Class B Wine Permit (WB)

For grocery, liquor and convenience stores, etc. Allows for the sale of wine for off-premises consumption. Sunday sales are included. No sales by the drink.

The following pages contain information related to your license. This is not an all-inclusive list of information that pertains to you.

For the complete Iowa Code Chapter 123 use this link:

https://www.legis.iowa.gov/docs/code/123.pdf

For the complete 185 Iowa Administrative Rules use this link:

https://www.legis.iowa.gov/docs/iac/agency/185.pdf

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Legally Speaking

Tobacco

Tobacco

123.173 Wine permits — classes — authority.

1. Except as provided in section 123.187, permits exclusively for the sale or manufacture and sale of wine shall be divided into four classes, and shall be known as class "A", "B", "B" native, or "C" native wine permits.

2. A class "A" wine permit allows the holder to manufacture and sell, or sell at wholesale, in this state, wine. The holder of a class "A" wine permit may manufacture in this state wine having an alcoholic content greater than seventeen percent by weight or twenty-one and twenty-five hundredths percent of alcohol by volume for shipment outside this state. All class "A" premises shall be located within the state. A class "B" or class "B" native wine permit allows the holder to sell wine at retail for consumption off the premises. A class "B" or class "B" native wine permittee who also holds a class "E" liquor control license may sell wine to class "A", class "B", class "C", special class "C", and class "D" liquor control licensees for resale for consumption on the premises. Such wine sales shall be in quantities of less than one case of any wine brand but not more than one such sale shall be made to the same liquor control licensee in a twenty-four-hour period. A class "B" or class "B" native wine permittee shall not sell wine to other class "B" or class "B" native wine permittees. A class "C" native wine permit allows the holder to sell native wine for consumption on or off the premises.

3. A class "A" wine permittee shall be required to deliver wine to a retail wine permittee, and a retail wine permittee shall be required to accept delivery of wine from a class "A" wine permittee, only at the licensed premises of the retail wine permittee. Except as specifically permitted by the division upon good cause shown, delivery or transfer of wine from an unlicensed premises to a licensed retail wine permittee's premises, or from one licensed retail wine permittee's premises to another licensed retail wine permittee's premises, even if there is common ownership of all of the premises by one retail permittee, is prohibited. A class "B" or class "B" native wine permittee who also holds a class "E" liquor control license shall keep and maintain records for each sale of wine to liquor control licensees showing the name of the establishment to which wine was sold, the date of sale, and the brands and number of bottles sold to the liquor control licensee.

4. When a class "B" or class "B" native wine permittee who also holds a class "E" liquor control license sells wine to a liquor control licensee, the liquor control licensee shall sign a report attesting to the purchase. The class "B" or class "B" native wine permittee who also holds a class "E" liquor control license shall submit a report to the division electronically, or in a manner prescribed by the administrator, not later than the tenth of each month stating each sale of wine to liquor control licensees during the preceding month, the date of each sale, and the brands and numbers of bottles with

each sale. A class “B” permittee who holds a class “E” liquor control license may sell to class “A”, class “B”, or class “C” liquor control licensees only if the licensed premises of the liquor control licensee is located within the geographic territory of the class “A” wine permittee from which the wine was originally purchased by the class “B” or class “B” native wine permittee.

123.178 Authority under class “B” wine permit.

1. A person holding a class “B” wine permit may sell wine at retail for consumption off the premises. Wine shall be sold for consumption off the premises in original containers only except as provided in subsection 4.

2. A class “B” wine permittee having more than one place of business where wine is sold shall obtain a separate permit for each place of business.

3. A person holding a class “B” wine permit may purchase wine for resale only from a person holding a class “A” wine permit.

4. Subject to the rules of the division, sales made pursuant to this section may be made in a container other than the original container only if all of the following requirements are met:

a. The wine is transferred from the original container to the container to be sold on the licensed premises at the time of sale or when sold by telephonic or other electronic means.

b. The person transferring the wine from the original container to the container to be sold shall be eighteen years of age or more.

c. The container to be sold shall be no larger than seventy-two ounces.

d. The container to be sold shall be securely sealed by a method authorized by the division that is designed so that if the sealed container is reopened or the seal tampered with, it is visibly apparent that the seal on the container of wine has been tampered with or the sealed container has otherwise been reopened.

5. A container of wine other than the original container that is sold and sealed in compliance with the requirements of subsection 4 and the rules of the division shall not be deemed an open container subject to the requirements of sections 321.284 and 321.284A if the sealed container is unopened and the seal has not been tampered with, and the contents of the container have not been partially removed.

123.2 General prohibition.

It is unlawful to manufacture for sale, sell, offer or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and

restrictions enumerated in this chapter.

123.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the administrator of the division, appointed pursuant to the provisions of this chapter, or the administrator's designee.

2. "Air common carrier" means a person engaged in transporting passengers for hire in interstate or foreign commerce by aircraft and operating regularly scheduled flights under a certificate of public convenience issued by the civil aeronautics board.

3. "Alcohol" means the product of distillation of any fermented liquor rectified one or more times, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

4. "Alcoholic beverage" means any beverage containing more than one-half of one percent of alcohol by volume including alcoholic liquor, wine, and beer.

5. "Alcoholic liquor" means the varieties of liquor defined in subsections 3 and 50 which contain more than six and twenty-five hundredths percent of alcohol by volume, beverages made as described in subsection 7 which beverages contain more than six and twenty-five hundredths percent of alcohol by volume but which are not wine as defined in subsection 54, high alcoholic content beer as defined in subsection 22, or canned cocktails as defined in subsection 11, and every other liquid or solid, patented or not, containing spirits and every beverage obtained by the process described in subsection 54 containing more than twenty-one and twenty-five hundredths percent of alcohol by volume, and susceptible of being consumed by a human being, for beverage purposes. Alcohol manufactured in this state for use as fuel pursuant to an experimental distilled spirits plant permit or its equivalent issued by the federal bureau of alcohol, tobacco and firearms is not an "alcoholic liquor".

