

Administrative Release



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No. AB-19

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TO: All Malt Beverage Wholesalers and Non-Resident Dealers

SUBJECT: Personalized Advertising Signs - Clarifying Guidelines

On April 26, 2001, we issued Bulletin No. AB-31 regarding personalized advertising signs. This bulletin served as a reminder that under Regulation 03.02.05.10 no more than 50% of a malt beverage sign provided by a wholesaler or supplier could be personalized for the retailer. This notice provided a grace period for licensees to remove any improper signs. While most signs were brought into compliance or removed, a number of wholesalers were subsequently charged with providing improper signs and paid offers in compromise as provided by Article 2B of the Annotated Code of Maryland.

During this period, we received a number of formal and informal inquiries from wholesalers and non-resident dealers seeking further clarification as to what is and is not permitted under the regulation, as well as Section 12-104 of Article 2B. We have received input from a number of licensees, both individually and collectively. As a result of this input, and our own views as to how the statute should be interpreted, we developed several alternative proposals that could serve as "clarifying guidelines".

We presented each proposal to our legal counsel in the Attorney General's Office for review to determine if they were legally consistent with the

existing statute and regulation. The "advice of counsel" received indicated that either proposal would be acceptable and consistent with the law. In order to be as fair as possible, we have elected to implement the most liberal proposal (from the viewpoint of the licensee) which is described below:

Definitions

"Advertising Sign" would include a sign, poster, placard, point-of-sale material, or other similar material.

"Brand Identification" would include the actual name or label information as approved by the Bureau of Alcohol, Tobacco and Firearms. Brand identification would also include all generic supplier or brand names, trademarks, or official logos of the supplier. Brand identification would not include logos, symbols, or other depictions that are not brand related, but which can be used by a supplier under a contract with a third party or which are in the public domain.

"Personalized Material" would include any information or wording unique to a retailer or a group of retailers. Examples would be the name of the retailer, promoting a retailer's event or activity, menus, product size, packaging, pricing, etc.

Guidelines

- Not more than 50% of the advertising sign's dimension may be personalized for the retailer.
- An advertising sign which contains personalized material must contain brand identification which is equal to or greater than the personalized portion of the advertising sign.
- In no case shall brand identification constitute less than one third of the total dimension of the advertising sign.
- If an advertising sign, poster, or other point-of-sale material has no personalized material, then the limits and restrictions above do not apply.

We believe that these guidelines can be easily understood and enforced and should assist licensees in legitimately promoting their products. They are effective immediately as it is unlikely that any signs, under current standards and guidelines, now in the market would be contrary to these provisions.

Should you have any questions, please feel free to contact Stephen G. Taylor, Deputy Director, at 410-260-7313.

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