



COMMONWEALTH of VIRGINIA

Department of Alcoholic Beverage Control

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Circular Letter 14-02

- To:** Brewery Licensees
- Subject:** Interstate transfer of beer between breweries and the sale of the beer transferred at retail by brew pubs and retail establishments located on the receiving breweries premises.
- Purpose:** To communicate to brewery licensees the permissibility of receiving beer from other breweries and selling such beer to retail establishments located on the brewery premises.
- Background:** The Board has been asked if it is permissible for a brewery licensee located in the Commonwealth to receive shipments of beer in closed containers, brewed, bottled and shipped under federal bond from a brewery under common ownership in another state and sell that beer at retail at a brew pub (restaurant) holding a retail license located on the brewery's premises.

As to the interstate transfer of beer, Va. Code Section 4.1-201(A)(4) specifically allows a brewery to receive deliveries and shipments of beer in closed containers and further provides that the receiving brewery may sell such beer to certain persons, including persons licensed to sell beer at retail as provided in Va. Code Section 4.1-216(A)(4). Provided other federal and state requirements are met, the transfer of beer between breweries in this manner would be permissible.

Generally once alcoholic beverages have entered this Commonwealth they are sold and distributed under the three-tier system. Va. Code Sections 4.1-215 and 4.1-216 set out the general limitations of the three-tier system, requiring separation between manufacturing, wholesale and retail interests, and establish the prohibition against tied interest in the distribution of alcoholic beverages. These statutory provisions also provide for certain exceptions to the limitations. Subsection 4.1-215 (B) establishes a general exemption for brewery, distillery, or winery licensees engaging in conduct authorized by Va. Code Section 4.1-201 (A)(5) from the limitations of that section.

Section 4.1-201(A)(5) allows the ABC Board to grant a retail license to a brewery or to a subsidiary or lessee of the brewery, provided that the licensed premises are co-located on the same property, contiguous property, or property within the same development as the brewery, and so long as the licensed premises are commonly owned. In fact, this provision of the ABC Act specifically states that the granting of retail licenses in this manner shall not be prohibited.

Subsection 4.1-216(B)(4), sets out certain circumstances where brewery licensees may bypass the three-tier system and sell beer directly to retail licensees. Under this provision, unless a brewery holds a retail license granted under Section 4.1-201(A)(5), the circumstances specified are the only circumstances where a brewery licensee may sell beer directly to a retail licensee, without the involvement of a wholesaler. A brewery, or subsidiary or lessee of the brewery, that has been issued a retail license pursuant to Section 4.1-201 (A)(5) may also sell beer to that retail licensee under the exception provided for in Section 4.1-216 (B)(4), but is not limited by the specified circumstances described.

Held: Brewery licensees may receive deliveries and shipments of beer in closed containers from other breweries located out-of-state, provided that the beer is shipped under federal bond. Further, a brewery may sell such beer on the brewery premises through a brew pub or other licensed retail establishment without the involvement of a wholesale beer distributor so long as the retail license was issued in accordance with Va. Code Section 4.1-201(A)(5).

Inquiries: Questions regarding this Circular Letter should be addressed to compliance@abc.virginia.gov or to SAC Roger Stevens at roger.stevens@abc.virginia.gov



S. Chris Curtis

Secretary to the Board