

DIVISION OF ALCOHOL AND TOBACCO CONTROL

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INDUSTRY CIRCULAR

TRADE PRACTICES – Malt Beverage Returns

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Recently the Division has received an increasing number of questions about what beer wholesalers may accept for return or credit under the merchandise returns statute. [Section 311.070.4\(16\) – \(18\)](#) deals with returns, credit and breakage of malt liquor products. ATC has reviewed this area, and provided the Division's position below:

- 1) Section 4(17) allows a wholesaler to replace beer with identical product during a regular delivery to assure and control product quality.
- 2) If a keg has been tapped, it may not be credited or replaced.
- 3) The untapped keg can be replaced with identical product at any time to assure product quality; or credited if returned within 7 days. However, a wholesaler cannot give credit for a keg unless it is returned within 7 days. If you are picking up an unopened keg that is within 21 days of code date, you may **ONLY** replace with an identical product.
- 4) Section 4(18)(a), states that *credit can only be given* for up to 25 cases (per invoice) of old beer which has been in the retailers inventory for at least 30 days and is within 21 days of the expiration date. This means that beer can be picked up any time after the 21 days to expiration date has been reached as long as it is 30 days after it was originally delivered and is not treated like a consignment sale.
- 5) Only product in unopened 'original cartons' may be accepted by the wholesaler for return or credit. The original carton could include a 6 pk or 12 pk as long as the carton does not specifically say it is not to be sold separately. Original carton is the smallest carton delivered. If the case contains four 6pks, then the 6pks are the original carton. For 30pks, 18pks, 24pks, those cases are the original cartons. For loose bottles and 25oz cans, the carton they were delivered in are the original carton.
- 6) There appears to be no time frame on replacing product with identical product as long as the reason it is done relates to assuring and controlling product quality.

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- 7) It appears that Missouri law does not necessarily prevent a wholesaler from picking up product that was damaged after the delivery. However, if a wholesaler gives credit/exchange for products that were damaged after delivery, TTB considers it a prohibited inducement under [27 CFR Part 6](#) – Tied House. TTB would also consider the wholesaler’s labor cost for the breakage return an unlawful inducement under Tied House. Also see the [TTB Ruling](#) on Freshness Dating and Allowable Returns of Malt Beverage Products under the FAA Act.

ATC is posting this notice to clarify certain provisions with regard to wholesalers picking up beer inventory and issuing credits. If you have questions, please contact the [Division](#) for clarification.