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# Trade Practices Survey





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# Alabama

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No

Is there any penalty if the retailer goes into arrears? No

May a manufacturer or distributor sell on COD to retailer in arrears? No

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. Any point of sale must be purchased from the manufacturer and a limit of \$300 is placed on any single item.

Are there any time limitations on use of the product display? Have adopted Federal "Tied House" Exceptions (27 CFR 6.83)

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? \$300 limit per item per brand

May the retailer keep the thing of value after the product display is disassembled? Yes

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84). Inside signs cannot be seen from the street.
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	No
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Cost
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	The retailer has ownership of the sign.

### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	Yes

### BEER TAP HANDLES

Whose property is a beer tap handle?	The manufacturer or distributor
Who keeps it when the keg is finished?	The manufacturer or distributor

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.



## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	No
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.88)
May a manufacturer or distributor provide supplies to a retailer?	No

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Loaned.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. One 750ml per new brand per licensee every 6 months.
Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	Yes. Retail license location.
Are there record keeping requirements for samples?	No

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Are there any tax implications for record keeping requirements for samples?	No
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

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May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	Yes. No more than \$300 worth of donations
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes. No more than \$300 worth of donations.
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May a manufacturer or distributor donate to the trade association of a retail licensee?	No
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

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## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes. Use tied-house laws to determine extent of meals.
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer?	Yes
May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	Yes
May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Have adopted Federal "Tied House" Exceptions (27 CFR 6.98)

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	Yes. Cannot be displayed on the Alabama ABC Webpage or Facebook page
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

### Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Did not respond
May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No

On a full store reset, may a manufacturer or distributor reset the products of a competitor?	If the retailer gives the manufacturer/distributor permission to reset competitor products
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.94)
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	No
May a manufacturer or distributor offer “no charge” products to a retailer?	One 750ml bottle of a new product every six months per licensee
What is the definition of “no charge” products?	Sample bottle and 750ml format only

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Yes
If applicable, which of the following types of coupons would be allowed?	Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	No

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Yes. The distributor has to draw their own prizes at the end of the display program. They draw two names, the first has one week to pick up or the second person is called. If neither pick up the item then the distributor is responsible for collecting the prize.
May prizes be displayed on the retail premise?	Have adopted Federal "Tied House" Exceptions (27 CFR 6.96)

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes
May prizes be displayed on the retail premise?	Yes

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	No
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<p>May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?</p>	<p>On-premise locations only</p>
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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<p>Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?</p>	<p>No</p>
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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<p>Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?</p>	<p>No</p>
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<p>Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?</p>	<p>No</p>
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

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<p>May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?</p>	<p>No</p>
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<p>May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?</p>	<p>No</p>
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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Yes
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

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10	Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	No
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## Private and Control Labels

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	Yes
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
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Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes
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How much control can a retailer exert over a manufacturer's branded product (control label)?	None
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Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
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## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	No
May a third party provider occupy a retail operation for an event?	Yes
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	Did not respond
Are there limitations on third party events?	No
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No
Is cider subject to the same trade practice laws as any other alcohol products?	Wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	25
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Yes
What penalties are provided for in a licensee trade practice violation?	The ABC Board has the authority to levy a fine of up to \$ 1,000.00, to suspend a license for up to a year or to revoke the license.
Are retailers subject to trade practices law violations in your jurisdiction?	Yes

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	There are no direct sales, all product must come through the ABC warehouse as described in the three tier system.
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes. There are several national account programs that are pitched by suppliers at a corporate level but all product and promotions must be approved by the state. Alabama utilizes Licensing and Compliance Responsible Vendor Programs Product Management Enforcement.

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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer?	Yes. This is in the state
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<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer?	Yes
--	-----

Is there any penalty if the retailer goes into arrears?	No
---	----

May a manufacturer or distributor sell on COD to retailer in arrears?	Yes
---	-----

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

Yes

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer?	Yes
---	-----

Are there any time limitations on use of the product display?	Did not respond
---	-----------------

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?	Did not respond
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May the retailer keep the thing of value after the product display is disassembled?	Did not respond
---	-----------------

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

### Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Yes
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**INSIDE SIGNS**

Are there cost, size, or placement restrictions?	Did not respond
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**ILLUMINATED INSIDE SIGNS**

May they be seen from outside (in window, etc.)?	Yes
--	-----

May the retailer be reimbursed for electricity, etc.?	Yes
---	-----

If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	It is not regulated.
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	
---	--

**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

May a manufacturer or distributor provide such lists to a retailer?	Yes
---	-----

May a manufacturer or distributor pay the retailer to get on the list?	Yes
--	-----

May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	Yes
---	-----

May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	Yes
---	-----

**BEER TAP HANDLES**

Whose property is a beer tap handle?	Did not respond
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Who keeps it when the keg is finished?	Did not respond
--	-----------------

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

**Consumer Advertising Specialties<sup>1,2</sup>**

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes
---	-----

<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Did not respond
May a manufacturer or distributor provide supplies to a retailer?	Yes
<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business <sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc. <sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business <sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.	

## Outside Signs<sup>1, 2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Yes
<sup>1</sup> Definition: A sign erected or hung outside the retail premises <sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.	

## Samples<sup>1, 2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Did not respond
Are there record keeping requirements for samples?	Did not respond
Are there any tax implications for record keeping requirements for samples?	Did not respond
<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand <sup>2</sup> Example: A bottle of a newly introduced brand of wine	

## Donations to Retailer Events, Licensed Charity Events<sup>1, 2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	Yes
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes

---

May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes
---	-----

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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

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May a manufacturer or distributor pay a slotting allowance to a retailer?	Yes
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	Yes
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

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## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

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## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

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May a manufacturer or distributor make advertisements beneficial to a retailer?	Not regulated
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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	Not regulated
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May a manufacturer or distributor list the name or address or two or more retailers where their brands may be purchased? Yes

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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## **Social Media Advertising<sup>1,2</sup>**

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May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? Did not respond

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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## **Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>**

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May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Did not respond

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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Yes

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In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises? Yes

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On a full store reset, may a manufacturer or distributor reset the products of a competitor?

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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer's back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor's category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	Generally not restricted.
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Yes
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer's history or product techniques or product familiarization, etc.

## Volume Discounts and "No Charge" Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	Yes
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May a manufacturer or distributor offer "no charge" products to a retailer?	Yes
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What is the definition of "no charge" products?	Did not respond
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of "No Charge" Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The "no charge" products/items are tied to buying a different product/brand in volume or as part of the deal



## CONSUMER PROMOTIONS

*Jurisdiction's allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for "cents off" purchases of alcohol beverages?	Did not respond
If applicable, which of the following types of coupons would be allowed?	Did not respond.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	Generally not restricted
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Did not respond

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for "cents off" on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

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### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Yes
May prizes be displayed on the retail premise?	Did not respond

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

### Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes. No prizes involving consuming alcohol by the drink
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May prizes be displayed on the retail premise?	Yes
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	Yes
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	A catering permit must be obtained
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	Generally not restricted
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	Generally not restricted
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	Yes. On-Premise channel. Off-Premise channel
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	Generally not restricted.
May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	Did not respond
May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Did not respond

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Generally not restricted
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	Generally not restricted
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## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Generally not restricted

How much control can a retailer exert over a manufacturer's branded product (control label)?	Did not respond
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	Generally not restricted
<b>Promotional Events<sup>1</sup></b>	
Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Generally not restricted
May a third party provider occupy a retail operation for an event?	Generally not restricted
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	Generally not restricted
Are there limitations on third party events?	Generally not restricted
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Generally not restricted
Is cider subject to the same trade practice laws as any other alcohol products?	Beer and wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	Did not respond
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	Did not respond
Are retailers subject to trade practices law violations in your jurisdiction?	No

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	None
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes. No monitoring utilized

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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer?	No
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<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer?	No
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Is there any penalty if the retailer goes into arrears?	Yes
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May a manufacturer or distributor sell on COD to retailer in arrears?	No
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<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer?	Did not respond
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Are there any time limitations on use of the product display?	\$300.00 per rack and must be branded
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#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?	Only a facsimile of an item. No items of value.
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May the retailer keep the thing of value after the product display is disassembled?	No
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## **Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Only to a on-premises account. Limited to \$500.00 worth of qualifying items that are branded. Can only be supplied by a Wholesaler. Nothing from a Producer.
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### **INSIDE SIGNS**

Are there cost, size, or placement restrictions?	\$400.00 per sign and signs remain property of Wholesaler or Producer. Cannot be utilitarian.
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### **ILLUMINATED INSIDE SIGNS**

May they be seen from outside (in window, etc.)?	Yes
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Fair Market Value
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Wholesaler owns it.

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### **WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

May a manufacturer or distributor provide such lists to a retailer?	Items covered under the \$500.00 fair market value a year provided by Wholesaler. Cannot be utilitarian.
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	Yes. Covered under the \$500.00 of items of value.

### **BEER TAP HANDLES**

Whose property is a beer tap handle?	Wholesaler
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Who keeps it when the keg is finished?	Wholesaler
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. \$5.00 per item unlimited amount. If item is valued over \$5.00 then limited to maximum of \$100.00 of items in a day for items over \$5.00.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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May a manufacturer or distributor provide equipment to a retailer?	Yes. All items to install or maintain a draft system cannot be given to a retailer. Must be paid fair market value. Glassware can be sold to retailer at no less than cost. Can only be done by Wholesaler
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Fair Market Value. Only items for use in front of house that clearly advertise product. Promotional items only not to exceed \$500.00 in a year and only supplied by Wholesaler
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May a manufacturer or distributor provide supplies to a retailer?	Yes. Only items for use in front of the house and items are promotional items clearly branded. Can only be supplied by Wholesaler.
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.



## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Loaned. \$400 or less per sign and cannot be utilitarian. Cannot have business information on the sign.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. Only if the retailer has not purchased that product in the last 12 months.
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes. Retail license location.
Are there record keeping requirements for samples?	Yes
Are there any tax implications for record keeping requirements for samples?	Yes

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes. Only if a Special Event Liquor License was issued.
May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes. Trade association must include at least 5 separate retailers with no common ownership.

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes. Producer or Wholesaler must accompany retailer to event. No air transportation can be supplied.
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

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May a manufacturer or distributor make advertisements beneficial to a retailer?	No
---	----

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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No
--	----

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May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Cannot advertise for retailer or any information about the retailer.
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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
---	----

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Did not respond
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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	No
--	----

In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
--	----

On a full store reset, may a manufacturer or distributor reset the products of a competitor?	No
--	----

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer's back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor's category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
--	----

<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	At a licensed premises
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May a manufacturer or distributor also provide nominal hospitality?	No
---	----

May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Yes. Only a meal of nominal value.
---	------------------------------------

<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer's history or product techniques or product familiarization, etc.

## Volume Discounts and "No Charge" Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	Must be available to all licensees at the same price.
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May a manufacturer or distributor offer "no charge" products to a retailer?	Must be available to all retailers.
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What is the definition of "no charge" products?	Buy one get one at no charge
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of "No Charge" Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The "no charge" products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction's allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for "cents off" purchases of alcohol beverages?	Only in the amount that the retailer has of qualifying items available.
If applicable, which of the following types of coupons would be allowed?	Did not respond.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for "cents off" on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
May prizes be displayed on the retail premise?	No

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

### Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes
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May prizes be displayed on the retail premise?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

---

May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	<p>Sampling guidelines:</p> <p>On premise limits (12 OZ beer, 6 OZ wine, 2 OZ spirits) per person per brand</p> <p>Off-Premise limits (3 OZ beer, 1.5 ounce wine, .5 ounce spirit) per person per day</p>
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	No
---	----

---

<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	<p>Two Channels: On-Premise and Off-Premise</p> <p>All locations get same price depending on channel</p>
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? Yes

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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No

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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes. Value added packaging.

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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? No

## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	No
How much control can a retailer exert over a manufacturer's branded product (control label)?	Did not respond
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No

## Promotional Events<sup>1</sup>

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Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. As long as it is not a tied house issue and the public cannot be restricted from entry.
May a third party provider occupy a retail operation for an event?	Yes
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No exclusive deals
Are there limitations on third party events?	Yes. All licenses in Arizona are public use licenses and public cannot be restricted from entry
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No
Is cider subject to the same trade practice laws as any other alcohol products?	Beer and wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.



## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	1
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Yes
What penalties are provided for in a licensee trade practice violation?	\$1,000.00 per count first offense \$2,000.00 per count second offense \$3,000.00 per count third offense and hearing
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Cannot violate coercion and bribery statutes.
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	No

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? Yes. Supplier may extend 30 days of credit.

Is there any penalty if the retailer goes into arrears? No. There is no penalty unless supplier sells to a retailer who has unpaid invoices over 30 days.

May a manufacturer or distributor sell on COD to retailer in arrears? Yes

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. Alcoholic beverage suppliers may furnish temporary floor displays. Racks or other devices that hold alcoholic beverages and are used on the sales counter or anywhere else other than in the window or on the floor must either be rented or sold by the supplier to the retailer.

Are there any time limitations on use of the product display? Temporary floor displays may not exceed four months.

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? No

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May the retailer keep the thing of value after the product display is disassembled? No

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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

**Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer? Wine and distilled spirits advertising specialties are permitted with certain limitations. Beer advertising specialties are not permitted.

**INSIDE SIGNS**

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Are there cost, size, or placement restrictions? A supplier may furnish interior signs advertising alcoholic beverages sold by him to a retailer for use within on-sale or off-sale premises, provided that the signs are not customized or personalized and no such sign relating to wine or distilled spirits for use within an on-sale premises shall exceed 630 square inches. Interior signs furnished by suppliers which advertise distilled spirits and wine shall have no secondary value and be of value to the retailer only as advertising.

**ILLUMINATED INSIDE SIGNS**

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May they be seen from outside (in window, etc.)? Yes. Except for the restriction at off-sale retail premises which are gas stations. Section 23790.5(d)(5) B&P which states, “No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on buildings or windows.”

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May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Ownership and maintenance of the illuminated signs are retained by the supplier.
<b>WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS</b>	
May a manufacturer or distributor provide such lists to a retailer?	Rule 106 CCR, Title IV, Division 1 imposes some limitations for wine and distilled spirits, such as a \$25 per unit cost limitation and suppliers may not make payment to a retailer for the purchase of wine or distilled spirits lists or reimburse a retailer for the purchase of wine or distilled spirits lists.
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	No
<b>BEER TAP HANDLES</b>	
Whose property is a beer tap handle?	According to Rule 131 CCR, the beer tap belongs to the supplier.
Who keeps it when the keg is finished?	The supplier

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. Consumer advertising specialties limited to \$0.25 per unit cost to the supplier and such items may be given to a retailer up to \$15.00 in the aggregate.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes. Certain draft equipment may be furnished to a retailer per Rule 131 of the California Code of Regulations, Title IV, Division 1 and Section 25510 of the California Business and Professions Code.
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
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May a manufacturer or distributor provide supplies to a retailer?	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	No
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. Rule 52(a) CCR limits samples to one bottle or can of beer opened on the premises; samples of wine or distilled spirits is limited to one bottle. All samples may only be given to retailers that have not previously purchased the item.
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes. Retail license location. Limited to one sample
Are there record keeping requirements for samples?	Yes
Are there any tax implications for record keeping requirements for samples?	No

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1, 2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No
May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes. Limited to activities authorized by Section 25503.3 of the California Business and Professions Code.

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1, 2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## **Meals and Entertainment Provided to Retailers<sup>1</sup>**

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes. Limited to activities permitted under Section 25503.7 of the California Business and Professions Code.
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## **SERVICES PROVIDED TO RETAILERS**

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### **Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>**

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May a manufacturer or distributor make advertisements beneficial to a retailer?	No
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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No
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May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Two or more retailers may be listed by name or address, one is not.
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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?

No

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?

Beer suppliers may do all. Wine and distilled spirits suppliers are limited to building floor displays and moving their product(s) between cold boxes & permanent shelves and moving product(s) on the shelves themselves. Additionally, wine and distilled spirits suppliers cannot re-supply products from storeroom to permanent shelves and price marking of products is prohibited.

May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?

Yes

In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?

No

On a full store reset, may a manufacturer or distributor reset the products of a competitor?

No. This is not permitted.

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer's back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.



## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor's category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	At the retailer's licensed premises
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer's history or product techniques or product familiarization, etc.

## Volume Discounts and "No Charge" Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	Volume discounts are permitted for wine and distilled spirits; however, volume discounts are not permitted for beer.
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May a manufacturer or distributor offer "no charge" products to a retailer?	No
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What is the definition of “no charge” products? Not Applicable

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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

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## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages? Did not respond

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If applicable, which of the following types of coupons would be allowed?

IRC’s for beer are not allowed. IRC’s for wine and distilled spirits are permitted as long as they are no retailer specific; Instant redeemable coupons (IRC’s) redeemable by consumers at check out; IRC’s dispensed to consumers as direct offerings; IRC’s dispensed to consumers at the retail premises; Electronic coupons (scan back) where consumers receive “cents off” at the moment the container is scanned at check out; Electronic coupons that are automatically sent or downloaded to the consumer’s phone; Cross merchandised coupons of any type which allow for “cents off” on a nonfood item (e.g. Charcoal briquettes) with purchase of an alcohol beverage;

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If applicable, which of the following types of coupons would be allowed? (continued)	Cross merchandised coupons of any type which allow for “cents off” on a food item (e.g. meat, chips) with purchase of an alcohol beverage. IRC’s, scan back’s, and cross merchandised items for beer is not permitted. Cross merchandised coupons cannot result in free-goods whether alcohol or non-alcoholic items.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	Face value plus up to \$0.06 per coupon.
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer  
<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Sweepstakes conducted under specified circumstances as permitted by Section 25600.2 of the Business and Professions Code.
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
May prizes be displayed on the retail premise?	No

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)  
<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
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May prizes be displayed on the retail premise? No

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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions? Limited to what is permitted in Sections 25503.55, 25503.56, and 25503.57 of the Business and Professions Code.

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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions? Manufacturers of beer, wine, and distilled spirits may provide limited consumer tastings at their licensed premises of production.

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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee? No

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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions? Permitted for wine only

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

---

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No

---

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

---

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

---

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes. All items must have the appropriate up-charge.

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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

---

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? No

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## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	Not per se, but retailers who own a label may have the product produced under that label provided the product is sold only to that retailer.
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	Not per se, but retailers who own a label may have the product produced under that label provided the product is sold only to that retailer.
Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes
How much control can a retailer exert over a manufacturer's branded product (control label)?	None
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No

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## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. Generally not permitted except under limited circumstances outlined in Section 25600.5 of the Business and Professions Code.
May a third party provider occupy a retail operation for an event?	No
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Yes
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No

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Is cider subject to the same trade practice laws as any other alcohol products? Wine

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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

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*Please note that all answers to these questions will be published in the survey report.* How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement? Three (3) non-sworn & eight (8) sworn employees

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Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data. Yes

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What penalties are provided for in a licensee trade practice violation? From lowest to highest, letter of warning, fine/suspension of license, and revocation of license.

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Are retailers subject to trade practices law violations in your jurisdiction? Yes

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers? Discussions between retailers and suppliers are permitted.

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May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable? Yes. No monitoring utilized.

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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? Yes. 30 days maximum. Yes. If a balance after 30 days occurs, the retailer must pay COD for all products from that distributor or both retailer/distributor could face penalties.

Is there any penalty if the retailer goes into arrears? Yes

May a manufacturer or distributor sell on COD to retailer in arrears? Yes. If must be a sign or display and does not have any other utilitarian value.

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

#### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. If must be a sign or display and does not have any other utilitarian value.

Are there any time limitations on use of the product display? My not have any utilitarian value.

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? No. The retailer must pay for the item at fair market value.



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May the retailer keep the thing of value after the product display is disassembled?	No
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes  
<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.  
<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display  
<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

**Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Must be of negligible value. This does not include umbrellas or pool table lights.
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**INSIDE SIGNS**

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Are there cost, size, or placement restrictions?	No restriction if it is only a sign and does not have any other utilitarian value.
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**ILLUMINATED INSIDE SIGNS**

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May they be seen from outside (in window, etc.)?	Yes
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	The laws or rules do not address this issue.

**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

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May a manufacturer or distributor provide such lists to a retailer?	Yes
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No. The distributor may supply the list.
May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	No

**BEER TAP HANDLES**

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Whose property is a beer tap handle?	The retailer because they must purchase or rent the tap handle.
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Who keeps it when the keg is finished?	It depends whether it was sold or rented.
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. Does not include glassware.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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May a manufacturer or distributor provide equipment to a retailer?	No
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Fair Market Value
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May a manufacturer or distributor provide supplies to a retailer?	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

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May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Given. If it is a sign and has no other utilitarian value.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

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May a manufacturer or distributor provide free samples to a retailer?	Yes. The amount is limited to 72 ounces of malt liquor, 3 liters of distilled spirits and 3 liters of vinous liquor.
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Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	Yes. Retail license location.
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Are there record keeping requirements for samples?	Yes. Not specifically addressed but all alcohol given to a retailer must be recorded.
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Are there any tax implications for record keeping requirements for samples?	No
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

**Donations to Retailer Events, Licensed Charity Events<sup>1, 2</sup>**

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May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	No
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes. All of the proceeds must go to the non profit organization and not the licensed retailer.
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May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes. If it is a non profit organization.
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

**Slotting Allowance (Slotting Fee)<sup>1, 2</sup>**

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

**Meals and Entertainment Provided to Retailers<sup>1</sup>**

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer? Yes. Only for specific events.

May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? Yes

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? Yes

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

### Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Back room to shelf; Back room to product display; Back room to floor display or case stacker; Back room to cold box or cooler; Product or floor display to back room; Product or floor display to shelf; Product or floor display to cold box or cooler

May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Yes

In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
On a full store reset, may a manufacturer or distributor reset the products of a competitor?	If the retailer gives the manufacturer/distributor permission to reset competitor products

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

**Category Management Programs<sup>1</sup>**

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

**Educational Seminars<sup>1,2</sup>**

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	There is no restriction on the location.
May a manufacturer or distributor also provide nominal hospitality?	Yes
May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No. Only nominal ground transportation is allowed.

<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	Discount programs are not subject to time limitations, and any discount program that will affect more than a single sales transaction and sales invoice are permitted, provided that no invoice, by itself, reflects a zero cost or below-cost sale.
May a manufacturer or distributor offer “no charge” products to a retailer?	As long as the bottom line of the invoice is more than laid in cost.
What is the definition of “no charge” products?	As long as the bottom line of the invoice is more than laid in cost.

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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Suppliers may never reimburse licensed retailers for suppliers’ instant redeemable coupons. Redemption must be through a third party that is independent from the supplier and the retailer
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<p>If applicable, which of the following types of coupons would be allowed?</p>	<p>Suppliers may never reimburse licensed retailers for suppliers' instant redeemable coupons. Redemption must be through a third party that is independent from the supplier and the retailer; Instant redeemable coupons (IRC's) redeemable by consumers at check out; IRC's dispensed to consumers as direct offerings; Cross merchandised coupons of any type which allow for "cents off" on a nonfood item (e.g. Charcoal briquettes) with purchase of an alcohol beverage; Cross merchandised coupons of any type which allow for "cents off" on a food item (e.g. meat, chips) with purchase of an alcohol beverage. Food items cannot be purchased at a retail liquor store.</p>
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<p>If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?</p>	<p>No</p>
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<p>If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?</p>	<p>Yes</p>
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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for "cents off" on the purchase of an alcohol beverage from the retailer  
<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## **Drawings and Sweepstakes Promotions<sup>1,2</sup>**

<p>Do you allow manufacturers or distributors to conduct sweepstakes promotions?</p>	<p>Yes</p>
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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?

Yes. 1. The item must be properly identified in signage as a prize as part of a consumer giveaway, sweepstakes or contest, e.g. "Win this Umbrella."  
2. Signage must also display the starting date of the drawing or contest period, the drawing or contest ending date and time, and the fact that the item is the property of the supplier.  
3. The contest and drawing period cannot last longer than 30 days, and no similar item can be displayed and given away at a retail establishment more than once during a six-month period.  
4. The supplier is responsible for removing the display item at the completion of the drawing or contest and awarding the item to the winner. The retailer and its employees are not eligible to receive or award the prize.  
5. An invoice must be left with the retailer showing that the display item is the property of the supplier and showing the delivery date.

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May prizes be displayed on the retail premise?

Yes. 1. The item must be properly identified in signage as a prize as part of a consumer giveaway, sweepstakes or contest, e.g. "Win this Umbrella."

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May prizes be displayed on the retail premise? (continued)	<p>2. Signage must also display the starting date of the drawing or contest period, the drawing or contest ending date and time, and the fact that the item is the property of the supplier.</p> <p>3. The contest and drawing period cannot last longer than 30 days, and no similar item can be displayed and given away at a retail establishment more than once during a six-month period.</p> <p>4. The supplier is responsible for removing the display item at the completion of the drawing or contest and awarding the item to the winner. The retailer and its employees are not eligible to receive or award the prize.</p> <p>5. An invoice must be left with the retailer showing that the display item is the property of the supplier and showing the delivery date.</p>
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
May prizes be displayed on the retail premise?	No

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?

Product used for sampling must be invoiced by a supplier, who is authorized to sell alcohol beverages.

A retailer may not impose any charge to the consumer to enter or participate in the sampling.

If all product listed in the sales invoice is consumed as permitted herein, the supplier may issue the retailer a credit against the entire amount of the original invoice.

Any remaining product must be returned to the wholesaler, or sold to the retailer at a minimum of the seller's cost.

Supplier representatives or their authorized agents may provide alcohol beverage samples directly to the consumer, if the product has been delivered to the retail premises pursuant to the conditions described herein, and the retailer has so consented.

Suppliers may provide or pay for any media announcement of a supplier-sponsored consumer sampling that primarily advertises the product, the location, and the date and time of the sampling. The name of the retail outlet may also be mentioned.

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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions? No

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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee? No

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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions? Yes

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? Yes

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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? Yes

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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise  
<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Yes. The non-alcohol product must be allowed on its own to be sold at the type of licensed premises. For example, a retail liquor store cannot sell items that are not associated with alcohol or tobacco use. Only food items approved by the Division can be combined with alcohol beverages.
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62 <sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit  
<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	Yes. But the product must have gone through the 3-tier system and be available in Colorado.
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## Private and Control Labels

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No

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Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. The retailer has to purchase the product from a wholesaler at laid in cost or above and cannot profit via percentage from any sale of the product from the manufacturer.
How much control can a retailer exert over a manufacturer's branded product (control label)?	The retailer cannot exercise control over the product, but the retailer and manufacturer usually have a contract detailing the product.
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	Did not respond
<b>Promotional Events<sup>1</sup></b>	
Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. There cannot be exclusivity of products during the event. The manufacturer cannot provide entertainment or supplies during the event unless it was for a non-profit organization running the event.
May a third party provider occupy a retail operation for an event?	Yes
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No exclusivity.
Are there limitations on third party events?	Yes. There are held to the same standards as a manufacturer
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No

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Is cider subject to the same trade practice laws as any other alcohol products? Wine

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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

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*Please note that all answers to these questions will be published in the survey report.* How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement? 4 - part time

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Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data. Yes

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What penalties are provided for in a licensee trade practice violation? Written warning up to suspension.

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Are retailers subject to trade practices law violations in your jurisdiction? Yes

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?

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May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable? Yes

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# Connecticut

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? Yes. Full payment due 30 days from date of delivery. Wholesalers may extend credit to holders of provisional (temporary) permits also.

Is there any penalty if the retailer goes into arrears? Yes. Other wholesalers may not extend credit if retailer is in arrears to a wholesaler

May a manufacturer or distributor sell on COD to retailer in arrears? Yes

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Did not respond

Are there any time limitations on use of the product display? Did not respond

## DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

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May a manufacturer or distributor provide dealer loaders/  
product enhancers to a retailer?

With department approval, brand owners of their licensees may display in retail premises items other than alcoholic liquors which patrons may order by order forms available in such premises, provided no retailer shall stock or deliver such items or incur any cost in connection therewith, and provided the patron shall not be required to make any purchases on the premises in connection therewith. Such items shall be limited to products and any other items considered dealer loaders costing the supplier less than one hundred dollars (\$100.00) per display. Section 30-6-A32a (e)

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May the retailer keep the thing of value after the product display is disassembled?

No

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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks



## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?

Advertising novelties and specialties for use on the retail premises, such as trays, coasters, napkins, stirrers, scrapers and scrapper holders, menus, menu sheets and menu covers, change mats, calendars and pourers displaying brand names, whose aggregate cost shall not exceed five hundred dollars (\$550.00) per distributor of such items per retail outlet per calendar year; wine lists may be distributed without cost limitation, such lists may contain listings from different brand owners, manufacturers, out-of-state shippers and wholesalers at the discretion of the retailer.  
Section 30-6-A32a (b)

### INSIDE SIGNS

Are there cost, size, or placement restrictions?

Inside advertising material, including window displays, which has no intrinsic or utilitarian value other than point-of-sale advertising, whose aggregate cost shall not exceed five hundred dollars (\$500.00) per retail outlet per calendar year per brand, exclusion of installation cost.  
Section 30-6-A32a (a)

### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?

Yes

May the retailer be reimbursed for electricity, etc.?

No

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<p>If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?</p>	<p>Inside advertising material, including window displays (which has no intrinsic or utilitarian value other than point-of-sale advertising, whose aggregate cost shall not exceed five hundred dollars (\$500.00) per retail outlet per calendar year per brand, exclusion of installation cost.\ Section 30-6-A32a (a)</p>
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<p>Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?</p>	<p>Retailer</p>
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**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

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<p>May a manufacturer or distributor provide such lists to a retailer?</p>	<p>Wine lists may be distributed without cost limitation, such lists may contain listings from different brand owners, manufacturers, out-of-state shippers and wholesalers at the discretion of the retailer. Section 30-6-A32a (b)</p>
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<p>May a manufacturer or distributor pay the retailer to get on the list?</p>	<p>No</p>
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<p>May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?</p>	<p>No</p>
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<p>May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?</p>	<p>Yes. Menu sheets and menu covers; aggregate cost shall not exceed five hundred dollars (\$500.00) per distributor of such items per retail outlet per calendar year. Section 30-6-A32a (b)</p>
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**BEER TAP HANDLES**

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<p>Whose property is a beer tap handle?</p>	<p>Retailer may receive tapping accessories up to five hundred dollars (\$500.00) in any one permit year. Section 30-6-A32a (d)</p>
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Who keeps it when the keg is finished?	Retailer may keep it as outlined and restricted by Section 30-6-A32a(d)
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1, 2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. Consumer novelties of nominal value for unconditional distribution to patrons of retail outlets, whose aggregate cost shall not exceed five hundred dollars (\$500.00) per distributor of such items per retail outlet per calendar year. Section 30-6-A32a (c)
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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May a manufacturer or distributor provide equipment to a retailer?	Yes. Tapping accessories (rods, tap, hose, pressure regulators) up to five hundred dollars in any one permit year. Section 30-6-A32a (d). Advertising novelties and specialties for use on the retail premises, whose aggregate cost shall not exceed five hundred dollars (\$500.00) per calendar year. Section 30-6-A32a(b)
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Fair Market Value
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May a manufacturer or distributor provide supplies to a retailer?	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

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May a manufacturer or distributor provide an outside sign to a retailer? No

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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

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May a manufacturer or distributor provide free samples to a retailer? Yes. The furnishing of free samples of liquor is prohibited unless allowed by section 30-20 CGS or section 30-6-B21a or unless permission is secured from the department and such permission shall only be secured where a new brand of liquor is introduced and where the sample or bottle is clearly marked "free sample" and where samples are given to permittees or employees or agents of permittees who are authorized to purchase alcoholic beverages of the kind given as samples. Such samples shall not exceed in quantity the following: distilled spirits, not more than 200ml; wine, not more than 1.00 liter; beer, not more than 16 oz. in bottles or cans. Only one sample of each grade, type, or quality shall be given at any one time.

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Are sample limits applied to a retail license location, or each member of a retailer's buying committee? Yes. Retail license location.

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Are there record keeping requirements for samples? Yes. Wholesaler, Manufacturer, Out-of-state Shipper should maintain records.

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Are there any tax implications for record keeping requirements for samples?	Yes
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

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May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	No
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes. Alcoholic beverages may be donated. Section 30-6-A41(b).
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May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes. As long as the trade association is listed as a nonprofit organization. Section 30-6-A41 (b)
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes. For business purposes only and manufacturer/wholesaler representative to be present.
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

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## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

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May a manufacturer or distributor make advertisements beneficial to a retailer?	No. Cooperative advertising as between a wholesaler and/or manufacturer and a retailer is prohibited. Section 30-6-A31a(b)
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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No
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May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	No
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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

### Social Media Advertising<sup>1,2</sup>

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May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/ Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Back room to shelf; Back room to product display; Back room to cold box or cooler. One-time stocking of shelves in the sales area only at newly licensed retail off-premises consumption place of business or any premises that has recently had a change in control of ownership. Section 30-6- A32a (f). Authority- Declaratory Ruling dated June 17, 2009 by Commissioner Jerry Farrell, Jr.
May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes. See Section 30-6-A32a(f), also Declaratory Ruling dated June 17, 2009 by Commissioner Jerry Farrell, Jr.
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	Yes. Limited to their products only. Section 30-6-A32a (f).
On a full store reset, may a manufacturer or distributor reset the products of a competitor?	No

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer's back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Permitted premises or third party location Authority-Division Advisory dated June 25, 2014
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	No
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
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What is the definition of “no charge” products?	Not Applicable
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal



## CONSUMER PROMOTIONS

*Jurisdiction's allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for "cents off" purchases of alcohol beverages?	No
If applicable, which of the following types of coupons would be allowed?	Did not respond.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	Did not respond
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Did not respond

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for "cents off" on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Yes. One tier must pay the entire cost. Retailer not involved . Manufacturer/ Wholesaler Representative conducts event. Retailer employees, agent, or family not eligible to participate
May prizes be displayed on the retail premise?	Yes

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

### Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
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May prizes be displayed on the retail premise?	Did not respond
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	Tastings size restricted to what is allowed at CT package stores, namely one half ounce per cordial or spirit, one ounce per wine, two ounces per beer. Authority-Division Advisory dated April 21, 2015
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	May do so as part of a charitable organization event with permission of the department.
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No

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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes. Submit pricing and brand must be registered. Limited food product (cheese, crackers, olives).

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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? No

## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. Private label limited to the retailer.
How much control can a retailer exert over a manufacturer's branded product (control label)?	Did not respond
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No

## Promotional Events<sup>1</sup>

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Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. Based on the specific fact pattern, it may be seen as an inducement or tie-in.
May a third party provider occupy a retail operation for an event?	Yes
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	Based on the specific fact pattern would determine whether it is permissible.
Are there limitations on third party events?	Yes. Based on the specific fact pattern would determine whether it is permissible.
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No. More information needed to determine whether this would be a permissible activity.
Is cider subject to the same trade practice laws as any other alcohol products?	Beer and wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<p><i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?</p>	<p>11 Liquor Control, 1 Legal Counsel, 1 Paralegal, 1 Director</p>
<p>Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.</p>	<p>Yes. Last 18 months, 10 wholesalers (est), 3 suppliers (est), 30 retailers (est)</p>
<p>What penalties are provided for in a licensee trade practice violation?</p>	<p>Wholesalers and suppliers- Civil penalties range from \$10,000 to \$850,000 Retailers- Suspensions up to 30 days and /or up to \$125,000 civil penalty fines</p>
<p>Are retailers subject to trade practices law violations in your jurisdiction?</p>	<p>Yes</p>
<p>What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?</p>	<p>Discussions allowed.</p>
<p>May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?</p>	<p>Did not respond</p>

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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

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May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup>Definition: Legal tender

<sup>2</sup>Example: Currency

#### CREDIT<sup>1,2</sup>

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May a selling manufacturer or distributor extend credit to a retailer?

Yes. Florida Statutes 561.42(2) Credit for the sale of liquors may be extended to any vendor up to, but not including, the 10th day after the calendar week within which such sale was made.

Is there any penalty if the retailer goes into arrears?

Yes. Florida Statutes 561.42(3) In cases when payment for sales to a vendor is not made by the 10th day succeeding the calendar week in which such sale was made, the distributor who made such sale shall, within 3 days, notify the division in writing of such fact; and the division, upon receipt of such notice, shall, after compliance with the proceedings hereinafter mentioned, declare in writing to such vendor and to all manufacturers and distributors within the state that all further sales to such vendor are prohibited until such time as the division certifies in writing that such vendor has fully paid for all liquors previously purchased.

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Is there any penalty if the retailer goes into arrears?  
(continued)

However, if a distributor received payment within the 3-day period following the 10th day succeeding the calendar week in which the sale was made, the distributor, if notification to the division has not already been made, is not required to notify the division. Payments so made within the 3-day period do not constitute a violation of this section.

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May a manufacturer or distributor sell on COD to retailer in arrears?

No. Florida Statutes 561.42(5) Upon receipt by the division from the distributor of the notice of nonpayment provided for by subsection (3), the division shall forthwith notify such delinquent vendor and all distributors in the state that no further purchases or sales of liquor by or to such vendor, except for cash, shall be made until good cause is shown by such vendor as heretofore provided for. No liquor shall be purchased by such vendor or sold to him or her by any distributor, except for cash, from and after such notification by the division and until such cause is shown as is provided for in subsection (4). In the event no good cause is shown, then all further sales, for cash or credit, are hereby prohibited after such declaration in writing by the division is sent to such vendor and distributors and until all delinquent accounts have been paid.

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

## Product Displays<sup>1, 2</sup>

May a manufacturer or distributor provide product displays to a retailer?

Yes. 61A-1.0101 Product Displays Exception.

(1) Industry members may give, loan, or sell alcoholic beverage product displays to vendors, for use on a vendor’s licensed premises, to include wine racks, bins, barrels, casks, shelving, or similar product display items which are separated from a vendor’s ordinary shelves and used primarily to hold and display factory sealed products of the provider for sale to customers at room temperature or cold. Such displays shall not have, or be used to provide, a secondary function, other than advertising, which would function to provide equipment, including refrigeration; furniture; or other fixtures.

(2) Industry members may transport, install, assemble and disassemble their own product displays on a vendor’s licensed premises. Industry members may require the vendor to purchase a minimum amount of the product advertised on the display in a quantity necessary for the completion of the display.



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May a manufacturer or distributor provide product displays to a retailer? (continued)

(3) The value of any product display, excluding transportation, installation, and disassembly costs, shall not exceed \$300 per brand, and the total value of all product displays at any one time on any one vendor's licensed premises shall not exceed \$300 per brand. Industry members shall not pool or combine dollar limitations in order to provide a vendor a product display valued in excess of \$300 per brand.

(4) The product display shall bear product or industry member information that is conspicuous and permanently inscribed or securely affixed to the product display. The vendor's name, business name, website address, logo, and address may be part of the product display.

(5) Payments of slotting fees for alcoholic beverages shall not be made to vendors. A slotting fee is defined as any form of assistance given by an industry member to a vendor to purchase or rent additional, particular, favorable, or dedicated display, shelf, cooler, storage or warehouse space for alcoholic beverages.

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Are there any time limitations on use of the product display?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.83). 61A-1.0101 Product Displays Exception.(3) The value of any product display, excluding transportation, installation, and disassembly costs, shall not exceed \$300 per brand, and the total value of all product displays at any one time on any one vendor’s licensed premises shall not exceed \$300 per brand. Industry members shall not pool or combine dollar limitations in order to provide a vendor a product display valued in excess of \$300 per brand.
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**DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>**

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May a manufacturer or distributor provide dealer loaders/ product enhancers to a retailer?	No
May the retailer keep the thing of value after the product display is disassembled?	No

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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes  
<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.  
<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display  
<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

**Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84). 61A-1.01010 Expendable Retailer Advertising Specialties Exception.
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**INSIDE SIGNS**

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Are there cost, size, or placement restrictions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84). 61A-1.01013 Inside Signs Advertising Brands Exception.
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## **ILLUMINATED INSIDE SIGNS**

May they be seen from outside (in window, etc.)?	Yes. Vendors may not have more than one neon sign per manufacturer in the window.
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	The sign can be owner by the vendor or the industry member but repairs are not addressed

## **WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

May a manufacturer or distributor provide such lists to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84). 61A-1.01010 Expendable Retailer Advertising Specialties Exception.
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	Yes. Unless it’s a malt beverage industry member
May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	Yes. Unless it’s a malt beverage industry member.

## **BEER TAP HANDLES**

Whose property is a beer tap handle?	Beer taps are owned by the vendor
Who keeps it when the keg is finished?	Not addressed

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?

Yes. 61A-1.01012 Consumer Advertising Specialties Exception. (3) Industry members shall not provide assistance to a vendor for allowing the industry member to give specialties directly to consumers on the vendor’s licensed premises.

<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?

Yes. Fla. Stat. 561.42(14)(g) Distributors of beer may sell to vendors draft equipment and tapping accessories at a price not less than the cost to the industry member who initially purchased them, except there is no required charge, and a distributor may exchange any parts which are not compatible with a competitor’s system and are necessary to dispense the distributor’s brands. A distributor of beer may furnish to a vendor at no charge replacement parts of nominal intrinsic value, including, but not limited to, washers, gaskets, tail pieces, hoses, hose connections, clamps, plungers, and tap markers.

If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?

