

CHAPTER 13. PROMOTION

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Authority

The provisions of this Chapter 13 issued under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)), unless otherwise noted.

Cross References

This chapter cited in 40 Pa. Code § 5.32 (relating to restrictions/exceptions).

Subchapter A. ADVERTISING

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Source

The provisions of this Subchapter A adopted April 24, 1970, unless otherwise noted.

GENERAL PROVISIONS

§ 13.1. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Advertisement—Any promotion through the medium of newspapers, magazines or similar publications, except that the term does not include the following:

- (i) Any label affixed to a container of distilled spirits or wine, or any covering, carton or wrapper of the container.
- (ii) Any editorial or other reading matter in any periodical, publication or newspaper for the preparation or publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any person subject to this subchapter.

Person—An individual, partnership, joint-stock company, business trust, association, corporation or other form of business enterprise, including a receiver, trustee or liquidating agent.

Routine business entertainment—Meals, beverages, tickets or passes to concerts, theaters, arts, sporting or charitable events provided to licensees, trade organizations or in-State manufacturers by licensees, trade organizations, in-State manufacturers or out-of-State manufacturers. For purposes of this definition, the term “licensee” includes all entities licensed under the Liquor Code including liquor importer licensees and vendor permittees.

Wine—Any fermented alcoholic beverage produced from grapes, fruit or other agricultural products, which contains 7.0% or more alcohol by volume, and includes, but is not limited to, still wines, sparkling wines, carbonated wines, imitation wines, vermouth, cider, perry, sake or any product offered for sale as wine.

Source

The provisions of this § 13.1 amended October 2, 1998, effective October 3, 1998, 28 Pa.B. 4920. Immediately preceding text appears at serial page (222632).

Cross References

This section cited in 40 Pa. Code § 13.51 (relating to general prohibition).

§ 13.2. Applicability.

(a) No person engaged in business as a producer, manufacturer, bottler, importer, wholesaler or retailer of distilled spirits or wine, directly or indirectly, or through an affiliate, shall publish, disseminate or cause to be published or disseminated in any newspaper, magazine or similar publication, any advertisement of distilled spirits or wine unless such advertisement is in conformity with this subchapter.

(b) These provisions do not apply to the publisher of any newspaper, magazine, or similar publication, unless such publisher is engaged in business as a producer, manufacturer, bottler, importer, wholesaler or retailer of distilled spirits, or wine, directly or indirectly or through an affiliate.

DISTILLED SPIRITS**§ 13.11. Mandatory statements.**

(a) Every advertisement of distilled spirits under this subchapter shall conform to the following:

(1) *Responsible advertiser.* The advertisement shall state the name and address of the producer, manufacturer, bottler, importer or wholesaler responsible for its publication. The street name and number may be omitted in the address.

(2) *Class, type and distinctive designation.* The advertisement shall contain a conspicuous statement of the class, type or other designation of the product, corresponding with the complete designation which appears on the brand label of the product.

(3) *Alcoholic content.* The alcoholic content shall be stated in the manner and form in which it appears on the labels of the distilled spirits advertised.

(4) *Percentage of neutral spirits and name of commodity.* In the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production, there shall be stated in the advertisement the percentage of neutral spirits used and the name of the commodity from which such neutral spirits have been distilled in substantially the form in which such statements appear on the labels of the distilled spirits advertised. In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated in the advertisement the name of the commodity from which such neutral spirits or gin has been distilled substantially in the form in which such statement appears on the labels of the distilled spirits advertised.

(5) *“Line” or “Brand” advertisements.* Where an advertisement does not mention a specific product but merely refers to a class of distilled spirits, and the advertiser markets more than one brand of distilled spirits of that class, or where the advertisement refers to several classes of distilled spirits marketed

under a single brand, the only mandatory information under this section applicable to such advertisement is the name and address of the responsible advertiser.

(6) *Retail establishments.* Advertisements by retail establishments which merely refer to the availability of distilled spirits in such establishments but which make no other reference to a specific brand shall be subject only to the provisions of § 13.13 (relating to prohibited statements).

(7) *Advertising of price and size.* Advertisements of distilled spirits which show store prices shall use the phrase "Retail Price" in quoting the current State Liquor Store retail price. Where reference to licensee discount is made the advertisement shall display the statement "Discount to Licensees," and such phrase should appear on the line below "Retail Price."

(b) Wholesale prices shall not be shown in advertisements except in the case of direct mail advertisements to licensees, of special liquor order merchandise, which may show the total wholesale case price, as released by the Board.

(c) A quart shall be advertised as "quart," 4/5 quart as "fifth" or "4/5 quart," a pint as "pint," and the like, and all characters shall be of the same size.

§ 13.12. Lettering.

Mandatory statements required by this subchapter shall appear in lettering of a size, kind, and color sufficient to render them readily conspicuous and legible. Required information shall particularly conform to the following:

(1) It shall be stated against a contrasting background and in type or lettering which is at least the equivalent of eight-point type.

(2) It shall be so stated as to appear to be part of the advertisement and shall not be separated from the remainder of the advertisement in any manner.

(3) It shall not be concealed in unrequired descriptive matter or decorative designs.

(4) Where an advertisement relates to more than one product, the required information shall appear in such a manner as to clearly indicate the particular products to which it is applicable.

Cross References

This section cited in 40 Pa. Code § 13.22 (relating to lettering).

§ 13.13. Prohibited statements.

No advertisement of distilled spirits may contain any of the following:

(1) Any statement that is false or misleading.

(2) Any statement that is disparaging of the products of a competitor.

(3) Any statement or representation which is obscene.

(4) Any statement or representation relating to analyses, standards or tests likely to mislead the consumer, irrespective of falsity.

(5) Any statement or representation relating to any guaranty likely to mislead the consumer, irrespective of falsity.

(6) Any statement that the product is produced or sold in accordance with any authorization, law or regulation of any municipality, county, State, Federal or foreign government, unless such statement is specifically required or authorized by the laws or regulations of such entity. Where a municipal, county, State or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(7) Any statement concerning a brand or lot of distilled spirits that is inconsistent with any statement on the labeling thereof.

(8) Any statement or representation that the use of any distilled spirits has curative or therapeutic effects, where such statement is untrue tends to create a misleading impression.

(9) Any statement that the distilled spirits were manufactured in, or imported from, a place other than that of actual origin, or were produced or processed by one who was not the true producer or processor.

(10) Any statement or representation of, relating to, or capable of being construed as relating to the Armed Forces of the United States, the American Flag, any state flag or any emblem, seal, insignia or decoration associated with such a flag or the Armed Forces of the United States; or any statement or representation of or concerning any flag, seal, coat of arms, crest, other insignia, or Pennsylvania Keystone, likely to falsely lead the consumer to believe that the product has been endorsed, made, used by, produced for, under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, insignia, or Pennsylvania Keystone is associated.

(11) The words "bond," "bonded," "bottled in bond," "aged in bond" or phrases containing these or synonymous terms, unless such words or phrases appear in the advertisement in the form in which they appear upon the label.

(12) Any statement or representation concerning the age of any brand or lot of distilled spirits, unless a statement of age appears on the label of such product. Where any such statement or representation is contained, it shall include all parts of the statement concerning age and percentages, which appear on the label. An advertisement for any whisky or brandy which does not bear a statement of age on the label, or for rum four or more years old, may contain general inconspicuous age representations, for example, "Aged in Wood," "Mellowed in fine oak casks," *etc.*

(13) Any statement or representation referring to religious holidays. References to the Christmas holiday season may be made where such references do not include strictly religious themes. The continued use of labels and advertisements for certain products which for many generations have referred to monasteries and religious orders will be permitted.

