

Colorado Liquor Enforcement Division

FINAL POSITION

Donation of Alcohol Beverages to Non-profit/Charitable Organizations

January 30, 2004

**The purpose of enforcement in the following scenarios is to preserve that area of state liquor law that prevents a licensed supplier from providing a financial benefit to any licensed retailer (liquor store, restaurant, hotel, tavern) when its intent was to provide financial benefit to non-profit or charitable organizations. This financial benefit usually takes the form of a product donation.**

**It was the Liquor Enforcement Division's intent to prescribe the applicable rules in Regulation 47-1010. Because the content of that regulation is confusing to the average reader, the Division presents this document for clarification to all concerned. The Division intends to amend Regulation 47-1010 in 2004 to make it "user friendly."**

**(Note: any reference made to "non-profits" includes charitable organizations)**

WHEN A NON-PROFIT OR CHARITABLE ORGANIZATION HOLDS A  
FUND-RAISING EVENT BY SECURING A SPECIAL EVENTS LIQUOR PERMIT  
AND SEEKS DONATIONS OF ALCOHOL BEVERAGE FROM A  
COLORADO WHOLESALER

*Applicable Law: Regulation 47-1010(B): "A licensed wholesaler may provide alcohol beverages to a special event permittee at no cost if such beverages are used for hospitality purposes and are not resold by the drink. The wholesaler may invoice such products at no cost to the permittee and shall ensure that all applicable taxes are paid."*

1. The wholesaler should make contact with the non-profit/charitable event coordinator to verify that a special events liquor permit has been obtained, naming the non-profit and the authorized location of the event. Product delivery may be made only to this location unless both entities have made special arrangements with the Liquor Enforcement Division.
2. Once the wholesaler has verified that the non-profit is selling a single ticket to the event (hospitality purposes), rather than selling alcohol beverages by the drink, the wholesaler may make a product donation by preparing a "zero-cost invoice" to the Special Events Permit holder. The invoice should describe the product donated, the name of the non-profit organization, and the location of the event.
3. Wholesalers may assist in pouring samples at the licensed event.

4. While Special Event Permit holders may purchase alcohol beverages from a liquor store for a licensed event, pursuant to Regulation 47-1008, Regulation 47-1010 only authorizes a product donation from a licensed supplier (wholesaler, brew pub, micro-brewery, Colorado winery).

WHEN A NON-PROFIT OR CHARITABLE ORGANIZATION HOLDS A  
FUND-RAISING EVENT IN A RESTAURANT, HOTEL, OR TAVERN  
(ON-PREMISES RETAILER) AND SEEKS DONATIONS  
OF ALCOHOL BEVERAGE FROM A  
COLORADO WHOLESALER

Applicable Law: Regulation 47-1010(B): “[continued from above].. *When product is being donated for the use of a non-profit, charitable or community group and the event or activity is being held at a retail outlet licensed pursuant to Article 46 or 47 of Title 12, the wholesaler may invoice the retailer at no cost for such products 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 these products.*

1. The wholesaler should make contact with the non-profit/charitable event coordinator to verify that the product donation will be for a bona-fide fundraising event. The wholesaler’s failure to exercise due diligence in this area could result in administrative sanctions.
2. The wholesaler will then prepare a “zero-cost invoice” to the on-premises retailer, describing (in the body of the invoice) the product donated, the name of the non-profit organization, and the date of the event. The wholesaler may only deliver this donated product to the designated on-premises licensed account.
3. Wholesalers and retailers may assist in the pouring of alcohol beverage samples.
4. The on-premises retailer may not receive any direct or indirect benefit from alcohol beverage product donations. All proceeds collected for ticket sales (food and beverage) must be made payable to the non-profit organization only. The on-premises licensee may then bill the non-profit for the venue’s normal and customary price for food and rental (rooms and equipment), including sales taxes, but may not charge the non-profit a “corkage fee” for lost alcohol beverage sales, nor may they inflate the price of the food or rent.

5. **Liquor store licensees** may provide assistance to non-profits during these events, as long as they do not receive any financial benefit. The liquor store can provide labor, the cost of advertising (radio, tv, newspaper, fliers), signage, and their own materials that advertise the price and availability of alcohol beverage products at their liquor store. They may assist non-profit representatives in securing alcohol beverage donations from licensed wholesalers, only by providing a list of licensed wholesalers in their area.
6. Liquor store licensees MAY NOT take an alcohol beverage order at the event; charge any fee to the public, the non-profit, or the on-premises retailer; or, take any of their own alcohol beverage stock onto the event premises. Liquor stores may sell tickets on behalf of the non-profit or charity within their store, pursuant to Section 12-47-407(1), C.R.S., as long as the retailer does not receive any compensation for such sale. The fees collected are to be held in trust for the non-profit or charity.
7. Any retailer's failure to exercise due diligence in ensuring that they receive no benefit from a wholesaler's product donation could result in administrative sanctions.

