

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, please refer to the contents of this Notice and to the proposed rule amendments that are set forth following this notice and are available on the Division’s website, www.colorado.gov/enforcement/liquor.

STATUTORY AUTHORITY FOR RULEMAKING

The State Licensing Authority promulgates these rule amendments 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 rule amendments and relevant information are posted on Division’s website, www.colorado.gov/enforcement/liquor. In addition, the proposed rule attached to this Notice is fully incorporated herein.

The State Licensing Authority will consider the promulgation of the existing rule with proposed changes. For specific information and language concerning the proposed changes, please refer to the proposed rule amendments 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 Rule to be considered for amendment or adoption are described as follows:

Regulation 47-322. Unfair Trade Practices and Competition.

RULEMAKING RECORD AND PUBLIC PARTICIPATION

1. Official Rulemaking Record. The official record for purposes of the rulemaking hearing to be held electronically on May 19, 2020 will include any written comments or oral testimony submitted or presented. For the purpose of avoiding unnecessary duplication of effort, the record shall also include any written comments submitted in connection with the prior rulemaking proceeding commenced pursuant to the Notice of Rulemaking Hearing Filed with the Secretary of State on February 14, 2020 (*see* SOS Tracking No. 2020-00081), for a hearing that was previously scheduled for March 16, 2020, but which was terminated due to COVID-19.

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2. Written Comments. The State Licensing Authority encourages interested parties to submit written comments on the proposed rules, including alternate proposals, by May 12, 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 May 22, 2020.

Written comments may be emailed to: 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

3. Oral Comments. At 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 previously scheduled hearing on the Rule amendments set forth in this Notice.

HEARING SCHEDULE

Date: May 19, 2020
Time: 9:00 a.m.
Place: Virtual/Electronically via ZOOM (See Instructions on page 4)
[Video Link](#)

Meeting ID: 968 7789 1562
One tap mobile
+13462487799,,96877891562# US (Houston)
+16699006833,,96877891562# US (San Jose)

Dial by your location
+1 346 248 7799 US (Houston)
+1 669 900 6833 US (San Jose)
+1 312 626 6799 US (Chicago)
+1 929 205 6099 US (New York)
+1 253 215 8782 US
+1 301 715 8592 US

Meeting ID: 968 7789 1562
Find your local number: <https://zoom.us/j/96877891562>

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The schedule 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 her 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 no later than May 6, 2020.

Dated this 15th th day of April, 2020.

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

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

***CHECK-IN INSTRUCTIONS:**

You can check in to a Zoom Electronic meeting by phone, by computer, or by mobile application. Detailed instructions and video tutorials can be found at <https://support.zoom.us/hc/en-us/articles/201362193-How-Do-I-Join-A-Meeting->

BY TELEPHONE:

- Call the Hearing Check in number at **1-929-205-6099**
- Enter your **Zoom Meeting ID number**, followed by #.
- The system will advise you that you are checked in, and will be unmuted when all participants are ready. Please stay on the line.

BY COMPUTER (must have microphone and speaker):

- Go to the Zoom Meeting URL Address
- You will be prompted to download and run Zoom. Click on the file and install the launcher. We recommend completing this well ahead of your scheduled meeting time.
- If the host hasn't started the meeting, you will see a message stating "Please wait for the host to start this meeting." Once the host has started the meeting, the Zoom meeting window will appear where you can join by audio and video. You will also have to acknowledge that the meeting is being recorded. All hearings are recorded.
- Select Join Audio Conference by Computer

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COLORADO LIQUOR RULES

1 CCR 203-2

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

Regulation 47-322. Unfair Trade Practices and Competition.

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F. WHOLESALER TRADE SHOWS AND TRADE EVENTS