There is no dollar limit

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<b>May a manufacturer or distributor provide supplies to a retailer?</b>	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business  
<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.  
<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business  
<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

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<b>May a manufacturer or distributor provide an outside sign to a retailer?</b>	No
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises  
<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

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<b>May a manufacturer or distributor provide free samples to a retailer?</b>	Yes. Florida Administrative Code Rule 61A-1.01024 Alcoholic Beverage Samples Exception.
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<b>Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?</b>	Yes
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<b>Are there record keeping requirements for samples?</b>	Yes
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<b>Are there any tax implications for record keeping requirements for samples?</b>	Yes. The sample must have had the tax paid by the industry member.
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand  
<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

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<b>May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?</b>	No. Look at Florida Administrative Code Rule 61A-1.0104 and Rule 61A-1.0105, & 61A-1.0106  The prohibition does not apply to temporary permit holders according to Fla. Stat. 561.422
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No. The prohibition does not apply to temporary permit holders according to Fla. Stat. 561.422.
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May a manufacturer or distributor donate to the trade association of a retail licensee?	No. Florida Administrative Code Rule 61A-1.01018.
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<sup>1</sup> Definition: Gifts  
<sup>2</sup> Example: Cash, things of value, or alcohol beverages

**Slotting Allowance (Slotting Fee)<sup>1, 2</sup>**

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase  
<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

**Meals and Entertainment Provided to Retailers<sup>1</sup>**

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	No
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

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**SERVICES PROVIDED TO RETAILERS**

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

**Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>**

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May a manufacturer or distributor make advertisements beneficial to a retailer?	Yes
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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No
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<p>May a manufacturer or distributor list the name or address or two or more retailers where their brands may be purchased?</p>	<p>Have adopted Federal “Tied House” Exceptions (27 CFR 6.98). Florida Administrative Code Rule 61A-1.01015.</p>
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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

## Social Media Advertising<sup>1,2</sup>

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<p>May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?</p>	<p>Yes</p>
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

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<p>May a manufacturer or distributor stock its products at a retail premises in any of the following ways?</p>	<p>Beer and wine can be serviced but spirits cannot. Please refer to Fla. Stat. 561.424 and 561.423</p>
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<p>May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?</p>	<p>Please refer to Fla. Stat. 561.424 and 561.423</p>
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<p>In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?</p>	<p>Yes</p>
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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	If the retailer gives the manufacturer/distributor permission to reset competitor products
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

### Category Management Programs<sup>1</sup>

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In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

### Educational Seminars<sup>1,2</sup>

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May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Florida Administrative Code Rule 61A-1.01017
May a manufacturer or distributor also provide nominal hospitality?	Yes
May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No

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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

### Volume Discounts and “No Charge” Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer?	Yes
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
What is the definition of “no charge” products?	Not Applicable
<p><sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased</p> <p><sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal</p>	

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Yes
If applicable, which of the following types of coupons would be allowed?	Coupons are permitted for wine and spirits they are restricted as to beer per Fla. Stat. 561.42(13)
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes. Florida Administrative Code Rule 61A-1.0104 and Rule 61A-1.0105.
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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
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May prizes be displayed on the retail premise?	No
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

### Contests at Retail Licensee Premises<sup>1,2</sup>

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
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May prizes be displayed on the retail premise?	No. Florida Administrative Code Rule 61A-1.0106 Vendor-Sponsored Tournaments Exception. Industry members may participate in vendor-sponsored tournaments and contests but must pay no more than normal entry fees. Industry members shall not advertise, co-sponsor, underwrite, or contribute in time, money, gifts or provide any other assistance prohibited by Section 561.42(1), F.S.
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

### Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	Malt Beverage tastings are prohibited while Liquor and Wine tastings are permitted
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions? No

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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee? No

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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions? No

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? Did not respond

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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? Did not respond

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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Did not respond
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

**Combination Packaging<sup>1,2</sup>**

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Did not respond
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

**Product Testing**

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	No
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**Private and Control Labels**

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	Yes. Fla. Stat. 564.045 (5) PRIVATE LABELS.— Nothing herein shall prohibit the ownership by vendors of brand names of distilled spirits and vinous beverages commonly known as private labels; provided that such ownership and use thereof do not otherwise violate the Beverage Law.
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
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Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes
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How much control can a retailer exert over a manufacturer's branded product (control label)?	Did not respond
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
<b>Promotional Events<sup>1</sup></b>	
Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	No
May a third party provider occupy a retail operation for an event?	No
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Yes
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes

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<p>Is cider subject to the same trade practice laws as any other alcohol products?</p>	<p>Wine. Fla. Stat. 564.06(4) As to cider, which is made from the normal alcoholic fermentation of the juice of sound, ripe apples, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume, there shall be paid by all manufacturers and distributors a tax at the rate of \$.89 per gallon. With the sole exception of the excise tax rate, cider shall be considered wine and shall be subject to the provisions of this chapter.</p>
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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

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<p><i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?</p>	<p>None of our staff is strictly dedicated</p>
<p>Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.</p>	<p>Yes. Ten.</p>
<p>What penalties are provided for in a licensee trade practice violation?</p>	<p>Fla. Stat 561.42 deals with Tied House Evil. The fines vary from \$1,000 - \$4,000 and the license could be subjected to revocation depending on the nature and number of violations</p>

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Are retailers subject to trade practices law violations in your jurisdiction?	Yes. Fla. Stat. 561.42 Tied house evil; financial aid and assistance to vendor by manufacturer, distributor, importer, primary American source of supply, brand owner or registrant, or any broker, sales agent, or sales person thereof, prohibited; procedure for enforcement
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Fla. Stat. 561.545 Prohibits the direct shipment of alcohol but there are several court decisions that make enforcement of this statute difficult
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	No

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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No

Is there any penalty if the retailer goes into arrears? Yes

May a manufacturer or distributor sell on COD to retailer in arrears? Yes. Distributors only.

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. Must flow from the manufacturer to the distributor who then leases or sells to retailer. Must be leased or sold at fair market value or higher.

Are there any time limitations on use of the product display? Have adopted Federal "Tied House" Exceptions (27 CFR 6.83)

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? Must flow from manufacturer to distributor who then sells or leases to retailer at fair market value or more.



May the retailer keep the thing of value after the product display is disassembled?	No
<p><sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes</p> <p><sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.</p> <p><sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display</p> <p><sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks</p>	
<b>Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup></b>	
May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Any items of value must pass from the manufacturer to the wholesale distributor and then onto the retail establishment either at fair market value or more.
<b>INSIDE SIGNS</b>	
Are there cost, size, or placement restrictions?	Not Applicable
<b>ILLUMINATED INSIDE SIGNS</b>	
May they be seen from outside (in window, etc.)?	Yes
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Fair Market Value
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Did not respond
<b>WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS</b>	
May a manufacturer or distributor provide such lists to a retailer?	Yes
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	No
<b>BEER TAP HANDLES</b>	
Whose property is a beer tap handle?	Retailer

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Who keeps it when the keg is finished?	Retailer
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. Any items of value must pass from the manufacturer to the wholesale distributor and then onto the retail establishment either at fair market value or more.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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May a manufacturer or distributor provide equipment to a retailer?	Yes. We usually address this on a case by case basis through investigation when it involved products such as draft systems and coolers. Even then any items of value must pass from the manufacturer to the wholesale distributor and then onto the retail establishment either at fair market value or more.
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Fair Market Value
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May a manufacturer or distributor provide supplies to a retailer?	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

**Outside Signs<sup>1,2</sup>**

May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Loaned. Any items of value must pass from the manufacturer to the wholesale distributor and then onto the retail establishment either at fair market value or more. In the case of signs they can be leased for a specific period of time at fair market value.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises  
<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

**Samples<sup>1,2</sup>**

May a manufacturer or distributor provide free samples to a retailer?	Yes. No limit on frequency. Can only take place on licensed premise out of view of customers.
Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	No
Are there record keeping requirements for samples?	No
Are there any tax implications for record keeping requirements for samples?	No

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand  
<sup>2</sup> Example: A bottle of a newly introduced brand of wine

**Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>**

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	Yes
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes
May a manufacturer or distributor donate to the trade association of a retail licensee?	No

<sup>1</sup> Definition: Gifts  
<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer? No

May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products? No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

May a manufacturer or distributor provide meals and/or entertainment to a retailer? No

<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer? No

May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? Yes

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

**Social Media Advertising<sup>1,2</sup>**

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

**Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>**

May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)

May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Yes

In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises? No

On a full store reset, may a manufacturer or distributor reset the products of a competitor? Representatives can not touch competitor product.

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	Yes
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
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What is the definition of “no charge” products?	Not Applicable
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

**CONSUMER PROMOTIONS**

*Jurisdiction's allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

**Coupons<sup>1,2</sup>**

Does your state allow coupons to be provided to consumers for "cents off" purchases of alcohol beverages?	No
If applicable, which of the following types of coupons would be allowed?	Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes

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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for "cents off" on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

**Drawings and Sweepstakes Promotions<sup>1,2</sup>**

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
May prizes be displayed on the retail premise?	No

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

**Contests at Retail Licensee Premises<sup>1,2</sup>**

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
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May prizes be displayed on the retail premise? No

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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions? It is not permissible for an employee of a manufacturer or wholesale distributor to “buy the house a round”. All drink purchases must be targeted to specific customers who the representative is actively talking with to promote the product.

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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions? No

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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee? No

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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions? No

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

**Sale of Other (Non-Alcoholic) Merchandise to Retailers**

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No

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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

**Combination Packaging<sup>1,2</sup>**

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes. Any products combined with alcoholic beverages must be items that you could traditionally buy in a package store (wine glasses, shot glasses, bottle openers, koozies).

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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

**Product Testing**

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? No

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## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	Yes
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. It must be offered to any retail account that the wholesaler carrying the brand services.
How much control can a retailer exert over a manufacturer's branded product (control label)?	Zero control.
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No

## Promotional Events<sup>1</sup>

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Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes
May a third party provider occupy a retail operation for an event?	No
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Yes
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes
Is cider subject to the same trade practice laws as any other alcohol products?	Beer and wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	24
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	Did not respond
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Zero direct sales discussions between retailers and suppliers are allowed.
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	No

# Hawaii–Hawaii County

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? Yes. Sales may be made on credit, payable within 30 days or on other terms that the parties may agree

Is there any penalty if the retailer goes into arrears? No

May a manufacturer or distributor sell on COD to retailer in arrears? Yes

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. Retailers are required to pay the full value of these displays or trade items

Are there any time limitations on use of the product display? No limit.

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? Items should be paid for by retailers

May the retailer keep the thing of value after the product display is disassembled? If manufacturer or distributor is reimbursed for the cost of such item.

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84). Items should be of nominal value and cannot include alcoholic items.
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Did not respond
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	Yes
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Cost
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	The retailer will have purchased the sign and is therefore responsible for the sign.

### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Cost of sign should be borne by retailer.
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	No

### BEER TAP HANDLES

Whose property is a beer tap handle?	Retailers, since purchased
Who keeps it when the keg is finished?	Kegs are typically returned to distributor

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. Should be of nominal value
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer  
<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes. Retailer should pay cost for such items.
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit; cost
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May a manufacturer or distributor provide supplies to a retailer?	Yes
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business  
<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.  
<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business  
<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Retailer Owned. If the distributor provides it, retailer should pay cost.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises  
<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	No
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Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	No
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Are there record keeping requirements for samples?	No
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Are there any tax implications for record keeping requirements for samples?	No
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand  
<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## **Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>**

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	Yes
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes
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May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## **Slotting Allowance (Slotting Fee)<sup>1,2</sup>**

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## **Meals and Entertainment Provided to Retailers<sup>1</sup>**

May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes. But not if in conjunction with the sale of liquor.
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## **SERVICES PROVIDED TO RETAILERS**

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

## **Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>**

May a manufacturer or distributor make advertisements beneficial to a retailer?	No
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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? Yes

May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? Yes

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

### Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Back room to shelf; Back room to product display; Back room to floor display or case stacker; Back room to cold box or cooler; Product or floor display to back room; Product or floor display to shelf; Product or floor display to cold box or cooler

May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Yes

In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises? No



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<p>On a full store reset, may a manufacturer or distributor reset the products of a competitor?</p>	<p>Distributor should not touch competitors products</p>
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

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<p>In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?</p>	<p>No</p>
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

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<p>May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?</p>	<p>Anywhere</p>
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<p>May a manufacturer or distributor also provide nominal hospitality?</p>	<p>Yes</p>
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<p>May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?</p>	<p>Yes</p>
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

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<p>May a manufacturer or distributor offer a volume discount to a retailer?</p>	<p>Volume discounts may be provided on a single order</p>
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May a manufacturer or distributor offer “no charge” products to a retailer? Yes of nominal value

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What is the definition of “no charge” products? Yes of nominal value

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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

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## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

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### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages? Not Applicable

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If applicable, which of the following types of coupons would be allowed? Yes

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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?

Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; Instant redeemable coupons (IRC’s) redeemable by consumers at check out; IRC’s dispensed to consumers as direct offerings; IRC’s dispensed to consumers at the retail premises; Electronic coupons (scan back) where consumers receive “cents off” at the moment the container is scanned at check out;

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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed? (continued)	Electronic coupons that are automatically sent or downloaded to the consumer’s phone; Cross merchandised coupons of any type which allow for “cents off” on a nonfood item (e.g. Charcoal briquettes) with purchase of an alcohol beverage. Cross merchandised coupons of any type which allow for “cents off” on a food item (e.g. meat, chips) with purchase of an alcohol beverage
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer  
<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No purchase necessary, must be 21 or over, no alcoholic beverages as prizes
May prizes be displayed on the retail premise?	Yes.

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)  
<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes
May prizes be displayed on the retail premise?	Yes

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize  
<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions? Limitations on the tasting sizes

May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions? Trade show permits needed.

<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee? Yes

<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions? No. However, volume discounts may be offered.

Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No. However, volume discounts may be offered.

<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? Yes

---

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

---

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes. Price should reflect the value of the combined items.

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? No

## Private and Control Labels

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable. No

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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable. No

---

Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer? Yes

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How much control can a retailer exert over a manufacturer's branded product (control label)? None

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Can tied house issues be circumvented or avoided through the use of brand licensing agreements? No

## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	No
May a third party provider occupy a retail operation for an event?	Yes
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	A Private host permit may be required
Are there limitations on third party events?	No
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes
Is cider subject to the same trade practice laws as any other alcohol products?	Beer

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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer’s brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	Did not respond
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	Fines up to \$2000, suspensions and revocations
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	None
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	No

# Hawaii–Honolulu

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer?	Yes. If permitted by TTB Subpart D “tied house” exceptions and otherwise legal.
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<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer?	Yes. Provided the retailer has paid in full for all previous purchases by the expiration of the 30th day from the date of invoice.
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Is there any penalty if the retailer goes into arrears?	No
---	----

May a manufacturer or distributor sell on COD to retailer in arrears?	Yes
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<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer?	Yes. If permitted by TTB Subpart D “tied house” exceptions and otherwise legal.
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Are there any time limitations on use of the product display?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.83)
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#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?	If permitted by TTB Subpart D “tied house” exceptions and otherwise legal.
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May the retailer keep the thing of value after the product display is disassembled?	If permitted by TTB Subpart D “tied house” exceptions and otherwise legal.
---	--

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

### Retailer/Point of Sale (POS) Advertising Specialties<sup>1, 2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84). ROH Sec. 40-19.1 et seq. may prohibit if in a publicly visible location within a school zone.
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	Yes. ROH Sec. 40-19.1 et seq. may prohibit if in a publicly visible location within a school zone.
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May the retailer be reimbursed for electricity, etc.?	Yes. If permitted by TTB Subpart D “tied house” exceptions and otherwise legal.
---	---

If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit.
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Not addressed in the liquor laws or rules.
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### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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May a manufacturer or distributor pay the retailer to get on the list?	Yes. If permitted by TTB Subpart D “tied house” exceptions and otherwise legal.
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	Yes. If permitted by TTB Subpart D “tied house” exceptions and otherwise legal.
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May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	Yes. If permitted by TTB Subpart D “tied house” exceptions and otherwise legal.
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**BEER TAP HANDLES**

Whose property is a beer tap handle?	Not addressed in the liquor laws or rules.
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Who keeps it when the keg is finished?	Not addressed in the liquor laws or rules.
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

**Consumer Advertising Specialties<sup>1, 2</sup>**

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

**Equipment and Supplies<sup>1, 2, 3, 4</sup>**

May a manufacturer or distributor provide equipment to a retailer?	Yes. If permitted by TTB Subpart D “tied house” exceptions and otherwise legal.
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit.
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May a manufacturer or distributor provide supplies to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.88)
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.102)
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises  
<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.91)
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Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	No
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Are there record keeping requirements for samples?	Yes. If the samples will be used for customer sampling, the retailer would need to apply for a Rule 3-82-38.18 sampling approval.
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Are there any tax implications for record keeping requirements for samples?	No
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand  
<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	Yes. If permitted by TTB Subpart D “tied house” exceptions and otherwise legal.
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes. If permitted by TTB Subpart D “tied house” exceptions and otherwise legal.
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May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes. If permitted by TTB Subpart D “tied house” exceptions and otherwise legal
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<sup>1</sup> Definition: Gifts  
<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	Yes. If limited to creating/maintaining displays and point of purchase sales materials, or stocking shelves and cold boxes.

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes. If permitted by TTB Subpart D “tied house” exceptions and otherwise legal.
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.98)
May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	Yes

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May a manufacturer or distributor list the name or address or two or more retailers where their brands may be purchased?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.98)
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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

### Social Media Advertising<sup>1,2</sup>

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May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	Yes. Not directly or indirectly prohibited by the liquor laws or rules; like traditional advertising mediums, cannot be lewd or obscene.
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

### Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

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May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)
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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes. Not addressed in the liquor laws and rules.
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In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	Yes. Not addressed in the liquor laws and rules.
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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

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In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?

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No

<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

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May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?

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If permitted by TTB Subpart D “tied house” exceptions and otherwise legal; location not addressed in the liquor laws and rules.

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May a manufacturer or distributor also provide nominal hospitality?

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Yes. It is allowed if permitted by TTB Subpart D “tied house” exceptions and otherwise legal.

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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?

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Have adopted Federal “Tied House” Exceptions (27 CFR 6.94)

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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	Rule 3-84-85.2 permits “quantity discounts”, not defined, subject to restrictions (single delivery of an entire order must be begun and completed the same day).
May a manufacturer or distributor offer “no charge” products to a retailer?	No
What is the definition of “no charge” products?	Not Applicable

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	No
If applicable, which of the following types of coupons would be allowed?	Did not respond.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Cannot require liquor purchase in order to play or win; liquor cannot be a prize.
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Yes. On premises retailers must request permission to have the drawing at the premises.
May prizes be displayed on the retail premise?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes. Cannot require liquor purchase to play or win; liquor cannot be a prize; retailer must request permission to have the tournament at the premises.
May prizes be displayed on the retail premise?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.95). Retailer must request permission to have consumer tastings; samples of beer or wine limited to one (1) three-ounce (3 oz.) sample of each item per person; samples of spirits limited to one (1) one-ounce (1 oz.) sample of each item per person.
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	No server-training requirement.
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	Yes. Not directly prohibited by the liquor laws or rules; may depend on ultimate use by the manufacturer/distributor licensee of the gift certificate (e.g., if purchased with intent to never redeem, etc.).
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	Yes
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	Yes
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	Yes. Provided there is no intent to induce the retailer with respect to its liquor purchases.
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	No. Unless not done in connection with the liquor purchases by the retailer.
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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.101)
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.93)
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	Yes. Consumers cannot be compensated for their participation.
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## Private and Control Labels

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
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Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. Manufacturer must comply with HRS 281-74 requirements; restrictions on who may buy not addressed in the liquor laws or rules
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How much control can a retailer exert over a manufacturer’s branded product (control label)?	Not addressed in the liquor laws or rules.
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Can tied house issues be circumvented or avoided through the use of brand licensing agreements? Yes. To the extent the brand licensing agreement insulates the activities of the “person holding a manufacturer’s or a wholesale dealer’s license”.

**Promotional Events<sup>1</sup>**

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations? Yes. Retail premise must have the appropriate class, kind, and category of license for the type of event.

May a third party provider occupy a retail operation for an event? Yes

If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand? Yes

Are there limitations on third party events? Yes. Third party provider would be subject to all conditions, restrictions of the license underlying the event; liquor cannot be given as a prize or inducement.

Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers? Yes. Provided the item of value is not liquor or is not given in connection with the sale of liquor.

Is cider subject to the same trade practice laws as any other alcohol products? Wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturers has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer’s brand of alcohol.

**Miscellaneous**

*Please note that all answers to these questions will be published in the survey report.* How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement? 3-4, although all have other duties.

Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data. No

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What penalties are provided for in a licensee trade practice violation?	Penalties could range from reprimand, monetary penalty not to exceed \$2,000, license suspension, or license revocation.
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	None
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes. These are enforceable in the jurisdiction. Monitoring: primarily, our liquor control auditors (gross liquor sales reports); secondarily, complaints by other manufacturers or distributors.

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# Hawaii–Kauai County

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? Yes. Due in 30 days.

Is there any penalty if the retailer goes into arrears? No

May a manufacturer or distributor sell on COD to retailer in arrears? No

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. Within the limits of TTB rules.

Are there any time limitations on use of the product display? Have adopted Federal “Tied House” Exceptions (27 CFR 6.83)

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? Within the limits of TTB rules

May the retailer keep the thing of value after the product display is disassembled? No

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## **Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### **INSIDE SIGNS**

Are there cost, size, or placement restrictions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### **ILLUMINATED INSIDE SIGNS**

May they be seen from outside (in window, etc.)?	Yes
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May the retailer be reimbursed for electricity, etc.?	No
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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Issue has not been addressed.
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### **WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

May a manufacturer or distributor provide such lists to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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May a manufacturer or distributor pay the retailer to get on the list?	No
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
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May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	No
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### **BEER TAP HANDLES**

Whose property is a beer tap handle?	Licensee
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Who keeps it when the keg is finished?	Licensee
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
---	--

<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	No
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.88)

May a manufacturer or distributor provide supplies to a retailer?	No
---	----

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	No
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	No
Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	No
Are there record keeping requirements for samples?	No

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Are there any tax implications for record keeping requirements for samples?	Did not respond
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

---

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	No
--	----

---

May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes
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May a manufacturer or distributor donate to the trade association of a retail licensee?	No
---	----

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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
---	----

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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	No
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer?	No
May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No
May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.98)

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
---	----

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

### Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Back room to shelf; Back room to product display; Back room to floor display or case stacker; Back room to cold box or cooler; Product or floor display to back room; Product or floor display to shelf; Product or floor display to cold box or cooler
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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
On a full store reset, may a manufacturer or distributor reset the products of a competitor?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	No limitations
May a manufacturer or distributor also provide nominal hospitality?	Yes

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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.94)
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees  
<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

**Volume Discounts and “No Charge” Products<sup>1,2</sup>**

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May a manufacturer or distributor offer a volume discount to a retailer?	No
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
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What is the definition of “no charge” products?	Not Applicable
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased  
<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

**CONSUMER PROMOTIONS**

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

**Coupons<sup>1,2</sup>**

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	No
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If applicable, which of the following types of coupons would be allowed?	Did not respond.
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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	Yes
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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer? Yes

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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## **Drawings and Sweepstakes Promotions<sup>1,2</sup>**

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Do you allow manufacturers or distributors to conduct sweepstakes promotions? As long as participation doesn't require the purchase of liquor & the prize is not liquor.

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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose? No

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May prizes be displayed on the retail premise? No

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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## **Contests at Retail Licensee Premises<sup>1,2</sup>**

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions? No

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May prizes be displayed on the retail premise? No

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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## **Consumer Tastings<sup>1,2</sup>**

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions? Have adopted Federal “Tied House” Exceptions (27 CFR 6.95)

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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions? With a permit

<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

### OTHER QUESTIONS

#### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee? Yes

<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

#### Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions? No

Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

#### Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? Yes

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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.93)
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	Yes. With commission approval.
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## Private and Control Labels

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
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Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. There are no regulations.
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How much control can a retailer exert over a manufacturer’s branded product (control label)?	Not Applicable
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Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
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## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. Would need to apply for a Special license for the event.
May a third party provider occupy a retail operation for an event?	No
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Yes. Would require a Special license
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes
Is cider subject to the same trade practice laws as any other alcohol products?	Wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturers has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer’s brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	0
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	Hawaii law provides for penalties not to exceed \$2,000 per violation and also suspension or revocation of license.
Are retailers subject to trade practices law violations in your jurisdiction?	Yes

# Hawaii–Kauai County

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers? None

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May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable? Did not respond

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No

Is there any penalty if the retailer goes into arrears? No

May a manufacturer or distributor sell on COD to retailer in arrears? No

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. Within TTB limits.

Are there any time limitations on use of the product display? No limit

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? If loader is raffled to consumer

May the retailer keep the thing of value after the product display is disassembled? No

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

### Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer? Yes



**INSIDE SIGNS**

Are there cost, size, or placement restrictions? Not Applicable

**ILLUMINATED INSIDE SIGNS**

May they be seen from outside (in window, etc.)? Yes

May the retailer be reimbursed for electricity, etc.? No

If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost? There is no dollar limit

Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.? Store

**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

May a manufacturer or distributor provide such lists to a retailer? Yes

May a manufacturer or distributor pay the retailer to get on the list? No

May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu? No

May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)? No

**BEER TAP HANDLES**

Whose property is a beer tap handle? Does not apply

Who keeps it when the keg is finished? Does not apply

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

**Consumer Advertising Specialties<sup>1,2</sup>**

May a manufacturer or distributor provide consumer advertising specialties to a retailer? No

<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes. For displays that chill products
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
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May a manufacturer or distributor provide supplies to a retailer?	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1, 2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	No
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1, 2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. 50ml per employee.
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Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes
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Are there record keeping requirements for samples?	Yes
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Are there any tax implications for record keeping requirements for samples?	No
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1, 2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	No
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes
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May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

**Slotting Allowance (Slotting Fee)<sup>1,2</sup>**

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

**Meals and Entertainment Provided to Retailers<sup>1</sup>**

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes. Under \$50, employee has to fill out gratuity form.
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

**SERVICES PROVIDED TO RETAILERS**

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

**Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>**

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May a manufacturer or distributor make advertisements beneficial to a retailer?	No
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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No
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May a manufacturer or distributor list the name or address or two or more retailers where their brands may be purchased? No

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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

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May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

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## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

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May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Back room to product display; Back room to floor display or case stacker

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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? No

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In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises? No

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On a full store reset, may a manufacturer or distributor reset the products of a competitor? No

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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer's back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

**Category Management Programs<sup>1</sup>**

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

**Educational Seminars<sup>1,2</sup>**

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes. At an off premise meeting room
May a manufacturer or distributor also provide nominal hospitality?	Yes
May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No

<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

**Volume Discounts and “No Charge” Products<sup>1,2</sup>**

May a manufacturer or distributor offer a volume discount to a retailer?	No
May a manufacturer or distributor offer “no charge” products to a retailer?	No
What is the definition of “no charge” products?	Not Applicable

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	No
If applicable, which of the following types of coupons would be allowed?	Did not respond
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	Yes
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes

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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer  
<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	No
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
May prizes be displayed on the retail premise?	No

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)  
<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

### Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
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May prizes be displayed on the retail premise?	No
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

### **Consumer Tastings<sup>1,2</sup>**

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	No
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	Yes
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## **OTHER QUESTIONS**

### **Gift Certificates<sup>1,2</sup>**

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### **Channel Pricing<sup>1,2</sup>**

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? No

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? No

## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable. No

Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable. No

Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer? Yes. However, it doesn’t happen.



How much control can a retailer exert over a manufacturer's branded product (control label)?	None
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
<b>Promotional Events<sup>1</sup></b>	
Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	No
May a third party provider occupy a retail operation for an event?	No
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	No
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes
Is cider subject to the same trade practice laws as any other alcohol products?	Did not respond
<p><sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.</p>	
<b>Miscellaneous</b>	
<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	0
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	Suspension or termination of employee
Are retailers subject to trade practices law violations in your jurisdiction?	Yes

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	None
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes. Monitoring by state police.

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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? Yes. Cash only for beer. No credit for beer, i.e. beer should never be in the arrears.

Is there any penalty if the retailer goes into arrears? Yes. The retail location and all commonly owned retailer locations are placed on a Delinquency List. While on the Delinquency List, the retailer may not make wine and spirits purchases.

May a manufacturer or distributor sell on COD to retailer in arrears? Yes. Cash only for beer. No credit for beer, i.e. beer should never be in the arrears.

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. 1. Wine racks, bins, barrels, casks and similar items in which the primary use is to temporarily hold and display alcoholic beverages.  
2. Must bear conspicuous and substantial advertising matter containing the brand name or logo of the manufacturer.

May a manufacturer or distributor provide product displays to a retailer? (continued)

- 3. Brand name/logo must be permanently inscribed or securely affixed to display.
- 4. The cost of display shall be included in the aggregate cost per manufacturer under the temporary inside signage limitations.
- 5. The aggregate cost of displays cannot exceed \$300 per retailer. 6 Electronic branded coolers and similar items are not displays and must be sold to retailers.

Are there any time limitations on use of the product display?

Have adopted Federal "Tied House" Exceptions (27 CFR 6.83)

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**DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>**

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?

- 1. Items must be returned to manufacturer/distributor OR
- 2. Items must be passed on to non-retailer related consumer. Retailer must retain documentation to prove a bona fide consumer transfer.
- 3. Items must be offered to all similarly situated retailer and all retailers upon request.

May the retailer keep the thing of value after the product display is disassembled?

No

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes  
<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.  
<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display  
<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

**Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?

Yes. See 235 ILCS 5/6-6(i)(ii)(iii)(iv) for advertising mandates.

**INSIDE SIGNS**

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Are there cost, size, or placement restrictions?	<p>1. 235 ILCS 5/6-6(iii)(iv)</p> <p>2. Difference between “permanent” and “temporary”.</p> <p>3. All signs visible from inside or outside (located inside). Also includes beer garden signage.</p> <p>4. Permanent signs include: alcohol lists and menus, neons, illuminated signs, clocks, table lamps, mirrors, tap handles, decals, window paintings window trim.</p> <p>5. Temporary signs include: lighted chalk boards, acrylic table tents, banners, flags, pennants, streamers, posters, placards, bowling sheets and other similar items.</p> <p>6. Does NOT include: coasters, trays, napkins, glassware, cups - these items must be sold.</p> <p>7. Must include manufacturer’s name, brand name, trade name, slogans, markings, trademark, or other symbol commonly associated with product.</p> <p>8. Permanent signs must not include name , slogans, markings related to retailer (unless sign is alcohol list or menu).</p>
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**ILLUMINATED INSIDE SIGNS**

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May they be seen from outside (in window, etc.)?	Yes
May the retailer be reimbursed for electricity, etc.?	No

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<p>If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?</p>	<ol style="list-style-type: none"> <li>1. 235 ILCS 5/6-6 - Signage dollar limits apply to permanent inside signs, temporary inside signs and permanent outside signs.</li> <li>2. Dollar limits exclude erection, installation, repair and maintenance costs.</li> <li>3. Dollar limits for inside signage apply to the aggregate cost of signage in place and in use at one time per manufacturer.</li> <li>4. Dollar limits adjust annually and can be found on ILCC website</li> </ol>
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<p>Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?</p>	<ol style="list-style-type: none"> <li>1. Manufacturers if distributor does not purchase.</li> <li>2. Licensed distributors if purchased from the manufacturer (not mandatory).</li> </ol>
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**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

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<p>May a manufacturer or distributor provide such lists to a retailer?</p>	<ol style="list-style-type: none"> <li>1. 235 ILCS 5/6-6(iii) - Deemed permanent inside signs.</li> <li>2. See previously answered questions related to permanent inside signs.</li> </ol>
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<p>May a manufacturer or distributor pay the retailer to get on the list?</p>	<p>No</p>
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<p>May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?</p>	<p>No. Manufacturer may pay for printing costs and provide signage to retailer.</p>
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<p>May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?</p>	<p>No. Unless considered an "alcohol list and menu" as stated in 235 ILCS 5/6-6(iii).</p>
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**BEER TAP HANDLES**

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<p>Whose property is a beer tap handle?</p>	<p>Manufacturer or distributor.</p>
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Who keeps it when the keg is finished?	Owner.
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

### **Consumer Advertising Specialties<sup>1,2</sup>**

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. However, not for plastic serving cups which must be sold.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

### **Equipment and Supplies<sup>1, 2, 3, 4</sup>**

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May a manufacturer or distributor provide equipment to a retailer?	Yes. 235 ILCS 5/6-6.5 1. Coil cleaning services may be sold at fair market value. 2. Dispensing accessories may be sold at cost.
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Did not respond
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May a manufacturer or distributor provide supplies to a retailer?	Yes
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

### **Outside Signs<sup>1,2</sup>**

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May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Given. 235 ILCS 5/6-6(i)(ii) Permanent outside signs - Limited to one sign, per brand, in place and in use at any one time subject to the max. dollar (changes annually; check ILCC website for changes).
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<p>May a manufacturer or distributor provide an outside sign to a retailer? (continued)</p>	<p>Shall bear only the markings of manufacturer’s name, brand name, trade name, slogans, etc. May include “cold beer”, “on tap”, “carry out”, “packaged liquor”. Should not bear retailer’s name.          Temporary outside signs - Limited to one outside sign per brand. Include: banners, flags, pennants, streamers and other signs of non-permanent nature. May include product pricing and promotion dates and announcement of a retailer specific event and product promotion. May NOT generally include names, slogans, markings or logos of the retailer. Manufacturer or distributor may bear cost of printing signs under express conditions.</p>
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises  
<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

<p>May a manufacturer or distributor provide free samples to a retailer?</p>	<p>Have adopted Federal “Tied House” Exceptions (27 CFR 6.91)</p>
<p>Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?</p>	<p>Yes</p>
<p>Are there record keeping requirements for samples?</p>	<p>Yes</p>
<p>Are there any tax implications for record keeping requirements for samples?</p>	<p>Yes. Subject to the Illinois Liquor Control Act Article VIII and Illinois Revenue Code.</p>

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand  
<sup>2</sup> Example: A bottle of a newly introduced brand of wine



**Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>**

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes. Financial donations are acceptable. Product donations are prohibited by ILCC Rule 100.280.
May a manufacturer or distributor donate to the trade association of a retail licensee?	No. A manufacturer/distributor shall not make cash donations to a trade association of a retail license holder. A manufacturer/distributor may participate in retail association activities: Display products at trade show; Rent display space; Pay for reasonable hospitality expenses in relation to trade show; Purchase tickets and pay registration fees for trade show; Pay for advertisements in programs for a trade show not exceeding \$300.

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

**Slotting Allowance (Slotting Fee)<sup>1,2</sup>**

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

**Meals and Entertainment Provided to Retailers<sup>1</sup>**

May a manufacturer or distributor provide meals and/or entertainment to a retailer?

Yes. Manufacturers/Distributors may incur reasonable expenses related to meals and entertainment with retailers. Reasonable expenses are permitted as long as the payment does not result in partial or full exclusion of products sold by other industry members and such reasonable expenses are not repeatedly directed toward one retailer or group of retailers.

<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

**SERVICES PROVIDED TO RETAILERS**

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

**Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>**

May a manufacturer or distributor make advertisements beneficial to a retailer?

Yes but only limited to the conditions set forth in ILCC Rule 100.330 - Manufacturers/Distributors may pay for advertising for an event at a retail licensed location if the Manufacturer/Distributor is sponsoring an event at the retail venue in which the sole purpose is to host live entertainment, provided that no indirect or direct payment is made to the retailer and that any reference to the retailer in any advertising is incidental to the live event.

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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No. Subject to 27 CFR 6.98(c)

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May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? Did not respond

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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

**Social Media Advertising<sup>1,2</sup>**

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May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? Social media advertising of such a nature permitted.

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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

**Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>**

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May a manufacturer or distributor stock its products at a retail premises in any of the following ways? No. Not for an individual retailer (See 27 CFR 6.98(c)). Yes for multiple retailers

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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Back room to shelf; Back room to product display; Back room to floor display or case stacker; Back room to cold box or cooler; Product or floor display to back room; Product or floor display to shelf; Product or floor display to cold box or cooler. Stocking and Rotations are permitted as part of a delivery or sales call and are voluntary on the part of the distributor. No affixing prices.

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<p>May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? (continued)</p>	<p>Distributor may handle its own products only. Resets are regularly scheduled for a maximum of four times annually. Retailer must give notice to all distributors and schedule the reset at a convenient time for a majority of the distributors.</p>
<p>In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?</p>	<p>Yes. Distributors may voluntarily rotate product as part of a delivery or sales call. They cannot affix prices and can handle own products only. May affix shelf tags</p>
<p>On a full store reset, may a manufacturer or distributor reset the products of a competitor?</p>	<p>No. Distributor also may not price products but may affix shelf tags.</p>

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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer's back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

<p>In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor's category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?</p>	<p>Manufacturer/Distributor may not handle the products of a competitor.</p>
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

**Educational Seminars<sup>1,2</sup>**

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	No
May a manufacturer or distributor also provide nominal hospitality?	A Manufacturer/Distributor may incur these expenses so long as it does not provide such meals and entertainment repeatedly to one retailer or a group of retailers, does not exclude other Illinois retailers and there is no condition to partially or fully exclude a competitor’s product at the retailer location receiving the benefit.
May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Yes

<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

**Volume Discounts and “No Charge” Products<sup>1,2</sup>**

May a manufacturer or distributor offer a volume discount to a retailer?	No
May a manufacturer or distributor offer “no charge” products to a retailer?	Volume discounts must be fully documented on invoices and offered to all retailers who purchase the same volume. Manufacturer/Distributor should provide details and records pertaining to any particular volume discount upon request.

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What is the definition of “no charge” products?	Products may be offered “in lieu of discount” if fully explained on invoice and fully documented to ensure that all retailers have access to the same “in lieu of discount” deal.
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

**CONSUMER PROMOTIONS**

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

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**Coupons<sup>1,2</sup>**

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Not Applicable
If applicable, which of the following types of coupons would be allowed?	Yes
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; Instant redeemable coupons (IRC’s) redeemable by consumers at check out; IRC’s dispensed to consumers as direct offerings; Electronic coupons (scan back) where consumers receive “cents off” at the moment the container is scanned at check out;

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<p>If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed? (continued)</p>	<p>Cross merchandised coupons of any type which allow for “cents off” on a nonfood item (e.g. Charcoal briquettes) with purchase of an alcohol beverage; Cross merchandised coupons of any type which allow for “cents off” on a food item (e.g. meat, chips) with purchase of an alcohol beverage. IRC’s on liquor products dispensed at retail location are not permitted. Electronic coupons sent electronically through a consumer’s phone or similar device needs further evaluation.</p>
<p>If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?</p>	<p>Yes. Have adopted 27 CFR 6.96 to allow usual and customary handling fees.</p>

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer  
<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

**Drawings and Sweepstakes Promotions<sup>1,2</sup>**

<p>Do you allow manufacturers or distributors to conduct sweepstakes promotions?</p>	<p>Yes</p>
<p>Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?</p>	<p>No purchase requirements</p>

May prizes be displayed on the retail premise?	Yes. Drawing must be offered to all similarly situated retailers. Manufacturer/Distributor/Retailer shall maintain records to ensure prize is not provided to retailer or any person closely affiliated with a retailer
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes
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May prizes be displayed on the retail premise?	No
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	No
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	No
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.



**OTHER QUESTIONS**

**Gift Certificates<sup>1,2</sup>**

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

**Channel Pricing<sup>1,2</sup>**

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	Yes. Illinois case law permits differential pricing between on-premises and off-premises retailers.
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No. Volume discounting is permitted, however.
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

**Sale of Other (Non-Alcoholic) Merchandise to Retailers**

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	To the extent permitted by law. The Illinois Liquor Control Act does not govern non-alcoholic liquor transactions between Manufacturers/Distributors and Retailers as long as the transaction does not involve express or implied agreements prohibited by the Illinois Liquor Control Act related to the sale of alcoholic liquor.
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	Yes. To the extent permitted by law and not prohibited by the Illinois Liquor Control Act.
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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

**Combination Packaging<sup>1,2</sup>**

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Yes. If originally packaged by the manufacturer or its agent in such a manner.
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

**Product Testing**

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	Yes. Upon review and approval of the Illinois Liquor Control Commission. See “Test Marketing” form on Commission website.
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**Private and Control Labels**

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
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Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes and must be sold to any retailer who wants to buy it.
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How much control can a retailer exert over a manufacturer’s branded product (control label)?	Undefined by law except that a retailer cannot demand that the product be sold exclusively to the retailer (235 ILCS 5/6-17.1).
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Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
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**Promotional Events<sup>1</sup>**

<p>Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?</p>	<p>Yes. Manufacturers/ Distributors can only sponsor events at retail licensed locations where the sole purpose is to host live entertainment, provided that no indirect or direct payment is made to the retailer and that any reference to the retailer in any advertising is incidental to the event itself (ILCC Rule 100.330(b)). No other sponsored event is permitted</p>
<p>May a third party provider occupy a retail operation for an event?</p>	<p>Yes</p>
<p>If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?</p>	<p>If the third party provider is the agent of a Manufacturer/ Distributor then only under the conditions stated in 100.330(b).</p>
<p>Are there limitations on third party events?</p>	<p>Yes. Events only permitted under the conditions set forth in 100.330(b). Under no circumstances shall alcoholic liquor be given away (ILCC Rule 100.280).</p>
<p>Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?</p>	<p>As long as the third party provider or unlicensed entity has no direct or indirect interest in the retailer</p>
<p>Is cider subject to the same trade practice laws as any other alcohol products?</p>	<p>Wine</p>

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturers has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer’s brand of alcohol.

## Miscellaneous

<p><i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?</p>	24
<p>Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.</p>	Yes
<p>What penalties are provided for in a licensee trade practice violation?</p>	<p>The Commission has the authority to fine, suspend or revoke a liquor license for any and all offenses. Most first trade practice violations result in an administrative fine between \$500-\$1000 per count which are settled through an Offer in Compromise.</p>
<p>Are retailers subject to trade practices law violations in your jurisdiction?</p>	Yes
<p>What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?</p>	<p>A manufacturer which is licensed in Illinois to make sale or deliveries of alcoholic liquor and which enlists agents, representatives, or individuals acting on its behalf who contact licensed retailers on a regular and continual basis in Illinois must register those agents, representatives, or persons acting on its behalf with the ILCC.</p>
<p>May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?</p>	<p>No. Agents have the authority to conduct investigations which may or may not result in a violation of the Illinois Liquor Control Act. The Commission is also authorized to receive complaints that a license holder has violated the Liquor Control Act.</p>

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer?	Yes. A quantity discount is the practice by industry members of offering class "E" licensees promotional checks and/or merchandise for designated quantity purchases of liquor. The practice of offering quantity discounts is not prohibited per se by Iowa law or federal regulation. The legality of a particular industry member's quantity discount scheme depends on the specific facts and circumstances under which it is being offered in the Iowa marketplace.
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<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer?	Yes. There can be no extension of credit to retailers in the purchase of beer or liquor. Full payment of wine is due 30 days from date of purchase by a retailer.
Is there any penalty if the retailer goes into arrears?	Yes. Licensees/permittees that do not demonstrate good financial standing may be considered as lacking good moral character and may have their license/permit denied for lack of good moral character.
May a manufacturer or distributor sell on COD to retailer in arrears?	No

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<sup>1</sup>Definition: Deferred payment offered to a retailer

<sup>2</sup>Example: Full payment due 30 days from date of delivery

## Product Displays<sup>1,2</sup>

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May a manufacturer or distributor provide product displays to a retailer?

Yes. An industry member may provide product displays, provided that the product display bears conspicuous and substantial advertising matter. A product display is prohibited if it has secondary value to the retailer, for other than advertising purposes. An industry member is prohibited from requiring a retailer to purchase a specific quantity of alcoholic liquor, wine or beer in order to receive a product display. The total value of all product displays per brand per calendar year may not exceed \$300. The value of the product display is the industry member's original cost of the item. Industry members may not pool or combine their dollar limitations in order to provide a retailer with a product display which exceeds \$300. Industry members are prohibited from pooling or combining several brands to provide a retailer with a product display which exceeds \$300.

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Are there any time limitations on use of the product display?

Have adopted Federal "Tied House" Exceptions (27 CFR 6.83)

**DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>**

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May a manufacturer or distributor provide dealer loaders/  
product enhancers to a retailer?

An industry member may furnish, give, or sell retailer advertising utensils which bear conspicuous advertising matter permanently affixed to the utensils and which are primarily valuable as point-of-sale advertising intended for use on the premises of the retail establishment. No advertising utensils with secondary value which constitute furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of the retail business of a licensee or permittee shall be given, furnished or sold by an industry member to a retailer. The total value of all retailer advertising utensils which may be furnished, given or sold by an industry member to a retailer per brand per calendar year may not exceed \$76. Industry members may not pool or combine their dollar limitations in order to provide a retailer with retailer advertising utensils which exceed \$76. Industry members may not pool or combine the dollar limitations for several brands in order to provide a retailer with retailer advertising utensils which exceed \$76.

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May a manufacturer or distributor provide dealer loaders/ product enhancers to a retailer? (continued)	The value of the retailer advertising utensil is the industry member's original cost of the item.
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May the retailer keep the thing of value after the product display is disassembled?	See above terms and conditions.
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

### Retailer/Point of Sale (POS) Advertising Specialties<sup>1, 2</sup>

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	<p>An industry member may furnish, give, or sell retailer advertising utensils which bear conspicuous advertising matter permanently affixed to the utensils and which are primarily valuable as point-of-sale advertising intended for use on the premises of the retail establishment. No advertising utensils with secondary value which constitute furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of the retail business of a licensee or permittee shall be given, furnished or sold by an industry member to a retailer. The total value of all retailer advertising utensils which may be furnished, given or sold by an industry member to a retailer per brand per calendar year may not exceed \$76.</p>
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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer? (continued)

Industry members may not pool or combine their dollar limitations in order to provide a retailer with retailer advertising utensils which exceed \$76. Industry members may not pool or combine the dollar limitations for several brands in order to provide a retailer with retailer advertising utensils which exceed \$76. The value of the retailer advertising utensil is the industry member's original cost of the item.

