

# LED - BULLETIN 20-06 RE: UPDATED GUIDANCE REGARDING LED RESPONSE TO "SAFER AT HOME" ORDERS

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RE: UPDATED GUIDANCE REGARDING LED RESPONSE TO "SAFER AT HOME" ORDERS

DATE: May 1, 2020

The Liquor Enforcement Division (LED) is releasing this bulletin to update the guidance provided to stakeholders as we move to the Governor's Executive Order D 2020 044 Safer at Home ("Safer at Home EO"), and the Colorado Department of Public Health and Environment's ("CDPHE") Public Health Order 20-28 Safer at Home ("PHO 20-28"), both dated April 26, 2020.

Under the Safer at Home EO and PHO 20-28, counties may:

- Comply with the Safer at Home EO and PHO 20-28;
- Impose more protective standards than those in the Safer at Home EO and PHO 20-28, for example by extending a local Stay at Home Order; or
- Request and obtain approval for a variance from the Safer at Home EO and PHO 20-28 from CDPHE, following the procedure set forth therein. Please consult your county for further guidance regarding any approved variance that may exist. Here are some links for researching public health orders:

<http://ccionline.org/health-and-human-services/public-health-orders/>

<https://www.colorado.gov/pacific/cdphe/find-your-local-public-health-agency>

<https://covid19.colorado.gov/safer-at-home/local-orders-variances>

## **Licenses May Continue Take Out and Delivery Sales of Alcohol Beverages**

Under the Safer at Home EO and PHO 20-28, businesses that have licenses allowing for on-premises consumption of alcohol beverages—including bars, restaurants, brewpubs, and manufacturers with approved sales rooms—must remain closed to customers for in-person service for on-premises consumption. These businesses may continue to offer food and beverages (including alcohol beverages) for sale through takeout and delivery. Executive Order D 2020 52, Extending Executive

Orders D 2020 011 and D 2020 029 Concerning the Temporary Suspension of Certain Regulatory Statutes Due to the Presence of COVID-19, extends the suspension of certain statutory restrictions which would otherwise prohibit takeout and delivery sales by these licensees through May 30, 2020. Any licensees that choose to sell alcohol beverages through takeout and delivery pursuant to Executive Order D 2020 52, (including any further amendments or extensions of the same) **must** comply with the requirements in emergency [Regulation 47-1101](#) Delivery and Take Out Sales Authorized Under Executive Order(s), 1 CCR 203-2. Licensees and their employees should familiarize themselves with Regulation 47-1101.

PHO 20-28 allows for certain retail businesses (those within the definitions of “Non-Critical Retail” and limited “Personal Services” in PHO 20-28) to resume in-person retail sales and services on May 1 if they meet additional requirements. This **does not apply** to businesses offering food and beverages (including alcohol beverages) for on-premises consumption.

As Coloradans have adapted to the challenges and public health concerns created by COVID-19, it has become common to refer to certain types of takeout or delivery services using the term “**curbside.**” Alcohol beverages cannot be sold “**curbside**” to the same extent as consumer goods sold by other types of retailers. All alcohol beverage sales **need to occur on the liquor licensed premises** and cannot occur on sidewalks, streets, alleyways, or from vehicles used to deliver alcohol beverages. Regulation 47-1101(A)(1), 1 CCR 203-2 provides that “[o]rders for delivery or takeout that include alcohol beverages may be accepted by only the licensee or its employees, which may be accepted by telephone, in person [meaning at the licensed premises], or via internet communication.” LED appreciates that licensees have developed innovative solutions to deliver previously ordered alcohol beverages to consumers in manners that minimizes in-person contact. However, licensees must abide by Regulation 47-1101 and all of the restrictions in the Liquor Code and Liquor Rules that have not been suspended through executive orders. In addition, delivery of alcohol beverages may only be done by the licensee or an actual employee of the licensee, NOT a third-party service. See Regulation 47-101(A)(4).

