

61A-1.010 Approved Advertising and Promotional Gifts.

(1) The following shall not be considered unlawful gifts, loans of money or property, or rebates:

DESCRIPTION	SPECIAL CONDITIONS	RESTRICTIONS
<p>Wine racks, bins, barrels, casks, and shelving used exclusively as PRODUCT DISPLAYS.</p>	<p>Function shall be no more than holding and displaying factory sealed products of the provider for sale to customers at room temperature or cold.</p> <p>Shall bear conspicuous, permanently-inscribed or securely-affixed product information.</p> <p>A minimum purchase to complete the display may be required.</p> <p>The vendor's name, business name and address may be a part of the product display.</p>	<p>Value of the display (excluding product, transportation, and installation costs) shall not exceed \$300 per brand on the displays at any one time in any one vendor's premises.</p> <p>Payments of slotting fees shall not be made to vendors to lease or to purchase shelf space or display space.</p>
<p>SHELF PLANS AND SCHEMATICS OF SHELF SPACE.</p>	<p>None.</p>	<p>None.</p>
<p>Trays, coasters, mats, menu cards, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, alcoholic beverage lists or menus, paper cups, and similar items commonly known as POINT OF SALE ADVERTISING ITEMS.</p>	<p>Advertising of wine and spirits brands shall be on items.</p> <p>Item shall be intended for use by vendor.</p> <p>Vendor's name, business name and address may be printed on these items.</p>	<p>Malt beverage manufacturers or distributors shall not be permitted to provide items advertising malt beverages as gifts to a vendor.</p> <p>Alcoholic beverage lists or menus shall not contain any information other than alcoholic beverages and prices. Lists or menus containing only malt beverages shall not be permitted to be given to vendors.</p>

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Trading stamps, non-alcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils shirts, caps, visors, and similar items commonly known as CONSUMER ADVERTISING SPECIALTY ITEMS.	<p>Items shall be exclusively intended for vendor to provide to customers to carry off the licensed premises.</p> <p>Items shall advertise brands of wine and spirits.</p> <p>Vendor's name, business name and address may be printed on the item.</p>	Malt beverage manufacturers or distributors shall not be permitted to provide items advertising malt beverages as gifts to a vendor.
SAMPLES of new products.	None.	<p>Spirituos beverage samples shall not exceed 3 liters to each licensed premises.</p> <p>Wine samples shall not exceed 3 liters to each licensed premises.</p> <p>Malt beverage samples shall not exceed 3 gallons to each licensed premises.</p> <p>Samples shall not be provided as gifts to a vendor who has purchased the brand within the last 12 months unless the ownership of the manufacturer or distributor has been transferred to a new entity or the vendor's license has been transferred to a new owner.</p>
NEWSPAPER CUTS, mats, or engraved blocks.	Shall be made available to all vendors without conditions.	None.

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Using vendors' name in brand ADVERTISEMENTS.	Advertisements shall include two or more unaffiliated (through common ownership, members of the same pool buying group, or members of the same advertising cooperative) vendors from whom consumers may purchase the advertised product.	<p>Identification of vendors shall not exceed 10 percent of the total space in the advertisement.</p> <p>Manufacturers and distributors shall not enter into cooperative advertising with vendors.</p> <p>Manufacturers and distributors shall not underwrite any vendor's publications or events through the purchase of advertising.</p>
INSIDE SIGNS ADVERTISING BRANDS.	<p>Vendor's name, business name and address may be printed on the item.</p> <p>May include the price or space for price of the alcoholic beverage product being advertised on the sign.</p>	<p>Shall not include any reference to a vendor's promotion or event.</p> <p>Vendor shall not add anything other than price to any inside sign given them by distributors or manufacturers.</p> <p>Identification of vendors shall not exceed 10 percent of the total space on the inside sign.</p> <p>Vendors shall not have more than one neon or electric sign per brand in their window or windows.</p>
COMBINATION PACKAGES (non-alcoholic beverage products packaged with alcoholic beverages).	The combination package shall be intended for sale to consumers.	None.

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EDUCATIONAL SEMINARS.	<p>Shall relate to alcoholic beverage products, alcoholic beverage laws and regulations, or responsible service and sales of alcoholic beverages.</p> <p>May give away instructional materials, snacks, beverages, meals, and tours of a distributor's or manufacturer's facility.</p> <p>May be hosted at any location.</p>	Transportation or lodging to or from the seminar shall not be paid by the manufacturer or distributor.

