

# Alcoholic Beverage Control Regulatory Updates



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# 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, #awesomebeer, #greatservice
- ⦿ Cannot include hyperlinks to retailer's website



# Discounts

- Ⓢ A beer manufacturer may offer discounts on beer offered for sale at their licensed premises
  - Ⓢ May offer discount via paper or electronic coupon, social media, etc
  - Ⓢ May offer a discount that is contingent on the purchase of food or other item(s)
    - Ⓢ Spend \$20 in food, get 50% off beer purchase = Yes
    - Ⓢ Buy one beer, get one beer 50% off = Yes
- Ⓢ Cannot offer discount that would result in beer (or other items) being given away for free.
  - Ⓢ Buy one, get one free = NO!

# Private Event/Function



- Ⓢ Section 23357 B&P permits a licensed beer manufacturer to sell beer and wine upon their licensed premises to guests during private events or private functions not open to the general public
  - Ⓢ Initiated by a consumer
    - Ⓢ Birthday party, retirement party, wedding reception
  - Ⓢ Cannot sell tickets to event/function
- Ⓢ The statute does not use the term private “party”

# Private Event/Function



- Ⓢ May have upon the premises beer and wine, regardless of source, for sale or service
- Ⓢ Alcoholic beverage products sold that are not produced by or for the licensee shall be purchased only from a licensed wholesaler
  - Ⓢ Cannot purchase from another beer manufacturer
  - Ⓢ Cannot purchase from a winegrower

# Private Event/Function



- ⦿ All alcoholic beverages sold or served shall be produced by a licensee authorized to manufacture the product
  - ⦿ Homemade wine or beer is prohibited
- ⦿ So what does “regardless of source” mean?
  - ⦿ Allows for guests to bring beer or wine to the event for service by the licensee
    - ⦿ A specific champagne for a toast

# Production of Seltzer or Kombucha



- © Licensees must submit their formulas to TTB for them to make a determination as to how the product will be classified
- © If classified as a malt beverage product then the licensed beer manufacturer may produce it upon their licensed premises
- © If classified as wine or distilled spirits then the licensed beer manufacturer would need to obtain the proper license to manufacture that product



# Returns of Beer from a Retailer

- ④ Section 23104.2 B&P permits the return of beer by a retailer under any one of the following circumstances:
  - ④ The beer is exchanged for the identical quantity and brand
  - ④ From a seasonal or temporary licensee if the licensee has beer remaining unsold at the termination period of the license
  - ④ Following the revocation of, suspension of, voluntary surrender of, or failure to renew the retail license
    - ④ Credit the account in an amount not to exceed the original sales price if the beer is paid for in full





# Returns of Beer from a Retailer

- ④ Section 23104.2 B&P permits the return of beer by a retailer under any one of the following circumstances:
  - ④ Discontinued beer
    - ④ Not reintroduced in the same California market for 12 months
    - ④ Must be exchanged for a quantity of beer with a value no greater than the original sales price to the retailer for the returned beer
    - ④ Must obtain Department approval prior to the exchange
      - ④ Send your request to [TEU@abc.ca.gov](mailto:TEU@abc.ca.gov)



# Returns of Beer from a Retailer

- ④ Section 23104.2 B&P permits the return of beer by a retailer under any one of the following circumstances:
  - ④ Seasonal beer
    - ④ Not reintroduced in the same California market for 6 months
    - ④ Must be exchanged for a quantity of beer with a value no greater than the original sales price to the retailer for the returned beer
    - ④ Seasonal is defined as a beer that is brewed by a manufacturer to commemorate a specific holiday season and is so identified by appropriate product packaging and labeling
    - ④ Must obtain Department approval prior to the exchange
      - ④ Send your request to [TEU@abc.ca.gov](mailto:TEU@abc.ca.gov)



# Returns of Beer from a Retailer

- ④ Section 23104.2 B&P permits the return of beer by a retailer under any one of the following circumstances:
  - ④ Recalled or considered to present health, safety, or public quality issue
    - ④ Exchange the beer for identical product if safe product is available, or
    - ④ Issue a deferred exchange memorandum, or
    - ④ Issue a credit memorandum
    - ④ Must obtain Department approval
      - ④ Send your request to [TEU@abc.ca.gov](mailto:TEU@abc.ca.gov)
    - ④ Shall not include the return of beer due to the aging of beer



# Returns of Beer from a Retailer

- ④ Section 23104.2 B&P permits the return of beer by a retailer under any one of the following circumstances:
  - ④ One day licensee
    - ④ Credit the account in an amount not to exceed the original sales price if the beer is paid for in full
  - ④ On-Sale retailer under a catering authorization
    - ④ Return unopened and unused beer upon expiration of the catering authorization
    - ④ The beer was purchased for use or sale only at the event
      - ④ Not for use or sale at their permanent licensed premises
    - ④ Return must be reflected on an invoice referencing the original sales invoice and provided to the retail licensee
    - ④ May credit the account in an amount not to exceed the original sales price if the beer is paid for in full



## Returns of Beer from a Retailer

- ② Section 23104.2 B&P is a permissive statute
- ② If the reason and/or manner of exchange is not listed in the statute then it is not permitted
  - ② Would be considered a prohibited thing of value
    - ② Violation of section 25500 or 25502 B&P



## Extending Credit to a Retailer

- ⊙ A beer manufacturer may sell beer to a retailer on “account” or on “credit” provided the retailer does not have an outstanding balance of greater than 30 days
- ⊙ Section 25509 B&P requires a manufacturer to charge 1% of the unpaid balance starting on the 43<sup>rd</sup> day
  - ⊙ Charge 1% of the unpaid balance every 30 days thereafter until the outstanding balance is paid in full



## Extending Credit to a Retailer

- ⦿ Section 25509 B&P requires a manufacturer to accept cash only (or the equivalent thereof) upon delivery until the outstanding balance is paid in full
- ⦿ All money received shall be first applied to the payment of the oldest balance
- ⦿ A manufacturer could face disciplinary action if they fail to comply with any of the requirements of this statute
  - ⦿ Considered a prohibited thing of value
    - ⦿ Violation of section 25500 or 25502 B&P

# Private Label Brew for Retail Licensee



- ② No specific statute permitting custom private label brew for retailer
- ② Department has permitted it under very limited circumstances
  - ② The label is owned by the retailer
  - ② All costs related to the manufacturing of the beer are incurred by the retailer
    - ② Brewing, bottling, labeling, shipping, etc
  - ② The beer is sold only to that retailer for resale at the retailer's licensed premises
  - ② 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

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© Questions???