(14) Any statement or representation implying that the consumption of distilled spirits enhances athletic prowess, or any reference to any known athlete, if it implies that the use of distilled spirits contributed to the athletic achievements of such person.

(15) Any illustration of a person which is immodest, undignified or in bad taste.

(16) Any illustration depicting the use of distilled spirits in a scene which is undignified, immodest or in bad taste.

(17) Any offer of a prize or award to a consumer for the completion of any contest requiring a purchase of the advertised product. No distilled spirits advertisement shall promote a game of chance or lottery.

Cross References

This section cited in 40 Pa. Code § 13.11 (relating to mandatory statements); and 40 Pa. Code § 13.23 (relating to prohibited statements).

§ 13.14. [Reserved].

Source

The provisions of this § 13.14 reserved November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial page (222636).

§ 13.15. General prohibition and enforcement.

(a) All types of advertising not specifically permitted in this subchapter are prohibited.

(b) The advertising of anything unlawful is prohibited.

(c) The Board may investigate and order the immediate discontinuance of any acts in violation of the provisions of this Subchapter.

(d) Nothing contained in this Subchapter shall exclude any other enforcement power granted the Board either by the provisions of the Liquor Code or any provisions of this title.

Cross References

This section cited in 40 Pa. Code § 13.25 (relating to general prohibition and enforcement).

§ 13.16. Further prohibitions.

In addition to the prohibitions of this subchapter, advertisers of distilled spirits in publications shall comply with all further prohibitions contained in the Liquor Code, particularly in section 493 (47 P. S. § 4-493).

WINE

§ 13.21. Mandatory statements.

(a) Every advertisement of wine subject to this subchapter shall conform with the following:

(1) *Responsible advertiser.* Every advertisement shall state the name and address of the producer, bottler, importer or wholesaler responsible for its publication. The street name and number may be omitted in the address.

(2) *Class, type and distinctive designation.* Every advertisement shall contain a conspicuous statement of the class, type or other designation of the product, corresponding with the complete designation which appears on the brand label of the product.

(3) *Retail establishments.* Advertisements by retail establishments which merely refer to the availability of wine in such establishments but which make no other reference to a specific brand of wine shall be subject only to the provisions of § 13.23 (relating to prohibited statements).

(4) *Advertising of price and size.* Advertisements of wine which show store prices shall use the phrase "Retail Price" in quoting the current State Liquor Store retail price. Where reference to licensee discount is made the advertisement shall display the statement "Discount to Licensees," and such phrase should appear on the line below "Retail Price."

(b) No wholesale prices shall be shown in wine advertisements except that direct mail advertisements to licensees, of special liquor order merchandise, may show the total wholesale case price, as released by the Board.

(c) A quart shall be advertised as "quart," 4/5 quart as "fifth" or "4/5 quart," and a pint as "pint," and the like, and all characters shall be of the same size.

§ 13.22. Lettering.

Mandatory statements required by this subchapter shall appear in lettering of a size, kind, and color sufficient to render them readily conspicuous and legible. Required information shall particularly conform to the provisions listed in § 13.12 (relating to lettering).

§ 13.23. Prohibited statements.

No advertisement of wine under this subchapter may contain any of the following:

(1) Any of the statements described in § 13.13(1)—(6) (relating to prohibited statements).

(2) Any statement concerning a brand or lot of wine which is inconsistent with any statement on the labeling thereof.

(3) Any statement, design or device representing that the use of any wine has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(4) Any statement that the wine was manufactured in, or imported from, a place other than that of actual origin, or was produced or processed by one who was not the true producer or processor.

(5) Any statement or representation of, relating to, or capable of being construed as relating to the Armed Forces of the United States, the American flag, any state flag or any emblem, seal, insignia or decoration associated with such a flag or the Armed Forces of the United States; nor any statement or representation of or concerning any flag, seal, coat of arms, crest, other insignia or Pennsylvania Keystone, likely to falsely lead the consumer to believe that the product has been endorsed, made, used by, produced for, under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, insignia or Pennsylvania Keystone is associated.

(6) Any statement of bonded winecellar and bonded winery numbers, unless stated in direct conjunction with the name and address of the person operating such winery or storeroom. Statement of bonded winecellar and bonded winery numbers may be made in the following form: "Bonded Winecellar No. _____," "Bonded Winery No. _____," "B.W.C. No. _____" or "B.W. No. _____." No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under U.S. or any state government supervision, or in accordance with U.S. or any state government specifications or standards.

(7) Any statement or representation relating to alcoholic content or which tends to create the impression that a wine is "unfortified" or "fortified," has intoxicating qualities, or contains distilled spirits, except where a reference to distilled spirits in a statement of composition is required by this subchapter to appear as a part of the designation of the product.

(8) Any statement relating to age except in the following instances:

(i) In the case of vintage wine, the year of vintage may be stated if it appears on the label.

(ii) Truthful references of an informative nature relating to methods of production involving storage or aging (such as "This wine has been mellowed in oak casks," "Stored in small barrels," or "Matured at regulated temperatures in our cellars'") may be made.

(iii) The statement of any bottling date will not be deemed a representation of age if such statement appears in the following form: "Bottled in _____", (inserting the year in which the wine was bottled).

(iv) No date, except as provided in subparagraphs (i)—(iii) shall be stated unless, in addition direct conjunction therewith, in the same size and kind of printing there is stated an explanation of the significance of such date. Where reference is made to the date of establishment of any business, such date may be stated without undue emphasis and in direct conjunction with the name of the person to whom it refers.

(9) Any statement or representation referring to religious holidays. References to the Christmas holiday season may be made where such references do

not include strictly religious themes. The continued use of statements or illustrations alluding to the traditional use of wine, or the historical development of the wine growing industry in connection with the establishment of early religious communities which might be associated with religious origins or development, will be permitted.

(10) Any statement or representation implying that the consumption of wine enhances athletic prowess, or any reference to any known athlete, if it implies that the use of wine contributed to the athletic achievements of such person.

(11) Any illustration of a person which is immodest, undignified or in bad taste.

(12) Any illustration depicting the use of wine in a scene which is undignified, immodest or in bad taste.

(13) Any offer of a prize or award to a consumer for the completion of any contest requiring a purchase of the advertised product. No wine advertisement shall promote a game of chance or lottery.

Cross References

This section cited in 40 Pa. Code § 13.21 (relating to mandatory statements).

§ 13.24. [Reserved].

Source

The provisions of this § 13.24 reserved November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial page (274521).

§ 13.25. General prohibition and enforcement.

The advertising of wine shall be subject to the regulations set forth in § 13.15 (relating to general prohibition and enforcement).

§ 13.26. Further prohibitions.

In addition to the provisions of this subchapter, advertisers of wine in publications shall comply with all further prohibitions contained in the Liquor Code, particularly in section 493 (47 P. S. § 4-493).

§ 13.27. Board participation in wine events.

(a) Section 215(e) of the Liquor Code (47 P. S. § 2-215(e)) authorizes the Board to sponsor or participate in wine events. A “wine event” is a show, demonstration, exposition or festival that has a purpose of educating consumers about wine that is available in this Commonwealth.