**INSIDE SIGNS**

Are there cost, size, or placement restrictions?

Have adopted Federal "Tied House" Exceptions (27 CFR 6.84). An industry member may furnish a retailer with inside signs, including posters, placards, mechanical devices and window decorations and point-of-sale advertising matter (table tents, menu clip-ons) which have no secondary value to the retailer and are designed solely to promote the alcoholic beverages product. An industry member is prohibited from paying the retailer for any incidental expenses related to the operation of the inside sign..

**ILLUMINATED INSIDE SIGNS**

May they be seen from outside (in window, etc.)?

Yes

May the retailer be reimbursed for electricity, etc.?

No. An industry member is prohibited from paying the retailer for any incidental expenses related to the operation of the inside sign.

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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Retailer owns and maintains the inside sign.
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### **WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

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May a manufacturer or distributor provide such lists to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84). Ensure that the offer is available to all retailers in the market area.
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May a manufacturer or distributor pay the retailer to get on the list?	No
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	Yes. An industry member may furnish, sell, give, rent or loan wine lists and wine menus to a retailer. This rule is specific to wine.
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May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	Yes. Have adopted Federal “Tied House” Exceptions (27 CFR 6.86). An industry member may furnish, sell, give, rent or loan wine lists and wine menus to a retailer, provided there is no secondary value to the retailer.
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### **BEER TAP HANDLES**

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Whose property is a beer tap handle?	Tap handles are the property of the retailer.
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Who keeps it when the keg is finished?	The retailer, since they own it.
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?

Have adopted Federal “Tied House” Exceptions (27 CFR 6.84). An industry member may furnish, give or sell consumer souvenirs to a retailer for unconditional distribution by the retailer to consumers. Consumer souvenirs must bear conspicuous advertising matter which identifies the industry member or the industry member’s alcoholic beverages product. The industry member may not pay or credit the retailer, directly or indirectly, for distributing consumer souvenirs. There is no dollar limitation on consumer souvenirs. Such souvenirs shall be offered to all retailers by the industry member within the industry member’s marketing territory on as equal and equitable a basis as possible. In the event the souvenir also advertises a local event not sponsored by the retailer, the souvenir need only be offered by the industry member to the retailers within the local community where the event is held.

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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

**Equipment and Supplies<sup>1, 2, 3, 4</sup>**

May a manufacturer or distributor provide equipment to a retailer?	Yes. Glassware may be sold as follows: Manufacturers and wholesalers of beer and wine may sell disposable glassware only to on-premised retailers. Manufacturers and wholesalers of beer and wine may sell durable commemorative glassware to off-premised retailers only when it is intended for sale to their customers. Manufacturers and wholesalers of alcoholic liquor may sell durable or disposable glassware to a retailer. In all instances, durable and disposable glassware must bear substantial advertising matter of the manufacturer and all sales must be for no less than the industry member's laid-in cost for the glassware.
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
May a manufacturer or distributor provide supplies to a retailer?	Have adopted Federal "Tied House" Exceptions (27 CFR 6.88)

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

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May a manufacturer or distributor provide an outside sign to a retailer?

Have adopted Federal “Tied House” Exceptions (27 CFR 6.102). The sign must bear conspicuous, permanently affixed advertising which identifies the industry member or their products. The sign may be displayed within the establishment or on a fence or similar enclosure facing into the establishment. If the billboard or sign has secondary value (i.e., electronic, mechanical or manual message center, scorekeeping capabilities) other than mere advertising, an industry member may furnish a billboard or “spectacular” sign to a retailer provided: the sign is not on a licensed premises; the sign is not owned by a licensee, the retailer is not compensated, directly or indirectly, in conjunction with the placement of the sign; the furnishing of the “spectacular” sign by an industry member shall not result in exclusion, in whole or in part, of a competitor’s products in the retail establishment; and the billboard or “spectacular” sign does not contain an advertisement naming or advertising any retailer, or provide any other secondary utility value.

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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

**Samples<sup>1,2</sup>**

May a manufacturer or distributor provide free samples to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.91). The quantities of any brand of beer do not exceed three gallons; of wine, three liters; of alcoholic liquor, 500 ml.
Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	No. It is not regulated.
Are there record keeping requirements for samples?	Yes. Records must be maintained for a period of three years. Records must include the name and address of the retailer receiving the item, the date furnished, sold, given, loaned, leased or rented, the item furnished, the industry member’s laid-in cost of the item furnished, and charges to the retailer for the item. Such records shall be open to representatives of the division during normal business hours of the industry member, and may be subject to administrative subpoena issued by the division administrator.
Are there any tax implications for record keeping requirements for samples?	Yes

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

**Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>**

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	Yes. Cash or things of value only. Offer to one, must offer to all.
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<p>May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?</p>	<p>Yes. Cash or things of value only. Offer to one, must offer to all.</p>
<p>May a manufacturer or distributor donate to the trade association of a retail licensee?</p>	<p>Yes. An industry member may participate in retail association activities in the following manner: a. Display its products at a trade show or convention. b. Rent display booth space provided that the rental fee is not excessive and is the same paid by all exhibitors. c. Provide hospitality for the persons attending the trade show or convention. The hospitality provided by the industry member shall be independent from association-sponsored activities. d. Purchase tickets, attend functions, and pay registration fees, provided that such payments are not excessive and are the same paid by all exhibitors. e. Pay for advertising in programs or brochures issued by retail associations at a convention or trade show, provided that the total payments made by an industry member do not exceed \$155 per calendar year to any one retail association.</p>

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

### Slotting Allowance (Slotting Fee)<sup>1, 2</sup>

<p>May a manufacturer or distributor pay a slotting allowance to a retailer?</p>	<p>No</p>
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# Iowa

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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products? No

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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer? No

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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

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## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

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May a manufacturer or distributor make advertisements beneficial to a retailer? Have adopted Federal "Tied House" Exceptions (27 CFR 6.98)

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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

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May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? Have adopted Federal "Tied House" Exceptions (27 CFR 6.98)

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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address



**Social Media Advertising<sup>1,2</sup>**

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

**Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>**

May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Have adopted Federal “Tied House” Exceptions (27 CFR 6.99); Response pertains to how an industry member may stock and rotate its products only.

May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Yes

In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises? Yes. An industry member may reset or rearrange another industry member’s products with the explicit consent of the retailer. Pricing another industry member’s products is not addressed.

On a full store reset, may a manufacturer or distributor reset the products of a competitor? Have adopted Federal “Tied House” Exceptions (27 CFR 6.99). If the retailer gives the manufacturer/distributor permission to reset competitor products.

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

### Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor's category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?

No

<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

### Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?

An industry member may provide educational seminars for retailers regarding such topics as merchandising and product knowledge, tours of alcoholic beverages manufacturing facilities; however, an industry member is prohibited from paying a retailer's expenses or compensating a retailer for attending such seminars and tours.

May a manufacturer or distributor also provide nominal hospitality?

Yes. Have adopted Federal "Tied House" Exceptions (27 CFR 6.94).

May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?

Have adopted Federal "Tied House" Exceptions (27 CFR 6.94)

<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer's history or product techniques or product familiarization, etc.

**Volume Discounts and “No Charge” Products<sup>1,2</sup>**

May a manufacturer or distributor offer a volume discount to a retailer?	Provided the offer is available to all retailers. Reduced price or rebate offering based on quantity of product purchased.
May a manufacturer or distributor offer “no charge” products to a retailer?	Provided the offer is available to all retailers.
What is the definition of “no charge” products?	

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

**CONSUMER PROMOTIONS**

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

**Coupons<sup>1,2</sup>**

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)
If applicable, which of the following types of coupons would be allowed?	Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; Instant redeemable coupons (IRC’s) redeemable by consumers at check out; IRC’s dispensed to consumers as direct offerings; IRC’s dispensed to consumers at the retail premises;

If applicable, which of the following types of coupons would be allowed? (continued)	Electronic coupons (scan back) where consumers receive “cents off” at the moment the container is scanned at check out; Electronic coupons that are automatically sent or downloaded to the consumer’s phone; Cross merchandised coupons of any type which allow for “cents off” on a nonfood item (e.g. Charcoal briquettes) with purchase of an alcohol beverage; Cross merchandised coupons of any type which allow for “cents off” on a food item (e.g. meat, chips) with purchase of an alcohol beverage.
190 If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	An industry member is prohibited from reimbursing the retailer more than the ordinary and customary handling fee for redeeming the coupons.
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Yes. Have adopted Federal “Tied House” Exceptions (27 CFR 6.96). Drawing must be made available to all retailers in the market area.

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May prizes be displayed on the retail premise?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

### **Contests at Retail Licensee Premises<sup>1,2</sup>**

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes. Have adopted Federal “Tied House” Exceptions (27 CFR 6.96).
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May prizes be displayed on the retail premise?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

### **Consumer Tastings<sup>1,2</sup>**

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.95). A consumer tasting cannot be used as a subterfuge to provide free product to a retailer. An industry member may engage in the practice of trade spending by purchasing one round of alcoholic or non-alcoholic beverages for patrons of an on-premises retail establishment only. An industry member who engages in trade spending is prohibited from paying the retailer more than the ordinary and customary charge for the beverages.
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<p>May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?</p>	<p>Manufacturer/distributor of beer and wine may conduct consumer tastings on an unlicensed premise, provided there is no fee to obtain the product. Alcoholic liquor cannot be sold or served as a taste to consumers on an unlicensed premise in a public place. No server training is required.</p>
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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<p>Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?</p>	<p>Provided it is not used as a subterfuge to provide a retailer a thing of value.</p>
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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<p>Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?</p>	<p>Yes. Channel pricing is not addressed in Iowa Code or administrative rules. Offers that are made to all retailers in the local market must be made on the same terms without business reasons present to justify the difference in treatment.</p>
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<p>Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?</p>	<p>Yes. For wine and beer, offers that are made to all retailers in the local market must be made on the same terms without business reasons present to justify the difference in treatment. The state wholesaler is required to offer alcoholic liquor at the same price and terms of sale to all. The state does not determine the retail price.</p>
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers  
<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

**Sale of Other (Non-Alcoholic) Merchandise to Retailers**

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<p>May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?</p>	<p>No</p>
<p>May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?</p>	<p>No. Have adopted Federal “Tied House” Exceptions (27 CFR 6.101).</p>
<p>May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?</p>	<p>Yes. As long as the merchandise cannot be used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the retailer’s place of business. Glassware may be sold as follows: Manufacturers and wholesalers of beer and wine may sell disposable glassware only to on-premised retailers. Manufacturers and wholesalers of beer and wine may sell durable commemorative glassware to off-premised retailers only when it is intended for sale to their customers.</p>

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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? (continued)

Manufacturers and wholesalers of alcoholic liquor may sell durable or disposable glassware to a retailer. In all instances, durable and disposable glassware must bear substantial advertising matter of the manufacturer and all sales must be for no less than the industry member's laid-in cost for the glassware. Have adopted Federal "Tied House" Exceptions (27 CFR 6.101).

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

### Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?

Have adopted Federal "Tied House" Exceptions (27 CFR 6.93)

The non-alcoholic items cannot have any secondary value to the retailer, beyond the potential to attract consumers and promote sales. The combination packaging must be designed to be delivered intact to the consumer and the additional cost incurred by the industry member shall be included in the cost to the retailer. Combination packaging is also addressed in the Division's listing policy.

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix



**Product Testing**

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? No

**Private and Control Labels**

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable. No

Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable. No

Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer? Yes. Based on availability, a private label product must be available for other retailers who wish to purchase.

How much control can a retailer exert over a manufacturer’s branded product (control label)? Not addressed.

Can tied house issues be circumvented or avoided through the use of brand licensing agreements? No

**Promotional Events<sup>1</sup>**

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations? Yes. Have adopted Federal “Exclusive Outlet” regulations (27 CFR 8.23)

May a third party provider occupy a retail operation for an event? Yes

If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand? Have adopted Federal “Exclusive Outlet” regulations (27 CFR 8.23)

Are there limitations on third party events? Have adopted Federal “Exclusive Outlet” regulations (27 CFR 8.23)

Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers? Have adopted Federal “Exclusive Outlet regulations (27 CFR 8.23)

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Is cider subject to the same trade practice laws as any other alcohol products?	Beer and wine. Cider is not addressed per se in statute or administrative rule. Cider up to 5%ABW is treated as beer. Cider over 5% ABW but not more than 17% ABW is treated as wine. Anything over 17% ABW is treated as alcoholic liquor.
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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

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*Please note that all answers to these questions will be published in the survey report.* How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement? None

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Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data. No

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What penalties are provided for in a licensee trade practice violation? An industry member or retailer who commits, permits or assents to trade practice violations is subject to administrative penalties up to \$1,000 per violation, suspension or revocation of license or permit.

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Are retailers subject to trade practices law violations in your jurisdiction? Yes. An industry member or retailer who commits, permits or assents to trade practice violations is subject to administrative penalties up to \$1,000 per violation, suspension or revocation of license or permit.

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Not addressed.
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes but only subject to the rules and laws of the receiving jurisdiction. No monitoring utilized

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# Kentucky

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer?	No. See, KRS 244.240, 244.590.
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<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer?	Yes for distilled spirits and wine sales by wholesaler to retailer. See KRS 243.170(4). Not for malt beverage sales by distributor to retailer. KRS 244.040.
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Is there any penalty if the retailer goes into arrears?	Yes. Cannot sell or transfer business. KRS 243.630(10).
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May a manufacturer or distributor sell on COD to retailer in arrears?	Yes for distilled spirits and wine sales by wholesaler to retailer. See, KRS 243.170(4). Since immediate payment is required for malt beverage sales, question is inapplicable as there can be no legal arrears for malt beverage sales to retailers.
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<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer?	Yes. The retailer must purchase or lease displays at FMV for permanent use. Distributor cannot provide or give free of charge. See, KRS 244.240(3), KRS 244.590(1).
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Are there any time limitations on use of the product display? Since display belongs to retailer, there are no time limitations for use.

**DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>**

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May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? Manufacturers/Distributors are allowed to advertise by use advertising displays in retail stores but such displays belong to manufacturer/distributor and must be removed at end of ad campaign. Cannot give or leave with retailer. KRS 244.240(3), KRS 244.590(1).

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May the retailer keep the thing of value after the product display is disassembled? No. KRS 244.240(3), KRS 244.590(1)

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

**Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer? KRS 244.590(2) permits malt beverage producers and distributors to provide signs, posters, placards, designs, devices, decorations or graphic displays. 804 KAR 1:100 permits producers and wholesalers to provide advertising novelties to consumers but not retailers.

**INSIDE SIGNS**

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Are there cost, size, or placement restrictions? See KRS 244.590(2)

**ILLUMINATED INSIDE SIGNS**

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May they be seen from outside (in window, etc.)? Yes. See KRS 244.590(2), 804 KAR 2:005.

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May the retailer be reimbursed for electricity, etc.? No. See KRS 244.590(1)(c), 804 KAR 2:005(2).

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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost? See KRS 244.590(2)

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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Ownership dependent upon whether signs were given, rented, loaned or sold. KRS 244.590(2)
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**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

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May a manufacturer or distributor provide such lists to a retailer?	Retailer has to pay FMV for the lists. Retailers cannot exclusively sell manufacturer or distributor’s products. KRS 244.590(1); KRS 244.240(3); KRS 244.580,
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May a manufacturer or distributor pay the retailer to get on the list?	No. See KRS 244.590(1), KRS 244.240(3), 804 KAR 2:005(2).
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No. See KRS 244.590(1)(c), KRS 244.240(3).
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May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	Yes. If retailer pays FMV for books and not subterfuge for other three tier violation. See, KRS 244.590(1), KRS 244.240(3)
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**BEER TAP HANDLES**

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Whose property is a beer tap handle?	Tap Handles may be furnished to retailers. Question dependent upon manner (gift, sale, rent) that upper tier furnished to retailer. 804 KAR 11:010.
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Who keeps it when the keg is finished?	Tap Handles may be furnished to retailers. Question dependent upon manner (gift, sale, rent) that upper tier provided to retailer. 804 KAR 11:010.
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?

No. Manufacturer or distributor employees may provide advertising novelties directly to consumers at retail establishments but may not give the items to retailers to provide to consumers. 804 KAR 1:100 Section 4.

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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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May a manufacturer or distributor provide equipment to a retailer?

Yes. Generally, equipment has to be provided at FMV and be a commercially reasonable transaction so as not to be a subterfuge for three-tier violations. Manufacturer or distributor rentals or sales of equipment must be comparable to what a retailer could obtain from the open market from other equipment sellers or lease companies. KRS 244.590(1), KRS 244.240(3). The following equipment can be furnished by upper tiers to retailers: draught-line cleaning or coil-cleaning service, tapping accessories, rods, vents, taps, hoses, washers, couplings, vent tongues, check valves and tap knobs. KRS 244.590(2), 804 KAR 11:010.

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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?

There is no dollar limit; Fair Market Value

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May a manufacturer or distributor provide supplies to a retailer? No

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business  
<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.  
<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business  
<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

### Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer? Yes. Given, loaned, or retailer owned. Signs cannot include in the name of a retailer and an upper tier product brand. Manufacturer or distributor cannot pay or credit the retailer for displaying signs or for expenses for operation of sign. See, 804 KAR 1:100 Section 2, 804 KAR 2:005.

<sup>1</sup> Definition: A sign erected or hung outside the retail premises  
<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

### Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer? Yes to retailer employees for product education purposes. Kentucky allows manufacturer or distributors to have educational tastings for retailers and employees to promote and educate retailers about new products under specific rules and guidelines. 804 KAR 1:110, 804 KAR 11:030, 804 KAR 1:070. Manufacturer or distributors may not provide samples to retailers to provided to consumers. See, KRS 244.590(1), KRS 244.240(3)



Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	No limits for product educational tastings. Must comply with 804 KAR 1:110 or 804 KAR 11:030. N/A for prohibited consumer sampling.
Are there record keeping requirements for samples?	Yes. Prior notice of educational product tasting events must be provided. Must comply with 804 KAR 1:110 or 804 KAR 11:030
Are there any tax implications for record keeping requirements for samples?	No

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## **Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>**

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	No. KRS 244.590(1), KRS 244.240(3).
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Manufacturer or distributor may not donate alcoholic beverages. Only exception is donation of distilled spirits and wine to the holder of a special temporary distilled spirits wine auction license. KRS 243.010(1), KRS 243.036, KRS 244.050. Manufacturer or distributor may donate money and other things of value to charity. Upper tiers may donate portable dispensing units, vats, tubs and tanks to charities for certain qualifying special events. 804 KAR 11:010.
May a manufacturer or distributor donate to the trade association of a retail licensee?	No

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No. KRS 244.590(1), KRS 244.240(3).
May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No. KRS 244.590(1)(c), KRS 244.240(3).

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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes. If reasonable. No if excessive or unreasonable expense. Practice also implicates possible three tier violations. Manufacturers should not be negotiating contracts directly with retailers. See answer to question no. 96; KRS 244.590(1); KRS 244.240(3).
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

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## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### **Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>**

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May a manufacturer or distributor make advertisements beneficial to a retailer?	Yes. Manufacturer or distributor may advertise sponsored events at a retail establishment. Any sponsorship/advertising agreements between manufacturer or distributor cannot include exclusivity terms or retailer product sale terms. See, KRS 244.130, 804 KAR 1:100; KRS 244.590, KRS 244.240(3).
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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No. See, KRS 244.590(1), KRS 244.240(3).
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May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Yes. Manufacturer or distributor can identify retailers if list all retailers where brands may be purchased. Cannot advertise in any way that gives competitive advantage of one retailer over another. KRS 244.590(1)(c), KRS 244.240(3).
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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?

No. Manufacturers or distributors are authorized to advertise by social media but cannot benefit one or more retailers to exclusion of others. 804 KAR 1:100, KRS 244.590(1), KRS 244.240(3).

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?

Back room to shelf; Back room to product display; Back room to floor display or case stacker; Back room to cold box or cooler; Product or floor display to back room; Product or floor display to shelf; Product or floor display to cold box or cooler. Distributors can only stock, rotate, or handle their own products and displays. Displays must be removed from retail premises after promotions over so as not be “gifts” to retailers. Distributors must provide same and reasonable services to all retailers. KRS 244.585, KRS 244.590(1), KRS 244.240(3).

May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?

Yes

In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?

No

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<p>On a full store reset, may a manufacturer or distributor reset the products of a competitor?</p>	<p>Distributor can only handle its own products. KRS 244.590(1)(c), KRS 244.240(3).</p>
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

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<p>In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?</p>	<p>No. See generally KRS 244.240(3), KRS 244.590(1).</p>
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

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<p>May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?</p>	<p>Yes. A manufacturer or distributor may conduct educational seminars for retailers or their employees at retail licensed premises for distilled spirits and wine educational meetings and at licensed distributor or retail premises for malt beverage educational meetings. 804 KAR 1:110, 804 KAR 11:030.</p>
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May a manufacturer or distributor also provide nominal hospitality?

No. A manufacturer or distributor cannot provide gifts, alcoholic beverages, or favors that can be taken away from meeting by attendees but can provide hors d'oeuvres at educational meeting. 804 KAR 1:110, 804 KAR 11:030

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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?

No. Permitted educational meetings must be held at licensed premises in Kentucky. Bottles must be purchased through distributors and marked. 804 KAR 1:110, 804 KAR 11:030, KRS 244.590(1), KRS 244.240(3), 804 KAR 1:070.

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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer's history or product techniques or product familiarization, etc.

## Volume Discounts and "No Charge" Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer?

A volume discount is not statutorily defined. The working definition is when the distributor offers a lower unit price to a retailer is a certain quantity (volume) of product is purchased. Distributor must offer same discounts to all retailers and invoices must accurately reflect discounted unit prices. KRS 244.585(1);KRS 244.590(1)(c), KRS 244.240(3), KRS 365.020.

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May a manufacturer or distributor offer "no charge" products to a retailer?

No. See KRS 244.240(3), KRS 244.590(1)(c).

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<p>What is the definition of “no charge” products?</p>	<p>No statutory definition. Any product for which invoice records show no cost to retailer.</p>
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

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## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

<p>Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?</p>	<p>All coupons on malt beverages are prohibited. Retailer coupons are prohibited. Upper tiers can offer coupons for distilled spirits and wine. KRS 244.461, 804 KAR 1:120.</p>
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<p>If applicable, which of the following types of coupons would be allowed?</p>	<p>Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; Instant redeemable coupons (IRC’s) redeemable by consumers at check out; IRC’s dispensed to consumers as direct offerings; IRC’s dispensed to consumers at the retail premises; Electronic coupons (scan back) where consumers receive “cents off” at the moment the container is scanned at check out;</p>
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If applicable, which of the following types of coupons would be allowed? (continued)

Electronic coupons that are automatically sent or downloaded to the consumer’s phone; Cross merchandised coupons of any type which allow for “cents off” on a nonfood item (e.g. Charcoal briquettes) with purchase of an alcohol beverage; Cross merchandised coupons of any type which allow for “cents off” on a food item (e.g. meat, chips) with purchase of an alcohol beverage. Answers above about permissible coupon activity only applies to coupons by manufacturers and wholesalers of distilled spirits and wine. See answer to question 60. See, KRS 244.461, 804 KAR 1:120. Cross coupons attached, given with, or associated with the purchase of malt beverages are illegal. KRS 244.500(1).

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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?

No. KRS 244.590(1), KRS 244.240(3)

If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?

Yes

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

**Drawings and Sweepstakes Promotions<sup>1,2</sup>**

Do you allow manufacturers or distributors to conduct sweepstakes promotions?

Yes. See KRS 244.500(3)



Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Yes. Upper tier and retail employees are not eligible to participate in sweepstakes. Records must be maintained to verify contestants and winners. KRS 244.500(3).
May prizes be displayed on the retail premise?	Yes. Unclaimed prizes must be removed from retail premises by manufacturer or distributors. See, KRS 244.590(1), KRS 244.240(3).

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No. See KRS 244.590(1), KRS 244.240(3).
May prizes be displayed on the retail premise?	Not Applicable

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	No. All free samples of malt beverages on retail premises are prohibited. Some retailers can obtain a sampling license to permit limited free samples of distilled spirits and wine to consumers at sampling events. Retailers must purchase distilled spirits and wine from wholesalers and cannot be provided for free to retailer by wholesaler.
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<p>May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions? (continued)</p>	<p>A manufacturer/distributor can participate in sampling events and provide information and pour/serve samples. KRS 244.050(1), 804 KAR 1:100.</p>
<p>May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?</p>	<p>No. A manufacturer/distributor generally may not conduct any retail activities of selling or giving alcoholic beverages to consumers. Retailers can only provide free limited samples of distilled spirits and wine if they hold a sampling license. See, KRS 241.010(47),(50), KRS 243.020(1), KRS 244.050, 804 KAR</p>

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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).  
<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

<p>Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?</p>	<p>No. Consumers purchase gift certificates from retailers. KRS 243.020(1); KRS 244.105; 804 KAR 1:120.</p>
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises  
<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

<p>Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?</p>	<p>No. See KRS 244.585(1); KRS 244.590(1)(c), KRS 244.240(3), KRS 365.020.</p>
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## **Sale of Other (Non-Alcoholic) Merchandise to Retailers**

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No. See KRS 244.590(1); KRS 244.240(3).

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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No. See KRS 244.590(1)(c); KRS 244.240(3).

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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## **Combination Packaging<sup>1,2</sup>**

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes. There are no restrictions on distilled spirits and wine combination packages. For malt beverage packages, the combination package can include brand related novelty items if the price charged for the package includes the cost of the branded novelty item. KRS 244.500(4). Food item may not be bundled with malt beverages. See, KRS 244.500(4).

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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	Yes. Must occur at manufacturer’s licensed premises or holder of special non-beverage license. See, KRS 243.130, KRS 243.150, KRS 243.230.
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## Private and Control Labels

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
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Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. A producer’s product with a retailer’s name or brand must be made available for sell to all retailers. See, KRS 244.585(1); KRS 244.590(1)(c), KRS 244.240(3).
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How much control can a retailer exert over a manufacturer’s branded product (control label)?	None
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Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	Yes. Licensing agreement should provide FMV for producer’s use of the brand name. Licensing agreement would also provide for no exclusivity. Tied house issues are avoided by making product available to any retailer without restrictions on the open market.
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## Promotional Events<sup>1</sup>

<p>Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?</p>	<p>Yes. A manufacturer or distributor cannot bring or provide free alcoholic beverages to provide to consumers. A manufacturer or distributor cannot pay retailer for costs of providing free drinks to consumers. Retailers cannot agree to only sell a manufacturer's or distributor's products at promotions. A manufacturer or distributor can only provide free advertising novelties to consumers. KRS 244.590(1)(c), KRS 244.240(3)(4), KRS 244.050(1), KRS 244.580, 804 KAR 1:100 Section 4.</p>
<p>May a third party provider occupy a retail operation for an event?</p>	<p>Yes</p>
<p>If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?</p>	<p>Third party promoters are deemed to be agents of the principal upper tiers who employ them. Upper tiers are responsible for acts of third party promoter agents even if unaware of violations. See, KRS 243.490(1). Retailers cannot have exclusive deals with third party promoters or upper tiers to carry only upper tier brands. KRS 244.590(1)(c), KRS 244.240(3)(4), KRS 244.580.</p>
<p>Are there limitations on third party events?</p>	<p>Yes. Retail premises cannot have "private parties" and exclude general public from events. KRS 243.020(1).</p>

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Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?

No. Third party providers are agents of their principal upper tiers who employ them and upper tiers are responsible for their actions even if unaware of actual violations. See, KRS 243.490(1).

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Is cider subject to the same trade practice laws as any other alcohol products?

Yes. Kentucky has defined cider containing less than 7 % or less ABV to be a malt beverage. Cider containing 7 % or more ABV is defined as a wine. See, KRS 241.010(12)(33)(61)(65).

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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer’s brand of alcohol.

## Miscellaneous

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*Please note that all answers to these questions will be published in the survey report.* How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?

None solely dedicated but all 30 plus state enforcement investigators are trained and have authority to cite and initiate administrative penalty cases for trade practices violations.

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Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.

Yes. Department initiated approximately five (5) administrative cases against manufacturers or distributors for trade practice violations in the last 12 months.

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What penalties are provided for in a licensee trade practice violation?

License revocation, license suspension, and Fines in lieu of suspension days at the rate of \$1,000.00 for manufacturer’s and \$400.00/day for distributors. KRS 243.480(1), KRS 243.490(1).

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Are retailers subject to trade practices law violations in your jurisdiction?	No but retailers should be accountable for trade practice violations which they encourage or cause a manufacturer or distributor to commit.
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Manufacturers are not to negotiate sales contracts with retailers. KRS 241.010(50)(52), KRS 243.120, .130, .150, 243.160, .170, .180, .240, .250, .280, more.
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	No

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# Maine

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer?

Is there any penalty if the retailer goes into arrears? No

May a manufacturer or distributor sell on COD to retailer in arrears? Yes. Fine up to \$1500.00 suspension revocation or combination

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

No. Fine up to \$1500.00 suspension revocation or combination.

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. \$300.00 to include labor for installation.

Are there any time limitations on use of the product display? Have adopted Federal "Tied House" Exceptions (27 CFR 6.83)

### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/ product enhancers to a retailer? \$300.00 limit return to wholesaler or raffle to patrons

May the retailer keep the thing of value after the product display is disassembled? No

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks



## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	Yes. May advertise by only one sign placed in a position (window) to draw the attention of the public.
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May the retailer be reimbursed for electricity, etc.?	No
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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Cost includes all shipping handling and installation
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Retailer
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### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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May a manufacturer or distributor pay the retailer to get on the list?	No
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
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May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	Yes. \$300.00 annual limitation
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### BEER TAP HANDLES

Whose property is a beer tap handle?	Retailer
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Who keeps it when the keg is finished?	Retailer
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	No
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.88)

May a manufacturer or distributor provide supplies to a retailer?	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Given or retailer owned.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. The volume limitation per year is 9 liters.
Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	Did not respond
Are there record keeping requirements for samples?	Yes

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Are there any tax implications for record keeping requirements for samples?	No
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## **Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>**

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May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	No
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No
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May a manufacturer or distributor donate to the trade association of a retail licensee?	No
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## **Slotting Allowance (Slotting Fee)<sup>1,2</sup>**

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## **Meals and Entertainment Provided to Retailers<sup>1</sup>**

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	No
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.98)
May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No
May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.98)

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

### Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)
May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No

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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

**Category Management Programs<sup>1</sup>**

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In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

**Educational Seminars<sup>1,2</sup>**

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May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

**Volume Discounts and “No Charge” Products<sup>1,2</sup>**

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May a manufacturer or distributor offer a volume discount to a retailer?	No
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
What is the definition of “no charge” products?	Not Applicable
<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased <sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal	

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

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### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Yes
If applicable, which of the following types of coupons would be allowed?	Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; Instant redeemable coupons (IRC’s) redeemable by consumers at check out; IRC’s dispensed to consumers as direct offerings; IRC’s dispensed to consumers at the retail premises
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

**Drawings and Sweepstakes Promotions<sup>1,2</sup>**

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Yes. \$300.00 limit on associated display
May prizes be displayed on the retail premise?	Yes. \$300.00 limit

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

**Contests at Retail Licensee Premises<sup>1,2</sup>**

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
May prizes be displayed on the retail premise?	Yes

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

**Consumer Tastings<sup>1,2</sup>**

May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	No
May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	Under special event licensing Title 28A section 1052D

<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	Yes. Nothing expressly prohibits, but monitoring for trade practice violations may be required.
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	Yes. But may require trade practice monitoring.
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	Yes. But may require trade practice monitoring.
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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.



**Combination Packaging<sup>1,2</sup>**

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.93)
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

**Product Testing**

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	No
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**Private and Control Labels**

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	Yes. No holder of a Certificate of Approval shall offer to a wholesaler any brand that would by nature of its label be handled by a single licensee or a restricted group of licensees.
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
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Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. All such brands approved for sale must be available to all retail licensees for resale to the consuming public.
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How much control can a retailer exert over a manufacturer’s branded product (control label)?	None
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Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
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**Promotional Events<sup>1</sup>**

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. Limitations on novelties, food surcharges, and the ability to pour or mix for the consumer
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May a third party provider occupy a retail operation for an event?	No
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Did not respond
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No
Is cider subject to the same trade practice laws as any other alcohol products?	Beer and wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	6
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	Fines up to 1500.00, suspension, revocation or combination.
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Prohibited.
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes. No monitoring utilized.

# Maryland

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? Yes. The state has credit control laws.

Is there any penalty if the retailer goes into arrears? Yes. Placed on a cash only list

May a manufacturer or distributor sell on COD to retailer in arrears? Yes

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. Wine racks, barrels and casks. No shelving because it would relieve the retailer of a business expense.

Are there any time limitations on use of the product display? No time limitations. Items subject to a limitation of \$150.00 value.

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/ product enhancers to a retailer? No

May the retailer keep the thing of value after the product display is disassembled? Subject to \$150.00 value limitation.

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Nominal and trivial quantities.
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	No individual sign can exceed \$150.00 and total value per brand cannot exceed \$150.00.
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	Yes
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May the retailer be reimbursed for electricity, etc.?	No
---	----

If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Cost
---	------

Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	The retailer in each case.
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### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Yes. Limited by regulations.
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May a manufacturer or distributor pay the retailer to get on the list?	No
--	----

May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
---	----

May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	No
---	----

### BEER TAP HANDLES

Whose property is a beer tap handle?	The retailer.
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Who keeps it when the keg is finished?	The retailer.
--	---------------

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	No
---	----

<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	No
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Manufacturers or distributors may not provide equipment to a retailer.
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May a manufacturer or distributor provide supplies to a retailer?	Yes. May provide items such as nitrogen, CO2, spigots, faucets, coil cooler boxes drip trays and similar items.
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Given. Total value of a single item may not exceed \$150, except that malt beverage signs may not exceed \$50. Total of all items may not exceed \$450
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. Sample of an alcoholic beverage not stocked by the retailer in the preceding 12 months. Sample may not exceed one 200 ml container. If not available in 200 ml, then next larger size. Must be issued from wholesaler’s inventory and a receipt must be signed by the retailer.
Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	Yes. Retail license location.
Are there record keeping requirements for samples?	Yes. Wholesalers must retain signed receipts from the retailer within 30 days of sign out.
Are there any tax implications for record keeping requirements for samples?	Yes. Samples are taxable at the same rate as each respective type of alcoholic beverage per Tax-General Article 5.

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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand  
<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1, 2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	Yes. Unit cost of any one prize not to exceed \$10. Related expenses not to exceed \$150. No gifts of alcohol.
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No
May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes

<sup>1</sup> Definition: Gifts  
<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer? No

May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products? No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

May a manufacturer or distributor provide meals and/or entertainment to a retailer? Yes. Trade shows and sales promotions

<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer? No

May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? Yes

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Back room to product display; Back room to floor display or case stacker

May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Yes

In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises? No

On a full store reset, may a manufacturer or distributor reset the products of a competitor? No

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.



## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor's category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	On the distributors licensed premise.
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer's history or product techniques or product familiarization, etc.

## Volume Discounts and "No Charge" Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	Must be non-discriminatory.
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May a manufacturer or distributor offer "no charge" products to a retailer?	No
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What is the definition of "no charge" products?	Not Applicable
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of "No Charge" Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The "no charge" products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Yes
If applicable, which of the following types of coupons would be allowed?	Did not respond.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	Yes
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes

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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
May prizes be displayed on the retail premise?	No

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

### Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes. Only as part of a pre-approved planned promotion.
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May prizes be displayed on the retail premise?	No
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	\$100 per event.
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	Must receive pre-approval.
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? Yes

## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable. Yes

Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable. Yes. Any label that is owned by a licensed retailer, or is bottled exclusively for sale to a licensed dealer. Code of Maryland Regulations COMAR 03.02.01.05

Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. Only limited to the retailer.
How much control can a retailer exert over a manufacturer's branded product (control label)?	None
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No

## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. Must be pre-approved promotional event.
May a third party provider occupy a retail operation for an event?	Yes
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	Did not respond
Are there limitations on third party events?	Yes
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No
Is cider subject to the same trade practice laws as any other alcohol products?	Beer

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	Two
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Yes. Ten.

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What penalties are provided for in a licensee trade practice violation?	Prohibition of further promotional events, confiscation of promotional items.
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	None
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	No. No monitoring utilized.

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# Michigan

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer?	No
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<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer?	No
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Is there any penalty if the retailer goes into arrears?	No
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May a manufacturer or distributor sell on COD to retailer in arrears?	No
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<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer?	Yes. Only “temporary” displays may be built by a manufacturer or wholesaler under administrative rule R 436.1329.
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Are there any time limitations on use of the product display?	Did not respond
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#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?	Enumerated under MCL 436.1609.
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May the retailer keep the thing of value after the product display is disassembled?	Yes
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Yes. Enumerated under MCL 436.1609.
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Administrative rule R 436.1313 governs. The rule includes size limitations for certain types of licensed establishments.
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	Yes
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Illuminated signage cannot be “provided”.
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Licensee

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### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Yes. Terms and conditions are enumerated in MCL 436.1609.
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	Yes

### BEER TAP HANDLES

Whose property is a beer tap handle?	Licensee
Who keeps it when the keg is finished?	Tap handles can be lent or given.

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.



## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. Limits, terms, and conditions are enumerated in MCL 436.1609.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes. The ONLY types of equipment that can be provided to a retailer are “spirits cold shot tap machines” and “keg couplers that are lent to an on-premises retailer”. (MCL 436.1609)
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit. The only types of equipment that can be provided to a retailer are “spirits cold shot tap machines” and “keg couplers that are lent to an on-premises retailer”. (MCL 436.1609).
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May a manufacturer or distributor provide supplies to a retailer?	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	No
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

### Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. Under administrative rule R 436.1863, only one sample bottle or can of alcohol can be left with a retail licensee, that is clearly identified with the word “SAMPLE” written on it.
Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	Yes
Are there record keeping requirements for samples?	No
Are there any tax implications for record keeping requirements for samples?	No

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

### Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No
May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

### Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products? No

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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## **Meals and Entertainment Provided to Retailers<sup>1</sup>**

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May a manufacturer or distributor provide meals and/or entertainment to a retailer? Yes. Under MCL 436.1609, they can provide “sporting event or entertainment tickets” to a retail licensee.

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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## **SERVICES PROVIDED TO RETAILERS**

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### **Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>**

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May a manufacturer or distributor make advertisements beneficial to a retailer? No. Administrative rule R 436.1319 prohibits “cooperative advertising”.

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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

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May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? No

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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

## Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Did not respond
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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
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In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	Did not respond
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor's category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	They can provide education/product knowledge to the licensee and employees, and even provide product knowledge to patrons of the retail establishment, but not conduct other services such as pourings for customers as the labor is considered a thing of value and, therefore, prohibited.
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May a manufacturer or distributor also provide nominal hospitality?	No
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer's history or product techniques or product familiarization, etc.

## Volume Discounts and "No Charge" Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	No
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May a manufacturer or distributor offer "no charge" products to a retailer?	No
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What is the definition of “no charge” products? Not Applicable

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages? Yes

If applicable, which of the following types of coupons would be allowed? Did not respond.

If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed? No

If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer? Yes

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions? Yes. Contests and prizes are regulated under administrative rule R 436.1435.

Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose? Yes. No things of value can be provided to the retail licensee under MCL 436.1609.

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May prizes be displayed on the retail premise?	Yes. Contests and prizes are regulated under administrative rule R 436.1435.
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## **Contests at Retail Licensee Premises<sup>1,2</sup>**

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes. No things of value can be provided to a retail licensee under MCL 436.1609.
--	--

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May prizes be displayed on the retail premise?	Yes. Contests and prizes are regulated under administrative rule R 436.1435.
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## **Consumer Tastings<sup>1,2</sup>**

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	Statute and rules provide numerous conditions and limitations on samplings and tastings.
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	No
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	Yes
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	No
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	Yes. MCL 436.1609 enumerates those items that can be provided at no charge to a retail licensee.
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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.101)
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.



## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Yes. This is governed under Commission Order 2015-12.
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	Yes
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## Private and Control Labels

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
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Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. The products on the approved products list are available to any retail licensee, on- or off-premise.
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How much control can a retailer exert over a manufacturer's branded product (control label)?	Did not respond
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Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
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## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. Those limitations that are prescribed in MCL 436.1603 and MCL 436.1609.
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May a third party provider occupy a retail operation for an event?	Yes
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If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	Yes
Are there limitations on third party events?	No
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes
Is cider subject to the same trade practice laws as any other alcohol products?	Beer and wine
<p><sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturers has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.</p>	
<h2>Miscellaneous</h2>	
252	<p><i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?</p>
62 enforcement staff, but not specific to trade practice	
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Yes
What penalties are provided for in a licensee trade practice violation?	<p>The Michigan liquor control code, with the exception of certain types of violations, prescribe a minimum fine \$300 and a maximum fine \$1,000 per charge. Any violation of the code or rules carries the possibility of license suspension or revocation. Violations of MCL 436.1609 (secondary use items) require a fine of \$2,500.</p>
Are retailers subject to trade practices law violations in your jurisdiction?	Yes

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	None, as long as there are no violations of MCL 436.1603.
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes

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# Minnesota

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? Yes. Distributors can only extend credit to a retailer when purchasing wine or spirits. Malt beverage is cash on delivery.

Is there any penalty if the retailer goes into arrears? Yes. Delinquent retail accounts are posted to a "Do Not Ship List" Retailers on this list cannot purchase from other distributors (wine & spirits) until they pay off the credit extension to the distributor.

May a manufacturer or distributor sell on COD to retailer in arrears? No. There can be no sales to delinquent retailers until they satisfy any past due accounts and are removed from the no ship list. Once removed from the no ship list, suppliers may set up a COD account for retailers that have displayed an inability to pay on credit.

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

No. There can be no sales to delinquent retailers until they satisfy any past due accounts and are removed from the no ship list. Once removed from the no ship list, suppliers may set up a COD account for retailers that have displayed an inability to pay on credit.

## Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.83)
Are there any time limitations on use of the product display?	For Wine & Spirit distributors, there is no cash limit on what can be provided but the items need to be equally available to all retailers. For malt beverage, there is a limit of \$400 on outside and limit of \$300 on inside sign/promotions/displays. The promotional items must be equally available to all retailers.

## DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?	If the item has been lawfully placed at retail, a retailer can keep the display item. A supplier may also take back the item if there had been a prior agreement to do so.
May the retailer keep the thing of value after the product display is disassembled?	For malt beverage suppliers these items are considered signs and other promotional material and fall into the limits for indoor and outdoor signs established in Minnesota Statute 340A.308. With regard to wine and distilled spirits the items are permissible if provided equally to retail. Cooperative items personalized for the retailer are not permitted.

