

Regulation 47-322. Unfair Trade Practices and Competition.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-102, 44-3-201(1), 44-3-202(1)(b), 44-3-202(2)(A), 44-3-202(2)(A)(I)(A), 44-3-202(2)(A)(I)(C), 44-3-202(2)(a)(I)(G), 44-3-202(2)(A)(I)(R), ~~and section 44-3-308~~, and 44-4-102, C.R.S. The purpose of this regulation is to establish certain permitted and prohibited trade practices between suppliers and retailers in order to clarify and prevent statutorily prohibited financial assistance between tiers.

Suppliers and their agents or employees may not attempt to control a retail licensee's product purchase selection by engaging in unfair trade practices or competition.

Nothing in this regulation shall apply to non-profit, charitable, or other qualifying organizations, when such organization conducts licensed events pursuant to the requirements contained in article 5 of title 44 and related regulations, and such organization does not otherwise hold a retail license pursuant to article 3 or 4 of title 44. However, nothing herein shall authorize any financial assistance for the purpose of altering or influencing an organization's product selection for said events.

Retailers may not accept any prohibited financial assistance as described herein, and suppliers are prohibited from directly or indirectly engaging in the following unfair practices:

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L. VALUE OF LABOR

1. DEFINITIONS FOR PURPOSES OF THIS SUBSECTION (L):

- A. "DELIVER" OR "DELIVERING" IS THE ACT OF A SUPPLIER BRINGING AND UNLOADING ITS ALCOHOL BEVERAGE PRODUCT FROM ITS DELIVERY VEHICLE ONTO THE RETAILER'S LICENSED PREMISES OR PERMITTED RETAIL WAREHOUSE STORAGE LOCATION. "DELIVER" OR "DELIVERING" DOES NOT INCLUDE A SUPPLIER BRINGING AND UNLOADING ITS ALCOHOL BEVERAGE PRODUCT FROM A PERMITTED RETAIL WAREHOUSE STORAGE LOCATION TO A RETAILER'S LICENSED PREMISES.
- B. "MERCHANDISE" OR "MERCHANDISING" IS THE ACT OF ORGANIZING, CONSTRUCTING, MAINTAINING, OR STOCKING A DISPLAY OF ALCOHOL BEVERAGE PRODUCT OR ALCOHOL BEVERAGE PRODUCT PROMOTIONAL MATERIALS, INCLUDING ALCOHOL BEVERAGE PRODUCT SIGNS, CONSUMER ADVERTISING SPECIALTIES, OR POINT-OF-SALE ADVERTISING, WITHIN THE RETAILER'S LICENSED PREMISES.
- C. "PRICE STAMP" OR "PRICE STAMPING" IS THE ACT OF AFFIXING THE RETAIL PRICE OF ALCOHOL BEVERAGE PRODUCT TO ITS RESPECTIVE SHELF, REFRIGERATOR, OR ANY OTHER SIMILAR LOCATION WITHIN THE RETAILER'S LICENSED PREMISES.
- D. "ROTATE" OR "ROTATING" IS THE ACT OF MOVING ALCOHOL BEVERAGE PRODUCT FROM THE REAR TO THE FRONT OF ANY SHELF, REFRIGERATOR, OR SIMILAR LOCATION WITHIN THE RETAILER'S LICENSED PREMISES.
- E. "SERVICE" OR "SERVICING" IS THE ACT OF REPLACING, STAGING, AND/OR TAPPING KEGS WITHIN A RETAIL PREMISES. "SERVICE" OR "SERVICING" ALSO INCLUDES PERFORMING NECESSARY CLEANING OF ALCOHOL BEVERAGE DISPENSING EQUIPMENT, TO THE EXTENT NECESSARY FOR THE MAINTENANCE OF REASONABLE STANDARDS OF PURITY, CLEANLINESS, AND HEALTH.

- F. "STOCK" OR "STOCKING" IS THE ACT OF PLACING OR REPLENISHING ALCOHOL BEVERAGE PRODUCT ON ANY SHELF, REFRIGERATOR, OR SIMILAR LOCATION WITHIN THE RETAILER'S LICENSED PREMISES.
- 2. IN A SUPPLIER'S SOLE DISCRETION, AND IF ALLOWED BY THE RETAILER, A SUPPLIER MAY DELIVER, MERCHANDISE, PRICE STAMP, ROTATE, SERVICE, AND STOCK ITS ALCOHOL BEVERAGE PRODUCT ON THE RETAILER'S LICENSED PREMISES AT NO COST TO THE RETAILER.
 - A. A SUPPLIER IS PROHIBITED FROM MATERIALLY DISTURBING ANOTHER SUPPLIER'S ALCOHOL BEVERAGE PRODUCT WHILE DELIVERING, MERCHANDISING, PRICE STAMPING, ROTATING, SERVICING, OR STOCKING ITS OWN ALCOHOL BEVERAGE PRODUCT.
 - B. A SUPPLIER MAY ONLY SERVICE THE PORTION OF THE RETAILER'S ALCOHOL BEVERAGE DISPENSING EQUIPMENT USED FOR DISPENSING ITS ALCOHOL BEVERAGE PRODUCT.
 - 3. A RETAILER IS PROHIBITED FROM REQUIRING A SUPPLIER TO PROVIDE ANY LABOR TO THE RETAILER, INCLUDING, BUT NOT LIMITED TO, MERCHANDISING, PRICE STAMPING, ROTATING, SERVICING, OR STOCKING ACTIVITIES, AS AN EXPRESS OR IMPLIED CONDITION OF THE DELIVERY, PURCHASE, OR FUTURE PURCHASES BETWEEN THE SUPPLIER AND RETAILER.
 - 4. UNLESS OTHERWISE PERMITTED UNDER THIS REGULATION, THE LIQUOR CODE, OR THE BEER CODE, OR UNLESS THE RETAILER PAYS THE SUPPLIER AT THE NORMAL HOURLY RATE OF THE EMPLOYEE PERFORMING THE LABOR, A SUPPLIER IS PROHIBITED FROM PROVIDING TO A RETAILER, AND A RETAILER IS PROHIBITED FROM ACCEPTING FROM A SUPPLIER, ANY LABOR OTHER THAN THE KINDS OF LABOR DESCRIBED IN SUBSECTION (L)(2) OF THIS REGULATION, INCLUDING, BUT NOT LIMITED TO:
 - A. CLEANING, REPAIRING, OR OTHERWISE MAINTAINING THE INTERIOR OR EXTERIOR OF A RETAILER'S PREMISES;
 - B. OPERATING THE RETAILER'S POWERED MECHANICAL EQUIPMENT, OTHER THAN PALLET JACKS; OR
 - C. PERFORMING INVENTORY FOR THE RETAILER'S RECORDS.