



## ***Keeping Your Restaurant Compliant – Alcohol for Takeout and Delivery***

HB21-1027, which passed during the 2021 Legislative Session, permits restaurants to sell alcohol for takeout and delivery through July 1, 2025 and allows for the continued use of communal outdoor dining areas on a permanent basis.

Here's what that means for restaurants:

**How much alcohol can I sell?** *(Please note that the limits below are not currently in effect as of 7/8/2021, as Colorado does still remain under a declared state of emergency. These limits will go into effect when there are no longer any state of emergency orders relating to the pandemic.)*

HB21-1027 prescribes specific limits on the amount of alcohol a restaurant can sell *per transaction*. Those limits are:

- Two 750-ml bottles of wine
- Two six packs of beer (not to exceed 144 fluid ounces total)
- One liter of spirits (approximately 33.8 fluid ounces)

Practically speaking, this means that a customer can come in and order two entrees, a bottle of wine, and two cocktails to go under this legislation. Or, a customer can come in and order two entrees and two bottles of wine on one transaction, close that transaction, and then order another bottle of wine on a separate transaction and still be in compliance.

For batched cocktails and cocktails to go, only the fluid ounces of spirits/liquor count toward the liter cap. Meaning, any mixer, soda, or other non-alcohol fluids that are included in the cocktail do not count toward the limit – which can result in more than 1 liter of total cocktail being sold per transaction so long as there is no more than approximately 33.8 fluid ounces of spirits in the batched cocktail being sold.

### **How can I sell it?**

In order to sell cocktails for takeout and delivery, you must provide an approved container. All containers must comply with the following:

- The container must be rigid.
- The container cannot be made of paper or polystyrene foam.
- The lid or cap on the container must be designed to prevent consumption without the removal of the lid or cap.
- Containers must be sealed in a way that is “tamper evident” in order to tell if the container has been opened.
- The lid of the container can have a straw or sipping hole *only if* the hole is covered with a “tamper evident” seal or sticker. Masking tape, scotch tape, or a sticker that is not designed to be “tamper evident” is not an acceptable covering for a straw or sipping hole.
- All takeout and delivery orders shall be affixed with a [label](#) containing a warning statement, with a minimum fourteen (14) font size, stating: “WARNING: DO NOT OPEN OR REMOVE SEAL WHILE IN TRANSIT. Purchasers are subject to state and local law prohibiting drinking or possessing open containers of alcoholic beverages in motor vehicles, including section 42-4-1395, C.R.S”. It does not matter if the warning label is adhesive and affixed to the container or is physically printed on the container as long as the information is clearly visible.
- Beverages sold in plastic bags or baggies *are not allowed.*
- Full, manufacturer-sealed bottles of beer, wine, and spirits are approved containers.

## When can I sell it?

Alcohol takeout and delivery services from restaurants may only be performed between the hours of 7:00 a.m. and midnight.

## How can I deliver it?

- For delivery orders, the individuals placing the order must be 21 years of age or older, and must provide their name, date of birth, and delivery address. This information must be verified upon delivery.
- Deliveries may only be made to the address provided at the time of the order.
- Persons making the delivery must be 21 years of age or older and must be an employee of the licensee.
- Third-party delivery companies *cannot* deliver alcohol from restaurants – all restaurant alcohol deliveries must be done by an employee of the business.
- Licensees must retain all records regarding the delivery of alcohol beverages.

## How can I offer takeout and curbside pickup?

You are required to check customer identification when selling alcohol for takeout or curbside pickup, but you do not need to collect and maintain that information as you do with delivery. Curbside pickup is allowed in designated areas outside the licensed premise, not to exceed 150 feet from the licensed premise.

## How can I sign up?

The required takeout and delivery alcohol permit is now available and can be accessed [following this link](#). In response to the economic hardship caused by COVID-19, the state Liquor Enforcement Division will not be instituting a fee for this required permit at the time of this posting (7/8/2021), but a fee will be imposed in the near future to sustain the ongoing costs of administering the takeout and delivery program.

## How can I take advantage of Communal Outdoor Dining Areas?

HB21-1027 allows two or more eligible licensees or businesses to share an outdoor space that is used for food and alcohol service. All participating licensees must obtain a permit from their local licensing authority and the state Liquor Enforcement Division. Communal Outdoor Dining Areas must be within 1,000 feet from the permanent licensed premises of each of the licenses attached to the dining area using a direct measurement.

Communal Outdoor Dining Areas *are not* Common Consumption Areas and will have different application and enforcement considerations. Please note that the state is still conducting stakeholder engagement and rulemaking regarding Communal Outdoor Dining Areas, so further guidance and information will be forthcoming.