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<p>COUPONS (Includes cents off at time of retail sale and rebates paid directly to consumers).</p>	<p>Shall have a specific stated monetary value.</p> <p>Shall be redeemable by all vendors who wish to participate.</p> <p>Shall be offered to all vendors located in a defined market area in similar quantities at the same time based on the vendor's inventory of the promotion products and the promotion products ordered.</p> <p>May require proof of purchase.</p> <p>Audits of the vendor's records and inventories may be conducted by, or on behalf of, the manufacturer or distributor to determine that the coupons submitted for reimbursement do not exceed the sales of the products.</p> <p>Audit fees, if assessed, shall be the same for all vendors.</p> <p>All vendors within the defined market area of a product promotion for which coupons are offered shall be offered permission to reproduce unlimited supplies of coupons if any vendor is given permission to reproduce the coupon. This offer shall be made to all vendors at the same time.</p>	<p>Malt beverage distributors shall not provide malt beverage coupons to vendors; however, they may deliver manufacturers' coupons to vendors.</p> <p>Reimbursement to vendors shall not exceed the face value of the coupon and the customary handling charge (the handling charge shall be the same for all vendors during the coupon period).</p> <p>No conditions shall be set by a manufacturer or distributor in order for a vendor to obtain coupons, copy coupons, or participate in a product promotion, except having the promotional product for sale at the vendors premises.</p>

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<p>Non-profit retailer association TRADE SHOWS AND CONVENTIONS.</p>	<p>May provide display of products.</p> <p>May rent display space at normal trade show rate.</p> <p>May provide own hospitality (independent of sponsored activities by the association or any member vendors).</p> <p>May pay normal registration fees.</p> <p>May purchase tickets to functions.</p> <p>May provide samples to attendees.</p> <p>May conduct tastings for attendees.</p> <p>May purchase advertisements in publications distributed during conventions and trade shows (Payments for all such advertisements shall not exceed \$300 per year to any retailer association).</p>	<p>Malt beverage manufacturers and distributors shall not provide any gifts to retailer associations which advertise malt beverages.</p>
<p>Products offered to consumers with proof of purchase commonly referred to as PREMIUM OFFERS.</p>	<p>Shall be offered to all vendors who wish to participate in the similar quantities at the same time.</p> <p>May provide point-of-sale advertising and order forms.</p>	<p>Products shall not be given or loaned to the retailer for display.</p>

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SWEEPSTAKES, DRAWINGS, OR CONTESTS.	<p>Section 849.094, F.S., which is administered by the Department of State, Division of Licensing, The Capitol, MS#4, Tallahassee, Florida 32399-0250 requires registration of consumer games where prizes are awarded in excess of \$5,000.</p> <p>Shall be open for the general public to participate; however, no vendor shall participate.</p> <p>Shall be offered to all vendors who wish to participate in the similar quantities at the same time.</p> <p>May provide entry forms, rules, and point-of-sale advertising pieces.</p>	<p>Shall not require proof of purchase to enter.</p> <p>Vendor shall not collect completed entry forms.</p> <p>Selection of winners shall not occur at a vendor's place of business.</p> <p>Live or electronic contests sponsored by manufacturers or distributors shall not be held at a vendor's place of business.</p>
Inclusion of a vendor's property in conjunction with CONTESTS OR SWEEPSTAKES.	<p>Tickets and room rentals shall be purchased by the manufacturer or distributor for normal rates.</p> <p>May use the names and pictures of vendor's properties (passenger carriers, lodging establishments, theme parks, and tourist attractions) which are prizes to consumers who win contests or sweepstakes.</p>	<p>Shall not be a joint venture with a vendor.</p> <p>Reference to a vendor shall not exceed 10 percent of the total space in the advertisement pieces or entry forms.</p>
VENDOR-sponsored TOURNAMENTS and contests.	Manufacturers and distributors may participate and pay normal entry fees.	Manufacturers and distributors shall not advertise, co-sponsor, underwrite, or contribute in time, money, or gifts.

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Proof of INSURANCE COVERAGE.	May provide vendors proof of insurance for manufacturers or distributors personnel, equipment, and products; however, they may only issue "hold harmless" or "indemnity" agreements involving product liability or copyright and patent infringement for acts or omissions of the manufacturer or distributor.	Manufacturers or distributors shall not issue “hold harmless” or “indemnity” agreements directly or indirectly insuring or co-insuring acts or omissions of vendors.
DRAFT CLEANING service of equipment installed by a manufacturer or distributor.	None.	None.
GIFTS to manufacturer's and distributor's employees; charitable organizations; market testers; non-profit civic organization permittees; and THOSE WHO ARE NOT LICENSED VENDORS.	<p>Alcoholic beverage products shall be invoiced to the individual or organization as a no-charge invoice.</p> <p>Individuals or organizations may arrange for delivery of alcoholic beverage products to their function in care of a licensed vendor's place of business provided the alcoholic beverages do not become the property of the vendor.</p>	None.