1. FOR PURPOSES OF THIS REGULATION 47-322(F):

- A. "TRADE SHOW" MEANS AN EVENT TO WHICH MORE THAN FOURTEEN (14) AUTHORIZED ATTENDEES ARE INVITED AND WHICH IS ORGANIZED AND CONDUCTED BY OR ON BEHALF OF ONE OR MORE WHOLESALERS, AS DEFINED IN REGULATION 47-100(I), FOR THE PURPOSE OF EXHIBITING AND PROVIDING INFORMATION REGARDING ALCOHOL BEVERAGE PRODUCTS AND SERVICES OFFERED BY THE PARTICIPATING WHOLESALER(S), TO RETAILERS LICENSED TO BUY SUCH ALCOHOL BEVERAGE PRODUCTS FROM THE WHOLESALER(S), AND TO PROVIDE SAMPLES OF SUCH ALCOHOL BEVERAGE PRODUCTS FOR CONSUMPTION DURING THE EVENT.
- B. "TRADE EVENT" MEANS AN EVENT TO WHICH FOURTEEN (14) OR FEWER AUTHORIZED ATTENDEES ARE INVITED AND WHICH IS ORGANIZED AND CONDUCTED BY OR ON BEHALF OF ONE OR MORE WHOLESALERS, AS DEFINED IN REGULATION 47-100(I), FOR THE PURPOSE OF EXHIBITING AND PROVIDING INFORMATION REGARDING ALCOHOL BEVERAGE PRODUCTS AND SERVICES OFFERED BY THE PARTICIPATING WHOLESALER(S), TO RETAILERS LICENSED TO BUY SUCH ALCOHOL BEVERAGE PRODUCTS FROM THE WHOLESALER(S), AND TO PROVIDE SAMPLES OF SUCH ALCOHOL BEVERAGE PRODUCTS FOR CONSUMPTION DURING THE EVENT.
- C. "HOSTING ON-PREMISES RETAILER" MEANS A RETAILER LICENSED FOR ON- PREMISES CONSUMPTION ON WHOSE LICENSED PREMISES A TRADE SHOW OR TRADE EVENT IS HELD.
- D. "AUTHORIZED ATTENDEES" MEANS, AND SHALL BE LIMITED TO:
 - I. OFFICERS, DIRECTORS, AND EMPLOYEES OF A RETAIL LICENSEE THAT IS LICENSED TO SELL THE TYPE OF ALCOHOL BEVERAGES TO BE EXHIBITED AND SAMPLED DURING THE TRADE SHOW OR TRADE EVENT;

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- II. OTHER INDIVIDUALS AFFILIATED WITH ONE OR MORE RETAIL LICENSEES AS INDEPENDENT CONSULTANTS OR EXPERTS; AND
 - III. NO MORE THAN ONE ADULT GUEST OF EACH INDIVIDUAL AUTHORIZED TO ATTEND THE TRADE SHOW OR TRADE EVENT UNDER SUBPARAGRAPHS (D)(I)-(II).
2. TRADE SHOWS OR TRADE EVENTS ARE SUBJECT TO THE FOLLOWING REQUIREMENTS AND LIMITATIONS:
- A. A TRADE SHOW OR TRADE EVENT SHALL TAKE PLACE ONLY WITH THE PERMISSION OF, AND ON THE LICENSED PREMISES OF, A HOSTING ON-PREMISES RETAILER THAT IS LICENSED TO SELL THE TYPE OF ALCOHOL BEVERAGES TO BE EXHIBITED AND SAMPLED DURING THE TRADE SHOW OR TRADE EVENT.
 - B. A TRADE SHOW OR TRADE EVENT SHALL NOT BE OPEN TO THE GENERAL PUBLIC, AND SHALL BE LIMITED TO AUTHORIZED ATTENDEES REGISTERED (EITHER IN ADVANCE OR AT THE DOOR). THE WHOLESALER(S) PARTICIPATING IN THE TRADE SHOW OR TRADE EVENT SHALL MAINTAIN REGISTRATION RECORDS CONTAINING, AT A MINIMUM, THE DATE OF THE TRADE SHOW OR TRADE EVENT, THE NAME OF THE HOSTING ON-PREMISES RETAILER, THE NAME OF EACH AUTHORIZED ATTENDEE WHO ATTENDED THE TRADE SHOW OR TRADE EVENT, AND THE NAME OF THE LICENSED RETAILER(S) WITH WHICH EACH AUTHORIZED ATTENDEE IS ASSOCIATED. THE REGISTRATION RECORDS FROM THE TRADE SHOW OR TRADE EVENT SHALL BE AVAILABLE FOR INSPECTION BY THE DIVISION DURING THE TRADE SHOW OR TRADE EVENT AND SHALL BE PROVIDED TO THE DIVISION WITHIN TEN (10) DAYS OF THE CONCLUSION OF THE TRADE SHOW OR TRADE EVENT.
 - C. BY AGREEMENT, THE PARTICIPATING WHOLESALER(S), THE HOSTING ON-PREMISES RETAILER OR BOTH (INCLUDING SUCH ENTITIES' AGENTS AND EMPLOYEES) MAY SERVE SAMPLES OF ALCOHOL BEVERAGE PRODUCT(S) TO AUTHORIZED ATTENDEES DURING A TRADE SHOW OR TRADE EVENT. SUCH SAMPLES SHALL BE PROVIDED TO AUTHORIZED ATTENDEES FREE OF CHARGE.
 - I. THE ENTITY OR ENTITIES RESPONSIBLE FOR THE SERVING OF THE ALCOHOL BEVERAGE PRODUCTS DURING A TRADE SHOW OR TRADE EVENT SHALL BE RESPONSIBLE FOR ANY VIOLATIONS OF THE LIQUOR CODE, BEER CODE, OR SPECIAL EVENT CODE, AND/OR ANY REGULATION PROMULGATED PURSUANT THERETO, RELATED TO THE SERVING OF ALCOHOL BEVERAGE PRODUCTS DURING A TRADE SHOW OR TRADE EVENT, INCLUDING, BUT NOT LIMITED TO, VIOLATIONS RELATED TO SERVICE OF ALCOHOL BEVERAGES TO A VISIBLY INTOXICATED PERSON OR TO A PERSON UNDER TWENTY-ONE YEARS OF AGE.
 - D. ALCOHOL BEVERAGE PRODUCTS USED FOR A TRADE SHOW OR TRADE EVENT MUST COMPLY WITH ALL APPLICABLE PRODUCT REGISTRATION AND LABELING REQUIREMENTS, INCLUDING THOSE SET FORTH IN REGULATION 47-904(F) AND (G).
 - E. ALL TAXES, FEES AND SURCHARGES REQUIRED BY SECTION 44-3-503, C.R.S., MUST BE PAID FOR ALL ALCOHOL BEVERAGE PRODUCTS USED IN A TRADE SHOW OR TRADE EVENT.

