

DIVISION OF ALCOHOL AND TOBACCO CONTROL

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INDUSTRY CIRCULAR

Requests Wholesalers Receive from Retailers

The following information is intended to serve as a general understanding of the laws and rules governing the relationships between industry members (manufacturers, importers and wholesalers) and retailers authorized to sell intoxicating liquor. The information is not intended to serve as a precise statement of Missouri Liquor Control Laws and Regulations or the Missouri Division of Alcohol and Tobacco Control's (ATC) administrative position on these issues. Because responses to questions may vary depending upon actual circumstances, it is suggested that industry members and retailers contact ATC about specific questions.

Responses based on federal trade practice regulations may also be directed to the U.S. Department of Treasury, Tax and Trade Bureau at industryanalyst.beer@ttb.gov.

- **Can you give me logoed glassware?**

No. Glassware is an "Equipment and Supplies" item as defined in Section 311.070.3(2), RSMo, and may only be sold at cost or above in accordance with Section 311.070.4(4), RSMo.

- **Can you give me logoed buckets or pitchers?**

No. Logoed buckets or pitchers are considered "Equipment and Supplies" items as defined in Section 311.070.3(2), RSMo, and may only be sold at cost or above in accordance with Section 311.070.4(4), RSMo.

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- **Can you give me a nonrefrigerated cooler and the retailer will supply the ice? The cooler will be used for all brands of alcohol, water and soda.**

Industry members may give or sell non-refrigerated coolers to retailers as product displays (section 311.070.3(4), RSMo) so long as it is in accordance with section 311.070.4(1), RSMo. Ice is defined as equipment and supplies under section 311.070.2(2), RSMo and must be sold to a retailer in accordance with section 311.070.4(4), RSMo. Customary storage, cooling or dispensing equipment may be provided to Picnic Licensees pursuant to 311.482.5, RSMo, and Festival Licenses pursuant to Section 311.483.4, RSMo.

- **Why can't I have alcohol signage outside my building facing the street?**

Permanent Outside Signage and Temporary Banners are permitted if provided by the Wholesaler in accordance with Section 311.070.4(15), RSMo. There are limits to what may be provided.

- **Can you buy me a draft system or walk-in cooler?**

The Wholesaler may lend, give, rent or sell equipment to properly preserve and serve draught beer and to dispense liquor and wine as authorized by Section 311.070.4(5) and (6), RSMo. However, no refrigeration equipment or installation of refrigeration equipment may be given or sold to a retailer by a wholesaler; except customary storage, cooling or dispensing equipment may be provided to Picnic Licensees pursuant to 311.482.5, RSMo, and Festival Licenses pursuant to Section 311.483.4, RSMo.

- **Can I require a beer purchase to win something?**

11 CSR 70-2.140(9) (A) prohibits the consumption of intoxicating liquor being related to or an element of a game or contest, directly or indirectly.

- **How come liquor and wine companies can do some things that beer companies can't do?**

The laws governing liquor, beer and wine are essentially the same. The primary differences include:

- Coupons – Liquor manufacturers may offer coupons for cash rebates directly to the consumer in accordance with Section 311.355.1, RSMo. Beer and wine coupons are not permissible in Missouri.
- Credit – Retailers are required to pay for liquor and wine purchases within 30 days. Beer wholesalers may extend credit for a period to the end of the month for beer delivered from the first of the month through the fifteenth of the month, and credit may be extended to the fifteenth of the month for deliveries made from the sixteenth of the month through the end of the prior month (CSR 70-2.010(4)).

- **I'm going on vacation. Can you hold my check for 3 days until I can make a deposit?**

No. Holding a check for a period of time is considered an extension of credit. Retailers are required to pay for beer within credit terms established by 11 CSR 70-2.010(4) (A) and spirits and wine within credit terms established by 11 CSR 70-2.010(4) (B). Failure to pay for intoxicating liquor within the credit terms is a violation, which may result in a civil penalty or suspension for both the wholesaler and the retailer.

- **I will put your beer on tap if you give me free kegs, glasses, etc.**

While retailers may try to negotiate benefits from wholesalers, the law prohibits the granting of some requests. For example, manufacturers and wholesalers are prohibited by statute from giving durable glassware to retailers. If a wholesaler gives a keg of beer to a retail customer, the retailer and wholesaler are in violation of 11 CSR 70-2.040(1) & (3), respectively. In addition, any agreement between a wholesaler and a retailer to the exclusion of others products is in violation of Section 311.070.6, RSMo.

- **Can you take back this brand and exchange it with another? I have too much inventory this week of the brand I want exchanged. I'll buy again next week.**

No. The return of overstocked and slow-moving intoxicating liquor by wholesalers and manufacturers is prohibited by both federal and state law. Consignment sales are illegal pursuant to section 311.070.4(19), RSMo. However, beer that is within 21 days of the expiration date may be picked up by the wholesaler if conducted in accordance with Section 311.070.4(18), RSMo and liquor and wine products may be returned in accordance with 11 CSR 70-2.190(7).

- **Give me coupons (I don't care what brand it is or if I handle) and I will promote whatever product you want at a lower price.**

Liquor manufacturers may offer coupons for cash rebates directly to the consumer in accordance with Section 311.355.1, RSMo. Beer and wine coupons are not permissible in Missouri.

- **Give me picnic pumps and I will turn them in for credit and that will let me run your product at a hot price.**

Wholesalers may lend, give, rent or sell air pumps to retailers. However, a wholesaler cannot directly or indirectly give credit for air pumps to a retailer that did not purchase them. Doing so may result in a civil penalty or suspension for the wholesaler, as well as the retailer (11 CSR 70-2.040(1) & (3)).

- **Can you loan me a refrigerated truck for the weekend to store extra product in?**

No. Manufacturers and wholesalers are prohibited from directly or indirectly supplying, furnishing, giving or paying for any equipment used in the storage, handling, serving or dispensing of alcoholic beverages or food (Section 311.070.1, RSMo, and 11 CSR 70-2.040(1) & (3)). Customary storage, cooling or dispensing equipment may be provided to Picnic Licensees pursuant to 311.482.5, RSMo, and Festival Licenses pursuant to Section 311.483.4, RSMo.

- **Can you supply me a couple of people to work as bartenders this weekend; we are going to be busy?**

No. Wholesalers are prohibited from giving any financial assistance to a retailer by 11 CSR 70-2.040(3). A retailer is also prohibited from accepting financial assistance from a wholesaler by 11 CSR 70-2.040(1).

- **Can you tag our community event to your radio spots?**

No. All advertising for retailers by wholesalers must be conducted in accordance with Section 311.070.4(10), RSMo. However, a Wholesaler may tag any community event for an event being held by someone not holding a retail liquor license.

- **Can you tag our bar/bar promotion to your radio spots?**

No. All advertising for retailers by wholesalers must be conducted in accordance with Section 311.070.4(10), RSMo.

Non-Licensee Request

- **Can you donate alcohol for my fundraiser?**

Manufacturers and wholesalers may donate wine, beer or brandy provided the event is conducted in accordance with Section 311.332.2, RSMo. Wholesalers are prohibited from selling intoxicating liquor to persons and entities that do not hold the required liquor license.