

**4301:1-1-45. Contests, prizes, sales incentive programs, rebates, or other promotions.**

(A) Unless authorized under Revised Code Chapters 4301. or 4303., or rules promulgated thereunder, no merchandise or thing of value shall be given away in connection with the purchase of an alcoholic beverage.

(B) A manufacturer or supplier of alcoholic beverages, their registered solicitor, or a third party acting on behalf of the manufacturer or supplier, excluding a wholesale distributor or retail permit holder, may offer contests, prizes, sales incentive programs, rebates, or other promotions. Contests, prizes, sales incentive programs, rebates, or other promotions may not be used by a wholesale distributor or retail permit holder to reduce the price of the alcoholic beverage at the point of sale.

(1) A manufacturer or supplier of alcoholic beverages, their registered solicitor, or a third party acting on behalf of the manufacturer or supplier, a wholesale distributor, or a retail permit holder may notify the consumer of a contest, prize, sales incentive program, mail in rebate, or other promotion through printed or other media or methods.

(2) The entry forms and the point-of-sale materials for a contest, prize, sales incentive program, mail in rebate, or other promotion may be distributed by the manufacturer or supplier of alcoholic beverages, their registered solicitor, a third party acting on behalf of the manufacturer or supplier, or a wholesale distributor for display and dissemination at the premises of a wholesale distributor or retail permit holder.

(3) In no event shall any contest, prize, sales incentive program, mail in rebate, or other promotion be made with the financial assistance of any wholesale distributor or retail permit holder. No manufacturer or supplier shall require a wholesale distributor or retail permit holder to participate in a contest, prize, sales incentive program, mail in rebate, or other promotion, or be subject to any quota or other arrangement that requires the wholesale distributor or retail permit holder to purchase products of the manufacturer or supplier in order to distribute the entry forms or point-of-sale materials for the contest, prize, sales incentive program, mail in rebate, or other promotion.

(4) At no time shall any manufacturer or supplier establish any quota or numerical amount of entry or mail in rebate forms or mail in rebate or point-of-sale materials that must be distributed by the wholesale distributor to any specific class or type of retail permit holder.

(5) No manufacturer, supplier, or wholesale distributor shall discriminate between permit holders within the same permit class, based upon size or purchases of a particular brand, when distributing entry or mail in rebate forms or point-of-sale materials nor in any way restrict or limit participation in such promotions to one or more specific retail permit holders.

(C) Should any of the contests, prizes, sales incentive programs, mail in rebates or other promotions offered by the manufacturer or supplier be determined to be in violation of any federal law or rule, or state law or rule, the manufacturer or supplier shall be solely responsible and liable for the violation. In the event of such violation by the manufacturer or supplier, the wholesale distributor or retail permit holder shall be held harmless by the manufacturer or supplier, and shall not be deemed in violation of the state law.

(D) (1) No employee, or member of the employee's immediate family, of the manufacturer, supplier, wholesale distributor, or retail permit holder shall be eligible to receive any prize or award from the contest, prize, sales incentive program, or other promotion. Employees, and members of the employee's immediate family, of the manufacturer, supplier, wholesale distributor, or retail permit holder are eligible to apply for and receive a mail in rebate, provided that they meet the same requirements as any other consumer.

(2) Except as provided in this rule, the manufacturer or supplier shall respond directly to the consumer about the contest, prize, sales incentive program, mail in rebate or other promotion.

(3) Except as provided in this rule, no prize, award, or mail in rebate shall be made by or awarded through any retail or wholesale permit holder.

(4) No purchase of alcoholic beverages ~~may~~ shall be required to participate in a contest, prize, sales incentive program, or other promotion; however, the purchase of alcoholic beverages shall be required to participate in a mail in rebate. No rebate amount given to a consumer shall meet or exceed the retail price of the alcoholic beverage purchased by the consumer to participate in the mail-in rebate. Manufacturers, suppliers, their registered solicitors, or a third party acting on behalf of the manufacture or supplier may provide rebates only on the alcoholic beverage products that they manufacture or represent. ~~Alcoholic~~

(5) Alcoholic beverages shall not be a prize or be given to any participant in any contest, prize, sales incentive program, mail in rebate offer, or other promotion. No contest, prize, sales incentive program, mail in rebates or other promotion of any kind shall reduce the cost of an alcoholic beverage at the point of sale.

~~(5)~~ (6) No one under the age of twenty-one shall be permitted to participate in or be awarded a prize, award, or mail in rebate from a contest, prize, sales, incentive program, rebate, or other promotion.

(E) (1) Except as provided in this rule, a participant in a contest, prize sales incentive program, mail in rebate, or other promotion shall not receive a prize, award, or mail in rebate at the point-of-sale or from any retail permit holder or wholesale distributor. Prizes, awards, or rebates may be claimed by mail or other means that are not located at a retail permit holder's or wholesale distributor's permit premises or on the same parcel of property.

(2) A manufacturer or supplier of alcoholic beverages, the registered solicitor of a manufacturer or supplier, or a third party acting on behalf of the manufacturer or supplier, excluding a wholesale distributor or retail permit holder when offering a mail in rebate:

(a) May require a participant to purchase a specific non-alcoholic item in addition to the purchase of an alcoholic beverage.

(b) May require proof that the non-alcoholic item was purchased from a retail permit holder.

(c) Shall not restrict such mail in rebates to one or more specific retail permit holders nor require the purchase of an alcoholic beverage or non-alcoholic item to be made at one or more specific retail permit holder's premises in order to participate in the mail in rebate.

(d) May provide rebates only on the alcoholic beverage products that they manufacture or represent. No rebate amount given to a consumer shall meet or exceed the retail price of the alcoholic beverage purchased by the consumer to participate in the mail-in rebate.

(F) The entry form for the contest, prize, sales incentive program, or other promotion form may be attached by the manufacturer or supplier to any container of alcoholic beverage, or to any carrier or packaging containing such product, only if other methods of entry are readily available to the consumer at the place of purchase, without requiring the purchase of such product. A mail in rebate form may be attached by the manufacturer or supplier to any container of alcoholic beverage, or to any carrier or packaging containing such product, without making other methods of entry available, if a purchase of the alcoholic beverage is required to receive the mail in rebate.

History:Effective: 01/01/2010.

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Promulgated Under: 119.03.

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Rule Amplifies: 4301.22, 4301.24.

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