Any licensee selling alcohol beverages for takeout or delivery in a cup or other container pursuant to Regulation 47-1101 must affix that cup or container with a label containing the warning statement in Regulation 47-1101(A)(8)(b). This label can be affixed to the container using any method that ensures the label sticks to the container, including adhesive or tape or staple to a drink carrier. Labels can be obtained using this [link](#).

LED reminds licensees that the expanded takeout and delivery privileges permitted under the Governor’s executive orders and emergency Regulation 47-1101 are not permanent. LED will continue to assess these expanded privileges in concert with the Governor’s office and CDPHE every 30 days, or more frequently if necessitated by the issuance of any new executive orders and/or public health orders.

## **Public Gatherings**

- Prohibit public gatherings of ten (10) persons or more in both public spaces and private commercial venues.
- No special events, festivals, or sporting events, and other large gatherings. At this time, the situation is being evaluated to determine when large gatherings can resume, but there is still no specific date when this type of gatherings will resume.
- Large venues shall remain **closed** (movie theaters, bowling alleys, nightclubs, concert facilities, sporting event facilities, etc.)

## **Use of Common Carriers (FedEx, UPS and USPS) for Off Premises Retail Deliveries:**

The use of common carriers to deliver alcohol beverages in Colorado directly to consumers by retail liquor store licensees, liquor-licensed drugstore licensees and fermented malt beverage off premises licensees is prohibited. Retail delivery for these licensees must be made by the licensee or the licensee's employee who is at least twenty-one (21) years of age and is using a vehicle owned or leased by the licensee to make the delivery. See Regulation 47-426 for further details.

However, wineries that hold a winery direct shipper's permit are the only license holders that can use a common carrier to direct ship wine to consumers in Colorado.

### **Proof of Identification:**

Please visit [www.colorado.gov/dmv](http://www.colorado.gov/dmv) for further information on obtaining a Colorado driver's license or identification card.

LED was asked if licensees are permitted to ask customers to remove their mask when verifying identification for the sale of alcoholic beverages. Yes, please ask customers to reveal their face, momentarily, so their identity age verification can be completed prior to the sale of the alcohol beverage(s).

### **All liquor licensees' must remain vigilant about the following:**

- Preventing sales to minors;
- Refusing sales to visibly intoxicated customers;
- Following "tied house" laws and regulations;
- Following "trade practice" laws and regulations, including the prohibition on consignment sales, bribery, exclusive outlet sales arrangements, and prohibited things of value given by suppliers to retail licensees and by retail licensees to consumers; and
- Implementing social distancing requirements in PHO 20-28.

## **OVERALL PUBLIC HEALTH RECOMMENDATIONS:**

- The Colorado Department of Public Health and the Environment has developed useful tools to assist businesses with understanding and complying with the new Safer-at-Home requirements, which are available here: <https://covid19.colorado.gov/safer-at-home>

- Under PHO 20-28, Appendix A, Critical Retailers must implement certain measures within the workplace to minimize disease transmission (Appendix A, paragraphs (I)(A) and (B). Please study these requirements carefully to ensure compliance.
- The Center for Disease Control Prevention symptoms of coronavirus can be found at [www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html](http://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html)
- The Colorado Department of Public Health & Environment also provides information on their website: [www.colorado.gov/cdphe](http://www.colorado.gov/cdphe)
- Specific, unaddressed questions about public health issues and concerns should be directed to: [covid19.colorado.gov/covidconcerns](http://covid19.colorado.gov/covidconcerns)

The Division reserves the right to amend or withdraw the relief provided in the emergency regulations or industry bulletins at any time but will provide at least three-days notice prior to any withdrawal of emergency rules or industry bulletin(s). If the Division determines that any licensee has violated any regulation or any of the relief provided in any industry bulletin or that the licensee's actions jeopardize public health, safety, or welfare, the Division may recommend that the State Licensing Authority pursue administrative action seeking to suspend or revoke such license.

We recommend all licensees sign up on our email subscription via <https://www.colorado.gov/pacific/enforcement/liquor-enforcement-division-email-subscription>

If you have any further questions, please contact LED by sending an email to [dor\\_led@state.co.us](mailto:dor_led@state.co.us).

Best Regards,

Colorado Liquor Enforcement Division