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MARKETING PRACTICES BULLETIN – MPB 022005011dj
Methods of Payment and Central Pay Collection Relating to Cash Law

To: BEER INDUSTRY
ALL CAPTAINS and COMPLIANCE SUPERVISORS

This bulletin is intended to clarify statutory and common practices related to Cash Law, which is found in Section 102.31 of the Texas Alcoholic Beverage Code. We have been presented with numerous inquiries from the industry relating to acceptable methods of payment for beer and discretionary latitude granted by the Agency for collection of payments.

Section 102.31 of the Alcoholic Beverage Code clearly indicates that beer must be paid for in cash on or before delivery. The statute also provides that a check or bank draft payable on demand shall be considered as cash. It has been common practice of the industry to accept a money order, cashier's check, firm check or demand deposit as payment for beer. The Agency has and will continue to allow the aforementioned methods of payment for beer purchases provided that such is paid on or before the delivery. Recently there have been concerns relating to the use of electronic funds transfers as a method of payment for beer purchases. *In a written opinion dated May 7, 1996, the Agency granted authorization for retailers to make payment for beer via an electronic funds transfer. The electronic funds transfer must be initiated by the retailer, for the dollar amount and quantity of beverages invoiced by the distributor, on or before the day of the delivery. Further, the electronic funds transfer shall be completed no later than the next business day after the delivery. All parties must voluntarily agree to participate in the service, and no fees may be required from either party to offset costs of the other party.*

Additionally, in a written opinion dated September 8, 1976, the Agency granted discretionary latitude for retail chain establishments in the same county under the same ownership to establish a central payment system whereby a designated store would serve as payment center for all stores located in a particular county. The opinion stated that a distributor's driver could deliver several cases of beer to XYZ Food Store# 1, whereby the store manager of XYZ Food Store# 1 would sign a voucher acknowledging receipt of the beer. The driver would then deliver several cases of beer to XYZ Food Store #2 at which time the driver would present the voucher for beer delivered to XYZ Food Store #1 together with the invoice for beer delivered to XYZ Food Store #2, and collect by cash or firm check for the total amount of beer delivered to both stores that particular day. This is common practice today and we will continue to allow the industry to employ this method of collection. *Further, we will allow the inclusion of stores under the*

same ownership which are located within the distributor's authorized area of service as designated by its territorial agreement with a manufacturer. In instances where a General Distributor also holds a Branch Distributor's License or multiple General Distributor's Licenses, the central pay collection method shall be limited to the deliveries made by each specific distributor within its assigned delivery area and shall not overlap between the Distributors. Please be mindful that a distributor may refuse to accept any payment other than cash per delivery based on commercial business principles. Further, these alternative means of payment shall not be used as a discriminatory practice or form of inducement by members of either the retail or distribution tier.

It is our opinion that the aforementioned practices provide considerable flexibility for the method of payment and collection thereof for beer purchases, while adhering to statute which prohibits the extension of credit terms for Beer purchases. Further, it is our hope that this bulletin will clarify any misconception regarding Cash Law as promulgated in Section 102.31 of the Alcoholic Beverage Code. If you should have any questions or would like further information, please do not hesitate to contact me at 512-206-3411

Kind Regards,



Dexter K. Jones
Director of Marketing Practices

CC: Alan Steen, Administrator
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