



MEMORANDUM

TO: Alcoholic Beverage Control Board DATE: September 10, 2019
FROM: Erika McConnell, Director RE: Board Interpretation—
Manufacturer License Samples

Staff has received an inquiry about whether or not the holder of a brewery license may take samples off of their premises to retail licensed premises in order to give the retailer the opportunity to decide whether or not to carry the brewery's products.

The board recently determined that it is a normal business practice for the holder of a wholesale license to provide samples to retailers in order to make sales, although this is not set forth in either statute or regulation.

I bring this issue relating to manufacturer license samples to the board to clarify the board's interpretation of certain statutes.

There are two statutory sections relating to this issue:

- In the brewery license statutes, AS 04.11.130(c) states, "The holder of a brewery license may permit a person to sample small portions of the brewery's product free of charge unless prohibited by AS 04.16.030." There is similar language for a winery license (AS 04.11.140(c)) and a distillery license (AS 04.11.170(d)).
- In the statute relating to Removal or Introduction of Alcoholic Beverages, AS 04.16.120(b) states, "Except as provided in this subsection, a person may not bring an alcoholic beverage into licensed premises for use or consumption by oneself or another person on the premises unless that person is a licensee, an agent, employee, or common carrier in the regular course of employment."

Obviously, a manufacturing licensee bringing samples of alcoholic beverages into a different licensed premises is not a violation of AS 04.16.120, so there are no issues with that section of statute.

The sections at AS 04.11.130(c), AS 04.11.140(c), and AS 04.11.170(d) are not specific as to whether the location of these free samples is the holder's licensed premises. In the context of the privileges allowed to manufacturing licensees, it makes sense to interpret these allowances as being limited to the licensed premises. Otherwise, the implication is created that a manufacturer licensee may serve free samples to the public at any event or location without working through the appropriate permit process, which seems contrary to the system of control of alcoholic beverages set up in Title 4.

That said, consistent with the board's determination on samples provided by wholesale licenses, it seems reasonable for the board to determine that providing product samples to potential purchasers is a normal business practice for a manufacturer licensee and is permitted. It should just be made clear that this kind of sampling is distinguished from the kind of sampling that is described in AS 04.11.130(c), AS 04.11.140(c), or AS 04.11.170(d).

