

DEPARTMENT OF REVENUE
Liquor Enforcement Division

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The Liquor Enforcement Division believes clarification of Section 12-47-308(1), C.R.S. and Regulation 47-322(B) is required as it relates to the offering of INSTANT REDEEMABLE COUPONS ("IRC's) to consumers and licensed retailers.

Section 12-47-308. Unlawful financial assistance. (1) (a) It is unlawful for any person licensed pursuant to article 46 or 47 of this title as a manufacturer, limited winery licensee, wholesaler, or importer, or any person, partnership, association, organization, or corporation interested financially in or with any of said licensees, to furnish, supply, or loan, in any manner, directly or indirectly, to any person licensed to sell at retail pursuant to the provisions of this article or article 46 or 48 of this title any financial assistance... Regulation 47-322(B) Suppliers may conduct an on-site product sales promotion at a retailer's licensed premises... At all on-site product sales promotions a supplier's representative must be physically present in order to provide items to the public... Cash equivalent coupons provided as a part of a product sales promotion may only be distribute by a supplier's representative directly to consumers. Redemption of such coupons by a retailer must be through a third party independent of either the supplier or the retailer.

Division Position: Instant redeemable coupons - A supplier may make coupons available to consumers via point-of-sale tear pads, package inserts, or other printed media, for redemption through licensed retailers. Redemption must be through an independent third party clearing house, and a supplier may not provide a credit to a retailer's account for coupon redemption. The marketing intent of instant redeemable coupons is for a supplier to provide a discount of an alcohol beverage product DIRECTLY TO THE CONSUMER, and for the CONSUMER'S financial benefit. While licensed retailers are the first point in the redemption chain, they are not the intended discount recipient in this consumer marketing tool. The division is aware that it has become a common practice for supplier representatives to "dump" ready-to-expire IRC's in the retail market for the purpose of influencing alcohol beverage product selection. This practice is in direct violation of Section 12-47-308(1), C.R.S. because the receiving retailer has likely not purchased enough product to justify the amount of coupons provided for redemption. Upon any division audit, suppliers and retailers must have records available that trace each coupon redeemed to an alcohol beverage package purchased. Retailers will be expected to provide records that trace each coupon redeemed to an alcohol beverage sale, to include any combination offers of cross-promoted products (e.g. buy a 12 pk. of beer and bottle of spirits to receive benefit of the IRC). The division will be seeking cooperation from third-party clearing houses to assist in the reconciliation of coupons redeemed. In summary, to avoid prohibited financial assistance to retailers, suppliers offering IRC's must make such IRC's available directly to the consumer before redemption for a specific product at the retail level.

RETAILERS PLEASE NOTE: Section 12-47-308(3)(a), C.R.S. states that " it is unlawful for any person licensed to sell at retail pursuant to this article or article 46 of this title TO RECEIVE AND OBTAIN from the persons or parties described and referred to in subsection (1)(a) of this section [licensed suppliers] directly or indirectly, any financial assistance...."

Laura K. Harris, Director, Liquor Enforcement Division