



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL

KATHLEEN SEBELIUS, GOVERNOR

March 31, 2003

POLICY MEMORANDUM 2003 - 3

Subject: Guidelines on Conducting Charitable Events/Fundraisers involving Alcoholic Beverages

1. Purpose: The purpose of this memorandum is to provide clarification of the statutes and regulations regarding sale or consumption of alcoholic beverages in conjunction with charitable events/fundraisers.

2. Applicability: This policy memorandum is applicable to all distributors, clubs, drinking establishments, hotel on-premise licensees, retail liquor stores and temporary permit holders associated with charitable events involving alcoholic beverages.

3. Discussion: Over the past several years, there have been an increasing number of charitable organizations desiring to conduct wine tastings or similar fundraising events involving alcoholic beverages in non-traditional methods. The following paragraphs outline guidelines to be followed for such events.

a. Types of Events. Generally two types of fundraising events occur in support of charitable organizations.

1. Tastings. These events involve selling tickets for set costs. The cost of the tickets must be a set price no matter where or when sold. The tickets get the ticket holders into the event and they are then provided with a number of drink tickets. These drink tickets can then be redeemed for samples of the products.

2. Dinners. These events involve selling tickets for set costs also. The ticket gets the ticket holder into the dinner event. If the dinner event involves alcoholic beverages, a portion of the ticket costs must cover the costs of the alcoholic beverages. If the event occurs on a liquor licensed premise or is catered by a licensed caterer, the licensee will be responsible for paying the liquor drink tax on the alcoholic beverages. If the event is held under a temporary permit, not on a liquor licensed premise, the temporary permit holder must file and remit the liquor drink tax. Specific information on the payment of the drink tax is included in the policy memorandum.

b. Product Donations. Alcoholic beverages may not be donated by industry members (suppliers, manufacturers, wholesalers or distributors) or retailers in Kansas, even for charitable

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events. Charitable organizations may solicit monetary donations from industry members or retailers and in turn purchase alcoholic beverage products from Kansas retailers for use at the fundraising event.

c. Distributors. Alcoholic beverage distributors may not run the fundraisers. The charitable organization is responsible for the planning and operation of the event. Distributors can offer support and guidance on the operation of the event. They may also use their employees to assist in the operation of the event.

d. Event Planning Considerations. The following paragraphs discuss aspects of the fundraiser.

1. Determination of Venue. Events are held on either a liquor licensed premise or a non-licensed premise. Conducting the event on the premises of an on-premise liquor licensee will normally require the licensee to request a modification to their licensed premises for the entire date of the event or with details provided, for specific hours on the date of the event. Events conducted on non-licensed premises obviously do not require action by a current on-premise liquor licensee.

2. Temporary Permit Requirement. Charitable organizations will most likely be required to obtain temporary permits from ABC. K.S.A. 41-2645 provides the statutory guidelines on temporary permits. The forms for temporary permits may be downloaded from the ABC website.

3. Charitable Auction Permit Requirement. If the fundraising event involves auctioning sealed containers of alcoholic beverages, the charitable organization must also obtain a Charitable Auction Permit. The process is similar to obtaining a temporary permit and forms maybe downloaded from the ABC website also. K.S.A. 41-347 provides the statutory guidelines on these permits.

4. Purchase of Products. Charitable event organizers who obtain a temporary permit must comply with the temporary permit regulations (K.A.R. 14-23-1 through 15). One of the requirements is to purchase the products through Kansas retail liquor stores. This involves the charitable organization obtaining donations or funds through other sources and subsequently purchasing the products directly from a retail liquor store or stores. Retail liquor stores may not sell alcoholic beverages for less than their acquisition cost. They must also collect the 8% liquor enforcement tax on the products.

5. Delivery of Products Waiver. Often distributors and charitable organizations desire to simplify the delivery of products to the venue and request a waiver from ABC to direct deliver. This permits the distributor to deliver the products directly to the venue location and not have to be processed through the retail liquor store where they were purchased. The alcoholic beverages must still be purchased from a retail liquor store but, with the waiver, can be delivered by the distributor without going through the retail liquor store.

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6. Determining Liquor Drink Taxes Due. The liquor drink tax must be remitted to the Department of Revenue by liquor licensees or temporary permit holders. The drink tax for both tastings and dinners is computed by taking the actual RETAIL PRICE of the products + the 8% ENFORCEMENT TAX paid to the retail liquor store and multiplying that amount by 10%. The result is the DRINK TAX DUE. Instructions on filing and remitting this tax are included with the permit.

7. Payment of Liquor Drink Taxes. The charity or event sponsor must file their drink tax return and make payment on the taxes due by the 25th of the month following the event.

e. Additional Requirements. The following requirements must also be met:

1. All products used in tastings, special events or charity auctions must be currently or previously registered in Kansas or otherwise approved according to law. Previously registered products refer to items not currently available from suppliers but still among the product inventories maintained by distributors for sale in Kansas pending depletion of the remaining inventory.

2. All products must be purchased through a licensed Kansas retail liquor store by the charity or event organizer that has the temporary permit. The invoice must be on hand during the actual event. Enforcement taxes must be paid on all products purchased for the event.

3. Any product remaining after the fundraiser concludes is the property of the charity that purchased it. The charity has several options in dealing with any left over product. If they have a charitable auction permit, they can auction off the remaining product at the end of the event. If they don't have a charitable auction permit or choose not to auction it off, they may retain and store for future fundraising events or they may give the product away in accordance with current laws and regulations. The product may not be returned to the retail liquor store from which it was purchased or to the distributor from where it originated.