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Yes. For Wine & Spirit distributors, there is no cash limit on what can be provided but the items need to be equal and available to all retailers. For malt beverage, there is a limit of \$400 on outside sign/promotions/displays.
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	Yes. For Wine & Spirit distributors, there is no cash limit on what can be provided but the items need to be equal and available to all retailers. For malt beverage, there is a limit of \$400 on outside sign/promotions/displays.
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May the retailer be reimbursed for electricity, etc.?	No
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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	For Wine & Spirit distributors, there is no cash limit on what can be provided but the items need to be equal and available to all retailers. For malt beverage, there is a limit of \$400 on outside sign/promotions/display
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	These signs once provided to the retailer are considered the property of the retailer unless the supplier has entered into an agreement prior to placement to retain ownership of the sign.
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## WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	A menu is considered equipment a retailer needs to conduct their business. Drink lists are permissible. Food menus are not.
May a manufacturer or distributor pay the retailer to get on the list?	Beer lists drink lists yes within the guidelines/limits of signs and other promotional material. Food menu no.
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	No

## BEER TAP HANDLES

Whose property is a beer tap handle?	Once provided to the retailer they are considered the property of the retailer unless the supplier has entered into an agreement prior to placement to retain ownership of the item.
Who keeps it when the keg is finished?	Once provided to the retailer they are considered the property of the retailer unless the supplier has entered into an agreement prior to placement to retain ownership of the item.

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84) per Minnesota Rules Chapter 7515.0760 subpart 3
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1,2,3,4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes. Furnishing to or maintaining for a retailer equipment for dispensing malt liquor, including tap trailers, cold plates and other dispensing equipment, of a cost of up to \$100 per tap in a year
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Yes, \$100.00 per tap per year. Have adopted Federal “Tied House” Exceptions (27 CFR 6.88).
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May a manufacturer or distributor provide supplies to a retailer?	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.102)
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.91)
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Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.91)
Are there record keeping requirements for samples?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.91)
Are there any tax implications for record keeping requirements for samples?	Did not respond

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1, 2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes, alcoholic beverage donations may only go to non-profit who can legally sell/serve the items. (Temp license)
May a manufacturer or distributor donate to the trade association of a retail licensee?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.91)

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1, 2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

May a manufacturer or distributor provide meals and/or entertainment to a retailer? No

<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

## Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer? No

May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? Have adopted Federal “Tied House” Exceptions (27 CFR 6.98)

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

## Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## **Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>**

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)
May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
On a full store reset, may a manufacturer or distributor reset the products of a competitor?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## **Category Management Programs<sup>1</sup>**

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## **Educational Seminars<sup>1,2</sup>**

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes. Have adopted Federal “Tied House” Exceptions (27 CFR 6.99) with regard to locations.
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May a manufacturer or distributor also provide nominal hospitality?	No
May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.94)

<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	Volume case deals limited to 25 case lots for distilled spirits and wine. Malt beverage offerings have no case limit. Volume discounts must be equally available to all retailers. Retailer must take entire delivery.
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
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What is the definition of “no charge” products?	Did not respond
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction's allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for "cents off" purchases of alcohol beverages?	No manufacturer redeemed coupons are illegal in Minnesota under the provisions of Minnesota Statute 340A.5071.
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If applicable, which of the following types of coupons would be allowed?	No
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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	No
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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for "cents off" on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes, promotion cannot require a purchase or consideration to enter.
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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
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May prizes be displayed on the retail premise?	No
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

### Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
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May prizes be displayed on the retail premise?	Minnesota does allow various tasting and sampling at retail. Interested parties should view Minnesota Statutes Chapter 340A.418, 340A.419 and 340A.510.
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

### Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	No
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	No
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? Have adopted Federal “Tied House” Exceptions (27 CFR 6.101)

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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes, combination packages may only contain items that may legally be sold in an exclusive liquor store in Minnesota under the provisions of Minnesota Statute 340A.412 subdivision 14

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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? Yes, under strict guidelines and only with prior approval from our agency.

## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. The product must be equally available to all retailers not just the retailer with name on the product.
How much control can a retailer exert over a manufacturer’s branded product (control label)?	Did not respond
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	Did not respond

## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	The activity cannot result in any item of value to the retailer.
May a third party provider occupy a retail operation for an event?	No
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	Did not respond
Are there limitations on third party events?	Yes. Any direct or indirect interest would violate the statute, a third party would still be considered an indirect interest.
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes. Any direct or indirect interest would violate the statute, a third party would still be considered an indirect interest.



Is cider subject to the same trade practice laws as any other alcohol products?	Beer and wine. We will abide by the classification that is given by the TTB. However, when the brand is not registered as a cola we will utilize the method is processed to determine it's classification. e.g. the cider is brewed, it is treated as malt beverage. If the cider is fermented in a wine process, it will be considered wine.
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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturers has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	No one is dedicated to this specific issue, all agents (3) work cases dealing with trade practice investigations
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Yes
What penalties are provided for in a licensee trade practice violation?	Administrative civil fines
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Did not respond
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Did not respond

# Mississippi

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No

Is there any penalty if the retailer goes into arrears? Yes. They put a hold on their account

May a manufacturer or distributor sell on COD to retailer in arrears? No. Manufacturers can not sell direct to retailers.

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer?

Are there any time limitations on use of the product display? Have adopted Federal "Tied House" Exceptions (27 CFR 6.83)

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? Yes

May the retailer keep the thing of value after the product display is disassembled? Yes

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## **Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### **INSIDE SIGNS**

Are there cost, size, or placement restrictions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### **ILLUMINATED INSIDE SIGNS**

May they be seen from outside (in window, etc.)?	Yes
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Fair Market Value
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Did not respond

### **WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

May a manufacturer or distributor provide such lists to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	Yes

### **BEER TAP HANDLES**

Whose property is a beer tap handle?	by ABC
Who keeps it when the keg is finished?	by ABC

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

# Mississippi

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	No
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Did not respond
May a manufacturer or distributor provide supplies to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.88)

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.102)
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.91)
Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	Yes. Retail license location.
Are there record keeping requirements for samples?	Yes. Must submit reports to ABC Enforcement on monthly basis

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Are there any tax implications for record keeping requirements for samples?	Yes
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## **Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>**

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May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	No
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No
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May a manufacturer or distributor donate to the trade association of a retail licensee?	No
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## **Slotting Allowance (Slotting Fee)<sup>1,2</sup>**

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## **Meals and Entertainment Provided to Retailers<sup>1</sup>**

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.98)
May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	Yes
May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.98)

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

### Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Back room to shelf; Back room to product display; Back room to floor display or case stacker; Back room to cold box or cooler; Product or floor display to back room; Product or floor display to shelf; Product or floor display to cold box or cooler
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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
On a full store reset, may a manufacturer or distributor reset the products of a competitor?	If the retailer gives the manufacturer/distributor permission to reset competitor products

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer's back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor's category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes
May a manufacturer or distributor also provide nominal hospitality?	Yes

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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging? No

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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer? No

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May a manufacturer or distributor offer “no charge” products to a retailer? No

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What is the definition of “no charge” products? Not Applicable

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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

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## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages? No

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If applicable, which of the following types of coupons would be allowed? Did not respond

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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed? No

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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes
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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## Drawings and Sweepstakes Promotions<sup>1,2</sup>

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Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Yes. No purchase required to enter drawing
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May prizes be displayed on the retail premise?	Yes
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
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May prizes be displayed on the retail premise?	Yes
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	No
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	No
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee? No

<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions? No

Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? Yes

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes. Can't sell alcoholic beverages to retailer, they may sell them other non-alcoholic beverages

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Yes. However, no food items are allowed. Items must be nominal value items such as flasks and shot glasses that are packaged by manufacturer.
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	No
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## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Did not respond
How much control can a retailer exert over a manufacturer's branded product (control label)?	
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No

## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. Can not rent their bar out to manufacturer or third party
May a third party provider occupy a retail operation for an event?	No

If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Yes
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No
Is cider subject to the same trade practice laws as any other alcohol products?	Did not respond

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

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<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	24
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	Did not respond
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes

# Missouri

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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

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May a manufacturer or distributor provide cash to a retailer?	Yes. Picnic Licensees may accept a gift from a distiller, wholesaler, winemaker, or brewer not to exceed a value of \$1000 per year. See Section 311.070.4(3)
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<sup>1</sup>Definition: Legal tender

<sup>2</sup>Example: Currency

#### CREDIT<sup>1,2</sup>

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May a selling manufacturer or distributor extend credit to a retailer?	Yes. See 11 CSR 70-2.010(5) (A) and 11 CSR 70-2.010(5) (B).
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Is there any penalty if the retailer goes into arrears?	Yes. 311.265. When a retailer licensed under this chapter is delinquent beyond the permissible ordinary commercial credit period, the wholesaler shall notify the supervisor of liquor control in writing of the debt and no new or renewal license shall be issued to the retailer until the reported debt is satisfied. The wholesaler shall immediately notify the supervisor of liquor control in writing when the debt is satisfied.
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Is there any penalty if the retailer goes into arrears?  
(continued)

As used in this section, the term “retailer” shall include an individual, corporation, partnership or limited liability company, all officers and directors of such person or entity and all stockholders owning, legally or beneficially, directly or indirectly, ten percent or more of the stock of such person or entity.

May a manufacturer or distributor sell on COD to retailer in arrears?

No

<sup>1</sup> Definition: Deferred payment offered to a retailer  
<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

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May a manufacturer or distributor provide product displays to a retailer?

Yes. “Product Display” - wine racks, bins, barrels, casks, shelving or similar items the primary function of which is to hold and display consumer products;- Total value shall not exceed \$300 per brand at any one time in any one retail account. A manufacturer and a wholesaler could combine resources to reach the \$300 limit but cannot exceed it;- Shall bear substantial advertising matter. Can be personalized with retailers name and address; and- Giving or selling may be conditioned on the purchase of products in a quantity necessary for initial display.

Are there any time limitations on use of the product display?

No

**DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>**

May a manufacturer or distributor provide dealer loaders/ product enhancers to a retailer?

Yes. Permanent Point of Sale Advertising Materials (PPOS) - designed to be used by a retailer for an extended period of time to attract consumer attention to the products;- Inside signs (electric, mechanical or otherwise) mirrors, and sweepstakes/ contest prizes displayed on the licensed premises;- Limited to \$500 per calendar year, per brand per retailer; May conduct a local or national sweepstakes/contest upon a licensed retail premise.- Prize dollar amount shall not be limited.-Prize can be displayed in a photo, banner, or other temporary point-of-sale advertising materials on a licensed premises, if the following requirements are met:-No money or something of value is given to the retailer for the privilege or opportunity of conducting the sweepstakes or contest;-The actual sweepstakes/contest prize is not displayed on the licensed premises if the prize value exceeds the permanent point-of-sale advertising materials dollar limit of \$500 per year, per brand, per retailer.

May the retailer keep the thing of value after the product display is disassembled?

No

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Yes. Temporary point-of-sale advertising materials (TPOS) - designed to be used for short periods of time. Materials include, but are not limited to: banners, decorations reflecting a particular season or a limited-time promotion, or paper napkins, coasters, cups, or menus. Distillers, wholesaler, winemakers or brewers may give TPOS at retail locations without limit.
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Are there cost, size, or placement restrictions?	Did not respond
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Yes. Permanent Point of Sale Advertising Materials (PPOS) - designed to be used by a retailer for an extended period of time to attract consumer attention to the products;- Inside signs (electric, mechanical or otherwise) mirrors, and sweepstakes/ contest prizes displayed on the licensed premises;- Limited to \$500 per calendar year, per brand per retailer; May conduct a local or national sweepstakes/contest upon a licensed retail premise.- Prize dollar amount shall not be limited.-Prize can be displayed in a photo, banner, or other temporary point-of-sale advertising materials on a licensed premises, if the following requirements are met:.
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Are there cost, size, or placement restrictions? (continued)	-No money or something of value is given to the retailer for the privilege or opportunity of conducting the sweepstakes or contest;-The actual sweepstakes/contest prize is not displayed on the licensed premises if the prize value exceeds the permanent point-of-sale advertising materials dollar limit of \$500 per year, per brand, per retailer
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**ILLUMINATED INSIDE SIGNS**

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May they be seen from outside (in window, etc.)?	Yes
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Cost
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	The provider shall own and otherwise control the use of PPOS advertising materials which would include illuminated outside signs.

**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

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May a manufacturer or distributor provide such lists to a retailer?	Yes. These items would be listed under TPOS. They could only pay for the part of the menu that contained their products, and could not pay for the food portion of the menu.
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	No

## BEER TAP HANDLES

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Whose property is a beer tap handle?

The distiller, wholesaler, winemaker, or brewer may install dispensing accessories at the retail business establishment, which shall include for the purposes of beer equipment to properly preserve and serve draught beer only and to facilitate the delivery to the retailer the brewers and wholesalers may lend, give, rent or sell and they may install or repair any of the following items or render to retail licensees any of the following services.

Who keeps it when the keg is finished?

Retailer may keep the tap handles, or not.

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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?

Yes. Consumer Advertising Specialties (CAS) - designed to be carried away by the consumer. Trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, postcards, pencils, shirts, caps and visors. Can give CAS to consumers at retail locations without limit.

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<p>May a manufacturer or distributor provide consumer advertising specialties to a retailer? (continued)</p>	<p>-The name, address and logos of the retail business may appear on CAS, PPOS and TPOS; and-Distillers, wholesaler, winemakers or brewers may not, directly or indirectly, pay or credit the retail business for using or distributing the CAS, PPOS or TPOS.</p>
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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<p>May a manufacturer or distributor provide equipment to a retailer?</p>	<p>Yes. Equipment and supplies may be sold to a retailer at a price not less than cost, and must be paid by the retailer under normal commercial credit.</p>
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<p>If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?</p>	<p>Cost</p>
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<p>May a manufacturer or distributor provide supplies to a retailer?</p>	<p>Yes. Equipment and supplies may be sold to a retailer at a price not less than cost, and must be paid by the retailer under normal commercial credit payment terms.</p>
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1, 2</sup>

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<p>May a manufacturer or distributor provide an outside sign to a retailer?</p>	<p>Yes. Given or retailer owned.</p>
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. May provide a sample to a retailer who has not previously purchased that brand.
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes. Retail License Location.
Are there record keeping requirements for samples?	Yes. Manufacturers or wholesalers must keep a record of name and quantity given to each retailer.
Are there any tax implications for record keeping requirements for samples?	The manufacturer or solicitor is required to pay excise taxes on samples.

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	Yes. Must not exceed the permanent point of sale and temporary point of sale advertising materials and consumer advertising specialties limits.
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes. A distiller, wholesaler, winemaker, or brewer may give a gift not to exceed a value of one thousand dollars (\$1,000) per year to a holder of a picnic license. They may also provide refrigerated trucks and other customary storage, cooling or dispensing equipment to picnic licensees. Caterers are not included in this category. A picnic license is a 7 day license. Donations may not be made to a permanent licensee who is tax exempt.

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May a manufacturer or distributor donate to the trade association of a retail licensee?

Yes. 311.070.4.(14),  
RMSo - The distiller,  
wholesaler, winemaker or  
brewer participating in the  
activities of a retail business  
association may: -Display,  
serve, or donate its products  
at or to a convention or  
trade show; -Rent display  
booth space if the rental  
fee is the same paid by all  
others renting similar space  
at the association activity;  
-Provide its own hospitality  
which is independent from  
the association activity;  
-Purchase tickets to functions  
and pay registration or  
sponsorship fees if such  
purchase or payment is the  
same as that paid by all  
attendees, participants or  
exhibitors at the association  
activity; -Make payments for  
advertisements in programs  
or brochures issued by retail  
business associations if the  
total payments made for all  
such advertisements are fair  
and reasonable; -Pay dues to  
the retail business association  
if such dues or payments are  
fair and reasonable; -Make  
payments or donations for  
retail employee training on  
preventive sales to minors and  
intoxicated persons, checking  
identifications, age verification  
devices, and the liquor control  
laws;

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May a manufacturer or distributor donate to the trade association of a retail licensee? (continued)

-Make contributions not to exceed one thousand dollars per calendar year for transportation services that shall be used to assist patrons from retail establishments to his or her residence or overnight accommodations;  
-Donate or serve up to five hundred dollars per event of alcoholic products at retail business association activities; and  
-Any retail business association that receives payments or donations shall, upon written request, provide the Division of Alcohol and Tobacco Control with copies of relevant financial records and documents to ensure compliance with this subsection.

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<sup>1</sup>Definition: Gifts

<sup>2</sup>Example: Cash, things of value, or alcohol beverages

### Slotting Allowance (Slotting Fee)<sup>1, 2</sup>

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May a manufacturer or distributor pay a slotting allowance to a retailer?

No

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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?

No. 311.070.5 - Distiller, wholesaler, winemaker, or brewer, who is also in business selling nonalcoholic beverages, shall not condition the sale of its alcoholic beverages on the sale of its nonalcoholic beverages nor combine the sale of its alcoholic beverages with the sale of its nonalcoholic beverages, except as provided in subdivision (8) of subsection 4 of this section.311.070.4(8) The distiller, wholesaler, winemaker or brewer may package and distribute intoxicating beverages in combination with other nonalcoholic items as originally packaged by the supplier for sale ultimately to consumers; notwithstanding any provision of law to the contrary, for the purpose of this subsection, intoxicating liquor and wine wholesalers are not required to charge for nonalcoholic items any more than the actual cost of purchasing such nonalcoholic items from the supplier.

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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?

No

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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer?	Did not respond
May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	Did not respond
May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Yes. My lit the names and addresses of two or more unaffiliated retail businesses selling its product if all of the following requirements are met: Cannot contain the retail price of the product; the listing of retail businesses is the only reference to the retail businesses; the listing shall be relatively inconspicuous in relation to the advertisement as a whole; and cannot refer only to one business or only to a retail business controlled directly or indirectly by the same retail business.

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc



## Manufacturer/Distributor Merchandises Services: Stock/Rotating/ Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Did not respond
May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
On a full store reset, may a manufacturer or distributor reset the products of a competitor?	<p>Stocking, Rotating and Resetting Guidelines for Wholesalers</p> <ol style="list-style-type: none"> <li>Wholesalers may not affix prices directly to the product on behalf of retailers. This does not prohibit POS pricing or Neckers on alcoholic products.</li> <li>Wholesalers may not affix inventory control devices directly to the individual product unit on behalf of the retailer.</li> <li>Except during a reset, Wholesalers may not clean or dust shelves or coolers, which are on display at the retailers location. Nothing in this section shall prevent a wholesaler from cleaning spills or damaged product to ensure the quality of their products. No retailer may demand a reset solely for the purpose of having cleaning performed.</li> <li>All stocking and rotating services must be done voluntarily by wholesalers and may not be required to be performed by the retailer. During stocking and rotating, wholesalers are limited to the movement of only their products.</li> </ol>

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On a full store reset, may a manufacturer or distributor reset the products of a competitor? (continued)	5. Stocking and rotating services may only be provided to the retailers during the wholesaler’s regular course of business. 6. Wholesalers are permitted to participate in resetting at retail establishments
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

**Category Management Programs<sup>1</sup>**

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In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

**Educational Seminars<sup>1,2</sup>**

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May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes. It can be held at the manufacturer or distributor location, or other non licensed venue.
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May a manufacturer or distributor also provide nominal hospitality?	Did not respond
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging? No

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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer? Yes. Wholesalers must offer pricing equally to all retailers, may not sell below cost unless it is a close out item, 1% quantity and 1% timely payment discounts are still available to retailers.

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May a manufacturer or distributor offer “no charge” products to a retailer? No

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What is the definition of “no charge” products? Not Applicable

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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

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## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages? Yes

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If applicable, which of the following types of coupons would be allowed?	Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media. MIR are only allowed for spirits. Manufacturers can also offer cross merchandise coupons which allow cents off for a food or nonfood item, but must indicate that no purchase of intoxicating liquor is required.
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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	Yes. Must be the same as charged to other manufacturers for nonalcoholic coupons.
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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes
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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

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Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Yes. The cost can be shared by the upper two tiers. If the prize exceeds the \$500 PPOS limits, it cannot be on the premises, but could be displayed in a picture. The manufacturer or wholesaler must be in control of the drawing and supply the prize to the consumer. Alcohol beverages must not be a part of the prize.
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May prizes be displayed on the retail premise?	Yes. If the cost of the prize exceeds the \$500 PPOS limits, it can be displayed by a photo, but not be physically on the premises.
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes. The prize can only be on the premises if it is within the \$500 PPOS advertising limits. Also, a manufacturer may provide consumer advertising specialties to give to customers. Contact agency for additional information.
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May prizes be displayed on the retail premise?	Yes. The prize can only be on the premises if it is within the \$500 PPOS advertising limits. Also, a manufacturer may provide consumer advertising specialties to give to consumers. Contact agency for additional information.
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?

Yes. May provide and pour distilled spirits, wine, or malt beverage samples on nonlicensed premises for tastings as long as no sales transaction occurs. Could be used for home tasting parties. May provide, furnish and pour for tasting purposes at picnic licensees events, caterers licensees events and also for tax exempt licensed premises. Employees of the retailer or the manufacturer, as well as employees of a 'sampling service' hired by the retailer/manufacturer may pour alcohol samples; Please note that this does not allow a wholesaler to pour alcohol samples, but wholesalers may furnish alcohol samples; No money or anything of value shall be given to the retailers for the privilege or opportunity of conducting the on-premises product tasting. A wholesaler may not under any circumstances provide other items – most commonly cheese or other food items – at any tastings. All remaining alcohol provided by the wholesaler shall be returned to the wholesaler.

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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?

Yes

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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or "buying the house a round" at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	Yes. Yes for beer, no for liquor and wine.
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	Yes. Yes for beer, no for liquor and wine.
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	Yes
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	Yes
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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Yes. It may be a food item.
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	No. Products cannot be brought into the state until they have been registered and approved
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## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
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Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes
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How much control can a retailer exert over a manufacturer's branded product (control label)?	None
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Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
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## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. All transactions must comply with Section 311.070, RSMo.
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May a third party provider occupy a retail operation for an event?	No
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If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
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Are there limitations on third party events?	Yes. All transactions must comply with Section 311.070, RSMo.
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes. However, not if it will be an event on a licensed venue.
Is cider subject to the same trade practice laws as any other alcohol products?	Beer and wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	ATC doesn't have staff strictly dedicated to trade practice investigations and enforcement
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	Written warning, fine, license suspension or revocation
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Manufacturers cannot take orders, they can promote them.
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	No

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? Yes. For beer and wine distributors, they may extend a seven day credit to the retailer. For spirits, there is no credit.

Is there any penalty if the retailer goes into arrears? Yes

May a manufacturer or distributor sell on COD to retailer in arrears? Yes

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Did not respond

Are there any time limitations on use of the product display? Have adopted Federal "Tied House" Exceptions (27 CFR 6.83)

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? The Example does not match the question - A dealer loader or Product Enhancer is more defined by us as a rack, display unit or signage. The answer is: Yes as long and it falls under the guidelines of the CFR

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May the retailer keep the thing of value after the product display is disassembled?	No
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## **Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### **INSIDE SIGNS**

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Are there cost, size, or placement restrictions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### **ILLUMINATED INSIDE SIGNS**

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May they be seen from outside (in window, etc.)?	Yes
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May the retailer be reimbursed for electricity, etc.?	No
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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Fair Market Value
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Montana has no applicable rules
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### **WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

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May a manufacturer or distributor provide such lists to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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May a manufacturer or distributor pay the retailer to get on the list?	No
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
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May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	No
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### **BEER TAP HANDLES**

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Whose property is a beer tap handle?	Unknown
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Who keeps it when the keg is finished? Unknown

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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer? Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)

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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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May a manufacturer or distributor provide equipment to a retailer? Yes. At a price not less than the cost to the industry member that purchased it.

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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost? Have adopted Federal “Tied House” Exceptions (27 CFR 6.88)

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May a manufacturer or distributor provide supplies to a retailer? Have adopted Federal “Tied House” Exceptions (27 CFR 6.88)

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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

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May a manufacturer or distributor provide an outside sign to a retailer? Have adopted Federal “Tied House” Exceptions (27 CFR 6.102)

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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

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May a manufacturer or distributor provide free samples to a retailer? Have adopted Federal “Tied House” Exceptions (27 CFR 6.91)

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Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes
Are there record keeping requirements for samples?	Yes
Are there any tax implications for record keeping requirements for samples?	No

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## **Donations to Retailer Events, Licensed Charity Events<sup>1, 2</sup>**

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No
May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes

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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## **Slotting Allowance (Slotting Fee)<sup>1, 2</sup>**

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## **Meals and Entertainment Provided to Retailers<sup>1</sup>**

May a manufacturer or distributor provide meals and/or entertainment to a retailer?	No
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.98)
May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No
May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.98)

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

### Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)
May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No

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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

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In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No. This topic is not addressed in Montana law.
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

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May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes. The seminars may be held at a licensed or an non licensed location.
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.94)
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer?	As long as the savings is offered to all retailers.
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
What is the definition of “no charge” products?	Not Applicable
<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased <sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal	

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

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### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Yes
If applicable, which of the following types of coupons would be allowed?	Did not respond.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Conditional - the Supplier must conduct the drawing for giveaway



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May prizes be displayed on the retail premise?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes. Supplier or distributor would provide - under the guidelines of TTB, MCA and ARM around promoting products.
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May prizes be displayed on the retail premise?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.95)
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	No
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	If the gift certificates are being bought as an inducement, it would not be allowed.
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	No
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	No
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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.101)
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.93)
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	Have adopted Federal “Tied House” Exceptions
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## Private and Control Labels

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. It can be produced with a retailer’s brand, but not limited to just that retailer for sale.
How much control can a retailer exert over a manufacturer’s branded product (control label)?	Montana does not have any specific rules that address a control label.
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No

## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	No
May a third party provider occupy a retail operation for an event?	No

If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Yes. The third party would need to be registered with the state.
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No
Is cider subject to the same trade practice laws as any other alcohol products?	Wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	The agency contracts with the state justice department so we have no dedicated agents for trade practice investigations/enforcement.
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	Monetary penalties, license suspension or revocation
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Suppliers that wish to promote their products for sales purposes must have in-state representation through a Vendor Representative Permit.
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes but not enforceable in the jurisdiction. No monitoring utilized.

# Nebraska

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? Yes. 30 day credit allowed only on wine and spirits.

Is there any penalty if the retailer goes into arrears? Yes

May a manufacturer or distributor sell on COD to retailer in arrears? No

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. Under TTB regulations.

Are there any time limitations on use of the product display? Have adopted Federal "Tied House" Exceptions (27 CFR 6.83)

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? \$300.00 Limit

May the retailer keep the thing of value after the product display is disassembled? No

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	Yes
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Fair Market Value
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Montana has no applicable rules

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### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	No

### BEER TAP HANDLES

Whose property is a beer tap handle?	Retailer
Who keeps it when the keg is finished?	Retailer

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Cost
May a manufacturer or distributor provide supplies to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.88)

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	No
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.91)
Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	Yes
Are there record keeping requirements for samples?	Yes

Are there any tax implications for record keeping requirements for samples? Yes

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

### Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)? No

May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages? Yes

May a manufacturer or distributor donate to the trade association of a retail licensee? No

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

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### Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer? No

May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products? No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

### Meals and Entertainment Provided to Retailers<sup>1</sup>

May a manufacturer or distributor provide meals and/or entertainment to a retailer? Yes

<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation



## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer? No

May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? No

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

### Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Back room to shelf; Back room to product display; Back room to floor display or case stacker; Back room to cold box or cooler; Product or floor display to back room; Product or floor display to shelf; Product or floor display to cold box or cooler

May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Yes

In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
On a full store reset, may a manufacturer or distributor reset the products of a competitor?	If the retailer gives the manufacturer/distributor permission to reset competitor products

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

### Category Management Programs<sup>1</sup>

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In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

### Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes
May a manufacturer or distributor also provide nominal hospitality?	Yes

---

May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.94).
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer?	Shall be offered to all retailer holding the same class of license.
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May a manufacturer or distributor offer “no charge” products to a retailer?	Provided it is written in as a part of a discount plan.
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What is the definition of “no charge” products?	Buy 50 cases and receive one free.
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Yes
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If applicable, which of the following types of coupons would be allowed? Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; Cross merchandised coupons of any type which allow for “cents off” on a nonfood item (e.g. Charcoal briquettes) with purchase of an alcohol beverage; Cross merchandised coupons of any type which allow for “cents off” on a food item (e.g. meat, chips) with purchase of an alcohol beverage. No generic products allowed.

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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed? No

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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer? Yes

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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

**Drawings and Sweepstakes Promotions<sup>1,2</sup>**

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Do you allow manufacturers or distributors to conduct sweepstakes promotions? Yes

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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose? Yes. Consumers only and records of winners must be kept.

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May prizes be displayed on the retail premise? Yes

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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes. First or second tier.
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May prizes be displayed on the retail premise?	Yes
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.95)
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	No
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	Yes. Must be a written offer.
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? Yes

<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? Yes. No linkage to alcohol payment.

May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? Yes

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

### Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Have adopted Federal “Tied House” Exceptions (27 CFR 6.93)

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

### Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? No

### Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable. Yes. 53-168 53-103.29.

Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes
How much control can a retailer exert over a manufacturer's branded product (control label)?	Did not respond
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	
<b>Promotional Events<sup>1</sup></b>	
Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	No
May a third party provider occupy a retail operation for an event?	Yes
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	Did not respond
Are there limitations on third party events?	Yes. No selling.
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes
Is cider subject to the same trade practice laws as any other alcohol products?	Beer and wine at the 8.5% limit

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	3
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Yes. One.

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What penalties are provided for in a licensee trade practice violation?	Fines
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	None
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes

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# New Hampshire

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No

Is there any penalty if the retailer goes into arrears? Yes. Placed on credit hold.

May a manufacturer or distributor sell on COD to retailer in arrears? No

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. They belong to the supplier not the state.

Are there any time limitations on use of the product display?

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? Yes

May the retailer keep the thing of value after the product display is disassembled? No. It would be returned to the company that represents the brand.

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	Yes
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Cost
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Retail license

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### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	No

### BEER TAP HANDLES

Whose property is a beer tap handle?	Retailer
Who keeps it when the keg is finished?	Retailer

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Did not respond
May a manufacturer or distributor provide supplies to a retailer?	No

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1, 2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	No
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. One 750ml bottle.
Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	Yes
Are there record keeping requirements for samples?	No
Are there any tax implications for record keeping requirements for samples?	Did not respond

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No
May a manufacturer or distributor donate to the trade association of a retail licensee?	No

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

May a manufacturer or distributor provide meals and/or entertainment to a retailer?	No
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

## Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer?	No
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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

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May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? No

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## **Social Media Advertising<sup>1,2</sup>**

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May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## **Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>**

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<p>May a manufacturer or distributor stock its products at a retail premises in any of the following ways?</p>	<p>Back room to shelf; Back room to product display; Back room to floor display or case stacker; Back room to cold box or cooler; Product or floor display to back room; Product or floor display to shelf; Product or floor display to cold box or cooler. Spirits or wine and beer only.</p>
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<p>May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?</p>	<p>Yes</p>
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<p>In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?</p>	<p>No</p>
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# New Hampshire

On a full store reset, may a manufacturer or distributor reset the products of a competitor?	If the retailer gives the manufacturer/distributor permission to reset competitor products
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	Yes
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May a manufacturer or distributor offer “no charge” products to a retailer? No

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What is the definition of “no charge” products? Not Applicable

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

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## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages? Yes

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If applicable, which of the following types of coupons would be allowed? Did not respond.

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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed? No

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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer? Yes

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

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Do you allow manufacturers or distributors to conduct sweepstakes promotions? Yes

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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose? No

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May prizes be displayed on the retail premise? Yes

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

### Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions? No

May prizes be displayed on the retail premise? Yes

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

### Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions? 1/2 ounce sample

May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions? 1/2 ounce sample

<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee? Yes

<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase



## Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	No
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	Yes. One bottle.
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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Yes
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	No
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### Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	Yes
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. Sold to anyone.
How much control can a retailer exert over a manufacturer’s branded product (control label)?	None, if deemed objectionable decline listing.
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No

### Promotional Events<sup>1</sup>

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Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	No
May a third party provider occupy a retail operation for an event?	No
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	No
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No
Is cider subject to the same trade practice laws as any other alcohol products?	Wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturers has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer’s brand of alcohol.

## Miscellaneous

<p><i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?</p>	<p>1 full time and 1 part time, these positions are not “dedicated” to trade practice investigations, but may take administrative action for trade practice violations, any criminal action would require a sworn investigator.</p>
<p>Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.</p>	<p>No</p>
<p>What penalties are provided for in a licensee trade practice violation?</p>	<p>LIQ 603.01 sets the penalty for all violations</p>
<p>Are retailers subject to trade practices law violations in your jurisdiction?</p>	<p>Yes. RSA 179:11 applies to wholesalers and retailers.</p>
<p>What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?</p>	<p>Wholesalers are required to post to the NH Liquor Commission all prices of products they sell and must treat all retailers fairly and equally. Retailers are required to maintain records of all purchases of alcohol and equipment.</p>
<p>May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?</p>	<p>Yes. Wholesalers are required to maintain records of all transactions with a retailer and makes those records available to the Commission. Retailers are required to maintain records of all purchases of alcohol and equipment. The auditing and tax collection unit conducts audits at both the wholesalers and retailers to verify compliance to NH laws.</p>

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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

---

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup>Definition: Legal tender

<sup>2</sup>Example: Currency

#### CREDIT<sup>1,2</sup>

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May a selling manufacturer or distributor extend credit to a retailer?

Yes. A wholesaler is not required to give credit but may extend credit to a retailer up to a maximum of 30 days from the date of delivery. The wholesaler must set forth its credit terms both in its "Current Price List" (CPL) filed monthly with the Division of A.B.C. and on invoices. Credit terms must be the same for all retailers unless different terms are justified by the financial or credit history or risk of a particular retail account.

Is there any penalty if the retailer goes into arrears?

Yes. If a retailer fails to pay a wholesaler within the established credit period, the wholesaler is required to give or send the retailer a Notice of Obligation within three business days. This Notice of Obligation is a reminder of the bill and must identify the terms of the debt and advise the retailer of the right to dispute the debt by notifying the Division of A.B.C.

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Is there any penalty if the retailer goes into arrears?  
(continued)

If still not paid within three more business days, the wholesaler must give the overdue licensee and all other wholesalers who sell to retailers a Notice of Delinquency. This Notice advises the other wholesalers of the debt and of the fact that no credit may be extended until the debt is paid and the wholesaler issues a Notice of Satisfaction. Until that time, the retailer may only purchase alcoholic beverages on a prepaid or cash on delivery (C.O.D.) basis. The Notice of Satisfaction must be given to the other wholesalers within three business days after the debt is paid. In addition to the sanctions described above, the wholesaler must also charge the retailer any interest or penalties that were set forth in its CPL and which appeared in the terms set forth on the invoice for the alcoholic beverages for which payment was not made on time.

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May a manufacturer or distributor sell on COD to retailer in arrears?

Yes

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<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

## Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer?

Yes. Wholesalers, manufacturers and other suppliers may provide product displays for use on retail licensed premises provided those offerings are not conditioned upon anything other than the purchase of alcoholic beverage products adequate to initially complete the display. The supplier of the materials must maintain records and must not discriminate between licensees. Also, a retailer may not be paid or charged for placing or permitting a display on the licensed premises

Are there any time limitations on use of the product display?

No

## DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?

Any promotional item in a product display with a value not exceeding \$300.00 must be awarded to a consumer. The retailer shall be supplied with a sweepstakes tear pad for this purpose, unless the display item(s) are novelty items of nominal value intended to be given away to consumers. Any promotional item in a product display with a value exceeding \$300.00 shall remain the property of the industry member supplying the promotional item and shall be returned to the industry member upon removal of the display.

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May the retailer keep the thing of value after the product display is disassembled?	No
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## **Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Yes
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### **INSIDE SIGNS**

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Are there cost, size, or placement restrictions?	Not Applicable
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### **ILLUMINATED INSIDE SIGNS**

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May they be seen from outside (in window, etc.)?	Yes
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May the retailer be reimbursed for electricity, etc.?	Yes
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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Manufacturer.
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### **WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

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May a manufacturer or distributor provide such lists to a retailer?	Yes
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May a manufacturer or distributor pay the retailer to get on the list?	No
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
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May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	No
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### **BEER TAP HANDLES**

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Whose property is a beer tap handle?	Manufacturer.
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Who keeps it when the keg is finished?	Manufacturer.
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1, 2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer? Yes

<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer? No

If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost? Substantial equipment such as complete draught or refrigeration systems, or coolant shall only be sold at no less than fair market value; however, a licensee may rent or provide such substantial equipment to a retailer on a short-term temporary basis for special events.

May a manufacturer or distributor provide supplies to a retailer? No

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1, 2</sup>

May a manufacturer or distributor provide an outside sign to a retailer? Yes. Manufacturers, importing entities or wholesalers (or third parties at the direction of the former) may sell, lease or provide services, items or equipment to retailers that are intended to enhance or protect the quality, display, availability or marketing of their products to consumers, including signs.

<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.



## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. A manufacturer, supplier, importer, wholesaler or distributor may provide product samples to retailers, only within the terms and conditions of a special permit first obtained from the Director of the Division of A.B.C., issued upon a petition establishing and defining its need and use and verifying that all taxes have been paid.
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes
Are there record keeping requirements for samples?	No
Are there any tax implications for record keeping requirements for samples?	Did not respond

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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No
May a manufacturer or distributor donate to the trade association of a retail licensee?	No

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products? No

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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer? Yes. A licensee may provide reasonable entertainment to another licensee, such as engaging in sporting activities, taking a licensee to an entertainment or sports event, or providing meals and beverages to the licensee. The licensee shall not condition the provision of such entertainment on an agreement to sell the alcoholic beverage products of a manufacturer, supplier or wholesaler.

<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

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## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

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May a manufacturer or distributor make advertisements beneficial to a retailer? No

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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

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May a manufacturer or distributor list the name or address or two or more retailers where their brands may be purchased? No

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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## **Social Media Advertising<sup>1,2</sup>**

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May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## **Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>**

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May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Back room to shelf; Back room to product display; Back room to floor display or case stacker; Back room to cold box or cooler; Product or floor display to back room; Product or floor display to shelf; Product or floor display to cold box or cooler. Spirits or wine and beer only.

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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Yes

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In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises? No

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On a full store reset, may a manufacturer or distributor reset the products of a competitor? Did not respond

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

### Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program? No

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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

### Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held? No

May a manufacturer or distributor also provide nominal hospitality? No

May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging? No

<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	A manufacturer or distributor may offer quantity discounts. A discount is an inducement or allowance to purchase a product which is reflected on the wholesaler’s invoice at the time the sale of the subject alcoholic beverages to a retailer is completed. Such quantity discounts, however, must be made available to all retailers.
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
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What is the definition of “no charge” products?	Not Applicable
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	No. Retail licensees, however, may issue coupons for “cents off” purchases of alcoholic beverages.
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If applicable, which of the following types of coupons would be allowed?	Did not respond.
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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	Did not respond
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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer? Did not respond

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions? Manufacturers, importing entities or wholesalers (or third parties at the direction of the former) may sell, lease or provide services, items or equipment to retailers that are intended to enhance or protect the quality, display, availability or marketing of their products to consumers, including sweepstakes prizes for customers as part of a display.

Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose? Yes. The manufacturer or distributor must pay the entire cost. The manufacturer or distributor shall not condition the provision of consumer sweepstakes prizes on an agreement to sell the alcoholic beverage products of a manufacturer, supplier, or wholesaler. A retailer shall not request the provision of consumer sweepstakes prizes as a condition for selling the alcoholic beverage products of a manufacturer, supplier, or wholesaler.

May prizes be displayed on the retail premise? Yes

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions? No

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May prizes be displayed on the retail premise? No

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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<p>May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?</p>	<p>Manufacturers/distributors may participate in, assist with and promote consumer wine, beer and spirits tasting events up to two times per month at a licensed premises, except that samples shall not be served by any employee of a wholesaler. A solicitor employed by the manufacturer/distributor who holds a wholesale license or an authorized representative licensed or permitted by the Division of A.B.C., with an annual special permit to participate in consumer tasting events may serve samples at a tasting event and provide educational commentary regarding the alcoholic beverages. The fee for the annual special permit for the manufacturer/distributor shall be \$200.00 and an additional \$200.00 permit for each solicitor or duly authorized representative.</p>
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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions? (continued)	Ten days prior to participating in the event, the permittee shall file with the Division a consumer tasting request on a form prescribed by the Director describing the place, time and products to be featured at the event.
May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	Tasting events and samplings shall be confined to the licensed premises.

<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).  
<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises  
<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No. Although not permitted by statute, New Jersey Division of A.B.C. does not enforce these violations.
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers  
<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price



## Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes. Provided that the non-alcoholic food item be prepackaged and sold with the alcoholic product as a unit to the retailer. The combination packages must be assigned their own SKU numbers

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? Yes. New Jersey Division of A.B.C. prefers that a third-party testing company conduct the testing under protocol approved by the state that addresses levels of intoxication, security, and transport of the alcohol. Manufacturers and distributors may conduct the testing if they receive approval of their protocol.

## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	Yes. Private label brands are those owned by a retailer
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	No. Sales to anyone other than authorized retailers of private label brands are not required.
How much control can a retailer exert over a manufacturer’s branded product (control label)?	Our jurisdiction permits exclusive sales arrangements for a manufacturer’s branded product between the manufacturer and retailers.
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No. Although these arrangements are permitted, if they rise to the level of a tied house violation, enforcement action will be taken.

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## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. The same must be made available on proportionally equal terms to all other customers or accounts competing in the distribution of the connected alcoholic beverage products.
May a third party provider occupy a retail operation for an event?	Yes
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Did not respond
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No

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Is cider subject to the same trade practice laws as any other alcohol products?	It could be subject to either, depending on how the cider is manufactured.
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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

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<p><i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?</p>	New Jersey Division of A.B.C. has approximately 30 employees whose duties include, among other things, the investigation and enforcement of trade practice violations.
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Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Yes
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What penalties are provided for in a licensee trade practice violation?	Depending on the specific violation, a manufacturer's or wholesaler's privileges to operate can be suspended from 15-90 days and/or permanently revoked. Often a fine in lieu of suspension is accepted.
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Are retailers subject to trade practices law violations in your jurisdiction?	Yes. Retailers who benefit from a wholesaler's violation are also subject to penalties.
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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Suppliers who do not hold a New Jersey wholesale license must have a permit and be accompanied by a representative of a New Jersey licensed wholesaler.
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May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	No
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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer?	No
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<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer?	No
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Is there any penalty if the retailer goes into arrears?	No
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May a manufacturer or distributor sell on COD to retailer in arrears?	Yes
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<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer?	Yes. If made available to all retailers or offered at fair market value.
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Are there any time limitations on use of the product display?	Have adopted Federal "Tied House" Exceptions (27 CFR 6.83). We have not formally adopted the federal "tied house" exceptions by statute or regulation but have done so as a matter of policy.
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#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?	If offered or made available to all retailers.
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May the retailer keep the thing of value after the product display is disassembled?	Assuming the thing of value was offered equally to all retailers.
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Supplied items shall be nominal in value; provision of such items to retailers may not be conditional upon any purchase by the retailer; and the items shall be brand identified for advertising purposes and intended for use by the retailer and/or distribution to consumers to advertise products or promote brand recognition.
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Did not respond
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	Yes
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May the retailer be reimbursed for electricity, etc.?	Yes
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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Manufacturer.
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### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Yes
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May a manufacturer or distributor pay the retailer to get on the list?	No
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
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May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	Yes
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## BEER TAP HANDLES

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Whose property is a beer tap handle?	The handle belongs to the retailer.
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Who keeps it when the keg is finished?	Retailer.
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Have adopted Federal "Tied House" Exceptions (27 CFR 6.84). As long as the value is de minimus.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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May a manufacturer or distributor provide equipment to a retailer?	Yes. At fair market value or given/offered equally to all retailers.
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Fair Market Value
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May a manufacturer or distributor provide supplies to a retailer?	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

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May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Retailer Owned.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. Single bottle of new product or brand.
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes. Retail license location.
Are there record keeping requirements for samples?	No
Are there any tax implications for record keeping requirements for samples?	No. Not unless the fair market value would trigger tax income implications.

