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Bulletin 22-04 - Fermented Malt Beverage and Wine Retailers

1 message

Liquor Enforcement Division <dor_led@state.co.us> Fri, Dec 30, 2022 at 2:51 PM
Reply-To: dor_led@state.co.us
To: clerk@townofoakcreek.com

COLORADO
Department of Revenue
Specialized Business Group—
Liquor & Tobacco

December 30, 2022

Bulletin 22-04

RE: Bulletin 22-04 - Fermented Malt Beverage and Wine Retailers

On November 8, 2022, the People of the State of Colorado voted to amend Articles 3 and 4 of Title 44 in the Colorado Revised Statutes. As a result, beginning on March 1, 2023, currently licensed **Fermented Malt Beverage Off-Premises Retailers (FMB-OFF)** will automatically convert to *"**Fermented Malt Beverage and Wine Retailer**."* The Fermented Malt Beverage Off-Premises Retailer license will be removed as an available license type category on Division applications as of March 1, 2023. The State Licensing Authority will **automatically issue** the Fermented Malt Beverage and Wine Retailer license to existing FMB-OFF Retailers directly to the email or mailing address on file, and will send the license to the local licensing authority for their records. There will be no change to the state license number, issuance date, or expiration date.

Modification of Premises:

If the licensed premises remains the same, other than adding vinous products to these licensed premises, no modifications of premises are needed. If the licensed premises is going to be physically changed or materially or substantially altered, as per rule **47-302**, then a modification of premises and fees shall be filed with both the local and state licensing authorities for approval or denial.

Temporary displays do not materially or substantially alter the licensed premises, therefore, do not need prior approval. Temporary displays could be end caps for a short period of time or temporary displays within the licensed premises for a minimal period of time. Please remember these temporary displays should not be placed in candy or soda isles or near licensed premises entries and exits to prevent minor access to alcohol products.

Privileges and Responsibilities:

The privileges and responsibilities provided in this ballot initiative will not be applied to Fermented Malt Beverage on/off-premises retailers (**FMB ON/OFF**).

The new privileges that Fermented Malt Beverage and Wine Retailers will experience after March 1, 2023, are as follows:

- The ability to sell malt and vinous (wine) products in sealed containers for off-premises consumption. This license type is **not allowed** to sell spirituous liquors.
- The ability to conduct tastings as long as they meet the standards of the local and state licensing authorities. Please consult your local licensing authority regarding their permit standard and authorization for tasting activities. Reference materials from the state licensing authority regarding tastings can be found at **44-3-301(10)(a) C.R.S**, **47-605, 1-CCR-203-2**.
- The ability to deliver malt and vinous products in sealed containers to persons 21 years of age or older, pursuant to a valid delivery permit and adhering to all delivery requirements as outlined in 44-4-107(6), C.R.S.

Distance Considerations:

- Distance restrictions will apply to Fermented Malt Beverage and Wine Retailers if they choose to **change locations**:

    1. Within 1,500 feet of a retail liquor store within the jurisdiction of a population of 10,000 or fewer;
    2. Within 3,000 feet of a retail liquor store; OR
    3. Within 1,500 feet of a retail liquor store, for the premises located in the municipality within the population of 10,000 or fewer that is contiguous to the City and County of Denver.

The distance measurements shall be determined by a radius measurement that begins at the principal doorway of the premises for which the application is made and ends at the principal doorway of the other retail licensed premises. If the premises has multiple doorways, the applicant or current licensee will designate their principal doorway with the local and state licensing authority.

- A new Fermented Malt Beverage and Wine Retailer license received by the local or state licensing authority **on or after March 1, 2023**, shall not issue if they are within **500 feet** of an existing Retail Liquor Store.
    - The *exception* to this distance restriction is if the new applicant can prove to both the local and state licensing authorities that they owned or leased a Fermented Malt Beverage Retail Licensed premises and, as of July 1, 2019, have applied for or received a liquor license in either of the following two manners.

        1. A building permit has been issued for an FMB-Off Premises Licensed Retailer Premises. The permit is active and has not expired before completing the dual licensing authority processes.
        2. A certificate of occupancy for a structure to license a Fermented Malt Beverage Off-Premises Retail location.

- A new Fermented Malt Beverage and Wine Retailer license received by the local or state licensing authority **on or after March 1, 2023**, shall also not issue if they are located within **500 feet** of any public or parochial school or principal campus of any college, university, or seminary.
    - *Exceptions*:

        1. Licensed premises located or to be located on land owned by a municipality;

2. An existing licensed premises on land owned by the state;
3. Was actively doing business before the principal campus was constructed;

The distance measurements are to be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which fermented malt beverages and wine are to be sold, using a route of direct pedestrian traffic.

Age of Employees:

Persons **under eighteen (18) years of age -** may be employed by a Fermented Malt Beverage and Wine Retailer and may handle or otherwise act with respect to fermented malt beverages and wine in the same manner as with other items sold at retail; *EXCEPT* that:

- Persons under 18 years of age **may not** sell or dispense alcoholic beverages, check ID, or make deliveries beyond the customary parking area of the retail outlet.

- Deliveries must be made by twenty-one (21) years of age or older employees of the licensed premises.

Value of Labor:

Please keep in mind that Suppliers, to include manufacturers and wholesalers of alcohol beverages, (*See* Regulation 47-100(F), 1 CCR 203-2), must comply with all provisions in law and rule that relate to the value of labor prohibitions and allowances outlined in Regulation **47-322(M), 1 CCR 203-2**, regarding the fulfillment of product and merchandising for retail accounts; and retailers must also comply with the parameters set forth in that Regulation.

Virtual Training Dates:

The Liquor Enforcement Division will be holding four virtual training sessions listed below regarding the Fermented Malt Beverage and Wine Retailer license:

January 12, 2023, from 10 am to 11 am
https://meet.google.com/qdb-jywu-hag?authuser=0
Join by phone
(US) +1 510-957-3280 PIN: 270 793 654#

January 12, 2023, from 2:30 am to 3:30 pm
https://meet.google.com/fks-bbnd-qes?authuser=0
Join by phone
(US) +1 402-862-6087 PIN: 907 734 317#

February 8, 2023, from 10 am to 11 am
https://meet.google.com/vkw-ppmq-yub?authuser=0
Join by phone
(US) +1 254-863-1392 PIN: 254 115 643#

February 8, 2023, from 1 pm to 2 pm
https://meet.google.com/hya-eotr-eeu?authuser=0
Join by phone
(US) +1 650-597-2806 PIN: 783 527 227#

Please do not hesitate to reach out to LED at dor_led@state.co.us if you have any questions, issues, or comments.

Thank you,

Colorado Liquor Enforcement Division

Liquor Enforcement Division

The mission of the Liquor and Tobacco Enforcement Division is to promote public safety, support economic growth, and the responsible sale and consumption of liquor and tobacco products, through the fair administration of liquor and tobacco/nicotine laws.

LED Website

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