
INSTRUCTIONS AND GENERAL INFORMATION

General Information

Introduction - Certain licensees, listed below, are required to file ("post") Malt Beverage Price Schedules. Price schedules contain, among other things, the prices at which individual sales are made for immediate delivery to wholesale and retail licensees. The goal of price posting is to help maintain an "orderly market" by preventing wholesale licensees from constantly changing their prices and undercutting each other.

Who is Required to Post Prices - The following licensees are required to post prices:

Type 01 - Beer Manufacturer

Type 10 - Beer and Wine Importer's General

Type 17 - Beer and Wine Wholesaler

Type 23 - Small Beer Manufacturer

Type 26 - Out-of-State Beer Manufacturer

Holders of Certificates of Compliance

Type 75 - Brewpub-Restaurant, but only when beer is sold to wholesalers for resale to retail licensees.

Procedure - You must file prices with the Department in Sacramento. Use one original Malt Beverage Price Schedule (Form ABC-701) for each county or approved trading area within a county.

Within a county, you may post different prices for different trading areas involving marked geographical differences. However, the trading areas must be clearly described and approved. A copy of your Form ABC-701 for each county must be retained on your licensed premises.

Price schedules should be completed on a computer or typewriter. Manual completion is acceptable if the schedule is legible. Illegible or incomplete schedules cannot be accepted.

Malt beverage price schedules may be filed in person, by U.S. mail, express courier companies (e.g., UPS, FedEx, Airborne, etc.) or by fax. The fax number for the Price Posting Unit is (916) 568-5064. Price schedules may be faxed between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays.

Please use a cover sheet for all fax transmissions. The cover should include the number of sheets being sent, the specific sheet numbers and counties involved, and the name and voice telephone number of the licensee's contact person.

Upon receipt, each price schedule is placed in the licensee's file and kept there for one year from the date the schedule is superseded by a newer schedule. After

the one-year period, schedules are removed from the files and purged.

Because price schedules are public documents once the prices become effective, you may visit Headquarters to review competitors' prices. Due to the limited space available for the public, the Price Posting Unit makes appointments to avoid overcrowding.

The Department may provide one blank copy of Form ABC-701 to any licensee. It is then the licensee's responsibility to make copies as needed. Altered forms will not be accepted without prior approval of the Headquarters Price Posting Unit.

- **Incorrect Price Schedules.** Price schedules must comply strictly with the following instructions without modification or qualification. Price schedules that do not conform with the instructions will not be filed and will be returned for correction.

Show Price Changes. On both regular and competitive price schedules, underline or otherwise show the price that is being changed. Include all items on the sheet it replaces.

- **Competitive Schedules.** Where you wish to secure a lower price by competition and have regular price changes effective in ten days on other items on the same schedule, you should prepare two separate schedules. The competitive schedule should be submitted first to get the competitive prices that would be effective immediately or when the competitor's prices are effective. This competitive schedule would then be superseded by schedules on which you include the price changes requiring the ten-day waiting period.

Note: A separate procedure has been developed to accommodate competitive posting situations that involve previously-filed, but not yet effective, price schedules. Contact the Price Posting Unit at (916) 419-2571 for more information.

- **Discontinued Brands.** To withdraw a schedule of discontinued brands of beer, you should file superseding schedules for each county or trading area in which prices are filed.

If you have more than one brand on a sheet, the superseding schedule should include the items and prices of the active brands and show "X" brand discontinued. Do not show prices for discontinued brands.

If all items on a given sheet are to be discontinued, draw an "X" through the sheet and indicate "Entire Sheet Discontinued."

Instructions

Item 1 (Effective Date of this Schedule) - Insert the date when the schedule is to be effective.

Item 2 (Licensee Name) - Insert the name of the licensee filing the schedule. Use the legal name of the licensee, not the trade name (dba).

Item 3 (Doing Business As) - Insert the trade name of the business (dba).

Item 4 (Premises Address) - Insert the street number and name, city, state, and zip code of the licensee's premises. Add the mailing address, if different, below the premises address.

