

ABC DOs and DON'Ts

Candace L. Moon, Esq.
The Craft Beer Attorney, APC

CCBA Meeting, May 19, 2014



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ABC DOs and DON'Ts

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Homebrew

Domestic homebrewer must be labeled accordingly per publisher. Homebrewing is a hobby, not a business. Homebrewing is not for sale.

Giveaways (cont.)

- To Retailers
- In-store signs for sale on premises - must be less than 430 sq. in.
- Window displays
- Temporary displays
- Promotional materials with no intrinsic value other than advertising
- Tipping equipment for an initial installation in a new on-site licensed account

Consumer Advertising Specialties

If furnished by a beer supplier to a retailer:
\$ 25 per unit original cost or
\$15 in the aggregate per retailer per year

Non-Profits (cont.)

NP needs ABC special temporary license for consumption of beer on premises where sold.
• Accessing beer (501(c)(3) only)
• No off-site privileges for beer

Labeling



Type 21 (cont.)

- May transfer's home brewery and specific conditions
- Parents and minors on the premises
- May hold off-sale license for 21 retail licenses
- May hold off-sale license for off-sale licenses
- May allow consumers to bring their own bottles but may not accept their own bottles

Type 23

- Self Distribution
- Refill Growlers
- Tasting Rooms
- Duplicate licenses
- Sales to consumers
- On-site consumption
- Off-site consumption
- Limited to your own product unless you have a separate agreement

Agenda

- Basic Privileges
- Type 23
- Type 25
- Non-Profits
- Labeling
- Homebrew
- Giveaways

Questions?
Comments?

Penalties

1. Licensee who transfers license to another person without the approval of the Department shall be subject to a fine of \$1000 and a suspension of the license for 60 days.

So if it does not say you can do something, you can't!

ABC DOs and DON'Ts

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Homebrew:
Donated homebrew must be labeled to identify the product, stating that it is homemade and not available for sale.

Giveaways (cont.)

To Retailers:

- Interior signs for use on premises - must be less than 630 sq. in.
- Window displays
- Temporary displays
- Promotional materials with no intrinsic value other than advertising
- Tapping equipment for an initial installation in a new on-sale licensed account

Retailer Advertising Specialties

The total value of all retailer advertising specialties furnished by a supplier directly or indirectly to a retailer shall not exceed \$50 per brand in any one calendar year.

Consumer Advertising Specialties

If furnished by a beer supplier to a retailer:

- \$25 per unit original cost or
- \$15 in the aggregate per retailer per year

Agenda

- Basic Privileges
- Tapped

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Consumer Advertising Specialties

If furnished by a beer
supplier to a retailer:

Consumer Advertising Specialties (cont.)

- Must bear conspicuous advertising
- Can sell or give to retailer
- Retailer cannot sell
- Must keep and maintain records for a 3 year period

*Retailer Advertising
Specialties*

The t...

Agenda

- Basic Privileges
 - Type 23
 - Type 75
- Non-Profits
- Labeling
- Homebrew
- Giveaways

Type 23

- Self Distribution
- Refill Growlers
- Tasting Rooms
- Duplicate licenses
- Sales to consumers
 - On sale consumption
 - Off sale consumption
 - Limited to your own product unless you have a *bonafide* restaurant



Type 23 (cont.)

- May conduct beer tastings under specific conditions
- Minors are allowed on the premises
- May hold ownership in up to 6 retail licenses
- May hold off-sale license, but all other beer/wine must be purchased from wholesaler
- May allow consumers to "bring their own bottle" but may not exceed your licensed privileges



*Type 75 Brewpub license**

- Min and max brewing quantities
- No growler refills
- No self distribution
- No off sale privileges to consumers
- No donations to festivals, NPs, etc.

**Retail license, not a manufacturing
license*



Non-Profits

Non-Profits

- Only a beer **manufacturer** may give or sell beer to:
 - 501(c)(3)
 - 501(c)(6) -only for meetings/conventions
 - other 501(c) - only for public service or fundraising
- *This means Types 01 and 23, not 75 or 17*

Non-Profits (cont.)

NP needs ABC special temporary license for:

- Consumption of beer on premises where sold
- Auctioning beer (501(c)(3) only)
- No off sale privileges for beer

Non-Profits (cont.)

