

Draft Contingency Implementation Plan (To be Effective May 1, 2007 IF Stay Not Extended by the 9th Circuit Court)

Regulation	Effect if Regulation Invalid	LCB Action	Licensee Impact (can and can't do)	*Other Legal Constraints/Related Laws
<p>Price Post and Hold</p> <p><u>Current Regulations</u> <i>The requirement for manufacturers and distributors to post their prices for each SKU with the LCB by a prescribed time each month, to be effective at a later date and hold them for at least one calendar month after the effective date.</i></p>	Price posting requirement goes away; there is no price hold for 30 days.	<ul style="list-style-type: none"> Suspend use of price posting system. No longer enforce or monitor hold period. 	<ul style="list-style-type: none"> Do not need to submit pricing data to LCB. Licensee (distributor or manufacturer) can change price as frequently as desired (longer than one month, or less, than one day). 	Licensees must maintain the price records in order to comply with current laws and regulations.
<p>Uniform Pricing</p> <p><u>Current Regulations</u> <i>Each manufacturer and distributor must offer products to all buyers at the same price.</i></p>	There is no uniform pricing.	<ul style="list-style-type: none"> Stop enforcing. 	<ul style="list-style-type: none"> Distributors/manufacturers can sell their product at different prices to different retailers. 	Manufacturers and retailers can't price or sell product below cost.
<p>10% Minimum Markup</p> <p><u>Current Regulations</u> <i>Manufacturers must mark-up the price of their product to a distributor by at least 10% above cost of production, and for distributors to mark-up the price of their product to retailers by at least 10% above cost of acquisition. The state's reasoning is that cheap beer and wine may encourage more consumption.</i></p>	No minimum mark up for producers and distributors required.	<ul style="list-style-type: none"> No enforcement. 	<ul style="list-style-type: none"> Licensee can mark up/down to their desire. (manufacturer to distributor; distributor to retailer, manufacturer to retailer (as long as don't sell below cost)). 	
<p>Ban on Credit Sales</p> <p><u>Current Regulations</u> <i>Distributors may receive credit terms from product purchased from manufacturers, but retailers must pay cash (or cash equivalent) on delivery for products purchased from a distributor. (Current regulations allow credit to retailers on food products with 30-day terms).</i></p>	No longer a ban on credit for retailer licensee buying from distributor (includes self-distribution and traditional distribution tier).	<ul style="list-style-type: none"> Stop enforcing the ban. LCB has no role in debt collection for breach of credit terms. 	<ul style="list-style-type: none"> Licensees can negotiate credit terms in their purchases and sales. 	

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Challenged Regulations	Effect if Regulation Invalid	LCB Action	Licensee Impact (can and can't do)	*Other Legal Constraints/Related Laws
<p>Ban on Volume or Quantity Discounts</p> <p><u>Current Regulations</u> <i>Volume discounts are not allowed under any circumstances for manufacturer or distributor sales. The price per package must be the same whether they are selling one package or 1,000.</i></p>	<p>No longer a ban on different pricing for volume purchases for the same product.</p>	<ul style="list-style-type: none"> • Stop enforcing the ban. 	<ul style="list-style-type: none"> • Distributor/Retailer or Retailer/Supplier (manufacturer) can negotiate and buy in bulk at different prices. 	
<p>Delivered Pricing</p> <p><u>Current Regulations</u> <i>The price of delivery must be included in the price of the product, including all related services such as stocking and rotation, and it must be the same for all customers.</i></p>	<p>No longer require distributors to sell beer and wine at the same "delivered" price to all retailers, even if the retailer pays the freight and picks up the goods itself.</p>	<ul style="list-style-type: none"> • No enforcement. 	<ul style="list-style-type: none"> • Distributor can charge licensees higher freight costs; retailer licensees may get a price break if they pick it up themselves. 	
<p>Ban on Central Warehousing for Retail Licensees.</p> <p><u>Current Regulations</u> <i>Requires direct delivery from distributor location to retail licensee premises with no other storage locations.</i></p>	<p>A retailer can accept delivery of product at some location other than their retail location.</p>	<ul style="list-style-type: none"> • Interim Board policy is available if necessary. 	<ul style="list-style-type: none"> • Retailer can accept delivery at some place other than where selling to consumers. • Use of common carriers is allowed. 	<p>No retailer-to-retailer sales allowed.</p> <p>Only licensed entities can move product.</p>

***Other state or federal laws may apply**

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