

35.II.2.13 Samples of Alcoholic Beverages

- 100 A manufacturer's representative and its employees, as described in Title 35, Part II, Subpart 2, Chapter 11 of the Mississippi Administrative Code, may furnish one sample of a new product to any permitted retailer. This sample may be given to the permittee or to a manager on behalf of the permittee. Distribution of samples may occur only at the permitted business. Samples are to be used for the promotion of that specific product and may not be used as a gift or an inducement to purchase other products.
- 101 A sample of an alcoholic beverage is defined as an alcoholic beverage not previously purchased by that permittee. The size limit per item of samples of alcoholic beverages allowed is to be determined by federal guidelines and/or regulations.
- 102 Each bottle of product distributed as a sample must be clearly labeled with the word "SAMPLE".
- 103 Products used for sampling may either (1) be delivered to the LDC Warehouse for distribution to the manufacturer's representative or, (2) if used by the representative for an on-premises permittee, may also be purchased by a manufacturer's representative from a package retailer permittee. If option (1) is utilized for sample use, the cases containing sample alcoholic beverages must be marked or stamped on at least two (2) sides of the case in bold letters with the word "SAMPLE" by the manufacturer prior to shipment. A separate bill of lading must accompany each case of sample alcoholic beverages and the word "SAMPLE" must be clearly marked on said bill of lading. Samples delivered pursuant to option (1) must be removed from the LDC Warehouse within 10 working days of receipt. Failure of the manufacturer's representative to remove samples from the LDC Warehouse upon the expiration of the ten (10) days will result in destruction of said products. The Division will not be responsible for any damages occurring while said products are stored in the LDC Warehouse. Regardless of whether distributed by LDC or purchased from a package retailer permittee, the bottle must be marked "Sample" by the manufacturer's representative or its employee before being used for sampling purposes. Any unused product may be taken by the manufacturer's representative to be offered as a sample at another location.
- 103.01 The manufacturer's representative is responsible for paying all freight costs, excise taxes, mark-up, sales or use taxes, and any other costs assessed on sample products upon receipt of that product from the LDC Warehouse. Distribution of any product on which taxes have not been paid is strictly prohibited.
- 103.02 New product may be withdrawn for sample use in a limited amount from bailment inventory if approved in writing by the manufacturer. Such written approval shall include a description of the product to be removed as well as the amount of product which may be removed. Regardless of authorization given by the Manufacturer, the quantity to be removed is subject to limitation by the Director of ABC. This product shall be used as samples by manufacturer representatives only for licensed permittees. Samples shall never

be allowed for trade shows. The product shall be labeled as samples as required by Paragraph 103 of this Chapter.

- 104 The manufacturer's representative and his employees shall, on or before the fifteenth day of each month, file a report with the Enforcement Section detailing the distribution of sample products for the preceding month. This report must also include the storage location and amount, by brand, of all sample alcoholic beverages held by the manufacturer's representative or his employees pending distribution.
- 105 The willful failure to file such reports, the falsification of such reports, or the distribution of product samples inconsistent with the law or with this regulation may result in the suspension of the registration of a manufacturer's representative and his employees. In addition, the Department may delist the manufacturer's products.
- 106 A manufacturer's representative, or his employee, may transport sample alcoholic beverages anywhere within the state provided that such person has obtained authorization for transport from the Division. Such products must be stored outside the passenger compartment of a motor vehicle or in an enclosed container.
- 107 On-premises retailers, their managers and their employees, may consume sample alcoholic beverages only during legal hours of sale and in an area removed from the general public. The manufacturer's representative must be present during sampling.
- 108 An on-premises permittee may assemble other permittees, along with their licensed managers or employees, for purposes of sampling alcoholic beverages. Consumption of sample alcoholic beverages must take place during legal hours of sale and in an area removed from the general public. The manufacturer's representative must be present during sampling. On-duty managers and employees are strictly prohibited from sampling alcoholic beverages.
- 109 Package retailers may consume samples of alcoholic beverages on their licensed premises only if all applicable regulatory requirements in the Chapter are met. Any such samples provided by manufacturers or manufacturers' representative for this sampling may not be distributed to, sold to or given away to customers. Only the package retailer permit owner and approved managers may consume sample alcoholic beverages on the premises and only during legal hours in an area removed from the general public. The manufacturer's representative must be present during the sampling. The manufacturer's representative must remove all unconsumed samples but may offer such alcoholic beverages as samples at other permitted locations in compliance with these regulations. On-duty managers and employees are strictly prohibited from sampling alcoholic beverages.
- 110 No alcoholic beverage products distributed as samples by manufacturers or manufacturer representatives may be sold, offered for sale, or distributed to any person by any permittee, manager, or employee of the permittee.

- 111 A package retailer may conduct tasting events for its customers only if the following criteria are met and maintained:
1. The retailer must obtain written approval from the Department at least two weeks prior to the event;
 2. There can be no charge to the customer for attending or taking part in the event;
 3. All tasting product must be served and consumed in an area that is cordoned off by barriers clearly separating the event from the point of sale of any alcoholic beverages;
 4. No event may last longer than 4 hours and must occur during regular hours of business;
 5. No one under 21 years of age may attend or take part in the event and a sign clearly stating this prohibition must be placed at the entrance of the premises;
 6. No food may be served at the event;
 7. Each serving of wine served at the event shall not exceed 1-1/4 ounces and no more than a cumulative total of 5 ounces of wine may be consumed by a customer at the event;
 8. Each serving of distilled spirits served at the event shall not exceed 1/4 ounce and no more than a cumulative total of 1 ounce of distilled spirits may be consumed by a customer at the event;
 9. All product used for tasting must be provided by the package retailer from its own inventory and purchased from the ABC Warehouse or another package store permittee licensed as a wholesaler. It cannot be provided by a manufacturer or its representatives;
 10. Only the package retailer's employees may serve the alcohol;
 11. Tickets may not be sold for the event;
 12. The retailer may only hold 1 event in a rolling three month period; and
 13. At the end of the event, package retailers must immediately remove all opened alcoholic beverage bottles used during the event from the premises.
- 112 If a package retailer holds a tasting event described in Paragraph 111, the permittee must keep an accurate accounting of the various alcoholic beverages and amounts consumed at each event. The permittee must provide a copy of this accounting to the Department within 10 days of completion of each event.
- 113 A Class 1 manufacturing permit holder may provide product to patrons for sampling if the following criteria are met and maintained:
1. The product must be manufactured by the distillery retailer at the site at which the product is being offered for sampling;
 2. The product may only be offered in conjunction with a structured tour of the distillery, which must include the entire manufacturing and distilling processes and methods used at the distillery;
 3. The product must be offered at no cost to the patron;
 4. The product may only be ingested on the premises of the distillery;
 5. The product may only be offered for sampling between the hours of 8:00 a.m. and 10:00 p.m.;

6. No one under 21 years of age may attend or take part in the event, and a sign clearly stating this prohibition must be placed at the entrance of the premises;
7. Each sample served may not exceed ¼ ounce, and no more than 4 samples of all product may be provided to an individual during a 24 hour period; and
8. The Distillery Retailer must keep an accurate accounting of the various product provided and consumed as samples. This accounting must be kept for at least 3 years and must be made available for review by ABC upon request.

114 (Reserved)

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