Item 5 (Phone Number) - Enter the voice telephone number of licensee's contact person. Fax number is optional.

Item 6 (Current License Number) - Enter the current license number in effect at the time you file the price schedule.

Item 7 (Sheet Number) - If you have more than one schedule (sheet) for any county or trading area within a county, number your schedules consecutively beginning with number 1 for each county or trading area. (Trading areas can be established within a county where there are marked geographical differences within the county.) For example, if you sell three brands of beer named Beer A, Beer B, and Beer C in Fresno, Madera and Tulare Counties, your sheet numbers would be as follows:

Fresno County	Tulare County	Madera County
Beer A - Sheet 1	Beer A - Sheet 1	Beer A - Sheet 1
Beer B - Sheet 2	Beer B - Sheet 2	Beer B - Sheet 2
Beer C - Sheet 3	Beer C - Sheet 3	Beer C - Sheet 3

If another brand (Beer D) is added and sold in all three counties, the schedule would become Sheet 4 in each county. When changing prices or adding new products to an existing schedule, place the same sheet number on the new schedules showing all items you still sell. The schedule should be dated the date it is prepared.

Item 8 (Superseding Sheet Number) - The sheet number and date of the schedule that is being replaced. Generally, sheet numbers stay the same and only the date will be different.

Item 9 (County and Trading Area Within County) - Prices must be posted for each county where the purchaser's premises is located. List the name of the county in Item 9. If separate prices are filed for an approved trading area within a county, specify the name of that trading area after the county name. It is not necessary to create a new sheet number for a separate trading area. If you sell to federal enclaves (e.g., military bases or national parks) and your prices are different than those to the civilian trade, indicate "Federal Enclave" after the name of the county.

Item 10 (This is a First and Original Schedule of Prices) - Answer yes or no. (Note: First and original price schedule is effective immediately.)

Item 11 (Schedule is Filed to Meet Lower Posted and Filed Competing Prices) - Answer yes or no. (If yes, fill in Items 12, 13 and 14. If no, skip to Item 15.)

Item 12 (Which Distributor) - Enter the name of the licensee (not dba) against whom you are competing. A licensee cannot compete against itself.

Item 13 (Which Brand) - Enter the name of brand against which you are competing.

Item 14 (Which County) - Enter the county where your competitor's prices are posted, which must be the same county as that in which you are meeting their price. This should be the same county or trading area listed in Item 9.

Item 15 (Brand and Beverage) - Specify the brand name as shown on the label and list the type of malt beverage; i.e., beer, ale, porter, brown, stout, malt liquor, etc. All items that differ with respect to labels, caps, package sizes, container sizes or types (bottle, can, keg, barrel), etc., must be listed as separate items on the schedule.

Item 16 (Package) - Specify number of bottles or cans per case. Leave blank when listing draught prices.

Item 17 (Contents) - Specify the number of ounces in bottles or cans as to case goods; specify whether a barrel or fraction of a barrel as to draught goods. If showing a fraction, show what fraction; e.g., 1/8, 1/4 or 1/2. Use the following abbreviations: "Oz." for ounces and "B" for draught goods.

Item 18 (Prices To: Wholesalers and Retailers) - Specify prices in dollars and cents of individual sales for immediate delivery to wholesale licensees where the beverage is for resale to other licensees. When price is not FOB, the price must be for delivery to one premises. In the case of brewers who sell to both wholesalers and retailers, both prices must be included on the same schedule in the appropriate columns. The filing of price schedules is not required in the case of the sale or transfer of beer between two wholesalers who sell the same brand in package.

Specify the price in dollar and cents at which individual sales are made to retail licensees for immediate delivery. Where the price is not FOB, the price must be for delivery to one premises.

Note: California Redemption Value (CRV) should be included in the case price listed in the appropriate column(s) if the filing licensee collects CRV from the purchasing licensee. If the purchaser is not required to pay CRV (e.g., airlines and other common carriers),

note the bottom of the schedule: "Above prices include CRV except where exempt by law."

