



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL

KATHLEEN SEBELIUS, GOVERNOR

August 29, 2003

POLICY MEMORANDUM 2003 - 7

Subject: Display or Distribution of Materials from within Retail Liquor Stores

1. Purpose: The purpose of this memorandum is to provide clarification of the statutes and regulations regarding the display or distribution of materials from within retail liquor stores.

2. Applicability: This policy memorandum is applicable to all Kansas retail liquor stores.

3. Discussion: The ABC has received several questions recently on what retail liquor stores (RLS) may display and distribute from their stores. This ABC Policy Memorandum provides guidance on this issue.

a. K.S.A. 41-308 addresses the rights of RLS licensees. Basically, an RLS may sell and offer for sale at retail and deliver in the original package alcoholic liquor for use or consumption off of and away from the licensed premises. The statute goes on to state RLSs "shall not offer for sale, give away or permit to be sold, offered for sale or given away in or from the premises specified in such license any **service** or **thing of value** whatsoever except alcoholic liquor in the original package, except that a licensed retailer may:"

- (1) Charge a delivery fee for delivery to a club, drinking establishment or caterer pursuant to subsection (a);
- (2) sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the retailer is selected as a lottery retailer;
- (3) include in the sale of alcoholic liquor any goods included by the manufacturer in packaging with the alcoholic liquor, subject to the approval of the director; and
- (4) distribute to the public, without charge, consumer advertising specialties bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialties so that they are not conditioned on or an inducement to the purchase of alcoholic liquor.

b. For years the ABC has ruled that almost anything in conflict other than the above exceptions was considered to be providing a service or thing of value. As such licensees were directed to remove from their stores any item(s) that did not meet the strict requirements of the statutory language or some limited clarifying regulations.

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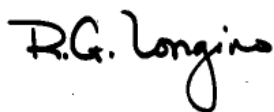
- c. This notice serves as clarifying guidance whereby licensees **may** post or provide **educational materials** related to **alcohol use and abuse** in their stores if they choose to do so. Such materials may be, but are not limited to, warnings on problems associated with misuse of alcohol, results of medical studies addressing the potential health benefits of controlled use of alcohol, general product information and information concerning underage drinking issues to name a few.
- d. The ABC still holds firm that other general advertising media; - e.g., general community events or other advertising that is not directly related to the products they legally sell, does not fall within the realm of educational materials related directly to the alcoholic beverages sold by the store – is prohibited. The display or distribution of those materials still is considered providing a service and therefore are not authorized.
- e. The question has also arisen about general community event materials being displayed or available for distribution in approved vestibules? As described in ABC Policy Memorandum 2002-1, vestibules are to be neutral and free from any business activities of any kind. However, posting and distributing general community event materials is acceptable.
- f. Further guidance on what may or may not be distributed to the public as consumer advertising specialties (CAS) is available in Policy Memorandum 2003-5 - Guidelines on the Use and Distribution of Point of Sale (POS) Advertising Materials and Consumer Advertising Specialties (CAS).

4. Additional Comments:

- a. Any activity planned outside of these guidelines, current regulations or Kansas statutes, must be requested in writing prior to implementation.
- b. Failure to comply with the applicable statutes, regulations and/or this policy memorandum, may result in an administrative violation of the liquor laws.
- c. Agents will verify compliance with the provisions of the applicable statutes, regulations and this policy memorandum.

5. Clarification of Policy: All requests for clarification of this policy should be directed *in writing* to this office via mail, fax, or email.

6. Effective date of this Policy: This policy is effective from the date of signature until further notice.



R.G. Longino

cc: ABC Staff