(b) Persons seeking Board sponsorship or participation in a wine event shall submit a request in writing to the Board at least 60 days prior to the first day of the wine event.

(c) If the Board decides to sponsor or participate in the wine event, it will issue a letter of authority to the event organizer. The Board’s letter will describe the premises upon which the wine event will be held.

(d) If the Board decides not to sponsor or participate in the wine event, the Board’s decision is final, and may not be appealed.

(e) Wine to be used in a wine event that the Board sponsors or participates in may be acquired and possessed in accordance with the following:

(1) Wine donated for the wine event may be shipped directly to the wine event organizer or its agents.

(2) Records showing the amount, types and brands of all wine received, the identity of the donors and the dates received and documents evidencing payment of all necessary taxes shall be forwarded to the Board prior to the wine event.

(3) Wine obtained for the wine event that is not used at the wine event shall be returned to the donor, donated to a nonprofit, charitable organization registered with the Department of State or destroyed and may not be sold.

(4) Wine may also be obtained for the wine event through the Board's wine and spirits stores.

(f) The Board's letter of authority authorizes the wine event organizer or its agents to possess and transport wine for the wine event.

(g) Participation in the wine event, including the service and consumption of wine, may be conditioned on the purchase of a ticket to the wine event. The wine event organizer, its agents or the Board may sell tickets. Sale of tickets by the wine event organizer or its agents does not constitute the unlawful sale of alcohol.

(h) The wine event organizer shall appoint a manager who shall be present on the premises at all times during the wine event.

(i) The Board may sell wine for off-premises consumption in an area it designates at the wine event. The Board shall comply with the provisions of the Liquor Code governing retail sales at Wine and Spirits Stores, except that advance advertisement or notice posting by the Board of the location of the designated sales area is not required and provisions granting a right of protest will not be applicable.

(j) If the premises where the wine event is to occur is licensed by the Board, the licensee will not be cited under the Liquor Code for conduct occurring on the licensed premises during the wine event, so long as the licensee, its employees or agents are not directly involved in the violation and are not participating in the operation or management of the wine event.

Authority

The provisions of this § 13.27 issued under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 13.27 adopted January 5, 2007, effective January 6, 2007, 37 Pa.B. 16.

ADVERTISING OF BRAND NAMES

Source

The provisions of these §§ 13.41—13.43 adopted June 26, 1952, amended through April 24, 1970, unless otherwise noted.

§ 13.41. Malt or brewed beverages.

Manufacturers and importing distributors of malt or brewed beverages may include the names and addresses of all distributors and importing distributors to whom they sell in the locality covered by the advertising. No discrimination may be shown to one distributor or importing distributor over another, and where more than one distributor or importing distributor purchases the products from the manufacturer or importing distributor in the area covered by the advertisement, the names and addresses of all who purchase the product directly from the advertiser shall be displayed or mentioned in equal prominence. Where this is not done, none may be displayed or mentioned.

Source

The provisions of this § 13.41 amended November 15, 1985, effective September 25, 1985, 15 Pa.B. 4131. Immediately preceding text appears at serial page (4242).

§ 13.42. Window and doorway display.

(a) A licensee may install or permit to be installed any electrically operated signs or devices, lithographs, framed pictures, cardboard displays, statuettes, plaques, placards, streamers or similar items advertising brand names and intended for window and doorway display on the licensed premises.

(b) Advertising may not exceed 600 square inches in display area. When the advertising material is of maximum size, no background material may be used. When installing signs of smaller size, the combined area of the sign and background or decoration may not exceed the maximum area of 600 square inches.

Source

The provisions of this § 13.42 amended November 22, 1996, effective November 23, 1996, 26 Pa.B. 5699; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial page (274522).

Cross References

This section cited in 40 Pa. Code § 13.43 (relating to interior display).

§ 13.43. Interior display.

(a) A licensee may install or permit to be installed electrically operated signs or devices, lithographs, framed pictures, cardboard displays, statuettes, plaques, placards, streamers or similar items advertising brand names and intended for interior display on the licensed premises.

(b) When the point-of-sale material, as described in subsection (a), is of maximum value as set by the Board, no background material may be used in conjunction with the installation.

(c) Signs or displays intended for use interchangeable in a window, doorway or in the interior must meet the requirements for both maximum area, as provided in § 13.42 (relating to window and doorway display) and maximum value as set by the Board.

Authority

The provisions of this § 13.43 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 13.43 amended November 22, 1996, effective November 23, 1996, 26 Pa.B. 5699; amended January 19, 2001, effective January 20, 2001, 31 Pa.B. 430; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139; amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149. Immediately preceding text appears at serial pages (325015) to (325016).

GIVING AND ACCEPTING THINGS OF VALUE

Source

The provisions of these §§ 13.51—13.52 adopted June 26, 1952; amended through April 24, 1970, unless otherwise noted.

§ 13.51. General prohibition.

(a) Except as provided herein and in § 13.52 (relating to advertising novelties), no in-State or out-of-State manufacturer, licensee or group of licensees, their servants, agents or employees, may directly or indirectly, in person, individually or through a trade organization, contribute to or accept from another licensee or group of licensees of a different class, their servants, agents or employees or a trade organization of licensees of a different class, anything of value by means of advertisements, contributions, purchase, sale of tickets, donations or by any device, for any purpose.

(b) Manufacturers of alcoholic beverages and their servants, agents, employees or representatives are not prohibited from participating in the activities of conventions of State or National organizations of retail liquor licensees, or distributor or importing distributor malt beverage licensees. The participation shall be limited to the payment of registration fees entitling the registrant to admission to the convention, to the insertion of advertising in the convention program of the State or National convention and to the furnishing of food, beverages and entertainment to persons who are bona fide registrants at the conventions.

(c) This section does not prohibit an in-State or out-of-State manufacturer, licensee or trade organization from providing another in-State or out-of-State manufacturer, licensee or trade organization routine business entertainment as defined in § 13.1 (relating to definitions). The routine business entertainment shall be subject to the following conditions:

(1) Routine business entertainment shall be provided without a corresponding obligation on the part of the recipient to purchase alcoholic beverages or to provide any other benefit to the donor or to exclude or restrict from sale the products of any other licensee or in-State or out-of-State manufacturer.

(2) The donor, its servants, agents or employees shall accompany the recipient during routine business entertainment. When items such as tickets are donated by manufacturers to importing distributors for the ultimate use of retailers, the donor is considered to be the importing distributor and it is the importing distributor, or its servants, agents or employees, who shall accompany the retailer.

(3) Routine business entertainment that requires or includes an overnight stay is prohibited.

(4) No more than \$800 may be spent in a calendar year on any recipient licensee.

(5) Included under the \$800 yearly entertainment cap for a recipient licensee are the licensee, a spouse, employees and guests.

(6) Licensees, in-State manufacturers and out-of-State manufacturers shall keep complete and accurate records of all expenses incurred and all routine business entertainment received for 2 years. These records must contain the name of the recipient and donor of the entertainment, the type of routine business entertainment, the date and, in the case of a donor, the amount of expenditure for each occasion.

(d) After prior written agreement, manufacturers may reimburse importing distributors or distributors for the cost of affixing the manufacturers' beer brand logos to importing distributors' or distributors' delivery vehicles.

(e) The sponsorship of a tasting upon a licensed premises will not be considered giving or accepting a thing of value.