6. "Application" means a written request for the issuance of a permit, license, or certificate that is supported by a verified statement of facts and submitted electronically, or in a manner prescribed by the administrator.

7. "Beer" means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than six and twenty-five hundredths percent of alcohol by volume.

8. "Brewer" means any person who manufactures beer for the purpose of sale, barter,

exchange, or transportation.

9. "Brewpub" means a commercial establishment authorized to sell beer at retail for consumption on or off the premises that is operated by a person who holds a class "C" liquor control license or a class "B" beer permit and who also holds a special class "A" beer permit that authorizes the holder to manufacture and sell beer pursuant to this chapter.

10. "Broker" means a person who represents or promotes alcoholic liquor within the state on behalf of the holder of a distiller's certificate of compliance, a manufacturer's license, or a class "A" native distilled spirits license. An employee of the holder of a distiller's certificate of compliance, a manufacturer's license, or a class "A" native distilled spirits license is not a broker.

11. "Canned cocktail" means a mixed drink or cocktail that is premixed and packaged in a metal can and contains more than six and twenty-five hundredths percent of alcohol by volume but not more than fifteen percent of alcohol by volume.

12. "City" means a municipal corporation but not including a county, township, school district, or any special purpose district or authority.

13. "Club" means any nonprofit corporation or association of individuals, which is the owner, lessee, or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.

14. "Commercial establishment" means a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five persons at one time, and the licensed premises of which conform to the standards and specifications of the division.

15. "Commission" means the alcoholic beverages commission established by this chapter.

16. "Completed application" means an application where all necessary fees have been paid in full, any required bonds have been submitted, the applicant has provided all information requested by the division, and the application meets the requirements of section 123.92, subsection 2, if applicable.

17. "Designated security employee" means an agent, contract employee, independent contractor, servant, or employee of a licensee or permittee who works in a security position in any capacity at a commercial establishment licensed or permitted under this chapter.

18. "Distillery", "winery", and "brewery" mean not only the premises where alcohol or spirits are distilled, wine is fermented, or beer is brewed, but in addition mean a person owning, representing, or in charge of such premises and the operations

conducted there, including the blending and bottling or other handling and preparation of alcoholic liquor, wine, or beer in any form.

19. "Division" means the alcoholic beverages division of the department of commerce established by this chapter.

20. "Grape brandy" means brandy produced by the distillation of fermented grapes or grape juice.

21. "Grocery store" means any retail establishment, the business of which consists of the sale of food, food products, or beverages for consumption off the premises.

22. "High alcoholic content beer" means beer which contains more than six and twenty-five hundredths percent of alcohol by volume, but not more than fifteen percent of alcohol by volume, that is made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains. Not more than one and five-tenths percent of the volume of a "high alcoholic content beer" may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol. The added flavors and other nonbeverage ingredients may not include added caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine.

23. "Hotel" or "motel" means premises licensed by the department of inspections and appeals and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty or more sleeping rooms.

24. "Import" means the transporting or ordering or arranging the transportation of alcoholic liquor, wine, or beer into this state whether by a resident of this state or not.

25. "Importer" means the person who transports or orders, authorizes, or arranges the transportation of alcoholic liquor, wine, or beer into this state whether the person is a resident of this state or not.

26. The terms "in accordance with the provisions of this chapter", "pursuant to the provisions of this title", or similar terms shall include all rules and regulations of the division adopted to aid in the administration or enforcement of those provisions.

27. "Institutional investor" means a person who maintains a diversified portfolio of investments through a state or federally chartered bank, a mutual fund, a retirement plan or account created by an employer, the person, or another individual to provide retirement benefits or deferred compensation to the person, a private investment firm, or a holding company publicly traded on the New York stock exchange, the American stock exchange, or NASDAQ stock market and who has a majority of investments in businesses other than businesses that manufacture, bottle, wholesale, or sell at retail alcoholic beverages.

28. "Legal age" means twenty-one years of age or more.

29. "Licensed premises" or "premises" means all rooms, enclosures, contiguous areas, or places susceptible of precise description satisfactory to the administrator where alcoholic beverages, wine, or beer is sold or consumed under authority of a liquor control license, wine permit, or beer permit. A single licensed premises may consist of multiple rooms, enclosures, areas, or places if they are wholly within the confines of a single building or contiguous grounds.

30. "Local authority" means the city council of any incorporated city in this state, or the county board of supervisors of any county in this state, which is empowered by this chapter to approve or deny applications for retail beer or wine permits and liquor control licenses; empowered to recommend that such permits or licenses be granted and issued by the division; and empowered to take other actions reserved to them by this chapter.

31. "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, or process any substance capable of producing a beverage containing more than one-half of one percent of alcohol by volume and includes blending, bottling, or the preparation for sale.

32. "Mixed drink or cocktail" means an alcoholic beverage, composed in whole or in part of alcoholic liquor, that is combined with other alcoholic beverages or nonalcoholic beverages or ingredients including but not limited to ice, water, soft drinks, or flavorings.

33. "Native brewery" means a business which manufactures beer or high alcoholic content beer and is operated by a person who holds a class "A" beer permit that authorizes the holder to manufacture and sell beer pursuant to this chapter.

34. "Native distilled spirits" means spirits fermented, distilled, or, for a period of two years, barrel matured on the licensed premises of the native distillery where fermented, distilled, or matured. "Native distilled spirits" also includes blended or mixed spirits comprised solely of spirits fermented, distilled, or, for a period of two years, barrel matured at a native distillery.

