

Colorado Liquor Enforcement Division

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Street Officer's Guide To Liquor Enforcement In Colorado



Colorado Department of Revenue Liquor Enforcement Division

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**To Report Underage Drinking Problems:
Underage Drinking Hotline
1-877-662-4643
(Toll Free)**

Fellow Law Enforcement Officers,

This pamphlet has been developed by the Colorado Liquor Enforcement Division as a guideline for law enforcement use. It contains useful information for easy reference when questions arise during the daily enforcement of the Colorado Liquor Code. Our goal is to assist you in administering and enforcing the Colorado alcohol beverage laws in a consistent and common sense manner. When in doubt, remember that liquor licensees will be there tomorrow. There is time to get the advice you need before committing yourself. Sources of advice are:

- ◆ Your District Attorney
- ◆ Your City or County Attorney
- ◆ Your Local Liquor Enforcement Officer
- ◆ Colorado Liquor Enforcement Division

Matt D. Cook
Division Director

Colorado is a Dual Licensing State

Local Licensing Authority & **State Licensing Authority**
(city or county) (Liquor Enforcement Division)

Both can:

- ◆ Issue or deny licenses
- ◆ Can suspend or revoke a license and/or accept a fine.

Refer to 12-47-601 and 12-47-305 C.R.S., Reg 47-600.

Cases can be filed with either authority. A hearing may be conducted. It is similar to a court case, but is administrative in nature.

12	Possession in a public place by minor	12-47-901(1)(c)
13	Possession or consumption anywhere by minor	18-13-122 (2)(a)
14	Conduct of establishment i.e., shall operate in decent manner; no visibly intoxicated persons; profanity, rowdiness, undue noise, on improper body displays or sexual acts/displays	Reg. 47-900
15	Solicitation of drinks -- Licensee shall not permit, nor shall any person solicit drinks on behalf of self or another employee	12-47-901(5)(l)
16	Purchase, or attempting to purchase, or obtaining by misrepresentation of age. (Minor)	12-47-901(1)(b)
17	Minor warning sign not posted	12-47-901(5)(h)
18	Licensee's refusal to permit inspection or licensed premises by a peace officer	Reg. 47-700
19	Sale of liquor when not licensed to do so	12-47-901(1)(g)
20	Retail licensee permitting gambling on the licensed premises (See 18-10-102 for definition)	12-47-901(5)(n)(l) Reg. 47-922

Duty and Authority of Law Enforcement Officers

- ◆ It is the duty of all officers to enforce all liquor laws and regulations. *12-47-904 (2) C.R.S.*
- ◆ All peace officers are permitted to inspect liquor licensed premises. *Reg. 47-700.*
- ◆ It is the duty of the DA to prosecute all violations. *12-47-904 (2) C.R.S.*

Classes of Licenses

- ◆ **3.2 Beer license(s)**
- ◆ **Retail liquor store license**
- ◆ **Liquor-licensed drugstore license**
- ◆ **Beer and wine license**
- ◆ **Hotel and Restaurant license**
- ◆ **Tavern license**
- ◆ **Brew pub license**
- ◆ **Club license**
- ◆ Arts license
- ◆ Race Track license
- ◆ Optional premise license
- ◆ Retail gaming tavern license
- ◆ Vintner's Restaurant License
- ◆ Bed & Breakfast Permit
- ◆ Manufacture's license*
- ◆ Limited winery license*
- ◆ Non resident manufacture's license*
- ◆ Importer's license*
- ◆ Malt liquor importer's license*
- ◆ Wholesaler's liquor license*
- ◆ Wholesaler's beer license*
- ◆ Public Transportation systems license*