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- F. INVOICES FOR ALCOHOL BEVERAGE PRODUCTS USED FOR A TRADE SHOW OR TRADE EVENT MUST BE CLEARLY LABELED AS A “NO-COST TRADE SHOW/EVENT INVENTORY RECORD” AND SHALL BE SUBJECT TO THE FOLLOWING REQUIREMENTS:
- I. ANY WHOLESALER PARTICIPATING IN A TRADE SHOW OR TRADE EVENT MUST INVOICE ANY ALCOHOL BEVERAGE PRODUCTS TO BE USED IN THE TRADE SHOW OR TRADE EVENT TO THE HOSTING ON-PREMISES RETAILER. NOTWITHSTANDING ANY OTHER RULE OR REGULATION TO THE CONTRARY CONTAINED IN 1 CCR 203-2, THE WHOLESALER SHALL INVOICE THE HOSTING ON-PREMISES RETAILER FOR ALCOHOL BEVERAGE PRODUCTS TO BE USED IN A TRADE SHOW OR TRADE EVENT AT NO COST.
 - II. THE HOSTING ON-PREMISES RETAILER MUST RECEIVE ALL WHOLESALERS’ INVOICE(S) FOR ALCOHOL BEVERAGE PRODUCTS TO BE USED IN THE TRADE SHOW OR TRADE EVENT PRIOR TO THE COMMENCEMENT OF THE TRADE SHOW OR TRADE EVENT, AND SHALL RETAIN SUCH INVOICE(S) FOR THEIR RECORDS.
 - III. ANY WHOLESALER(S) PARTICIPATING IN A TRADE SHOW OR TRADE EVENT SHALL PROVIDE THE DIVISION WITH COPIES OF ALL INVOICE(S) TO BE ISSUED IN ACCORDANCE WITH THIS PARAGRAPH (F)(2)(F) AS AN ACCOUNTING FOR ALL THE ALCOHOL BEVERAGE PRODUCTS INTENDED TO BE USED DURING THE TRADE SHOW, AND THE ANTICIPATED DROP-OFF AND PICK-UP DATES FOR SUCH ALCOHOL PRODUCT, AT LEAST THREE (3) DAYS PRIOR TO THE COMMENCEMENT OF THE TRADE SHOW.
 - IV. IN ORDER TO ACCOUNT FOR UNANTICIPATED CHANGES IN THE ALCOHOL BEVERAGE PRODUCTS TO BE USED DURING A TRADE SHOW OR TRADE EVENT, ANY WHOLESALER(S) PARTICIPATING IN A TRADE SHOW OR TRADE EVENT MAY PROVIDE THE DIVISION WITH AN “AMENDED NO-COST TRADE SHOW/EVENT INVENTORY RECORD” BEFORE THE COMMENCEMENT OF THE SCHEDULED TRADE SHOW OR TRADE EVENT, PROVIDED THE WHOLESALER(S) COMPLIED WITH THE PROVISIONS OF PARAGRAPH (F)(2)(F)(III) OF THIS REGULATION IN THE FIRST INSTANCE.
 - V. AT THE CONCLUSION OF THE TRADE SHOW OR TRADE EVENT, ANY ALCOHOL BEVERAGE PRODUCT(S) INVOICED FOR USE DURING THE TRADE SHOW OR TRADE EVENT (WHETHER OPENED OR UNOPENED) SHALL BE REMOVED FROM THE HOSTING ON-PREMISES RETAILER’S LICENSED PREMISES BY THE WHOLESALER(S), OR DESTROYED.
 - A. ANY ALCOHOL BEVERAGE PRODUCT(S) INVOICED FOR USE DURING THE TRADE SHOW OR TRADE EVENT REMAINING ON THE HOSTING ON-PREMISES RETAILER’S LICENSED PREMISES AT THE CONCLUSION OF THE TRADE SHOW OR TRADE EVENT, AND AWAITING WHOLESALER PICK-UP, MUST BE HELD IN A SECURE AREA OF THE HOSTING ON-PREMISES RETAILER’S LICENSED PREMISES, KEPT SEPARATE FROM, AND CLEARLY LABELED TO DISTINGUISH SUCH ALCOHOL BEVERAGE PRODUCT(S) FROM THE HOST ON-PREMISES RETAILER’S STOCK, BY AFFIXING A COPY OF THE MOST CURRENT INVOICE ISSUED PURSUANT TO PARAGRAPH (F)(2)(F)(III), OR (F)(2)(F)(IV) OF THIS REGULATION, AND MARKING SUCH INVOICE WITH THE ANTICIPATED PICK-UP DATE OF THE ALCOHOL BEVERAGE PRODUCT(S), WHICH SHALL BE NO MORE

