

TO: MICHAEL W. LANGLEY  
FROM: DONALD R. BENNETT  
RE: ALTERATION TO BOTTLENECKER – NECKHANGER POLICY –  
ABC REG. 3.17.2  
ABC REG. 3.17 & 3.17.1  
DATE: JULY 19, 2011

MEMORANDUM OF UNDERSTANDING

As a result of our meeting on Monday it is my understanding that you wish to change an interpretation of an existing regulation under which we had not previously allowed bottleneckers or neckhangers.

Specific reference is made to Arkansas ABC Reg. 3.17.2 which allows for certain consumer promotions. As you know, under **ABC Reg. 3.17.2(1)** only manufacturers or importers of a wine product or distilled spirits product may offer a rebate wherein a full purchase price is made at the point of purchase and then certain forms are returned to the manufacturer or importer or designated third party for a rebate after the sale has been completed. Malt beverages were not placed within the final version of Arkansas ABC Reg. 3.17.2(1), at the request of in-state industry members.

Our previous interpretation of this regulation had been that bottleneckers and neckhanger devices could not be used as a satisfactory element to ask for a rebate, after purchase, of a wine or distilled spirits product. Our position had been that the rebate form could only be offered to the consumer in the original package arrangement produced and shipped by the manufacturer attached by glue or adhesive, or printed on a box or container or as an alternative, in printed media of statewide circulation such as newspapers and magazines.

It is my understanding, subject to your confirmation, that this policy will now be altered to include bottleneckers or neckhanger devices. Although your e-mail to Ms. Chwalinski and to myself dated July 13<sup>th</sup> uses the words “**case coupons**” I am going to interpret this to mean rebate forms as **coupons, per se**, continue to violate Arkansas **ABC Reg. 3.17** and **Reg. 3.17.1**. A rebate is different from a coupon. A coupon entitles the consumer to an instant cash discount at the time of purchase. It is not my understanding that coupons will now be allowed.

It is my further understanding, subject to your confirmation, that rebate forms may be packed at the Primary American Source’s warehouse or they may be attached to the bottles at the Arkansas liquor warehouse. The placement of neckhangers or neckers on bottles at retail establishments shall continue to be a violation of this policy.

In addition, as per our discussion on Monday, it is my understanding that bottleneckers or neckhanger devices may be used in connection with merchandise programs as authorized by Arkansas **ABC Reg. 3.17.2(2)** but, as indicated, in the regulation, no escalating offers may be made based upon multiple purchases by the consumer.

As per our discussions, it is my understanding that it is your desire that the provisions of Arkansas **ABC Reg. 3.17.2 (3)**, as they apply to merchandise being offered to a consumer, such as key chains, bottle openers, recipes or other brand identified items, may not be offered by bottlenecks or neckhanger devices as you do not consider them to be a “part of a combination package”. In line with our previous interpretation, persons wishing to take advantage of a merchandise offer to a consumer must make sure that the merchandise has been fastened to the alcoholic beverage container by a shrink wrap, tape, or some other permanent means, or it is sealed inside or contained within a carton containing alcoholic beverage products, such as a typical Christmas gift set of a bottle of brandy along with some snifters.

It is my final understanding that if a PAS wishes to offer a consumer sweepstakes as authorized by Arkansas **ABC Reg. 3.17.2(4)**, there still must be free standing point of sale materials used as neckers are attached to alcoholic beverage containers and neckers do not constitute a “free standing point of sale” item.

If you have further clarification on this memo please advise.

DRB/kh