WHEN A NON-PROFIT OR CHARITABLE ORGANIZATION HOLDS A  
FUND-RAISING EVENT IN A RESTAURANT, HOTEL, OR TAVERN  
AND SEEKS DONATIONS OF ALCOHOL BEVERAGE FROM A  
COLORADO LIQUOR STORE

1. The liquor store must prepare an invoice to the on-premises retailer, describing the alcohol beverage products, and their normal retail price for said goods. While the on-premises retailer will not actually pay for these products (because they are donations), the value of that alcohol beverage will be applied to the on-premises licensee's \$500.00 yearly limit for liquor store purchase pursuant to Section 12-47-411(6)(b), C.R.S.
2. The on-premises retailer may not receive any direct or indirect benefit from alcohol beverage product donations. All proceeds collected for ticket sales (food and beverage) must be made payable to the non-profit organization only. The on-premises licensee may then bill the non-profit for the venue's normal and customary price for food and room rental (including sales taxes), but may not charge the non-profit a "corkage fee" for lost alcohol beverage sales, nor may they inflate the price of the food or rent.
8. **Liquor store licensees** may provide assistance to non-profits during these events, as long as they do not receive any financial benefit. The liquor store can provide labor, the cost of advertising (radio, tv, newspaper, fliers), signage, and their own

materials that advertise the price and availability of alcohol beverage products at their liquor store. They may also assist non-profit representatives in securing alcohol beverage donations from licensed wholesalers, only by providing a list of licensed wholesalers in their area.

3. Liquor store licensees MAY NOT take an alcohol beverage order at the event; and may not charge any fee to the public, the non-profit, or the on-premises retailer. Liquor stores may sell tickets on behalf of the non-profit within their store, pursuant to Section 12-47-407(1), C.R.S., as long as the retailer does not receive any compensation for such sale. The fees collected are to be held in trust for the non-profit or charity.
4. Any retailer's failure to exercise due diligence in ensuring that they receive no benefit from a wholesaler's product donation could result in administrative sanctions.

**WHEN A RETAIL LIQUOR STORE WANTS TO HOLD AN  
ALCOHOL BEVERAGE TASTING  
AND NO NON-PROFIT OR CHARITY IS INVOLVED**

Liquor stores may hold, sponsor, or coordinate wine tastings for private functions or to the general public, but only under rules that insure compliance with Colorado Liquor Code. The first and most important rule is that tastings of alcohol beverages cannot take place in an off-premises licensed establishment, such as liquor stores or liquor licensed drug stores. However, there is a current legislative proposal, which if passed, will amend this section of the position letter.

If the tasting occurs in a private location that is not a liquor licensed premises the following guidelines must be adhered to:

1. The sampling must be by invitation only.
2. Absolutely no fee may be charged. The sampling, while it may include food or other items, must be totally gratuitous.
3. No orders for the products can be taken at the time of the tasting. Persons attending the tasting may only be told where products are available for sale.
4. The products tasted may be supplied by the liquor store or by a licensed wholesaler. However, **A WHOLESALER MAY NOT DELIVER THE PRODUCT TO THE UNLICENSED LOCATION.**
5. All normal liquor code age and intoxication restrictions apply.

If the tasting occurs in an on-premises account (hotel, restaurant, tavern) the following guidelines must be adhered to:

1. The tasting may be either private or open to the public.
2. The products tasted may be supplied by either a licensed wholesaler or by a retail liquor store (within the \$500 annual retail store purchase exemption).  
**Products supplied by a licensed wholesaler must be sold, at no less than cost, and invoiced to the on-premises licensee, if participants are charged a fee.**
3. Any admittance fee, must be collected and retained by the on-premises retail licensee at whose establishment the tasting is being held.
4. Absolutely no fee (direct or indirect) may be charged or collected by the liquor store licensee (e.g. selling a glass to the participant).
5. No orders for the products tasted can be taken at the time of the tasting. Persons attending may only be told where they might purchase the products.
6. Personnel of either the on-premises licensee or off premises licensee may pour products during the tasting. No wholesale representative may provide free labor if the on-premises licensee is charging a fee for admittance.
7. All normal liquor code age and intoxication restrictions apply.
8. The on-premises licensee must pay all applicable sales taxes for any products consumed during the tasting.