CALIFORNIA DEPARTMENT OF
Alcoholic Beverage Control

Apr 1, 2020

EN ESPAÑOL

Second Notice of Regulatory Relief

Pursuant to the Constitution of the State of California, Article XX, Section 22, and in furtherance of Governor Newsom's emergency declarations and orders regarding the spread of the COVID-19 virus, the Department of Alcoholic Beverage Control previously provided temporary relief measures which remain in place, and the Department now adds the following measures to this list.

The Department of Alcoholic Beverage Control previously suspended enforcement of the following legal prohibitions on a temporary basis:

1. Returns of Alcoholic Beverages
2. Retail-to-Retail Transactions

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3. Extension of Credit
4. On-Sale Retailers Exercising Off-Sale Privileges
5. Sales of Alcoholic Beverages To-Go
6. Drive-Thru Windows for Off-Sale Transactions
7. Hours of Operations for Retail Sales
8. Deliveries to Consumers

Unless otherwise noted, those temporary relief measures remain in place, and the Department now adds the following measures to this list:

9. Free Delivery

The Department is temporarily suspending enforcement of prohibitions against licensees delivering alcoholic beverages—whether by the licensee, by third-party services, or by mail services—without charge to the consumer. Business and Professions Code Section 25600 prohibits licensees from providing any "premium, gift, or free goods" in connection with the sale or marketing of alcoholic beverages. This includes providing "free delivery" of alcoholic beverages purchased by consumers. During the current pandemic emergency, with the increased need to deliver goods to consumers away from the licensed premises, licensees may do so free of charge. This relief does not require any alcohol deliveries to be performed free of charge.

10. Delivery Hours Extended to Midnight

The hours during which specified licensees (including manufacturers, winegrowers, and wholesalers) may deliver alcoholic

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beverages to retailers is limited to the hours between 3 a.m. and 8 p.m. any day of the week, except on Sunday, when deliveries of alcoholic beverages are not permitted (see, Business and Professions Code Section 25633.) Subject to a retailer's discretion as to when it will accept deliveries, the Department will not enforce these restrictions if the delivery occurs between the hours of midnight and 8 p.m., except for Sunday (the prohibition against Sunday deliveries remains in full effect). In addition, if a retail licensee has a condition on its license limiting the hours during which it may allow deliveries, **such condition shall remain in full effect** since it is intended to protect the quiet enjoyment of nearby residents.

~~11. Charitable Promotions and Sales~~

Update: Superseded by No. 18 of the Sixth Notice of Regulatory Relief on October 8, 2020.

The Department supports its licensees making monetary donations to bona fide charitable organizations, including such organizations established to support employees of licensed retailers, in connection with the COVID-19 crisis. With respect to promotional donations in which a manufacturer, wholesaler, or other supplier-type licensee advertises that a portion of the purchase price of the alcoholic beverages will be donated to a specified charitable organization, the Department is suspending enforcement of the prohibitions against provisions of things of value to retailers (Business and Professions Code Section 25500 or 25502) and the prohibition

Questions

CONTACT

Additional information may be obtained by contacting:

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against the provision of premiums, gifts, or free goods in connection with the sale or marketing of alcoholic beverages (Business and Professions Code Section 25600), subject to the following limitations:

1. The donation and promotion involve a bona fide charitable organization providing relief related to the COVID-19 pandemic;
2. The promotion is in connection with the sale of sealed containers and does not encourage or promote the consumption of alcoholic beverages; and
3. The donation and promotion do not identify, advertise, or otherwise promote or involve any retail licensee.

This is a temporary measure to aid in COVID-19 relief efforts that will remain in effect for any such promotion that concludes no later than June 30, 2020. The Department will reassess at that time if the temporary measure should be extended further.

12. Distilled Spirits Manufacturers Providing High-Proof Spirits for Disinfection Purposes

The Department has no objection to the production of denatured high proof spirits produced by licensed distilled spirits manufacturers (Type 04) and craft distillers (Type 74) if such distilled spirits are produced for use in accordance with guidance from the Food and Drug Administration, which may be found in the FDA's Policy (PDF). Nor does the

Department object to licensees providing such distilled spirits for free to any person, including retail licensees, if they are not used to promote the manufacturer's alcoholic beverage products and are not provided in exchange for an agreement to purchase anything produced or distributed by the manufacturer.

Undenatured distilled spirits, regardless of proof, are not included in this specific guidance as they are "alcoholic beverages" and thus subject to the normal requirements regarding manufacture, distribution, and sale. Licensees should also be aware of guidance from the TTB regarding this subject, which may be found in the TTB's March Newsletter. In addition, if licensees choose to produce and sell high-proof undenatured spirits (through usual channels) intended for use in hand sanitizer or as a disinfectant, they should be aware of potential tax issues, which should be addressed with the appropriate taxing authorities.

As with the prior measures, this Second Notice of Regulatory Relief is designed to support the alcoholic beverage industry in its efforts to assist California in slowing the spread of the virus while assisting the industry in dealing with the economic challenges it is facing as a result. The Department has carefully considered the public's health, safety, and welfare in providing this relief, and the Department has concluded that the decision to defer enforcement of these measures, exercised on a temporary basis, will not jeopardize the public's health, safety, or welfare. In lieu of individual requests for relief submitted to the Department, the temporary relief from the enforcement of the regulatory requirements set forth in this notice are applicable to all affected Department licensees and will continue until further notice.

Limitations on Relief

The relief provided by this and the prior notice is temporary and may be withdrawn by the Department at any time. The Department intends to provide a 10-day notice of the termination of any such relief, although such relief may be withdrawn immediately should the needs of public safety dictate. In addition, licensees are directed to use the relief provided by this notice responsibly without compromising the public's health, safety, or welfare. Notwithstanding any other provision of law, if the Department determines that any licensee is found to be abusing the relief provided by this notice, or if the licensee's actions jeopardize public health, safety, or welfare, the Department may summarily rescind the relief as to that licensee at any time. Until the Department rescinds any of these temporary relief measures, whether as to all licensees or a particular licensee, any licensee adhering to the terms of this notice, and other applicable laws, may rely on this notice to utilize the privileges described without risk of enforcement by the Department against its license for actions taken up until the time of the rescission.

In addition, this notice does not exempt licensees from local ordinances, zoning restrictions, conditional use permits, and the like, over which the Department has no jurisdiction or control. That said, the Department will not consider any violation of such local controls to constitute a violation of the license issued by the Department.

We encourage all licensees to sign up with the Department for email notices regarding this and other issues. This is easily done by clicking Subscribe. If you have any questions, please contact the Department.