



COLORADO

Department of Revenue

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BULLETIN 19-01

REFERENCE: INVOICING FOR TRADE SHOWS AND OTHER EVENTS SPONSORED BY SUPPLIERS

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Colorado Liquor Enforcement Division

The Liquor Enforcement Division (LED) is publishing this bulletin to provide guidance on the issue of invoicing retail accounts pertaining to trade shows and other supplier events held on a retail liquor licensed premises for on-premises consumption.

Question:

1. Can a wholesaler/supplier invoice or sell alcohol beverage products to a retailer licensed for on-premises consumption at zero cost for trade shows and other supplier events held on a retail liquor licensed premises for on-premises consumption?
2. If not, how can invoicing be done in compliance with the Colorado Liquor Code and Rules?

Answer to question #1: No

Colorado liquor rules regulate trade practices between wholesalers and retailers. According to Regulation 47-322(A)(1) and (2) (emphasis added):

1. No vinous or spirituous liquor may be sold by a vinous or spirituous liquor manufacturer or wholesaler to a retail licensee below the laid-in cost of said vinous and spirituous liquor products.
2. No malt liquors or fermented malt beverages may be sold by a malt liquor/beverage manufacturer or wholesaler to a retail licensee below the laid-in cost of said malt liquor/beverage products.

Regulation 47-322(A)(5) provides certain exceptions to this prohibition (emphasis added):

5. Certain sales of alcohol beverages below cost are not designed or intended to influence or control a retailer's product selection. The following exceptions to below cost product sales are therefore permitted:

- a. Product lines that will be discontinued by a supplier for a minimum of at least one year may be sold below cost at market value.
- b. A wholesaler's aged inventory of vinous and spirituous liquors for which the current market value has fallen substantially below the wholesaler's original purchase cost, after a period of twelve (12) months, and for which a recovery of the original cost through an increase in market value is unlikely. For aged inventories sold to retailers below their cost due to market-below-cost conditions, wholesaler's shall maintain the following records for a minimum of three years:
 - i. Original purchase invoice.
 - ii. Aged inventory schedule verifying slow sales and drop in market value.
 - iii. Other factors that had an effect on a decrease in market value (e.g. overproduction, poor media critique).
- c. Products for use, but not for resale by the drink, by a non-profit organization or similar group, as defined in section 44-5-102, C.R.S., on a retailer's licensed premises, may be invoiced to a retailer at no cost. The invoice for said products must detail the products provided and the group for whose benefit it is provided. At the conclusion of the organization's event any unused product must be returned to the manufacturer, wholesaler, brewpub, distillery pub, or vintner's restaurant, or invoiced at a minimum of laid in cost to the retailer.

Unless one of the above exceptions applies, a wholesaler must invoice and sell its products to a retailer at a price at or above laid-in cost, in accordance with Regulation 47-322(A)(1) and (2).

Zero Invoicing:

Colorado liquor laws and rules allow for zero invoicing when it pertains to donations from a wholesaler (defined in regulation 47-1020(A)) to an organization (who would otherwise qualify for a special event permit) that is having a charity event at a retail location licensed for on-premises consumption.

With respect to such invoices, Colorado Liquor Rules, Regulation 47-1020(E), states:

When an event, for which the alcohol donations are solicited, is held at a retail location licensed for on-premises consumption pursuant to article 3 or 4 of title 44, the wholesaler shall invoice the retailer at no cost for alcohol beverage products intended for the event, if the retail licensee consents to such an arrangement. Any such donated product which is unused must be returned by the retailer to the wholesaler as soon as practicable after the

event. If the unused product is not returned, then the wholesaler must charge the retailer at least the minimum of cost for those products. The retail value of any donation from a retailer licensed for off-premises consumption to a non-profit event held at a retail location licensed for on-premises consumption will count against the on-premises licensee's statutory dollar limit of alcohol purchased from an off-premises retailer.

Answer to question #2: Since the sale of alcohol is from a wholesaler to a retailer in regards to trade shows and other events sponsored by suppliers, wholesalers need to comply with all laws and rules concerning usual business transactions with retailers.

Wholesalers must invoice and sell the product to retailers holding the event for the supplier in accordance to regulation 47-322. However, the supplier, as a customer of the retailer, can pay the retailer for such product at whatever price is negotiated between the retailer and the supplier.

If you have any questions about this bulletin, email the LED at dor_led@state.co.us