



COLORADO

Department of Revenue

Enforcement Division - Liquor & Tobacco

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BULLETIN 16-08

REFERENCE: DONATED ALCOHOL FOR NON-PROFIT/CHARITABLE EVENTS - **UPDATED**

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Colorado Liquor Enforcement Division

The boom of the alcohol industry in Colorado is quite evident. In the last four years, the number of manufacturer breweries has increased from 60 to 230. During the same time, the number of distilleries has gone from 33 to 86.

With the increase in these types of licenses comes the demand for more beer fests, wine and spirits tastings and charity events. In 2004, the Division issued a Final Position concerning the use of donated alcohol during such events. In 2015, the Division issued Bulletin 15-02 updating and clarifying the content of the 2004 Position. While much of the content of both Bulletin 15-02 and the 2004 Final Position remains applicable, the Division has recently changed and updated its position with respect to the sale of alcohol beverages by the drink for fundraising purposes and is issuing this Bulletin to replace and supersede Bulletin 15-02 and the 2004 Final Position to provide current information on how licensees can provide alcohol for non-profit events.

Rules for Donations

1. Donated alcohol can only be used in three circumstances, 1) by an entity that obtains a special event permit pursuant to article 48 of title 12, C.R.S.; 2) by an entity that meets the requirements of a special event permit and has an event at a facility licensed for on-premises consumption; or 3) pursuant to Section 12-48-108, C.R.S.
2. The following license types can donate alcohol for non-profit events found in paragraph #1: wholesalers of malt liquor and fermented malt beverages, wholesalers of vinous and spirituous liquors, limited wineries, brewpubs, distillery pubs and vintner's restaurants (Regulation 47-1020(A), 1 C.C.R. 203-2).

Regulation 47-1020(C), 1 C.C.R. 203-2 also states: Nothing herein shall prohibit a retailer licensed for off-premises consumption to make a donation of alcohol beverage to a special event permit holder, as long as such donation is taken from the retailer's existing inventory. This includes both a retail liquor license and a liquor licensed drugstore.

3. Donated alcohol may be resold by the drink. Regulation 47-1020(B), 1 C.C.R. 203-2 has been updated and will be effective January 1, 2017. The regulation now states (emphasis added):

A wholesaler may donate alcohol beverages **to a special event permittee** at no cost if such beverages are used for hospitality or fund raising purposes, including resale by the

drink. The wholesaler shall provide an invoice documenting the donation of such products to the permittee and shall ensure that all applicable state excise taxes are paid pursuant to section 12-47-503, C.R.S.

4. On-premises liquor licensees cannot financially benefit from donated alcohol. Prohibited acts include corkage fees or any other fee associated to a volume of alcohol, nor may they inflate the price of food or rent.
5. For-profit entities cannot financially benefit from a special event permittee's alcohol.

Scenarios

Special Event Permittee requests alcohol beverage donations from a Colorado wholesaler or retail liquor store/liquor-licensed drugstore

- The wholesaler or retail liquor store licensee should contact the non-profit/charitable organization to verify a special events permit was issued, which names the non-profit organization and the location of the event. The wholesaler's failure to exercise due diligence in this area could result in administrative action.
- Once the wholesaler or retail liquor store licensee verifies the special event permit was issued, they can make a product donation and produce a "zero-cost invoice" to the special event permit holder. The invoice should describe the name and amount of product donated, the name of the non-profit organization and the location of the event.
- If the special event permittee wants to sell the donated alcohol "by the drink" they may do so.
- Wholesalers and retailers may assist in pouring samples and providing labor to the non-profit organization during the event.

A non-profit/charitable organization has a fund-raising event in an establishment that has an on-premises liquor license and requests alcohol beverage donations from a Colorado wholesaler or retail liquor store/liquor-licensed drugstore

- In this case, a special event permit is not issued (except as provided in Section 12-48-103(2)(a)) to the non-profit/charitable organization. The rules for these events are the same as a special event permit, except for the following:
 - The wholesaler or retailer provides a "zero-cost invoice" to the on-premises licensee describing the name and amount of product donated, the name of the non-profit organization and the date of the event.
 - If the donation is from a retail liquor store or liquor licensed drugstore, the cost of the normal retail price of such goods will be applied to the on-premises licensee's \$2,000 yearly limit for purchases from a retail liquor store or liquor licensed drugstore.

- Unlike a special event permit holder, donated alcohol **may not be resold by the drink** pursuant to Regulation 47-322(A)(5)(c), 1 C.C.R. 203-2.

An on-premises liquor licensee wants to have an event (beer fest, wine/spirits tasting) on their licensed premises and the event does not involve a non-profit/charitable organization

- When an event occurs at an on-premises liquor license and a non-profit/charitable organization is not involved, donated alcohol may not be used. The on-premises licensee must pay a minimum of laid-in costs to the wholesaler for all products used in the event.
- Purchases from retail liquor stores/liquor licensed drugstores will be applied to the on-premises licensee's \$2,000 yearly limit for purchases from a retail liquor store or liquor licensed drugstore.
- Wholesalers or retailers may be present to market their product. However, wholesalers or retailers who assist in the pouring of alcohol beverages must be compensated at a minimum of the usual hourly rate of an employee (of the licensee) who would customarily provide this service.
- On-premises licensees cannot use donated alcohol with the intent of giving a portion of the proceeds to a charity. In order to use donated alcohol, the non-profit/charitable organization must be involved and all profits from the use of alcohol must go to the non-profit/charitable organization. This does not prohibit the non-profit/charitable organization from paying the on-premises licensee for items such as services, food, non-alcoholic beverages, cost of labor.

An entity who would otherwise qualify for a special event permit pursuant to Article 48 of Title 12, C.R.S., wants to hold a private event at an, unlicensed premises for its members and their guests

- The entity may charge an admission to the event as long as the admission other charge, if any, required to be paid or given by any such member as a condition to entry or participation in the event is uniform as to all without regard to whether or not a member or such member's guest consumes or does not consume such beverages.
- The entity can use donated alcohol but may not resale the alcohol by the drink.
- The entity is exempt from the needing to obtain a special event permit.

If you have any questions about this bulletin, please contact the Liquor Enforcement Division at 303-205-2300.