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1, 2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	Yes. For charitable or community events.
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes
May a manufacturer or distributor donate to the trade association of a retail licensee?	No

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1, 2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

May a manufacturer or distributor provide meals and/or entertainment to a retailer? Yes. Under \$250.

<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

## Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer? No

May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? Back room to shelf; Product or floor display to back room. Primarily where product is at or close to code.

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

## Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc



## Manufacturer/Distributor Merchandises Services: Stock/Rotating/ Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Back room to shelf; Product or floor display to back room. Primarily where product is at or close to code.
May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
On a full store reset, may a manufacturer or distributor reset the products of a competitor?	No

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer's back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor's category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	On the premises of the retailer.
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer?	A volume discount is based solely on volume, is not a below cost sale and is not part of a bundle.
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
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What is the definition of “no charge” products?	Not Applicable
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

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## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Yes
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If applicable, which of the following types of coupons would be allowed?	Did not respond.
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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	An amount that reflects the actual costs incurred by the retailer
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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes
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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## **Drawings and Sweepstakes Promotions<sup>1,2</sup>**

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Do you allow manufacturers or distributors to conduct sweepstakes promotions?	As long as the prize is not alcohol.
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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
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May prizes be displayed on the retail premise?	No
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## **Contests at Retail Licensee Premises<sup>1,2</sup>**

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
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May prizes be displayed on the retail premise?	No
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## **Consumer Tastings<sup>1,2</sup>**

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	With an approved annual tasting permit from the State of New Mexico, a manufacturer or wholesaler may conduct tastings on a licensed premise in amounts of 1.5 ounces or less for beer and wine and 0.5 ounces or less for spirits.
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	No
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	Yes. Assuming that retailers within the same class and type are treated equally.
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	No
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.93)
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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise  
<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.93)
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit  
<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	Yes
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## Private and Control Labels

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
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Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes
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How much control can a retailer exert over a manufacturer’s branded product (control label)?	New Mexico law is silent on this issue.
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Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
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## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. The product/brand must be provided to the retailer at fair market value and the event may promote the brand but not the retail establishment.
May a third party provider occupy a retail operation for an event?	No
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	The manufacturer or distributor may be on hand to discuss the brand but may not pour or serve.
Are there limitations on third party events?	Yes. Only the NM license holder may profit from the proceeds of the event and must be the operator on the licensed premise.
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No
Is cider subject to the same trade practice laws as any other alcohol products?	Wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	All investigation and enforcement staff are cross-trained on all areas of the Liquor Control Act.
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No

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What penalties are provided for in a licensee trade practice violation?	The director may suspend or revoke any liquor license or permit and/or fine the licensee up to \$10,000 per violation of the New Mexico Liquor Control Act.
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	As a three-tier state, sales directly from suppliers/manufacturers to retailers are prohibited. All retailers must purchase their product from licensed New Mexico wholesalers.
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	No

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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

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May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

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May a selling manufacturer or distributor extend credit to a retailer? Yes. 30 days from delivery for liquor and wine, 15 days for beer.

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Is there any penalty if the retailer goes into arrears? Yes. Wholesalers (and self-distributing manufacturers) are required to report delinquent retailers to NYSLA online delinquent management system ("COD list").

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May a manufacturer or distributor sell on COD to retailer in arrears? Yes. Once a delinquent retailer has been reported to the COD list only cash sales are permitted by the entire wholesale industry to that retailer.

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

#### Product Displays<sup>1,2</sup>

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May a manufacturer or distributor provide product displays to a retailer? Yes. \$300 per brand per year per retailer.

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Are there any time limitations on use of the product display? SLA Rule 86.3 (a) A product display means any wine racks, bins, barrels, casks, shelving, and the like, from which alcoholic beverages are displayed and sold, and which bears conspicuous and prominent advertising matter. (b) A manufacturer or wholesaler may give, rent, loan or sell product displays to a retail licensee. The total value of all product displays furnished by a manufacturer or wholesaler under this section may not exceed \$300 per brand, in use at any one time in any one retail establishment. The value of a product display is the actual cost to the manufacturer or wholesale licensee who initially purchased it. Transportation and installation costs are excluded. Provision of a product display to a retailer may be conditioned upon the purchase of sufficient product for initial setup of the display. (c) Manufacturers and wholesalers may not pool or combine their dollar limitations in order to provide a retailer a product display valued in excess of such dollar limitation.

**DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>**

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May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?

\$200 per brand per year per retailer. SLA Rule 86.5 Retailer advertising specialties. (a) A retailer advertising specialty is an item which bears advertising matter and is primarily valuable to the retailer as point of sale advertising, but which has some secondary value to the retailer in connection with the operation of the business. Examples of retailer advertising specialties include trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, thermometers, clocks, shirts, hats, visors and calendars. The manufacturer or wholesaler may add the name or address of the retailer to the retailer advertising specialty. (b) The total value of all retailer advertising specialties furnished by a manufacturer or wholesaler to a retailer may not exceed \$200 per brand, in any one calendar year per retail establishment. The value of a retailer advertising specialty is the actual cost of that item to the manufacturer or wholesaler who initially purchased it. Transportation and installation costs are excluded.

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May a manufacturer or distributor provide dealer loaders/ product enhancers to a retailer? (continued)	(c) Manufacturers and wholesalers may not pool or combine their dollar limitations in order to provide a retailer with retailer advertising specialties valued in excess of such dollar limitation.
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May the retailer keep the thing of value after the product display is disassembled?	Yes
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Yes. SLA Rule 86.5 (9 NYCRR 86.5).
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Not Applicable
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	Yes
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May the retailer be reimbursed for electricity, etc.?	No
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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Retailer owns the sign once it is placed on the premises.
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### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Reasonable standard applies. No leather bound or gold foil allowed (for example).
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May a manufacturer or distributor pay the retailer to get on the list?	No
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	Yes
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May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	Yes. Reasonable standard applies. No leather bound or gold foil allowed (for example).
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## BEER TAP HANDLES

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Whose property is a beer tap handle?	Same standard as inside signs. Belongs to retailer once placed on the premises.
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Who keeps it when the keg is finished?	The retailer owns the handle once placed on premises.
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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May a manufacturer or distributor provide equipment to a retailer?	Yes. See SLA Rule 86.13 for equipment. See also SLA Rule 86.5 - glassware considered a retailer advertising specialty subject to \$200 per brand per year per retailer restriction.
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<p>May a manufacturer or distributor provide equipment to a retailer? (continued)</p>	<p>SLA Rule 86.13 Equipment Rods, vents, taps, hoses (rubber or metal), choke or restrictor coil not exceeding 10 feet in length to any one line, washers, couplings, vent tongues, valves, bungs, gauges, regulators, distributors, connectors, cellar thermometers, tap markers, bucks, rod brushes, air cocks, air tees, metal tubing to connect regulators and gauges, necessary parts to faucets including faucet bodies, spigots, unions and bottle openers may be furnished, given or sold to a retailer and installed in his establishment. Picnic pumps, gravity keys, tubs, portable bars, cold plates, gauges, portable cooling units and refrigerated trucks or trailers may be furnished, loaned or rented for temporary use at a particular function, but not for use by a retail licensee in the normal day-to-day operation of his business; carbon dioxide or other propellant may be furnished or sold for use in connection with the operation of such equipment.</p>
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<p>If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?</p>	<p>There is no dollar limit</p>
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<p>May a manufacturer or distributor provide supplies to a retailer?</p>	<p>No</p>
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business  
<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.  
<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business  
<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Only allowed to be provided to off-premises beer licensees. See SLA Rule 83.2. SLA Rule 83.2 Exterior signs No sign, as defined in subdivision (a) of section 83.1 of this Part, shall be erected, installed or displayed on the exterior of any retail licensed premises by the retailer; provided, however, that this section shall not apply to premises licensed to sell beer at retail for consumption off the premises.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises  
<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. 2 bottles per brand, trade name and vintage (age). See SLA Advisory 2010-1. <a href="http://www.sla.ny.gov/system/files/sample-containers_0.pdf">http://www.sla.ny.gov/system/files/sample-containers_0.pdf</a>
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes
Are there record keeping requirements for samples?	No
Are there any tax implications for record keeping requirements for samples?	Yes. Please refer tax related inquiries to the New York State Department of Taxation and Finance ( <a href="http://www.tax.ny.gov">www.tax.ny.gov</a> ).

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand  
<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## **Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>**

<p>May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?</p>	<p>Yes. \$200 per brand per year per retailer. See SLA Rule 86.5 Retailer advertising specialties</p>
<p>May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?</p>	<p>No</p>
<p>May a manufacturer or distributor donate to the trade association of a retail licensee?</p>	<p>Yes. See Alcoholic Beverage Control Law (ABCL) Sec. 101(1)(c). § 101. Manufacturers and wholesalers not to be interested in retail places 1. It shall be unlawful for a manufacturer or wholesaler licensed under this chapter to...</p>

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May a manufacturer or distributor donate to the trade association of a retail licensee? (continued)

(c) Make any gift or render any service of any kind whatsoever, directly or indirectly, to any person licensed under this chapter which in the judgment of the liquor authority may tend to influence such licensee to purchase the product of such manufacturer or wholesaler. The provisions of this paragraph shall not be construed to prevent a manufacturer or wholesaler from entertaining a licensee at lunch or dinner, or to prevent a manufacturer or wholesaler from participating in or supporting bona fide retailer association activities such as, but not limited to, associate memberships, dinners, conventions, trade shows, product tastings and product education where such participation is in reasonable amounts and does not reach proportions that indicate attempts to influence the purchase of products of contributing manufacturers and wholesalers by the members of such retailer associations...

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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1, 2</sup>

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May a manufacturer or distributor pay a slotting allowance to a retailer?

No

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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products? No

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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?

Yes. Provide meals and legitimate business entertainment. Give tickets to events for the retailer to attend without them? No. See ABCL Sec. 101(1)(c). § 101. Manufacturers and wholesalers not to be interested in retail places 1. It shall be unlawful for a manufacturer or wholesaler licensed under this chapter to...

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May a manufacturer or distributor provide meals and/or entertainment to a retailer? (continued)

(c) Make any gift or render any service of any kind whatsoever, directly or indirectly, to any person licensed under this chapter which in the judgment of the liquor authority may tend to influence such licensee to purchase the product of such manufacturer or wholesaler. The provisions of this paragraph shall not be construed to prevent a manufacturer or wholesaler from entertaining a licensee at lunch or dinner, or to prevent a manufacturer or wholesaler from participating in or supporting bona fide retailer association activities such as, but not limited to, associate memberships, dinners, conventions, trade shows, product tastings and product education where such participation is in reasonable amounts and does not reach proportions that indicate attempts to influence the purchase of products of contributing manufacturers and wholesalers by the members of such retailer associations...

<sup>1</sup>Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

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## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

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May a manufacturer or distributor make advertisements beneficial to a retailer?

No. SLA Rule 86.10 Advertising names of retailers. The names and addresses of retailers selling the products of a manufacturer or wholesaler may be listed in an advertisement of that licensee if (a) the advertisement does not also contain the retail price of the product, and (b) the listing is the only reference to the retailer in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole. Pictures or illustrations of retail establishments or laudatory references to retailers in a manufacturer's or wholesaler's advertisements are not hereby authorized.

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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

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May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? Yes. See SLA Rule 86.10 Advertising names of retailers.

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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No. SLA Rule 86.10 applies regardless of advertising medium utilized.
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Only beer may be rotated at retail premises (may be traded out for same brand and trade name product within 30 days of any expiration date appearing on label) as per Opinion of Counsel 2008-01 “Out-of-code” beer.
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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes. Beer only.
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In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	If the retailer gives the manufacturer/distributor permission to reset competitor products. As per “Plan-A-Gram” Declaratory Ruling of Sept. 2, 1998, all wholesalers selling to retailer are entitled to notice of any planned reset at that retailer and must be given same access to proprietary sales data of that retailer and opportunity to be heard prior to reset.
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

<p>In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?</p>	<p>No</p>
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

<p>May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?</p>	<p>See ABCL Sec. 101(1)(c) - “Dinners, conventions, trade shows, product tastings....”</p>
<p>May a manufacturer or distributor also provide nominal hospitality?</p>	<p>Yes. See ABCL Sec. 101(1)(c).</p>
<p>May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?</p>	<p>No. A shared cab ride has in the past been deemed reasonable by certain Members of the Authority.</p>

<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	All retailers must have a level playing field to purchase all price posted items at the same prices and quantity discount levels. (See ABCL Sec. 101-b.)
May a manufacturer or distributor offer “no charge” products to a retailer?	No
What is the definition of “no charge” products?	Not Applicable

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Mail in rebates only. Instantly redeemable coupons (redeemable at the cash register at licensed premises) not permissible.
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If applicable, which of the following types of coupons would be allowed? Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; Cross merchandised coupons of any type which allow for “cents off” on a nonfood item (e.g. Charcoal briquettes) with purchase of an alcohol beverage. Cross merchandised coupons of any type which allow for “cents off” on a food item (e.g. meat, chips) with purchase of an alcohol beverage. Cross merchandised items must be national brands, not owned by retailers.

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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?

No

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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?

Yes

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## **Drawings and Sweepstakes Promotions<sup>1,2</sup>**

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Do you allow manufacturers or distributors to conduct sweepstakes promotions?

Yes

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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?

Yes. As long as it does not violate state gambling laws.

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May prizes be displayed on the retail premise?

Yes. Retailer advertising specialties under SLA Rule 86.5.

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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes. Retailer advertising specialties as per SLA Rule 86.5.
May prizes be displayed on the retail premise?	Yes. Retailer advertising specialties as per SLA Rule 86.5.

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	No more than \$700 per event, no more than 10 events per year per licensed premises. See SLA Advisory 2014-8: ( <a href="http://www.sla.ny.gov/system/files/Advisory_2014-8_-_Gifts_and_Services_Law__Buy-Back_Bar_Spend_and_Private_and_Promotional_Events.pdf">http://www.sla.ny.gov/system/files/Advisory_2014-8_-_Gifts_and_Services_Law__Buy-Back_Bar_Spend_and_Private_and_Promotional_Events.pdf</a> )
May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	Must have a Supplier/Wholesaler Marketing Permit. See SLA Advisory 2015-7: <a href="http://www.sla.ny.gov/system/files/Advisory_2015-7_-_Supplier_Wholesaler_Marketing_Permit.pdf">http://www.sla.ny.gov/system/files/Advisory_2015-7_-_Supplier_Wholesaler_Marketing_Permit.pdf</a>

<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.



**OTHER QUESTIONS**

**Gift Certificates<sup>1,2</sup>**

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	Yes. See Groupon and Living Social Declaratory Rulings: <a href="http://www.sla.ny.gov/system/files/2011-03001_Online_Coupon_-_Groupon-revised.pdf">http://www.sla.ny.gov/system/files/2011-03001_Online_Coupon_-_Groupon-revised.pdf</a> and <a href="http://www.sla.ny.gov/system/files/2011-03527C-On-line%20coupon-LivingSocial.pdf">http://www.sla.ny.gov/system/files/2011-03527C-On-line%20coupon-LivingSocial.pdf</a>
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

**Channel Pricing<sup>1,2</sup>**

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	Only for beer. Distilled spirits and wine must be price posted and sold at same price/quantity discounts to every retail licensee. See ABCL 101-b.
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	Yes. Only for beer.
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

**Sale of Other (Non-Alcoholic) Merchandise to Retailers**

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	Yes. The Authority may decide that it constitutes an attempt to influence purchase of alcoholic beverages in violation of ABCL Sec. 101(1)(c).
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	Yes
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<p>May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?</p>	<p>Yes. Wholesale businesses are tightly restricted via operation of ABCL Sec. 104, so there is very little they are allowed to sell besides alcoholic beverages.</p>
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

**Combination Packaging<sup>1,2</sup>**

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<p>Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?</p>	<p>Yes. Non-alcohol items must be non-edible and non-potable.</p>
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

**Product Testing**

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<p>Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?</p>	<p>Yes. Must have Plenary Permit for Market Research Testing.</p>
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**Private and Control Labels**

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<p>Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.</p>	<p>Yes. See ABCL Sec. 107-a(5)(d)(iii). See also SLA Advisory SLA 2014-7, page 10. <a href="http://www.sla.ny.gov/system/files/Advisory_2014-7_-_Brand_Label_Registration_-_Revised_5-20-14.pdf">http://www.sla.ny.gov/system/files/Advisory_2014-7_-_Brand_Label_Registration_-_Revised_5-20-14.pdf</a></p>
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<p>Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.</p>	<p>No</p>
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<p>Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?</p>	<p>Yes. Private label only - sold only to that retailer. Note: manufacturer’s name may not appear on front label along with retailer.</p>
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How much control can a retailer exert over a manufacturer's branded product (control label)?	None
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No. See SLA Advisory 2015-9 re: Licensing and Trademark Agreements: <a href="http://www.sla.ny.gov/system/files/Advisory_2015-9_-_Licensing-Trademark_Agreements_with_Retailers.pdf">http://www.sla.ny.gov/system/files/Advisory_2015-9_-_Licensing-Trademark_Agreements_with_Retailers.pdf</a>
<b>Promotional Events<sup>1</sup></b>	
Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. See SLA Advisory 2014-8 re: promotional events and buy backs. <a href="http://www.sla.ny.gov/system/files/Advisory_2014-8_-_Gifts_and_Services_Law__Buy-Back_Bar_Spend_and_Private_and_Promotional_Events.pdf">http://www.sla.ny.gov/system/files/Advisory_2014-8_-_Gifts_and_Services_Law__Buy-Back_Bar_Spend_and_Private_and_Promotional_Events.pdf</a>
May a third party provider occupy a retail operation for an event?	No
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Yes. See SLA Advisory 2014-8.
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes. See SLA Advisory 2015-6 re: charitable donations. <a href="http://www.sla.ny.gov/system/files/Advisory_2015-6_-_Charitable_Donations.pdf">http://www.sla.ny.gov/system/files/Advisory_2015-6_-_Charitable_Donations.pdf</a>

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Is cider subject to the same trade practice laws as any other alcohol products?	Cider may be sold by any licensed retailer in New York. See ABCL Sec. 59: § 59. Authorization for sale of cider by retail licensees Each retail licensee under this chapter shall have the right, by virtue of his license and without being required to pay any additional fee for the privilege, to sell at retail for consumption on or off the premises, as the case may be, cider purchased from a person licensed to produce or sell cider at wholesale under this chapter.
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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturers has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer’s brand of alcohol.

### Miscellaneous

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<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	4 FTE’s and 4 more staff that also have other duties.
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Yes. Dozens.
What penalties are provided for in a licensee trade practice violation?	Revocation, suspension, cancellation, civil penalties up to \$100,000 per count.
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	None
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes. Monitoring from industry complaints, news media.

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# North Carolina

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No

Is there any penalty if the retailer goes into arrears? Did not respond

May a manufacturer or distributor sell on COD to retailer in arrears? Did not respond

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. 04 NCAC 02T .0713 Accepted Trade Practices; Things of Value; Retail Permittees (b) Items That May Be Provided at No Charge. The following things of value may be given, furnished, loaned, rented or sold by an industry member to a retail permittee:

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May a manufacturer or distributor provide product displays to a retailer? (continued)	(6) product displays, to include wine racks, bins, barrels, casks and shelving from which malt beverage, wine or spirituous liquor are displayed and sold, so long as: (A) each display bears conspicuous and substantial advertising matter; and (B) the dollar limitations per brand do not exceed one hundred sixty dollars (\$160.00).
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Are there any time limitations on use of the product display?	No
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**DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>**

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?	As long as it is returned to the wholesaler after the promotion.
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May the retailer keep the thing of value after the product display is disassembled?	No
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

**Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Yes. Point-Of-Sale Advertising Materials. Notwithstanding having a secondary value, the following items are considered to be point-of-sale materials and need not be submitted by an industry member for approval prior to use, so long as the items bear conspicuous advertising matter:(1) clocks;(2) lamps;(3) lighted displays;(4) blackboards;(5) bulletin boards;(6) dart board backgrounds;(7) menu and price boards;(8) tap standards;(9) calendars;
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<p>May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer? (continued)</p>	<p>(10) mirrors; and(11) prizes offered in a consumer sweepstakes or contest pursuant to 04 NCAC 02T .0716(b). The prizes shall bear a sticker that shows it is the property of the industry member. The prizes shall be picked up by the industry member at the conclusion of the sweepstakes or contest.</p>
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**INSIDE SIGNS**

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<p>Are there cost, size, or placement restrictions?</p>	<p>Did not respond</p>
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**ILLUMINATED INSIDE SIGNS**

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<p>May they be seen from outside (in window, etc.)?</p>	<p>Yes</p>
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<p>May the retailer be reimbursed for electricity, etc.?</p>	<p>No</p>
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<p>If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?</p>	<p>There is no dollar limit</p>
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<p>Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?</p>	<p>Retailer or wholesaler.</p>
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**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

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<p>May a manufacturer or distributor provide such lists to a retailer?</p>	<p>Menus and Beverage Lists. Retail on-premise malt beverage, wine and mixed beverage permittees may place on the menu and beverage lists the brand names and prices of malt beverage, wine and mixed beverage products offered for sale in the establishment.</p>
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May a manufacturer or distributor provide such lists to a retailer? (continued)	Beverage lists may be supplied by an industry member and may include up to six items from the retailer's food menu but shall not include the name, logo or other identifier of the retail permittee on the advertisement. A table tent is considered a beverage list for purposes of this Rule
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May a manufacturer or distributor pay the retailer to get on the list?	No
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
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May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	No
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## BEER TAP HANDLES

Whose property is a beer tap handle?	Retailer should purchase.
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Who keeps it when the keg is finished?	Retailer
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1, 2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. It cannot have the retailer's advertising or name.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes. The above items, but they must be sold to the retailer.
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	No dollar limit because the equipment must be sold.
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May a manufacturer or distributor provide supplies to a retailer? Yes

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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business  
<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.  
<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business  
<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

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May a manufacturer or distributor provide an outside sign to a retailer? No

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<sup>1</sup> Definition: A sign erected or hung outside the retail premises  
<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

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May a manufacturer or distributor provide free samples to a retailer? Yes. No more than three liters of any brand of wine.

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Are sample limits applied to a retail license location, or each member of a retailer's buying committee? Yes. Retail license location.

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Are there record keeping requirements for samples? No

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Are there any tax implications for record keeping requirements for samples? Did not respond

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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand  
<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

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May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)? No

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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages? No

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May a manufacturer or distributor donate to the trade association of a retail licensee? Yes

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<sup>1</sup> Definition: Gifts  
<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1, 2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer? No

May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products? No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

May a manufacturer or distributor provide meals and/or entertainment to a retailer? Yes. An industry member may invite up to two employees or representatives of a retail permittee who is permitted under G.S. 18B-1001, to, and pay for, a business meal to discuss sales and promotions in person, provided that: (1) the business meal, including beverages consumed with the meal, shall take place within North Carolina and shall not take place at any entertainment venue or in conjunction with entertainment; (2) if the industry member provides transportation, that it shall be by personal vehicle only; (3) the industry member must accompany the employees or representatives of a retail permittee for the duration of the business meal;

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<p>May a manufacturer or distributor provide meals and/or entertainment to a retailer? (continued)</p>	<p>(4) such business meal shall be provided without a corresponding obligation on the part of the retailer to purchase alcoholic beverages or to provide any other benefit to such industry member;</p> <p>(5) such business meal shall be provided without a corresponding obligation on the part of the retailer to exclude from sale the products of any other industry member;</p> <p>(6) the cost of the business meal shall not exceed the cost of a business meal in the food and non-alcoholic beverage industry provided in the ordinary course of business;</p> <p>and (7) an industry member shall pay for no more than two business meals per retail permittee per calendar year.</p>
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

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## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### **Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>**

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<p>May a manufacturer or distributor make advertisements beneficial to a retailer?</p>	<p>No</p>
<p>May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?</p>	<p>No</p>

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May a manufacturer or distributor list the name or address or two or more retailers where their brands may be purchased? No

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

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### Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Back room to shelf; Back room to product display; Back room to floor display or case stacker; Back room to cold box or cooler; Product or floor display to back room; Product or floor display to shelf; Product or floor display to cold box or cooler. Malt beverage or wine only.

May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Yes

In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises? No

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On a full store reset, may a manufacturer or distributor reset the products of a competitor? Did not respond

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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

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In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program? No

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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

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May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held? On premises or off premises

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May a manufacturer or distributor also provide nominal hospitality? No

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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging? No

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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer? No

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May a manufacturer or distributor offer “no charge” products to a retailer? No

What is the definition of “no charge” products? Not Applicable

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased  
<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

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### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages? Yes

If applicable, which of the following types of coupons would be allowed? Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; Instant redeemable coupons (IRC’s) redeemable by consumers at check out; IRC’s dispensed to consumers as direct offerings; IRC’s dispensed to consumers at the retail premises; Electronic coupons (scan back) where consumers receive “cents off” at the moment the container is scanned at check out; Electronic coupons that

If applicable, which of the following types of coupons would be allowed? (continued)	Are automatically sent or downloaded to the consumer's phone. Malt beverage and Wine permittees only, not suppliers or manufacturers for purchase discounts. Suppliers and manufacturers can provide rebate coupons.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for "cents off" on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## **Drawings and Sweepstakes Promotions<sup>1,2</sup>**

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?

No. An advertisement or product label shall not contain any offer of a prize or award upon the completion of any contest in which there is a requirement to purchase the advertised product, provided that, no advertisement shall promote a game of chance or a lottery. Except as otherwise provided in these Rules, no industry member or retailer shall promote an alcoholic beverage product by giving prizes, premiums or merchandise to individuals for which any purchase of alcoholic beverages is required or based on the return of empty containers unless all containers of like products are accepted and considered on an equal basis with the product sold by the promoter. Consumer contests or sweepstakes may be offered by an alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member so long as no purchase is required.

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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose? (continued)

Entry forms may be attached to or part of an alcoholic beverage label or package so long as alternative methods of entry are available to the consumer by means of a tear pad of entry forms available at the point of purchase or by means of electronic entry forms available on the Internet. Point-of-Sale Permissible; Restriction on Retailer Involvement. An industry member may provide to a retailer point-of-sale advertising materials promoting a sweepstakes or contest. An industry member shall not offer or promote any sweepstakes or contest in conjunction with any retailer as a cosponsor or as the provider of any prize. No prizes may be drawn or awarded on the premises of any retailer. Officers, employees and representatives of industry members and retailers are excluded from participating in a consumer sweepstakes or contest offered under this Rule.

May prizes be displayed on the retail premise?

Yes

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?

No

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May prizes be displayed on the retail premise? Did not respond

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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions? Yes. Bar Spending. An industry member may visit the premises of an on-premise retail account for the purpose of promoting its brands so long as: (a) the visit is unannounced and not advertised; and (b) a patron who refuses the industry member’s offer to consume a product is offered a comparable beverage of his choice, either alcoholic or non-alcoholic.

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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions? No. If they obtain a Limited Special Occasion permit.

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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee? No

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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

## Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions? No

Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? Yes. Non-alcoholic Beverages. A malt beverage wholesaler who is also engaged in the business of selling non-alcoholic beverage products may engage in the accepted trade practices of the soft drink and snack food industries, so long as the sales and practices surrounding the non-alcoholic beverage merchandise are not used as an unlawful inducement to purchase malt beverages.

May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Yes
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	Yes. They must obtain a Limited Special Occasion permit.
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## Private and Control Labels

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	No
How much control can a retailer exert over a manufacturer’s branded product (control label)?	None
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No

## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. Industry member must get prior approval and a non-profit must be involved.
May a third party provider occupy a retail operation for an event?	Yes
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	Did not respond
Are there limitations on third party events?	Yes

Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes. As long as it does not end up in the retailer's hands.
Is cider subject to the same trade practice laws as any other alcohol products?	Wine
<p><sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.</p>	
<p><b>Miscellaneous</b></p>	
<p><i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement? 0</p>	
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Did not respond
What penalties are provided for in a licensee trade practice violation?	Fine and/or monetary penalty or a revocation of permit.
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	None are allowed
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	No

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? Yes. Sale by beer wholesalers to a retailer is cash only but liquor wholesalers may provide 30 days credit.

Is there any penalty if the retailer goes into arrears? Yes. The wholesalers are prohibited from making further sales to the delinquent retailer.

May a manufacturer or distributor sell on COD to retailer in arrears? No

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Did not respond

Are there any time limitations on use of the product display? Have adopted Federal "Tied House" Exceptions (27 CFR 6.83)

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/ product enhancers to a retailer? No

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May the retailer keep the thing of value after the product display is disassembled?	No
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## **Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	<p>A wholesaler may not provide more than \$100 per year per retailer which includes items designed to be carried away by the consumer, such as coasters, bottle openers, matches, cards, shirts, caps and visors. These items will be permanently inscribed or securely affixed with advertising pertaining to the product being sold. Wholesalers or suppliers may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental to their use.</p>
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### **INSIDE SIGNS**

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Are there cost, size, or placement restrictions?	<p>Back bar signs, pool table lights, neon window signs, and items of similar nature are limited to \$500 per retail account for each of the wholesaler's brewers or suppliers. No size or placement restriction.</p>
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### **ILLUMINATED INSIDE SIGNS**

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May they be seen from outside (in window, etc.)?	Yes
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Cost

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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	The wholesaler retains ownership of the sign and any repairs.
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## WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Limited to \$500 per retail account for each of the wholesaler's brewers or supplier.
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May a manufacturer or distributor pay the retailer to get on the list?	No
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
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May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	Yes
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## BEER TAP HANDLES

Whose property is a beer tap handle?	Retailer
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Who keeps it when the keg is finished?	Retailer
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1, 2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. Limited to a wholesale cost of \$15 or less.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes. For the following: metal keg connectors and tap knobs may be given by manufacturers/distributors. [47 P.S. Sec. 493(17)]. Wine lists/menus may be given or sold by manufacturers/importers. [40 Pa. Code Sec. 13.52].
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Fair Market Value. Selling of equipment or supplies, including dispensing accessories and product displays, does not constitute a means to induce if the equipment, supplies, dispensing accessories or displays are sold at a price not less than the cost to the supplier or wholesaler who initially purchased them or at fair market value, whichever reflects the true value of the item, and the invoice for these products is paid within thirty days of the date of the sale. Otherwise, a wholesaler may furnish retailers with beer containers and equipment for dispensing of tap beer if the expense to the wholesaler associated with the furnishing of containers, equipment, and tap or coil cleaning service does not exceed one hundred fifty dollars per tap per calendar year.
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May a manufacturer or distributor provide supplies to a retailer?	Yes
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business  
<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.  
<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business  
<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

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May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Given. A wholesaler may furnish outside signs to retailers if the sign cost does not exceed four hundred dollars exclusive of costs of erection and repair.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises  
<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

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May a manufacturer or distributor provide free samples to a retailer?	Yes. A supplier who conducts tasting or sampling activities at a retail establishment without first purchasing the product from the retailer, must purchase the product from a licensed wholesaler. A wholesaler who conducts tasting or sampling activities at a retail establishment may invoice the product used for this activity as “samples” provided the wholesaler also remits the wholesale tax and alcoholic beverages gross receipts tax due on the sampled product.
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Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	No
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Are there record keeping requirements for samples?	Yes. A wholesaler who conducts tasting or sampling activities at a retail establishment may invoice the product used for this activity as “samples” provided the wholesaler also remits the wholesale tax and alcoholic beverages gross receipts tax due on the sampled product.
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Are there any tax implications for record keeping requirements for samples?	Yes
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## **Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>**

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May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	No
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No
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May a manufacturer or distributor donate to the trade association of a retail licensee?	No
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## **Slotting Allowance (Slotting Fee)<sup>1,2</sup>**

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## **Meals and Entertainment Provided to Retailers<sup>1</sup>**

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	No
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer? No

May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? No

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## **Manufacturer/Distributor Merchandises Services: Stock/Rotating/ Pricing<sup>1,2</sup>**

<p>May a manufacturer or distributor stock its products at a retail premises in any of the following ways?</p>	<p>Have adopted Federal “Tied House” Exceptions (27 CFR 6.99). Wholesalers may stock, rotate, and affix the price to alcoholic beverages that they sell to a retail establishment provided products of other wholesalers are not altered or disturbed. This activity must occur on the date of the product delivery and during regular business hours of the wholesaler. Wholesalers and suppliers may not provide any service that is the normal responsibility of the retailer as it may constitute providing something of value prohibited under N.D.C.C. § 5-01-11. Wholesalers must offer the same stocking, rotation, and pricing service to all on and off sale retailers.</p>
<p>May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?</p>	<p>Yes</p>
<p>In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?</p>	<p>No</p>
<p>On a full store reset, may a manufacturer or distributor reset the products of a competitor?</p>	<p>Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)</p>

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes
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May a manufacturer or distributor also provide nominal hospitality?	No
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	The wholesaler must offer the same volume discount to all retailers in their sales territory.
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May a manufacturer or distributor offer “no charge” products to a retailer?	As long as all retailers are offered the same “no charge” products.
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<p>What is the definition of “no charge” products?</p>	<p>Any product provided at “no charge” when the retailer has purchased a specific volume or type of product available to all retailers.</p>
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

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## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

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<p>Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?</p>	<p>Coupons must be redeemed with the manufacturer and cannot be instantly redeemed at the retail location. An exception would be if the retailer is offering an instant redeemable coupon that is not reimbursed by the supplier or wholesaler.</p>
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<p>If applicable, which of the following types of coupons would be allowed?</p>	<p>Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media</p>
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<p>If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?</p>	<p>No</p>
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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer? Yes

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions? Wholesaler cannot provide anything of value to the retailer.

Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose? Yes. The prizes must be provided to the consumer and not a retailer or its employees.

May prizes be displayed on the retail premise? Yes

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

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### Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions? Yes. Wholesaler buys the prize.

May prizes be displayed on the retail premise? Yes

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.



## Consumer Tastings<sup>1,2</sup>

<p>May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?</p>	<p>A supplier who conducts tasting or sampling activities at a retail establishment without first purchasing the product from the retailer, must purchase the product from a licensed wholesaler. A wholesaler who conducts tasting or sampling activities at a retail establishment may invoice the product used for this activity as “samples” provided the wholesaler also remits the wholesale tax and alcoholic beverages gross receipts tax due on the sampled product.</p>
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<p>May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?</p>	<p>No</p>
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).  
<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

<p>Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?</p>	<p>Yes</p>
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises  
<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

<p>Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?</p>	<p>No</p>
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes. Must be sold to the retailer at the fair market value of the item, otherwise the wholesaler is providing something of value to retailer

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

### Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

### Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? No

## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	No
How much control can a retailer exert over a manufacturer's branded product (control label)?	Not Applicable
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No

## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. A manufacturer or distributor can not have an exclusive sale agreement with a venue affecting a retailer of alcoholic beverages.
May a third party provider occupy a retail operation for an event?	No
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Yes. Wholesaler selling alcohol must sell to a licensed retailer of on or off sale of alcohol products.
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes

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Is cider subject to the same trade practice laws as any other alcohol products?	Wine. ND regards cider to be fermented and subject to our liquor laws.
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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer’s brand of alcohol.

**Miscellaneous**

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*Please note that all answers to these questions will be published in the survey report.* How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement? Two

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Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data. No

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What penalties are provided for in a licensee trade practice violation? Hearing for possible revocation of retail license.

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Are retailers subject to trade practices law violations in your jurisdiction? Yes

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers? Is not permissible to jump tiers

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May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable? No. The in-state wholesalers and trade organizations provide feedback to the office.

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No

Is there any penalty if the retailer goes into arrears?

Yes. The permit holder could face an Administrative Citation for "Violation of Cash Law".

May a manufacturer or distributor sell on COD to retailer in arrears?

Yes. New sales may be made at the discretion of the Manufacturer or Wholesale Distributor.

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

#### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer?

Yes. Temporary display racks, clocks, and price boards of any type may be furnished directly by the manufacturer or supplier, without expense to the wholesale distributor, free of charge to any retail permit holder if they bear a brand name and the cost of any such item furnished does not exceed three hundred dollars per item.

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Are there any time limitations on use of the product display? The items are temporary and must be returned to the Manufacturer at the end of their use.

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**DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>**

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? Utilitarian display enhancers, whether brand identified or not, which cost two hundred dollars or less, may be provided free of charge by manufacturers or suppliers to retail permit holders for use in alcoholic beverage displays on the retail permit premises.

May the retailer keep the thing of value after the product display is disassembled? No. All utilitarian display enhancers must be returned to the manufacturer, supplier, or their agent, that furnished them when the display is taken down.

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

**Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?

1. Bottle/can openers, key chains, beads, bottle/can holders, buttons, novelty hats, lapel pins, calendars, & other similar items intended for use by consumers and pouring spouts, wine lists, & shelf stickers which bear a brand name or logo, may be furnished by the manufacturer or wholesaler for free to any retailer. The cost shall not exceed \$3 per item.

2. Trays, bar caddys, bar mats, matches, crumbers, stir sticks, menu cards, paper coasters, foam scrapers, olive picks, back bar display pieces, lighters, cigar cutters, T-shirts, hats, wine bottle seals, buckets, glassware or other containers for the serving of alco bev, and other similar items, with a brand name or logo of alco bev, may be furnished by the manuf for free to any retailer. The cost shall not exceed \$25 per item & at no cost to the wholesaler. No manuf shall furnish to an indiv retailer over \$25 worth of glassware or other containers for the serving of alcohol bev at 1 time, & shall not more than twice a year.

**INSIDE SIGNS**

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Are there cost, size, or placement restrictions?

Free with cost limit or placement restrictions.

## ILLUMINATED INSIDE SIGNS

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May they be seen from outside (in window, etc.)?

Yes. Signs, banners, posters, placards, designs, mirrors, devices, including illuminated devices, decorations, graphic displays, or other similar items bearing advertising and for use in the windows or elsewhere in the interior of a retail establishment, may be furnished free of charge to a retail permit holder by a manufacturer, supplier, importer, or wholesale distributor, provided that the manufacturer, supplier, importer, or wholesale distributor shall not directly or indirectly pay or credit the retail permit holder for displaying such items or for any expense incidental to their operation. Such items may also include the brand name, price, and the retail permit holder's name, address, slogan, marking, or other logo. Signs or advertisements on a permit premises.(1) Electric or neon signs, advertising any individual brand of alcoholic beverage, may be displayed in the exterior windows or interior of any retail permit premises, provided that not more than two such signs may be displayed in all of the exterior windows of the retail permit premises.

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May they be seen from outside (in window, etc.)? (continued)	(2) Signs or advertisements, other than electric or neon, advertising an individual brand of alcoholic beverage, may be displayed within the permit premises or in the exterior windows of a retail permit premises without limitation as to size or number
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Manufacturer or Wholesale Distributor

**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

May a manufacturer or distributor provide such lists to a retailer?	Wine lists, and shelf stickers which bear a brand name or logo for any type of alcoholic bev, may be furnished by the manufacturer or wholesaler free of charge to any retailer. The cost of each item shall not exceed \$3 per item. 2.Menu cards and other similar items, which bear a brand name or logo for any type of alcoholic beverage, may be furnished by the manufacturer for free to any retailer. The cost shall not exceed \$25 per item and at no cost to the wholesaler. No manufacturer shall furnish to an individual retailer more than \$25 worth of glassware or other containers intended for the serving of alcohol beverages at 1 time, and not more than twice per year.
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May a manufacturer or distributor provide such lists to a retailer? (continued)	3. Temporary display racks, clocks, and price boards of any type may be furnished directly by the manufacturer, without expense to the wholesaler, free of charge to any retailer if they bear a brand name and the cost of any such item furnished does not exceed \$300 per item.
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	No. \$3.00 limit. Bottle or can openers, key chains, beads, bottle or can holders, buttons, novelty hats, lapel pins, calendars, and other similar items intended for use by consumers and pouring spouts, wine lists, and shelf stickers which bear a brand name or logo for any type of alcoholic beverage, may be furnished by the manufacturer, supplier, or wholesale distributor free of charge to any retail permit holder. The cost of each item shall not exceed three dollars per item.

**BEER TAP HANDLES**

Whose property is a beer tap handle?	Manufacturer or wholesale distributor
Who keeps it when the keg is finished?	The Beer Tap Handles must be returned to the manufacturer or wholesale distributor.

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?

Yes. (1) Bottle/can openers, key chains, beads, bottle/can holders, buttons, novelty hats, lapel pins, calendars, and other similar items intended for use by consumers and pouring spouts, wine lists, and shelf stickers which bear a brand name or logo may be furnished by the manufacturer or wholesale distributor free of charge to any retailer. The cost shall not exceed \$3 per item. (2) Trays, bar caddys, bar mats, matches, crumbers, stir sticks, menu cards, paper coasters, foam scrapers, olive picks, back bar display pieces, lighters, cigar cutters, T-shirts, hats, wine bottle seals, buckets, glassware or other containers intended for the serving of alc bev, and other similar items, which bear a brand name or logo may be furnished by the manuf for free to any retailer. The cost shall not exceed \$25 per item and at no cost to the wholesaler. No manuf shall furnish to an indiv retailer over \$25 worth of glassware or other containers at 1 time, and not more than twice per year.

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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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May a manufacturer or distributor provide equipment to a retailer?

Yes. Glassware or other containers intended for the serving of alcohol beverages, and other similar items, which bear a brand name or logo for any type of alcoholic beverage, may be furnished by the manufacturer or supplier free of charge to any retail permit holder. The cost of each item shall not exceed twenty-five dollars per item and at no cost to the wholesale permit holder. However, no manufacturer or supplier shall furnish to an individual retail permit holder more than twenty-five dollars worth of glassware or other containers intended for the serving of alcohol beverages at one time, and shall not furnish glassware to an individual retail permit holder more than twice per year.

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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?

Fair Market Value

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May a manufacturer or distributor provide supplies to a retailer?

Yes. (1) Bottle/can openers, key chains, beads, bottle/can holders, buttons, novelty hats, lapel pins, calendars, and other similar items intended for use by consumers and pouring spouts, wine lists, and shelf stickers which bear a brand name or logo may be furnished by the manufacturer or wholesale distributor free of charge to any retailer. The cost shall not exceed \$3 per item. (2) Trays, bar caddys, bar mats, matches, crumbers, stir sticks, menu cards, paper coasters, foam scrapers, olive picks, back bar display pieces, lighters, cigar cutters, T-shirts, hats, wine bottle seals, buckets, glassware or other containers intended for the serving of alc bev, and other similar items, which bear a brand name or logo may be furnished by the manuf for free to any retailer. The cost shall not exceed \$25 per item and at no cost to the wholesaler. No manuf shall furnish to an indiv retailer over \$25 worth of glassware or other containers at 1 time, and not more than twice per year.

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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

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May a manufacturer or distributor provide an outside sign to a retailer?

Yes. Banners and Inflatables only may be given to retailers. However, they must be displayed within the defined permit premises (i.e.: within an approved outside patio).

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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

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May a manufacturer or distributor provide free samples to a retailer?