35. "Native distillery" means a business with an operating still which produces and manufactures native distilled spirits.

36. "Native wine" means wine manufactured pursuant to section 123.176 by a manufacturer of native wine.

37. "Package" means any container or receptacle used for holding alcoholic liquor.

38. "Permit" or "license" means an express written authorization issued by the division for the manufacture or sale, or both, of alcoholic liquor, wine, or beer.

39. "Person" means any individual, association, or partnership, any corporation, limited liability company, or other similar legal entity, any club, hotel or motel, or any

municipal corporation owning or operating a bona fide airport, marina, park, coliseum, auditorium, or recreational facility in or at which the sale of alcoholic liquor, wine, or beer is only an incidental part of the ownership or operation.

40. "Person of good moral character" means any person who meets all of the following requirements:

a. The person has such financial standing and good reputation as will satisfy the administrator that the person will comply with this chapter and all laws, ordinances, and regulations applicable to the person's operations under this chapter. However, the administrator shall not require the person to post a bond to meet the requirements of this paragraph.

b. The person is not prohibited by section 123.40 from obtaining a liquor control license or a wine or beer permit.

c. Notwithstanding paragraph "e", the applicant is a citizen of the United States and a resident of this state, or licensed to do business in this state in the case of a corporation. Notwithstanding paragraph "e", in the case of a partnership, only one general partner need be a resident of this state.

d. The person has not been convicted of a felony. However, if the person's conviction of a felony occurred more than five years before the date of the application for a license or permit, and if the person's rights of citizenship have been restored by the governor, the administrator may determine that the person is of good moral character notwithstanding such conviction. e. The requirements of this subsection apply to the following:

(1) Each of the officers, directors, and partners of such person.

(2) A person who directly or indirectly owns or controls ten percent or more of any class of stock of such person.

(3) A person who directly or indirectly has an interest of ten percent or more in the ownership or profits of such person.

41. "Pharmacy" means a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists, prescribing psychologists, or veterinarians are compounded and sold by a registered pharmacist.

42. "Private place" means a location which, at the time alcoholic beverages are kept, dispensed, or consumed, meets all of the following criteria:

a. The general public does not have access to the location and attendees are limited to bona fide social hosts and invited guests.

b. The location is not of a commercial nature.

c. Goods or services are neither sold nor purchased at the location.

d. The location is not a licensed premises.

e. Admission fees or other kinds of entrance fees, fare, ticket, donation or charges are not made or are required of the invited guests to enter the location.

43. "Public place" means any place, building, or conveyance to which the public has or is permitted access.

44. "Residence" means the place where a person resides, permanently or temporarily.

45. "Retail beer permit" means a class "B" or class "C" beer permit issued under the provisions of this chapter.

46. "Retail wine permit" means a class "B" wine permit, class "B" native wine permit, or class "C" native wine permit issued under this chapter.

47. "Retailer" means any person who shall sell, barter, exchange, offer for sale, or have in possession with intent to sell any alcoholic liquor, wine, or beer for consumption either on or off the premises where sold.

48. The prohibited "sale" of alcoholic liquor, wine, or beer under this chapter includes soliciting for sales, taking orders for sales, keeping or exposing for sale, delivery or other trafficking for a valuable consideration promised or obtained, and procuring or allowing procurement for any other person.

49. "School" means a public or private school or that portion of a public or private school which provides facilities for teaching any grade from kindergarten through grade twelve.

50. "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, but not limited to, brandy, rum, whisky, and gin.

51. "Unincorporated town" means a compactly populated area recognized as a distinct place with a distinct place-name which is not itself incorporated or within the corporate limits of a city.

52. "Warehouse" means any premises or place primarily constructed or used or provided with facilities for the storage in transit or other temporary storage of perishable goods or for the conduct of normal warehousing business.

53. "Wholesaler" means any person, other than a vintner, brewer or bottler of beer or wine, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in alcoholic liquor, wine, or beer. A wholesaler shall not sell for consumption upon the premises.

54. "Wine" means any beverage containing more than six and twenty-five hundredths percent of alcohol by volume but not more than twenty-one and twenty-five hundredths percent of alcohol by volume obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any

product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses, or cactus.

123.186 Federal regulations adopted as rules.

1. The division shall adopt as rules the substance of the federal regulations 27 C.F.R. pt. 6, 27 C.F.R. pt. 8, 27 C.F.R. pt. 10, and 27 C.F.R. pt. 11.

2. The division shall adopt as rules the substance of 27 C.F.R. §6.88, to permit a manufacturer of alcoholic beverages, wine, or beer, or an agent of such manufacturer, to provide to a retailer without charge wine and beer coil cleaning services, including carbon dioxide filters and other necessary accessories to properly clean the coil and affix carbon dioxide filters. The rules shall provide that the manufacturer shall be responsible for paying the costs of any filters provided.

3. A licensee or permittee who permits or assents to or is a party in any way to a violation or infringement of a rule adopted pursuant to this section is guilty of a violation of this section. A violation of this section shall subject the licensee or permittee to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty or suspension or revocation of the license or permit pursuant to section 123.39.

123.33 Records.

Every holder of a license or permit under this chapter shall maintain records, in printed or electronic format, which include income statements, balance sheets, purchase and sales invoices, purchase and sales ledgers, and any other records as the administrator may require. The records required and the premises of the licensee or permittee shall be accessible and open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the licensee or permittee.

ALCOHOLIC BEVERAGES DIVISION
State of Iowa

REGULATORY BULLETIN

No. B-2016-01 R January 1, 2016

Tastings by Retailers

TO: On- and off-premises retailers, including, but not limited to, bars, restaurants, hotels, motels, grocery stores, liquor stores, and convenience stores.

