



COLORADO

Department of Revenue

Enforcement Division – Liquor & Tobacco

BULLETIN 20-04

REFERENCE: UPDATED GUIDANCE REGARDING LED RESPONSE TO COVID-19

DATE: April 8, 2020

Dear Liquor Stakeholders,

The Liquor Enforcement Division (LED) is releasing this bulletin to update the guidance provided to stakeholders in LED Bulletin 20-03, which discussed issues related to the presence of COVID-19 in Colorado, including the impact of Executive Order D 2020 011 - Ordering the Temporary Suspension of Certain Regulatory Statutes Due to the Presence of COVID-19, and the provisions of emergency Regulation 47-1101 – Delivery and Takeout Sales Authorized Under Executive Order(s). Executive Order D 2020 011 temporarily suspended the enforcement of certain statutory limitations to allow retailers normally licensed for on-premises consumption to sell alcohol beverages to consumers for off-premises consumption via takeout or delivery. Executive Order D 2020 011 also temporarily suspended the enforcement of certain statutory limitations to allow manufacturer breweries with an approved sales room to sell malt beverages directly to consumers via delivery. As noted in LED Bulletin 20-03, Executive Order D 2020 011 did not permit manufacturer distilleries and wineries to deliver alcohol beverages to consumers.

On April 6, 2020, Governor Jared Polis signed Executive Order D 2020 029 - Amending and Extending Executive Order D 2020 011. Executive Order D 2020 029 expands the scope of the temporary suspension of statutory limitations to include wineries and distilleries with an approved sales room. While Executive Order D 2020 029 is in effect, these licensees may sell for delivery or take out the types of alcohol beverages they are currently licensed to sell in their licensed premises, including mixed drinks, subject to regulations approved by the State Licensing Authority.

Any licensees—including wineries and distilleries with an approved sales room—that choose to sell alcohol beverages via takeout or delivery pursuant to Executive Orders D 2020 011 and D 2020 029's temporary suspension of statutory limitations are subject to the requirements in emergency Regulation 47-1101, 1 CCR 203-2. Pursuant to Regulation 47-1101(A), the regulation's requirements apply to "[a]ny licensee authorized to engage in sale of alcohol beverages through delivery or takeout pursuant to executive order D 2020-011, or any subsequent executive order extending, amending, expanding, or

limiting the suspension of statutory license limitations related to sales of alcohol beverages through delivery or takeout.” (emphasis added).

Wineries and distilleries operating an approved sales room MAY continue to sell alcohol beverages to consumers for off-premises consumption via takeout. Under Executive Order 2020 029 and subject to Regulation 47-1101, wineries and distilleries operating an approved sales room MAY also sell alcohol beverages to consumers for off-premises consumption via delivery. **Alcohol beverages sold to consumers through takeout or delivery may include mixed drinks.** While Executive Order 2020 029 is in effect, distilleries MAY also sell alcohol beverages to consumers through delivery using the licensees’ vehicles or their own employees’ vehicles to make these deliveries. Delivery of alcohol beverages may only be done by an actual employee of the licensee, NOT a third-party service.

Any licensee selling alcohol beverages for takeout or delivery in a cup or other container pursuant to Executive Order D 2020 029 and Regulation 47-1101 must affix that cup or container with a label containing the warning statement in Regulation 47-1101(A)(8)(b). This label can be affixed to the container using any method that ensures the label sticks to the container, including adhesive or tape or staple to a drink carrier.

Proof of Identification

The Colorado Division of Motor Vehicles (DMV) closed all driver license offices to the public effective March 18, 2020, and it has issued an automatic 60-day extension for driver licenses and identification cards set to expire during this closure. As the situation evolves, we may see further extensions. Under Regulation 47-912, 1 CCR 203-2, verification of age can be done by presenting adequate identification of age that is valid and unexpired. Due to DMV’s automatic extension of expiration dates, at this time liquor licensed establishments may sell alcohol beverages to a consumer that is 21-years of age or older who presents a driver license or identification card showing an expiration date during DMV’s office closure. We understand these consumers are unable at this time to renew their driver license or identification cards due to the social distancing requirements.

LED was asked if licensees are permitted to ask customers to remove their mask when verifying identification for the sale of alcoholic beverages. Yes, please ask customers to reveal their face, momentarily, so their identity age verification can be completed prior to the sale of the alcohol beverage(s).

Growlers and Crowlers

On April 2, 2020, LED issued guidance to industry stakeholders in response to queries regarding whether on-premises retailers selling alcohol beverages pursuant to Governor’s Executive Orders could sell and refill alcohol beverages in containers such as growlers and crowlers. Based on ongoing discussions with affected industry members regarding the challenges faced in obtaining adequate containers, and LED’s commitment to remaining flexible and innovative, retailers selling alcohol beverages for takeout or delivery pursuant to the Governor’s Executive Orders **MAY fill any new, unused container, not to exceed 64 ounces, one time and for single-use—including growlers and crowlers. However, under no circumstances may an on-**

premises retail licensee that does not also hold manufacturing privileges “refill or permit the refilling of any alcohol beverage container with alcohol beverage or reuse any such container.” Regulation 47-904(C), 1 CCR 203-2.

Refilling Sealed Containers

As a reminder concerning LED’s guidance dated April 2, 2020, the only license types that can refill containers are Manufacturers of malt, vinous, and spirituous liquors, including Distillery Pub, Brew Pub, Limited Wineries, Wineries, Breweries, and Distilleries. (See Regulation 47-904(C), 1 CCR 203-2). At no time should other retail liquor establishments that do not also hold manufacturing privileges refill alcohol beverage containers such as growlers or crows for off-premises consumption. These establishments would include the following: Hotel & Restaurant, Beer & Wine, Clubs, Lodging and Entertainment, Tavern, and Optional Premises. The restrictions in Regulation 47-904(C), 1 CCR 203-2, remain in effect and will be enforced as a public health and safety measure. Manufacturer licensees have been refilling containers such as growlers for many years and have experience sanitizing them for takeout by consumers. It will be up to these manufacturers and breweries whether or not they continue to refill growlers using their established sanitizing practices due to various extenuating circumstances related to COVID-19.

Except for the changes in light of Executive Order D 2020 029 and the clarifications explained in this bulletin, the guidance LED provided to stakeholders in LED Bulletin 20-03 remains unchanged. LED encourages stakeholders to review LED Bulletin 20-03 and reminds liquor licensees that most laws and regulations remain unchanged. Licensees are expected to comply with all applicable restrictions and requirements mandated by the Governor of Colorado and the Colorado Department of Public Health and Environment, including any social distancing requirements. Any relaxation of applicable laws and regulations will cease once the impact of COVID-19 in Colorado is mitigated, and the relevant executive orders and public health orders are no longer in effect.

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

Best Regards,

Colorado Liquor Enforcement Division