Authority

The provisions of this § 13.51 amended under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 13.51 adopted June 26, 1952; amended through April 24, 1970; amended October 2, 1998, effective October 3, 1998, 28 Pa.B. 4920; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139; amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149. Immediately preceding text appears at serial pages (325016) to (325017).

§ 13.52. Advertising novelties.

(a) Under section 493(24) of the Liquor Code (47 P. S. § 4-493(24)), advertising novelties of nominal value may be distributed by manufacturers or any class of licensee to trade or consumer buyers. Advertising novelties include matches, disposable lighters, bottle or can openers, caps, tee shirts, recipe pamphlets, pens, corkscrews and ashtrays, which bear advertising matter.

(b) Advertising novelties may not contain obscene or pornographic matter or references.

(c) Nominal value, as used in this subsection, means an amount not to exceed a monetary limit established and disseminated by the Board. Advertising novelties provided by manufacturers or any class of licensee may not be used as equipment by any hotel, restaurant, club, retail dispenser, importing distributor or distributor licensee. Notwithstanding any other provisions of this section, licensees may sell glasses at not less than cost and provide metal keg connectors and tap knobs to other licensees and to holders of special occasion permits. Manufacturers or importers may furnish, give, rent, loan or sell wine lists or menus to retail licensees. The wine lists/menus may involve cooperative endeavors related to cost sharing and advertisement between manufacturers/importers and retail licensees. Wine lists/menus for on-premises use may contain preprinted prices.

(d) Advertising banners/signs for exterior use are considered advertising novelties if the banners/signs conspicuously advertise the alcoholic beverage products sold by the licensee or the name of the manufacturer of alcoholic beverage products sold by the licensee. Exterior advertising banners/signs must comply with section 498 of the Liquor Code (47 P. S. § 4-498).

(e) Advertising banners/signs that are used for interior display are not subject to the advertising novelty cost limit, but are subject to the point of sale advertising cost limit as set by the Board in its Advisory Notice No. 10 (as amended).

(f) Licensees of any class may sell promotional items advertising their own business only, such as tee shirts, mugs, caps and other similar items, to the general public.

Source

The provisions of this § 13.52 amended March 21, 1986, effective May 21, 1986, 16 Pa.B. 954; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial pages (274524) and (248701).

Cross References

This section cited in 40 Pa. Code § 13.51 (relating to general prohibition).

§ 13.53. Bar spending/free drinks.

Representatives of manufacturers and licensees may give or purchase an alcoholic beverage for consumers in retail licensed premises provided the giving of the alcoholic beverage is not contingent upon the purchase of any other alcoholic beverage and is limited to one standard-sized alcoholic beverage per patron in any offering. A standard-sized alcoholic beverage is 12 fluid ounces of a malt or brewed beverage, 4 fluid ounces of wine (including fortified wine) and 1 1/2 fluid ounces of liquor.

13-12.2

Source

The provisions of this § 13.53 adopted November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139.

§ 13.54. Point of sale (POS) incentive programs—defined.

A POS incentive program provides prizes for nonlicensed buyers to purchase and for distributors/importing distributors to promote the sale of a brand of malt or brewed beverages. These promotions feature displays or advertisements at the location where a sale is made.

Authority

The provisions of this § 13.54 issued under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 13.54 adopted January 5, 2007, effective January 6, 2007, 37 Pa.B. 16.

§ 13.56. Permissible point of sale (POS) incentive programs.

(a) A POS incentive program must be sponsored by a manufacturer or importing distributor of malt or brewed beverages.

(b) The composite value of prizes available to nonlicensed buyers shall be at least three times the value of prizes available to distributors/importing distributors.

(c) Associated display and novelty items must be directed at and available for nonlicensed buyers.

(d) A prize may not be given to every participant.

(e) The value of a prize for a nonlicensed buyer may not exceed \$1,500.

(f) The POS incentive program may not incorporate a payment to licensees based on the number of cases displayed.

(g) The POS incentive program shall be approved in advance by the Office of Chief Counsel, Pennsylvania Liquor Control Board.

Authority

The provisions of this § 13.56 issued under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 13.56 adopted January 5, 2007, effective January 6, 2007, 37 Pa.B. 16.

MISCELLANEOUS PROVISIONS**Source**

The provisions of these §§ 13.61—13.62 adopted June 26, 1952; amended through April 24, 1970, unless otherwise noted.

13-12.3

(348117) No. 426 May 10

§ 13.61. Labeling and advertising of wine and distilled spirits.

Federal Regulation No. 4, as amended, relating to labeling and advertising of wine, and Federal Regulation No. 5, as amended, relating to labeling and advertising of distilled spirits, are applicable to the traffic in wine and distilled spirits within this Commonwealth.

§ 13.62. Distribution of price lists, circulars or handbills.

(a) Except as provided in subsection (b), no licensee may distribute, by mail, personally, or through servants, agents or employees, price lists, circulars or handbills off the licensed premises to the general public as a means of advertising liquor, wine, or malt or brewed beverages.

(b) Distributors, importing distributors, manufacturers of malt or brewed beverages, or licensed vendors selling liquors to the Board and holding a Manufacturer, Importer or Limited Winery License or vendor's permit may notify licensed purchasers by mail, personally, or through servants, agents, or employees, of the sales price of malt or brewed beverages or liquors, or may furnish descriptive brochures, pamphlets or items of a similar nature, to licensed purchasers. The rough copy and layouts for all proposed direct mail advertising shall be submitted before use to the Board for approval. Further, Limited Winery Licensees may notify prospective purchasers other than licensees by mail, personally, or through servants, agents, or employees, of the sales price of wines, or may furnish descriptive brochures, pamphlets or other items of similar nature, to such other prospec-

tive purchasers provided that such other prospective purchasers have requested in writing to be placed on the mailing list of Limited Winery Licensees.

Source

The provisions of this § 13.62 amended May 9, 1980, effective May 10, 1980, 10 Pa.B. 1878. Immediately preceding text appears at serial page (4245).

Notes of Decisions

Price Lists

The presence and distribution of handbills inside the premises of a beer distributor do not constitute advertising, and this section is not violated when patrons remove price lists from the premises. *State Police v. Case Beer & Soda Outlet, Inc.*, 627 A.2d 226 (Pa. Cmwlth. 1993).

**Subchapter B. MARKETING BY VENDORS AND AGENTS;
SPECIAL ORDERS; LUXURY ITEM ORDERS; SAMPLES
AND UNLAWFUL ACTS**

Sec.	
13.71.	Definitions.
13.72.	[Reserved].
13.73.	Privileges of vendors' agents.
13.74.	[Reserved].
13.75.	[Reserved].
13.76.	Special order listings.
13.77.	[Reserved].
13.78.	Special and luxury item orders: requirements and conditions.
13.79.	Special orders and luxury item orders: restrictions.
13.80.	[Reserved].
13.81.	Samples of liquor.
13.82.	Unsolicited special liquor orders.
13.83.	Stock merchandise request forms.
13.84.	Authorization for agents to purchase for retail customers.
13.85.	Unlawful acts.
13.86.	Agency provisions.
13.87.	Records.
13.88.	Presumption of liability of vendor.
13.89.	Penalties.

Source

The provisions of this Subchapter B adopted November 2, 1964, amended through March 6, 1970, unless otherwise noted.

