



COLORADO

Department of Revenue

Enforcement Division - Liquor & Tobacco

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October 11, 2017

Robert C. Runco
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Email: RRunco@RuncoLawFirm.com

Re: Request for Position Statement – Retail Liquor Store Orders

Dear Mr. Runco:

This is in response to your letter, dated August 29, 2017, wherein you request a statement of position from the State of Colorado, Department of Revenue, Liquor Enforcement Division (the “Division”) pursuant to Regulation 47-200, 1 CCR 203-2. Your letter seeks clarification of permissible practices related to orders for alcohol beverages by those holding more than one retail liquor store (“RLS”) license pursuant to subsection 12-47-407(4)(b)(III), C.R.S., as discussed in Bulletin 17-01.

The Division issued Bulletin 17-01 to provide guidance concerning allowed business practices for those holding more than one RLS license pursuant to the provisions of SB 16-197 (codified at section 12-47-407(4)(b), C.R.S.). Your letter asks three related questions. Each question is addressed in turn below:

Question 1: “Can you clarify the Division’s position on whether a manager or purchaser may work for multiple liquor stores under the same ownership?”

Response: Yes. Each liquor license is separate and distinct. See § 12-47-301(3)(a), C.R.S. Only a licensee or its managers, agents, servants, officers, and employees may exercise the privileges granted under the licensee’s license. See §§ 12-47-301(3)(a), C.R.S. (“It is unlawful for any person to exercise any of the privileges granted under any license other than that which the person holds or for any licensee to allow any other person to exercise such privileges granted under the licensee’s license...”); see also §12-47-103(23), C.R.S. (“‘Person’ means a natural person, partnership, association, company, corporation, or organization or a manager, agent, servant, officer, or employee thereof.) Those who hold multiple RLS licenses (currently a maximum of up to two total RLS licenses, pursuant to section 12-47-407(4)(b)(III)(A), C.R.S.) may allow a manager, agent, servant, officer, or employee to work at each RLS. Accordingly, as long as a manager or purchaser who orders alcohol beverages is a manager, agent, servant, officer, or employee of each RLS, he or she may order alcohol beverages for each RLS.

Question 2: “Can you clarify the Division’s position, if the above is permitted, on whether that manager or purchaser may place orders for alcohol beverages for the multiple retail liquor stores, so long as each order is separate and distinct, and there is no aggregation of orders, and each order is sent to the correct retail liquor store with its own purchase order?”

Response: Yes. Each liquor license issued by the Division is separate and distinct. See § 12-47-301(3)(a), C.R.S. In addition, an RLS may only purchase alcohol beverages from a licensed wholesaler. See § 12-47-407(2), C.R.S. Regulation 47-408(A), 1 CCR 203-2. Therefore, those eligible for and holding more than one RLS license (currently a maximum of up to two total RLS licenses, pursuant to section 12-47-407(4)(b)(III)(A), C.R.S.) may not order alcohol beverages on an aggregate basis or transfer alcohol beverages between stores. To the extent a manager or purchaser for each RLS places orders for alcohol beverages in a manner consistent with all relevant requirements imposed by the Colorado Liquor Code and Rules (including the requirement that he or she be a “manager, agent, servant, officer, or employee” of each RLS), he or she may place orders for alcohol beverages for each RLS. To be compliant, each order for alcohol beverages from a wholesaler must be separate and distinct, orders may not be aggregated, and each order must be sent to the correct RLS with its own purchase order.

Question 3: “Can you clarify the Division’s position, if the above is permitted, on whether that manager or purchaser must be physically present at the store for which they are placing the orders, or if they may place orders for any store regardless of where the purchaser is physically located when placing the order, so long as the above criteria are met?”

Response: No, a manager or purchaser does not need to be physically present at the RLS for which he or she is placing orders. So long as the manager or purchaser complies with all relevant requirements imposed by the Colorado Liquor Code and Rules, orders for alcohol beverage products may originate from a physical location other than the RLS where the orders are destined to go.

If you disagree with this position statement you may petition the state licensing authority for a declaratory order in accordance with section 24-4-105(11), C.R.S. The process for such petition is set forth in Regulation 47-200, 1 CCR 203-2.

Sincerely,

A handwritten signature in black ink that reads "Patrick Maroney". The signature is written in a cursive, flowing style.

Patrick Maroney, Director
Colorado Liquor Enforcement Division