Item 19 (FOB or Delivered) - Specify whether a price is FOB (freight on board) or DEL (delivered). If FOB, show from what city. Use abbreviations "FOB" or "DEL." A "dock price" filed by a wholesaler is considered an FOB price and is generally understood to be the price of the item at the wholesaler's warehouse. A "DEL" price includes delivery by the selling licensee to the purchaser's premises.

Item 20 (Container Charge/Deposit) - Specify the dollar amount in addition to price of (1) charge as to case goods for containers and/or bottles; or (2) deposit, as to draught goods. Use the following abbreviations: "C" for wooden case, "K" for cardboard carton, "F" for fiber case, and "B" for draught container.

Note: California Redemption Value (CRV) should not be listed as a separate item in this column. If the filing licensee collects CRV from the purchasing licensee, it must be included in the case price shown in the appropriate "Prices To" column(s).

Item 21 (Freight on Empties) - Specify whether freight is paid on empties returned and, if so, from what point.

Item 22 (Authorized Signature) - Signature of the licensee or other authorized person.

Item 23 (Title) - Title of person signing schedule ("V.P. of Sales," "Sales Manager," "Pricing Coordinator," "Office Manager," etc.).

Item 24 (Date Signed) - Insert the date the schedule was signed.

Alcoholic Beverage Control Act

Chapter 12. Beer Price Posting and Marketing Regulations

25000. Price schedule. Each manufacturer, importer, and wholesaler of beer shall file and thereafter maintain on file with the department, in such form as the department may provide, a written schedule of selling prices charged by the licensee for beer sold and distributed by the licensee to customers in California, except that the transfer, including the sale, of beer between wholesalers who sell the same brand in package is permitted without filing the schedule of selling prices, and the transfer, including the sale, of beer made under contract from a contract beer manufacturer making the beer to a beer manufacturer receiving the beer is permitted without filing the schedule of selling prices. All prices filed shall be for immediate delivery. Each manufacturer, importer, and wholesaler of beer shall file a price schedule for each county in which his or her customers have their premises, whether the price that is posted is f.o.b. or delivered, or both. Different prices for different

trading areas within a county shall be based upon natural geographical differences justifying the different prices, and shall not be established for special customers. This section shall not affect or alter any provisions of law concerning quantity discounts on beer.

25000.5. Territorial limits. (a) Every beer manufacturer, whether located within or without the state, who sells and distributes beer in this state shall designate territorial limits in the state within which the brands of beer manufactured by him may be sold by wholesalers of beer to customers.

(b) A wholesaler of beer shall not sell any brand of beer unless the following conditions are met:

(1) The wholesaler has first entered into a written agreement, with the manufacturer of that brand, which sets forth the territorial limits within which the brand shall be distributed by the wholesaler.

(2) A copy of the agreement, and any amendments thereto, has been filed with the department.

25001. Change in prices. The schedule of prices filed may be changed or modified from time to time by the licensee filing it by filing with the department either a new and complete schedule of prices or an amendment thereto of changed or modified prices, as the department may by rule require.

25002. Effective date. The first schedule of prices filed by a licensee shall be effective immediately upon filing, but an amendatory schedule or amendments to prior filed schedule is not effective until ten (10) days after the filing date thereof, except that if any licensee has filed a new schedule or amendments to a prior filed schedule to meet lower posted and filed competing prices in a trade area, and the prices thus posted are not lower than the competing prices sought to be met, the new schedule or amendments shall go into effect immediately if the competing prices are already effective, or at the same time as the competing prices become effective.

25003. Public inspection. Filed price schedules are subject to public inspection only after they take effect. Each filing licensee shall retain in the licensed premises a copy of his or her effective posted and filed schedule.

