

DIVISION OF ALCOHOL AND TOBACCO CONTROL

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INDUSTRY CIRCULAR

TRADE PRACTICES – Pay to Play and Other Practices

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Recently the Division has received an increasing number of questions about manufacturers, solicitors and/or wholesalers (*industry members*) providing items and services to retailers. As a general rule, section [311.070](#), RSMo sets out a blanket prohibition preventing industry members from providing items of value to retailers except those specifically delineated as allowed. Regulations also provide a prohibition against pay to play activities.

- 1) **Pay to Play** – Defined as activities in which an industry member (including retailers) demands payment of some type, from industry members wishing to take part in a particular business activity. Missouri regulations prevent pay to play activities in the liquor industry such as, but not limited to:
 - a) Except as provided in section 311.070, RSMo, no industry member, directly or indirectly, may give any financial assistance, gratuity or make or offer to make any gift of their products to any retail licensee [\(11 CSR 70-2.040\(3\)\)](#)
 - b) Except as provided in section 311.070, RSMo, no retail licensee, directly or indirectly, may accept any loans, equipment, money, credit or property of any kind, except ordinary commercial credit from an industry member [\(11CSR 70-2.040\(1\)\)](#).
 - c) **Slotting Fees** – [11 CSR 70-2.040\(2\)](#) prohibits industry members from paying retailers any fee, rental or other consideration for the use of any part of the licensed premises for advertising. Industry members may not pay retailers for premium shelf space or displays in high traffic areas.

Additionally, industry members holding federal permits are put in jeopardy if tied house laws in [27 CFR – Part 6](#) are violated.

In an effort to further clarify what constitutes an advertisement, and to comply with the recent court ruling [2:13-cv-04034-MDH], ATC has filed emergency rules to address 11 CSR 70-2.240.

ATC is posting this notice to clarify certain provisions under the trade practices statutes so that manufacturers, solicitors, wholesalers and retailers can be knowledgeable about activities that are not allowed under the trade practice provisions. If you have questions, please contact the [Division](#) for clarification.