

Alcoholic Beverage Control Regulatory Updates



Presented by:

Lee Riegler

Supervising Agent in Charge

Trade Enforcement Unit

December 2018



Social Media

- ⦿ There is not a specific statute that regulates social media
- ⦿ Social media is treated the same as any other media/advertisement
- ⦿ Can only include the permitted information
 - ⦿ Pursuant to specific tied house exception
- ⦿ Cannot include hashtags
 - ⦿ #bestrestaurant, #awesomewinelist, #greatservice
- ⦿ Cannot include hyperlinks to retailer's website



Advertising

- ⦿ General prohibitions – 25500(a)(2) and 25502(a)(2) B&P
 - ⦿ No manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director, or agent of any such person shall:
 - ⦿ Furnish, give, or lend any money or other thing of value, directly or indirectly, to any person engaged in operating, owning, or maintaining any on-sale or off-sale premises
- ⦿ Advertising for a retailer is a prohibited thing of value

Advertising



- Ⓢ Narrowly construed exceptions that permit limited advertising for retailers
 - Ⓢ 23355.3 B&P – events conducted by or for the benefit of nonprofit organizations (sponsorships)
 - Ⓢ 25500.1 B&P – listing of retailers selling beer produced, distributed or imported by supplier
 - Ⓢ 25503.45 B&P – consumer instruction at an on-sale retail licensed premises
 - Ⓢ 25503.56 B&P- instructional tasting event at an off-sale premises holding a Type 86 license

Donations to Non-Profit Organizations



- ⊙ Limited circumstances for donations when the NPO does NOT hold a one-day license
 - ⊙ 23399.1 B&P – when a license or permit is not required
 - ⊙ No sale of an alcoholic beverage
 - ⊙ Purchase of a ticket that includes an alcoholic beverage = sale of an alcoholic beverage
 - ⊙ Premises are not open to the general public during the time the alcoholic beverages are served, consumed or otherwise disposed of
 - ⊙ Tickets sold to the public = open to the general public
 - ⊙ Premises are not maintained for the purpose of keeping, serving, consuming or otherwise disposing of alcoholic beverages

Donations to Non-Profit Organizations



- ⦿ If the event does not fall within the parameters of section 23399.1 B&P then the NPO must possess a valid one-day license for the event
- ⦿ Can you donate anything else to the NPO?
 - ⦿ Money – section 23355.1 B&P
 - ⦿ Beer – section 25503.9 B&P
 - ⦿ Services – Rule 106(h) CCR

Contests or Raffles in Brewery Tasting Room



- ⊙ Raffle is contained in the definition of Lottery in 319 PC
- ⊙ Holding a raffle is gambling and is prohibited upon a licensed premises
- ⊙ Holding a raffle and selling raffle tickets are both misdemeanors (320 PC and 321 PC)

Contests or Raffles in Brewery Tasting Room



- Ⓢ Consumer contests – section 25600.1 B&P
 - Ⓢ Exception to free goods prohibition (25600 B&P)
 - Ⓢ Entry or extra chances shall not be made available via the purchase of an alcoholic beverage
 - Ⓢ Entry/participation shall be limited to person 21 years of age or older
 - Ⓢ Shall not involve consumption of an alcoholic beverage by participant
 - Ⓢ May not be conducted for the benefit of a permanent retail licensee
 - Ⓢ Shall provide an alternate means of entry that does not require a visit to a licensed premises

Contests or Raffles in Brewery Tasting Room



- ⦿ Consumer contests (continued)
 - ⦿ All permitted means of entry shall clearly indicate that no purchase is required to enter
 - ⦿ Shall not provide for the instant awarding of prize
 - ⦿ Except for providing a means of entry, contest shall not be conducted upon the premises of a beer manufacturer operating under duplicate license for branch office
 - ⦿ Alcoholic beverages or anything redeemable for alcoholic beverages shall not be awarded as a contest prize
 - ⦿ Exception – cash
 - ⦿ Exception – alcoholic beverage is incidental part of a prize package

Contests or Raffles in Brewery Tasting Room



- Ⓢ Consumer sweepstakes - section 25600.2 B&P
 - Ⓢ Exception to free goods prohibition (25600 B&P)
 - Ⓢ No entry fee may be charged to participate
 - Ⓢ Entry or extra chances shall not be made available via the purchase of an alcoholic beverage
 - Ⓢ Entry/participation shall be limited to person 21 years of age or older
 - Ⓢ Shall not involve consumption of an alcoholic beverage by participant
 - Ⓢ Shall be open to all California residents (>21)
 - Ⓢ May not be conducted for the benefit of a permanent retail licensee

Contests or Raffles in Brewery Tasting Room



- Ⓢ Consumer sweepstakes (continued)
 - Ⓢ Shall provide an alternate means of entry that does not require a visit to a licensed premises
 - Ⓢ All permitted means of entry shall clearly indicate that no purchase is required to enter
 - Ⓢ All entries shall provide equal odds of winning
 - Ⓢ Shall not provide for the instant awarding of prize
 - Ⓢ Except for providing a means of entry, sweepstakes shall not be conducted upon premises of a beer manufacturer operating under duplicate license for branch office

Contests or Raffles in Brewery Tasting Room



- Ⓢ Consumer sweepstakes (continued)
 - Ⓢ Alcoholic beverages or anything redeemable for alcoholic beverages shall not be awarded as a contest prize
 - Ⓢ Exception – cash
 - Ⓢ Exception – alcoholic beverage is incidental part of a prize package All permitted means of entry shall clearly indicate that no purchase is required to enter
 - Ⓢ “sweepstakes” means a procedure, activity, or event for the distribution of anything of value by lot, chance, or random selection where the odds for winning a prize are equal for each entry



Free Goods

- Ⓢ Section 25600 B&P and Rule 106 CCR
 - Ⓢ No licensee shall, directly or indirectly, give any premium, gift, or free goods in connection with the sale or distribution of any alcoholic beverage, except as provided by rules that shall be adopted by the Department (Rule 106)
 - Ⓢ “Distribution” includes any activity that promotes the alcoholic beverage

Private Label Brew for Retail Licensee



- ⦿ No specific statute permitting custom private label brew for retailer
- ⦿ Department has permitted it under very limited circumstances
 - ⦿ The label is owned by the retailer
 - ⦿ All costs related to the manufacturing of the beer are incurred by the retailer
 - ⦿ Brewing, bottling, labeling, shipping, etc
 - ⦿ The beer is sold only to that retailer for resale at the retailer's licensed premises
 - ⦿ Cannot be sold at the beer manufacturer's licensed premises (prohibited thing of value)

Private Label Brew for Retail Licensee



- Ⓢ Cannot give, lend, or furnish anything of value to the retailer
- Ⓢ Collaboration brews with retailers are NOT permitted
 - Ⓢ Such activity would constitute a violation of section 25500 or 25502 B&P
- Ⓢ Cannot label beer with your proprietary label and state that it was made or brewed for a specific retailer
- Ⓢ Cannot label beer with your proprietary label and state that it is only sold at a specific retailer

Private Label Brew for Retail Licensee



- Ⓢ For all private label beer manufactured for a retailer, the beer manufacturer must comply with the following statutes:
 - Ⓢ 25000 B&P – Filing beer price schedules
 - Ⓢ 25200 B&P – Labeling and registration

Alcoholic Beverage Control Regulatory Updates



© Questions???