

#### **14B NCAC 15C .0710 ACCEPTED TRADE PRACTICES; SERVICES**

The following service activities are specifically allowed in transactions between alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member and retailers:

- (1) Shelving and Pricing for Malt Beverage and Wine Wholesalers.
  - (a) Malt beverage and wine wholesalers who have been assigned space in retail permittee outlets may price or re-price their stock as designated by the retail permittee.
  - (b) Malt beverage and wine wholesalers may rearrange and place their brand or brands in their assigned shelf space so as to rotate their stock and keep their assigned space clean and neat.
  - (c) Malt beverage and wine wholesalers may rearrange or reset a retail permittee's alcoholic beverage shelf space, display area, or department pursuant to that retail permittee's plan and direction, but that industry member shall not move or disturb brands sold by other industry members.
- (2) Coil Cleaning Service. An industry member may render coil cleaning services to a retailer.
- (3) Shelf Management Plans; Notice Prior to Reset.
  - (a) An industry member may discuss with a retailer shelf-management concepts and programs and may provide, publish, and make available data on market sales and analysis.
  - (b) An industry member may provide and suggest shelf-management plans which are customized for a specific retail permittee or group of retail permittees. The retail permittee shall remain solely responsible for implementing any suggested shelf-management plan. If an industry member provides a suggested shelf-management plan to a retail permittee or group of retail permittees, he must provide a suggested plan to any other retail permittee upon request. Shelf-management plans shall meet the following conditions:
    - (i) no retail permittee or person acting on its behalf shall implement a shelf-management plan unless the retail permittee sends notice of the plan to all wholesalers that service that location who have provided a request to the retail permittee to receive such notice;
    - (ii) the notice to wholesalers required under this Sub-item shall include the date and time of the contemplated plan implementation and shall be provided at least two weeks before such time. In the event of an exigent or other unforeseen circumstance in which such notice cannot be provided within the two week period, the retail permittee shall provide such notice within a reasonable period of time as referenced by G.S. 25-1-205(a);
    - (iii) if an industry member assists in the creation of a proposed plan, the notice provided by the retail permittee shall also include the proposal; and
    - (iv) the notice to wholesalers required under this Sub-item does not apply to a retail permittee that independently develops or designs his own shelf-management plan without the assistance of an industry member, or who makes adjustments to less than 15 percent of the current self-management plan.
  - (c) A wholesaler may provide physical labor to implement a shelf-management plan.
  - (d) For purposes of this Rule, a shelf-management plan includes shelf resets.
  - (e) For purposes of this Rule, notice from either a retail permittee or an industry member shall be provided by verifiable electronic mail, certified mail, or other delivery service which requires written verification of delivery, and shall include a designated person and contact information for return correspondence.
- (4) Participation in Retailer Association Activities. An industry member may participate in retailer association activities by:
  - (a) displaying product at association conventions or trade shows;
  - (b) renting display or booth space so long as the rental fee is the same as the fee paid by all exhibitors;
  - (c) providing hospitality events which are independent from association sponsored activities;
  - (d) purchasing tickets to functions and paying registration fees if such fees are the same as paid by all exhibitors; and

- (e) making payments for advertisements in programs or brochures at association shows within the dollar limits established by 27 C.F.R. 6.100 and the Bureau of Alcohol, Tobacco and Firearms which is incorporated herein by reference. Cost adjustment increases authorized by 27 C.F.R. 6.83 are also incorporated herein by reference but subsequent amendments to 27 C.F.R. 6.100 are not incorporated. Copies of these regulations are available for inspection and copying as provided by 14B NCAC 15C .0401.
- (5) Educational Seminars. An industry member may provide or sponsor seminars for retailers and their employees in the following areas:
  - (a) the proper use of equipment;
  - (b) the proper storage, handling and service of alcoholic beverages;
  - (c) safe driving programs;
  - (d) recognizing underage and intoxicated customers; and
  - (e) the history or aspects of a product's manufacturing process.

Seminars may be conducted at the premises of either the retailer or industry member. Nothing in this Rule shall be construed to authorize an industry member to pay the retailer's expenses in attending the seminar.

- (6) Tastings. Beer and wine tastings may be conducted in accordance with 14B NCAC 15B .0901 and .0902.
- (7) Labor for Displays. An industry member may provide personnel to construct a promotional product display on the premises of a retailer, and may move other products from the display area in accordance with 14B NCAC 15C .0703.
- (8) Installations. The following items may be installed by an industry member at no charge to a retailer:
  - (a) point of sale advertising materials; and
  - (b) tapping accessories.
- (9) Bar Spending. An industry member may visit the premises of an on-premise retail account for the purpose of promoting its brands so long as:
  - (a) the visit is unannounced and not advertised; and
  - (b) a patron who refuses the industry member's offer to consume a product is offered a comparable beverage of his choice, either alcoholic or non-alcoholic.
- (10) Non-alcoholic Beverages. A malt beverage wholesaler who is also engaged in the business of selling non-alcoholic beverage products may engage in the accepted trade practices of the soft drink and snack food industries, so long as the sales and practices surrounding the non-alcoholic beverage merchandise are not used as an unlawful inducement to purchase malt beverages.

Note: Wine wholesalers selling non-alcoholic beverage merchandise are governed by the provisions of 27 C.F.R. 6.101.

*History Note: Authority G.S. 18B-100; 18B-203(b); 18B-207; 18B-1116(b);  
Eff. July 1, 1992;  
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Transferred and Recodified from 04 NCAC 02T .0712 Eff. August 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*