§ 13.71. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Agent—An individual employed by a licensed vendor, to promote the sale of liquor through State Liquor Stores. A person who is a licensee or the holder of a Malt or Brewed Beverage License, or an officer, director, agent or employee of either a licensee or such a licensee, or who is not at least 21 years of age, and of good character, is not eligible to be an agent of a vendor under this subchapter.

Licensed vendor—A licensee holding a Manufacturer or Importer License, or a vendor's permit, and selling liquors to the Board.

Licensee—A natural person, partnership, association or corporation holding a Hotel, Restaurant, Club or Public Service Liquor License issued by the Board.

Luxury items—Stock merchandise which, based upon their short supply or high demand, have been designated as such by the Board. Sales of luxury items may be initiated at a State Liquor Store or by a vendor or its agent on behalf of a licensee or other person.

Miniature—A container containing less than 6 ounces of a liquor, as prepared for the market.

Other persons—Nonlicensee individuals, such as private citizens.

Special order listing—The formal filing with the Board, on its prescribed form, of information the Board requires as to brand, age, proof, type, blend, cost, and the like, of liquors to be sold through the Special Liquor Order Division. The listing does not become effective until approved by the Board or its authorized representative.

Stock merchandise—Liquors which are obtainable at a State Liquor Store, without placing a special liquor order.

Vendor's permit—A permit issued to a nonresident vendor under section 208(j) of the Liquor Code (47 P. S. § 2-208(j)). An application for the permit shall be filed with the Board accompanied by proper fees in accordance with section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A). A permit will be issued for the calendar year only.

Source

The provisions of this § 13.71 amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145; amended December 17, 1999, effective December 18, 1999, 29 Pa.B. 6337; amended February 6, 2009, effective February 7, 2009, 39 Pa.B. 682. Immediately preceding text appears at serial pages (261759) to (261760).

Notes of Decisions

License

The special order form regulations require the signature of the actual purchaser, whether a licensee or an individual customer and for these purposes, a "licensed vendor" is not a "licensee." *Margolis Wines and Spirits, Inc. v. Liquor Control Board*, 453 A.2d 43 (Pa. Cmwlth. 1982).

Cross References

This section cited in 40 Pa. Code § 11.231 (relating to general provisions); 40 Pa. Code § 11.238 (relating to permit holders); and 40 Pa. Code § 11.239 (relating to special order listings).

§ 13.72. [Reserved].**Source**

The provisions of this § 13.72 amended through June 18, 1982, effective July 1, 1982, 12 Pa.B. 1860; amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; reserved December 17, 1999, effective December 18, 1999, 29 Pa.B. 6337. Immediately preceding text appears at serial pages (222644) and (234133).

§ 13.73. Privileges of vendors' agents.

(a) Agents may advertise and promote the sale of stock merchandise by "missionary work" of only those brands sold to the Board by the vendor by whom the agents are employed.

(b) Agents may solicit orders from retail purchasers for stock merchandise or gift certificates for the merchandise.

(c) Agents may solicit from licensees or other persons, orders for those brands of liquor which have been listed with the Special Liquor Purchase Division by the vendors by whom the agents are employed. Special orders obtained by vendors' agents shall be filed with one of the State Liquor Stores as required in this subchapter.

(d) Agents may solicit from licensees or other persons, orders for those brands of liquor which have been designated by the Board as luxury items. Orders for luxury items obtained by vendors' agents shall be filed with one of the State Liquor Stores as required in this subchapter.

Source

The provisions of this § 13.73 amended December 17, 1999, effective December 18, 1999, 29 Pa.B. 6337; amended February 6, 2009, effective February 7, 2009, 39 Pa.B. 682. Immediately preceding text appears at serial page (261761).

§ 13.74. [Reserved].**Source**

The provisions of this § 13.74 amended October 16, 1981, effective January 1, 1982, 11 Pa.B. 3552; reserved December 17, 1999, effective December 18, 1999, 29 Pa.B. 6337. Immediately preceding text appears at serial page (234134).

§ 13.75. [Reserved].**Source**

The provisions of this § 13.75 amended October 16, 1981, effective January 1, 1982, 11 Pa.B. 3552; reserved December 17, 1999, effective December 18, 1999, 29 Pa.B. 6337. Immediately preceding text appears at serial pages (234134) and (222647).

§ 13.76. Special order listings.

(a) It is the intent of this section that vendors shall not compete on special order with items sold to the Board as stock merchandise.

(b) No brand of liquor will be accepted for special order listing unless such brand conforms with the requirements of the Board for listing as stock merchandise.

(c) All listings of liquor, except wine, shall be limited to case quantities, containing not less than 240 fluid ounces unless specially authorized by the Board. Listings of wines and liquors in quarts will not be accepted if 4/5 quarts of the same brand are sold as stock merchandise. Listings in 4/5 quarts will not be accepted if the same brand is sold in quarts as stock merchandise. Other listings will be at the discretion of the Board.

(d) If a vendor has a brand of liquor, except wine, listed as stock merchandise, the Board will not accept for listing by him any other brand of the same class, unless the cost to the Board is at least \$3.00 per case more than the cost of the brand listed as stock merchandise, except where specially authorized.

(e) Change of proof or age will not be considered as a different class except when such change in proof or age causes a change in class under Federal law or regulations.

(f) If a vendor has a brand of liquor except wine, listed as stock merchandise and stocked in the State Liquor Stores in two or more bottle sizes, he may not list the same brand in an additional bottle size on special order under this section unless specially authorized by the Board.

(g) If a vendor has any stock listed brand of United States wine selling at the lowest price, the Board will not accept from him for special liquor order listing another brand of the same type that would sell for the same or a lower price.

(h) No listing of combination cases or assortments containing whiskies or dry gins will be accepted by the Board. No listing will be effective, nor shall prices be quoted, nor orders solicited, until such listing has been approved by the Board and the selling prices formally released in writing to the vendor. The cost prices upon which such selling prices are based will not become effective until the selling prices are released.

(i) The Board reserves the right to cancel any special order listing at any time or list any brands of liquor as stock merchandise.

§ 13.77. [Reserved].**Source**

The provisions of this § 13.77 amended through September 30, 1983, effective October 1, 1983, 13 Pa.B. 2972; amended December 17, 1999, effective December 18, 1999, 29 Pa.B. 6337; reserved February 6, 2009, effective February 7, 2009, 39 Pa.B. 682. Immediately preceding text appears at serial pages (261762) to (261763).

Notes of Decisions*Violation*

A licensed vendor violates the order book procedures prescribed by 40 Pa. Code § 13.77(a) when it lists its agent as the retail customer. For this purpose, a “licensed vendor” is not a “licensee.” *Margolis Wines & Spirits, Inc. v. Liquor Control Board*, 453 A.2d 43 (Pa. Cmwlth. 1982).

§ 13.78. Special and luxury item orders: requirements and conditions.

(a) Orders obtained in accordance with this subchapter and presented by licensed vendors or their agents to State Liquor Stores for licensees shall be filled at the established wholesale case prices prescribed by the Board for sales to licensees. The wholesale prices apply only when the retail value of the order equals or exceeds the minimum retail value established by the Board.

(b) Orders presented at State Liquor Stores by agents on behalf of persons other than licensees, such as individuals, or orders presented by individual customers themselves, shall be at the established retail special liquor order or luxury item prices. No order may be taken for less than two bottles.