Yes. (A) A manufacturer, supplier, or wholesale distributor of alcoholic beverages or their registered solicitor may distribute samples of their products to wholesale distributors, retail permit holders, or their employees, or may distribute samples of sacramental wine for religious rites to clergy. Products eligible to be distributed as samples include any products or vintages qualified for sale in Ohio. Products that are not qualified for sale in Ohio, but which have received federal label approval from the alcohol and tobacco tax and trade bureau of the United States department of the treasury, may be distributed as samples to wholesale distributors, but not to retail permit holders.

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May a manufacturer or distributor provide free samples to a retailer? (continued)	(B) Only employees of manufacturers, suppliers, or wholesale distributors who are registered solicitors, pursuant to Chapters 4301. and 4303. of the Revised Code and rule 4301-2-01 of the Administrative Code, may receive and distribute samples pursuant to this rule.
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes. (C) Distribution. (1) Registered solicitors may distribute samples either by providing a sealed container, not to exceed seven hundred fifty milliliters, or by providing servings of beer of not more than twelve ounces, wine and mixed beverages of not more than two ounces, or spirituous liquor of not more than one ounce, to determine by tasting only the quality and character of the product, and not for general consumption purposes. (2) Products identified as samples may only be distributed during normal business hours at a permit premises. All such products shall be clearly marked "Sample." (3) Registered solicitors may transport samples after they have been opened if the following conditions are met: (a) The sample container is resealed with a type of lid, stopper, or seal appropriate for the container; and (b) When in a motor vehicle, the sample container is not accessible from the driver's seat of the vehicle.

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Are there record keeping requirements for samples?	Yes. (D) Samples shall not be sold. (E) Written records of the distribution of samples must be made available to the division of liquor control, upon request, for a period of one year from the date of the distribution.
Are there any tax implications for record keeping requirements for samples?	Yes. Taxes are paid by the manufacturer on beer and the wholesale distributor on wine and mixed beverages.

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

### Donations to Retailer Events, Licensed Charity Events<sup>1, 2</sup>

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May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes. Only under the F-4 (Showcasing Ohio Wines) or F-6 (Non-profit Charitable Auction) Temporary Permits.
May a manufacturer or distributor donate to the trade association of a retail licensee?	No

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

### Slotting Allowance (Slotting Fee)<sup>1, 2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.



## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?

Yes. A manufacturer or wholesale distributor may engage in the following conduct, provided that the conduct does not lead to control of a permit holder by another person: (1) A manufacturer or wholesale distributor may accept from or provide to a manufacturer or wholesale distributor travel, lodging, food, and beverages. (2) A manufacturer or wholesale distributor may provide to a retail permit holder or the permit holder's employees or agents food, beverages, and recreational activities under either of the following circumstances: (a) Food and beverages are provided by the manufacturer or wholesale distributor or the manufacturer's or wholesale distributor's employees or agents during a business meeting with a retail permit holder or the permit holder's employees or agents. (b) Recreational activities are enjoyed in the presence of the retail permit holder or the permit holder's employees or agents and the manufacturer or wholesale distributor or the manufacturer's or wholesale distributor's employees or agents who are paying for the recreational activities.

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May a manufacturer or distributor provide meals and/or entertainment to a retailer? (continued)	(B) As used in this section, “recreational activities” includes sporting events, concerts, theatrical performances, and other forms of entertainment.
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

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### SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

#### **Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>**

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May a manufacturer or distributor make advertisements beneficial to a retailer?	Yes. When responding to a direct inquiry from a consumer received by telephone, mail, an electronic inquiry, or in person.
May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No

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May a manufacturer or distributor list the name or address or two or more retailers where their brands may be purchased?	Yes. Except as provided below, no manuf or wholesaler of alc bevs shall state or give the name or address of any retailer where the alc bev handled by such manuf or wholesaler may be obtained or purchased. A manuf or wholesaler may state or give the name or address of a retailer when the manuf or wholesaler meets all of the following: (1) Is responding to a direct inquiry from a consumer received by phone, mail, an electronic inquiry, or in person. (2) Provides the names of 2 or more unaffiliated retailers. (3) Provides written text only, graphics or images being prohibited. (4) Lists only the following info about the unaffiliated retailers: the retailer name, premises address, web site, email, & phone number. (5) Provides no other info. This prohibition includes but is not limited to product prices, a description of the retailer's services, & links to a retailer's web site. (6) Provides the info on each retailer in identical format, & (7) Pays all costs related to the info.
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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

**Social Media Advertising<sup>1,2</sup>**

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

**Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>**

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Back room to product display; Back room to floor display or case stacker; Product or floor display to shelf; Product or floor display to cold box or cooler
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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
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In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	No
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer's back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

**Category Management Programs<sup>1</sup>**

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?

No

<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

**Educational Seminars<sup>1,2</sup>**

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?

At any location.

May a manufacturer or distributor also provide nominal hospitality?

Yes. A manufacturer or wholesale distributor may engage in the following conduct, provided that the conduct does not lead to control of a permit holder by another person: (2) A manufacturer or wholesale distributor may provide to a retail permit holder or the permit holder’s employees or agents food, beverages, and recreational activities under either of the following circumstances: (a) Food and beverages are provided by the manufacturer or wholesale distributor or the manufacturer’s or wholesale distributor’s employees or agents during a business meeting with a retail permit holder or the permit holder’s employees or agents.

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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging? No

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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer's history or product techniques or product familiarization, etc.

### Volume Discounts and "No Charge" Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer? No

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May a manufacturer or distributor offer "no charge" products to a retailer? No

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What is the definition of "no charge" products? Not Applicable

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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of "No Charge" Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The "no charge" products/items are tied to buying a different product/brand in volume or as part of the deal

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## CONSUMER PROMOTIONS

*Jurisdiction's allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for "cents off" purchases of alcohol beverages? Mail in Rebates only are permitted in Ohio. No point of sale discounts.

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If applicable, which of the following types of coupons would be allowed? Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; Mail in Rebates only are permitted in Ohio.

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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed? No

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<p>If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?</p>	<p>The price must meet the minimum mark up for beer and wine products.</p>
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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

**Drawings and Sweepstakes Promotions<sup>1,2</sup>**

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<p>Do you allow manufacturers or distributors to conduct sweepstakes promotions?</p>	<p>By manufacturer only. The prize may not be awarded by or through a retailer or wholesale distributor.</p>
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<p>Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?</p>	<p>No</p>
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<p>May prizes be displayed on the retail premise?</p>	<p>Yes</p>
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

**Contests at Retail Licensee Premises<sup>1,2</sup>**

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<p>Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?</p>	<p>No</p>
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<p>May prizes be displayed on the retail premise?</p>	<p>Yes</p>
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

**Consumer Tastings<sup>1,2</sup>**

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<p>May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?</p>	<p>There is not enough space to respond: See attached link to Tasting Chart that summarizes permissible activities: <a href="http://www.com.ohio.gov/documents/liqr_tastingchart.pdf">http://www.com.ohio.gov/documents/liqr_tastingchart.pdf</a></p>
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?

4301:1-1-30 Beer, wine, mixed beverage, or spirituous liquor tasting. (A) As used in this rule, "tasting" means the distribution of small amounts of brands of beer in servings of not more than four ounces per person, wine or mixed beverages in servings of not more than two ounces, or spirituous liquor in servings of not more than one ounce, to determine by tasting only the quality and character of the product, and not for general consumption purposes. (B) B-1, B-2, B-4, B-5, A-1, A-2, A-3, or A-4 permit holders, manufacturers of spirituous liquor, and any person issued credentials pursuant to rule 4301-3-01(I) of the Administrative Code, may conduct a tasting of beer, wine, mixed beverage, or spirituous liquor products, which have been qualified for sale in Ohio and which the permit holder, manufacturer, or registered solicitor is authorized to sell, for marketing purposes only, for themselves or for other groups or organizations.

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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions? (continued)

A tasting may be conducted at either the manufacturer's or distributor's place of business or any designated place where the event is closed to the general public, except that no tasting of spirituous liquor will take place on the premises of a state liquor agency. The manufacturer or distributor conducting the tasting shall provide the product for the tasting without charge at the designated location. No fees shall be charged or donations accepted to attend or participate in a tasting. (C) Written notice of any beer, wine, mixed beverage, or spirituous liquor tasting must be submitted to the division of liquor control at least five working days, excluding Saturday and Sunday, before the tasting is to take place, and written approval must be received from the division before such tasting may be held.

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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or "buying the house a round" at a licensed bar.

## OTHER QUESTIONS

**Gift Certificates<sup>1,2</sup>**

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	Yes
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

**Channel Pricing<sup>1,2</sup>**

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

**Sale of Other (Non-Alcoholic) Merchandise to Retailers**

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	Yes. As long as the non-alcoholic merchandise is not tied to the purchase of alcoholic beverages, and is invoiced separately.
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	Yes. As long as there is no connection to alcoholic beverages
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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

### Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	No alcoholic beverage shall be given away with the purchase of merchandise or any thing of value. An alcoholic beverage may be packaged with a nonalcoholic item without increasing the price of the alcoholic beverage.
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

### Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	No
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### Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. The product may be limited to only the retailer.
How much control can a retailer exert over a manufacturer's branded product (control label)?	
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No

### Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. The event must not exclude competitive products.
May a third party provider occupy a retail operation for an event?	Yes

If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	The event must not exclude competitive products.
Are there limitations on third party events?	Yes. The manufacturer or wholesale distributor cannot provide anything of value from the manufacturer or wholesale distributor to the retailer through the 3rd party organization.
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No
Is cider subject to the same trade practice laws as any other alcohol products?	Wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

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## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	28
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Yes
What penalties are provided for in a licensee trade practice violation?	Subject to a fine, suspension or revocation by the Ohio Liquor Control Commission
Are retailers subject to trade practices law violations in your jurisdiction?	Yes

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Selected permit classes of Ohio manufacturers may sell their products directly to a retailer. (A-1c – small production brewery, A-2 – winery, A-4 manufacturer of mixed beverages.)
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May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes. No monitoring utilized.
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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No

Is there any penalty if the retailer goes into arrears?

Yes. If a retail package store or mixed beverage licensee (i.e. restaurant or club) issues an Insufficient Funds Check to a wholesaler, the licensee can be placed on COD.

May a manufacturer or distributor sell on COD to retailer in arrears? Yes

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. 27 CFR Part 6

Are there any time limitations on use of the product display?

Have adopted Federal "Tied House" Exceptions (27 CFR 6.83)

### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? See 27 CFR Part 6

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May the retailer keep the thing of value after the product display is disassembled?	27 CFR Part 6
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes  
<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.  
<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display  
<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

**Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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**INSIDE SIGNS**

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Are there cost, size, or placement restrictions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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**ILLUMINATED INSIDE SIGNS**

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May they be seen from outside (in window, etc.)?	Yes
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May the retailer be reimbursed for electricity, etc.?	No
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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	If other, please specify
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	27 CFR Part 6
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**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

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May a manufacturer or distributor provide such lists to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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May a manufacturer or distributor pay the retailer to get on the list?	Yes (within the parameters of 27 CFR Part 6) for mixed beverage licensees (restaurants, clubs), but no for retail package stores.
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
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May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	Yes
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## BEER TAP HANDLES

Whose property is a beer tap handle?	Depends on contractual relationship between the parties and as subject to 27 CFR Part 6.
Who keeps it when the keg is finished?	Depends on contractual relationship between the parties and as subject to 27 CFR Part 6.

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.  
<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1, 2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer  
<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes. 27 CFR Part 6.
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.88)
May a manufacturer or distributor provide supplies to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.88)

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business  
<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.  
<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business  
<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.



## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.102)
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.91)
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Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	Yes. 27 CFR Part 6.
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Are there record keeping requirements for samples?	No
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Are there any tax implications for record keeping requirements for samples?	Did not respond
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	No
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No
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May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products? No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

### Meals and Entertainment Provided to Retailers<sup>1</sup>

May a manufacturer or distributor provide meals and/or entertainment to a retailer? No

<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

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## SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer? Have adopted Federal “Tied House” Exceptions (27 CFR 6.98)

May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? Have adopted Federal “Tied House” Exceptions (27 CFR 6.98)

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

## Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)
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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
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In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.94)
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	No
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
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What is the definition of “no charge” products?	Not Applicable
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction's allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for "cents off" purchases of alcohol beverages?	Have adopted Federal "Tied House" Exceptions (27 CFR 6.96)
If applicable, which of the following types of coupons would be allowed?	Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; Instant redeemable coupons (IRC's) redeemable by consumers at check out; Electronic coupons (scan back) where consumers receive "cents off" at the moment the container is scanned at check out; Electronic coupons that are automatically sent or downloaded to the consumer's phone.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	Yes
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Have adopted Federal "Tied House" Exceptions (27 CFR 6.96)

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for "cents off" on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	As long as no purchase required and/or no consideration to enter.
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Yes. Must 27 CFR Part 6 and can not be an alcoholic beverage.

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May prizes be displayed on the retail premise?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes. Must comply with 27 CFR Part 6 and can not be an alcoholic beverage.
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May prizes be displayed on the retail premise?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

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## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.95)
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	27 CFR Part 6
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	Yes. Retail package stores (liquor stores) can not sell non-alcoholic beverage items, but mixed beverage licensees (restaurants and clubs) may.
--	---

May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	Yes. Retail package stores can not sell non-alcoholic beverages. Yes for clubs and restaurants within limits of 27 CFR Part 6.
--	--

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Oklahoma retail package stores can sell only alcoholic beverages (wine, strong beer and spirits). Mixed beverage licensees (i.e. restaurants and clubs) may sell non-alcoholic products.
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.93)
--	--

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	No
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## Private and Control Labels

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No. Does not define “private label” but does prohibit it.
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
---	----

Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. Anyone.
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How much control can a retailer exert over a manufacturer’s branded product (control label)?	None
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Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
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## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. Can’t on the premises of a retail package store, but could on restaurant/club premises.
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May a third party provider occupy a retail operation for an event?	Yes
--	-----

If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No for a retail liquor store but yes for clubs and restaurants under specific circumstances (see 37 O.S. Section(E)5).
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Are there limitations on third party events?	Yes
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes
Is cider subject to the same trade practice laws as any other alcohol products?	The only direct references to cider in the Oklahoma Alcohol Beverage Control (ABC) Act are found in 37 O.S. Section 505, which provides for the making of no more than 200 gallons a year of wine, cider or beer, with a permit, solely for the use of the maker, his family and guests, Section 520 A (annual permits) and Section 554 (A) (4), which exempts it from excise tax.

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	We have eighteen full-time enforcement personnel; however, none are specifically dedicated to Trade Practice Enforcement.
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	No specific penalties provided for trade practice violations except as already generally set out in statutes and administrative rules (penalty schedule).
Are retailers subject to trade practices law violations in your jurisdiction?	Yes

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers? 27 CFR Part 6

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May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable? No

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No

Is there any penalty if the retailer goes into arrears? Did not respond

May a manufacturer or distributor sell on COD to retailer in arrears? Yes

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. A supplier may provide point of sale materials to a retailer pursuant to OAR 845-013-0030 and 845-015-015-0177.

Are there any time limitations on use of the product display? Time limits only for displays/signs exceeding \$500 value that are given to retail liquor agents. Time limit is 90 days. See OAR 845-015-0177

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? No

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May the retailer keep the thing of value after the product display is disassembled? No

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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer? Yes. Point of sale items must meet requirements of OAR 845-013-0050 and OAR 845-015-0175 and -0177

### INSIDE SIGNS

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Are there cost, size, or placement restrictions? Inside signs are allowed. At retail liquor stores, signs valued at \$500 or more may only be loaned to the retail sales agent for a period of 90 days. The distillery representative may only provide one sign at any one time in any one liquor store.

### ILLUMINATED INSIDE SIGNS

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May they be seen from outside (in window, etc.)? Yes

May the retailer be reimbursed for electricity, etc.? No

If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost? Cost

Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.? Oregon law is silent on this issue.

### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

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May a manufacturer or distributor provide such lists to a retailer? The list may include any malt beverage, wine or distilled spirit the retailer sells. The supplier may add generic food references to the list.

May a manufacturer or distributor pay the retailer to get on the list? No

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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No. OAR 845-013-0050(3)(b): the supplier may not directly or indirectly pay or credit the retailer for using or distributing these items or for any expense incidental to their use.
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May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	No
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**BEER TAP HANDLES**

Whose property is a beer tap handle?	Oregon law is silent on this issue.
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Who keeps it when the keg is finished?	Oregon law is silent on this issue.
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

**Consumer Advertising Specialties<sup>1,2</sup>**

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. OAR 845-013-0050(2)(b): consumer takeaways are items intended for use by the retailer’s customers off the premises that provide information to the retailer’s customers but do not promote the retailer’s business. Only items made of paper or other similar inexpensive material are allowed to be given to the retailer and such information items include recipes, sports and entertainment event schedules, and informational pamphlets.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes. Suppliers may provide tavern heads, washers or Thomas valves, new and used empty shells or bags. OAR 845-013-0060. Suppliers may provide picnic pumps, cold plates, tubs, refrigerated trailers, refrigerated vans and refrigerated draft systems to Non-Profit Temporary Sales licensees. OAR 845-013-0090(5)
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
May a manufacturer or distributor provide supplies to a retailer?	No

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1, 2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Given or loaned. Exterior point of sale material given or loaned must not exceed 2160 square inches.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. Tastings or samples of distilled spirits that the retailer does not carry but only in an amount not to exceed 50 mL; Tastings or samples of wine and malt beverages that the retailer does not carry. The sample must not exceed a 1 gallon container of malt beverage or a 5 liter container of wine. OAR 845-013-0060(2)(d)
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes
Are there record keeping requirements for samples?	Oregon law is silent on this issue.
Are there any tax implications for record keeping requirements for samples?	No. Not applicable.

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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes. Alcohol may also be sold at a reduced price.
May a manufacturer or distributor donate to the trade association of a retail licensee?	No

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products? No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

### Meals and Entertainment Provided to Retailers<sup>1</sup>

May a manufacturer or distributor provide meals and/or entertainment to a retailer? Yes. A supplier may give a retailer food and beverages for immediate consumption at a meeting at which the primary purpose is the discussion of business; at a convention when the food and beverages are offered to all participants; or at a sports or entertainment event that the supplier attends with the retailer. See Oregon Administrative Rule 45-013-0010.

<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

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## SERVICES PROVIDED TO RETAILERS

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer? No. Suppliers may provide advertising for temporary events licensed by a Non-Profit.

May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No



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<p>May a manufacturer or distributor list the name or address or two or more retailers where their brands may be purchased?</p>	<p>A supplier must list all retailers without discrimination per Oregon Administrative Rule 845-013-0040(2)</p>
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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer’s name and/or address

## Social Media Advertising<sup>1,2</sup>

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<p>May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?</p>	<p>No</p>
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

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<p>May a manufacturer or distributor stock its products at a retail premises in any of the following ways?</p>	<p>Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)</p>
<p>May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?</p>	<p>Yes</p>
<p>In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?</p>	<p>No</p>

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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	If the competitor has not shown up for the reset. If the retailer gives the manufacturer/distributor permission to reset competitor products.
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Retail premises, conventions. See OAR 845-013-0010(8)
May a manufacturer or distributor also provide nominal hospitality?	Yes. If requirements in OAR 845-013-0010 (2) are met.
May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No

<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

**Volume Discounts and “No Charge” Products<sup>1,2</sup>**

May a manufacturer or distributor offer a volume discount to a retailer?	No
May a manufacturer or distributor offer “no charge” products to a retailer?	No
What is the definition of “no charge” products?	Did not respond

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

**CONSUMER PROMOTIONS**

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

**Coupons<sup>1,2</sup>**

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Yes
If applicable, which of the following types of coupons would be allowed?	Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; Cross merchandised coupons of any type which allow for “cents off” on a nonfood item (e.g. Charcoal briquettes) with purchase of an alcohol beverage; Cross merchandised coupons of any type which allow for “cents off” on a food item (e.g. meat, chips) with purchase of an alcohol beverage. All coupons must be redeemable by mail.

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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes
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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## Drawings and Sweepstakes Promotions<sup>1,2</sup>

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Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
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May prizes be displayed on the retail premise?	No
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
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May prizes be displayed on the retail premise?	No
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

<p>May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?</p>	<p>Suppliers may not buy food, beverages, or anything of value on a retailer’s premises for customers who are not his/her personal acquaintances. Suppliers may conduct tastings at retail locations pursuant to OAR 845-006-0450. Sample sizes must not exceed 1.5 ounces for wine/cider or 3 ounces for malt beverages. There must be an identified tasting area.</p>
<p>May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?</p>	<p>There must be no financial consideration.</p>

<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

<p>Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?</p>	<p>No</p>
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

<p>Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?</p>	<p>No</p>
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No

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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes, if alcoholic beverage is also available for sale without combination packaging and the cost of the combination packaging reflects the retail price of the alcohol and the fair market value of the non-alcoholic combination item. "On-packs" are allowed in retail liquor stores pursuant to OAR 845-015-0175.

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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	Yes. No financial consideration allowed.
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## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	Yes. "Private label" means a wine or malt beverage label that contains a retailer's trade name, trademark or other words or symbols identifiable with a retailer. See OAR 845-010-0206
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
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Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. Only in compliance with OAR 845-010-0206. The supplier must not develop a new product for the private label. The private label product must be the identical product the supplier sells under another label.
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How much control can a retailer exert over a manufacturer's branded product (control label)?	Not Applicable
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Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
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## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. No advertising of event; exclusive contracts not allowed. Must pay retailer reasonable rental fee.
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May a third party provider occupy a retail operation for an event?	Yes
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If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	Exclusive deals for alcohol not allowed. Event must take place when retail premises is closed, or the event is in an area separate from retail customers.
Are there limitations on third party events?	Yes. Advertising restrictions.
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes. This would be considered indirect financial assistance.
Is cider subject to the same trade practice laws as any other alcohol products?	Beer and wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturers has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	1
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	These violations are generally considered Category III violations. Penalties begin at a 10-day suspension or \$1,650.00 civil penalty and increase if they occur within a two-year period.
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	None
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Oregon law is silent on this issue.



# Pennsylvania

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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

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May a manufacturer or distributor provide cash to a retailer?	No. Section 13.51 of the Board's Regulations prohibits a licensee of one class, such as a manufacturer, from providing anything of value to licensees of another class, such as a retail licensee. [40 Pa. Code § 13.51]. Similarly, the Liquor Code's provisions on interlocking business practices prohibit manufacturers from providing money or other things of value to equip or otherwise help the operation of the licensed business of a retail licensee. [47 P.S. § 4-443].
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<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

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May a selling manufacturer or distributor extend credit to a retailer?	No. Section 493(2) of the Liquor Code prohibits manufacturers and distributors from extending credit to retail licensee. [47 P.S. § 4-493(2)].
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Is there any penalty if the retailer goes into arrears?

Yes. If payment by the retailer cannot be completed because of insufficient funds in the account, the inability to complete the transaction would violate section 493(26) of the Liquor Code, which prohibits a licensee from making, drawing, uttering, issuing or delivering a worthless check. [47 P.S. § 4-493(26)]. A violation of this section could result in the issuance of a citation to the retailer. [Id.]. Adjudicated citations may subsequently result in a decision by the Board to refuse renewal of the retailer's license.

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May a manufacturer or distributor sell on COD to retailer in arrears?

No. Section 493(2) of the Liquor Code prohibits distributors from accepting cash from a retail licensee at the time the beer is delivered to the retail licensee. [47 P.S. § 4-493(2)].

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<sup>1</sup>Definition: Deferred payment offered to a retailer

<sup>2</sup>Example: Full payment due 30 days from date of delivery

## Product Displays<sup>1,2</sup>

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May a manufacturer or distributor provide product displays to a retailer?

No. A manufacturer or distributor may not provide equipment, such as wine racks, barrels, casks, and shelving, to a retail licensee. [47 P.S. §§ 4-493(17) and 4-443(d)]. However, section 493(20)(i) of the Liquor Code allows manufacturers and distributors to furnish point-of-sale (“POS”) advertising material to retail licensees. [47 P.S. § 4-493(20)(i)]. The total cost of all POS advertising material relating to any one (1) brand of any one (1) manufacturer at any one (1) time may not exceed three hundred dollars (\$300.00), whether one (1) item or several items. [47 P.S. § 4-493(20)(i)].

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Are there any time limitations on use of the product display?

There are no time limitations on the use of the product display, provided that the product display is POS advertising material, not equipment, and meets the limitations set forth in the answer to question six (6).

**DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>**

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May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?

As indicated in the response to question six (6), section 493(20)(i) allows manufacturers and distributors to furnish POS advertising material to retail licensees. [47 P.S. § 4-493(20)(i)]. The total cost of all POS advertising material relating to any one (1) brand of any one (1) manufacturer at any one (1) time may not exceed three hundred dollars (\$300.00), whether one (1) item or several items. [47 P.S. § 4-493(20)(i)].

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May the retailer keep the thing of value after the product display is disassembled?

No. Section 13.51(a) of the Board's Regulations prohibits a licensee from contributing to or accepting, directly or indirectly, from another licensee of a different class, anything of value by means of advertisements, contributions, purchase, sale of tickets, donations or by any device, for any purpose. [40 Pa. Code § 13.51(a)]. However, section 493(24)(i) of the Liquor Code allows manufacturers and licensees to provide advertising novelties of nominal value, which bear advertising matter, to other licensees and consumers with or without a purchase. [47 P.S. § 4-493(24)(i)].

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May the retailer keep the thing of value after the product display is disassembled? (continued)

“Nominal value” currently is interpreted as fifteen dollars (\$15.00) each, wholesale cost, or less. [Board Advisory Notice No. 10 (6th Revision)]. “Advertising novelties” has been defined in the Board’s Regulations as matches, disposable lighters, bottle or can openers, caps, tee shirts, recipe pamphlets, pens, corkscrews, ashtrays and similar items which bear advertising matter. [40 Pa. Code § 13.52(a)]. Therefore, provided that the “thing of value” costs fifteen dollars (\$15.00) or less, the retail licensee would be permitted to keep the item.

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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?

Advertising novelties are limited to a cost of \$15. Also, POS items cannot be given to a retailer if it is considered equipment, furnishings or fixtures. Glasses may be sold to retailers at not less than cost. Met keg connectors and tap knobs may be provided to other licensees and to holders of special occasion permits. [47 P.S. Section 493(17)].

### INSIDE SIGNS

Are there cost, size, or placement restrictions?	\$300.00 limitation for all POS of any one brand of one manufacturer; may be furnished at no extra charge to retailer.
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	Yes. If used in a doorway or window; may not exceed 600 square inches. May be furnished at no charge to retailer.
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May the retailer be reimbursed for electricity, etc.?	No
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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	The FMV is limited to \$300.00.
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	We have no laws or regulations on ownership or responsibility.
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### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Wine lists or menus may be provided at a cost limit of \$15.00 per unit. 40 Pa. Code 13.52(c).
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May a manufacturer or distributor pay the retailer to get on the list?	No. They may furnish, give, rent, loan or sell wine lists and menus - they cannot pay the retailer
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	Yes. Wine lists/menus may involve cost sharing and advertisement.
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May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	No
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### BEER TAP HANDLES

Whose property is a beer tap handle?	Retailer.
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Who keeps it when the keg is finished?	Retailer.
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.  
<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. Limited to a wholesale cost of \$15 or less.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer  
<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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May a manufacturer or distributor provide equipment to a retailer?	Yes, for the following: metal keg connectors and tap knobs may be given by manufacturers/distributors. [47 P.S. Sec. 493(17). Wine lists/menus may be given or sold by manufacturers/importers. [40 Pa. Code Sec. 13.52].
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
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May a manufacturer or distributor provide supplies to a retailer?	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business  
<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.  
<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business  
<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

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May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Given or loaned. Wholesale cost of the sign must be \$15 or less. Must conspicuously advertise the manufacturer or product. [40 Pa. Code 13.52(d)].
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises  
<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. Each agent of a licensed vendor may not use more than one case of each brand of liquor sold by the vendor as samples during any calendar month. [40 Pa. Code. Sec. 13.81(a)].
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes. There is a limit of one (1) sample per patron during a sample offering. Please see response to Question # 33.
Are there record keeping requirements for samples?	Yes. The only record keeping requirement is for samples provided to licensees and the response to Question # 33 provides that information.
Are there any tax implications for record keeping requirements for samples?	Did not respond

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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	No. 40 Pa. Code Sec. 13. 51; 47 P.S. Sections 411 and 443.
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No. 40 Pa. Code Sec. 13. 51; 47 P.S. Sections 411 and 443.
May a manufacturer or distributor donate to the trade association of a retail licensee?	No. 40 Pa. Code Sec. 13. 51.

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?

No. In general, the Board's Regulations prohibit a licensee of one class, such as a manufacturer, from providing anything of value to a licensee of another class, such as a restaurant liquor licensee. Specifically, subsection 13.51(a) provides: Except as provided herein and in § 13.52 (relating to advertising novelties), no in-State or out-of-State manufacturer, licensee or group of licensees, their servants, agents or employees, may directly or indirectly, in person, individually or through a trade organization, contribute to or accept from another licensee or group of licensees of a different class, their servants, agents or employees or a trade organization of licensees of a different class, anything of value by means of advertisements, contributions, purchase, sale of tickets, donations or by any device, for any purpose. [40 Pa. Code § 13.51(a)]. Similarly, the Liquor Code provisions on interlocking business practices prohibit manufacturers from providing money or other things of value to equip or otherwise help the operation of the licensed business of a retail licensee.

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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products? (continued)

[47 P.S. § 4-443]. However, section 493(24)(i) of the Liquor Code allows manufacturers and licensees to provide advertising novelties of nominal value, which bear advertising matter, to other licensees and consumers with or without a purchase. [47 P.S. § 4-493(24); see also 40 Pa. Code § 13.52]. “Nominal value” currently is interpreted as fifteen dollars (\$15.00) each, wholesale cost, or less. [Board Advisory Notice No. 10 (6th Revision)].

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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?

Yes. Subject to the following conditions specified in section 13.51(c) of the Board’s Regulations [40 Pa. Code § 13.51(c)]: (1) Routine business entertainment shall be provided without a corresponding obligation on the part of the recipient to purchase alcoholic beverages or to provide any other benefit to the donor or to exclude or restrict from sale the products of any other licensee or in-State or out-of-State manufacturer.

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May a manufacturer or distributor provide meals and/or entertainment to a retailer? (continued)

(2) The donor, its servants, agents or employees shall accompany the recipient during routine business entertainment. When items such as tickets are donated by manufacturers to importing distributors for the ultimate use of retailers, the donor is considered to be the importing distributor and it is the importing distributor, or its servants, agents or employees, who shall accompany the retailer. (3) Routine business entertainment that requires or includes an overnight stay is prohibited. (4) No more than \$800 may be spent in a calendar year on any recipient licensee. (5) Included under the \$800 yearly entertainment cap for a recipient licensee are the licensee, a spouse, employees and guests. (6) Licensees, in-State manufacturers and out-of-State manufacturers shall keep complete and accurate records of all expenses incurred and all routine business entertainment received for 2 years. These records must contain the name of the recipient and donor of the entertainment, the type of routine business entertainment, the date and, in the case of a donor, the amount of expenditure for each occasion.

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<sup>1</sup>Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

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## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

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May a manufacturer or distributor make advertisements beneficial to a retailer?	No. 40 Pa. Code Section 13.51 prohibit giving anything of value by means of advertisement.
May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	Yes. As long as each pays their fair share.
May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Yes. Manufacturers and importing distributors of malt or brewed beverages may include the names and addresses of all distributors and importing distributors to whom they sell in the locality covered by the advertising.

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May a manufacturer or distributor list the name or address or two or more retailers where their brands may be purchased? (continued)	No discrimination may be shown to one distributor or importing distributor over another, and where more than one distributor or importing distributor purchases the products from the manufacturer or importing distributor in the area covered by the advertisement, the names and addresses of all who purchase the product directly from the advertiser shall be displayed or mentioned in equal prominence. Where this is not done, none may be displayed or mentioned. [40 Pa. Code Section 13.41].
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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

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May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Placing on floor or in a cooler is acceptable. Any time-consuming conduct is prohibited by 40 Pa Code Section 13.51 and 47 P.S. Section 443(f). Setting up displays, rotating stock and/or other incidentals of operating a beer distributor or retail dispenser are time-consuming and can be expensive in terms of wages. It would be permissible to unload a delivery into areas designated by the distributor/importing distributor or retail dispenser; other conduct (taking inventory, stocking empty cooler shelves, rotating stock, filling or building displays, rearranging location of stock on the sales floor) would be prohibited.
May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	No
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
On a full store reset, may a manufacturer or distributor reset the products of a competitor?	Did not respond

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor's category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	There is generally no restriction as to location. However, licensees conducting seminars may not assume the costs for food, alcoholic beverages, lodging or transportation for attendees.
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May a manufacturer or distributor also provide nominal hospitality?	No
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No. This would be prohibited under sections 411 and 443 of the Liquor Code [47 P.S. Sections 4-411, 4-443] and section 13.51 of the Board's Regulations [40 Pa. Code Section 13.51].
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer's history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer?

Subject to the limitations of 47 P.S. Section 493(24): Except as provided in subclause (ii), for any licensee under the provisions of this article, or the board or any manufacturer, or any employee or agent of a manufacturer, licensee or of the board, to offer to give anything of value or to solicit or receive anything of value as a premium for the return of caps, stoppers, corks, stamps or labels taken from any bottle, case, barrel or package containing liquor or malt or brewed beverage, or to offer or give or solicit or receive anything of value as a premium or present to induce directly the purchase of liquor or malt or brewed beverage, or for any licensee, manufacturer or other person to offer or give to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages, except advertising novelties of nominal value which the board shall define.

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May a manufacturer or distributor offer a volume discount to a retailer? (continued)	<p>This section shall not prevent any manufacturer or any agent of a manufacturer from offering and honoring coupons which offer monetary rebates on purchases of wines and spirits through State Liquor Stores or purchases of malt or brewed beverages through distributors and importing distributors in accordance with conditions or regulations established by the board. The board may redeem coupons offered by a manufacturer or an agent of a manufacturer at the time of purchase. Coupons offered by a manufacturer or an agent of a manufacturer shall not be redeemed without proof of purchase. This section shall not apply to the return of any monies specifically deposited for the return of the original container to the owners thereof. (ii) Notwithstanding subclause (i) or any other provision of law, a holder of a restaurant license that is also approved to hold a slot machine license or a conditional slot machine license under 4 Pa.C.S. Part II (relating to gaming) may give liquor and malt or brewed beverages free of charge to any person actively engaged in playing a slot machine.</p>
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May a manufacturer or distributor offer “no charge” products to a retailer?	No. Based on 47 P.S. Section 493(24): Except as provided in subclause (ii), for any licensee under the provisions of this article, or the board or any manufacturer, or any employee or agent of a manufacturer, licensee or of the board, to offer to give anything of value or to solicit or receive anything of value as a premium for the return of caps, stoppers, corks, stamps or labels taken from any bottle, case, barrel or package containing liquor or malt or brewed beverage, or to offer or give or solicit or receive anything of value as a premium or present to induce directly the purchase of liquor or malt or brewed beverage, or for any licensee, manufacturer or other person to offer or give to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages, except advertising novelties of nominal value which the board shall define.
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May a manufacturer or distributor offer “no charge” products to a retailer? (continued)	This section shall not prevent any manufacturer or any agent of a manufacturer from offering and honoring coupons which offer monetary rebates on purchases of wines and spirits through State Liquor Stores or purchases of malt or brewed beverages through distributors and importing distributors in accordance with conditions or regulations established by the board. The board may redeem coupons offered by a manufacturer or an agent of a manufacturer at the time of purchase. Coupons offered by a manufacturer or an agent of a manufacturer shall not be redeemed without proof of purchase. This section shall not apply to the return of any monies specifically deposited for the return of the original container to the owners thereof. (ii) Notwithstanding subclause (i) or any other provision of law, a holder of a restaurant license that is also approved to hold a slot machine license or a conditional slot machine license under 4 Pa.C.S. Part II (relating to gaming) may give liquor and malt or brewed beverages free of charge to any person actively engaged in playing a slot machine.
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What is the definition of “no charge” products? Did not respond

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased  
<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages? Coupons are only permitted to be issued by manufacturers. 47 P.S. Section 493(24)(i). Purchases must be made at distributor and importing distributor premises. Coupons cannot be used for purchases made at retailer locations.

If applicable, which of the following types of coupons would be allowed? Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; In addition, the Board may redeem coupons offered by a manufacturer at the time of purchase at a state store. 47 P.S. 4-493(24)(i)

If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed? Did not respond

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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	The retailer does set the price of product, but the retailer cannot accept coupons.
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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## **Drawings and Sweepstakes Promotions<sup>1,2</sup>**

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Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Requirements: 1) No purchase necessary; 2) 21 and over; 3) retail-licensed premises can only be pick-up/drop-off point for entry forms - not for conducting drawing or awarding prizes; 4) alcohol cannot be a prize. 40 Pa. Code Section 5.32(h).
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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
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May prizes be displayed on the retail premise?	Yes. POS advertising is limited to \$300 per brand. 47 P.S. Section 4-493(20)(i)
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## **Contests at Retail Licensee Premises<sup>1,2</sup>**

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
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May prizes be displayed on the retail premise?	No
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?

Tasting events are defined as presentations of alcoholic products to the public for the purpose of market research, disseminating product information and education to the public as to quality and availability. [40 Pa. Code § 13.201]. May be conducted by sponsors, which are defined as “any licensed vendor, importer, distributor, importing distributor or manufacturer or its agent or employee who is 21 years of age or older.” [Id.]. May be conducted on licensed or unlicensed premises, as long as: (1) any products used must be legally procured and registered, and the taxes thereon must be paid; (2) there can be no purchase requirement associated with the tasting or tasting event; and (3) no more than one (1) standard size alcoholic beverage of each product may be provided to each tasting participant. [40 Pa. Code § 13.211(b)]. A standard-sized alcoholic beverage is 12 oz. of beer, 4oz. of wine, or 1½ oz. spirits. [40 Pa. Code Section 13.201].

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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?

Tasting events are defined as presentations of alcoholic products to the public for the purpose of market research, disseminating product information and education to the public as to quality and availability. [40 Pa. Code § 13.201]. May be conducted by sponsors, which are defined as “any licensed vendor, importer, distributor, importing distributor or manufacturer or its agent or employee who is 21 years of age or older.” [Id.]. May be conducted on licensed or unlicensed premises, as long as: (1) any products used must be legally procured and registered, and the taxes thereon must be paid; (2) there can be no purchase requirement associated with the tasting or tasting event; and (3) no more than one (1) standard size alcoholic beverage of each product may be provided to each tasting participant. [40 Pa. Code § 13.211(b)]. A standard-sized alcoholic beverage is 12 oz. of beer, 4oz. of wine, or 1½ oz. spirits. [40 Pa. Code Section 13.201]. The individuals serving the alcoholic beverages do not have to be server-trained.

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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?

Yes. Be advised that there is nothing in the Liquor Code or the Board's Regulations that prohibits someone from purchasing a gift card or gift certificate from a distributorship or a retail licensed establishment at full value and then using the same for the purchase of food and alcoholic beverages. Section 493(24)(i) of the Liquor Code [47 P.S. § 4-493(24)(i)] prohibits any licensee to offer or give or solicit or receive anything of value as a premium or present to induce directly the purchase of alcohol. Therefore, discounted gift certificates could only be redeemable for food and non-alcoholic beverages and products in light of the above-stated prohibition regarding inducements to purchase alcohol.

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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase



## Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?

No. The Board is generally the only entity authorized to sell wine or spirits products to licensees and the general public for off-premises consumption in Pennsylvania. All licensees are offered a 10% discount for products purchased from the Board. [47 P.S. § 3-305]. However, the Board is otherwise required to use proportional and uniform pricing relative to the products that it offers for sale. [47 P.S. § 2-207]. Therefore, the Board is not authorized to engage in channel pricing. Certain types of manufacturers, including distilleries, limited distilleries, and limited wineries, are permitted, to sell the products that they manufacture directly to licensees and the general public. [47 P.S. §§ 5-505.2, 5-505.4]. The Liquor Code prohibits distilleries and limited distilleries from selling a specific code of distilled liquor which is listed for sale as a stock item by the Board in its stores at a price which is lower than that charged by the Board. [47 P.S. § 5-505.4(b)(1), (c)(1)]. Otherwise, distilleries and limited distilleries are free to charge whatever prices they choose.

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions? (continued)

However, limited wineries are free to charge whatever prices they choose, after section 11.111 of the Board's Regulations which contained a similar limitation relative to wines sold by limited wineries, was amended to remove this limitation. [40 Pa. Code § 11.111]. In 1999, a federal court found section 447, regulated pricing issues relative to malt and brewed beverages, to be in violation of the Sherman Anti-Trust Act. [Beer and Pop Warehouse v. Jones, 41 F. Supp.2d 552 (M.D. Pa. 1999)]. As a result, manufacturers, distributors, and importing distributors may charge whatever they wish for beer, and price reductions and incentives may be applied selectively. Note that any sales transactions involving alcoholic beverages would be subject to the prohibition against unlawful inducements found in section 493(24)(i) of the Liquor Code. [47 P.S. § 4-493(24)(i)].

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?

No

<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers  
<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?

No. Generally not applicable.

May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	No. See 40 Pa. Code Section 13.51
May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes. Manufacturers - it's not illegal, but it is unlikely. Distributors may sell specific items listed in PLCB Advisory Notice No. 9 (5th Revision), which list includes certain non-alcoholic merchandise.
<p><sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise</p> <p><sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.</p>	
<b>Combination Packaging<sup>1,2</sup></b>	
Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Yes. The Board will sell such items when they are packaged with wine and spirit merchandise. Distributors and Importing Distributors are restricted to the types of items they may sell.
<p><sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit</p> <p><sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix</p>	
<b>Product Testing</b>	
Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	No
<b>Private and Control Labels</b>	
Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes

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How much control can a retailer exert over a manufacturer’s branded product (control label)? Undefined

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Can tied house issues be circumvented or avoided through the use of brand licensing agreements? No

### Promotional Events<sup>1</sup>

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Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?

Yes. A retail licensee may hold a catered event at its licensed premises that involves the furnishing of liquor or malt or brewed beverages, or both, to be served with food prepared on the premises, or brought onto the premises already prepared, for the accommodation of groups of people who are using the facilities by prior arrangement made at least twenty-four (24) hours in advance of the time of the function and which are paid for by the third party. [40 Pa. Code § 5.83]. A catered event must be conducted for a third party, and not be self-sponsored by the retail licensee. Therefore, it would be permissible for a manufacturer or distributor to rent a retail licensee’s premises for a catered event as long as the manufacturer or distributor pays the fair market rental fee to the retail licensee for the event. Otherwise, there would be a violation of 40 Pa. Code Section 13.51. Also, it would be permissible for the retail licensee to only serve a specific brand of alcohol at said event.

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May a third party provider occupy a retail operation for an event? Yes

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<p>If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?</p>	<p>As discussed in Question # 87, a third party can conduct a catered event at a retail licensee's establishment and during said event, it would be permissible for the retail licensee to only serve a particular brand of alcohol.</p>
<p>Are there limitations on third party events?</p>	<p>Yes</p>
<p>Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?</p>	<p>Yes. Although, as discussed in Question # 40, the Liquor Code and Board Regulations prohibit a licensee of one class, such as a manufacturer, from providing anything of value to a licensee of another class, such as a retail licensee, this prohibition does not exist between manufacturers and/or distributors and unlicensed third parties.</p>
<p>Is cider subject to the same trade practice laws as any other alcohol products?</p>	<p>Beer and wine. Alcoholic cider containing at least 1/2 of 1% but not greater than 5.5% alcohol by volume, and which is marketed as cider and not wine, is considered a malt or brewed beverage pursuant to the Pennsylvania Liquor Code. [47 P.S. Section 1-102]. However, alcoholic cider containing more than 5.5% but no more than 24% alcohol by volume is considered to be a wine. [Id.]</p>

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

*Please note that all answers to these questions will be published in the survey report.* How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement? None. Trade practice investigations and enforcement is conducted by the Pennsylvania State Police, Bureau of Liquor Control Enforcement.

Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data. No

What penalties are provided for in a licensee trade practice violation? Penalties for trade practice violations are contained in section 4-471. Penalties range from \$50.00 to \$1,000.00 and/or suspension and/or revocation of the liquor license.

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Are retailers subject to trade practices law violations in your jurisdiction? Yes. Trade practices apply to all retail and wholesale licensees, manufacturers, importing distributors, distributors, importers and holders of vendor’s permits.

What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers? See Advisory Notice No. 10 (Trade Practices) for all limits and conditions on direct sales between retailers and suppliers such as samples, tastings, seminars, advertising, and rebates. [http://www.lcb.state.pa.us/cons/groups/system\\_internet/documents/webasset/000617.pdf](http://www.lcb.state.pa.us/cons/groups/system_internet/documents/webasset/000617.pdf)

May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable? Yes. Question should be directed to the Pennsylvania State Police, Bureau of Liquor Control Enforcement.

# Tennessee

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? Yes. Not more than 10 days credit can be extended.

Is there any penalty if the retailer goes into arrears? Yes. The TABC can bring an action to revoke the license based on lack of financial viability. However, this statute was passed in the 2015 legislative session, so we don't have the policy and procedures established as to how many delinquencies are required prior to action.

May a manufacturer or distributor sell on COD to retailer in arrears? Yes. Each distributor may set its own terms as long as no more than (10) days credit is extended.

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

#### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. As long as the total value is not in excess of TTB limits.

Are there any time limitations on use of the product display? Have adopted Federal "Tied House" Exceptions (27 CFR 6.83)

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? No

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May the retailer keep the thing of value after the product display is disassembled?	Did not respond
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### INSIDE SIGNS

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Are there cost, size, or placement restrictions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84). Must be used in the interior windows or walls. Have no secondary value and be of value only as advertising.
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### ILLUMINATED INSIDE SIGNS

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May they be seen from outside (in window, etc.)?	Yes
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May the retailer be reimbursed for electricity, etc.?	No
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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Cannot exceed current federal value limits. -May not have any secondary value and be only valuable to the retailer as advertising.
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Industry member may rent, give, loan or sell an interior sign but may not pay directly or indirectly or credit the retailer for displaying the sign or for any expense incidental to its operation.
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**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

May a manufacturer or distributor provide such lists to a retailer?	The TABC has been approached to allow Industry Members to provide wine lists on iPads, however, this has not been allowed citing the federal limit.
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	Yes

**BEER TAP HANDLES**

Whose property is a beer tap handle?	The TABC does not regulate beer less than 5% ABW, however, for beer in excess of 5% ABW, it would be allowable as long as the value doesn’t exceed the federal limits.
Who keeps it when the keg is finished?	As long as the tap handle doesn’t exceed the current federal limits, the retailer may keep it. 27 CFR 6.88 (limits).

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

**Consumer Advertising Specialties<sup>1,2</sup>**

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	No
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Did not respond
May a manufacturer or distributor provide supplies to a retailer?	No

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1, 2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Given, loaned, or retailer owned. Outside signs may also be sold to the retailer.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1, 2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. A representative that has a Distiller's Representative permit may give sample to the retailer and the employees of the retailer (e.g. managers) as long as the product has not been purchased by the retailer in the previous twelve (12) months. Sample size is limited to one (1) 1.75 liter.
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes. Retail license location.
Are there record keeping requirements for samples?	Yes
Are there any tax implications for record keeping requirements for samples?	Yes

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	Yes. If a Special Occasion License is obtained. This is a 24 hour permit that allows for the sale or giving away of alcoholic beverages in connection with a charity event. The applicant for the Special Occasion License must be a 501(c)(3) or a charity recognized by the Secretary of State. The product must still go through the three-tier system.
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes. However, the product must still go through the three-tier system.
May a manufacturer or distributor donate to the trade association of a retail licensee?	No

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

May a manufacturer or distributor provide meals and/or entertainment to a retailer?

Yes. Entertainment must be provided without obligation to purchase or provide any other benefit to the industry member or to exclude any other industry member. May not exceed \$100 per employee in a 24 hour period, is limited to six (6) employees per 24 hour period for the same licensee, may not occur more than four (4) times per calendar year. Shall not include transportation to or from an event that is otherwise permitted beyond 100 miles.

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<sup>1</sup>Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer?

Have adopted Federal "Tied House" Exceptions (27 CFR 6.98)

May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?

No

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May a manufacturer or distributor list the name or address or two or more retailers where their brands may be purchased?	Yes. Manufacturer or distributor may not show a photo of the inside or outside of the retailer's premises.
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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

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May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

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May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Back room to shelf; Back room to product display; Back room to floor display or case stacker; Back room to cold box or cooler; Product or floor display to back room; Product or floor display to shelf; Product or floor. Distributor's representative may do all of the above as long as another distributor's product is not altered or disturbed. -Manufacturer's representative may set up product displays when accompanied by a distributor's representative.
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May a manufacturer or distributor stock its products at a retail premises in any of the following ways? (continued)	-Manufacturer’s representative must deliver point of sale materials to the distributor’s warehouse and set up advertising material’s at the location of a retailer only in consultation and mutual agreement with the distributor.
May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes. Manufacturer’s representative or distributor’s representative may move their product as long as no other distributor’s product is altered or disturbed.
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
On a full store reset, may a manufacturer or distributor reset the products of a competitor?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes
May a manufacturer or distributor also provide nominal hospitality?	Yes
May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.94)

<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	Yes
May a manufacturer or distributor offer “no charge” products to a retailer?	No
What is the definition of “no charge” products?	Not Applicable

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	No
If applicable, which of the following types of coupons would be allowed?	Did not respond

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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed? No

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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer? No

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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## Drawings and Sweepstakes Promotions<sup>1,2</sup>

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Do you allow manufacturers or distributors to conduct sweepstakes promotions? Yes

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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose? No. Industry members may not require or induce a distributor or a retailer to participate.-The promotional offer may not be targeted to any particular group and must be open to all for participation.

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May prizes be displayed on the retail premise? No

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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions? No

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May prizes be displayed on the retail premise? No

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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions? No

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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions? No

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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).  
<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee? No

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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises  
<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions? Yes. A distributor may offer different prices on bottles of wine to an on-premise licensee to sell to a consumer by the glass, than it offers to an off premise licensee who intends to the sell such wine by the bottle. -Differential pricing may occur due to volume discounts.

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? Yes. Based on volume.

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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers  
<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Yes

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Yes

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? No

## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable. No

Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable. No

Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer? No

How much control can a retailer exert over a manufacturer's branded product (control label)? No

Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
<b>Promotional Events<sup>1</sup></b>	
Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	No
May a third party provider occupy a retail operation for an event?	Yes
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Yes
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No
Is cider subject to the same trade practice laws as any other alcohol products?	Beer

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	38
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Yes
What penalties are provided for in a licensee trade practice violation?	Suspension, revocation and/or civil penalties.
Are retailers subject to trade practices law violations in your jurisdiction?	Yes

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Did not respond
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May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Did not respond
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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

<p>May a selling manufacturer or distributor extend credit to a retailer?</p>	<p>Yes. Texas AB Code Section 102.32 and Administrative Rules 45.121: On purchases made from the 1st through 15th day of a month, payment must be made on or before the 25th day of that month. On purchases made on the 16th through the last day of a month, payment must be made on or before the 10th day of the following month. An account is not delinquent if payment is received by the wholesale dealer not later than the fourth business day after the date payment is due under this subsection.</p>
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<p>Is there any penalty if the retailer goes into arrears?</p>	<p>Yes. Retailer is placed on a do not sell list, "delinquent list."</p>
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<p>May a manufacturer or distributor sell on COD to retailer in arrears?</p>	<p>No</p>
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<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

## Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer?	Yes. Ale (over 4% abw), Wine, Distilled - Advertising Specialties may be furnished to the retailer without charge up to \$101 per brand, per calendar year. Dispensing equipment, including casks that can be used to dispense product at on-premise retailer locations are prohibited. Beer - prohibited
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Are there any time limitations on use of the product display?	Ale, Wine, Distilled Spirits - Items may be used in a temporary display. Retailer may keep advertising specialty provided in compliance with the \$101 per yr, per brand maximum. Any additional items must be returned to the wholesaler. Beer- All items must be returned to the distributor after the display period.
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## DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?	During the temporary display period only.
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May the retailer keep the thing of value after the product display is disassembled?	No
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Yes, up to \$101 per brand per calendar year for ales, wines, and distilled spirits.
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**INSIDE SIGNS**

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Are there cost, size, or placement restrictions?	Signs may be sold or given by the party authorized to sell product to the retailer. No cost or size limitation. Signs cannot contain retailer trademark, logo, or tradename and cannot be custom made for the retailer.
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**ILLUMINATED INSIDE SIGNS**

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May they be seen from outside (in window, etc.)?	No. All retailer retailers with the exception of Mixed Beverage Permittees (full liquor license on-premise) are prohibited from placing alcohol signage within 5 feet from the window
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May the retailer be reimbursed for electricity, etc.?	No
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If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	The provider can loan, sell or give the sign to retailer. Provider has the ability to replace or not.
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**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

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May a manufacturer or distributor provide such lists to a retailer?	Upper-tier member may furnish menu cards with their brands. Upper-tier member cannot underwrite the cost of printing the retailer's food items.
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May a manufacturer or distributor pay the retailer to get on the list?	No
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
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May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	Yes. The books are considered advertising specialties and must adhere to the \$101 per brand, per calendar year maximum.
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## BEER TAP HANDLES

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Whose property is a beer tap handle?	Upper-tier member
Who keeps it when the keg is finished?	Generally, the retailer returns the keg to upper-tier member. Retailers generally pay a deposit fee.

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1, 2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?	No. Consumer Novelty items must be given directly to the consumer by the registered agent of the upper-tier member.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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May a manufacturer or distributor provide equipment to a retailer?	No
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	It is prohibited.

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<p>May a manufacturer or distributor provide supplies to a retailer?</p>	<p>Yes. Furnish and install shanks, washers, hose and hose connections, tap rods, tap markers, coil cleaning service necessary for the proper delivery and dispensing of draft malt beverages and wine</p>
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business  
<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.  
<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business  
<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

**Outside Signs<sup>1,2</sup>**

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<p>May a manufacturer or distributor provide an outside sign to a retailer?</p>	<p>No</p>
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises  
<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

**Samples<sup>1,2</sup>**

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<p>May a manufacturer or distributor provide free samples to a retailer?</p>	<p>Yes. Only the wholesaler of ale (over 4%abw), wine and distilled spirits may provide a sample up to 750 ml bottle to the retailer if the retailer has never purchased the product before. Suppliers/Manufacturers - are prohibited from providing samples. The product sampled must have state label approval and excise taxes must be paid on the sample when it is removed from the wholesaler's inventory.</p>
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<p>Are sample limits applied to a retail license location, or each member of a retailer's buying committee?</p>	<p>Yes. Retail license location.</p>
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<p>Are there record keeping requirements for samples?</p>	<p>Yes. The wholesaler must treat the product like any product sold to the retailer and pay excise tax to the state for the sample.</p>
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Are there any tax implications for record keeping requirements for samples?	Yes. The state excise tax paid by wholesaler.
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

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May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	Yes. Only to Non-profit charities, civic organizations and religious organizations registered with IRS. Donations must be made to the charity. Alcohol donations can only be made if the charity does not sell the product. Cash and equipment donations or sponsorship monies may be given to a charity that hire a third party independent retailer to purchase and sell product at the event. The third party independent retailer cannot be required to sell specific brands by the charity. Section 109.58 TABC Code
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No
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May a manufacturer or distributor donate to the trade association of a retail licensee?	No
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products? No

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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

**Meals and Entertainment Provided to Retailers<sup>1</sup>**

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May a manufacturer or distributor provide meals and/or entertainment to a retailer? Yes. Upper-tier members may spend up to \$500 per retail employee on a specific event for food, entertainment and ground transportation. Upper-tier member representative must be present for the event. Upper-tier member cannot provide gifts such as a bottle of product, gift card or a hat, etc., to retailer employees.

<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

**SERVICES PROVIDED TO RETAILERS**

*Jurisdiction’s allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

**Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>**

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May a manufacturer or distributor make advertisements beneficial to a retailer? Yes. Upper-tier cannot provide advertising that benefits a specific retailer. Exception, listing all retailers in an advertising medium stating the names and locations of retailer that carry the product. upper-tier member may also advertise retailer’s tradename, location and specific date and time of a consumer sampling “bar-spend” event.

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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

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May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased? Yes

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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

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May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

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## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

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May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Did not respond

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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Yes

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In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises? No

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On a full store reset, may a manufacturer or distributor reset the products of a competitor? No

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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer's back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

**Category Management Programs<sup>1</sup>**

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

**Educational Seminars<sup>1,2</sup>**

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	27 CFR 6.94 applies.
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Yes. Up to \$500 per retail employee per event. Food, beverages, entertainment and ground transportation only. Records must be kept for 2 years. Upper-tier member must be present
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

**Volume Discounts and “No Charge” Products<sup>1,2</sup>**

May a manufacturer or distributor offer a volume discount to a retailer?	Yes
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
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What is the definition of “no charge” products? Not Applicable

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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

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## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages? No

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If applicable, which of the following types of coupons would be allowed? Cross merchandised coupons are legal provided they are underwritten by the non-alcoholic beverage manufacturer and an alcoholic beverage purchase is not required.

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If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed? No

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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer? Did not respond

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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

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Do you allow manufacturers or distributors to conduct sweepstakes promotions? Yes

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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
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May prizes be displayed on the retail premise?	No
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

**Contests at Retail Licensee Premises<sup>1,2</sup>**

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
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May prizes be displayed on the retail premise?	Did not respond
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

**Consumer Tastings<sup>1,2</sup>**

May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	Product must be purchased from the retailer at retail price. Manufacturer’s agent must be present. Limited to 3 hours at on-premise consumption retailer locations.
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	Yes. At the manufacturer’s or wholesaler’s premises.
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	Yes
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	Yes
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	No
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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.



**Combination Packaging<sup>1,2</sup>**

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?

Yes. Combination package must be assembled by the wholesaler or manufacturer for ale (greater than 4%abw), wine distilled spirits. Beer combination packages must be assembled by the manufacturer, not the distributor.

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

**Product Testing**

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?

Yes. Accredited third party research firm only.

**Private and Control Labels**

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.

Yes. Product label has a retailer’s tradename, trademark or logo. Agreements between the retailer and manufacturer for a product are prohibited. Chapter 102 of the TABC Code

Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.

Yes. Product sold or produced for a specific retailer. Agreements between the retailer and manufacturer for a product are prohibited.

Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?

No

How much control can a retailer exert over a manufacturer’s branded product (control label)?

Agreements between the retailer and manufacturer for a product are prohibited.

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Can tied house issues be circumvented or avoided through the use of brand licensing agreements? No

## Promotional Events<sup>1</sup>

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Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations? No. Upper-tier may only enter a retailer's premise for 3 hours and purchase product from the retailer at retail cost and pass it out to the consumer. Upper-tier member cannot pay the retailer a fee to conduct the event or provide entertainment. Upper-tier member cannot rent out the retailer's location. They may only conduct a bar spending event.

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May a third party provider occupy a retail operation for an event? No

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If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand? No

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Are there limitations on third party events? No

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Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers? No

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Is cider subject to the same trade practice laws as any other alcohol products? Wine

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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturers has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

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*Please note that all answers to these questions will be published in the survey report.* How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement? Depends on the circumstances.

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Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Yes
What penalties are provided for in a licensee trade practice violation?	Vary due to circumstances.
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Prohibited.
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes. Various monitoring resources.

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**THINGS OF VALUE PROVIDED TO RETAILERS**

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

**Financial Information**
**CASH<sup>1,2</sup>**


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May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

**CREDIT<sup>1,2</sup>**


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May a selling manufacturer or distributor extend credit to a retailer? Yes. Net 30.

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Is there any penalty if the retailer goes into arrears? No

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May a manufacturer or distributor sell on COD to retailer in arrears? No

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

**Product Displays<sup>1,2</sup>**


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May a manufacturer or distributor provide product displays to a retailer? Did not respond

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Are there any time limitations on use of the product display? Did not respond

**DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>**


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May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? No

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May the retailer keep the thing of value after the product display is disassembled? Did not respond

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

**Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>**


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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer? No

**INSIDE SIGNS**

Are there cost, size, or placement restrictions? Not Applicable

**ILLUMINATED INSIDE SIGNS**

May they be seen from outside (in window, etc.)? No

May the retailer be reimbursed for electricity, etc.? Not Applicable

If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost? Not Applicable

Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.? Did not respond

**WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS**

May a manufacturer or distributor provide such lists to a retailer? No

May a manufacturer or distributor pay the retailer to get on the list? No

May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu? No

May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)? No

**BEER TAP HANDLES**

Whose property is a beer tap handle? Did not respond

Who keeps it when the keg is finished? Did not respond

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

**Consumer Advertising Specialties<sup>1,2</sup>**

May a manufacturer or distributor provide consumer advertising specialties to a retailer? No

<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	No
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Did not respond
May a manufacturer or distributor provide supplies to a retailer?	No

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1, 2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	No
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1, 2</sup>

May a manufacturer or distributor provide free samples to a retailer?	No
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Did not respond
Are there record keeping requirements for samples?	Did not respond
Are there any tax implications for record keeping requirements for samples?	Did not respond

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1, 2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No

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May a manufacturer or distributor donate to the trade association of a retail licensee?	No
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

**Slotting Allowance (Slotting Fee)<sup>1,2</sup>**

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

**Meals and Entertainment Provided to Retailers<sup>1</sup>**

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	No
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

**SERVICES PROVIDED TO RETAILERS**

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

**Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>**

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May a manufacturer or distributor make advertisements beneficial to a retailer?	No
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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No
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May a manufacturer or distributor list the name or address or two or more retailers where their brands may be purchased? No

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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

---

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

---

<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

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## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

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May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Back room to shelf; Back room to product display; Back room to floor display or case stacker; Product or floor display to back room; Product or floor display to shelf; Product or floor display to cold box or cooler. Unloading products from truck

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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Yes

---

In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises? No

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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	If the retailer gives the manufacturer/distributor permission to reset competitor products
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

### Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
--	----

<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

### Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	As determined by the agency
May a manufacturer or distributor also provide nominal hospitality?	No
May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No

<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

### Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	No
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
What is the definition of “no charge” products?	Not Applicable
<p><sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased</p> <p><sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal</p>	

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

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### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	No
If applicable, which of the following types of coupons would be allowed?	Did not respond.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	Did not respond
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Did not respond

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	No
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No

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May prizes be displayed on the retail premise?	No
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

**Contests at Retail Licensee Premises<sup>1,2</sup>**

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
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---

May prizes be displayed on the retail premise?	No
--	----

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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

**Consumer Tastings<sup>1,2</sup>**

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	No
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	No
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

**OTHER QUESTIONS**

**Gift Certificates<sup>1,2</sup>**

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

## Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
--	----

<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	No
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	No
--	----

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	No
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Yes. Product must be non-perishable
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

**Product Testing**

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? No

**Private and Control Labels**

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable. No

Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable. No

Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer? Yes. To anyone.

How much control can a retailer exert over a manufacturer’s branded product (control label)? None

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Can tied house issues be circumvented or avoided through the use of brand licensing agreements? No

**Promotional Events<sup>1</sup>**

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations? No

May a third party provider occupy a retail operation for an event? No

If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand? No

Are there limitations on third party events? Did not respond

Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers? Did not respond

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Is cider subject to the same trade practice laws as any other alcohol products? Wine

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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

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*Please note that all answers to these questions will be published in the survey report.* How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement? 8

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Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data. Yes

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What penalties are provided for in a licensee trade practice violation? Did not respond

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Are retailers subject to trade practices law violations in your jurisdiction? Yes

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers? Did not respond

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May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable? Did not respond

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## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No

Is there any penalty if the retailer goes into arrears? Yes. Sale is usually between wholesaler and retailer but scenario should not happen since deliveries are COD.

May a manufacturer or distributor sell on COD to retailer in arrears? No

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. As long as there is no value to item for example manufacturer can't provide all shelving for a store.

Are there any time limitations on use of the product display? No time limit.

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? May give these away after promotion but the retailer can't keep them.

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May the retailer keep the thing of value after the product display is disassembled?	No
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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Yes
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### INSIDE SIGNS

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Are there cost, size, or placement restrictions?	No restrictions
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### ILLUMINATED INSIDE SIGNS

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May they be seen from outside (in window, etc.)?	Yes
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May the retailer be reimbursed for electricity, etc.?	No
---	----

If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
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Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	The retailer after it is placed in the store.
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### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

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May a manufacturer or distributor provide such lists to a retailer?	Yes
---	-----

May a manufacturer or distributor pay the retailer to get on the list?	No
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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	Yes
---	-----

May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	Yes
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### BEER TAP HANDLES

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Whose property is a beer tap handle?	Retailer
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Who keeps it when the keg is finished?	Retailer
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.



**Consumer Advertising Specialties<sup>1,2</sup>**

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

**Equipment and Supplies<sup>1, 2, 3, 4</sup>**

May a manufacturer or distributor provide equipment to a retailer?	No
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	It is prohibited.
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May a manufacturer or distributor provide supplies to a retailer?	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

**Outside Signs<sup>1,2</sup>**

May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Only for special events and must be removed when event is over.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

**Samples<sup>1,2</sup>**

May a manufacturer or distributor provide free samples to a retailer?	Yes. For tasting purposes only. They can not leave a whole bottle.
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Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes
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Are there record keeping requirements for samples?	No. Only notification of the sampling in advance.
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Are there any tax implications for record keeping requirements for samples?	Yes
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<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

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May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	Yes. If given to the public.
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	No
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May a manufacturer or distributor donate to the trade association of a retail licensee?	No
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

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## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes. As long as the amount is reasonable.
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer?	Have adopted Federal "Tied House" Exceptions (27 CFR 6.98)
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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No
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May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	No
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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

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### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

### Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Have adopted Federal "Tied House" Exceptions (27 CFR 6.99)
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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
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In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No
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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)
--	--

<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	No
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes
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May a manufacturer or distributor also provide nominal hospitality?	Yes
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Yes
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?	No
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
What is the definition of “no charge” products?	Not Applicable
<p><sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased</p> <p><sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal</p>	

**CONSUMER PROMOTIONS**

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

**Coupons<sup>1,2</sup>**

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Mail in only
If applicable, which of the following types of coupons would be allowed?	Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media; Cross merchandised coupons of any type which allow for “cents off” on a nonfood item (e.g. Charcoal briquettes) with purchase of an alcohol beverage; Cross merchandised coupons of any type which allow for “cents off” on a food item (e.g. meat, chips) with purchase of an alcohol beverage.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No

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If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes
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<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## Drawings and Sweepstakes Promotions<sup>1,2</sup>

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Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
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Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Yes. Prior liquor board approval.
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May prizes be displayed on the retail premise?	Yes
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<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

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Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes
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May prizes be displayed on the retail premise?	Yes
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	Must have prior approval or proper license.
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	With proper permit.
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	Yes
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	Yes. Yes for wine. No for malt.
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	Yes. Yes for wine. No for malt.
--	---------------------------------

---

<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	No regulation
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	No
--	----

---

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
---	-----

---

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.93)
--	--

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	Yes. Under certain circumstances
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## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. Beer must be sold only in the franchise area. Wine can be sold selectively.
How much control can a retailer exert over a manufacturer’s branded product (control label)?	None
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	Did not respond

## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. Title 7 VSA, Section 67 (there are a number of limitations depending on the type of event.)
May a third party provider occupy a retail operation for an event?	No



If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Yes
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes
Is cider subject to the same trade practice laws as any other alcohol products?	Wine
<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.	
<b>Miscellaneous</b>	
<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	16 sworn officers but not dedicated to trade practice
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	Board discretion
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Unsure
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes. Only monitoring is via tax implications.

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer?	No
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<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer?	No
--	----

Is there any penalty if the retailer goes into arrears?	Yes
---	-----

May a manufacturer or distributor sell on COD to retailer in arrears?	Yes
---	-----

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer?	Yes. Wholesalers of alcoholic beverages may sell, lend, buy for, or give to retailers any nonilluminated advertising materials made of paper, cardboard, canvas, rubber, foam, or plastic, provided the advertising materials have a wholesale value of \$40 or less per item.
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Are there any time limitations on use of the product display?	Did not respond
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## DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

---

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer?

Wholesalers of alcoholic beverages may sell, lend, buy for, or give to retailers any nonilluminated advertising materials made of paper, cardboard, canvas, rubber, foam, or plastic, provided the advertising materials have a wholesale value of \$40 or less per item.

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May the retailer keep the thing of value after the product display is disassembled?

Wholesalers of alcoholic beverages may sell, lend, buy for, or give to retailers any nonilluminated advertising materials made of paper, cardboard, canvas, rubber, foam, or plastic, provided the advertising materials have a wholesale value of \$40 or less per item.

---

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?

Manufacturers, bottlers, or wholesalers may supply to retailers napkins, placemats, and coasters that contain (i) a reference to the name of a brand of nonalcoholic beer or nonalcoholic wine, or (ii) a message relating solely to and promoting moderation and responsible drinking, which message may contain the name, logo, and address of the sponsoring manufacturer, bottler, or wholesaler, provided such recognition is subordinate to the message.

## INSIDE SIGNS

Are there cost, size, or placement restrictions?	Nonilluminated advertising materials made of paper, cardboard, canvas, rubber, foam, or plastic, provided the advertising materials have a wholesale value of \$40 or less per item.
--	--

## ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	No
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Not Applicable
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Not Applicable

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## WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	No
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	No

## BEER TAP HANDLES

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Whose property is a beer tap handle?

Any manufacturer, importer, bottler, broker, or wholesaler, or its representative, may sell, rent, lend, buy for, or give to any retailer, without regard to the value thereof, the following: 1. Draft beer or wine knobs, containing advertising matter which shall include the brand name and may further include only trademarks, housemarks and slogans and shall not include any illuminating devices or be otherwise adorned with mechanical devices which are not essential in the dispensing of draft beer or wine.

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Who keeps it when the keg is finished?

Any manufacturer, importer, bottler, broker, or wholesaler, or its representative, may sell, rent, lend, buy for, or give to any retailer, without regard to the value thereof, the following: 1. Draft beer or wine knobs, containing advertising matter which shall include the brand name and may further include only trademarks, housemarks and slogans and shall not include any illuminating devices or be otherwise adorned with mechanical devices which are not essential in the dispensing of draft beer or wine.

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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide consumer advertising specialties to a retailer?

No. RCW 66.28-310

<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

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May a manufacturer or distributor provide equipment to a retailer?

Yes. A. Any manufacturer, importer, bottler, broker, or wholesaler, or its representative, may sell, rent, lend, buy for, or give to any retailer, without regard to the value thereof, the following: 1. Draft beer or wine knobs, containing advertising matter which shall include the brand name and may further include only trademarks, housemarks and slogans and shall not include any illuminating devices or be otherwise adorned with mechanical devices which are not essential in the dispensing of draft beer or wine; and 2. Tapping equipment, defined as all the parts of the mechanical system required for dispensing draft beer in a normal manner from the carbon dioxide tank through the beer faucet, excluding the following: a. The carbonic acid gas in containers, except that such gas may be sold only at the reasonable open market price in the locality where sold; b. Gas pressure gauges (may be sold at cost);

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May a manufacturer or distributor provide equipment to a retailer? (continued)

c. Draft arms or standards;  
d. Draft boxes; and e.  
Refrigeration equipment or components thereof. Further, a manufacturer, bottler or wholesaler may sell, rent or lend to any retailer, for use only by a purchaser of draft beer in kegs or barrels from such retailer, whatever tapping equipment may be necessary for the purchaser to extract such draft beer from its container. B. Any manufacturer, importer, bottler, broker, or wholesaler, or their representatives, may sell to any retailer and install in the retailer's establishment dispensing accessories (such as standards, faucets, rods, vents, taps, tap standards, hoses, cold plates, washers, couplings, gas gauges, vent tongues, shanks, and check valves) and carbon dioxide (and other gases used in dispensing equipment) at a price not less than the cost of the industry member who initially purchased them, and if the price is collected within 30 days of the date of sale. C. Any beer tapping equipment may be converted for wine tapping by the beer wholesaler who originally placed the equipment on the premises of the retailer.

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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?

There is no dollar limit.

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May a manufacturer or distributor provide supplies to a retailer?

Yes. Any manufacturer, bottler or wholesaler of wine or beer may sell or give to any retailer, bottle or can openers upon which advertising matter regarding alcoholic beverages may appear, provided the wholesale value of any such openers given to a retailer by any individual manufacturer, bottler or wholesaler does not exceed \$20. Openers in excess of \$20 in wholesale value may be sold, provided the reasonable open market price is charged therefor. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not licensed in the Commonwealth, may sell service items bearing alcoholic brand references to on-premises retail licensees. Such retail licensee may display the service items on the premises of his licensed establishment. Each such retail licensee purchasing such service items shall retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of not less than two years from the date of each sale of the service items.

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.



**Outside Signs<sup>1,2</sup>**

May a manufacturer or distributor provide an outside sign to a retailer? No

<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

**Samples<sup>1,2</sup>**

May a manufacturer or distributor provide free samples to a retailer? Yes. 2. Samples: A wholesaler may give a retail licensee a sample serving or a container not then sold by such licensee of wine or beer, which such wholesaler otherwise may sell to such retail licensee, provided that in the case of containers, the container does not exceed 52 fluid ounces in size (1.5 liters if in a metric-sized container) and the label bears the word “Sample” in lettering of reasonable size. Such samples may not be sold. For good cause shown the board may authorize a larger sample container.

Are sample limits applied to a retail license location, or each member of a retailer’s buying committee? Yes

Are there record keeping requirements for samples? Yes

Are there any tax implications for record keeping requirements for samples? Yes

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

**Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>**

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)? No

May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages? No

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May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

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May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	<p>Yes. Such routine business entertainment shall be provided without a corresponding obligation on the part of the retail licensee to purchase alcoholic beverages or to provide any other benefit to such wholesaler or manufacturer or to exclude from sale the products of any other wholesaler or manufacturer; No more than \$400 may be spent per 24-hour period on any employee of any retail licensee, including a self-employed sole proprietor, or,</p>
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May a manufacturer or distributor provide meals and/or entertainment to a retailer? (continued)

if the licensee is a partnership, or any partner or employee thereof, or if the licensee is a corporation, on any corporate officer, director, shareholder of 10% or more of the stock or other employee, such as a buyer. Expenditures attributable to the spouse of any such employee, partnership or stockholder, and the like, shall not be included within the foregoing restrictions; Wholesale licensees and manufacturers shall keep complete and accurate records for a period of three years of all expenses incurred in the entertainment of retail licensees. These records shall indicate the date and amount of each expenditure, the type of entertainment activity and retail licensee entertained; and

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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer? No

May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased? No

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May a manufacturer or distributor list the name or address or two or more retailers where their brands may be purchased? Yes

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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

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May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums? No

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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

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## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

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May a manufacturer or distributor stock its products at a retail premises in any of the following ways? Back room to shelf; Back room to product display; Back room to floor display or case stacker; Back room to cold box or cooler; Product or floor display to back room; Product or floor display to shelf; Product or floor display to cold box or cooler

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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing? Yes

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In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises? No

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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	If the competitor has not shown up for the reset
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

### **Category Management Programs<sup>1</sup>**

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In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?

No

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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

### **Educational Seminars<sup>1,2</sup>**

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May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?

Retail location, wholesalers place of business

May a manufacturer or distributor also provide nominal hospitality?

Yes. No more than \$400 may be spent per 24-hour period on any employee of any retail licensee, including a self-employed sole proprietor, or, if the licensee is a partnership, or any partner or employee thereof, or if the licensee is a corporation, on any corporate officer, director, shareholder of 10% or more of the stock or other employee, such as a buyer.

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May a manufacturer or distributor also provide nominal hospitality? (continued)	Expenditures attributable to the spouse of any such employee, partnership or stockholder, and the like, shall not be included within the foregoing restrictions.
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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	No
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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer?	Offered equally to all retailers
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May a manufacturer or distributor offer “no charge” products to a retailer?	No
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What is the definition of “no charge” products?	Not Applicable
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<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

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## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Yes
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If applicable, which of the following types of coupons would be allowed?	Direct offerings of manufacturer mail-in rebate coupons to consumers via mfg or dist website or in print media
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Yes

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	No
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
May prizes be displayed on the retail premise?	No

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
May prizes be displayed on the retail premise?	No

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?

1. The tastings are conducted only by (i) employees of such manufacturers or wholesalers or (ii) authorized representatives of such manufacturers or wholesalers
  2. Such employees or authorized representatives are present while the tastings are being conducted;
  3. No category of alcoholic beverage products is offered to consumers unless the retail licensee on whose premises the tasting is conducted is licensed to sell that category of alcoholic beverage product;
  4. All alcoholic beverage products used in the tasting are served to the consumer by employees of the retail licensee;
  5. The quantity of wine, beer, or spirits provided to any person during the tasting does not exceed 12 ounces of beer, five ounces of wine, or one and one-half ounces of spirits; however, for any spirits tastings, no single sample shall exceed one-half ounce per spirits product offered and no more than three spirits products may be offered to any patron; and no more than \$100 may be expended.
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions? No

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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee? No

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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions? No

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

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May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? No

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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? Yes

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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

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Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	No
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

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Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	
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Yes. Such activities are permitted provided the sampling takes place in a non-licensed location and is private in nature (everyone participating has been invited prior to the event and not open to the public). There can be no charge to the participants to participate in your event. Any wine and beer served must be purchased from a retail off premises licensee and spirits from a ABC Store.

## Private and Control Labels

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Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	No
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
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Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. Must be sold to all retailers who request
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How much control can a retailer exert over a manufacturer's branded product (control label)?	Cannot prohibit sale to other retailers
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
<b>Promotional Events<sup>1</sup></b>	
Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	No
May a third party provider occupy a retail operation for an event?	Yes
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	If the third party does not represent a manufacturer or wholesaler
Are there limitations on third party events?	No
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	Yes
Is cider subject to the same trade practice laws as any other alcohol products?	Wine
<p><sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.</p>	
<b>Miscellaneous</b>	
<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	Did not respond
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Did not respond
What penalties are provided for in a licensee trade practice violation?	Did not respond
Are retailers subject to trade practices law violations in your jurisdiction?	Did not respond

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Did not respond
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May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Did not respond
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# Washington State

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No. RCW 66.28.305

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No. There is an exception for up to 30 day credit on non alcohol products. RCW 66.28.190

Is there any penalty if the retailer goes into arrears? Yes. NSF checks WAC 314-13-020, WAC 314-29-025 - penalties

May a manufacturer or distributor sell on COD to retailer in arrears? No. WAC 314-13-020.

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. Point of sale items only but not providing shelving or anything of value or money's worth.

Are there any time limitations on use of the product display? Remains the property of the manufacturer. If it becomes permanent or misused by the retailer then its a violation.

### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/ product enhancers to a retailer? No

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May the retailer keep the thing of value after the product display is disassembled? No

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<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

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May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer? Branded promotional items of nominal value. To be used by the retailer only and not to be given to consumers. RCW 66.28.31

### INSIDE SIGNS

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Are there cost, size, or placement restrictions? As long as the sign only displays the product and price. WAC 314-52-090 WAC 314-53-113

### ILLUMINATED INSIDE SIGNS

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May they be seen from outside (in window, etc.)? Yes. WAC 314-52-070. Limitations to 4 signs with a maximum size of 1600 sq inches.

May the retailer be reimbursed for electricity, etc.? No

If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost? As long as it remains the property of the manufacturer. Or sold at cost or above

Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.? POS material is owned by the manufacturer. The retailer has the option to purchase, this is rarely done though.

### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

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May a manufacturer or distributor provide such lists to a retailer? Menu cards for their products only. No food menus provided - Retailer must purchase.

May a manufacturer or distributor pay the retailer to get on the list? No. Money's Worth issues RCW 66.28.305.

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May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No. Money's Worth RCW 66.28.305.
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May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	Yes. If it were a branded promotional items of nominal value. It could not have the retailer's name on it unless it's paid for.
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## BEER TAP HANDLES

Whose property is a beer tap handle?	Usually the property of the manufacturer allowed under WAC 314-16-020.
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Who keeps it when the keg is finished?	The Manufacturer unless the retailer has purchased them.
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<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	No
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes. Only branded promotional items of nominal value are allowed.
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Cost. WC 314-12-140(7).
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May a manufacturer or distributor provide supplies to a retailer?	No
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Yes. Given, loaned, or retailer owned. Banners and signs less than 1600 square inches that meet product, pricing, and joint advertising regulations. No inflatables.
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Yes. WAC 314-64
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Yes. Retail license location.
Are there record keeping requirements for samples?	Yes. WAC 314-64-090.
Are there any tax implications for record keeping requirements for samples?	Yes. WAC 314-64-090.

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes. Alcohol may be donated to a 501 (C)(3) and 501 (C) (6) RCW 66.28.040.
May a manufacturer or distributor donate to the trade association of a retail licensee?	No. Unless they are a 501(C) (3) or 501(C)(6).

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No. RCW 66.28.300 - Undue influence . RCW 66.28.305 - Money's Worth
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## **Meals and Entertainment Provided to Retailers<sup>1</sup>**

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May a manufacturer or distributor provide meals and/or entertainment to a retailer?	Yes. RCW 66.28.042 . RCW 66.28.043 . Manufacturer or representative must be with the retailer.
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## **SERVICES PROVIDED TO RETAILERS**

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### **Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>**

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May a manufacturer or distributor make advertisements beneficial to a retailer?	No
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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	Yes. May list ALL retailers. RCW 66-28-310.
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May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Yes
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<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Did not respond
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May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
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In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	Yes. With a 48 hours advance notice to all distributors. WAC 314-12-140.
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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	If the competitor has not shown up for the reset. If the retailer gives the manufacturer/distributor permission to reset competitor products. WAC 314-12-140.
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer's back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor's category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?

No

<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?

RCW 66.28.150

May a manufacturer or distributor also provide nominal hospitality?

Yes. RCW 66.28.150; RCW 66.20.010 - under permits, class 8, 9 and 10

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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?

No

<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer's history or product techniques or product familiarization, etc.

## Volume Discounts and "No Charge" Products<sup>1,2</sup>

May a manufacturer or distributor offer a volume discount to a retailer?

Wine and spirits only Volume discounts must be the same for all retailers.

May a manufacturer or distributor offer "no charge" products to a retailer?

No

What is the definition of "no charge" products?

Not Applicable

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of "No Charge" Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The "no charge" products/items are tied to buying a different product/brand in volume or as part of the deal

## CONSUMER PROMOTIONS

*Jurisdiction's allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for "cents off" purchases of alcohol beverages?	Instant rebates can only be offered by the retailer only Mail in rebates can be offered by manufacturer and retailer but must cover the cost of acquisition.
If applicable, which of the following types of coupons would be allowed?	Did not respond
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Retailer sets price for their coupon only above acquisition cost.

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for "cents off" on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

### Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Prizes cannot be given out on a retailers premises WAC 314-52-040
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
May prizes be displayed on the retail premise?	Yes

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions? No

May prizes be displayed on the retail premise? No

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions? No

May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions? Yes. RCW 66.28.040  
- Prohibit distributors from giving out samples. Manufacturers can give away samples at their licensed manufacturer site. They may not provide free samples anywhere else.

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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee? No

<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

## Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No. RCW 66.28.170
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No. RCW 66.28.170.
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<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	No
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	No
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May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Yes. Has to come from the manufacturer.
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<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?

No

## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.

Yes. We allow private “wine only” labels for any wine off-premises license with proper endorsements.

Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.

No

Can a manufacturer produce a product with a retailer’s brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?

Yes. If properly licensed and endorsed.

How much control can a retailer exert over a manufacturer’s branded product (control label)?

None

Can tied house issues be circumvented or avoided through the use of brand licensing agreements?

Yes. Could be used to circumvent volume discounts.

## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?

No

May a third party provider occupy a retail operation for an event?

No

If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?

3rd parties are employed by either a manufacturer or a retailer and must adhere by the rules of that tier.

Are there limitations on third party events?

Yes

Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?

No

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Is cider subject to the same trade practice laws as any other alcohol products? Wine

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<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

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*Please note that all answers to these questions will be published in the survey report.* How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement? 6

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Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data. Yes. Two.

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What penalties are provided for in a licensee trade practice violation? \$500 up to amount of the money involved in the practice.

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Are retailers subject to trade practices law violations in your jurisdiction? Yes

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What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers? 66.28.170 sale at same price to all retailers to include volume discounts.

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May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable? Yes and they are enforceable in the jurisdiction as long as it doesn't effect licensed premises. Monitoring comes from audits and inspections.

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# West Virginia

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No

Is there any penalty if the retailer goes into arrears? No. However, it is not permitted.

May a manufacturer or distributor sell on COD to retailer in arrears? No

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Did not respond

Are there any time limitations on use of the product display? Did not respond

#### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? No

May the retailer keep the thing of value after the product display is disassembled? No

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Yes. Different requirements for liquor, wine, or beer. Consult agency for policies. Yes. Different
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### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Yes. Different requirements for liquor, wine, or beer. Consult agency for policies.
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### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	No. They are not permitted.
May the retailer be reimbursed for electricity, etc.?	No
If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	Did not respond
Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Did not respond

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### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	No
May a manufacturer or distributor pay the retailer to get on the list?	No
May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
May a manufacturer or distributor provide captain's books (e.g. an expensive, leather bound wine list)?	No

### BEER TAP HANDLES

Whose property is a beer tap handle?	Distributor.
Who keeps it when the keg is finished?	Distributor.

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor's alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Yes. Subject to dollar limitations and agency approval.
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<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1, 2, 3, 4</sup>

May a manufacturer or distributor provide equipment to a retailer?	No
If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Did not respond
May a manufacturer or distributor provide supplies to a retailer?	No

<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1, 2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	No
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	No
Are sample limits applied to a retail license location, or each member of a retailer's buying committee?	Not Applicable
Are there record keeping requirements for samples?	Not Applicable
Are there any tax implications for record keeping requirements for samples?	Not Applicable

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer's annual golf tournament)?	No
May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes. Liquor and beer cannot be donated, wine can be donated for limited special charity wine events.
May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes. Subject to agency review and approval.

<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## Slotting Allowance (Slotting Fee)<sup>1,2</sup>

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No

<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## Meals and Entertainment Provided to Retailers<sup>1</sup>

May a manufacturer or distributor provide meals and/or entertainment to a retailer?	No
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

## Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer?	No
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May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	No
May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Yes. For all retailers. Information and product availability subject to agency approval.

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer  
<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

## Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer  
<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

## Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Did not respond
May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes. Their products only. They may not touch other manufacturer or distributor's products
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No

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On a full store reset, may a manufacturer or distributor reset the products of a competitor? No

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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer's back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

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In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor's category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program? No

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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

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May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held? Subject to agency approval and must be provided to all retailers at a neutral site

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May a manufacturer or distributor also provide nominal hospitality? No

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May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging? No

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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer's history or product techniques or product familiarization, etc.