**State Issued Licenses*

	Violation Common Terms	Statute or Regulation Site
1	Liquor License not conspicuously posted on licensed premises (Licensee)	12-47-301(4)(a)
2	Contamination, i.e., bugs in a liquor bottle. (Licensee)	Reg. 47-904(A)
3	3.2 beer on liquor licensed premises	Reg. 47-914
4	Liquor on a 3.2 beer licensed premises	Reg. 47-914
5	Sale to Minor	12-47-901(1)(a.5)(I)
6	Sale to visibly intoxicated person	12-41-901(1)(a)
7	Loitering of a visibly intoxicated person	Reg. 47-900
8	Sale during prohibited hours - on premises	12-47-901(5)(b)(I)
9	Sale during prohibited hours - off-premises	12-47-901(5)(b)(II)
10	Sale during prohibited hours - 3.2 beer	12-47-901(5)(c)
11	Consumption during prohibited hours on licensed premises	Reg. 47-910 12-47-901 (1)(h)(I)

Hours During Which Liquor Can Be Sold

12-47-901(5)(IV)(b) C.R.S.

- ◆ Liquor Stores and Liquor Licensed Drug Stores
8:00 a.m. to 12:00 midnight. (sales not permitted on Sundays and Christmas)
- ◆ All on premises
7:00 a.m. until 2:00 a.m., every day of the year
- ◆ Brew Pub - Brew pubs may sell for consumption on the premises and may sell sealed containers “to go.”
 - ⇒ Hours for consumption on premises are the same as all others on-premises.
 - ⇒ To go sales can ONLY be malt liquor which is manufactured by the brew pub, no other, and hours for “to go” sales are 8:00 a.m. to midnight, except Sundays and Christmas.
- ◆ 3.2% Beer - 5:00 a.m. until midnight, every day of the year.

Times Consumption is Prohibited

Regulation 47-910

No retail licensee shall permit the consumption of any alcohol beverages on the licensed premises at any time during such hours as the sale of such beverages is prohibited by law.

Age Requirements for Selling/Serving

- ◆ 3.2% Beer - 18 years and older to sell
12-47-106
- ◆ On-Premises liquor - 18 years and older to sell/serve and supervised by a person at least 21 years old.
(Note: Taverns must regularly serve meals, otherwise 21 years) *12-47-901(5)(a)(I)*
- ◆ Off-Premises Liquor - 21 years and older to sell
Regulation 47-913

Summons #3

To the Licensee if he/she was not the actual server

- Charge 1: 12-47-901(1)(a.5)(I) C.R.S., John Licensee permitted the sale of an alcohol beverage to a person under 21 years of age.
- Charge 2: 12-47-903(1)(a) C.R.S., in violation of Regulation 47-910 CCR 203-2, John Licensee permitted the consumption of alcohol beverage on the licensed premises after permitted hours.

Penalties

- ◆ Liquor code criminal penalties are found under 12-47-903 C.R.S. These penalties include provisions for fines or imprisonment.
- ◆ 42-2-127.6. Authority to suspend license – providing alcohol to an underage person. (D.O.R. SHALL suspend drivers license for 6 months)
- ◆ For persons under 21, additional penalties can include driver's license suspension and/or public service. See 42-2-125 C.R.S.

Evidence

- ◆ Take good notes including any statements made.
- ◆ Assure all elements of the statute violated can be proven.
- ◆ Secure evidence for testing to confirm that it is an alcohol beverage. Testing should be done prior to court or administrative hearing.
 - ⇒ Not necessary if evidence has labeling, e.g., bottle of beer, if charged under 18-13-122(2)(a) C.R.S. See section (6)
 - ⇒ If alcohol beverage poured out before officer could confiscate it, it shall be held as prima facie evidence. 12-47-906 (4)

When charging a violation of regulations, the cite should include the following:

- ◆ Enabling statute number, 12-47-903(1)(a) C.R.S. Allows for penalty for violations of Regulations
- ◆ Liquor regulation number, e.g. regulation 47-900, followed by the Colorado Code of Regulations (CCR) number; 1 CCR 203-2 for all regulation violations.

Violation and Citation Example

The following violations were found during a bar check

- ◆ Sale of beer to an Underage patron by Jane Waitress.
- ◆ Patrons drinking alcohol beverages after 2:00 a.m.

