

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
VIRGINIA ALCOHOLIC BEVERAGE CONTROL COMMISSION
RICHMOND**

December 26, 1
984

CIRCULAR LETTER

84-8

TO: LICENSED MANUFACTURERS, BOTTLERS, WHOLESALERS, IMPORTERS AND
RETAILERS
SUBJECT: PROVIDING SHELF SPACE PLANS TO RETAILERS.

PURPOSE: The purpose of this letter is to advise those concerned of a recent decision of the Commission.

BACKGROUND: A licensed wholesaler has secured a program usable on a standard IBM Personal Computer which when furnished with certain information will print out a proposed plan showing in detail the arrangement of shelf space for wine and has requested approval for its use.

The process occurs as follows: The wine wholesaler inquires as to whether a retailer is interested in having a schematic drawing prepared by automation based on historic sales data furnished by the retailer which will indicate a proposed shelf and space layout for the retailer.

If the retailer desires to secure this information, the retailer furnishes the wholesaler with historic sales information compiled by the retailer for all of the products contained within the shelf space.

The wholesaler feeds the historic sales information into the computer along with information on the dimensions of the packaging in question. The computer calculates this information and prints out a schematic drawing of a proposed shelf arrangement based on the sales history for the retailer.

This information is then delivered by the wholesaler to the retailer. The retailer makes any adjustments it deems necessary in the proposed plan.

The implementation of the plan will occur by way of representatives of all of the wholesalers who sell the products in question and a representative of the retailer meeting at a designated time at the retail establishment and carrying out a rearrangement of shelf layout as directed by the representative of the retailer. In no event does any wholesaler handle or rearrange any product of another wholesaler during this process.

Further, the wholesaler has the capability to print out a template to be placed on the retailer's shelves indicating the actual amount of space for each brand or size. This template is only for temporary use during the rearranging.

HELD: A licensed wholesaler of wine or beer may provide the service for retailers as explained above as long as the service is available to all retailers equally. The furnishing of such a service does not constitute a violation of Section 4-79, Virginia Code, the Tied House' law. However, the wholesaler may only provide the information to the retail licensee who then uses it or not as he sees fit. Further, the actual implementation, as outlined above, shall involve only rotation and rearranging unless a sale or delivery is taking place and sales or deliveries are not permitted during the prohibited hours of sale as set forth in Section 5, Regulations.

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Additionally, the wholesaler may not provide any record keeping or accounting services to the retail licensee, only information on shelf space allocation.

Finally, federal law should be reviewed before engaging in such a program.

INQUIRIES: Inquiries should be addressed to the undersigned.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL COMMISSION

Larry E. Gilman

Secretary