

DIVISION OF ALCOHOL AND TOBACCO CONTROL

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INDUSTRY CIRCULAR

TRADE PRACTICES

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Recently the Division has received an increasing number of complaints and an increasing amount of information concerning manufacturers, solicitors and/or wholesalers providing services and various point-of-sale advertising materials to retailers that are not allowed within the liquor control laws and regulations.

As a general rule, manufacturers, solicitors and wholesalers are prohibited from providing anything of value to retailers that are not specifically delineated within Chapter 311.070 that provide the trade practice statutes. It has come to our attention that manufacturers/solicitors and wholesalers are routinely providing umbrellas to retailers with the understanding that they may fit under Section 311.070.3 (6) as "Temporary Point-of-Sale advertising materials", advertising items designed to be used for short periods of time. Such 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.

However, it is the Division's position that umbrellas given to retailers by the upper two tiers do not fit within the above statute or any of the current statutes as written. They are not considered equipment and supplies as defined in 311.070.3(2), nor Permanent Point-of-Sale advertising materials as defined in Section 311.070.3(3).

Consistent with ATC's position through the years, it is unlawful to rent, sell, give or lease umbrellas to retailers. If a retailer wants to decorate their patio with logoed umbrellas, they may purchase them through a third party provider. The manufacturer, solicitor or wholesaler may not be related to the third party provider by ownership or contractual agreement, and may not pay any portion of the cost for a logoed umbrella for a retailer.

ATC is posting this notice that umbrellas do not fall under the current Point-of-Sale advertising definitions, and manufacturers, solicitors and wholesalers should discontinue providing these or other non-qualifying services and merchandise to retailers effective immediately. Manufacturers, solicitors, wholesalers and retailers may be subject to disciplinary actions if ATC determines these practices are continuing to occur. If you have questions, please contact the Division for clarification.

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