



STATE OF WASHINGTON

WASHINGTON STATE LIQUOR CONTROL BOARD

3000 Pacific Ave SE • PO Box 43075 • Olympia WA 98504-3075 • (360) 664-1600

DATE: August 5, 2003

To:

From: Sherry Frederick, Advertising Coordinator, WSLCB, 360-664-1725

GUIDELINES

COUPON offers by manufacturers, importers and distributors

- ◆ WAC 314-52-040, Contests, competitive events, premiums and coupons, defines what is permissible and not permissible in regard to consumer offers, which may be displayed in various forms; coupons, neckers, etc.
- ◆ A liquor manufacturer, importer or distributor may offer: money to consumers in the form of a *mail-in* rebate; merchandise; contest or sweepstakes opportunities. A liquor manufacturer, importer or distributor may offer a *mail-in* rebate on non-liquor items, including, food, produce, clothing, etc. Rebates and merchandise offers may or may not require proof-of-purchase. Sweepstakes/games of chance must comply with the requirements of RCW 9.46.020(14) regarding lotteries.
- ◆ WAC 314-52-040 prohibits liquor advertisements by manufacturers, importers or distributors that offer any premium or prize redeemable through any retail liquor outlet licensed by the state of Washington, in other words “instant” or “in-store” redeemable offers. Liquor manufacturers, importers or distributors cannot offer an “*instant rebate*”, on either liquor or *non-liquor* items.
- ◆ An offer is considered to be a liquor advertisement if the liquor supplier’s name, brand or logo is mentioned or referred to *anywhere* on the material.

- ◆ This would include:
 - ◆ Liquor references attached by perforation or other means to instant rebates on food products and other non-liquor items;
 - ◆ Instant rebates on products produced by the same company that produces the liquor product, for example non-alcoholic beer;
 - ◆ And, point-of-sale calling consumers' attention to a non-liquor product's instant rebate offer.

- ◆ A manufacturer, importer or distributor may affix a *non-liquor manufacturer's* in-store redeemable offer to its liquor product for cross-merchandising, with the following provisions: there is no mention of the liquor product or manufacturer, importer or distributor anywhere on the offer; the non-liquor company bears the cost **printing** the offer, **all redemption fees**, including **reimbursing** the face value as well as the **handling fee** to the retail licensee; any **payments to fulfillment companies**, and **distribution fees**, including paying the liquor manufacturer or distributor for the labor of affixing the offer to its product or display.

- ◆ (Again, the liquor manufacturer, importer or distributor cannot call attention to *any* in-store offers through its point-of-sale.)

- ◆ In the case where the liquor manufacturer and a food company may be owned by the same parent company, if the food company (or other non-liquor product) is established to be a bona fide separate company from the liquor producing company, in-store offers on the non-liquor products may be affixed to the liquor product, under the same conditions as in the preceding paragraph. The liquor manufacturer *cannot* display point-of-sale calling attention to the food company's in-store rebate offer.

- ◆ “Generic” in-store redeemable offers: Instantly redeemable coupons offers, not branded, and identified as “manufacturer’s coupon”, inviting customers to save instantly on generic items, such as “flowers”, etc., are considered to be the production of the manufacturer of the liquor product they are displayed with. Redemption is generally through a fulfillment house. Even though not technically a “liquor advertisement” as referenced in WAC 314-52-040, because there is no mention of liquor brand or manufacturer, these advertisements are contrary to the “tied-house” statute ***RCW 66.28.010***.

WAC 314-52-040, which prohibits liquor advertisements by manufacturers, importers and distributors from offering any premium redeemable through retail outlets, is in direct support of ***RCW 66.28.010***. This statute prohibits the advancement of “money or moneys’ worth from a non-retail licensee to a retail licensee.

- ◆ If an advertising piece, produced by a manufacturer, importer or distributor, containing several consumer mail-in offers, for example merchandise, mail-in, sweepstakes, etc., also includes one or two “instant rebates” among the other offers, the material may be placed in this state ***only if “Void in WA” is clearly visible on the instant rebates***. Prior approval of such an advertisement is ***strongly*** suggested.

RETAIL LICENSEES MAY ADVERTISE REBATE OFFERS AS FOLLOWS:

- ◆ A retail licensee may advertise a *manufacturer's mail-in rebate*, in conjunction with its (the retailer's) selling price, and the bottom-line cost to consumer after manufacturer's mail-in rebate, provided the advertisement clearly shows that this is after-sale cost with *mail-in* rebate.
- ◆ A retail licensee may advertise its *own mail-in rebate* in a coupon format on specific liquor brands, provided there is *no* bottom-line after-rebate pricing mentioned in the advertisement (the mention of a specific brand must be at the retailer's free initiative and the retailer must cover the entire cost of the advertisement).
- ◆ Retailers cannot advertise below cost, therefore, they cannot advertise their price, minus their *own mail-in rebate*, and bottom-line amount with rebate, showing the product price below cost.
- ◆ A retail licensee may advertise its *own in-store redeemable coupon* offer (for example, via a grocery store "club card"), provided the "after rebate" price does not put the product below cost (and also provided the mention of the brand is at the retailer's free initiative and the retailer is covering the entire cost of the advertisement).

