



What to Know About Participating in Nonprofit Events

California Craft Brewers Association FAQ on hosting, participating and managing a nonprofit beer festival or event

Breweries today are inundated with requests from nonprofits for donations and event services. There are a variety of legalities and business considerations that must be addressed if your brewery decides to participate in a beer festival.

Basics

What constitutes as a “nonprofit” for an event?

Nonprofits must be federally designated as a 501(c) organization to qualify for a one-day special event license from the ABC and the type of 501(c) will dictate the type of event that may be hosted. Several nonprofits may have a *state* designation that grants nonprofit status, but this is not sufficient under the California ABC code – the nonprofit must have received *federal* designation from the Internal Revenue Service as a 501(c).

As a rule of thumb, always ask to see the nonprofit special event one-day license.

Who can donate to a nonprofit organization?

Beer manufacturers with a Type 01 or Type 23 license may donate *or sell* beer to a charitable organization that holds a non-profit license. Contract brewers with a Type 17 license must also have an importers license (Type 09 license) in conjunction with their Type 17 to donate beer. Brewers with a Type 75 are not allowed to donate beer.

Do I have to donate to a nonprofit organization?

The short answer to this is no, but you can if you wish to. Many breweries donate to nonprofits or nonprofit run events and festivals as a marketing tool, to link their brand to a specific charity or to participate in more events throughout the year. You can absolutely sell your beer to nonprofit and, if selling to a nonprofit with a special event license (for a beer festival or other event), no price posting is required. You may sell at any price you wish.

What events is my brewery NOT allowed to donate beer for?

Occasionally an event is run by a holder of a caterer’s license or a concessionaire license. In this case, you cannot donate the beer and you cannot pour the beer. The beer must be sold at your

posted price. It is best to have the license holder send you a copy of the license before you donate beer to ensure that the event has the proper licensing.

Knowing what organization is running an event and pulling the license is critical before donating beer or committing staff to pour.

Role and responsibilities of the nonprofit event license holder

The nonprofit hosting the beer festival or event is responsible for the following activities regarding the management, licensing and organization of the event. It's important to note that many nonprofits use a management firm or organizer to "run" the festival. Even if there is a management firm in place, the nonprofit is still completely responsible for the following:

- **Applying, obtaining, and maintaining appropriate licensing for the event.**
 - The type of event that the nonprofit is qualified for varies on the type of 501(c) status it holds.
- **Directly receiving and processing all alcohol – whether donated or purchased.**
 - As the license-holder, the nonprofit is the *only* party with the right to accept alcoholic beverages for use at the event. In the event that alcohol is being sold to the event, only the nonprofit is legally able to pay for alcohol.
- **Collecting all revenue from alcohol sales.**
 - Much like the alcohol itself, all revenue from alcohol sales must be received by and run through the nonprofit's bank account. *Revenue from alcohol sales cannot be collected by anyone other than the nonprofit.* Allowing a third party to collect the revenue and then allocate a portion of such proceeds to the nonprofit after the fact is illegal under California law. Alcohol sales include revenue generated from ticket sales if the ticket includes complimentary alcohol beverages; drink tickets, or other access to alcohol as part of the entry fee.
- **Running and managing the event.**
 - The nonprofit is the license-holder and the only party with legal authority to run a beer festival or other nonprofit event involving the sale of alcohol. The nonprofit can contract out to a third-party (oft times a party more familiar with running a beer festival or similar event), such as a for-profit management firm, but such an arrangement must be appropriately documented. Regardless, the responsibilities for collecting and processing the alcohol and revenue must remain with the nonprofit.
- **Coordinate staff for the event.**
 - Individuals cannot "volunteer" for a for-profit company (such as a brewery) in California, but they can volunteer for a nonprofit. For this reason, the nonprofit event organizer should coordinate and solicit all volunteers for the event.
 - If a brewery wants to use its own staff to pour at a nonprofit event, the staff has to be paid the same as they would for any other shift. Please note that attendance at the event is not sufficient compensation for the staff required to be there.

What breweries should consider before participating in a nonprofit beer festival

A brewery interested in selling, donating or pouring beer at a nonprofit-hosted beer festival should consider a variety of logistical questions before determining involvement, primarily to ensure the event is operated in accordance with California ABC regulations. Key items to consider are included below:

- Participating breweries are not required to sell or donate beer to nonprofit events, but may do so at their discretion. Either way, breweries must only sell or donate beer to the nonprofit, not a third party such as the host brewery or facility or a management firm.
- Similarly, participating breweries should ensure that the nonprofit receives all revenue associated with alcohol sales.
- Participating breweries should always obtain and maintain a copy of the nonprofit's ABC license.