INTRODUCTION

The Iowa Alcoholic Beverages Division (Division) administers and enforces the laws of Iowa concerning beer, wine, and alcoholic liquor. The purpose of this bulletin is to provide clarification on the practice of ***retailer-conducted*** tastings. A tasting is the presentation and serving of a product to consumers for the purpose of market research, education, promotion of the product, or determination of the flavor of the product.

BACKGROUND

The Division is conducting a comprehensive review of its rules to update and provide clarity to stakeholders. The Division began by reviewing the tasting, sampling, and trade spending rule, which resulted in the adoption of three new separate rules and defining related terms. The new layout provides clarity and explains each subject matter in greater detail.

DISCUSSION

The newly adopted rule on tastings allows retailers to conduct tastings under the following guidelines:

The tasting amount per consumer must be limited to:

- No more than two ½ ounce tastes of any brand of alcoholic liquor,
- No more than two 1 ounce tastes of any brand of wine,
- No more than two 2 ounce tastes of any brand of beer or high alcoholic content beer, and
- No more than two 2 ounce tastes of a mixed drink or cocktail as defined in 185 Iowa Administrative Code section 4.5(1)"*b*".

A retailer is prohibited from:

- Serving a taste to a consumer who is under legal age, intoxicated, or simulating intoxication, and
- Allowing a person under 18 years of age to serve a taste.

When conducting a tasting:

- An off-premise license or permit holder cannot charge for product or access to the tasting,
- Tastes must be served by a retailer, the retailer's employees or agents, or an industry member who has the explicit consent of the retailer,
- The alcoholic beverages served during a tasting must be legally obtained by the retailer,
- The tasting must be limited to the types of alcoholic beverages available for purchase,
- The tasting must be held during the hours when alcoholic beverages may be legally sold or served, and
- Food may be offered to consumers.

Violations:

- A retailer who conducts a tasting that is found to be in violation of Iowa laws or rules may be subject to administrative sanctions, including, but not limited to, civil penalty, license suspension or license revocation.

CONCLUSION

Effective December 30, 2015, retailers shall conduct tastings in accordance with this bulletin.

QUESTIONS

If you have any questions concerning this bulletin, please contact Stephanie Strauss, Government Relations, at 515-281-7432 or Strauss@IowaABD.com.

Stephen Larson, Administrator

References and useful information:

State Law: 123.186(1)
State Rules: 185 Iowa Administrative Code chapter 16
Federal Regulations: 27 Code of Federal Regulation 6.95
Website Links: http:///iowaabd.com/alcohol/regulation/alcohol_laws

The Alcoholic Beverages Division was created to administer and enforce the laws of Iowa concerning beer, wine and alcoholic liquor.

This bulletin does not replace statutes, rules or court decisions.
This bulletin should not be considered legal advice or a substitute for legal counsel.

1918 SE Hulsizer Road, Ankeny, Iowa 50021-3941 PH 866.IowaABD www.IowaABD.com

ALCOHOLIC BEVERAGES DIVISION
State of Iowa

REGULATORY BULLETIN

No. B-2016-02 January 1, 2016

Sampling

TO: Alcoholic Beverages Manufacturers, Wholesalers, and Brokers (Industry Members)

INTRODUCTION

The Iowa Alcoholic Beverages Division (Division) administers and enforces the laws of Iowa concerning beer, wine, and alcoholic liquor. The purpose of this bulletin is to provide clarification on the practice of sampling. Sampling is the practice of industry members giving alcoholic beverages to a retailer for the purpose of market research, education, promotion of the product, or determination of the flavor of the product.

BACKGROUND

Iowa Code section 123.186 mandates that the Division adopt as rules the substance of the federal regulations 27 C.F.R. parts 6, 8, 10, and 11 as they relate to transactions between industry members and retailers, otherwise known as trade practices. The Division is conducting a comprehensive review of the trade practices chapter to update rules and provide clarity to stakeholders. The Division began by reviewing the tasting, sampling, and trade spending rule, which resulted in the adoption of three new separate rules and defining related terms. The new layout provides clarity and explains each subject matter in greater detail.

DISCUSSION

The newly adopted rule on sampling allows an industry member to give alcoholic beverages to a retailer who has not purchased the brand from that industry member within the preceding 12 months, and while following the below guidelines:

Quantities cannot exceed the following amounts within a calendar year:

- No more than 3 liters of any brand of alcoholic liquor,
- No more than 3 liters of any brand of wine, and
- No more than 3 gallons of any brand of beer or high alcoholic content beer.

An industry member must:

- Obtain alcoholic liquor, wine, beer, or high alcoholic content beer from the respective wholesaler, and
- Clearly mark the word "SAMPLE" on each container of alcoholic liquor, wine, beer, or high alcoholic content beer used for sampling. The marking cannot obscure the label of the container.

Record keeping requirements:

- An industry member must keep and maintain records in accordance with 185 Iowa Administrative Code section 16.18.

Violations:

- An industry member who conducts sampling that is found to be in violation of Iowa laws or rules may be subject to administrative sanctions, including, but not limited to, civil penalty, license suspension or license revocation.

CONCLUSION

Effective December 30, 2015, industry members shall engage in the practice of sampling in accordance with this bulletin.

QUESTIONS

If you have any questions concerning this bulletin, please contact Stephanie Strauss, Government Relations, at 515-281-7432 or Strauss@IowaABD.com.

Stephen Larson, Administrator

References and useful information:

State Law: 123.186(1)
State Rules: 185 Iowa Administrative Code chapter 16
Federal Regulations: 27 Code of Federal Regulation 6.91
Website Links: http://iowaabd.com/alcohol/regulation/alcohol_laws

The Alcoholic Beverages Division was created to administer and enforce the laws of Iowa concerning beer, wine and alcoholic liquor.

