

Nick Jordan, Secretary
Dean Reynoldson, Director

Sam Brownback, Governor

October 29, 2014

POLICY MEMORANDUM 2014-1

Subject: Drink Coupons

1. Purpose: The purpose of this memorandum is to provide clarification of the policy regarding the use and redemption of alcoholic drink coupons used by hotels and drinking establishments.

2. Applicability: All hotels licensed as drinking establishments, and other non-hotel drinking establishment licensees that have entered into agreements with hotels to honor drink coupons.

3. Discussion:

a. Background and History

- In 2013, the Kansas Legislature passed HB 2199, which amended K.S.A. 41-2640 to allow hotels to offer coupons redeemable for drinks containing alcoholic liquor. The new language of this bill addresses two types of hotels:
 - A hotel where the entire premises is licensed as a drinking establishment (hotel drinking establishment). Such hotels are allowed to distribute coupons redeemable on the hotel premises for drinks containing alcoholic liquor. The hotel is required to remit liquor drink tax in accordance with K.S.A. 79-41a01, *et seq.*
 - Hotels that have a drinking establishment license encompassing part of the premises but where the entire premises are not licensed. Such hotels are allowed, through an agreement with one or more licensed drinking establishments, to distribute to its guests coupons which may be redeemed at those licensed drinking establishments. The drinking establishment redeeming the coupons is required to collect an agreed-upon price for the drinks from the hotel, which shall not be less than the acquisition cost of the drink plus tax. Additionally, the drinking establishment redeeming the coupons must collect and remit the liquor drink tax in accordance with K.S.A. 79-41a01, *et seq.*
- The new language was to be implemented “in accordance with rules and regulations adopted by the secretary.” However, the regulation was never finalized and is currently pending review and publication.

b. Interpretation and Policy

- Generally speaking, a hotel may offer coupons to its guests in accordance with the provisions of K.S.A. 41-2640(d) and (e). Since it was adopted in 2013, this statutory amendment has yet to be published in hardbound form, but can be found in Section 10 of 2013 HB 2199.
- If the entire premises are licensed as a drinking establishment (hotel drinking establishment), the hotel must collect and remit appropriate liquor drink taxes in accordance with applicable statutes.
- A drinking establishment located within a hotel where the entire hotel is not licensed as a drinking establishment may enter into an agreement with a private club or drinking establishment to redeem coupons provided by the hotel for drinks containing alcoholic liquor. The drinking establishment must collect the agreed-upon cost of the drink from the hotel, and remit liquor drink taxes accordingly.
- Although the proposed regulation to implement this legislation has not yet been fully promulgated, the legislative intent is clear. For that reason, the agency will be observing the provisions of this regulation until such time as the regulation can be officially published. These provisions are as follows:

- The licensee (whether that is the hotel drinking establishment, or the non-hotel drinking establishment) shall keep a weekly record of all coupons redeemed, which must include:
 - The date on which each coupon was redeemed
 - The number of coupons redeemed
 - The type of alcoholic liquor for which each coupon was redeemed, and
 - If the licensee is a non-hotel drinking establishment, the price paid by the hotel for each drink, pursuant to its agreement with the licensee
- These records shall be maintained on the licensed premises of the hotel or drinking establishment for at least 90 days after the date the coupon was redeemed. The records can be maintained electronically, but must be capable of being provided within 24 hours upon request.
- After 90 days, any record may be stored electronically (if it was not already) and maintained off of the licensed premises.
- Overall, records must be kept for at least three years, and must be capable of being provided in paper or electronic form upon request.
- If the licensee is a drinking establishment that is not a hotel, the licensee must keep a copy of its agreement with the hotel on its licensed premises. The agreement shall be available for inspection upon request.

4. **Additional information:** ABC Enforcement Agents and local law enforcement officers will verify compliance with the provisions of the applicable statutes, regulations and this policy memorandum.
6. **Clarification of Policy:** All clarification requests to this policy should be directed in writing to this office via mail, fax, or submitted to the agency's email at abc_mail@kdor.state.ks.us.
5. **Effective Date of this policy:** This policy is effective from October 29, 2014 until further notice.

Original Signed and On File

Dean Reynoldson, Director
Alcoholic Beverage Control

cc: Assistant Attorney General
Chief of Enforcement
Licensing Supervisor
Enforcement Agents