



Off-Premises Retail Liquor Licensing

By Luisa Altmann

Following the repeal of Prohibition, Colorado, like many other states, developed a three-tier system for the regulation of alcohol in the state. These three tiers address manufacturers, wholesalers, and retailers. The sale of alcohol at retail is further broken down into retailers that sell alcohol for consumption on the licensed premises (e.g., bars and restaurants) and retailers that sell alcohol in sealed containers for consumption off the licensed premises (e.g., liquor stores and grocery stores). Additional cross-tier licenses (e.g., brew pubs) allow certain smaller entities to manufacture, distribute to retailers, and sell their products to customers under one license.

This *issue brief* provides an overview of Colorado laws related to the retail sale of alcohol, including beer, wine, and spirits, in original sealed containers for off-premises consumption.

Additional information about Colorado laws related to liquor licensing can be found in the 2021 Colorado Liquor Licensing Handbook:

<https://leg.colorado.gov/publications/2021-colorado-liquor-licensing-handbook>

Types of Off-Premises Retail Licenses

The following types of licenses are available for retailers that sell beer, wine, or spirits in original sealed containers for off-premises consumption.

Retail liquor stores. Retail liquor stores (RLSs) are licensed under the Colorado Liquor Code¹ to sell malt liquor (beer), wine, and spirits. These stores may also sell nonalcohol products, as long as the

annual gross revenue from the sale of nonalcohol products does not exceed 20 percent of the store's total annual gross sales revenue. Lottery products, cigarettes, tobacco, and nicotine products, ice, soft drinks, mixers, and nonfood items related to the consumption of beer, wine, or spirits are excluded from this calculation.

Liquor-licensed drugstores. Liquor-licensed drugstores (LLDs) are licensed under the Colorado Liquor Code to sell beer, wine, and spirits. These licenses are issued to drugstores licensed by the State Board of Pharmacy, and include grocery stores that sell beer, wine, and spirits. LLD licensees that obtain or renew a license initially issued on or after January 1, 2017, must derive at least 20 percent of gross annual income from the sale of food items and be open to the public. LLDs must also have at least one permitted manager who is responsible for the licensees' alcohol beverage operations.

Fermented malt beverage off-premises retailer. Fermented malt beverage off-premises retailers (FMBs) are licensed under the Colorado Beer Code² to sell fermented malt beverages (beer) and include grocery stores and convenience stores that sell beer. Prior to 2019, these stores were only permitted to sell 3.2 beer; beginning in 2019, these licensees may sell all beer, regardless of alcohol content. FMB licensees that obtain or renew a license initially issued on or after June 4, 2018, must receive at least 20 percent of their gross annual revenues, excluding fuel, cigarettes, and nicotine, tobacco, and lottery products, from food items to be consumed off premises.

¹Article 3 of Title 44, C.R.S.

²Article 4 of Title 44, C.R.S.

Business Operation Requirements

All licensed RLSs, LLDs, and FMBs must follow certain requirements in their business operations.

Alcohol sales hours. Alcohol may not be sold by these retailers between midnight and 8:00 a.m., or on Christmas Day.

Tier separation. These retailers must purchase all alcohol from licensed wholesalers. Additionally, retailer licensees may not have a financial interest in any manufacturer or wholesaler licensees.

Employee age requirements. Employees of these retailers that handle alcohol are required to be at least 18 years of age.

Below-cost sales. These retailers may not sell alcohol to customers at a price that is below the store's cost, unless the sale is of discontinued or close-out alcohol. The store may operate a loyalty or rewards program so long as the price for the product is not below the store's cost.

Delivery. These retailers are allowed to deliver alcohol as long as the person receiving the delivery is located at a place that is not a liquor licensee; the delivery is made by an employee of the store who is at least 21 years of age and who is using a vehicle owned or leased by the store to make the delivery; the person making the delivery verifies that the person receiving the delivery is at least 21 years of age; and the store derives no more than 50 percent of its gross annual revenues from total sales of alcohol that the store delivers.

Tastings. RLSs and LLDs may conduct alcohol tastings on premises if allowed by the local government and approved by the local licensing authority. The samples used during tastings must not exceed one ounce of beer or wine or 0.5 ounce of spirits. Tastings may only occur between 11:00 a.m. and 9:00 p.m., up to five hours per day, on no more than 165 days per year. The licensed retailer must meet additional requirements for tastings. FMBs are not allowed to conduct tastings.

Self-checkout. LLDs and FMBs may not allow customers to purchase alcohol at a self-checkout or other mechanism that allows the customer to complete the alcohol beverage purchase without assistance from and completion of the entire transaction by an employee of the store.

Number of Licensed Locations

FMB licensees are allowed to have an unlimited number of locations. Prior to 2017, RLSs and LLDs were limited to one location per licensee. Since 2017, those stores licensed on or before January 1, 2016, are allowed additional locations as shown in Table 1, as long as the new location satisfies the distance requirements listed below and other provisions outlined in law.

Table 1
Maximum Number of LLD and RLS Licenses

Dates	Maximum LLDs	Maximum RLSs
Prior to 2017	1	1
2017 – 2021	5	2
2022 – 2026	8	3
2027 – 2031	13	4
2032 – 2036	20	4
2037	Unlimited	4

LLDs must apply for a transfer of ownership of at least two licensed retail liquor stores for each additional licensed LLD location.

Chain retailers with multiple locations that operate under a single or consolidated corporate entity are not allowed to comingle purchases of or credit extensions for purchases of alcohol from a wholesaler for more than one licensed premises. Additionally, wholesalers are not allowed to base the price of alcohol it sells to a retailer on the total volume of alcohol that the licensee purchases for multiple locations.

Distance requirements. New RLSs may not be within 1,500 feet of another RLS or LLD, or 3,000 feet of another RLS or LLD if in a smaller city with a population of 10,000 or fewer. New LLDs may not be within 1,500 feet of another RLS, or 3,000 feet of another RLS if in a smaller city with a population of 10,000 or fewer.