



COLORADO

Department of Revenue

Enforcement Division - Liquor & Tobacco

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BULLETIN 17-06

REFERENCE: Regulation 47-305. Transfers – Wholesaler Confirmation

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Colorado Liquor Enforcement Division

The Liquor Enforcement Division (“LED”) has received a number of inquiries concerning regulation 47-305. Transfers - Wholesaler Confirmation and the implementation for Local Licensing Authorities (LLA).

Background

In 2016, SB16-197 added the following section to the law:

12-47-303(1)(d) states (emphasis added)

The state or a local licensing authority shall not approve a transfer of ownership under this subsection (1) until the applicant files with the local licensing authority confirmation from each wholesaler licensed under this article that has sold alcohol beverages to the transferor that the wholesaler has been paid in full for all alcohol beverages delivered to the transferor.

Following the passage of SB16-197, the LED held a series of rule-making stakeholder meetings and subsequent training in order to provide further guidance with the implementation of the new law. From those meetings and subsequent rule changes, the LED added regulation 47-305, 1 C.C.R. 203-2.

Regulation 47-305. Transfers – Wholesaler Confirmation.

- A. In accordance with section 12-47-303(1)(d), C.R.S., the Applicant shall deliver a confirmation to each wholesaler licensed under this article (to include brewpubs, distillery pubs, vintner’s restaurants and limited wineries) who has sold alcohol beverages to the transferor-licensee within the preceding one hundred eighty (180) calendar days, in the form and substance approved by the Liquor Enforcement Division.
- B. The confirmation shall be delivered via United States mail or other common carrier with a minimum of a return receipt to the last known business address of the wholesaler, attention: credit department. The confirmation shall be deemed received by a wholesaler upon the third (3rd) day following the date on which the confirmation is deposited in the United

States mail or common carrier or the date on the return receipt.

- C. Upon delivery of a confirmation to a wholesaler, the transferor-licensee shall not purchase alcohol beverage on credit or accept an offer or extension of credit from the wholesaler and shall effect payment upon delivery of the alcohol beverage from the wholesaler. Allowed payments include cash, credit/debit cards, check, money orders, certified check, EFT transfer and any other method payment approved by the Liquor Enforcement Division.
- D. A wholesaler shall have fifteen (15) business days upon receipt of a confirmation to complete and return the confirmation to the Applicant, in the same manner and extent as allowed in Section B above. If a wholesaler does not complete and return the confirmation within the 15-day period of time, the wholesaler shall be deemed paid in full solely for purposes of transferring the license.
- E. Nothing within this Regulation shall prohibit or restrict a local licensing authority from issuing a temporary permit or from processing the transfer application. However, a transfer shall not be approved unless the transferor-licensee is in compliance with this regulation.
- F. The Applicant, transferor-licensee and/or its agent and assign, and each wholesaler shall act in good faith and fair dealing with each other.

Implementation - Overview

Given the laws and rules stated above, here are some highlights on the implementation of regulation 47-305, 1 C.C.R. 203-2:

- An LLA or the state licensing authority cannot approve a transfer application until the applicant of the transfer has complied with regulations and submits the appropriate affidavits.
- An LLA may, at their discretion, issue a temporary permit to the applicant pending the approval of the transfer.
- Before an LLA approves a transfer application, the applicant must have submitted a completed form DR8004 (Wholesaler Affidavit of Compliance) indicating the account is paid in full for each wholesaler who sold alcohol beverages to the license being transferred within the last 180 days.
- If the underlying license holder (transferor) abandoned the premises and cannot be located, the transferee must make a reasonable and legitimate effort in determining which wholesalers sold alcohol beverages to the transferor within the last 180 days and provide form DR8004 to the wholesalers pursuant to regulation 47-305, 1 C.C.R. 203-2.
- If the applicant has proof of submitting a form DR8004 to a wholesaler and the wholesaler has not responded within 15 days, the account is deemed to be paid in full.
- Due to the creation of form DR8004, there is no longer a need to submit the Affidavit of Transfer

form previously used for transfer applications.

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