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This bulletin should not be considered legal advice or a substitute for legal counsel.

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ALCOHOLIC BEVERAGES DIVISION
State of Iowa

TRADE PRACTICES FAQ

Things of Value

1. Can industry members give, sell, or rent coolers/cooler bags/dump bins to on- or off-premises licensee/permit holders?

   Manufacturers and wholesalers are prohibited from directly or indirectly supplying, furnishing, giving, or paying for any equipment used in the storage, handling, serving, or dispensing of alcoholic beverages and food. Iowa Code § 123.45 and 185 IAC 16.40.

2. Can industry members give, sell, or rent logoed buckets or pitchers to on- or off-premises license/permit holders?

   Manufacturers and wholesalers are prohibited from directly or indirectly supplying, furnishing, giving, or paying for any equipment used in the storage, handling, serving, or dispensing of alcoholic beverages and food. Iowa Code § 123.45 and 185 IAC 16.40.

3. Can industry members give, sell, or rent tents, tables and/or chairs to on- or off-premises license/permit holders?

   Manufacturers and wholesalers are prohibited from directly or indirectly giving, selling, renting, or lending equipment, furnishings, or fixtures to a retailer for use by the retailer or in the retail establishment. Iowa Code §123.45, 185 IAC 16.40, and 27 CFR 6.21.

4. Can industry members give, sell, or rent dispensing equipment, coil boxes, or draft trucks with tapping equipment on the side to on- or off-premises license/permit holders?

   Manufacturers and wholesalers are prohibited from directly or indirectly supplying, furnishing, giving, or paying for any equipment used in the storage, handling, serving, or dispensing of alcoholic beverages and food. Iowa Code § 123.45 and 185 IAC 16.40.

5. Can industry members park a refrigerated truck on an on- or off-premises licensed premises to store extra product in?

   Manufacturers and wholesalers are prohibited from directly or indirectly supplying, furnishing, giving, or paying for any equipment used in the storage, handling, serving, or dispensing of alcoholic beverages and food. Iowa Code § 123.45 and 185 IAC 16.40.

6. Can industry members give, sell, or rent a draft system or walk-in cooler to on- or off-premises license/permit holders?

   Manufacturers and wholesalers are prohibited from directly or indirectly supplying, furnishing, giving, or paying for any equipment used in the storage, handling, serving, or dispensing of alcoholic beverages and food. Iowa Code § 123.45 and 185 IAC 16.40

Things of Value (continued)

ALCOHOLIC BEVERAGES DIVISION State of Iowa

7. Can industry members give t-shirts to on- or off-premises license/permit holders for their employees to wear?

   Manufacturers and wholesalers must **sell** wearing apparel, including sweatshirts, t-shirts, pants, shorts, hats, caps, polo-type shirts, jackets, jerseys, and other similar clothing, which bears substantial permanently affixed advertising identifying the industry member's name or products to a retailer at not less than the industry member's laid-in cost of the items. There is no dollar limitation on wearing apparel which may be sold by an industry member to a retailer. 185 IAC 16.3(6)

8. Can industry members sponsor a band or concert on a licensed premises?

   Sponsorships cannot be offered as an inducement to exclude a competitor's product. Anything offered to one retailer must be uniformly offered to all retailers. Iowa Code §§ 123.45, 123.123, 123.135, 123.172, 123.180, and 27 CFR 6.41

9. Can beer or wine industry members give disposable glassware to on- or off-premises license/permit holders?

   Manufacturers and wholesalers must sell one-time usage cups made of paper, paper laminate, or plastic. Iowa law requires wholesalers to charge the retailer an amount equal to or greater than the cost of the one-time usage cups. Iowa Code § 123.45.

10. Can a retailer demand industry members provide kegs, glasses, etc., at no cost prior to agreeing to carry the industry member's product?

    While retailers may try to negotiate benefits from wholesalers, the law prohibits the granting of some requests. For all items not expressly prohibited, anything an industry member offers to one retailer must be uniformly offered to all retailers. Iowa Code §§ 123.45, 123.123, 123.135, 123.172, 123.180, 123.186, and 185 IAC 16.

Advertising

11. Can industry members provide banners with brand names and/or logos to be erected or placed upon the outside of the on- or off- premises license/permit holders premises?

    Iowa law prohibits advertising on the outside of licensed premises if the advertising contains a brand name. Signs or other advertising matter may be erected or placed inside the premises, inside a fence or similar enclosure which wholly or partially surrounds the premises, or inside a window facing outward from the premises. Anything offered to one retailer must be uniformly offered to all retailers. Iowa Code §§ 123.51, 123.123, 123.135, 123.172, and 123.180.

12. Can industry members give, sell, or rent umbrellas for outdoor service area tables to on-premises license/permit holders?

    Manufacturers and wholesalers may give, sell, or rent table umbrellas to retailers as point-of-sale items. The umbrellas must bear substantial advertising matter about the product or the manufacturer or wholesaler. Anything offered to one retailer must be uniformly offered to all retailers. Iowa Code §§ 123.45, 123.123, 123.135, 123.172, 123.180, 123.186, and 27 C.F.R, § 6.84.

Return of Product

13. Can industry members allow the return of beer, wine, or liquor that annual (12 month) on- or off-premises license/permit holders ordered too much of or is not selling?

    Manufacturers and wholesalers are prohibited by both federal and state law from accepting the return of overstocked and slow-moving beer, wine or liquor. Iowa Code § 123.186, 185 IAC 16.90, and 27 C.F.R. § 11.45.

14. Can industry members allow the return of beer, wine, or liquor that seasonal (6 and 8 month) on- or off-premises license/permit holders ordered too much of or is not selling?

