

Bulletin



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No. AB-37

July 1, 2003

TO: Maryland Alcoholic Beverages Wholesalers

SUBJECT: Recurring Issues — Advertising Signs and Restricted Labels

Recently, several issues that have been addressed in previous administrative releases issued by this office have resurfaced resulting in the payment of offers in compromise (monetary fines) by a number of wholesalers. The purpose of this bulletin is to remind you of these issues and the requirements associated with each of them so as to avoid future violations and problems.

Issue No. 1: Personalized Malt Beverage Advertising Signs - Reference Regulation 03.02.05.10 (on-premise advertising) and Administrative Release No. AB-19 (October 29, 2001). A personalized malt beverage sign provided by a wholesaler to a retail licensee must *“contain brand identification which is equal to or greater than the personalized portion of the sign but in no case shall brand identification constitute less than 1/3 of the total area of the advertising sign.”* Recently signs provided by wholesalers were confiscated from several retail license locations, resulting in \$3,000.00 fines each, which were 75-80% personalized to the retail account and clearly in violation. Malt beverage wholesalers are strongly encouraged to review

these requirements with their sales and administrative staffs.

Issue No. 2: Sale of Wine or Distilled Spirits Restricted Labels - Reference Section 12-102 of Article 2B (discrimination in sales or distribution of alcoholic beverages), Regulation 03.02.01.05 (price filings) and Administrative Release No. AB-11 (October 6, 1997). Any brand of wine or distilled spirits, other than a “private” label as defined, must be offered to **all** retail accounts. Once a label is sold or offered for sale to a select number of retailers or type of account (e.g. restaurants only), it becomes a “restricted” label and is prohibited by the price filing regulation. “Limited availability” or “allocated” products, which are narrowly defined in the administrative release, are also permitted provided proper documentation is maintained. However, unless a brand clearly meets the definition of a private label or an allocated brand, all products must be offered for sale to retailers generally. Recently, a wholesaler was fined \$6,000.00 for a sale of a “restricted” label which was neither a private label nor an allocated brand.

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All wine and distilled spirits wholesalers are strongly encouraged to review their current practices and price filings to assure full compliance. It is also strongly recommended that brands that are similar or nearly identical be listed together in the Beverage Journal.

It is and remains our goal to obtain voluntary compliance on each of these matters to avoid the necessity of enforcement or administrative action. If you have any questions pertaining to either of these issues, please contact the Alcohol and Tobacco Tax Division.

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