

UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

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LOCAL INDUSTRY REPRESENTATIVES License Summary

Note: This is general information only and should not be considered conclusive. For further detail, please consult Title 32B of the Utah Code (<http://le.utah.gov/UtahCode/chapter.jsp?code=32B>) or the Rules of the Commission (<http://www.rules.utah.gov/publicat/code/r081/r081.htm>)

A local industry representative means an individual resident of Utah, Utah partnership, Utah corporation, and a Utah limited liability company compensated by any means for representing the distilled spirits, wine, heavy beer, and flavored malt beverages of a manufacturer, supplier, or importer. Local industry representatives must be licensed by the state. They may represent more than one manufacturer, supplier, or importer at a time. Licenses run from January 1 to December 31. Individual employees of a local industry representative are not required to be separately licensed.

Representatives may assist the department in ordering, shipping, and delivering merchandise. They may provide new product notification, listing and de-listing information, price quotations, product sales analysis, shelf management, and educational seminars, and may, for the purpose of acquiring new listings, solicit orders from the department and submit price lists and samples of their products to the department. Representatives may not sell or ship liquor, wine, or heavy beer to anyone within the state other than the department and military installations. Representatives may call on licensed retailers, permittees, and package agents, and provide them with informational material concerning the products they carry. Representatives must maintain on file with the department, a list of all manufacturers, suppliers, and importers they represent, and notify the department of any changes within 14 days of acquiring or losing an account.

A local industry representative license may *not* be granted to:

- a holder of any retail license issued by the Alcoholic Beverage Control Commission or any employee or agent of a retail licensee; or
- any individual, partnership, corporation, or limited liability company who holds any interest in any retail license issued by the Alcoholic Beverage Control Commission; or
- a minor.

An employee of a local industry representative may *not* be:

- the holder of any retail license issued by the Alcoholic Beverage Control Commission; or
- an employee of any retail licensee.

Liquor, wine, heavy beer, and flavored malt beverage product samples are restricted:

- Samples may only be shipped to the department for
 - tasting and analysis by the department under certain conditions; or
 - tasting and analysis by local industry representatives at the department only under certain conditions.

Trade Practices:

• *Because the interplay between state and federal law is so technical and detailed, we are providing very general information below.*

In the Alcoholic Beverage Control Act, Section 32B-4 Part 7, U.C.A., Utah's trade practice and tied house laws are made consistent with federal laws (27 U.S.C. 201 to 219A; 27 C.F.R. Subchapter A, Parts 6, 8, 10 & 11) except with respect to furnishing samples of liquor products which are regulated by Utah law. Liquor samples may only be shipped to the department for tasting and analysis by the department or for tasting and analysis by local industry representatives at the department under certain conditions. Beer samples may be given to a retailer, however not more than three gallons of any brand may be given and only if the retailer has not purchased the brand within the last 12 months.

Generally, alcoholic beverage industry members (such as manufacturers, manufacturer

representatives, wholesalers, or importers), are prohibited from engaging in certain practices with retailers that unlawfully induce the retailer to purchase their products to the exclusion in whole or in part of other competitor's products. For example, manufacturers may not have either a direct or indirect ownership in any retail license (unless it is complete ownership); acquire any interest in the real or personal property of a retailer (unless it is complete ownership); furnish a retailer with equipment, fixtures, signs, supplies, money, services, or other "things of value" unless specifically authorized by the federal or state "tied house" laws; extend credit beyond a specified period (usually 30 days), act as guarantor of a retailer's debt; lend money; or require any quota or condition the sale of one product upon the purchase of another.

Industry members *may*:

- contribute to charitable, civic, religious, fraternal, educational, or community activities. These contributions may not be given to influence a retailer in the selection of alcoholic beverage products which might be sold at these activities and events.
- lease or furnish certain equipment for a reasonable rental or service fee for a period not to exceed 30 days to a retailer for a special event. Equipment includes a picnic pump, cold plate, tub, keg box, refrigerated trailer or van, or refrigerated draft system.

Industry members *may not*:

- give away any of their alcoholic products. This does not preclude an industry member from serving its alcoholic products to others at private social functions hosted by the industry member in the member's home or elsewhere so long as the product is not served as part of a promotion of its products, or as a subterfuge to provide samples to others for product testing, analysis, or sampling purposes;
- engage in any advertisement or promotional scheme that requires the purchase or sale of an alcoholic beverage, or consumption of an alcoholic beverage in order to participate in any promotion, program, or other activity; or
- sponsor or underwrite any athletic, theatrical, scholastic, artistic, or scientific event that overtly promotes consumption, offers alcoholic products to the general public without charge, or takes place on the premises of a school, college, university, or other educational institution.