    Manufacturers and wholesalers may accept the return of product from a seasonal licensee, if the product is likely to spoil during the off season. Manufacturers and wholesalers are under no obligation to accept the return of the product. Iowa Code § 123.186, 27 C.F.R. §§ 11.31, and 11.39.

15. Can industry members allow the return of beer, wine, or liquor that temporary (5-day and 14-day) on- or off-premises license/permit holders ordered too much of?

    Manufacturers and wholesalers may accept the return of products that temporary license/permit holders have on hand at the time the retailer terminates business. Manufacturers and wholesalers are under no obligation to accept the return of the product. Iowa Code § 123.186, 185 IAC 16.90, and 27 C.F.R. § 11.35.

Ordering Product

16. Can licenses/permits that are owned by the same person/entity share their alcoholic beverages inventory between their annual licensed location and temporary licensed location?

    Transferring product between retail premises is prohibited. Each premises is separately licensed and is required to operate as a separate business. Each license/permit holder must order product under the unique license/permit granted to each premises. Iowa Code §§ 123.123, 123.130, 123.172, 123.173, and 123.177.

Pricing of Product

17. Can industry members donate beer, wine or liquor to on- or off-premises license/permit holders?

    Iowa law prohibits manufacturers and wholesalers from discriminating between retailers, so manufacturers and wholesalers must uniformly offer all rebates, free goods, or other discounts to all retailers. Iowa Code §§ 123.22, 123.123, 123.135, 123.172, 123.180, and 185 IAC 16.10.

18. Can industry members give a quantity discount or rebate on beer, wine, or liquor purchased by on- or off-premises license/permit holders?

    Iowa law prohibits manufacturers and wholesalers from discriminating between retailers, so manufacturers and wholesalers must uniformly offer all rebates, free goods, or other discounts to all retailers. Iowa Code §§ 123.22, 123.123, 123.135, 123.172, 123.180, and 185 IAC 16.10.

State of Iowa

Alcoholic Beverages Division

Special Event Education

2020

Introduction

Timeline

The Division makes every attempt to process applications in a timely manner. To ensure that your license/permit is approved in time for your event, please be proactive in applying for your license/permit and contacting your dram insurance carrier and local authority. The summer months particularly show an influx of special events, so we encourage you to apply for any license/permit well in advance so as to ensure adequate time for the license/permit to be processed. We typically recommend that you apply at least 45 days in advance of your event to ensure that your application is processed in time.

Licensees/permittees who are not making any changes or updates to their license/permit may continue to sell alcoholic beverages permitted by their license/permit type.

Licensing

Current license/permit holders may continue to sell alcoholic beverages in their licensed premises. The license/permit holder will need to operate within the parameters of their original license/permit type (Example: class ‘‘B” beer permittees can only sell beer and coolers - NOT ALCOHOLIC LIQUOR) and follow all alcohol laws required by Iowa Code chapter 123. However, if a new or existing business wishes to make changes to an existing license/permit or acquire a new alcohol license/permit, the following three options are available.

1. Five-day Licenses/Permits

Persons wanting to sell and dispense alcoholic beverages at a town celebration or other special event must obtain a five-day license/permit. Five-day licenses/permits are valid for a period of five consecutive days. The license/permit term should include the delivery date for alcoholic beverages. License/permit applicants wanting to sell alcoholic beverages on a Sunday within the five-day period must also obtain a Sunday sales privilege. Licensing requirements for five-day licenses/permits are the same as the requirements for annual licenses/permits of the same class. Special event licenses/permits may be issued for on-premises locations only.

2. Outdoor Service Areas (patios, beer gardens, etc.)

Outdoor service areas are designated areas which are outside of the original licensed premises. Outdoor service areas are considered extensions of existing licensed premises, however, they are not automatically included as part of the licensed premises. Only products permitted by the license/permit may be served. Licensees/permittees may not sell or serve any alcoholic beverages in an outdoor area until they have met licensing requirements by filing the following documents with the local authority:

3. License Transfers

Buying

Iowa law requires licensees/permittees to make their records available to law enforcement officials and to members of the Iowa Alcoholic Beverages Division during business hours and when the licensee/permittee, their employees, agents or patrons are on the licensed premises. Licensees/permittees are expected to have receipts on hand for any equipment, furnishings, or fixtures that have been purchased or rented.

Ages t

Outside Advertising

Licensees/permittees may advertise price and brand names of liquor, wine and beer in the following manner:

Sales to Intoxicated Persons

- Iowa kids not to consume alcohol products
- Iowa retailers not to sell alcohol to minors
- Iowa licensees not to serve alcohol to patrons under 21
-Iowa's law enforcement to enforce alcohol laws.

CERTIFICATION After successfully passing the final test, participants will receive a printable certificate of completion. The certification is valid for a period of two years. However, if an individual is cited for a sale-to-minor, the certification is revoked. The training may be taken again for recertification.

SIGN UP

I-PACT is available 24 hours a day, seven days a week, at I-PACT.com or through the ABD's website at https://abd.iowa.gov/

Why should you participate in I-PLEDGE?
The overall goal of I-PLEDGE is an increase of voluntary compliance with the state's tobacco, alternative nicotine and vapor products laws through education and enforcement. The core objective of the program is to prevent illegal sales of tobacco, alternative nicotine and vapor products by educating retailers and increasing awareness of changes in Iowa's tobacco, alternative nicotine and vapor products laws.

What will you learn from I-PLEDGE?
While enforcement of Iowa's tobacco, alternative nicotine and vapor product laws is an important goal of I-PLEDGE, education of both law enforcement and the state's retailers is the primary focus of the program. The content focuses on key identifying elements of the latest format of Iowa driver's licenses, but also includes information on the previous version of licenses and identification and how to spot altered and fake IDs. The program focuses on preventing underage sales and when not to make a sale. Participants will learn techniques for refusing the sale of tobacco, alternative nicotine and vapor products with minimal confrontation and how to legally confiscate an altered or fake ID.