It is the responsibility of everyone involved in an event to ensure that ABC regulations are adhered to. In addition, common donation restrictions to consider are included below:

- Brewery staff may pour beer at the event and may provide dispensing equipment (jockey box). The brewery may also provide a table, pop-up or other shade, signage and marketing material. The brewery may *not* provide cups or ice.
- A brewery cannot donate merchandise to the non-profit license holder.
- A brewery cannot give any items away to a consumer at the event valued at more than \$3.00 per item. There are no ABC restrictions that prohibit a brewery from selling merchandise at an event. Items must be sold at "fair market value," generally considered to be your cost plus 10%.

Additional requirements for hosting a nonprofit festival on your licensed premises

As a way to build traffic and increase marketing potential at your tasting room, some breweries choose to host a nonprofit beer festival on their licensed premises. In this case, the host brewery is responsible for the additional items listed below.

Please check with your ABC district office and legal counsel prior to planning an on-premise event. Some district offices do not issue licenses for events on a brewery's licensed premises.

- **Suspend your brewery ABC license for the portion of the premises where the event will take place.**
 - By default, the host brewery will have no right to manufacture or sell beer in that space during the event and all rights to sell alcohol are held by the nonprofit. This substantially limits what a host brewery may do at the event.

- **While not required, the host brewery may donate or sell beer to the nonprofit for use at the event.**
 - Beer may be donated at no charge, sold to the nonprofit at a discounted rate, or sold to the nonprofit at full value in the host brewery’s discretion. *The host brewery is not entitled to require that its beer be the only beer sold or served at the event.*
 - The brewery, like any other participating brewery, may only sell or donate beer to the nonprofit, not the management firm. The brewery may also donate cash, but cannot donate merchandise, gifts cards, or other related items.

It is important to note that many nonprofit events receive donations from parties other than the host brewery, including retailers or parties without any ABC licensing. To the extent that a retail licensee participates or sponsors the nonprofit event, the host brewery must be mindful of its event advertising. The host brewery may advertise its sponsorship and participation in the event, even if such advertising references a retail licensee; however, the host brewery may not provide any other thing of value to a retail licensee (such as promotion of that retail licensee in its own right) nor may the brewery list the retail price of any alcoholic beverage.

Role and responsibilities of a third-party “management firm”

Many nonprofit festivals and events also involve a management firm for coordinating the actual event – whether that event is held on a brewery’s licensed premises or an unlicensed premises. Many nonprofits hire management firms because they are not well versed in event planning, especially events with the added burden of ABC compliance. However, even management firms with substantial beer festival experience and host breweries frequently act outside of their legal authority by taking on duties that can only be performed by the nonprofit.

A third party management firm may be hired by the nonprofit to assist with and coordinate many technical aspects of the event. Sometimes the “host brewery” is hired to manage the event as well. Management may assist the nonprofit in coordinating the recruitment and training of staff, décor, event concept, budgeting, scheduling, government permits, entertainment services, security services, catering, and other third-party vendors.

Under no circumstances may a management firm accept or process alcohol for the event or revenue derived from alcohol sales.

To the extent that a host brewery acts as a third-party management firm and retail licensees are also involved as participants or sponsors of the event, the host brewery/management firm has additional legal pitfalls that must be avoided. The host brewery/management firm cannot pay or reimburse a retail licensee for any advertising services, nor can the host brewery/management firm pay, in whole or in part, for any costs of a retail licensee that is sponsoring or participating in the event. *The prohibition on providing a retail licensee a “thing of value” is not affected by a host brewery’s position as a third-part management firm.*

Beer Festival FAQ

Below are a few frequently asked questions about donating to non-profits and participating in beer festivals. Members of the California Craft Brewers Association may email additional questions about participating in a nonprofit beer festival or event to abc@californiacraftbeer.com.

Q. Can I donate some hats and T-shirts to a non-profit organization holding a beer festival with a one- day license?

A. No. Donating product is allowed, but donating branded novelty items (hats, t-shirts, glassware, etc.) is not allowed. You can donate non-branded items. Or, you can make a cash donation to the non-profit and they can in turn purchase branded novelty items (as long as there are no conditions attached and the non-profit makes an independent decision to do so). A non-profit, special event license is a temporary retail license and falls under all of the restrictions of a licensed retailer except as provided in statute (the statute specifically allows donating beer and being able to serve beer). Therefore, you cannot “donate” or provide any item valued at \$0.25 or more per item to a charity that is the holder of a special event license.

