



**COLORADO**

**Department of Revenue**

Enforcement Division - Liquor & Tobacco

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## **BULLETIN 15-02**

REFERENCE: DONATED ALCOHOL FOR NON-PROFIT/CHARITABLE EVENTS

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## **Colorado Liquor Enforcement Division**

The boom of the alcohol industry in Colorado is quite evident. In the last three years, the number of manufacturer breweries has more than tripled; from 60 to 182. During the same time, the number of distilleries has gone from 33 to 70; over double.

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. While much of the content of the 2004 Final Position currently applies, the Division wanted to update this bulletin and 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, and vintner's restaurants (Regulation 47-1020(A), 1 C.C.R. 203-2). The new license type "distillery pub" is also allowed to donate to these events and will be added to the list of allowed licenses during the fall 2015 rule making.

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 not be resold by the drink. Regulation 47-1020(B), 1 C.C.R. 203-2 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. 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 event does not include the individual sale of alcohol (by the drink), 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 alcohol "by the drink" they must purchase the alcohol at a minimum of laid-in cost of the wholesaler.
- 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 license 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.

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 not assist in the pouring of alcohol beverages. However, they may be present to market their product.
- 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