



INDUSTRY ADVISORY

Electronic Coupons ("Scanbacks")

The Department recently concluded a general review of electronic coupon programs involving brewers, wholesalers, and retailers in California. The purpose of this inquiry was to ascertain how these programs are typically conducted, the level of compliance with existing statutes and regulations, and whether further action by the Department might be warranted.

For purposes of this advisory, an electronic coupon or "scanback" is defined as a specified amount of money deducted from the normal price of an alcoholic beverage purchased at retail by a consumer in a similar manner as a paper coupon. Upon conclusion of the price promotion the retailer typically advises the manufacturer regarding how many units of the particular alcoholic beverage products were sold ("scanned") during the promotional period. The supplier or manufacturer typically then reimburses the retailer for the aggregate dollar amount. In the beer industry, manufacturers and wholesalers typically share reimbursement costs.

Electronic coupon programs are not illegal per se. However, electronic coupon programs must be offered to all retailers in the relevant trading area. In addition, the full coupon amount must be passed on to the consumer by the retailer. The Department's inquiry disclosed some questionable elements that need to be addressed so that all industry members, retail and non-retail, are in full compliance with existing statutes and regulations.

- Tied-house laws prohibit manufacturers, importers and wholesalers from paying money or giving things of value to retail licensees. Reimbursement payments that are not substantiated fall within this category. Retailers who solicit or accept money or things of value from alcoholic beverage vendors are also subject to disciplinary action that may lead to the suspension or revocation of their licenses.
- Vendors who restrict scanback program participation to certain key retail accounts or who fail or refuse to make these programs available to all retailers in their trading areas may be administratively sanctioned for violating tied-house laws. Preferential access of this nature is considered a prohibited "thing of value" and could also result in disciplinary action against those retailers who participate in these exclusive programs.
- Handling fees are permissible only to the extent that there is an actual cost of handling the electronic coupon. It is the licensees' responsibility to justify any and all handling charges. Failure to do so may result in a "thing of value" being paid.
- All licensees must maintain complete, accurate and itemized records justifying reimbursement amounts, handling fees, and that the scanback amount was passed on to the consumer by the retailer. This information must be provided to participants and the Department on request.

Questions concerning this advisory should be directed to the Department's Business Practices Unit at (916) 419-2500. Persons who wish to provide confidential information about suspected violations of the Alcoholic Beverage Control Act are encouraged to do so.