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<p>RETURNS OF DAMAGED products by vendors to distributors.</p>	<p>Vendors shall notify distributors of damaged products received from the distributor within 10 days after delivery in order to obtain a credit or exact exchange.</p> <p>Distributors shall maintain records of request by vendors for return of damaged products, with reference made to the original invoice showing the delivery date and any credit memo issued.</p> <p>Damaged products shall be verified by the distributor's representative prior to issuing a credit.</p> <p>Damaged products shall be exchanged in exact quantities with products of near equal value made by the same manufacturer and in the same size containers unless a credit or cash is issued at the time of the return with a supporting document.</p> <p>A transaction record of all exchanges shall be made and kept by the distributor detailing the date, the licensed vendor, business name and address, the vendor's license number, and the product exchanged for products, cash, or credit.</p>	<p>Products damaged by vendors shall not be returned to the distributor for credit or exchange and will be the vendor's liability.</p>

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PRIVATE LABELS.	<p>Beer, wine, and spirituous liquors may be manufactured under a vendor's trademark.</p> <p>The vendor may be paid royalties and other contractual payments if the right to the trademark is sold by the vendor.</p> <p>The vendor may be the exclusive outlet for the product if the vendor maintains ownership of the trademark.</p>	<p>A vendor shall not set the price of private labeled products with the manufacturer, importer, or distributor.</p> <p>Pricing shall be independently established by the manufacturer or importer and the distributor.</p> <p>The vendor may petition the division for an exception to the outside sign prohibition when their business name is the same as a brand name, and such petition shall be granted if the purpose is clearly to promote the business name and not an alcoholic beverage brand.</p>
RETURNS of products accepted by vendors.	Vendors who make a request for return of products to a distributor within 5 days of the delivery date shall be entitled to cash or a credit within 10 days of the request and at the same time the distributor picks up the products. The request shall be documented by the distributor on the credit or refund memo (The 5-day requirement excludes days that either the vendor or the distributor are closed for business).	<p>No return of the product shall be permitted if a vendor's request for return is made after the 5th day from the delivery date, unless the division has granted permission to the vendor on BPR form 44-015, APPLICATION TO RETURN ALCOHOLIC BEVERAGES, incorporated herein by reference and effective 6/5/97.</p> <p>No consignment sales shall be made to a vendor.</p>
WAREHOUSING.	Distributors of wine and spirituous liquors may deliver those products during the same calendar week, which shall begin on Sunday, as the products are ordered.	The prices of the products shall be set at the time of the order and shall not be adjusted based on additional products ordered during the same week as the original order after the first delivery is loaded.

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SPLIT CASES.	Distributors may offer split cases (boxes that contain more than 1 brand of alcoholic beverage products or more than one size of the same brand) to vendors, provided it has a written policy applying to all vendors regarding the add-on charge for all split cases, if any vendor is required to pay such a charge for any case.	None.
REBATES.	None.	No manufacturer or importer of alcoholic beverages shall give any licensed distributor any rebate on any order placed by, or on behalf of, a licensed vendor or group of licensed vendors.

(2) Any other gifts, loans of money or property, or rebates not included in the “Approved Advertising and Promotional Gifts Chart”, or specifically authorized by Florida Statutes, shall not be provided to a vendor.

(3) Manufacturers and distributors shall keep and maintain records for a 3-year period on their licensed premises, or other division-approved location, of all product displays, equipment and supplies, samples, consumer coupon promotions, participation in retailer association activities, and the acquisition or production cost and selling cost of merchandise items given, sold, or loaned to vendors. These records shall show:

- (a) The name and address of the vendor;
- (b) The vendor’s license number;
- (c) The date furnished;
- (d) A description of the item;
- (e) The manufacturer's or distributor's cost of the item (determined by the original purchaser's invoice price). This information is not required if no value restrictions exist; and
- (f) The charges to the retailer for the item, if applicable.

(4) Pursuant to Florida Statute section 561.42(8), vendors shall keep and maintain any record for a 3-year period on their licensed premises, or other division approved location, of any credits or other forms of assistance provided to the vendor under subsection (3) of this rule.

Specific Authority 561.11 FS. Law Implemented 561.08, 561.42 FS. History-Repromulgated 12-19-74, Amended 3-1-76, Formerly 7A-1.10, Formerly 7A-1.010, Amended 6/5/97.

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