

## **LIQUOR CONTROL BOARD GUIDANCE BULLETIN NO. 1:**

### ***INTERPRETATION "THINGS OF VALUE" REGULATIONS, INCLUDING WHOLESALE DEALER/CERTIFICATE OF APPROVAL HOLDER/VERMONT MANUFACTURER REGULATION NO. 15; GENERAL REGULATION NO. 19; AND ADVERTISING REGULATIONS NOS. 4 AND 5***

#### **1. Scope and Effect of Bulletin.**

An Industry Member's offer and a Retailer's acceptance of a Thing of Value not expressly authorized or exempted by applicable State statute or regulation shall be prohibited and shall, at a minimum, constitute a violation of Wholesaler Dealer/Certificate of Approval Holder/Vermont Manufacturer Regulation No. 15 and/or a violation of General Regulation No. 19, and may result in the suspension or revocation of licenses issued by the Board or the imposition of administrative penalties up to \$2,500.00 per violation. Subject to any express authorization or exception provided in any applicable statute or regulation, the act of an Industry Member of furnishing, giving, renting, lending or selling any Thing of Value to a Retailer shall constitute a means to induce purchase of alcoholic beverages in violation of Wholesaler Dealer/Certificate of Approval Holder/Vermont Manufacturer Regulation No. 15.

#### **2. Definitions.** For the purposes of this Bulletin, the following definitions shall apply:

- a. Industry Member: Any wholesale dealer, a solicitor permit holder, certificate of approval holder, manufacturer or rectifier of malt, vinous or spirituous beverages or a spirit's broker who represent a distillery or distributor of distilled spirits, and any employee, agent or affiliate thereof.
- b. Retailer: Any individual or entity holding a first class, third class, first and third class or second-class liquor license, and any employee, agent or affiliate thereof.
- c. Board: Liquor Control Board.
- d. Thing of Value: any tangible or intangible item with monetary or material worth, including equipment, fixtures, signs, supplies, money, services, gifts, sponsorships, and advertising.
- e. DLL employees: are any individuals employed by the Department of Liquor and Lottery.

#### **3. Hospitality/Routine Business Entertainment.**

- a. An Industry Member may purchase meals and beverages for a Retailer, but only when the Industry Member is in the company of that Retailer and only in an amount not to exceed \$100.00 per person per event.
- b. An Industry Member may purchase tickets for a Retailer to attend sporting events, concerts, plays or other entertainment events, but only when the

Industry Member is in the company of that Retailer. Not to exceed \$100.00 per person per event Industry Members may cover the costs of a Retailer's greens fees, cart rental and other fees to attend golfing events, but only when the Industry Member is in the company of that Retailer and only in a total amount not to exceed \$200.00 per person per event.

- c. On or before the 15<sup>th</sup> day of every July, October, January and April, Industry Members shall provide an electronic, itemized record of every Thing of Value described in subsections (A)-(C) above furnished, given, rented, lent or sold to any Retailer in the preceding three months, including at a minimum the following information: (i) the name of the Retailer; (ii) the date the Thing of Value was furnished, given, rented, lent or sold; (iii) a description of the Thing of Value; and (iv) the value of the Thing of Value. An Industry Member that fails to keep such records as required shall not be eligible to claim the exception provided in this Section.

#### **4. Advertising and Specialty Items.**

In addition to those items listed in the Board's Advertising Regulations, Nos. 4 and 5, an Industry Member may furnish, give, rent, lend or sell the following specialty and advertising items to a Retailer without prior approval of the Board:

- a. Print branded promotional signs with or without the Retailer's name printed on the signs;
- b. Coasters
- c. Outdoor table umbrellas;
- d. Sandwich boards/menu boards/chalk boards; and
- e. Wine buckets/wine list covers.

#### **5. Industry Members who Distribute Non-Alcoholic Beverages and Other Items.**

Industry Members also distributing items containing no alcohol, including soda, energy drinks, candy, and food, are not subject to the prohibitions of Wholesaler Dealer/Certificate of Approval Holder/Vermont Manufacturer Regulation No. 15 when they are promoting only such items. Industry Members shall maintain a written, itemized record of every Thing of Value furnished, given, rented, lent or sold to any Retailer for the purpose of promoting such items, including at a minimum: (i) the name of the Retailer; (ii) the date the Thing of Value was furnished, given, rented, lent or sold; (iii) a description of the Thing of Value; (iv) the value of the Thing of Value; and (v) the item's any specific promotion's) to which the Thing of Value related. Without a clear nexus to an item containing no alcohol, the act of an Industry Member of furnishing, giving, renting, lending or selling any Thing of Value to a Retailer with whom the Industry Member has an existing business relationship involving the sale of alcoholic beverages shall constitute a means to induce purchase of alcoholic beverages in violation of

Wholesaler Dealer/Certificate of Approval Holder/Vermont Manufacturer Regulation No. 15. Industry Members shall keep the above-described records for inspection by a member of the Board, the Commissioner of Liquor Control, the Commissioner of Taxes and/or any of their assistants or Investigators for a period of no less than two (2) years. An Industry Member that fails to keep such records as required shall not be eligible to claim the exception provided in this Section.

## **6. Draft Systems.**

Industry Members shall report to the Board on or before the 15<sup>th</sup> day of every July, October, January and April on a separate invoice an itemized list of parts sold and the cost of labor to build, install and/or repair all malt, vinous or spirituous draft style dispensing systems at Retailer establishments in the previous three months. The invoice shall include the fair market value paid by the Retailer for the cost of parts and labor.

## **7. New Retail Accounts.**

Industry Members may visit with applicants for liquor licensure once the applicant has submitted their application to the locality in which they wish to operate. During such visits, the Industry Member may inform the applicant about the Industry Member's products and prices and may solicit orders from such applicants to be filled when the applicant has received their liquor license.

## **8. Incorporation of Federal Tied-House Exceptions.**

The Board shall not consider an Industry Member's act of furnishing, giving, renting, lending or selling any Thing of Value to a Retailer as a means to induce purchase of alcoholic beverages in violation of Wholesaler Dealer/Certificate of Approval Holder/Vermont Manufacturer Regulation No. 15 to the extent such act is expressly authorized pursuant to 27 CFR §§ 6.81-6.102 as now in existence or hereafter amended, provided: (A) the Industry Member meets its applicable federal recordkeeping requirements; (B) the Industry Member's act is not otherwise prohibited by any other applicable State statute or regulation; and (C) the Industry Member complies with all restrictions and conditions imposed by any applicable State statute or regulation.