Summonses could be worded as follows:

Summons #1 To the Server

12-47-901(1)(a.5)(I) C.R.S., Jane Waitress sold an alcohol beverage to a person under 21 years of age.

Summons #2 To the Minor

12-47-901(1)(c) C.R.S., Underage Patron, a person under 21 years of age, had in his possession an alcohol beverage in a public place.

Could also be charged under 18-13-122 C.R.S. or if false ID was used, 12-47-901 (1)(b) C.R.S.

Acceptable Forms of Identification *Regulation 47-912. Identification.*

Licensee may refuse to sell alcohol beverages to any person unable to produce adequate, currently valid identification. The kind and type of identification deemed adequate shall be limited to the following:

- ◆ Driver's license issued by U.S. state, Canada, Mexico or U.S. Territories
- ◆ State ID card
- ◆ Military ID card
- ◆ Passport
- ◆ Alien Registration card
- ◆ Employment Authorization Card

All must have photo and be valid

Food Service Requirements

“Hotel Restaurant License”

- ◆ Must have full meals available until 8:00 p.m.
- ◆ Must have snacks and sandwiches after 8:00 p.m.
- ◆ Food sales must equal at least 25% of the gross income from the sale of food and beverages.

Food Service Requirements

“Taverns - Beer & Wine License”

- ◆ Must have sandwiches and snacks available during business hours
- ◆ Sandwiches may include:
 - ⇒ pizza
 - ⇒ burritos
 - ⇒ chicken wings
 - ⇒ other similar items
- ◆ Snacks include - pretzels, popcorn, nuts, chips, etc.

12-47-901

“Unlawful Acts”, in the Colorado Liquor Code, Title 12, Article 47, Section 9, deals with violations for all types of alcohol beverages, including 3.2% beer.

(NOTE: Although the Colorado Liquor Code is very broad in nature, this statute is the “cornerstone” of the liquor code in reference to violation activities)

Sales to Minors and Visibly Intoxicated Persons

12-47-901

(1) Except as provided in section 18-13-122, C.R.S., it is unlawful for any person:

(a) to sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any alcohol beverage to a visibly intoxicated person, or to a known habitual drunkard.

(a.5) (I) To sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any alcohol beverage to or for any person under the age of twenty-one years

Administrative Action

- ◆ Filed with the Local or State Licensing Authorities.
- ◆ Preponderance of evidence.
- ◆ May be filed in addition to criminal charges. Not double jeopardy.

Criminal Actions

- ◆ Filed with County or Municipal Court
- ◆ Proof beyond a reasonable doubt
- ◆ Usually requires immediate action
- ◆ Can be filed along with Administrative actions without double jeopardy
- ◆ Generally used for 12-47-901 violations

Criminal and Civil Liability

- ◆ Sale to Minor
 - ⇒ Criminal = class one misdemeanor
 - ⇒ 6 to 18 months jail and/or \$500 to \$5000.00 fine or both.
 - ⇒ Loss of driver’s license
- ◆ Sale to Visibly Intoxicated Person
 - ⇒ Criminal = class two misdemeanor
 - ⇒ 3 to 12 months jail and/or \$250 to \$1000.00 fine or both.
- ◆ Administrative = suspension or revocation of license and/or \$200 to \$5000 fine.

Gambling

12-47-901 (5)(n)(I)

It is unlawful to authorize or permit any gambling, or the use of any gambling machine or device, except as provided by the "Bingo and Raffles Law".....

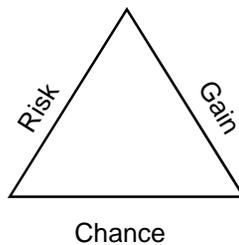
Regulation 47-922

No person licensed to sell at retail shall authorize or permit on the liquor licensed premises any gambling or use of any gambling machine or device or use of any machine which may be used for gambling.....