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THAN THIRTY (30) DAYS AFTER THE CONCLUSION OF THE TRADE SHOW OR TRADE EVENT.

- B. ALLOWING ANY ALCOHOL BEVERAGE PRODUCT(S) INVOICED FOR USE DURING THE TRADE SHOW OR TRADE EVENT (WHETHER OPENED OR UNOPENED) TO REMAIN ON THE HOSTING ON-PREMISES RETAILER'S LICENSED PREMISES AFTER THE CONCLUSION OF THE THIRTY (30) DAY PICK-UP WINDOW ALLOWED FOR IN PARAGRAPH (F)(2)(F)(V)(A) ABOVE, SHALL BE DEEMED A VIOLATION OF THIS REGULATION, FOR WHICH BOTH THE WHOLESALER(S), AND HOSTING ON-PREMISES RETAIL LICENSEE SHALL BE RESPONSIBLE.
 - G. NO DELIVERY OR EXCHANGE OF ALCOHOL BEVERAGE PRODUCT(S) BETWEEN A PARTICIPATING WHOLESALER AND AUTHORIZED BUYER OF SAME SHALL TAKE PLACE DURING THE TRADE SHOW OR TRADE EVENT.
 - H. A HOSTING ON-PREMISES RETAILER SHALL NOT BE DEEMED TO BE RECEIVING UNLAWFUL FINANCIAL ASSISTANCE FROM THE WHOLESALER(S) PARTICIPATING IN THE TRADE SHOW OR TRADE EVENT, SO LONG AS THE HOSTING ON-PREMISES RETAILER DOES NOT DIRECTLY BENEFIT FROM THE SALE OF ANY ALCOHOL BEVERAGE PRODUCT EXHIBITED TO OR SAMPLED BY AUTHORIZED ATTENDEES DURING THE TRADE SHOW OR TRADE EVENT.
 - I. ALL DOCUMENTS AND INFORMATION REQUIRED TO BE PROVIDED TO THE DIVISION PURSUANT TO PARAGRAPHS (F)(2)(B) AND (F)(2)(F) OF THIS REGULATION, SHALL BE PROVIDED USING A METHOD AUTHORIZED BY THE DIVISION (WHICH, AT THE DIVISION'S DISCRETION, MAY BE THROUGH UPLOADING THE RECORDS TO AN ONLINE LOCATION SPECIFIED BY THE DIVISION OR THROUGH ELECTRONIC MAIL).
3. THIS REGULATION 47-322(F) SHALL NOT APPLY TO:
- A. EVENTS SIMILAR TO THOSE ADDRESSED IN THIS REGULATION THAT ARE ORGANIZED AND CONDUCTED AS SPECIAL EVENTS PURSUANT TO, AND IN COMPLIANCE WITH ARTICLE 5 OF TITLE 44, THE EXEMPTION SET FORTH IN SECTION 44-5-108, C.R.S., PROVISIONS OF ARTICLE 3 OF TITLE 44 APPLICABLE TO SPECIAL EVENTS, AND REGULATIONS 47-1000 THROUGH 47-1022, 1 CCR 203-2.
 - B. TASTINGS CONDUCTED BY A LICENSED WINERY PURSUANT TO SECTION 44-3-402(2), C.R.S.; BY A LIMITED WINERY, PURSUANT TO SECTION 44-3-403(2)(E), C.R.S.; BY A DISTILLERY, PURSUANT TO SECTION 44-3-402(7), C.R.S.; BY A BEER WHOLESALER, PURSUANT TO SECTION 44-3-407(1)(B), C.R.S.; OR AS PART OF A WINE FESTIVAL PERMIT, PURSUANT TO SECTION 44-3-404, C.R.S.

*** Please note that existing Subsections A through E of Regulation 47-322 will remain unchanged, and Subsections F through M of Regulation 47-322 will need to be re-lettered as subsections G through N (respectively), in order to reflect the insertion of this new subsection F.