

Bulletin CL-LC-2009- 1

Promotion of Alcoholic Beverage Business

The Commercial Licensing and Racing & Athletics Division of the Department of Business Regulation ("Department") has been receiving complaints relating to the promotional, advertising, marketing, and incentive programs ("programs") currently being used by certain alcoholic beverage licensees. The purpose of this Bulletin is to provide guidance to all such licensees relating to these programs.

The Department is hereby providing guidelines in this Informational Bulletin to clarify the permissible limits regarding what these programs may contain. These guidelines are based on the following key laws:

- (1) RI Gen. Laws § 6-13-1 (a) (3) requires that an alcoholic beverage retailer must have at least a six (6%) percent markup over the invoice cost of the product;
- (2) RI Gen. Laws § 3-1-5 requires the Department to construe liberally the liquor regulation laws in aid of its declared purpose which is the promotion of temperance and for the reasonable control of the traffic in alcoholic beverages; and
- (3) RI Gen. Laws § 3-7-4.1. requires that all sampling events by retail liquor stores must be held inside the premises of the licensee and cannot be promoted, except on the store's licensed premises.

Accordingly, here are some guidelines for alcoholic beverage licensees:

1. In general, a Class A retail store licensee may advertise a discount by, for example, promoting low, discounted prices, or by specifically running a "special" on a particular alcoholic beverage. Note, however, that any discount provided must be at least 6% higher than the invoice price of the item (See Section 6-13-1(a)(3) above).
2. In addition, the promotion of incentive programs directed at specific groups, (e.g. seniors, college students, military enlistees, law enforcement personnel, etc.), the purpose of which is to encourage the overall consumption of alcoholic beverages, will not be permitted (See Section 3-1-5 above). However, loyalty programs such as "frequent buyer clubs" will be allowed, so long as the ultimate alcoholic beverage that is discounted based on frequent purchases is 6% higher than the invoice price of the discounted item.
3. Sampling or tasting events conducted by Class A retail liquor stores can only occur and be promoted inside the store's premises (See Section 3-7-4.1 above). Note also that a Class A retail liquor store licensee cannot jointly promote or advertise a wine tasting or sampling event with a Class B restaurant. However, the Class B restaurant may promote or advertise a wine tasting or sampling event at its location, so long as there is no reference to a Class A retail liquor store in the promotion or advertisement.
4. Unlicensed "BYOB's" cannot promote or conduct wine tasting or sampling events. In addition, any Class B restaurant whose liquor license has been suspended or revoked cannot operate on a "BYOB" basis.

5. These guidelines apply to all print, broadcast, and internet promotions and advertisements by alcoholic beverage licensees.

As most alcoholic beverage licensees are aware, liquor control in Rhode Island is primarily regulated at the local level. However, the Department has general oversight jurisdiction in this area, and must necessarily enforce all of the laws enacted by the General Assembly, unless such laws are amended or repealed. While the Department recognizes that we are all bound by the liquor control laws, we nonetheless believe that this Bulletin will provide useful guidelines for all liquor licensees. In addition, the Department stands ready to address any other questions relating to the promotion of alcohol beverage programs, and will supplement this Bulletin, as circumstances warrant.



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