4. Members of charitable organizations are reminded there are restrictions on the transport of open containers. Specifically, K.S.A. 8-1599 prohibits the transporting of open containers on streets and highways unless they are locked in a trunk or other compartment not accessible to the driver or passenger while the vehicle is in motion

f. Documentation Submitted to ABC. The following documents should be packaged together and submitted to the address listed below no later than 30 days prior to the event to ensure processing:

1. Cover letter. Submit a cover letter describing the fundraising event, the parties involved, an estimate of the number of attendees and the plan for the disposition of the proceeds. (Sample letter attached at Tab A)

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2. Temporary permit application. Includes the completed temporary permit and/or charitable auction permit application, detailed diagram of event premises (floor plan), completed local zoning authorization and a cashier's check for the total due on the permits requested and number of days. (From the Event Organizer)

3. Request for Waiver. The requirement for charitable organizations to pick up the alcoholic beverages purchased from retail liquor stores may be difficult logistically for the charity. In such situations, distributors may request a one-day waiver to allow the deliver of alcoholic beverages directly to the event location once the transaction has been processed through the retail liquor store. (From the Distributor(s)) (Sample letter attached at Tab B)

4. Notification of a change to a liquor-license premise. This notification shall include a narrative describing the details of the change and a sketch depicting the change. (From the Licensee) (Sample letter attached at Tab C)

5. Submit documentation to:

Director,
Alcoholic Beverage Control Division
Kansas Department of Revenue
915 SW Harrison Street
Topeka, KS 66625 - 3512

g. Documentation Present at Event Location. The following documents must be available on the site of the fundraising event and must be made available to a representative of ABC or any other law enforcement officer if requested:

1. Temporary Permit and, if applicable, Charitable Auction Permit,
2. the cover letter submitted describing the event,
3. the notification and approval notice for change in licensed premises during the event (if on premises of a licensee),
4. the request for waiver to direct deliver along with the ABC approval notice, and
5. the invoice(s) of the alcoholic beverage products purchased to support the event.

4. Additional Comments:

a. Any activity planned outside of these guidelines, current regulations or Kansas statutes, must be requested in writing with or prior to the submission of all event documents.

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b. Failure to comply with the applicable statutes, regulations and/or this policy memorandum, may result in a criminal or administrative violation of the liquor laws.

c. Agents will verify compliance with the provisions of the applicable statutes, regulations and this policy memorandum.

5. Clarification of Policy: All requests for clarification of this policy should be directed *in writing* to this office via mail, fax, or email.

6. Effective date of this Policy: This policy is effective from the date of signature until further notice.

Original signed and on file.

R.G. Longino

Attachments:

Tab A – Event cover letter sample

Tab B – Request for waiver letter sample

Tab C – Change to licensed premise sample

cc: Assistant Attorney General

Chief of Enforcement

Licensing Supervisor

Compliance Supervisor

Administration Supervisor

Enforcement Agents

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TAB A – Sample Event Cover Letter

Date

Director, Alcoholic Beverage Control Division
Docking State Office Building
915 SW Harrison, Room 214
Topeka, KS 66625-3512

Re: Annual Kansas Wine Festival
A fundraiser for charity X
Date and time of event
Location of event

Dear Director,

We are conducting the above referenced fundraiser and are writing to notify the ABC Division of the event and our adherence to the Kansas Statutes, Kansas Administrative Regulations and Division's Policy Memorandum 2003-3.

The following information must be provided in this letter

1. Identification of the charity conducting event, the purpose of the event, the plan for the distribution of the proceeds and a point of contact.
2. The estimated number of attendees at the event.
3. Alcoholic beverage licensees involved in supporting the event and point(s) of contact.
4. Retailer(s) from which the products will be purchased.
5. Whether the event will be conducted on the premises of a current licensee.
6. Whether the charity will be requesting a temporary and/or charitable auction permit.
7. If required, a request for a special permit to import non-registered alcoholic products.
8. Any other additional information necessary to describe the event.

The temporary and/or charitable auction permit application(s) and respective fees are enclosed for consideration and processing.

Signature Charitable Organization Sponsor

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TAB B – Request for Waiver to Direct Deliver Alcoholic Beverages

Date

Director, Alcoholic Beverage Control Division
Docking State Office Building
915 SW Harrison, Room 214
Topeka, KS 66625-3512

Re: Annual Kansas Wine Festival
A fundraiser for charity X
Date and time of event
Location of event

Dear Director,

Please consider our request for a one-day waiver allowing – **company** – to deliver alcoholic beverages involved in the – **event name** – directly to the event location – **address** – after the charity has paid the invoice at the appropriate retail liquor store(s) on – **date**.

This direct delivery opportunity reduces the charity’s logistical burden. The invoice for all product so delivered will be on-hand at the event.

Thanks for your consideration.

Signature of Licensee’s Representative

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TAB C – Notification of Change to Liquor-license Premises

Date

Director, Alcoholic Beverage Control Division
Docking State Office Building
915 SW Harrison, Room 214
Topeka, KS 66625-3512

Re: Annual Kansas Wine Festival
A fundraiser for charity X
Date and time of event
Location of event

Dear Director,

We are hosting the above referenced fundraiser and are writing to notify the ABC Division of our intent to remove the following areas from our licensed premises for – **date and times** – in order for the – **charity** – to be granted a temporary permit. This action will then place responsibility for liquor related activities with the temporary permit holder.

The areas to be removed from our premises are ---. A copy of our licensed premises diagram showing this modification is attached.

Signature of Licensee's Representative