



Keeping Your Restaurant Compliant – Alcohol for Takeout and Delivery

HB21-1027, which passed in the 2021 Legislative Session, allows 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. What does this mean for restaurants?

Do I need a special permit to sell alcohol to-go?

On-premises license holders **MUST** apply for and be granted a Colorado “Takeout and Delivery Permit.” The application and renewal fee is \$11 and [the application can be filled out online](#).

If your local government has created a takeout and delivery permit, you must also apply for and be granted that permit. Please contact your local licensing department to determine if a local permit applies to your business.

How much alcohol can I sell?

With the ending of the COVID-19 State of Emergency in Colorado on May 11, 2023, specific rules laid out in HB21-1027 became enforceable. The following limits must be followed by on-premises:

- No more than one liter of spiritous liquor
- No more than 144 fluid ounces of malt liquor, fermented malt beverage, or hard cider (approximately two standard six-packs)
- No more than 1,500 milliliters (two 750-ml bottles) of vinous liquors

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, the Colorado Liquor and Tobacco Enforcement Division has ruled that the fluid ounces of any non-alcohol mixer, soda, or other fluids that are pre-mixed into the cocktail **do** count toward the one-liter limit (a reversal of the previous ruling). However, if the non-alcoholic portions of a cocktail are sold in a container separate from any spiritous liquor, they do not count towards the limit. For example, a batched margarita is limited to one liter total per transaction, including the non-alcohol mixers and any amount of tequila, but it would be permissible to sell a one-liter bottle of margarita mix containing no alcohol and a one-liter bottle of tequila.

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 provided 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 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 premises not to exceed 150 feet from the licensed premises.

How can I sign up?

You can fill out [this online form](#) to receive a takeout and delivery alcohol permit. While the \$11 fee had been waived during the COVID-19 State of Emergency, as of May 11, 2023, the fee is required.

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.