Who should take the I-PLEDGE?
All individuals who sell tobacco, alternative nicotine and vapor products as well as holders of retail licenses should take the training. However, anyone who is interested may take the training free of charge.

- Iowa's kids to pledge not to use tobacco, alternative nicotine and vapor products
- Iowa's retailers to pledge not to sell tobacco, alternative nicotine and vapor products to kids
- Iowa's law enforcement to pledge to enforce tobacco, alternative nicotine and vapor products laws in the state

Civil & Criminal Penalties
Violations for illegal sales of tobacco, alternative nicotine and vapor products to minors include a $100 criminal fine to the clerk as well as a $300 civil fine to the retail establishment for the first violation. Subsequent violations result in higher fines, license suspension or even revocation.

Certification
After successfully passing the final test, participants will receive a printable certificate of completion. The certification is valid for a period of two years. However, if an individual is cited for a sale-to-minor, the certification is revoked. The training may be taken again for recertification.

time the offense occurred. Only the business is eligible to avoid a civil penalty; the guilty employee will still be subject to a fine and his/her I-PLEDGE certification will be revoked.

ALCOHOLIC BEVERAGES DIVISION
State of Iowa

Stephen Larson, Administrator

Iowa ABD Age to Purchase Mobile App

What is it?

The Iowa ABD Age to Purchase App allows users to scan driver's licenses with their smartphone. No personal information of the customer is stored on the device. The built-in scanning function uses the camera feature on the device to scan the barcode on the driver's license to quickly help determine age and validity. The app also gives users access to a view similar to the desktop calendars previously issued by ABD and a manual DOB calculator.

This app is strictly a supplemental tool and is not a replacement for any reasonable and necessary steps or factual evidence that may be needed to determine the age of a person.

Who should use it?

Anyone that is looking for assistance in determining the age of customers while selling or serving alcohol, tobacco, alternative nicotine, or vapor products should use this app.

Additional Features

The app also contains links to ABD's two online training programs, I-PACT and I-PLEDGE, which help teach responsible selling and serving of alcohol, tobacco, alternative nicotine, and vapor products.

The Iowa ABD Age to Purchase App is available to download for free from the App Store and Google Play Store.

App Store: https://itunes.apple.com/us/app/iowa-abd-age-to-purchase/id1437250743?ls=1&mt=8

Google Play Store: https://play.google.com/store/apps/details?id=gov.iowaabd.agetopurchase

1. The words “no smoking” or the international “no smoking” symbol
2. The Smokefree Helpline: “1-888-944-2247”
3. The official Web site: smokefreeair.iowa.gov

NOTE: The information provided in this document is not intended to be legal advice. Please consult state statutes or contact an attorney for additional information about the Smokefree Air Act (Iowa Code 142D).

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NOTE: The information provided in this document is not intended to be legal advice. Please consult state statutes or contact an attorney for additional Iowa Department of Public Health, Division of Tobacco Use Prevention & Control 1 1-888-944-2247 (Updated May 20, 2010)

NOTE: The information provided in this document is not intended to be legal advice. Please consult state statutes or contact an attorney for additional information about the Smokefree Air Act (Iowa Code 1420).

September 29, 2017 f

Number: 2017-2 f

TTB Ruling f

Revised - Freshness Dating and Allowable Returns of Malt Beverage Products under f the FAA Act f

The Alcohol and Tobacco Tax and Trade Bureau (TTB) has been asked to clarify the circumstances under which trade buyers[1]f may return to industry members[2], and under which industry members may receive, malt beverage products that have been f deemed unsuitable for sale because of freshness concerns without violating the consignment sales provision of the Federal f Alcohol Administration Act (FAA Act) and TTB regulations. TTB Ruling 2012-4 is superseded. f

TTB RULING 2017-2 f

Background f

Some brewers assign a coded "p f date" to their prod cts to prevent sta e or o tdated prod cts rom remaining in the market. f Brewers who assign p f date coding ask that who esa ers remove ma t beverage prod cts based on the p f date and rep ace f them with resh prod ct. These brewers be ieve that re ying on the who esa er to monitor the p f date wi ens re that on y resh f prod cts are in the retai market and that cons mers do not p rchase sta e or spoi ed ma t beverages. f

Brewers who inc fde a " reshness date" on their prod cts be ieve that s ch statements a ow cons mers to make p rchasing f decisions based on the reshness date. These brewers a so assert that reshness dating is a q a ity contro too that o ers some f ass rance that i the cons mer p rchases a ma t beverage be ore that date, the prod ct wi not be deteriorated or spoi ed. f

On November 19, 2012, TTB iss ed f ing 2012-4, which c ari ied the circ mstances fnder which retai ers may ret rn to f who esa ers, and fnder which who esa ers may receive, ma t beverage prod cts that have been deemed fns itab e or sa e f beca se o freshness concerns witho t vio ating the consignment sa es provision o the FAA Act. S fbseq ent y, TTB has f received q estions rom ind stry members abo t whether the ho ding in TTB f ing 2012-4 a so app ies to transactions between f a who esa er and a brewer. Acfcording y, this f ing modi ies and s persedes TTB f ing 2012-4 and c ari ies the circ mstances f nder which trade b fyers may ret rn to ind fstry members, and fnder which ind fstry members may receive, ma t beverage f prod cts that have been deemed fns itab e or sa e beca se o freshness concerns witho t vio ating the consignment sa es f provision o the FAA Act and the TTB reg fations. TTB f ing 2012-4 is restated be ow in its entirety, with on y c ari ying f changes. f

