



## Industry Advisory

December 4, 2012

### Wholesale Licensee Industry Practices #2

To clarify current liquor laws and rules written to create an open and competitive market where no advantage is given to one liquor-licensed business over another, this advisory will address several wholesale industry practices.

The previous advisories on this topic are dated November 6, 2012, and November 30, 2012. Both can be found on the Department of Liquor website home page at [www.azliquor.gov](http://www.azliquor.gov).

For your convenience, applicable statute and rule references (TTB and the State of Arizona) are identified in each section.

**Glassware:** The Department of Liquor interprets Title 4 to allow a wholesale licensee to provide glassware to an **on-sale** retailer when:

- 1) the fair market value for the "promotional items" given to a retail licensee does not exceed \$500.00 in any calendar year; and
- 2) the glassware conspicuously displays the brand name of a spirituous liquor product.

A.R.S. §4-243

**Energy Drinks:** The Department of Liquor classifies energy drink products as "foodstuffs". When sold by a producer or wholesale licensee, energy drink products must be priced at a cost to the retail licensee that is not less than the cost to the producer/wholesaler. The Department does not classify energy drink products as "cocktail mixers" when sold by a producer or wholesale licensee.

Additionally, it would be a violation of Title 4 if a producer or wholesale licensee induced a retail licensee, directly or indirectly, by offering energy drinks as a bonus, premium, incentive, or for any reason. This would include any type of compensation for being the retail licensee's exclusive energy drink supplier.

A.R.S. §4-243, R19-1-229, and R19-1-231

**Inventory for Sampling Events:** The Department of Liquor interprets Arizona law to permit two types of off-sale sampling; temporary and permanent. The licensee providing the liquor inventory for sampling is different for each type of event:

- 1) Temporary - one of 12 annual off-sale sampling events conducted by a producer or wholesale licensee. For these sampling events:
  - a) the liquor inventory is supplied by the producer or wholesale licensee; and
  - b) stored at an off-sale, liquor-licensed, retail location; and
  - c) the producer or wholesale or third-party, contracted staff conducts the sampling.

When the liquor to be sampled is supplied from the inventory of the wholesale licensee, then full compliance with A.R.S. §4-243(B) is required.

- 2) Permanent - an unlimited number of sampling events conducted by the off-sale retail licensee. For these sampling events:
  - a) the liquor inventory is supplied by the retail licensee; and
  - b) an "S" designation must issued to the licensed liquor store (series 9) or beer and wine store (series 10) location by the Department of Liquor; and
  - c) the sampling may be conducted under the supervision of the retail licensee/staff.

A.R.S. §4-206.01(J) & (K)