The State Licensing Authority encourages interested parties to submit written comments on the proposed rules, including alternate proposals, by January 7, 2020 so that the State Licensing Authority can review comments prior to the rulemaking hearing. Written comments will also be accepted after that date. The deadline to submit written comments is 5:00 P.M. on January 17, 2020.

Notice of Rule Making Hearing  
Department of Revenue  
Liquor Enforcement Division

Written comments may be emailed to: [dor\\_led@state.co.us](mailto:dor_led@state.co.us). In addition, you may submit written comments to:

Liquor Enforcement Division  
Attn: Rules  
1697 Cole Boulevard  
Suite 200  
Lakewood, Colorado 80401

Written comments will be accepted at the rulemaking hearing as well.

3. Oral Comments. At his/her discretion, the State Licensing Authority may afford interested parties an opportunity to make brief oral presentations at the rulemaking hearing.

If allowed, oral presentations will likely be limited to two minutes or less per person. Individuals will not be allowed to cede their time to another person (for instance, one person speaking on behalf of five people will not be given ten minutes to speak). Organized groups of individuals are urged to identify one spokesperson and to be concise. The State Licensing Authority encourages interested parties to avoid duplicating material and testimony previously submitted in connection with the Prior Hearing.

### HEARING SCHEDULE

Date: January 14, 2020  
Time: 2:00 p.m.  
Location: Marijuana Enforcement Division  
1707 Cole Blvd, Suite 300  
Golden, CO 80401  
"Red Rocks" Conference room

Location of the rulemaking hearing will also be posted on the Division's website and the Secretary of State's website.

The hearing may be continued at such place and time as the State Licensing Authority may announce.

The State Licensing Authority shall deliberate upon the rulemaking record, including oral testimony and written submissions presented, as well as applicable legal provisions and any related matters properly submitted before the hearing record is closed. Pursuant to said hearing, in the above-entitled matter at the time and place aforesaid, or at any adjourned meeting, the State Licensing Authority will adopt such rules as in its judgment are justified by the rulemaking record and applicable legal provisions.

If you are an individual with a disability who needs a reasonable accommodation in order to participate in this rulemaking hearing, please contact Chris Manning at [Chris.Manning@state.co.us](mailto:Chris.Manning@state.co.us) no later than January 7, 2020.

Notice of Rule Making Hearing  
Department of Revenue  
Liquor Enforcement Division

Dated this 13th day of December, 2019.

THE COLORADO DEPARTMENT OF REVENUE,  
STATE LICENSING AUTHORITY,  
LIQUOR ENFORCEMENT DIVISION

A handwritten signature in black ink, appearing to read "Heidi Humphreys", is written over a horizontal line.

Heidi Humphreys  
Deputy Executive Director/Chief Operating Officer  
Colorado Department of Revenue  
State Licensing Authority

DEPARTMENT OF REVENUE

Liquor Enforcement Division

COLORADO LIQUOR RULES

1 CCR 203-2

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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**Regulation 47-912. Identification.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(a)(I)(R), 44-3-410(2)(a)(IV), and 44-3-901(11), C.R.S. The purpose of this regulation is to define adequate identification criteria for purposes of demonstrating age, and establish the factors of an affirmative defense available to a licensee for an alleged sale to a minor.

A. EXCEPT AS OTHERWISE PROVIDED IN SECTION 44-3-901(11), C.R.S., Licensees may refuse to sell alcohol beverages to any person unable to produce adequate identification of age that is valid and unexpired. Identification of age, INCLUDING ANY VALID AND VERIFIED DIGITAL IDENTIFICATION, is adequate if it contains a picture and date of birth and is one of the following, OR IF IDENTIFICATION OF AGE IS VERIFIED THROUGH A BIOMETRIC IDENTITY VERIFICATION DEVICE AS SET FORTH IN PARAGRAPH (C) BELOW verify the person is at least twenty-one years of age. Verification of age can be done by either:

1. Producing adequate identification of age, including any verified digital identification, that is valid and unexpired. Identification of age is adequate if it contains a picture and date of birth and is one of the following:

a. Any type of driver's license, or identification card issued by any state within the United States, the District of Columbia, any U.S. Territory, or any foreign country, including Canada or Mexico;

2. ~~Repealed.~~

3b. A United States military identification card or any other identification card issued by the United States government including, but not limited to, a permanent resident card, alien registration card, or consular card;

4c. A passport, or passport identification card;

5. ~~Repealed.~~

6. ~~Repealed.~~

7d. A valid consular identification card from any foreign country; OR

2. USING A BIOMETRIC IDENTITY VERIFICATION DEVICE. FOR PURPOSE OF THIS REGULATION, "BIOMETRIC IDENTITY VERIFICATION DEVICE" MEANS A DEVICE THAT INSTANTLY VERIFIES THE IDENTITY AND AGE OF A PERSON BY AN ELECTRONIC SCAN OF A BIOMETRIC OF THE PERSON,