Points for consideration

- ◆ Bingo and Raffles permitted with proper license
- ◆ Limited gaming (gambling towns)
- ◆ Gambling....may not be "illegal gambling"
- ◆ Some types of equipment may be permitted if "illegal gambling" is not taking place
- ◆ Some games of skill are permitted, i.e., pool, darts, foosball, etc.
- ◆ Is there a bona fide social relationship? — this can get complicated
- ◆ Is it a game of chance or a game of skill

Gambling Triangle



If all three sides of the triangle are present you may have illegal gambling

Removing a side eliminates illegal gambling

Always check with your DA before charging

Sales to Underage Persons

- ◆ Always check the minor for false ID. If the minor used acceptable proof of age at the time of beverage purchase, even though the ID was false, no administrative actions can generally be taken against the licensee. See regulation 47-912, also see 12-47-901(5)(a)(I) C.R.S. if minor used another person's ID.
- ◆ Criminal charge on:
 - ⇒ Minor
 - ⇒ Server
- ◆ Administrative action on Licensee
- ◆ Licensee has authority to confiscate false IDs. See 12-47-901(5)(II)(A & B) C.R.S.
 - ⇒ Must be turned over to police or sheriff within 72 hours
 - ⇒ No civil or criminal liability if taken in good faith & reasonable belief.

Bar Checks

Watch for:

- ◆ Minors
- ◆ Visibly intoxicated persons; is the subject displaying signs of visible intoxication at the time of service?
- ◆ Conduct of Establishment - Reg. 47-900
- ◆ After hours consumption
- ◆ Gambling
- ◆ Safety violations

Inspection of the Licensed Premises

Regulation 47-700

The licensed premises, including any places of storage where alcohol beverages are stored or dispensed, shall be subject to inspection by the State or Local Licensing Authorities and their investigators, or peace officers, during all business hours and all other times of apparent activity, for the purpose of inspection or investigation.

PBT and Breath Testing of Bar Patrons

Officers are reminded that mechanical testing of patrons for proof of intoxication on liquor licensed premises is prohibited, unless a court order is obtained. 12-47-902 C.R.S.

Removal of Alcohol from Licensed Premises

Regulation 47-918

- ◆ No licensee, manager or agent shall remove, or allow to be removed, any alcoholic beverages, sealed or unsealed, from any licensed on-premises establishment.

Exception 12-47-421

- ◆ Manufacturer's, Limited Winery, Beer and Wine, Hotel/ Restaurant, Tavern, Brew Pub, and Vintner's licensees, that serve meals, may allow one bottle per customer not exceeding 750 ml of partially consumed vinous liquors (wine) to be removed after re-sealing the bottle.
 - ⇒ Does not have to be the original seal
 - ⇒ Suggest to the customer they put bottle in backseat or trunk of vehicle

Conduct of Establishment

Regulation 47-900

Each person licensed under Articles 46, 47, and 48 of title 12, and any employee or agent of such licensee shall conduct the licensed premises in a decent, orderly and respectable manner, and shall not permit on the licensed premises the serving or **loitering of a visibly intoxicated person** or habitual drunkard, nor shall the licensee, his employee or agent permit any activity or **acts of disorderly conduct** as defined by and provided for in section 18-9-106, C.R.S., **nor shall a licensee permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen**, or to the residents of the neighborhood in which the licensed establishment is located.

Regulation 47-900 B & C

- ◆ Attire and conduct of employees and patrons
 - ⇒ Employment or use of any person in the sale or service of alcohol or host must not expose the areola of the female breast or any portions of pubic hair, anus, cleft of the buttocks, vulva, or genitals, nor wear any device simulating such anatomy.
- ◆ Entertainment, employees and patrons
 - ⇒ May not simulate sexually explicit acts
 - ⇒ No touching, caressing, or fondling of the breasts, buttocks, anus, or genitals
 - ⇒ No displaying of pubic hair, anus, vulva, or genitals

Modification of Licensed Premises

Regulation 47-302

Licensee shall make no physical change, alteration or modification of the licensed premises which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without prior written consent of the local and state licensing authorities.