

July 12, 2010

## POLICY MEMORANDUM 2011-2

### Subject: Drink Pricing

1. **Purpose:** The purpose of this memorandum is to provide clarification of the statutes and regulations as they pertain to the pricing of various types of drinks containing alcoholic liquor.
2. **Applicability:** All licensees and permit holders under the Club and Drinking Establishment Act and on-premise retailers licensed under the Cereal Malt Beverage Act.
3. **Discussion:** K.S.A. 41-2640(a) provides that a licensee or permit holder shall not “increase the volume of alcoholic liquor contained in a drink or the size of a drink of cereal malt beverage without increasing proportionately the price regularly charged for the drink on that day”. This policy creates clear, simple guidelines for both ABC associates and industry members to follow in determining the appropriate price for different categories of drinks.
  - a. **Well Drinks and Calls:**
    - Drink price is based upon the price of a single shot of the associated alcoholic liquor on that day;
    - Example: If the price of a shot is \$2.00 then the price of the well drink or call must be **at least** \$2.00 plus the cost of any non-alcoholic liquid mixed with the liquor. The price of a double shot must be **at least** \$4.00 (the price of the original shot plus the price of the additional shot of alcohol). The price of a double well drink or call must be **at least** \$4.00 plus the cost of any non-alcoholic liquid mixed with the liquor (the price of the “single” well drink or call plus the price of the additional shot of alcohol).
    - For the purpose of regulating pricing, it is deemed that the shot included in the well or call drink is the same size as the single shot, and that a “double” contains two shots of a size equal to a single shot.
    - For a double, the licensee or permit holder *may* charge more than double the price of a single drink.
  - b. **Beer and Cereal Malt Beverage**
    - Bottled/canned beer
      - The licensee or permit holder may charge non-proportionate prices for various sizes of canned/bottled beer, according to brand name.
    - Draft beer
      - The price of draft beer must be proportional by the ounce, according to brand.
      - Proportionate pricing applies to drink specials on draft beer.
      - The licensee’s drink price list shall include the size of each draft served, in ounces.
      - For ease in pricing, the licensee may round the price of a draft beer up to the nearest quarter dollar.
  - c. **Wine**
    - The minimum price for a glass of wine can not be less than the acquisition cost of the wine in the glass plus liquor drink tax.
    - Carafes and bottles of wine are exempt from the proportionate pricing requirement.

## POLICY MEMORANDUM 2011-2

### Subject: Drink Pricing

#### d. "Add a shot" drinks

- Price is based upon the price of the base drink on that day, plus the price on that day of a single shot of the "added" alcoholic liquor.
- Example: If the price of the shot is \$2.00, then \$2.00 must be added to the price of the base drink.
- For the purpose of regulating pricing, the "add a shot" is deemed to contain the same amount of alcoholic liquor as a single shot of that particular brand.

#### e. Specialty Drinks

- Specialty drinks are mixed drinks other than wells or calls, usually containing multiple liquors of varying amounts.
- Specialty drinks are not subject to the rule that pricing is based upon a single shot of each particular brand of liquor.
- The minimum price of the smallest size specialty drink offered must be at least acquisition cost of the alcohol, **plus** the cost of any non-alcoholic liquid mixed with the alcohol.
- Specialty drinks must be priced proportionately to the size of each particular specialty drink.
- Example: If the price of a regular (12-oz.) Long Island Ice Tea on that day is \$6.00 then the price of a large (16-oz) Long Island Ice Tea must be at least \$8.00 (16 oz is 1/3 larger than 12 oz).
- The licensee's drink price list shall include the size of each specialty drink served, in ounces.
- For ease in pricing, the licensee may round the price of a specialty drink **up** to the nearest quarter dollar.

#### f. Promotional Drinks

- Promotions and drink specials must be offered at the same price during the entire business day.
- 2-for-1, buy one get one free, and half-price specials
  - Advertising or selling two drinks for the price of one or "buy one get one free" specials implies a discount for multiple drinks that is not available to the purchaser of a single drink, therefore, such practice is prohibited.
  - The Licensee may offer *half-price* drinks, so long as the price of the drink does not drop below the acquisition cost of the alcoholic liquor plus drink tax.
- Buckets of Beer
  - The price for the bucket must be the price of the corresponding beers, sold individually.
  - Example: six bottles of beer make up the bucket and each beer sells for \$3.00 each; the price of the bucket must be \$18.00.
- "Mug club" specials
  - No discount may be given on alcoholic liquor sold to a member of a mug club or other similar group.

#### g. Bottle service

- Bottle service (the sale or service of an entire bottle of spirits) is not allowed by any club, drinking establishment or caterer, regardless of how the bottle is priced.

#### h. Drink tax

- Liquor drink tax must be collected on all sales. Liquor drink tax **may** be included in the price of a drink. If the liquor drink tax is included in the drink price, the licensee shall, pursuant to K.A.R. 92-24-13, conspicuously post a sign stating that the liquor drink tax is included in the drink price.
- If liquor drink tax **is** included in the price of a drink, the drink tax amount shall **not** be subtracted from the price in figuring the price of a larger sized drink of that kind.

**POLICY MEMORANDUM 2011-2**

**Subject: Drink Pricing**

4. **Additional information:** It is the policy of the state of Kansas to promote temperance and moderation by prohibiting drink pricing policies that encourage excess consumption. Policy Memorandum 2011-2 complies with that prohibition, while allowing for current business practices and consumer expectations.

ABC Enforcement Agents and local law enforcement officers will verify compliance with the provisions of the applicable statutes, regulations and this policy memorandum.

5. **Clarification of Policy:** All clarification requests to this policy should be directed in writing to this office via mail, fax, or submitted to the agency's email at [abc\\_mail@kdor.state.ks.us](mailto:abc_mail@kdor.state.ks.us)
6. **Effective Date of this policy:** This policy is effective from August 1, 2010 until further notice.

***Original Signed and On File***

Thomas W. Groneman

cc: Assistant Attorney General  
Chief of Enforcement  
Licensing Supervisor  
Compliance Supervisor  
Administration Supervisor  
Enforcement Agents