

11 CSR 70-2.040 Manufacturers, Wholesalers and Distributors

PURPOSE: This rule defines credit and advertising items allowed to be provided to retailers by manufacturers, wholesalers, and distributors.

(1) 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. Except as provided in section 311.070, RSMo, no retail licensee may permit any distiller, wholesaler, wine maker, solicitor, brewer or employees, officers, or agents, under any circumstances to have any direct or indirect financial interest in his/her retail business for the sale of intoxicating liquor, and s/he shall not accept, directly or indirectly, from a distiller, wholesaler, wine maker, solicitor, brewer or its employees, officers, or agents any loan, gift, equipment, money, credit, or property of any kind except ordinary commercial credit for intoxicating liquor sold to the retailer. A retailer may accept, to properly preserve and serve draught beer and to properly preserve and serve draught wine, only equipment and services as allowed in section 311.070, RSMo.

(A) A sale by a licensed wholesaler to a licensed retailer of intoxicating liquor at a price which is less than the cost of the intoxicating liquor to the licensed wholesaler making the sale is presumed (subject to rebuttal as set out in this rule) to constitute a gift of money or property to the licensed retailer in violation of this regulation and sections 311.060 and 311.070, RSMo.

(B) The word cost as used in this regulation means the actual invoice charge for the merchandise by the supplier of the merchandise to the wholesaler, manufacturer, brewer, or solicitor, plus the cost of transportation to the wholesaler and all federal and Missouri excise taxes and custom duties allocable to the merchandise.

(C) The presumption may be rebutted by reasonable proof that the fair wholesale market value of the intoxicating liquor in question is less than the cost of intoxicating liquor to the wholesaler selling the same, and has been designated as close-out merchandise pursuant to section 311.335.3, RSMo and 11 CSR 70-2.190(2)(D). A licensed wholesaler may not use close-out pricing as an inducement for retailers to purchase other intoxicating liquors.

(2) No distiller, wholesaler, wine maker, solicitor, brewer or employees, officers, or agents of same may, directly or indirectly, pay any fee rental or other consideration to any retail licensee for the use of any part of the licensed retail premises for advertising any brand name of distilled spirits, wine, or malt liquor, or for the purpose of advertising the name, trademark, or trade name of any marker of the trademark.

(3) Except as provided in section 311.070, RSMo, no distiller, solicitor, wholesaler, wine maker, brewer or their employees, officers, or agents, directly or indirectly, may give or offer to give any financial assistance, gratuity, or make or offer to make any gift of their products to any retail licensee.

*AUTHORITY: section 311.660, RSMo 2016. * This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Feb. 24, 1987, effective May 11, 1987. Amended: Filed May 14, 1987, effective Aug. 13, 1987. Amended: Filed Nov. 21, 1996, effective May 30, 1997. Amended: Filed Feb. 27, 1998, effective Aug. 30, 1998. Amended: Filed Oct. 10, 2018, effective May 30, 2019.*

**Original authority: 311.660, RSMo 1939, amended 1989.*