



ADVISORY NOTICE NO. 10 (8TH REVISION)

TRADE PRACTICES

July 17, 2019

TO: ALL RETAIL LICENSEES, WHOLESALE LICENSEES, MANUFACTURERS, IMPORTERS, AND HOLDERS OF VENDOR'S PERMITS

NOTE: This notice is issued to replace in its entirety previous PLCB Advisory Notice No. 10 dated May 15, 2019.

The purpose of this notice is to summarize the more pertinent information relating to trade practices for retail and wholesale licensees, manufacturers, importers, and vendor's permit holders, as formerly contained in previous PLCB Bulletins and as affected by current provisions of the Liquor Code and Board Regulations.

A. Inducements Prohibited. In Pennsylvania, it is generally unlawful to give, solicit, or receive anything of value as a direct inducement to purchase alcoholic beverages. Even intangible things of value given as an inducement to purchase, such as favors or considerations, are prohibited. Exceptions to this general rule are enumerated below:

- 1. Samples.** Samples for market research and for the purpose of educating consumers may be provided as follows:
 - a. Malt Beverage Manufacturers, Distributors (D) and Importing Distributors (ID) - Samples may be provided by manufacturers' representatives and D and ID licensees to licensed and unlicensed customers. Samples must be in unopened containers of the smallest commercially available size and the providing of such samples cannot be conditional upon any purchase requirement. Samples may not be opened or consumed on D or ID licensed premises. Samples are limited to one container per patron in any offering.
 - b. Liquor and Wine Manufacturers, Vendors and Vendors' Agents - Samples may be provided to licensees and non-licensees subject to Board Regulations as contained in Title 40 Pa. Code (Board's Regulations), Chapter 13, Subchapter B, Marketing by Vendors and Agents. Such samples must be procured and marked in accordance with Board Regulations and may not be left on retail licensed premises.
- 2. Tastings.** Product tastings for market research and for the purpose of educating consumers as to the qualities and availability of wines, spirits, or malt/brewed beverages may be conducted by agents or employees of licensed vendors,

importers, manufacturers, Ds, and IDs on licensed or unlicensed premises, provided they adhere to the following:

- a. Products used are legally procured, properly registered, and taxes paid.
- b. There is no purchase requirement associated with the tasting.
- c. There is no cooperative advertising associated with the tasting event.
- d. No more than one standard size alcoholic beverage of each product shall be provided to each tasting participant.

A standard size alcoholic beverage is 12 fluid ounces of a malt or brewed beverage, 4 fluid ounces of wine (including fortified wine) or 1 1/2 fluid ounces of spirits.

Please note that while retail licensees cannot self-sponsor a tasting event, they are free to offer small portions for tasting purposes as part of their regular pricing and may offer a free drink in accordance with the following paragraph.

- 3. Bar Spending/Giving Free Drinks.** Representatives of manufacturers and retail licensees may give to or purchase an alcoholic beverage for consumers in retail licensed premises (hotels, restaurants, clubs) provided the giving of the alcoholic beverage is not contingent upon the purchase of any other alcoholic beverage. Bar spending or free drinks cannot exceed one standard size alcoholic beverage per patron in any such offering.
- 4. Educational Seminars.** Licensees of any class may conduct educational seminars for other licensees or groups of licensees providing only instruction to participants. Licensees conducting seminars may not assume the costs for food, alcoholic beverages, lodging, or transportation for attendees.
- 5. Interior Displays.** Retail licensees may utilize signs and displays which have been approved by the Board in accordance with section 13.42 or 13.43 of the Board's Regulations, as applicable, advertising the brands produced by any one manufacturer of liquor or malt/brewed beverages subject to the following conditions:
 - a. Window and Doorway Displays
 - i. May be furnished at no charge by manufacturers, IDs, or Ds.
 - ii. May not exceed 600 square inches.
 - iii. Individual signs or placards may contain more than one brand produced by an individual manufacturer.
 - iv. There is no cost limit for window and doorway displays.
 - b. Interior Point-of-Sale ("POS") Displays
 - i. May be furnished at no charge by manufacturers, IDs, or Ds.

- ii. The total cost of all POS advertising material relating to any one brand of any one manufacturer displayed at any one time may not exceed \$300, whether one item or several items.
 - iii. There is no size limit for interior displays.
- c. Signs or displays used in a window and/or doorway and in the interior shall meet the requirements for both maximum area and maximum value.

6. Advertising Novelties. Novelty items bearing advertising matter may be distributed with or without proof of purchase by any class of licensee to trade (licensee) or consumer buyers. Advertising novelty items are limited to a wholesale cost of \$15 or less each. Licensees are cautioned, however, that section 493(17) of the Liquor Code prohibits a licensee from providing equipment or fixtures to other classes of licensees. Thus, advertising novelties given to a licensee may not be used as equipment or as a fixture in a licensed business, although they may be passed along to consumers. If a licensee receives an advertising novelty from another class of licensee and uses it as equipment, instead of passing it along to a consumer, it could be the basis for a citation.