Q. Can I donate beer to a nonprofit without a one-day license?

A. Breweries may donate beer to a 501(c) organization that is holding a private event (not open to the public, no charge for admission and no sales of alcohol) that is being held on a premise that is not licensed by the ABC.

Q. A non-profit is holding a fundraising event at Bob’s Bar. Is it OK to donate beer to the event?

A. Only if the retailer surrenders their ABC license for the portion of the licensed premise for the duration of the event and only if the non-profit has a one-day license for the event. Be cautious anytime a non-profit holds an event at a licensed retailer and asks for beer to be donated.

Q. Can I pour my beer at a beer festival?

A. If you are a licensed beer manufacturer (type 23 or 01) than yes you can – as long as the event has a non-profit special event license. Remember, you can donate the beer to the non-profit, and then you can dispense the beer for the non-profit. This license also allows you to take back any unused beer not served at the event. But technically, the beer belongs to the non-profit during the course of the event.

Q. Can I have a friend pour beer for me at a beer festival?

A. Yes. You can assign an “agent” of your brewery to pour for you. They do not have to be a paid employee. But your company assumes all responsibility of that person’s action during the entirety of the event.

Q. I am a licensed brewery with a type 23 license. I’d like to have a non-profit hold a fundraiser event at my brewery. Can I do that?

A. Yes. But there are many restrictions. The non-profit must get a special event temporary license from the ABC and abide by all the restrictions of that license. You must also surrender your type 23 for any portion of your licensed premise that overlaps the footprint of the special event license (this is detailed on the license application). If a portion of your license is not surrendered as part of the non-profit event, then no beer can cross between the two licenses. There are many other restrictions that you should be aware of. Be aware that if there is an incident, or the ABC does an inspection during the course of the event, or if the ABC does an audit of the event at a later time, your license could be revoked if there is a violation found. We strongly recommend using a consultant to advise you of all of the restrictions prior to holding an event at your brewery. Contact the CCBA for more information.

Q. We have a type 23 license and I was told we couldn’t sell our beer at a beer festival.

A. As a beer manufacturer, you are allowed to donate beer to the non-profit. Only the non-profit is allowed to sell the beer. All revenue from sales of beer must go directly to the non-profit.

Q. But we show up with our beer and take the leftover beer with us. Isn’t that selling our own beer?

A. No. During the course of the event, the beer technically belongs to the license holder, not the brewery even though you are pouring it and it is in your booth. This type of retail license does allow the beer manufacturer to take back any unused product, so at the end of the event you can take back into your possession any unused product.

Q. So even though we have our own booth and serve our own beer, we can’t be compensated for it?

A. You can sell your beer to the non-profit prior to the event and be compensated in that way. You do not have to sell at your posted prices.

Q. We were at a beer festival last week and next to us was a brewery we had never heard of. They had signage, coasters and a Facebook page. They were very vague about who they were but finally admitted they were homebrewers. Are homebrewers allowed at beer festivals now?

A. Yes. A bill was passed two year that allows homebrewers to give beer to a non-profit special event license holder. They may not sell the beer to the non-profit. All homebrew served at an event under these circumstances must be in a defined separate area with clear signage indicating that it is homebrew being served. To ensure that consumers know which beer is homebrew, the law specifically reads that homebrewed beer must be served "within a clearly identified area including... a physical barrier with a monitored point of entry."

Q. A non-profit organization runs a local arts and music theater. They hold a permanent retail license for the venue and sell beer & wine at events. Can we donate beer to them since they are a non-profit organization?

A. No. They hold a *permanent retail license* and beer manufacturers are only allowed to donate beer (with stipulations) to the holder of a *non-profit temporary license*.

Q. If they were to get a temporary beer & wine license for a special event, could we then donate beer to them?

A. No. Because they hold a permanent retail license, you cannot donate to them even if they were to get a temporary license.

Q. What records are we required to have on hand and/or keep when we donate beer or bring beer to an event?

A. You want to create an invoice for the beer that is being donated or sold to the non-profit. Keep it with you during the event and file it after. You'll also want to obtain a copy of any temporary license that has been issued to the non-profit. You will need to keep these and any other documents (physical or electronic), related to non-profit donations, in your files for at least three years. "Licensees who manufacture, import, sell or distribute alcoholic beverages must keep records at the licensed premises for a period of three years. (Section 25752 and Rule 17)."