CALIFORNIA DEPARTMENT OF
Alcoholic Beverage Control

Apr 21, 2020

EN ESPAÑOL

Third 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 measure 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

CORONAVIRUS (COVID-19) UPDATES

First Notice of

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
9. Free Delivery
10. Delivery Hours Extended to Midnight
11. ~~Charitable Promotions and Sales~~ – Superseded by No. 18
12. Distilled Spirits Manufacturers Providing High-Proof Spirits for Disinfection Purposes

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

13. Virtual Wine Tastings

The Department has received multiple inquiries about virtual wine tastings while tasting rooms are closed during the COVID-19 emergency. By this Notice of Regulatory Relief, the Department suspends enforcement of certain rules and otherwise provides guidance to Type-02 winegrower licensees for conducting "virtual wine tastings." A winegrower licensee may deliver tasting samples of wines to consumers away from their licensed premises as follows:

1. Business and Professions Code Section 25600 and Rule 106(g) provide, generally, that licensees may not give alcohol away for free to consumers or as an incentive to consumers making purchases from a

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licensee. There are, however, certain exceptions to this prohibition, including the giving away of tastes of wine by winegrowers on their licensed premises. (Rule 53(a)(1).) The Department suspends enforcement of this rule for a "virtual wine tasting" involving delivery of wine samples to consumers away from the licensed premises provided that they are part of a sale of wine or other products. Licensees can, under existing law, sell samples without the sale of other wine or products.

2. Rule 53 also provides that a wine tasting is "a presentation of samples of one or more wines . . . for the purpose of acquainting the tasters with the characteristics of the wine or wines tasted." In addition, several sections of the Business and Professions Code, including Section 25503.56 for example, limit the size of free tastes of wine to one ounce per taste. Wine tastings conducted pursuant to this Notice are not subject to this limitation.
3. Normally the cost of shipping, or any other good or service, may not be given for free with an associated sale of alcohol. The Department has previously provided temporary regulatory relief specifically allowing for the free delivery of alcohol during the COVID-19 crisis. This applies to

Questions

CONTACT

Additional information may be obtained by contacting:

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Call (916) 419-2500

the delivery of wine samples to consumers for the purpose of conducting a “virtual wine tasting.” The Department recommends that licensees follow its prior guidance to ensure compliance with the law.

4. Any wine, including small tastes, shipped to consumers from a licensee’s licensed premises must be sent in a manufacturer sealed container. These containers must meet the federal regulatory guidelines for both labeling and standard of fill. In addition, such containers must comply with applicable state labeling laws in the same manner that they would apply to regular wine bottles or other containers. In addition, licensees must comply with all applicable tax laws for these “taste” containers.
5. The Department regulates sales and deliveries to consumers only within California. The Department cautions winegrowers who wish to provide a “virtual wine tasting” to customers outside the state that they will need to comply with all laws of the state where the tastes are being shipped.

As with the prior measures in the First Notice and Second Notice, this 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 prior notices 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.