



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**DEPARTMENT OF COMMERCE, COMMUNITY AND
ECONOMIC DEVELOPMENT
Alcohol & Marijuana Control Office**

**The Alaska Trade Practices Prohibitions and
Regulatory Exceptions**

Joan M. Wilson
AMCO Director
August 2024



Trade Practice Prohibitions and Exceptions

AS 04.16.017. Trade Practice Prohibitions

- Who it Governs
 - Whether Licensed in Alaska or Elsewhere

Brewery Manufacturer/Brewer	Winery Manufacturer/Vintner	Distillery Manufacturer/Distiller
Wholesaler	Limited Wholesaler	Importer

- A Retailer a License Under this Title



Trade Practice Prohibitions and Exceptions

AS 04.16.017. Trade Practice Prohibitions

- What it Restricts
 - Inducing a retailer to operate as a tied house
 - Inducing a retailer to operate as an exclusive outlet
 - Engaging in commercial bribery
 - Offering Consignment Sales



Trade Practice Prohibitions and Exceptions

AS 04.16.017. Trade Practice Prohibitions

- Unless the ABC Board adopts regulations providing exceptions to these practices that are
 - Consistent with federal law at the time of the effective date of this section
 - Necessary to avoid practical difficulty or undue hardship on a licensee in the best interest of the public and consistent with the requirements of this title



Trade Practice Prohibitions and Exceptions

- 3 AAC 305 Part 5 adopting those exceptions are effective August 9, 2024



Trade Practice Prohibitions and Exceptions

- This presentation covers state regulatory exceptions
- It does not address federal regulatory exceptions
- Some state exceptions are more lenient than federal regulation. Some state regulations are more restrictive



Trade Practice Prohibitions and Exceptions

- Terms defined under state regulation
 - “Product” means any alcoholic beverage
 - “Brand” means a type of product manufactured by a particular company under a particular name
 - “Product display” means custom features are special presentations that are used to attract and entice the buying public”
 - “temporary retailer” means a person who does not hold a retail license under AS 04 but who is supplied with an alcoholic beverage permit not more than 5 times in a calendar year where each event does not exceed 4 days



Permitted Practices – Tied House Exceptions

- **Tied Brewery, Winery, and Distillery Manufacturer and Brewery, Winery, and Distillery Retail Licenses**
 - Alaska licensed manufacturers are allowed to have tied practices to their own tasting room/manufacturer retail license since it is the purpose of that retail license to provide for the consumption of their own products



Permitted Practices – Tied House Exceptions

- **Product Displays (including racks and shelves displaying alcoholic beverage products)**
 - Manufacturers and Wholesalers may provide product displays to retailers with a value of no more than \$800 per brand at any one time in any single licensed premise. If an entity holds 6 or more licensed premises, it can display the product at any one time at only 6 of its licensed premises for a total product display value of \$4800
 - Board is considering a revision of this cap
 - Product must be conspicuously displayed
 - Cannot require purchase of product that exceeds amount needed for the display



Permitted Practices – Tied House Exceptions

- **Indoor Signage (Interior Environments), Posters, Place Mats, Menus, Pamphlets, Pens, Light Fixtures**
 - Manufacturers and Wholesalers may provide so long as the product or manufacturer is identified and
 - The retailer is not paid directly or indirectly for utilizing the material



Permitted Practices – Tied House Exceptions

- **Outdoor Signage (Open Environments)**
 - Manufacturers and Wholesalers may provide so long as it features a product
 - The retailer is not paid, directly or indirectly, for displaying the sign
 - The sign has a value of no more than \$400 per location



Permitted Practices – Tied House Exceptions

- **Managing Display Space on a Retailer's Licensed Premises on a Nondiscriminatory Basis**
 - Manufacturers and Wholesalers may
 - Rotate products
 - Stock storage areas, retail space, and displays
 - Construct freestanding, special, and nonpermanent floor displays
 - Deliver and place products in retailer designated storage areas



Permitted Practices – Tied House Exceptions

- **Shelf Plans or Schematics**
 - Manufacturers and Wholesalers may recommend shelf plans or schematic so long as the final decision remains with the retailer



Permitted Practices – Tied House Exceptions

• **Resetting Licensed Premises**

- Manufacturers and Wholesalers may reset a licensed premises if
 - The retailer sends email or mail notice to all entities that provided alcoholic beverages within the last 12 months or distributors of those entities
 - The written notice includes
 - » The date and time of the contemplated reset and is sent not less than 2 weeks before the contemplated reset
 - Employees of the manufacturer or wholesaler are not used as employees or required to provide services on any basis
 - The reset does not exclude a competing entity
 - All entities are allowed to participate in the reset



Permitted Practices – Tied House Exceptions

- **Alcoholic Beverage Dispensing Systems**
 - Manufacturer or Wholesaler may provide if it
 - bills and collects from the retailer (within 30 days of purchaser or installation) the cost at a price not less than the cost to the manufacturer or wholesaler at the landed price in Alaska
 - The purchase or installation is not conditioned, in whole or part, on the exclusion of another manufacturer's or wholesaler's products



