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MARKETING PRACTICES BULLETIN – MPB 062005015dj
Infusion of Vodka and/or other Distilled Spirits

To: Alcoholic Beverage Industry

It has come to our attention that numerous on-premise retailers are engaging in a process whereby a variety of vodkas are being flavored by the retailer on its licensed premises. We were petitioned to provide an opinion of legality on this process. As we understand, this process is a traditional art known as infusion whereby vodka is infused with fresh or dried produce and/or fruit over a period time to generate a flavored vodka. After the vodka has been infused and reached its desired flavor, the infusion ingredients are discarded and the liquid is drained and stored in a container for serving. It appears that the container is a branded glass container with spout, which is provided to the retailer by an upper tier member.

In consideration of this issue, we have visited a few retail accounts to observe this process and have consulted with our Chemist and General Counsel. We conclude the process of infusion in and of itself is not by itself in violation of 16 TAC Sect 45.5 and is not too dissimilar from the process of a mixed or frozen drink prepared on a retailer's premise. In contrast, the retail industry should be cautioned that some dried fruits when used as an infusion ingredient may cause a reaction to the constituents of the distilled spirit whereby the alcoholic content may increase and such may be in violation of the standards of identity for distilled spirits as prescribed in 16 TAC Chapter 45, subchapter B. Other concerns that may be grounds for regulatory action against a retailer engaging in this process are, if the vodka is infused or stored in a manner that would render the product unfit for consumption and whether or not liquor bearing a valid identification tax stamp is being used in the process. Further, as prohibited by Section 102.07 (a) (5) of the Alcoholic Beverage Code it shall be unlawful for a manufacturer or distributor to furnish, give, rent, lend, or sell to a retailer, the infusion container or any other equipment used in selling or dispensing alcoholic beverages.

If you would like additional information or have questions regarding this bulletin, you may contact me in writing at P.O. Box 13127, Austin, TX 78711, by email at marketing.practices@tabc.state.tx.us, by phone at 512-206-3411 or by facsimile at 512-206-3449.

Kind Regards,

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