



COMMONWEALTH of VIRGINIA

Department of Alcoholic Beverage Control

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Circular Letter
15-05

To: Manufacturers and Wholesalers

Subject: Delivery of Samples to Retail Licensees

Purpose: The purpose of this Circular Letter is to clarify for licensees the Department's interpretation of the Code and regulations regarding the permissibility of manufacturer representatives delivering alcoholic beverage samples to retail customers.

Background: It was recently brought to the attention of the Department that the practice of manufacturer representatives retrieving samples of alcoholic beverage products from wholesaler inventory and delivering those samples to retail customers is occurring in the marketplace. Upon an initial review of the applicable regulations, it appeared that the practice violates regulation 3 VAC 5-70-100 (B) (2) in which only wholesale employees may deliver samples to retail customers.

However, upon further discussion and review of the matter, it was determined that there is a conflict between the regulation noted above and §4.1-325(A)(14) and §4.1-325.2 (A) which allow the receipt of samples by retail licensees of alcoholic beverages from both licensed wholesale and manufacturer representatives. Given that the regulation is more restrictive than the controlling statute, the Department notes that a regulatory revision is necessary in order to conform to existing statutory language.

Held: The practice of manufacturer or wholesaler representatives delivering alcoholic beverage product samples to retail licensees is allowed under code. In providing such samples, these representatives must still adhere to the limitations imposed by 3 VAC 5-70-100 (B) (2) in terms of sample sale, size of sample containers and labeling. Any such sample must either be retrieved from a wholesaler or lawfully obtained from a retail inventory in the Commonwealth to insure the appropriate excise taxes have been paid.

Should you have questions regarding this matter, please contact your Compliance Agent or SAC Marc Haalman, Compliance Unit at (804) 213-4626 or compliance@abc.virginia.gov.

Travis G. Hill
Chief Operating Officer