

April 27, 2010

POLICY MEMORANDUM 2011-1

Subject: No retailer hosted samplings in, on, or about the retailer's licensed premises

1. **Purpose:** The purpose of this memorandum is to provide clarification of the statutes and regulations as they pertain to the sampling of alcoholic liquor hosted by retailers and their agents.
2. **Applicability:** All licensed retailers, as defined by the Liquor Control Act.
3. **Discussion:** Issues frequently surface concerning retailer hosted samplings of liquor products. This policy clarifies that no samplings or "tastings" may occur in, on, or about the retailer's licensed premises.
 - a. Statutory and regulatory requirements:
 - K.S.A. 41-308(a) provides: "A retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, alcoholic liquor for use or consumption off of and away from the premises specified in such license.
 - K.S.A. 41-308(b) states "A retailer shall not sell, offer for sale, give away or permit to be sold, offered for sale or given away in or from the premises specified in such license any service or thing of value whatsoever except alcoholic liquor in the original package..."
 - K.A.R. 14-13-13(j) provides: "A retailer shall not permit the drinking of alcoholic liquors or cereal malt beverage in, on, or about the licensed premises."
 - b. No retailer, or anyone acting as an agent or employee of a retailer, may allow the serving or sampling, whether free of charge or not, of alcoholic liquor in, on, or about the retailer's licensed premises.
 - For purposes of this policy memorandum, "in, on, or about the licensed premises" means the licensed premise and any property adjacent to and immediately surrounding the retailer's licensed premise which a reasonable person would believe to be under the control of the licensee.
 - Such property shall include:
 - An adjacent party shop, smoke shop, or property with common ownership;
 - The parking area, sidewalks, and alleys immediately surrounding the licensed premises. In the case of a strip mall or other shared property, this shall be the area directly in front of, behind, above, below, and to the side of the licensed premises unless such property is occupied by another, licensed business not directly or indirectly associated with the retailer.
4. **Additional information:** ABC Enforcement Agents and local law enforcement officers will verify compliance with the provisions of the applicable statutes, regulations and this policy memorandum.
6. **Clarification of Policy:** All clarification requests to this policy should be directed in writing to this office via mail, fax, or submitted to the agency's email at abc_mail@kdor.state.ks.us.
5. **Effective Date of this policy:** This policy is effective from August 1, 2010 until further notice.

Original Signed and On File

Thomas W. Groneman

cc: Assistant Attorney General
Chief of Enforcement
Licensing Supervisor
Compliance Supervisor
Administration Supervisor
Enforcement Agents