

2016 Liquor Rules Working Group

Trade Practice Subgroup Recommendations

Red Line

09-14-16

47-322(B)

3. A SUPPLIER-SPONSORED CONSUMER GIVE-A-WAY OF ALCOHOL BEVERAGES HELD IN RETAIL ESTABLISHMENTS LICENSED FOR OFF-PREMISES CONSUMPTION FOR THE PURPOSE OF PRODUCT SALES PROMOTION, ARE PERMITTED UNDER THE FOLLOWING CONDITIONS:
 - A. THE MUST PURCHASE THE ALCOHOL BEVERAGE FROM THE RETAILER AT THE RETAIL PRICE OF THE PRODUCT TO BE GIVEN AWAY, INCLUDING TAX.
 - B. A RETAILER/SUPPLIER MAY NOT IMPOSE ANY CHARGE TO THE CONSUMER TO ENTER OR PARTICIPATE IN THE GIVE-A-WAY.
 - C. THE PRODUCT PURCHASED MUST BE OF THE SUPPLIER'S BRANDS AND CURRENTLY OFFERED BY THE SUPPLIER.
 - D. THE SUPPLIER MUST BE PRESENT AND SHALL BE THE PERSON WHO GIVES THE PRODUCT TO CONSUMERS. THE SUPPLIER REPRESENTATIVE MUST VERIFY THAT EACH CONSUMER IS OF LAWFUL AGE PRIOR TO GIVING THE ITEM TO THEM.
 - E. THE SUPPLIER AND RETAILER MUST KEEP RECORDS OF ALL ITEMS PURCHASED FROM A RETAIL LIQUOR STORE TO BE USED AS A FREE GIVE AWAY TO CONSUMERS. THE RECORDS MUST INCLUDE THE DATE, RETAILER/SUPPLIER NAME, AMOUNT PAID, AND NAME OF PRODUCTS PURCHASED.
 - F. SUPPLIER REPRESENTATIVES OR THEIR AUTHORIZED AGENTS MAY GIVE AWAY SEALED ALCOHOL BEVERAGE PRODUCTS DIRECTLY TO THE CONSUMER (FOR OFF PREMISES CONSUMPTION ONLY), IF THE PRODUCT HAS BEEN PURCHASED IN ACCORDANCE TO THIS REGULATION AND THE RETAILER HAS SO CONSENTED. THE RETAIL LICENSEE OR THEIR EMPLOYEE(S) ARE NOT ELIGIBLE TO RECEIVE FREE ALCOHOL BEVERAGE SAMPLES.
 - G. THE MAXIMUM AMOUNT OF ALCOHOL BEVERAGES GIVEN TO EACH CONSUMER IS LIMITED TO TWENTY-FOUR (24) OUNCES OF MALT LIQUOR, OR 375 ML OF VINOUS LIQUOR, OR 375 ML OF SPIRITUOUS LIQUOR.
 - H. SUPPLIERS MAY PROVIDE OR PAY FOR ANY MEDIA ANNOUNCEMENT OF A SUPPLIER-SPONSORED CONSUMER GIVE-A-WAY THAT PRIMARILY ADVERTISES THE PRODUCT, THE LOCATION, AND THE DATE AND TIME OF THE GIVE-A-WAY. THE NAME OF THE RETAIL OUTLET MAY ALSO BE MENTIONED.
 - I. ALL ITEMS PURCHASED BY THE SUPPLIER REPRESENTATIVE FOR THE GIVEAWAY MUST BE GIVEN AWAY TO THE CONSUMER OR THE RETAILER MUST PURCHASE BACK ANY REMAINING ITEMS NOT GIVEN AWAY AT THE ORIGINAL PURCHASE PRICE.