Assuming they bear advertising matter and have a wholesale cost of \$15 or less, the following are examples of items that would be permissible to give to both consumers and retail licensees as advertising novelties (provided they are not used as equipment by the retail licensee):

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|-------------------------|--------------------------|
| • Matches | • Stoppers |
| • Lighters | • Ashtrays |
| • Bottle openers | • Glasses/mugs* |
| • Corkscrews | • Towels |
| • Hats | • Rail and floor mats |
| • T-shirts | • Napkins/napkin holders |
| • Pens | • Bar caddies |
| • Buckets | • Aprons |
| • Wearables | • Cocktail shakers |
| • Lanyards | • Muddlers |
| • Tap handles* | • Ice molds |
| • Menu books/food menus | • Infusion jars |
| • Pourers | • Umbrellas |

* By statute, glasses, mugs, and cups may only be sold to other licensees at not less than cost, while tap knobs and metal keg connectors may be given to other licensees regardless of cost. These items may be used as equipment by retail licensees. 47 P.S. § 4-493(17).

Advertising Banners/Signs – Advertising banners/signs for exterior use are considered advertising novelties by the Board if the banner/sign conspicuously advertises the products sold by the licensee or the name of the manufacturer of

products sold by the licensee. The wholesale cost of such banner/sign must be \$15 or less each. Outside advertising banners/signs must comply with the provisions of section 498 of the Liquor Code. Advertising and banners/signs that are used for interior display are not subject to the \$15 advertising novelty cost limit but are subject to the \$300 per brand POS advertising limit set forth in section 493(20)(i).

In addition to signs and banners, the following are examples of interior POS material subject to the \$300 per brand limit:

- Mirrors
- Back bar pedestals/bottle glorifiers
- Barrels**
- Vinyl wraps

** May not be used by retail licensees as equipment when given by manufacturers or other licensees.

7. Wine Lists/Menus. Manufacturers or importers may furnish, give, rent, loan, or sell wine lists or menus to retail licensees. Such wine lists/menus may involve cooperative endeavors related to cost sharing and advertisement between manufacturers/importers and retail licensees. Wine lists/menus for on-premises use may contain pre-printed prices.

8. Routine Business Entertainment. Manufacturers and licensees may give or receive meals and/or tickets to entertainment events. The donor or a representative must accompany the recipient during the entertainment, which is limited to \$800 per licensee per year.

B. Promotional Items. Licensees of any class may sell promotional items advertising their own business only, such as t-shirts, mugs, caps, etc., to the public.

C. Manufacturer's Rebate Coupons. In accordance with section 493(24) of the Liquor Code, which permits the offering of monetary rebates on purchases of wine, spirits, and malt/brewed beverages by manufacturers or their agents, the Board has established the following conditions for coupon offers:

1. Malt/Brewed Beverages

- a. Rebate coupons are redeemable by mail only on purchases made by consumer buyers at Ds or IDs only; no licensee is permitted to directly or indirectly participate as the recipient of a monetary rebate.
- b. A coupon must contain the following information:

- i. Initiation and expiration date of the coupon.
 - ii. The rebate value.
 - iii. Provision for the name and address of the individual redeeming the coupon.
 - iv. The identity of the manufacturer or manufacturer's agent.
 - v. A description of the product including, but not limited to, the brand name and size.
 - vi. A warning statement that the purchase of the product and the rebate offer is restricted to persons of 21 years or older.
- c. All coupon offers must require submission of proof of purchase in the form of sales slip or cash register receipt. Malt/brewed beverage coupon rebate offers may also require additional product related proofs of purchase.
 - d. Manufacturers must maintain complete records of each coupon offering available for inspection for a period of at least two years following the expiration date of each offering.

2. Wine and Spirits

- a. Rebate coupons may only be redeemed, whether instantly or by mail, by consumers on purchases made at Fine Wine & Good Spirits stores; no licensee is permitted to directly or indirectly participate as the recipient of a monetary rebate.
- b. Proof of purchase is required for redemption.
- c. Vendors offering instant rebate coupons must obtain prior approval for any POS material through the PLCB's Bureau of Marketing Communications, Branding & Design.

D. Brand Name Cooperative Advertising Between Malt/Brewed Beverage Manufacturers and Importing Distributors or Distributors. Pursuant to section 493(20)(ii) of the Liquor Code, after prior written agreement, manufacturers may reimburse IDs or Ds for the cost of painting the manufacturer's beer brand logos on IDs or Ds delivery vehicles.

E. Sweepstakes/Contests. Manufacturers, manufacturer's representatives, or licensees may sponsor sweepstakes/contest promotions subject to the following conditions:

1. No purchase is necessary to enter.
2. Entrants must be 21 years of age or older.
3. Retail licensed premises (restaurants, hotels, clubs, and eating places) may only be involved as pick-up or drop-off points for entry forms and not for the conducting of drawings or the awarding of prizes.

4. Alcoholic beverages may not be part of any prize.

It should be noted that on-premises events/tournaments/contests are addressed in the Board's Regulations under Chapter 5, Subchapter C, Amusement and Entertainment.

Finally, trade practices are further regulated by the U.S. Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB). In this regard, it is advisable to consult Title 27 of the Code of Federal Regulations.

The provisions of this Advisory Notice are effective immediately. Please govern your operations accordingly.

**BY ORDER OF:
PENNSYLVANIA LIQUOR CONTROL BOARD**

A handwritten signature in black ink, reading "John K. Stark". The signature is written in a cursive, flowing style.

JOHN K. STARK
Secretary to the Board