



COLORADO

Department of Revenue

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REFERENCE: LAWFUL PRODUCT RETURNS FOR EVENTS CANCELLED DUE TO COVID-19 CONCERNS

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Today the Alcohol and Tobacco Tax and Trade Bureau (TTB) released the following statement:

RETURNS OF PRODUCTS PURCHASED FOR EVENTS CANCELLED DUE TO CORONAVIRUS (COVID-19)

The federal consignment sales rules generally prohibit the sale or purchase of alcohol beverage products with the privilege of return. See 27 CFR 11.21. Returns for ordinary and usual commercial reasons arising after the product has been sold are not prohibited, but the return or exchange of a product because it is overstocked or slow-moving does not constitute a return for ordinary and commercial reasons. See 27 CFR 11.45.

Local officials and event organizers have begun announcing cancellations of widely-attended events, such as parades, festivals, fairs, concerts, and sporting events based on concerns about COVID-19. These announcements may be made after wholesalers and retailers purchased large quantities of products to sell during those events.

Given the unexpected and widespread nature of the concerns involving COVID-19, TTB will not consider returns of alcohol beverage products purchased to sell during such cancelled events to violate federal consignment sales rules provided the products were not initially purchased or sold with the privilege of return. Even though such returns are lawful, a producer or wholesaler is not required to accept returns of such products.

Similarly, the Colorado Liquor Enforcement Division (LED) will not consider returns of alcohol beverage products that fall within the foregoing statement from TTB to violate the state consignment sales rule. See Regulation 47-322(F), 1 C.C.R. 203-2.

In addition, unlike the corresponding federal regulations (see 27 CFR 11.21), the Colorado Liquor Rules already allow for returns related to events under certain circumstances. Generally, Regulation 47-322(F), 1 C.C.R. 203-2, prohibits consignment sales, allows wholesalers to accept returns and provide account credit or product exchange for “ordinary and usual commercial reasons,” and defines what is and is not an ordinary and usual commercial reason. There are two parts of the regulation that would allow returns related to events cancelled due to COVID-19:

1. Returns for venues that operate only during scheduled events. Regulation 47-322(F)(3)(g) allows a wholesaler to “remove and grant credit for those products that are likely to spoil or violate a manufacturer’s freshness standards” for “venues that operate only during scheduled events.”
2. Returns for special event permit holders. Similarly, under Regulation 47-322(F)(3)(k), a wholesaler is permitted to accept a return of alcohol beverages previously sold to a retailer, and to provide account credit or product exchange, for “[h]olders of special event permits that have unsold alcohol beverages after the licensed event.”

If you have any questions about this bulletin, email LED at dor_led@state.co.us or call the customer service line at (303) 205-2300.