



COLORADO LAWS REGULATING ALCOHOLIC BEVERAGES

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Colorado has a complex framework of laws regulating the manufacture, distribution, sale, and consumption of alcohol in the state. This issue brief outlines Colorado liquor laws; the regulatory structure; government revenue streams; and the role of state and local governments in licensing and enforcement.

Colorado Liquor Laws

Colorado's liquor laws were first codified in 1935. The Colorado Beer Code (Section 12-46-101, *et seq.*, C.R.S.) regulates 3.2 beer, which was created and categorized as a "non-intoxicating liquor" during the wait for states to ratify the 21st Amendment. The Colorado Liquor Code (Section 12-47-101, *et seq.*, C.R.S.) regulates full-strength beer, wine, and liquor. Special event permits for alcohol are also regulated in statute (Section 12-48-101, *et seq.*, C.R.S.). The Department of Revenue's Division of Liquor Enforcement (division) codifies additional regulations in its Liquor Code (1 CCR 203-2).

Regulatory Structure

A three-tier system divides the production, distribution, and sale of alcohol into separate regulatory frameworks. Within this system, there are over 50 varieties of licenses issued by state and local governments. In general, a business owning or having a financial interest in a license may not own or have an interest in a license from another tier.

Production. A manufacturer's license is required for all businesses producing, manufacturing, or distilling liquor, wine, or beer. Additionally, all manufacturers or importers of alcohol sold in Colorado must obtain a Certificate of Label Approval or a Certificate of Exemption from the federal Alcohol and Tobacco Tax and Trade Bureau (TTB), and register the product with the division. An individual who produces beer or wine for personal consumption is exempt from these requirements. There are currently 561 manufacturer's licenses issued in the state: 352 for 3.2 and full-strength beer; 138 for wine; and 71 for liquor. In addition, there are currently 548 importer's licenses and 1,368 wine delivery permits.

Distribution. A wholesaler's license is required for all beer and liquor distributors in Colorado. Distributors must follow strict regulations governing the sale and marketing of their product; monitor the quality and safety of their product; and collect, remit, and report state excise tax revenue on a monthly basis. There are currently 398 distributor licenses issued in the state: 37 3.2 beer distributors; 221 full-strength beer distributors; and 140 liquor and wine distributors.

Sales. A wide array of licenses and permits allow the retail sale of alcohol in the state. In addition to licenses for liquor stores, liquor licensed drugstores, taverns, and hotels and restaurants, specific permits also allow the sale of alcohol at arts events, bed and breakfasts, brewpubs, mini-bars, racetracks, special events, sports facilities, vintner's restaurants, wineries, and on public transportation. Excluding special event permits, 3,088 licensed off-premise retailers

(e.g. stores) and 7,572 licensed on-premise retailers (e.g. taverns) currently operate in the state.

Government Revenue from Alcohol

State and federal excise taxes, state sales tax, and local sales taxes apply to the sale of alcohol in Colorado. The bulk of revenue is generated from the state excise tax. The state excise tax is calculated based on the volume of alcohol sold rather than the price, using the formulas shown in Table 1. In 2014, over \$41 million in state excise tax revenue was credited to the General Fund.

Table 1. State Excise Tax Rates

Type of Liquor	Rate
3.2 beer, cider, full-strength beer	8¢/gallon
Wine	7.33¢/liter
Spirits	60.26¢/liter
Homebrew, sacramental wine	Exempt

Source: Section 12-47-503, C.R.S.

Licensing

Licenses for production and distribution are issued by the state alone, while sales licenses and permits are issued by both state and local licensing authorities. In 2014, licensing and application fees for all licensing tiers generated almost \$2.5 million for the state and \$3.8 million for local governments.

The tavern example. Tavern liquor licenses are issued by both the city or county clerk and the division, and the process takes several months. The applicant must submit to a criminal background check and disclose all connections to the liquor industry, including licenses held or relinquished. In certain cases, a moratorium period must elapse between issuances of licenses. The applicant must also submit a detailed floor plan of the business. In most cities and counties, the establishment must meet electrical, fire code, and other local building code requirements before the liquor license is issued.

Once the application and fees are submitted, the local authorities must post notice at the physical location and in the newspaper of record, perform an investigation that includes a review of

the "needs and desires" of the applicant and neighborhood, hold a public hearing, and make a decision. If approved, the application moves on to the division for review. State-approved applications are returned to the local licensing authority for final approval and licensing. An applicant may seek judicial review to appeal a licensing authority's decision.

The process of transferring a liquor license is similar to applying for a new license; however, while the application is pending, the transferee may apply for a temporary, 120-day permit to sell alcohol in the tavern.

Enforcement

Both the division and local law enforcement agencies are authorized to perform regular compliance checks and investigate liquor law violations at licensed facilities. The wide range of potential violations may pertain to: compliance; food service; a purchasing source; underage sales; sales to intoxicated individuals; wholesale trade practices; hidden ownership; or the conduct of the establishment. An annual report of enforcement actions taken by state and local licensing authorities is available at:

www.colorado.gov/revenue/enforcement.

Two classes of citations are issued to violators: businesses are cited administratively, while individuals are cited criminally. Administrative citations are more common and generally involve a temporary suspension of the liquor license. The license suspension can be served in full or divided into days held in abeyance and/or waived through payment of a fine. In some instances, the establishment is required to undergo additional industry training. Repeat offenders see their licenses revoked. Criminal penalties range from class 2 misdemeanors to a class 5 felony. An example of a class 2 misdemeanor is selling to a visibly intoxicated person. Providing access to alcohol — through sale, gift, or disposal — to anyone under the age of 21 is a class 1 misdemeanor. The only felony provision occurs when an establishment allows illegal gambling activity to take place on premises, except that which is conducted by a nonprofit organization.