(c) A licensed vendor or the vendor’s agents may not obtain an order from either a licensee or other person unless there is obtained at the same time a sum not less than the amount required by the Board for deposit on special order sales under the Liquor Code. State Liquor Stores may, at the time of receiving the order or releasing the liquor to the purchaser, accept the checks of licensees in payment.

(d) A licensed vendor or the vendor’s agent may not extend credit to a licensee or any other person.

Source

The provisions of this § 13.78 amended July 8, 1977, 7 Pa.B. 1890; amended December 17, 1999, effective December 18, 1999, 29 Pa.B. 6337; amended February 6, 2009, effective February 7, 2009, 39 Pa.B. 682. Immediately preceding text appears at serial page (261763).

§ 13.79. Special orders and luxury item orders: restrictions.

(a) Licensed vendors and their agents shall place special orders for liquor at State Liquor Stores.

(b) Except by special permission of the Board, special order merchandise may not be delivered to a State Liquor Store until the licensed vendor has received from the Board a formal purchase order calling for the delivery of the liquor. Each case of liquor so delivered shall have clearly marked thereon, in addition to the information required by Federal or State regulations, the purchase order number, the store order number, the brand and size, the code number as called for in the purchase order, and other information the Board may prescribe.

(c) Liquor sold to licensees will be released only at the State Liquor Store, to the licensee or the licensee’s agent as named on the Wholesale Purchase Permit Card of the licensee.

(d) Special orders placed by a licensed vendor or the vendor's agent for a retail customer may be released by the State Liquor Store.

(e) Licensed vendors and their agents shall place luxury item orders for liquor at State Liquor Stores.

(f) Except by special permission of the Board, luxury item order merchandise may not be delivered to a State Liquor Store until the licensed vendor has received from the Board a formal purchase order calling for the delivery of the liquor. Each case of liquor so delivered shall have clearly marked thereon, in addition to the information required by Federal or State regulations, the purchase order number, the store order number, the brand and size, the code number as called for in the purchase order, and other information the Board may prescribe.

(g) Liquor sold to licensees will be released only at the State Liquor Store, to the licensee or the licensee's agent as named on the Wholesale Purchase Permit Card of the licensee.

(h) Luxury item orders placed by a retail customer, a licensed vendor or the vendor's agent for a retail customer, may be released by the State Liquor Store.

Source

The provisions of this § 13.79 amended December 17, 1999, effective December 18, 1999, 29 Pa.B. 6337; amended February 6, 2009, effective February 7, 2009, 39 Pa.B. 682. Immediately preceding text appears at serial pages (261763) to (261764).

Notes of Decisions

Violation

A licensed vendor violates the order book procedures prescribed by 40 Pa. Code § 13.79(a) when it lists its agent as the retail customer. For this purpose, a "licensed vendor" is not a "licensee." *Margolis Wines and Spirits, Inc. v. Liquor Control Board*, 453 A.2d 43 (Pa. Cmwlth. 1982).

§ 13.80. [Reserved].

Source

The provisions of this § 13.80 reserved September 30, 1983, effective October 1, 1983, 13 Pa.B. 2972. Immediately preceding text appears at serial page (4253).

§ 13.81. Samples of liquor.

(a) Each agent of a licensed vendor may not use more than one case of each brand of liquor sold by the vendor as samples during any calendar month. The samples shall be purchased only through the Board, at a sum equal to the cost price to the Board plus 25% and any required taxes. The purchase of samples at retail in any State Store is prohibited. A separate order for samples shall be placed for each agent, and the name of the agent shall appear on the order. The vendor (or the vendor's authorized supervisor) may be permitted to purchase and distribute to the vendor's agents the prescribed allotment for all agents under the vendor's supervision. The vendor shall, upon request, file with the Board a statement

giving the name of the vendor's authorized supervisor, together with the territories and names of all agents under his supervision.

(b) The samples described in subsection (a) shall be restricted in size to half pints of distilled spirits, and to half bottles or smaller sizes of wine, except when operating conditions do not permit supplying the sizes, in which cases the Board may, upon proper application setting forth satisfactory reasons, permit the use of other sizes as samples.

(c) Sample bottles, before leaving the State Liquor Store, shall have affixed thereto a separate label, or lettering on the commercial label, at least 1/4 inch high, reading: "Sample. Not to be sold. Possession of this bottle by licensee unlawful."

(d) Each licensed vendor shall keep a permanent stock ledger record of all the samples purchased by him, the names of the agents to whom samples were issued, and the quantity and brand. Each authorized supervisor of a vendor shall keep in his office in this Commonwealth a permanent stock ledger record of all samples purchased and distributed by him to his agents as provided in this section. A requisition shall be prepared for each package removed from sample stock, bearing the signature of the agent receiving the merchandise.

Source

The provisions of this § 13.81 amended December 17, 1999, effective December 18, 1999, 29 Pa.B. 6337. Immediately preceding text appears at serial pages (222649) to (222650).

Cross References

This section cited in 40 Pa. Code § 13.223 (relating to procurement of wine or spirits or both); and 40 Pa. Code § 13.231 (relating to general provisions).

§ 13.82. Unsolicited special liquor orders.

Nothing in this subchapter applies to unsolicited special liquor orders under the Liquor Code except the deposit required and the minimum case quantity.

Source

The provisions of this § 13.82 amended through September 30, 1983, effective October 1, 1983, 13 Pa.B. 2972. Immediately preceding text appears at serial pages (4253) and (4254).

§ 13.83. Stock merchandise request forms.

(a) Agents engaged in promoting the sale of stock merchandise may use a stock merchandise request form to assure the availability of any merchandise requested by licensees in full case lots. Licensed vendors may obtain supplies of this form from the Bureau of Logistics of the Board at a cost set by the Board to cover the cost of each order book and postage.

(b) Completed forms shall be directed to the State Liquor Store from which the licensee desires to purchase such merchandise. Only requests for full cases received at the store by mail or delivered to the store by a retail licensee will be accepted. Licensed vendors or their agents may not personally deliver such requests to a State Store.

(c) Vendors or their agents may not accept cash deposits on stock merchandise requests.

(d) The use of stock merchandise request forms is restricted to promotional work with retail licensees.

Source

The provisions of this § 13.83 amended through September 30, 1983, effective October 1, 1983, 13 Pa.B. 2972. Immediately preceding text appears at serial page (4254).

§ 13.84. Authorization for agents to purchase for retail customers.

(a) Registered agents of vendors, by using stock merchandise request forms, may purchase stock merchandise, or gift certificates for stock merchandise, for retail customers.

(b) Where a retail customer has signed the form, it may be presented by the agent to any State Liquor Store as authorization for the purchase of either stock merchandise or gift certificates for the quantity and brand specified, for such customer.

§ 13.85. Unlawful acts.

Pursuant to sections 491(14) and 493(22) and (23) of the Liquor Code (47 P. S. §§ 4-491(14) and 4-493(22) and (23)), the following are prohibited:

(1) To grant, allow, pay or rebate any cash, merchandise, or other thing of value to licensees, their servants, agents, or employes, including the purchase of merchandise at retail for delivery to a licensee; to grant, allow or pay anything of value to a licensee, their servants, agents, or employes, for the privilege of advertising display; to purchase drinks "for the house" to induce the sale of merchandise.

(2) To visit State Liquor Stores or warehouses or directly or indirectly contact store or warehouse employes for the purpose of promoting the sales of merchandise except where the Board has formally approved such visits for the accomplishment of authorized merchandising programs.