25004. Violation. Upon the filing of an original schedule of prices and after the effective date of any schedule of amendatory prices, all prices therein stated shall be strictly adhered to by the filing licensee, and any departure or variance therefrom by a licensee is a misdemeanor, except that the transfer of beer between wholesalers who sell the same brand in package is permitted without filing the schedule of selling prices. Each sale or transaction involving a violation of posted prices under this chapter is but a single offense or violation of this chapter regardless of the number of articles covered by the sale or transaction.

25005. **Aiding violation.** Any director, officer, agent, or employee of any licensee who knowingly assists or aids in the violation of this chapter or any effective posted price or any rule of the department passed to carry out the provisions of this chapter is guilty of the violation equally with the licensee.

25006. **Orderly marketing rules.** The department may adopt such rules, including but not limited to rules respecting beer price posting, as will foster and encourage the orderly wholesale marketing and wholesale distribution of beer, but no such action shall be taken by the department except after public hearing and ten (10) days' notice to all licensed manufacturers of beer in California of the time and place of the hearing and of the character of the action intended to be taken by the department.

25007. **Choice of customers.** Except as provided in Section 25000.5, no manufacturer, importer, or wholesaler mentioned in this chapter is prohibited the right of choice of customers.

25008. **Enjoining violation.** (a) Any trade association having as members licensed beer manufacturers or licensed beer wholesalers representing more than half of the volume of beer sold in California for three months prior to the date of a filing of any suit authorized in this chapter may maintain an action to enjoin a continuance of any act or acts in violation of this chapter or any rule adopted pursuant thereto and, if injured thereby, for the recovery of damages. If in the action the court finds the defendant is violating or has violated any of the provisions of this chapter or any rule adopted pursuant thereto, the court shall enjoin the defendant from a continuance or further violation thereof. It shall not be necessary that actual damages to the plaintiff be alleged or proved in the action, and proof of a violation of this chapter or any rule adopted pursuant thereto shall be presumptive evidence of an intention to continue to violate this chapter or any such rule.

(b) Any trade association having as members licensed beer manufacturers or licensed beer wholesalers representing more than half of the volume of beer sold in California for three months prior to the date of a filing of a petition to intervene shall, upon the filing of the petition, be permitted to intervene as a party in any proceeding, whether before the department, any other administrative agency, or any court, which involves, in whole or part, the validity of any portion of the Alcoholic Beverage Control Act or of any rule adopted pursuant thereto. Intervention shall be permitted, upon petition, at any time before a final determination or adjudication has been rendered in the proceeding. In the case of an adjudicatory proceeding, an intervening trade association shall have the same right to participate in discovery and trial as any other party.

25009. **Defendant's books.** Any defendant in any action brought under this chapter or any person who may be a witness therein under Sections 2016, 2018, and 2019 of the Code of Civil Procedure or Section 776 of the Evidence Code, and the books and records of any such defendant or witness, may be brought into court and the books and records may be introduced by reference into evidence, but no information so obtained may be used against the defendant or any such witness as a basis for a misdemeanor prosecution under this chapter.

25010. **License suspension.** The department shall not suspend or revoke the license of any licensee for a violation of the provisions of this chapter or a rule adopted pursuant thereto unless he has committed, within a period of one year, at least three separate violations of the provisions of this chapter or of any rule adopted pursuant thereto, and the violations have been proved by any of the following methods:

(a) A conviction for misdemeanor.

(b) A judgment in a civil suit for injunction as provided in this chapter.

(c) A finding of the department, if a hearing is held in accordance with Chapters 7 and 8 of this division.

Rule 105. Beer Price Posting.

(a) The schedule of prices for the sale of beer, as required by Section 25000 of the Alcoholic Beverage Control Act, shall be filed with the department on a form prescribed by the department, in accordance with instructions thereon. All prices filed shall be for immediate delivery. Contract prices for future deliveries of beer and quantity discounts shall not be filed with the department.

(b) Each manufacturer, importer or wholesaler of beer shall file a price schedule for each county in which his customers have their premises, whether the price which is posted is f.o.b. or delivered, or both. Trading areas within a county must be based on natural geographical differences justifying different prices, and shall not be established for special customers.