

AUCTIONING “GIFT BASKETS” THAT INCLUDE ALCOHOL

We are often asked about auctioning off wine or other alcohol beverages, sometimes wrapped up in beautiful gift baskets with other items, usually at charity or other social or holiday events. However, there is no provision in the Alcoholic Beverage Control Act that allows it. Here's why:

If the auction (or even direct sale) is held at any event where there is no DABC license or permit, it should be noted that it is unlawful for any person in this state to *sell* any alcoholic beverage, directly *or indirectly*, to any other person in this state, except as otherwise provided by this title (Utah Code Section 32B-4-401 (7)).

The "otherwise provided by this title" means the various DABC licensing chapters that regulate the sale, storage, service and consumption of alcoholic beverages.

- An auction would be an indirect sale of alcohol.
- Any business that directly or indirectly sells alcoholic beverages must be licensed to do so.

And besides:

- There is NO license or permit that allows the auctioning of wine or liquor.

If the auction were occurring where there is a DABC license such as a restaurant, bar, banquet, or a single event permit, it must be understood that no alcoholic beverages can be included in any advertisement or promotional scheme (no matter how good the cause) that requires the purchase of alcohol to participate. Also, the sale of alcohol on a licensed premises must always be a separate sale and not included with anything else. This would include an auction. See 32B-4-708 (2)

All alcohol sold at a licensee or a permitted event must not only be purchased from a State Liquor Store or package agency (so no donations would be allowed) the alcohol must also be sold at prices already established on the licensee's menu or in the permit application approved by the commission. At auction, the price is unknown. Alcohol may not be sold at more than the maximum amount set forth on the menu or in the permit for any alcoholic beverage. (32B-5-305)

There are also regulations for each license type that must apply, such as an order for food in a restaurant, liquor must be sold in lawful quantities etc. At this point, the answer is simply that it is not legal to auction a gift basket or anything with alcohol.