(3) To attempt to solicit or induce Board personnel to promote the sale of particular brands.

(4) To attempt to procure information as to the merchandise inventories of State Stores except that, in those instances where the Board has formally approved vendor merchandising programs, inventory information as to the specific products involved in such merchandising programs may be obtained.

(5) To furnish entertainment or offer gratuities to Board personnel.

(6) To grant, allow, or pay money or other thing of substantial value to licensees, their servants, agents, or employes, or induce the sale of merchandise.

(7) To represent expressly or by implication connection with any department of the State Government.

(8) To repurchase, replace, or exchange any liquors purchased by licensees or other persons from State Stores. Defective liquors will be replaced only by the store from which such liquors were purchased, in accordance with Board procedure.

Source

The provisions of this § 13.85 amended October 16, 1981, effective October 17, 1981, 11 Pa.B. 3553. Immediately preceding text appears at serial page (4255).

§ 13.86. Agency provisions.

Licensed vendors and their agents shall, except as otherwise restricted in this title, be considered the agents of the persons from whom they obtain special liquor orders or luxury item orders. Neither the Commonwealth nor the Board will be responsible for the proper disposition of moneys collected from a licensee or other person by a licensed vendor or his agents, and under no circumstances will the Commonwealth or the Board be responsible for actions of a licensed vendor or his agents.

Source

The provisions of this § 13.86 amended December 17, 1999, effective December 18, 1999, 29 Pa.B. 6337; amended February 6, 2009, effective February 7, 2009, 39 Pa.B. 682. Immediately preceding text appears at serial pages (307860) and (261767).

§ 13.87. Records.

(a) Every licensed vendor shall maintain and keep complete records of all operations in this Commonwealth for 2 years, which shall be open to inspection by authorized representatives of the Board during normal business hours. These records must include salaries or commissions of all agents and other employees working in this Commonwealth, expenses of the employees supported by detailed vouchers, all promotional and advertising expenditures, special order sales, luxury item sales and stock merchandise requests.

(b) The agents of vendors operating in this Commonwealth shall maintain complete records covering their operations in this Commonwealth. The records must also be open to inspection by authorized representatives of the Board during normal business hours.

Source

The provisions of this § 13.87 amended December 17, 1999, effective December 18, 1999, 29 Pa.B. 6337; amended February 6, 2009, effective February 7, 2009, 39 Pa.B. 682. Immediately preceding text appears at serial page (261767).

§ 13.88. Presumption of liability of vendor.

In the absence of persuasive evidence to the contrary, it will be presumed that any representative of a vendor who violates this subchapter acts with the consent and knowledge of such vendor, or employer. Penalties will be fixed accordingly on agent, vendor or employer, or both.

§ 13.89. Penalties.

Upon learning of any violation of this subchapter or of any other provisions of this part, or of any laws of the Commonwealth relating to liquor, malt or brewed beverages, or alcohol, by any licensed vendor, or registered or unregistered agent or upon any other sufficient cause shown, the Board may, within one year from the date of such violation or cause appearing, cite such licensed vendor or registered agent, or both, to appear before it or its examiner not less than ten nor more than 15 days from the date of sending such person by registered mail, a notice addressed to the vendor or the registered agent, or both, at the address filed with the Board, to show cause why the license, permit, or registrations should not be suspended or revoked. Upon such hearing, the Board may suspend or revoke such

licenses, permits, or registrations and shall notify the licensed vendor or registered agent by registered mail. Any licensed vendor or registered agent whose license, permit, or registration has been revoked shall be ineligible to hold any license, permit, or registration relating to liquor, malt or brewed beverages, or alcohol, until the expiration of 3 years from the date of revocation. The action of the Board will be final.

Source

The provisions of this § 13.89 amended October 16, 1981, effective January 1, 1982, 11 Pa.B. 3552. Immediately preceding text appears at serial page (4256).

**Subchapter C. SOLICITATION FOR THE PURCHASE OF
ALCOHOLIC BEVERAGES**

Sec.

13.101. Prohibition against solicitation and enticement.

13.102. Discount pricing practices.

§ 13.101. Prohibition against solicitation and enticement.

No licensee, servant, agent or employe thereof, may permit a person on the licensed premises to directly solicit or entice another person for the purpose of the purchase of food, beverages, merchandise, service or another item or thing stored, possessed, served, sold, exposed for sale or dispensed on the licensed premises or contiguous or adjacent premises or premises operated in connection therewith.

Source

The provisions of this § 13.101 amended through December 27, 1985, effective December 28, 1985, 15 Pa.B. 4583. Immediately preceding text appears at serial page (48228).

Notes of Decisions

Consistency

The provisions of this section are not inconsistent with section 493(25) of the Liquor Code (47 P. S. § 4-493(25)). *In re Firenze Tavern Corp.*, 401 A.2d 6 (Pa. Cmwlth. 1979).

§ 13.102. Discount pricing practices.

(a) *General.* Retail licensees may discount the price of alcoholic beverages for not more than 4 consecutive or nonconsecutive hours in a day and not more than 14 hours in a week. Retail licensees may not engage in discount pricing practices between 12 midnight and the legal closing hour. Retail licensees shall post on the licensed premises notice of happy hours. The notice shall be posted so that it is readily visible to the public. The notice shall be posted no less than 7 days prior to the happy hour. Retail licensees may not engage in the following discount pricing practices unless specifically excepted in subsection (b):

(1) The sale or serving, or both, of more than one drink of liquor, wine, or malt or brewed beverages at any one time to any one person, for the price of one drink.

(2) The sale or serving, or both, of an increased volume of one drink of liquor, wine, or malt or brewed beverages without a corresponding and proportionate increase in the price for the drink.

(3) The sale or serving, or both, of an unlimited or indefinite amount of liquor, wine, or malt or brewed beverages for a set price.

(4) The pricing of alcoholic beverages in a manner which permits the price to change within a happy hour period.

(b) *Exceptions.* Nothing in subsection (a) prohibits:

(1) The sale or serving, or both, of an unlimited or indefinite amount of liquor, wine, or malt or brewed beverages for a fixed price for catered events which have been arranged at least 24 hours in advance.

(2) The offering for sale of one specific type of alcoholic beverage or drink per day or a portion thereof at a reduced price, if the offering does not violate subsection (a) and if the price of the drink does not change during the offering. For purposes of this section, a specific type of alcoholic beverage means either a specific registered brand of malt or brewed beverages, a type of wine, a type of distilled spirits or a mixed drink. Examples of permissible drink discounts are found in Board Advisory Notice 16.

(3) Events conducted under the authority of subsection (b) may not be counted against the 4-hour daily or the 14-hour weekly limitation on happy hours in subsection (a).

Authority

The provisions of this § 13.102 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 13.102 adopted December 27, 1985, effective December 28, 1985, 15 Pa.B. 4583; amended March 20, 1998, effective March 21, 1998, 28 Pa.B. 1418; amended December 17, 1999, effective December 18, 1999, 29 Pa.B. 6337; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139; amended January 15, 2016, effective January 16, 2016, 46 Pa.B. 352. Immediately preceding text appears at serial pages (341478) and (376815).

Notes of Decisions

Violation

The licensee was in violation of this section when he varied malt and liquor prices from day to day as a promotional price tactic which encourages the consumption of alcoholic beverages. *In re Locy*, 557 A.2d 1164 (Pa. Cmwlth. 1989); appeal denied 563 A.2d 889 (Pa. 1989).