Regulation 47-322(E)

2. Wholesalers, or those licensed to sell at wholesale pursuant to article 46 and 47 of title 12, may furnish or give a limited amount of alcohol beverage samples to retailers licensed solely for off-premises under the following conditions:
 - a. The retailer's class of liquor license permits the sale of the type of beverage offered as a sample.
 - b. The providing of samples is not conditioned upon future purchases of alcohol beverages, or as compensation for any previous alcohol beverage purchase.
 - c. The wholesaler provides not more than 3.0 liters per brand of spirituous liquor, not more than 3.0 liters per brand of vinous liquor, and not more than one six- pack per brand of malt liquor or fermented malt beverage so packaged. If a particular brand is not available in a size meeting the quantity limitations stated herein, a wholesaler may furnish the next available larger size.
 - d. The wholesaler is present at the time of consumption and maintains sole possession of the container after sampling. Samples, in the quantities described herein, may be left in the retailer's possession if the container seal is left intact, BUT MUST BE REMOVED FROM THE LICENSED PREMISES AT THE END OF THE DAY THEY WERE LEFT.

Regulation 47-316(B)

5. GIVE-A-WAYS

A SUPPLIER MAY ADVERTISE, WITHIN RETAIL PREMISES, ALCOHOL BEVERAGE PRODUCTS, CONSUMER MAIL-IN REBATE OFFERS, CONSUMER GIVEAWAYS, SWEEPSTAKES, CONTESTS, AND CROSS PROMOTIONS WITH NON-ALCOHOL BEVERAGE PRODUCTS. SUPPLIERS MAY ALSO PROVIDE CONTEST AND SWEEPSTAKES INFORMATION AND CONSUMER ENTRY FORMS. FURTHER, SUPPLIERS MAY PROVIDE ITEMS, SUBJECT TO THE REGULATIONS BELOW, TO BE GIVEN AWAY IN A CONSUMER GIVEAWAY, SWEEPSTAKE OR CONTEST.

FOR CONSUMER GIVEAWAYS, SWEEPSTAKE OR CONTESTS, (COLLECTIVELY "CONSUMER CONTEST") THE FOLLOWING REGULATIONS SHALL APPLY:

- a. NO ITEM PROVIDED AS PART OF A CONSUMER CONTEST MAY BE AWARDED TO, RECEIVED BY OR OTHERWISE KEPT BY THE LICENSEE OR ANY OF THE LICENSEE'S EMPLOYEES OR AN EMPLOYEE'S IMMEDIATE OR EXTENDED FAMILY MEMBERS.
- b. NO ITEM PROVIDED AS PART OF A CONSUMER CONTEST MAY BE AWARDED TO, RECEIVED BY OR OTHERWISE KEPT BY A SUPPLIER LICENSEE THAT IS PROVIDING ALCOHOL BEVERAGE PRODUCTS TO THE RETAIL LICENSEE OR ANY OF THE SUPPLIER LICENSEE'S EMPLOYEES OR ANY SUPPLIER LICENSEE'S EMPLOYEE'S IMMEDIATE OR EXTENDED FAMILY MEMBERS.
- c. ANY ITEM(S) TO BE GIVEN AWAY IN A CONSUMER CONTEST MUST BE AWARDED AND GIVEN TO THE WINNING CONSUMER WITHIN THE TIME AFFORDED BY THIS REGULATION. OTHERWISE THE ITEM(S) MUST BE RETURNED TO THE SUPPLIER WHO WILL BE RESPONSIBLE FOR AWARDING THE ITEM(S) TO THE WINNER.
- d. THE ACTUAL ITEM(S) THAT IS(ARE) PART OF THE CONSUMER CONTEST SHALL BE DELIVERED TO THE RETAIL LICENSE PREMISES TOGETHER WITH AN INVOICE MADE OUT TO THE RETAIL LICENSEE FOR NOT LESS THAN THE ACTUAL COST OF THE ITEM(S). THE RETAIL LICENSEE SHALL BE RESPONSIBLE FOR AND REQUIRED TO PAY THE INVOICE COST FOR THE ITEM UNLESS THE RETAIL LICENSEE CAN ESTABLISH TO THE SATISFACTION OF THE LIQUOR ENFORCEMENT DIVISION THAT THE ITEM(S) WAS(WERE) IN FACT PRESENTED TO THE WINNING CONSUMER IN ACCORDANCE WITH THE RULES OF THE CONSUMER CONTEST. BOTH THE RETAIL LICENSEE AND THE SUPPLIER OF THE ITEM SHALL EACH MAINTAIN IN THEIR RESPECTIVE RECORDS PROOF ESTABLISHING THAT THE ITEM(S) WAS(WERE) DELIVERED TO THE WINNING CONSUMER. SUCH RECORDS SHALL INCLUDE BUT NOT BE LIMITED TO A SIGNED ACKNOWLEDGEMENT OF RECEIPT OF THE ITEM(S) BY THE WINNING CONSUMER WHICH ACKNOWLEDGMENT SHALL INCLUDE A VALID FORM OF IDENTIFICATION PROVING THE IDENTITY OF THE CONSUMER, THE CONSUMER'S NAME, ADDRESS, PHONE NUMBER, E-MAIL ADDRESS (IF AVAILABLE) AND THE DATE ON WHICH THE ITEM WAS PRESENTED TO THE CONSUMER. IN ADDITION, THE RECORDS SHALL INCLUDE THE NAME AND POSITION OF THE PERSON OR PERSONS PRESENTING THE ITEM TO THE CONSUMER SUFFICIENT SO THAT THE LIQUOR ENFORCEMENT DIVISION CAN VERIFY THAT THE ITEM WAS PRESENTED TO THE CONSUMER CONTEST WINNER.
- e. IN THE EVENT THAT THE SUPPLIER DOES NOT HAVE THE SIGNED ACKNOWLEDGEMENT OF RECEIPT FROM THE CONSUMER WITHIN 30 DAYS OF THE END OF THE CONSUMER CONTEST, IT IS THE RESPONSIBILITY OF BOTH THE RETAIL LICENSEE AND THE SUPPLIER, THAT PAYMENT IN FULL OF THE INVOICE BY THE RETAIL LICENSEE IS MADE TO THE SUPPLIER FOR THE ITEM(S). ABSENT PAYMENT WITHIN 24 HOURS OF THE EXPIRATION OF THE 30 DAY PERIOD, NO SUPPLIER REPRESENTING THE BRAND ADVERTISED IN THE CONSUMER CONTEST SHALL BE PERMITTED TO SELL OR OTHERWISE PROVIDE ANY PRODUCT TO THE RETAIL LICENSEE UNTIL THE INVOICE IS PAID IN FULL.
- f. THE CONSUMER CONTEST, INCLUDING THE DRAWING PERIOD, SHALL NOT LAST LONGER THAN 60 DAYS.

- G. ENTRANCE INTO THE CONSUMER CONTEST IS NOT CONTINGENT ON ANY PURCHASES.
- H. THE ACTUAL ITEM(S) THAT IS(ARE) PART OF THE CONSUMER CONTEST MAY BE ON DISPLAY IN THE LICENSED PREMISES ONLY DURING THE PERIOD OF THE CONSUMER CONTEST. AT THE END OF THE CONTEST PERIOD, THE ITEM(S) MAY BE STORED AT THE RETAILER LOCATION FOR NO MORE THAN 30 DAYS FOLLOWING THE END OF THE CONSUMER CONTEST PERIOD.
- I. THE ITEM(S) MUST BE PROPERLY IDENTIFIED IN SIGNAGE AS A PRIZE THAT IS PART OF THE CONSUMER CONTEST, E.G. "WIN THIS UMBRELLA. "
- J. SIGNAGE SHALL DISPLAY THE STARTING DATE AND ENDING DATE OF THE CONSUMER CONTEST, THE NAME OF THE COMPANY PROVIDING THE ITEM(S), AND ALL OTHER RELEVANT TERMS AND CONDITIONS OF THE CONSUMER CONTEST.
- K. FAILURE TO COMPLY WITH THIS REGULATION SHALL BE CONSIDERED A VIOLATION OF THE REGULATION.