




STATE OF ARKANSAS
**Department of Finance
and Administration**

ALCOHOLIC BEVERAGE CONTROL
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MEMORANDUM

To: All Arkansas Wholesalers & Suppliers

From: Doralee Chandler, Director 
Alcoholic Beverage Control

Date: September 11, 2020

RE: Product Displays and Unlawful Inducements

The Director of the Arkansas Alcoholic Beverage Control Division issues this Memorandum to address the desired use of refrigeration units as product displays by the industry. Subtitle E, Section 2.28 (4) provides that:

A wholesaler may give or sell a “product display” to a retailer so long as:

- (1) the total value of all product displays provided by the wholesaler does not exceed three hundred dollars (\$300.00) per brand at any one time in any one retail outlet;
- (2) the display bears conspicuous and substantial advertising matter on the product. The name and address of the retailer may appear on the displays;
- (3) the giving or selling may be conditioned upon the purchase of the distilled spirits, wine, or malt beverages advertised on those displays in a quantity necessary for the initial completion of such display. No other condition can be imposed by the wholesaler on the retailer in order for the retailer to receive or obtain the product display.

Section 2.28 sets forth that a product display means any alcoholic beverage racks, bins, barrels, casks, shelving or similar items with the primary function of which is to hold and display consumer products.

Wholesalers must act in conformity with current federal regulations as well. 27 CFR §6.81(a) allows for an industry member to furnish a retailer equipment, inside signs, supplies, services, or other things of value under the conditions and with in the limitations prescribed therein the subpart. 27 CFR §6.83 delineates the conditions and limitations for product displays, including the definition, which are closely mirrored in Section 2.28(4) of the Arkansas Alcoholic Beverage Control Division rules.

While industry members may provide product displays, it shall be unlawful for an industry member to induce, directly or indirectly, any retailer to purchase any products from the industry member to the exclusion, in whole or in part, of such products sold or offered for sale by other industry members. Included as an unlawful inducement pursuant to 27 CFR §6.21(c) is the furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services or other things of value, subjected to the exceptions set out at 27 CFR §6.81, et al. and contained in Section 2.28(4) of the Arkansas Alcoholic Beverage Control Division rules.

A refrigeration unit by its very nature is used for the primary purpose of establishing a set desired temperature for the product contained within its confines. A retailer may gain a secondary benefit from that refrigeration unit of being a display unit or bin containing product for sale, but the underlying issue is what is the primary function of the refrigeration unit. The primary function of a refrigeration unit is to cool the product; thereby, eliminating refrigeration units from the definition of "product display." A strict interpretation of Subtitle E, Section 2.28(4) sets forth the finding that providing refrigeration units to retailers is a prohibited, unlawful inducement.

The Arkansas Alcoholic Beverage Control is aware that there are currently refrigeration units that have been provided to or designated to retailers. Those units will not be impacted by this Memorandum as it will be a violation of Subtitle E, Section 2.28(4) beginning this date forward.