THROUGH A FINGERPRINT, IRIS IMAGE, FACIAL IMAGE OR OTHER BIOMETRIC CHARACTERISTIC, OR ANY COMBINATION OF THESE CHARACTERISTICS; REFERENCES THE PERSON'S IDENTITY AND AGE AGAINST ANY RECORD OF IDENTIFICATION DESCRIBED IN PARAGRAPH (A)(1) OF THIS REGULATION; AND CONTEMPORANEOUSLY PROVIDES THE LICENSEE WITH IDENTITY AND AGE VERIFICATION FOR THE PERSON UTILIZING THE DEVICE. PRIOR TO USING A BIOMETRIC IDENTITY VERIFICATION DEVICE TO VERIFY THE IDENTITY AND AGE OF A PERSON FOR PURPOSES OF THIS PARAGRAPH (A)(2), THE LICENSEE SHALL ENSURE THE DEVICE PROVIDER HAS SYSTEMS IN PLACE TO:

- A. VERIFY THE AUTHENTICITY OF ANY IDENTIFICATION RECORDS BY AN ELECTRONIC AUTHENTICATION PROCESS;
- B. VERIFY THE IDENTITY OF, AND RELEVANT IDENTIFYING INFORMATION ABOUT, THE PERSON THROUGH A SECONDARY, ELECTRONIC AUTHENTICATION PROCESS OR SET OF PROCESSES UTILIZING COMMERCIALY AVAILABLE DATA, SUCH AS A PUBLIC RECORDS QUERY OR A KNOWLEDGE-BASED AUTHENTICATION QUIZ; AND
- C. SECURELY LINK THE AUTHENTICATED RECORD TO BIOMETRIC CHARACTERISTICS CONTEMPORANEOUSLY COLLECTED FROM THE PERSON AND STORE THE AUTHENTICATED RECORD IN A CENTRALIZED, HIGHLY SECURED, ENCRYPTED BIOMETRIC DATABASE.

B. It shall be an affirmative defense to any administrative action brought against a licensee for alleged sale to a minor if THE LICENSEE MEETS ITS BURDEN OF PROOF TO ESTABLISH, BY A PREPONDERANCE OF THE EVIDENCE, THAT:

1. THE THE MINOR PRESENTED FRAUDULENT IDENTIFICATION OF THE TYPE ESTABLISHED IN PARAGRAPH (A)(1) ABOVE OF THIS REGULATION, AND THE LICENSEE POSSESSED AN IDENTIFICATION BOOK ISSUED WITHIN THE PAST THREE YEARS, WHICH CONTAINED A SAMPLE OF THE SPECIFIC KIND OF IDENTIFICATION PRESENTED FOR COMPLIANCE PURPOSES; , OR;
2. THE LICENSEE USED AND RELIED UPON A BIOMETRIC IDENTITY VERIFICATION DEVICE THAT INDICATED THE MINOR WAS TWENTY-ONE YEARS OF AGE OR OLDER, IN ACCORDANCE WITH PARAGRAPHS PARAGRAPH (A) AND (C) OF (A)(2) OF THIS REGULATION. AS AN AFFIRMATIVE DEFENSE, THE BURDEN OF PROOF IS ON THE LICENSEE TO ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THAT THE MINOR PRESENTED FRAUDULENT IDENTIFICATION.
3. A LICENSEE ASSERTING THE AFFIRMATIVE DEFENSE, AS DESCRIBED IN PARAGRAPH (B)(2) OF THIS REGULATION, SHALL BE RESPONSIBLE FOR OBTAINING, AND PROVIDING TO THE DIVISION, ALL RECORDS NECESSARY TO ESTABLISH THAT A BIOMETRIC IDENTITY VERIFICATION DEVICE WAS USED AS AGE VERIFICATION FOR THE TRANSACTION IN QUESTION.

C. ~~The identification types defined in paragraph (A) of this regulation fulfill the requirements of a valid identification stated in section 44-3-901(11)(a), C.R.S. "BIOMETRIC IDENTITY VERIFICATION DEVICE" MEANS A DEVICE THAT INSTANTLY VERIFIES THE IDENTITY AND AGE OF A PERSON BY AN ELECTRONIC SCAN OF A BIOMETRIC OF THE PERSON, THROUGH A FINGERPRINT, IRIS IMAGE, FACIAL IMAGE, OR OTHER BIOMETRIC CHARACTERISTIC, OR ANY COMBINATION OF THESE CHARACTERISTICS; REFERENCES THE PERSON'S IDENTITY AND AGE AGAINST ANY RECORD OF IDENTIFICATION DESCRIBED IN PARAGRAPH (A) OF THIS REGULATION; AND CONTEMPORANEOUSLY PROVIDES THE ALCOHOL BEVERAGE RETAILER WITH AGE VERIFICATION FOR THE CUSTOMER UTILIZING THE DEVICE. IF A LIQUOR-LICENSED DRUG STORE ELECTS TO USE A BIOMETRIC IDENTIFY VERIFICATION DEVICE AT A SELF-CHECKOUT MACHINE OR OTHER MECHANISM DESCRIBED IN SECTION 44-3-410(2)(A)(III), C.R.S., IT SHALL NOT ALLOW A CONSUMER TO COMPLETE THE ALCOHOL BEVERAGE PURCHASE WITHOUT ASSISTANCE FROM AND COMPLETION OF THE ENTIRE TRANSACTION BY AN EMPLOYEE OF THE LIQUOR-LICENSED DRUGSTORE.~~

[Please Note – For clarity, the redline changes to this Regulation reflect proposed changes to the Regulation *as it will be*, effective January 1, 2020. Currently, the changes to the Regulation from the 2019 rulemaking year have been adopted by the State Licensing Authority, but will not become effective until January 1, 2020].