Subchapter D. TASTING EVENTS

GENERAL PROVISIONS

Sec.
13.201. Definitions.

TASTING EVENTS

13.211. Tasting events.

IN-STORE TASTING EVENTS

13.221. General requirements.
13.222. Prior approval.
13.223. Procurement of wine or spirits, or both.
13.224. Duration of in-store tasting events.

- 13.225. Tastings per consumer.
- 13.226. Food, supplies and equipment.
- 13.227. Participation by Board employees.
- 13.228. Disposal and storage of partially-used liquor and empty containers.
- 13.229. Advertising.

Source

The provisions of this Subchapter D adopted November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139, unless otherwise noted.

GENERAL PROVISIONS

§ 13.201. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

In-store tasting events—Tasting/tasting events held upon the premises of a State Liquor Store.

Sponsor—A sponsor of a tasting event may be any licensed vendor, importer, distributor, importing distributor or manufacturer or its agent or employee who is 21 years of age or older.

Standard size alcoholic beverage—A standard size alcoholic beverage is 12 fluid ounces of a malt or brewed beverage, 4 fluid ounces of wine (including fortified wine) or 1 1/2 fluid ounces of spirits.

Tasting/tasting events—A presentation of alcoholic products to the public for the purpose of market research, disseminating product information and education of the public as to quality and availability.

Authority

The provisions of this § 13.201 amended under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 13.201 amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149. Immediately preceding text appears on serial page (337282).

Cross References

This section cited in 40 Pa. Code § 3.93 (relating to breweries).

TASTING EVENTS

§ 13.211. Tasting events.

(a) Tastings may be conducted by sponsors upon licensed or unlicensed premises.

(b) Sponsors conducting a tasting event shall adhere to the following requirements:

(1) Products used shall be legally procured and properly registered and taxes on the products shall be paid.

(2) Purchase requirements may not be associated with the tasting.

(3) Products offered will not exceed a standard size alcoholic beverage for that product. For example, if wine is offered, each glass of each wine offered to a participant will not exceed 4 ounces in volume. A tasting event comparing

a brand of Chardonnay from California to a brand of Chardonnay from France would allow the participant to receive one 4-ounce glass of each Chardonnay.

Authority

The provisions of this § 13.211 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 13.211 amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149. Immediately preceding text appears on serial page (337282).

Cross References

This section cited in 40 Pa. Code § 3.93 (relating to breweries); and 40 Pa. Code § 5.402 (relating to tasting samples).

IN-STORE TASTING EVENTS

§ 13.221. General requirements.

- (a) Sponsors may conduct an in-store tasting event at the discretion of the Board.
- (b) Only one sponsor may conduct an in-store tasting event at any one store at any one time unless otherwise approved by the Board.
- (c) Sponsors shall observe all State and Federal laws and regulations governing liquor and wine during in-store tasting events.
- (d) The Board may conduct its own in-store tasting event with or without the participation of a sponsor.

Authority

The provisions of this § 13.221 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 13.221 amended May 16, 2008, effective May 17, 2008, 38 Pa.B. 2250. Immediately preceding text appears at serial pages (307862) to (307863).

§ 13.222. Prior approval.

- (a) Sponsors shall obtain approval from the Board to conduct an in-store tasting event prior to the date of the proposed event.
- (b) Prior to the in-store tasting event, sponsors may be required to demonstrate evidence of liability insurance in an amount to be determined by the Board and sign and submit a Pennsylvania Liquor Control Board Indemnity Against Liability form to the Board.
- (c) Prior to the in-store tasting event, sponsors shall provide the Board with a list of products to be tasted by consumers.
- (d) The Board will determine the time, date, and location of the in-store tasting event and will notify the sponsor of same.

§ 13.223. Procurement of wine or spirits, or both.

- (a) Wine or spirits used during the in-store tasting events shall be procured by the sponsor in accordance with the sampling process as specified in § 13.81 (relating to samples of liquor), by purchase from the Board or the sponsor may provide and transport the wine and spirits from its own stock.

(b) A maximum of four products per sponsor per in-store tasting event may be made available for tasting by consumers.

(c) Wine and spirits used during an in-store tasting event shall be dispensed from original containers prepared by the manufacturer with labels visible to the consumer.

Authority

The provisions of this § 13.223 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 13.223 amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149. Immediately preceding text appears on serial page (334021).

§ 13.224. Duration of in-store tasting events.

The duration of an in-store tasting event is limited to a maximum of 2 consecutive hours.

§ 13.225. Tastings per consumer.

(a) In the case of wine, only 1 ounce may be served to any one consumer for each product tasted. A consumer may not be furnished more than 4 ounces of wine.

(b) In the case of spirits, only 1/4 ounce may be served to any one consumer for each product tasted. A consumer may not be furnished more than 1 ounce of spirits.

§ 13.226. Food, supplies and equipment.

(a) The sponsor is responsible for providing all supplies and equipment associated with an in-store tasting event subject to Board approval, including dump buckets, water glasses, tasting containers and tables.

(b) The sponsor shall provide food, such as cheese and crackers, for consumption by consumers during the in-store tasting event.

(c) The sponsor shall be in compliance with applicable municipal health codes.

§ 13.227. Participation by Board employees.

(a) Board employees may pour, dispense or serve tastings to the public.

(b) Board employees may give general information, such as sponsor, time and date, regarding the in-store tasting event to the public.

(c) On-duty employees of the State Liquor Store where the in-store tasting event is being conducted may not consume beverage alcohol.

Authority

The provisions of this § 13.227 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 13.227 amended May 16, 2008, effective May 17, 2008, 38 Pa.B. 2250. Immediately preceding text appears at serial page (307864).

§ 13.228. Disposal and storage of partially-used liquor and empty containers.

(a) At the conclusion of the in-store tasting event, sponsors shall either discard unused portions of opened liquor containers at the State Liquor Store or may reseal the partially-consumed liquor containers. The resealed partially-used containers shall be placed in storage at the store for use at a subsequent store tasting or may be removed from the premises. No partially-consumed liquor containers may be placed in storage at a store for more than 15 days. After 15 days, partially-used containers of liquor may be discarded by the Board.

(b) Sponsors shall dispose of all empty liquor containers in accordance with section 4-491(5) of the Liquor Code (47 P. S. § 4-491(5))

(c) Resealed partially-used containers may not be furnished to employees of the Board or any other person and may only be used for a subsequent in-store tasting.

Authority

The provisions of this § 13.228 amended under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 13.228 amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149. Immediately preceding text appears on serial page (334022).

§ 13.229. Advertising.

Advertising of the in-store tasting event by the sponsor is subject to prior Board approval.

Subchapter E. SAMPLES

Sec

13.231. General provisions.

Source

The provisions of this Subchapter E adopted November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139, unless otherwise noted.

§ 13.231. General provisions.

(a) Samples may be provided by manufacturers or their representatives, licensed distributors and importing distributors to unlicensed customers. Samples of liquor to licensed customers shall conform to § 13.81 (relating to samples of liquor).

(b) Samples shall be in unopened containers of the smallest commercially available size.

(c) Providing samples may not be conditioned upon any purchase requirement.

(d) Samples may not be opened or consumed on State Liquor Store premises or distributor or importing distributor licensed premises.

(e) Samples are limited to one container per patron in any offering.

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