Authority f

The Secretary o the Treas ry is a thorized to prescribe reg fations regarding fn air competition and fn aw f trade practices f invo ving the sa e o fwine, disti ed spirits, and ma t beverage prod fcts fnder 27 U.S.C. 205. In the case o fma t beverages, trade f practice provisions o the FAA Act app y on y i the aws o the State into which the ma t beverage prod cts are so d or shipped f impose simi ar req irements. TTB f ses r ings to c ari y the provisions o the FAA Act and imp ementing reg fations, when f appropriate. f

Discussion f

The consignment sa es provision o the FAA Act, 27 U.S.C. 205(d), makes it n aw f or an ind stry member (s ch as a f prod cer, importer, or who esa er o ma t beverages, wines, or disti ed spirits) to se , o er or sa e, or contract to se fto any f trade b yer (a who esa er or retai er), or or a trade b yer to p rchase, o er to p rchase, or contract to p rchase any prod cts f (a) on consignment; or (b) fnder conditiona sa e; or (c) with privi ege o ret rn; or (d) on any basis other than a bona ide sa e; f or (e) i any part o the sa e invo ves, direct y or indirect y, the acq isition by s ch person o prod cts rom the trade b yer or the f agreement to acq ire other prod cts rom the trade b yer. However, section 205(d) does not prohibit transactions invo ving the f bona ide ret rn o prod cts or "ordinary and fs a commercia reasons arising a ter the merchandise has been so d". f

TTB reg fations prom ugfating a owab e (that is, ordinary and fs a) reasons or ret rns fnder section 205(d) are o nd in 27 f CF f part 11, S bpart D — f es or the f et rn o Disti ed Spirits, Wine, and Ma t Beverages. Sections 11.32 thro gh f1.39 (27 f CF f 11.32 thro gh f1.39) o this s bpart speci y what are considered "ordinary and fs a commercia reasons" or the ret rn o f prod cts, and o t ine the conditions and imitations or s ch ret rns. The ordinary and fs a commercia reasons isted fnder §§ f 11.32 thro fgh f1.39 inc fde: f

- De ective prod fct; f
- Shipment error; f

- A change in the aw preventing sa e o the prod ct; f
- Termination o the b yer's b siness or ranchise; f
- Change in prod ct rom that in inventory; f
- Prod ct in inventory is discontin ed; or f
- Possib e spoi age o prod ct d ring the o fâ€'season o a seasona retai dea er. f

Whi e ind stry members have the option to accept exchanges and ret rns or the ordinary and fs a commercia reasons isted f in §§ f1.32 thro fgh f1.39, they are fnder no ob igation to do so. f

Sections f1.45 and f1.46 o S fbpart D (27 CF f 11.45 and f1.46) indicate that ret rns or exchanges o prod cts that are mere y f overstocked, s ow-moving, or are seasona in nat re, s ch as ho iday decanters and certain distinctive bott es, do not constit te f ret rns or ordinary and fs a commercia reasons. f

TTB Determination f

Under the o owing conditions, TTB wi consider the ret rn o ma t beverages or cash or credit against o tstanding f indebtedness or exchange o s ch ma t beverages or reshness reasons as a ret rn by a trade b yer or ordinary or commercia f reasons fnder 27 CF f 11.32: f

- The brewer has po icies and proced fres in p ace that speci y the date the retai er m usf p f the prod fct; f
- S fch brewer's reshness ret rn/exchange po icies and proced res are readi y veri iab e and consistent y o owed by the f brewer; f
- The container has identi ying markings that correspond with this date; and f
- The ma t beverage prod fct p f ed by the trade b fyer may not re-enter the retai marketp ace. f

TTB be ieves this po icy addresses the rea ities o modern marketing practices whi e minimizing the possibi ity that the ind stry f wi f se reshness dating ret rns as a s bter ge or disposing o s ow-moving prod cts. f

However, i TTB determines that, nder the pretext that the trade b yer may exchange the prod ct based fpon reshness, an f ind stry member is enco raging, req iring, or orcing a trade b yer to overstock its prod cts (i.e., p rchase more o its prod cts f than it may otherwise reasonab y expect to se), or i a trade b yer agrees to p rchase more o an ind stry member's prod cts f than it may otherwise reasonab y expect to se , TTB may investigate the ind stry member and trade b yer or vio ating the f consignment sa es and/or tied ho fse provisions. (*See* 27 U.S.C. 205(b)(7) and (d), as imp emented fnder 27 CF f 6.71, f 11.21(c), 11.31, and f1.45.) Moreover, i ind stry members re-introd ce into the retai marketp ace ma t beverages that were f ret rned or exchanged or reshness p rposes, TTB may investigate whether the p rported reshness p rpose was a mere f s bter fge to vio ate these same consignment sa es and/or tied ho fse provisions. f

Held, s bject to the conditions described above, TTB considers the exchange o an identica q antity o the same brand or the f ret rn or cash or credit against o tstanding indebtedness or reshness concerns as a ret rn by a trade b yer or ordinary or f commercia reasons fnder 27 CF f 11.32. f

Date Approved: September 29, 2017 f

[1] Any person who is a who esa er or retai er o fdisti ed spirits, wine, or ma t beverages.Â f(*See* 27 CF f 11.11.) f

[2] Any person engaged in b siness as a disti er, brewer, recti ier, b ender, or other prod cer, or as an importer or who esa er, o f disti ed spirits, wine or ma t beverages, or as a bott er, or wareho fseman and bott er, o fdisti ed spirits.Â f(*See* 27 CF f 11.11.) f

John J. Man reda f
Administrator f
A coho and Tobacco Tax and Trade B frea f

Contact the Division

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