No sale of alcohol - no paid admission
Premises not open to general public when alcohol is served
Premises not already licensed

No license required when:

- No sale of alcohol - no paid admission *and*
- Premises not open to general public when alcohol is served *and*
- Premises not already licensed

*No license required
when:*

- No sale of alcohol - no paid admission *and*
- Premises not open to general public when alcohol is served *and*
- Premises not already licensed

Labeling



All beer sold in this state shall have a label affixed to the package

- name and address (city and state) of manufacturer
- name and address of bottler (if not manufacturer)
- brand name of beer
- alcohol content if greater than 5.7% alcohol by volume
- special rules if contains distilled alcohol
- must be affixed prior to first sale (cannot sell unlabeled beer to anyone)

*This includes growlers

Labeling (cont.)



Kegs sold for off
premise
consumption
need an
identification tag
and require a
signed receipt
from the
purchaser

Homebrew

Can only leave the premises
where made for:

- Competition or exhibition
- Personal or family use
- Donation to non-profit for
fundraising events

*Tags and receipts available from ABC

Filings



Need to file with ABC:

- Brand names that you sell beer under (all beer, even if not leaving your premises)
- Copies of any label or notice affixed to beer, prior to first sale (cannot sell or deliver beer until label approved by ABC)
- Any variation must be filed separately
- Price Posting
 - Price for wholesalers
 - Price for retailers
- Distribution Agreements (aka territorial agreements)

Homebrew



Homebrew

Can only leave the premises where made for:

- Competition or exhibition
- Personal or family use
- Donation to non-profit for fundraising events

Homebrew

Donated homebrew must be labeled to identify the producer, stating that it is homemade and not available for sale.

Giveaways



To Retailers:

- No free goods
- No advertising
- Nothing of value
- No exterior banners*

*Unless sold or rented

Giveaways (cont.)



To Retailers:

- Interior signs for use on premises - must be less than 630 sq. in.
- Window displays
- Temporary displays
- Promotional materials with no intrinsic value other than advertising
- Tapping equipment for an initial installation in a new on-sale licensed account

*Value e

Retailer Advertising Specialties

The **total** value of **all** retailer advertising specialties furnished by a supplier, directly or indirectly, to a retailer **shall not exceed \$50 per brand** in any one calendar year.

*Value equals actual cost to the supplier

Example



Coast



Coasters



Napkins

Consumer Advertising Specialties

If furnished by a beer
supplier to a retailer:

\$.25 per unit original cost or

\$15 in the aggregate
per retailer per year

Examples



Keychains



Bottle
Openers

Consumer Advertising Specialties (cont.)

- Must bear conspicuous advertising
- Can sell or give to retailer
- Retailer cannot sell
- Must keep and maintain records for a 3 year period

Giveaways (cont.)

If given directly to the general public:

\$3 per unit original cost



Remember, the ABC Act is a permissive document

So if it does not say
you can do
something, you can't!

Penalties

10 Day suspension of license

- Sale or consumption after hours (employees and friends only)
- Possession of an alcoholic beverage not permitted by license
- Keg registration violations

Penalties

15 Day suspension of license

- Sales of alcoholic beverages to people under 21
- Permitting person under 21 to consume
- Furnishing alcoholic beverage to person under 21
- Sale to obviously intoxicated person
- Sale of consumption after hours by public
- Undisclosed ownership if hidden owner qualified
- Violation of license conditions

Penalties

30 Day suspension of license

- Licensee or Bartender working in premises while intoxicated
- Licensee or Employee not permitting inspection of premises

A teal circular graphic is centered on a green background. A white, textured path curves across the bottom left corner. The text "Questions? Comments?" is written in white, bold, italicized font inside the teal circle.

Questions?
Comments?



NP needs Abs...
temporary license
• Consumption of beer
on premises where
sold
• Auctioning beer
(501(c)(3) only)
• No off sale privileges
for beer

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Questions?
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Type 23 (cont.)

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Type 23

- Self Distribution
- Refill Growlers
- Tasting Rooms
- Duplicate licenses
- Sales to consumers
 - On sale consumption
 - Off sale consumption
 - Limited to your own product unless you have a bonafide restaurant

Type 75

- Non-Profits
- Labeling
- Homebrew
- Giveaways

Penalties

30 Day suspension of license

- Licensee or Bartender working in premises while intoxicated
- Licensee or Employee not permitting inspection of premises

Penalties

15 Day suspension of license

- Sale of alcoholic beverages to person under 21
- Permitting alcoholic beverage to person under 21
- Sale of alcoholic beverage to person under 21
- Sale of consumption after hours by public
- Unlawful possession of 3 licenses
- Violation of license conditions

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