## Volume Discounts and "No Charge" Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer? No

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May a manufacturer or distributor offer “no charge” products to a retailer?	No
What is the definition of “no charge” products?	Not Applicable
<p><sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased</p> <p><sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal</p>	

## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

### Coupons<sup>1,2</sup>

Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages?	Not always. Check with agency for wine, beer, and spirits differences.
If applicable, which of the following types of coupons would be allowed?	Cross merchandised coupons of any type which allow for “cents off” on a nonfood item (e.g. Charcoal briquettes) with purchase of an alcohol beverage; Cross merchandised coupons of any type which allow for “cents off” on a food item (e.g. meat, chips) with purchase of an alcohol beverage.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	No
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	No

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Manufacturers, no purchase necessary, and must be offered to all retailers.
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	No
May prizes be displayed on the retail premise?	No

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	No
May prizes be displayed on the retail premise?	No

<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	No
May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	No

<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.



## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	No
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions?	No
--	----

<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

### Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations?	No
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May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer?	No
--	----

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer?	Yes. Check with agency for approval.
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<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item?	Yes. Must be approved by the agency and accounted for. Check with agency for differences in beer, wine, and spirits.
--	--

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations?	No
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## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	Yes. Check with agency for differences between beer, wine, and spirits and restrictions
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Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	Yes. Check with agency for differences between beer, wine, and spirits and restrictions.
---	--

Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	No
---	----

How much control can a retailer exert over a manufacturer's branded product (control label)?	None
--	------

Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No
---	----

## Promotional Events<sup>1</sup>

Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. Check with agency for differences between beer, wine, and spirits and restrictions.
---	--

May a third party provider occupy a retail operation for an event?	No
--	----

If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Generally not permitted.
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No
Is cider subject to the same trade practice laws as any other alcohol products?	Wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	All
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	Yes
What penalties are provided for in a licensee trade practice violation?	\$1,000.00 per violation or item
Are retailers subject to trade practices law violations in your jurisdiction?	Warning, probation, suspension, or revocation
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	No direct sales
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	No

## THINGS OF VALUE PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on things of value that may be given, rented, loaned, furnished, or sold to a retail licensee by a manufacturer or distributor*

### Financial Information

#### CASH<sup>1,2</sup>

May a manufacturer or distributor provide cash to a retailer? No

<sup>1</sup> Definition: Legal tender

<sup>2</sup> Example: Currency

#### CREDIT<sup>1,2</sup>

May a selling manufacturer or distributor extend credit to a retailer? No

Is there any penalty if the retailer goes into arrears? Yes

May a manufacturer or distributor sell on COD to retailer in arrears? No

<sup>1</sup> Definition: Deferred payment offered to a retailer

<sup>2</sup> Example: Full payment due 30 days from date of delivery

### Product Displays<sup>1,2</sup>

May a manufacturer or distributor provide product displays to a retailer? Yes. It must be used for what they are intended.

Are there any time limitations on use of the product display? Have adopted Federal "Tied House" Exceptions (27 CFR 6.83)

### DEALER LOADERS/PRODUCT ENHANCERS<sup>3,4</sup>

May a manufacturer or distributor provide dealer loaders/product enhancers to a retailer? Must be made available to all retailers.

May the retailer keep the thing of value after the product display is disassembled? Must be used by the same supplier product that provided the thing of value.

<sup>1</sup> Definition: Items on which alcohol beverages are placed at retail primarily for display and sale purposes

<sup>2</sup> Example: Wine racks, barrels, casks, shelving, etc.

<sup>3</sup> Definition: Things of value placed with a product display and intended to draw customer attention to the display

<sup>4</sup> Example: Bicycles, rafts, athletic equipment, grandfather clocks

## Retailer/Point of Sale (POS) Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide retailer/POS advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
---	--

### INSIDE SIGNS

Are there cost, size, or placement restrictions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
--	--

### ILLUMINATED INSIDE SIGNS

May they be seen from outside (in window, etc.)?	Yes
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May the retailer be reimbursed for electricity, etc.?	No
---	----

If there is a dollar limit on the amount of inside signs that can be provided, is it assessed by its fair market value or its cost?	There is no dollar limit
---	--------------------------

Who has ownership of the sign? Who maintains the sign if it breaks, catches fire, etc.?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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### WINE LISTS, BEER LISTS, BRAND SPECIFIC MIXED DRINK SPIRITS LISTS AND FOOD MENUS

May a manufacturer or distributor provide such lists to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
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May a manufacturer or distributor pay the retailer to get on the list?	No
--	----

May a manufacturer or distributor reimburse a retailer for printing cost of the list or menu?	No
---	----

May a manufacturer or distributor provide captain’s books (e.g. an expensive, leather bound wine list)?	Yes
---	-----

### BEER TAP HANDLES

Whose property is a beer tap handle?	The manufacturer, wholesaler, or retailer.
--------------------------------------	--

Who keeps it when the keg is finished?	They should work this out ahead of time.
--	--

<sup>1</sup> Definition: In general, items advertising a brand or manufacturer or distributor company, and designed for use by the retailer to attract customer attention to the manufacturer or distributor’s alcohol beverage products.

<sup>2</sup> Example: Trays, coasters, napkins, clocks, inside signs, umbrellas, etc.

## Consumer Advertising Specialties<sup>1,2</sup>

May a manufacturer or distributor provide consumer advertising specialties to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.84)
---	--

<sup>1</sup> Definition: Items bearing brand or company advertising, provided to the retailer, and meant to be freely carried away by the retailer customer

<sup>2</sup> Example: Bottle or can openers, paper or plastic serving cups, matches, printed recipes, caps, shirts, etc.

## Equipment and Supplies<sup>1,2,3,4</sup>

May a manufacturer or distributor provide equipment to a retailer?	Yes. They would have to rent it at a fair market value.
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If there is a dollar limit on the amount of equipment that can be provided, is it assessed by its fair market value or its cost?	Fair Market Value
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May a manufacturer or distributor provide supplies to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.88)
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<sup>1</sup> Definition of Equipment: All functional items used by a retailer to conduct business

<sup>2</sup> Equipment Example: Cold boxes, coolers, draft systems or their component parts, etc.

<sup>3</sup> Definition of Supplies: Materials the retailer depletes while conducting business

<sup>4</sup> Supplies Example: Ice, nitrogen gas, glassware, etc.

## Outside Signs<sup>1,2</sup>

May a manufacturer or distributor provide an outside sign to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.102)
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<sup>1</sup> Definition: A sign erected or hung outside the retail premises

<sup>2</sup> Example: An outside, displayed structure, banner, inflatable, etc.

## Samples<sup>1,2</sup>

May a manufacturer or distributor provide free samples to a retailer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.91)
---	--

Are sample limits applied to a retail license location, or each member of a retailer’s buying committee?	Yes
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Are there record keeping requirements for samples?	Yes. This is done by the Wyoming Liquor Division.
--	---

Are there any tax implications for record keeping requirements for samples?	Yes. An excise tax is collected on samples.
---	---

<sup>1</sup> Definition: The giving of a free sample or a brand of alcohol beverage to a retailer who has not previously purchased that brand

<sup>2</sup> Example: A bottle of a newly introduced brand of wine

## **Donations to Retailer Events, Licensed Charity Events<sup>1,2</sup>**

May a manufacturer or distributor donate to retailer events (e.g. prizes for a retailer’s annual golf tournament)?	Yes
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May a manufacturer or distributor donate to retail licensees who qualify as non-profit charities under IRS guidelines, including alcohol beverages?	Yes
---	-----

May a manufacturer or distributor donate to the trade association of a retail licensee?	Yes
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<sup>1</sup> Definition: Gifts

<sup>2</sup> Example: Cash, things of value, or alcohol beverages

## **Slotting Allowance (Slotting Fee)<sup>1,2</sup>**

May a manufacturer or distributor pay a slotting allowance to a retailer?	No
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May a manufacturer or distributor provide free/discounted non-alcohol products as a method to secure placement of alcohol products?	No
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<sup>1</sup> Definition: Generally, the provision of consideration to a retailer conditioned on the placement of alcohol beverages at the retail premises after purchase

<sup>2</sup> Example: Consideration may be cash, anything of value or any service so conditioned. Placement may include premium shelf facings, floor display space, placement in the well or back bar, inclusion in kiosks or serving carts at special events, etc. for supplier brands, etc.

## **Meals and Entertainment Provided to Retailers<sup>1</sup>**

May a manufacturer or distributor provide meals and/or entertainment to a retailer?	No
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<sup>1</sup> Definition: The purchase of meals or the providing of tickets to entertainment by a manufacturer or distributor to a retailer, either for purposes of conducting business discussion or enjoyment and relaxation

## SERVICES PROVIDED TO RETAILERS

*Jurisdiction's allowances or restrictions on services that may be provided to a retailer or by a manufacturer or distributor*

### Manufacturer/Distributor Advertising Beneficial to a Retailer<sup>1,2</sup>

May a manufacturer or distributor make advertisements beneficial to a retailer?	Have adopted Federal "Tied House" Exceptions (27 CFR 6.98)
May a manufacturer or distributor list the name or address of only one retailer where their brands may be purchased?	Yes. This can not be done for only one retailer.
May a manufacturer or distributor list the name or address of two or more retailers where their brands may be purchased?	Have adopted Federal "Tied House" Exceptions (27 CFR 6.98)

<sup>1</sup> Definition: Advertising in traditional mediums of print media, radio or TV, or on manufacturer or distributor websites that benefit the retailer

<sup>2</sup> Example: Manufacturer or distributor advertisements that advertise an event at retail premises, make laudatory references about the retailer, advertise the retail price at a specific retail premises, or list the retailer's name and/or address

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### Social Media Advertising<sup>1,2</sup>

May a manufacturer or distributor utilize social media to provide information to the public that benefits an individual retailer if that information were not allowed in traditional advertising mediums?	No
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<sup>1</sup> Definition: In general, communication on any social media platform between manufacturer or distributor personnel and the public to the benefit of a specific retailer

<sup>2</sup> Example: Facebook, Twitter, Instagram, etc

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### Manufacturer/Distributor Merchandises Services: Stock/Rotating/Pricing<sup>1,2</sup>

May a manufacturer or distributor stock its products at a retail premises in any of the following ways?	Have adopted Federal "Tied House" Exceptions (27 CFR 6.99)
May a manufacturer or distributor rotate its products on the retail shelf to move products with older product code dates from the rear to the front of the shelf facing?	Yes
In addition to stocking, rotating, and pricing its products at a retail premises, can a manufacturer or distributor also stock, rotate, or price competitor brands at the retail premises?	No



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On a full store reset, may a manufacturer or distributor reset the products of a competitor?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)
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<sup>1</sup> Definition: Stocking is the act of a manufacturer or distributor moving its products from the retailer’s back room to any shelf, display, cooler/cold box or any other retail sales location, or the breaking down of its products from floor or product displays to the back room, or the reset of its products from old to new facings on the retail shelf. Rotating is the act of a manufacturer or distributor moving its products from the rear to the front of the shelf facing, so that older product will be the next one sold. Pricing is affixing the retail price to alcohol beverage containers manufactured or sold to the retailer.

<sup>2</sup> Example: A manufacturer or distributor stocking a floor or product display, or shelf with its products, or breaking down its products from an expired display to the retail shelf or back room, or moving its products from their current shelf facings to new shelf facings as part of a retailer determined shelf reset, etc.

## Category Management Programs<sup>1</sup>

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In a category management partnership between a manufacturer or distributor and a retailer, if the aggregate services provided by the manufacturer or distributor’s category captain to a retailer exceed the individual services allowed by state law, does an exception exist by law, regulation, or policy to allow for those extra services if in the context of a category management program?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.99)
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<sup>1</sup> Definition: Generally, the provision of a broad range of services provided by a manufacturer or distributor to a retailer through a category captain or validator, to maximize, in part, retail profits from the total sales of the category

## Educational Seminars<sup>1,2</sup>

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May a manufacturer or distributor conduct educational seminars for retailer or their employees? If so, where may they be held?	Yes
May a manufacturer or distributor also provide nominal hospitality?	Yes
May a manufacturer or distributor pay retailer expenses in conjunction with the seminar, such as travel and/or lodging?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.94)

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<sup>1</sup> Definition: Industry relevant training provided by a manufacturer or distributor to retail licensees or their employees

<sup>2</sup> Example: Training on how to tap a keg, education on the manufacturer’s history or product techniques or product familiarization, etc.

## Volume Discounts and “No Charge” Products<sup>1,2</sup>

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May a manufacturer or distributor offer a volume discount to a retailer?	Beer only, discounts must be the same for all retailers.
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May a manufacturer or distributor offer “no charge” products to a retailer? No

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What is the definition of “no charge” products? Not Applicable

<sup>1</sup> Example of Volume Discount: Manufacturer sells Brand X to distributor at a reduced price if 100 cases are purchased; the distributor sells Brand X to retailer at a reduced price if a minimum of 50 cases are purchased; manufacturer or distributor sells Brand X to national accounts retailer at a reduced price if 500 cases are purchased

<sup>2</sup> Example of “No Charge” Product: Distributor sells two cases of Premium Brand X to retailer and gives 1 case of another Brand; distributor sells 5 cases of Premium Brand X to retailer and gives branded non-alcoholic items of value in lieu of (volume) discount. The “no charge” products/items are tied to buying a different product/brand in volume or as part of the deal

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## CONSUMER PROMOTIONS

*Jurisdiction’s allowances or restrictions on things of value that may be made available to consumers by a manufacturer or distributor*

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### Coupons<sup>1,2</sup>

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Does your state allow coupons to be provided to consumers for “cents off” purchases of alcohol beverages? Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)

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If applicable, which of the following types of coupons would be allowed? Have adopted Federal “Tied House” Exceptions (27 CFR 6.96); Instant redeemable coupons (IRC’s) redeemable by consumers at check out; IRC’s dispensed to consumers as direct offerings; IRC’s dispensed to consumers at the retail premises; Electronic coupons (scan back) where consumers receive “cents off” at the moment the container is scanned at check out; Electronic coupons that are automatically sent or downloaded to the consumer’s phone;

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If applicable, which of the following types of coupons would be allowed? (continued)	Cross merchandised coupons of any type which allow for “cents off” on a nonfood item (e.g. Charcoal briquettes) with purchase of an alcohol beverage; Cross merchandised coupons of any type which allow for “cents off” on a food item (e.g. meat, chips) with purchase of an alcohol beverage.
If coupons of any type are allowed, do you allow manufacturers or distributors to pay the retailer a coupon handling charge in addition to the face value of each coupon redeemed?	Yes
If coupons of any type are allowed, does the retailer set the sales price of the product to the consumer?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)

<sup>1</sup> Definition: An instrument made available to consumers by a mfg or dist that is redeemable at a retail licensee for “cents off” on the purchase of an alcohol beverage from the retailer

<sup>2</sup> Example: A newspaper coupon good for \$2 off on Brand X

## Drawings and Sweepstakes Promotions<sup>1,2</sup>

Do you allow manufacturers or distributors to conduct sweepstakes promotions?	Yes
Do you allow manufacturer or distributor drawings for manufacturer or distributor supplied prizes at a retail premise? What terms and conditions do you impose?	Yes. All promotions must have prior approval.
May prizes be displayed on the retail premise?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)

<sup>1</sup> Definition: A game of chance or random drawing (without consideration) in which entrants are eligible to win a prize (e.g. trip to the Super Bowl, automobile, T-shirt, etc.)

<sup>2</sup> Example: A national sweepstakes with entry by mail or online and random drawing held on specified date; T-shirt awarded to winner randomly drawn from a hat on a retail premise

## Contests at Retail Licensee Premises<sup>1,2</sup>

Are manufacturer or distributor contests and manufacturer or distributor supplied prizes at retail premises allowed and under what terms and conditions?	Yes. Must have prior approval.
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May prizes be displayed on the retail premise?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.96)
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<sup>1</sup> Definition: Games of skill conducted by manufacturers or distributors at a retail premises resulting in a customer(s) winning a prize

<sup>2</sup> Example: Winning billiards tournament team wins a round of drinks, etc.

## Consumer Tastings<sup>1,2</sup>

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May a manufacturer/distributor provide a consumer a tasting of an alcohol beverage at a licensed retail premises and under what limits or conditions?	Have adopted Federal “Tied House” Exceptions (27 CFR 6.95)
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May a manufacturer/distributor provide a consumer tasting of an alcohol beverage at places other than a licensed retail premises and under what limits or restrictions?	No
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<sup>1</sup> Definition: The provision of a tasting of an alcohol beverage from a manufacturer/distributor to a legally aged consumer on or off a retail licensed premises. (Consumer tasting should not be confused with a free sample from a manufacturer/distributor to a retail licensee).

<sup>2</sup> Example: A manufacturer/distributor providing a free glass or bottle of wine to diners at a restaurant, a free bottle of beer to patrons at a tavern, or “buying the house a round” at a licensed bar.

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## OTHER QUESTIONS

### Gift Certificates<sup>1,2</sup>

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Do you allow a manufacturer/distributor licensee to purchase gift certificates from a retail licensee?	Yes. As long as the privilege is not abused.
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<sup>1</sup> Definition: A certificate sold by a retail licensee that may be redeemed for a future food or beverage at the licensed premises

<sup>2</sup> Example: A \$100 gift card good for a future food or beverage purchase

### Channel Pricing<sup>1,2</sup>

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Do you allow channel pricing between manufacturers or distributors and retail purchasers of different class and type and under what conditions or restrictions?	No
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Do you allow channel pricing between manufacturers or distributors and retail purchasers of the same class and type and under what conditions or restrictions? No

<sup>1</sup> Definition: Differential pricing of the identical, individual alcohol beverage SKU between two retailers

<sup>2</sup> Example: Offering for sale to an on sale retail licensee an alcohol beverage SKU at one price while simultaneously offering for sale to an off sale licensee the identical alcohol beverage SKU at a higher or lower price

## Sale of Other (Non-Alcoholic) Merchandise to Retailers

May an alcohol beverage manufacturer/distributor pay a slotting fee to a retailer for the placement of their non-alcoholic merchandise and under what conditions or limitations? We do not regulate non alcohol products.

May an alcohol beverage manufacturer/distributor give their non-alcoholic merchandise at no cost (free) to a retailer? No

May a manufacturer/distributor that sells alcohol beverages to a retail licensee also sell other (non-alcoholic) merchandise to that same retailer? Have adopted Federal “Tied House” Exceptions (27 CFR 6.101)

<sup>1</sup> Definition: The sale of non-alcoholic merchandise to a retail licensee by a manufacturer/distributor who is a bonafide producer or vendor of that other merchandise

<sup>2</sup> Example: Teas, waters, drink mixes, potato chips, etc.

## Combination Packaging<sup>1,2</sup>

Do you allow sale of combination packages by a manufacturer/distributor to a retail licensee and may a food item be the nonalcohol item? Have adopted Federal “Tied House” Exceptions (27 CFR 6.93)

<sup>1</sup> Definition: The act of a manufacturer/distributor packaging and distributing to a retail licensee, an alcohol beverage in a package with a non-alcoholic item, meant to be sold at retail to the consumer as a unit

<sup>2</sup> Example: A package of a bottle of wine and two champagne glasses, a package of a bottle of tequila and a bottle of non-alcoholic margarita mix

## Product Testing

Do you allow consumer testing of non-approved alcohol beverages by a manufacturer or distributor or accredited third party research firm for determination of preferred packaging, labeling, and product attributes and under what conditions or limitations? Yes. All products must come through the Liquor Division for excise tax collection.

## Private and Control Labels

Does your jurisdiction define private label? Please provide the relevant definitions and citations if applicable.	Yes. Chapter 20 section 8 (i)
Does your jurisdiction define control label? Please provide the relevant definitions and citations if applicable.	No
Can a manufacturer produce a product with a retailer's brand on it and must it be sold to anyone who wants to buy it or is it limited to only the retailer?	Yes. Must be available to everybody.
How much control can a retailer exert over a manufacturer's branded product (control label)?	Not Applicable
Can tied house issues be circumvented or avoided through the use of brand licensing agreements?	No

## Promotional Events<sup>1</sup>

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Are there any conditions or limitations for a manufacturer or distributor to conduct an event on a retail premise and under what conditions or limitations?	Yes. Must follow all state laws.
May a third party provider occupy a retail operation for an event?	No
If a third party provider may occupy a retail operation for an event, may the third party provider make exclusive deals for the event to carry one brand?	No
Are there limitations on third party events?	Yes
Can items of value be given to third party providers or unlicensed entities that would be prohibited between manufacturers/distributors and retailers?	No. Can not provide value to a retailer directly or indirectly.
Is cider subject to the same trade practice laws as any other alcohol products?	Wine

<sup>1</sup> Example: A manufacturer or distributor (or their third party provider) conducts a brand(s)-specific event on a licensed retail premise; a bar rents their premise/venue to a promotions/entertainment company and only sells limited alcohol brands during an event; a manufacturer has an exclusive alcohol deal with promotions/entertainment company and promotions/third party company arranges with hotel or music venue to only sell exclusively manufacturer's brand of alcohol.

## Miscellaneous

<i>Please note that all answers to these questions will be published in the survey report.</i> How many staff members/agents does your jurisdiction have dedicated to Trade Practice Investigations and Enforcement?	3
Has your agency cited anyone for trade practice violations in the last 12 months? If available, please provide relevant data.	No
What penalties are provided for in a licensee trade practice violation?	We would turn it over to the TTB. They are subject to a \$750 dollar fine and 6 months in jail.
Are retailers subject to trade practices law violations in your jurisdiction?	Yes
What limits/conditions, if any does your jurisdiction place on direct sales discussions between retailers and suppliers?	Malt beverages & spirits are prohibited & wine must be licensed
May manufacturers/distributors make sales of alcohol/promotions to national accounts of retailers outside your jurisdiction? What resources for monitoring does your jurisdiction utilize, if applicable?	Yes but not enforceable in the jurisdiction. No monitoring utilized.

# Title 27 Chapter I Subchapter A Part 6 Subpart D (TTB)

## Title 27: Alcohol, Tobacco Products and Firearms

### PART 6 - "TIED-HOUSE"

#### Subpart D—Exceptions

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- §6.98 Advertising service.
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- §6.101 Merchandise.
- §6.102 Outside signs.

#### **§6.81 General.**

(a) *Application.* Section 105(b)(3) of the Act enumerates means to induce that may be unlawful under the subsection, subject to such exceptions as are prescribed in regulations, having due regard for public health, the quantity and value of articles involved, established trade customs not contrary to the public interest, and the purposes of that section. This subpart implements section 105(b)(3) of the Act and identifies the practices that are exceptions to section 105(b)(3) of the Act. An industry member may furnish a retailer equipment, inside signs, supplies, services, or



other things of value, under the conditions and within the limitations prescribed in this subpart.

(b) *Recordkeeping Requirements.* (1) Industry members shall keep and maintain records on the permit or brewery premises, for a three year period, of all items furnished to retailers under §§6.83, 6.88, 6.91, 6.96(a), and 6.100 and the commercial records required under §6.101. Commercial records or invoices may be used to satisfy this recordkeeping requirement if all required information is shown. These records shall show:

- (i) The name and address of the retailer receiving the item;
- (ii) The date furnished;
- (iii) The item furnished;
- (iv) The industry member's cost of the item furnished (determined by the manufacturer's invoice price); and
- (v) Charges to the retailer for any item.

(2) Although no separate recordkeeping violation results, an industry member who fails to keep such records is not eligible for the exception claimed.

(Approved by the Office of Management and Budget under control number 1512-0392)

[T.D. ATF-364, 60 FR 20422, Apr. 26, 1995]

## **§6.82 [Reserved]**

## **§6.83 Product displays.**

(a) *General.* The act by an industry member of giving or selling product displays to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act provided that the conditions prescribed in paragraph (c) of this section are met.

(b) *Definition.* "Product display" means any wine racks, bins, barrels, casks, shelving, or similar items the primary function of which is to hold and display consumer products.

(c) *Conditions and limitations.* (1) The total value of all product displays given or sold by an industry member under paragraph (a) of this section may not exceed \$300 per brand at any one time in any one retail establishment. Industry members may not pool or combine dollar limitations in order to provide a retailer a product display valued in excess of \$300 per brand. The value of a product display is the actual cost to the industry member who initially purchased it. Transportation and installation costs are excluded.

(2) All product displays must bear conspicuous and substantial advertising matter on the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the product displays.

(3) The giving or selling of such product displays may be conditioned upon the purchase of the distilled spirits, wine, or malt beverages advertised on those displays in a quantity necessary for the initial completion of such display. No other condition can be imposed by the industry

member on the retailer in order for the retailer to receive or obtain the product display.

[T.D. ATF-364, 60 FR 20422, Apr. 26, 1995]

### **§6.84 Point of sale advertising materials and consumer advertising specialties.**

(a) *General.* The act by an industry member of giving or selling point of sale advertising materials and consumer advertising specialties to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act provided that the conditions prescribed in paragraph (c) of this section are met.

(b) *Definitions*—(1) Point of sale advertising materials are items designed to be used within a retail establishment to attract consumer attention to the products of the industry member. Such materials include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus.

(2) *Consumer advertising specialties* are items that are designed to be carried away by the consumer, such as trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, shirts, caps, and visors.

(c) *Conditions and limitations.* (1) All point of sale advertising materials and consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials.

(2) The industry member may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental to their use.

[T.D. ATF-364, 60 FR 20423, Apr. 26, 1995]

### **§6.85 Temporary retailers.**

(a) *General.* The furnishing of things of value to a temporary retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

(b) *Definition.* For purposes of administering this part, a temporary retailer is a dealer who is not engaged in business as a retailer for more than four consecutive days per event, and for not more than five events in a calendar year.

[T.D. ATF-364, 60 FR 20423, Apr. 26, 1995]

### **§§6.86-6.87 [Reserved]**

## §6.88 Equipment and supplies.

(a) *General.* The act by an industry member of selling equipment or supplies to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act if the equipment or supplies are sold at a price not less than the cost to the industry member who initially purchased them, and if the price is collected within 30 days of the date of the sale. The act by an industry member of installing dispensing accessories at the retailer's establishment does not constitute a means to induce within the meaning of the Act as long as the retailer bears the cost of initial installation. The act by an industry member of furnishing, giving, or selling coil cleaning service to a retailer of distilled spirits, wine, or malt beverages does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

(b) *Definition.* "Equipment and supplies" means glassware (or similar containers made of other material), dispensing accessories, carbon dioxide (and other gasses used in dispensing equipment) or ice. "Dispensing accessories" include items such as standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves.

[T.D. ATF-364, 60 FR 20423, Apr. 26, 1995]

## §§6.89-6.90 [Reserved]

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## §6.91 Samples.

The act by an industry member of furnishing or giving a sample of distilled spirits, wine, or malt beverages to a retailer who has not purchased the brand from that industry member within the last 12 months does not constitute a means to induce within the meaning of section 105(b)(3) of the Act. For each retail establishment the industry member may give not more than 3 gallons of any brand of malt beverage, not more than 3 liters of any brand of wine, and not more than 3 liters of distilled spirits. If a particular product is not available in a size within the quantity limitations of this section, an industry member may furnish to a retailer the next larger size.

[T.D. ATF-364, 60 FR 20423, Apr. 26, 1995]

## §6.92 Newspaper cuts.

Newspaper cuts, mats, or engraved blocks for use in retailers' advertisements may be given or sold by an industry member to a retailer selling the industry member's products.

[T.D. ATF-364, 60 FR 20423, Apr. 26, 1995]

## §6.93 Combination packaging.

The act by an industry member of packaging and distributing distilled spirits, wine, or malt beverages in combination with other (non-alcoholic) items for sale to consumers does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

[T.D. ATF-364, 60 FR 20423, Apr. 26, 1995]

### §6.94 Educational seminars.

An industry member may give or sponsor educational seminars for employees of retailers either at the industry member's premises or at the retail establishment. Examples would be seminars dealing with use of a retailer's equipment, training seminars for employees of retailers, or tours of industry member's plant premises. This section does not authorize an industry member to pay a retailer's expense in conjunction with an educational seminar (such as travel and lodging). This does not preclude providing nominal hospitality during the event.

[T.D. ATF-74, 45 FR 63251, Sept. 23, 1980, as amended by T.D. ATF-364, 60 FR 20423, Apr. 26, 1995]

### §6.95 Consumer tasting or sampling at retail establishments.

An industry member may conduct tasting or sampling activities at a retail establishment. The industry member may purchase the products to be used from the retailer, but may not purchase them from the retailer for more than the ordinary retail price.

### §6.96 Consumer promotions.

(a) Coupons. The act by an industry member of furnishing to consumers coupons which are redeemable at a retail establishment does not constitute a means to induce within the meaning of section 105(b)(3) of the Act, provided the following conditions are met:

(1) All retailers within the market where the coupon offer is made may redeem such coupons; and

(2) An industry member may not reimburse a retailer for more than the face value of all coupons redeemed, plus a usual and customary handling fee for the redemption of coupons.

(b) Direct offerings. Contest prizes, premium offers, refunds, and like items may be offered by industry members directly to consumers. Officers, employees and representatives of wholesalers or retailers are excluded from participation.

[T.D. ATF-74, 45 FR 63251, Sept. 23, 1980, as amended by T.D. ATF-364, 60 FR 20423, Apr. 26, 1995]

### §6.97 [Reserved]

### §6.98 Advertising service.

The listing of the names and addresses of two or more unaffiliated retailers selling the products of an industry member in an advertisement of that industry member does not constitute a means to induce within the meaning of section 105(b)(3) of the Act, provided:

(a) The advertisement does not also contain the retail price of the product (except where the exclusive retailer in the jurisdiction is a State or a political subdivision of a State), and

(b) The listing is the only reference to the retailers in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole, and

(c) The advertisement does not refer only to one retailer or only to retail establishments controlled directly or indirectly by the same retailer, except where the retailer is an agency of a State or a political subdivision of a State.

[T.D. ATF-364, 60 FR 20423, Apr. 26, 1995]

### **§6.99 Stocking, rotation, and pricing service.**

(a) General. Industry members may, at a retail establishment, stock, rotate and affix the price to distilled spirits, wine, or malt beverages which they sell, provided products of other industry members are not altered or disturbed. The rearranging or resetting of all or part of a store or liquor department is not hereby authorized.

(b) Shelf plan and shelf schematics. The act by an industry member of providing a recommended shelf plan or shelf schematic for distilled spirits, wine, or malt beverages does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

[T.D. ATF-364, 60 FR 20424, Apr. 26, 1995]

### **§6.100 Participation in retailer association activities.**

The following acts by an industry member participating in retailer association activities do not constitute a means to induce within the meaning of section 105(b)(3) of the Act:

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- (a) Displaying its products at a convention or trade show;
- (b) Renting display booth space if the rental fee is the same as paid by all exhibitors at the event;
- (c) Providing its own hospitality which is independent from association sponsored activities;
- (d) Purchasing tickets to functions and paying registration fees if the payments or fees are the same as paid by all attendees, participants or exhibitors at the event; and
- (e) Making payments for advertisements in programs or brochures issued by retailer associations at a convention or trade show if the total payments made by an industry member for all such advertisements do not exceed \$300 per year for any retailer association.

[T.D. ATF-364, 60 FR 20424, Apr. 26, 1995]

### **§6.101 Merchandise.**

(a) General. The act by an industry member, who is also in business as a bona fide producer or vendor of other merchandise (for example, groceries or pharmaceuticals), of selling that merchandise to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act, provided:

- (1) The merchandise is sold at its fair market value;
- (2) The merchandise is not sold in combination with distilled spirits, wines, or malt beverages (except as provided in §6.93);

(3) The industry member's acquisition or production costs of the merchandise appears on the industry member's purchase invoices or other records; and

(4) The individual selling prices of merchandise and distilled spirits, wines, or malt beverages sold in a single transaction can be determined from commercial documents covering the sales transaction.

(b) Things of value covered in other sections of this part. The act by an industry member of providing equipment, fixtures, signs, glassware, supplies, services, and advertising specialties to retailers does not constitute a means to induce within the meaning of section 105(b)(3) of the Act only as provided in other sections within this part.

[T.D. ATF-364, 60 FR 20424, Apr. 26, 1995]

### **§6.102 Outside signs.**

The act by an industry member of giving or selling outside signs to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act provided that:

(a) The sign must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed;

(b) The retailer is not compensated, directly or indirectly such as through a sign company, for displaying the signs; and

(c) The cost of the signs may not exceed \$400.

[T.D. ATF-364, 60 FR 20424, Apr. 26, 1995]

# Alcohol Trade Practice Survey of State Laws and Regulation

## **Purpose:**

To provide as complete, accurate and up to date information on state based alcohol trade practice law and regulation.

## **Background:**

Over the past several years the National Alcohol Beverage Control Association (NABCA) and the National Conference of State Liquor Administrators (NCSLA) have included the important issues of Alcohol Trade Practice Laws, Regulations, Violations, and Enforcement as part of their many national and regional meetings. NABCA has for several years captured information concerning these regulations and laws in their Annual Survey Book. The information needs to be expanded to provide further assistance to regulators and the alcohol industry in assuring they have as complete and timely information as possible on these regulations and laws.

NABCA hopes to implement a new and expanded survey on Trade Practice Regulation and Law with the hopes of gaining responses from as many of the state alcohol regulatory agencies as possible. In addition both organizations may wish to share this information with other members as they see fit.

This project will require the input and cooperation of the state alcohol regulatory agencies to complete the survey. The NABCA will take the responsibility to expand their existing survey, collecting results, and providing the results in a written and electronic manner useful to the state agencies and members of our organizations. This information will also be integrated into the existing NABCA Survey Book.

We welcome NCSLA's cooperation on this project in hopes that the association will encourage member states to complete the survey. NABCA views NCSLA as a partner in this project and as such will make this clear in any results document or electronic version of the survey results. In addition, NCSLA will have the ability to distribute and utilize the survey results documents in whatever manner they choose.

## Disclaimer

The National Alcohol Beverage Control Association (NABCA) compiles numerous surveys on an annual basis covering operational and regulatory information. This Merchandising Trade Practices data publication is a joint effort with the National Conference of State Liquor Administrators (NCSLA) and its members.

It was collected from control and license jurisdictions across the United States. Information from this survey has been compiled for the general purpose of promoting improvements in effectiveness and efficiency of operations as well as to promote an increased understanding of the overall environment of beverage alcohol regulation and transactions throughout the United States. The information contained in this survey is not intended to provide legal advice, interpretation, or draw any legal conclusions. For application of the information contained in this survey to a specific fact pattern, the user should contact the respective state(s) to obtain any legal advice, interpretations or conclusions thereof.

In an effort to innovate, to ensure that information is current and to increase the value of the content of this survey to their respective members, NABCA and NCSLA made every attempt to reach out to states encouraging them to participate and respond. As we know it, this data is up to date. We will continue to collect data from any jurisdiction not able to initially respond for this publication.

Know that all possible measures have been taken to ensure the timeliness and accuracy of this data. As in the past, because of the nature of the subject matter contained herein and the changes which may occur within individual jurisdictions subsequent to the printing of this document, users are cautioned to contact the appropriate jurisdiction for further information or clarification.

Users of this document are encouraged to forward to NABCA and NCSLA any suggestions or comments they might have for improving this information.

We recognize the effort required to respond to our requests for information and again express our sincere appreciation to the personnel of the County and State beverage alcohol jurisdictions. Their continued dedication and diligence in providing the data makes it possible to compile and distribute this valuable resource.

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# State Contacts

<b>State</b>	<b>Survey Book Contact</b>	<b>Website</b>
Alabama	Nick Ketter, Product Director	<a href="http://www.abcboard.state.al.us/">http://www.abcboard.state.al.us/</a>
Alaska	Cynthia Franklin, Director	<a href="http://www.dps.state.ak.us/abc">www.dps.state.ak.us/abc</a>
Arizona	Pearlette Ramos, Assistant Director, Administration	<a href="http://www.azliquor.gov">www.azliquor.gov</a>
Arkansas	DID NOT COMPLETE THE SURVEY	<a href="http://www.dfa.arkansas.gov">www.dfa.arkansas.gov</a>
California	Matthew Botting, General Counsel	<a href="http://www.abc.ca.gov">www.abc.ca.gov</a>
Colorado	Patrick Maroney, Director	<a href="http://www.colorado.gov/revenue/liquor">www.colorado.gov/revenue/liquor</a>
Connecticut	John Suchy, Director or Elisa Nahas, Legal Director	<a href="http://www.ct.gov/dcp">www.ct.gov/dcp</a>
Delaware	DID NOT COMPLETE THE SURVEY	<a href="http://www.state.de.us">www.state.de.us</a>
District of Columbia	DID NOT COMPLETE THE SURVEY	<a href="http://www.abra.dc.gov">www.abra.dc.gov</a>
Florida	Thomas Philpot, Director	<a href="http://www.myfloridalicense.com">www.myfloridalicense.com</a>
Georgia	Christopher Luncheon, Assistant Director	<a href="http://www.etax.dor.ga.gov">www.etax.dor.ga.gov</a>
Hawaii - Honolulu County	Anna Hirai, Assistant Administrator	<a href="http://www.honolulu.gov/liq">www.honolulu.gov/liq</a>
Hawaii-Hawaii County	Gerald Takase, Director or de Ette Fukamizu, Assistant to the Director	<a href="http://www.co.hawaii.hi.us">www.co.hawaii.hi.us</a>
Hawaii-Kauai County	Gerald Rapozo, Director or Christine Nakaahiki, Executive Assistant	<a href="http://www.kauai.gov">www.kauai.gov</a>
Idaho	Kay Bennett, Manager - Education, Procurement, and Distribution	<a href="https://www.liquor.idaho.gov/">https://www.liquor.idaho.gov/</a>
Illinois	Richard Haymaker, Chief Legal Counsel	<a href="http://www.state.il.us/lcc">www.state.il.us/lcc</a>
Indiana	DID NOT COMPLETE THE SURVEY	<a href="http://www.in.gov/atc">www.in.gov/atc</a>
Iowa	Tim Iversen, Chief Operating Officer	<a href="http://www.iowa.abd.com">http://www.iowa.abd.com</a>
Kansas	DID NOT COMPLETE THE SURVEY	<a href="http://www.ksrevenue.org">www.ksrevenue.org</a>
Kentucky	Steve Humphress, General Counsel	<a href="http://www.abc.ky.gov">www.abc.ky.gov</a>
Louisiana	DID NOT COMPLETE THE SURVEY	<a href="http://www.atc.rev.state.la.us">www.atc.rev.state.la.us</a>
Maine	Laurence Sanborn, Manager Liquor Licensing & Enforcement; Johnnie Meehl, Manager of Spirits Operations	<a href="http://www.maine.gov/dafs/bablo/">http://www.maine.gov/dafs/bablo/</a>
Maryland	Jeff Kelly, Director Field Enforcement Division	<a href="http://www.comp.state.md.us">www.comp.state.md.us</a>
Massachusetts	DID NOT COMPLETE THE SURVEY	<a href="http://www.mass.gov/abcc">www.mass.gov/abcc</a>
Michigan	Andrew Deloney, Chairman	<a href="http://www.michigan.gov/lara/">http://www.michigan.gov/lara/</a>
Minnesota	Holly E. Phillips, Liquor Control Investigator	<a href="http://www.dps.state.mn.us">www.dps.state.mn.us</a>
Mississippi	Rusty Hanna, Deputy Chief of Enforcement	<a href="http://www.dor.ms.gov">http://www.dor.ms.gov</a>
Missouri	Karen Gault, Administrative Services Manager	<a href="http://www.atc.dps.mo.gov">www.atc.dps.mo.gov</a>
Montana	Mickey Carlson, Liquor Distribution Specialist	<a href="http://www.revenue.mt.gov">http://www.revenue.mt.gov</a>
Nebraska	Hobert Rupe, Executive Director	<a href="http://www.lcc.ne.gov">www.lcc.ne.gov</a>
Nevada	DID NOT COMPLETE THE SURVEY	<a href="http://www.tax.state.nv.us">www.tax.state.nv.us</a>
New Hampshire	Craig Bulkley, Director Division of Administration and Chief Operating Officer; James Wilson, Director Enforcement & Licensing	<a href="https://www.nh.gov/liquor/index.shtml">https://www.nh.gov/liquor/index.shtml</a>

<b>State</b>	<b>Survey Book Contact</b>	<b>Website</b>
New Jersey	Wesley Geiselman, Acting Director or Patti Valsac, Bureau Chief Licensing	<a href="http://www.state.nj.us/lps/abc/index.html">www.state.nj.us/lps/abc/index.html</a>
New Mexico	Mary Kay Root, Director; Debra Lopez, Deputy Director	<a href="http://www.rld.state.nm.us">www.rld.state.nm.us</a>
New York	Jacqueline Flug, General Counsel	<a href="http://www.abc.state.ny.us">www.abc.state.ny.us</a>
North Carolina	Laurie Lee, Director Pricing Division	<a href="http://www.abc.nc.gov">http://www.abc.nc.gov</a>
North Dakota	Blane Braunberger, Supervisor, Alcoholic Beverages	<a href="http://www.nd.gov/tax">www.nd.gov/tax</a>
Ohio	Bruce Stevenson, Superintendent	<a href="http://www.com.ohio.gov/liqr">http://www.com.ohio.gov/liqr</a>
Oklahoma	A. Keith Burt, Director	<a href="http://www.able.ok.gov">www.able.ok.gov</a>
Oregon	John Eckhart, Public Safety Director; Kelly Routt, Compliance Specialist	<a href="http://www.oregon.gov/olcc/pages/index.aspx">http://www.oregon.gov/olcc/pages/index.aspx</a>
Pennsylvania	Jerry Waters, Director Office of Regulatory Affairs	<a href="http://www.lcb.state.pa.us">http://www.lcb.state.pa.us</a>
Rhode Island	DID NOT COMPLETE THE SURVEY -- Trade Practices are reviewed on a case by case basis per Jenna Algee, Sr. Legal Counsel	<a href="http://www.dbr.state.ri.us">www.dbr.state.ri.us</a>
South Carolina	DID NOT COMPLETE THE SURVEY	<a href="http://www.sctax.org">www.sctax.org</a>
South Dakota	DID NOT COMPLETE THE SURVEY	<a href="http://dor.sd.gov">http://dor.sd.gov</a>
Tennessee	Keith Bell, Director or Joshua Stepp, Staff Attorney	<a href="http://www.state.tn.us/abc">www.state.tn.us/abc</a>
Texas	Sherry Cook, Executive Director; Thomas Graham, Tax & Marketing Practices Director	<a href="http://www.tabc.state.tx.us">www.tabc.state.tx.us</a>
Utah	Nina McDermott, Licensing & Compliance Director	<a href="http://www.alcbev.state.ut.us">http://www.alcbev.state.ut.us</a>
Vermont	Marcia Lawrence, Director of Sales and Marketing	<a href="http://www.liquorcontrol.vermont.gov">http://www.liquorcontrol.vermont.gov</a>
Virginia	S. Christopher Curtis, Secretary to the Board	<a href="http://www.abc.virginia.gov">http://www.abc.virginia.gov</a>
Washington	Rick Garza, Director	<a href="http://www.liq.wa.gov">www.liq.wa.gov</a>
West Virginia	Anoop Bhasin, General Counsel	<a href="http://www.abca.wv.gov">http://www.abca.wv.gov</a>
Wisconsin	DID NOT COMPLETE THE SURVEY	<a href="http://www.dor.state.wi.us">www.dor.state.wi.us</a>
Wyoming	Greg Cook, Administrator	<a href="http://www.revenue.wyo.gov">http://www.revenue.wyo.gov</a>





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