



## COLORADO

### Department of Revenue

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## **BULLETIN 17-02**

REFERENCE: Importer and Wholesaler Relationships – For Vinous and Spirituous Liquor

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### **Colorado Liquor Enforcement Division**

The Colorado Liquor Enforcement Division (LED) has recently received questions concerning the Colorado licensed importer of vinous/spirituous liquor (“importer”) and how this license interacts with a Colorado licensed vinous and spirituous wholesaler (“wholesaler”) and an out of state supplier of vinous and spirituous liquor (“supplier”). Therefore, the LED is issuing this bulletin to provide guidance to Colorado vinous/spirituous importers and wholesalers, specifically concerning invoicing/payments and maintaining stock. This bulletin does not address the relationship between importers, wholesalers and suppliers of malt liquor or fermented malt beverage where the laws and rules are different.

Section 12-47-404, C.R.S., states in part (emphasis added):

#### Importer’s License

(1)(a) An importer's license shall be issued to persons importing vinous or spirituous liquors into this state for the following purposes only:

- (I) To import and sell such liquors to wholesale liquor licensees;
- (II) To solicit orders from retail licensees and fill such orders through wholesale liquor licensees.

(b) Such license shall not permit the licensee to maintain stocks of alcohol beverages in this state.

#### **To Sell**

Paragraph (1)(a)(I) - the importer must sell the liquors to the wholesale liquor licensees. Below are some step-by-step examples (not inclusive) of how an importer can “sell such liquors to wholesale liquor licensees.”

#### **Example A**

1. The wholesaler submits an order to the importer for the purchase of liquors.
2. The importer submits an order to the supplier for the purchase of liquors.
3. The supplier invoices the importer for such products.

4. The importer pays the supplier for said liquor products.
5. The importer invoices the wholesaler for the products.
6. The wholesaler pays the importer for such products.
7. The liquor products are delivered from the supplier to the wholesaler.

Note: Payments in steps 4 and 6 and the delivery in step 7 may occur in a different order since there is no prohibition for the extension of credit between suppliers/importer/wholesaler.

### Example B

1. The wholesaler submits an order to the supplier and notifies the importer of the pending order.
2. The supplier invoices the importer for such products.
3. The importer pays the supplier for said liquor products.
4. The importer invoices the wholesaler for the products.
5. The wholesaler pays the importer for such products.
6. The liquor products are delivered from the supplier to the wholesaler.

Note: Payments in steps 3 and 5 and the delivery in step 6 may occur in a different order since there is no prohibition for the extension of credit between suppliers/importer/wholesaler.

### Not allowed:

Payments directly from a wholesaler to a supplier are not allowed. In all purchases, the wholesaler must pay the importer and the importer must pay the supplier, pursuant to section 12-47-404(1)(a)(I) and (II). Wholesalers are also not allowed to pay both the supplier and importer for the products.

The integrity of the 3-tier system relies on separation between importers and wholesalers, pursuant to sections 12-47-404(2) and 12-47-406(3), C.R.S.

### **Maintaining Stock**

If the importer is located within Colorado, the importer may not take stock of the alcohol it purchases, except as provided by regulation 47-404, 1 C.C.R. 203-2 for foreign trade zones. However, if the importer is located outside Colorado, there is no Colorado law that prohibits maintaining stock of the alcohol in the jurisdiction in which the importer is located. In both cases, once the alcohol crosses the Colorado state line, it becomes the exclusive and sole property of the wholesaler, pursuant to regulation 47-406, 1 C.C.R. 203-2.

If you have any questions about this bulletin, please contact the Liquor Enforcement Division at 303-205-2306.