Permitted Practices – Tied House Exceptions

- **Alcoholic Beverage Dispensing Systems**
 - Manufacturer or Wholesaler may clean dispensing systems, including taps and drafting equipment, without charge
 - Manufacturer or Wholesaler may maintain(excluding cleaning) dispensing systems, including taps and drafting equipment, but must bill the retailer for maintenance costs exceeding \$50 in value and collect those costs not later than 30 days after date of service of the maintenance



Permitted Practices – Tied House Exceptions

- **Other Equipment (Not Including Alcoholic Beverage Dispensing Systems), Consumable Supplies, or Service Ware**
 - Manufacturer or Wholesaler may provide if it
 - bills and collects from the retailer (within 30 days of purchaser or installation) the cost at a price not less than the cost to the manufacturer or wholesaler at the landed price in Alaska



Permitted Practices – Tied House Exceptions

- **Advertising**
 - Manufacturer or Wholesaler may provide traditional or digital artwork for use in advertising the entity's products
 - The advertisement may list the names of two or more unaffiliated retailers that are selling the product if
 - The advertisement does not contain a retail price
 - The listing is inconspicuous
 - The identified retailers are not controlled directly or indirectly by the same entity



Permitted Practices – Tied House Exceptions

- **Selling Other Merchandise**
 - Manufacturer or Wholesaler may sell other merchandise, including groceries and pharmaceuticals, to the retailer if the entity is also a bona fide producer or vendor of that merchandise and
 - Merchandise is sold at manufacturer's invoice price and, if applicable, landed price to the entity in the state
 - Merchandise is not sold in combination with alcoholic beverages (except for above packaging of non-alcoholic beverages)
 - The manufacturer's invoice price appears on the retailer's purchase invoices or records
 - The selling prices of merchandise and alcoholic beverages sold in a single transaction can be determined from commercial documents covering the transaction



Permitted Practices – Tied House Exceptions

- **Educational Seminars**
 - Manufacturer or Wholesaler may give or sponsor educational seminars
 - For retailer's employees
 - Any location (entity, retailer, or third party)
 - May provide nominal hospitality
 - May not provide expenses for attendance (e.g., travel and lodging costs)
 - To the General Public
 - On the licensed premises of a retailer, including consumer-sampling activities (determine if sampling endorsement required under other Title 4 provisions)



Permitted Practices – Tied House Exceptions

- **Coupons**
 - Manufacturer may create and provide coupons for off-premises sale of its products so long as
 - The coupon is redeemable at all retailers within the market where the coupon is offered
 - No one is reimbursed more than the face value of the coupon



Permitted Practices – Tied House Exceptions

- **Extending Credit**
 - Manufacturer or Wholesaler extend credit to a retailer for the purchase of alcoholic beverages at standard market prices on a line of credit provided by a third-party financial institution, including finance charges and processing fees



Permitted Practices – Tied House Exceptions

- **Temporary Retailer (Primarily Nonprofit Organization Event Permit Holders)**
 - Manufacturer or Wholesaler may furnish things of value to temporary retailers



Permitted Practices – Not Commercial Bribery

- **Association Activity of Retailers**
 - A manufacturer or wholesaler may participate in association activities by
 - Displaying products at a convention or trade show
 - Renting display booth space so long as the charge is the same as that charged and paid by all exhibitors
 - Providing hospitality independent from the association-sponsored activity
 - Purchasing tickets to a function
 - Paying registration for the entity's participation in a conference, event or tradeshow so long as the charge is the same as that charged and paid by all attendees
 - Pay for an advertisement in a program or brochure issued by the association at a convention or trade show, if the total payment does not exceed \$25,000 per year for any retailer association



Permitted Practices – Not Commercial Bribery

- **Product Samples**

- A manufacturer or wholesaler may provide a sample of alcoholic beverages to a retailer in not more than
 - One gallon per brand of brewed beverages
 - One liter per brand of wine
 - One liter per brand of distilled spirits
- The manufacturer or wholesaler may size up to the next larger size if the above sizes are not available



Permitted Practices – Not Commercial Bribery

- **Contest Prizes, Premium Offer, or Like Item**
 - A manufacturer or wholesaler may offer a prize to the consumers of retailer licenses 12 times per year, per brand if
 - The event at which the prize is offered does not exceed 30 days
 - The prize does not exceed \$400 in value on any single licensed premises (no pooling of dollar amount across multiple premises)
 - Officers, employees, or representatives of the entity and retailer are excluded from participation
 - The entity determines the winner and the name of the winner is posted on the retailer's licensed premises
 - The entity keeps records of the prize and winners for three years



Permitted Practices – Allowable Consignment Sales

- **Product Returns**

- A manufacturer or wholesale may accept returned merchandise for ordinary and customary reasons, including
 - Unmarketable product deterioration
 - Error in transaction (return within reasonable period of time after delivery, not to exceed 30 days)
 - Product can no longer be lawfully sold or change in formula
 - Discontinued productions or importations
 - Inventory stock when a retailer terminates operations, excluding seasonal shutdowns
 - Inventory stock when distribution agreement terminates
 - From a permittee not also licensed under AS 04
 - On the licensed premises of a retailer than only operates seasonally