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California ABC Takes Action to Help California Businesses

New Advisory Explains How Internet Businesses Can Properly Promote Alcoholic Beverage Sales

(San Francisco) - In a move to help California businesses—including hundreds of family-owned wineries—the California Alcoholic Beverage Control (ABC) today released an Industry Advisory that clarifies rules for online advertising and marketing. The guidance is expected to be particularly helpful to businesses that want to establish new virtual stores on the Internet to improve consumer choice and reach new markets.

“This is part of a continuing effort to make California a better place to do business by making rules clear to businesses that operate here,” said ABC Director Jacob Appelsmith. “We understand that private industry needs to make swift decisions and have confidence they are compliant with the law. Less complicated language is an essential tool to help alcoholic beverage licensees achieve this.”

The ABC took action to help California businesses after receiving requests from the alcoholic beverage industry that employs hundreds of thousands of people in California. These businesses sought more clarity on how “Third Party Providers” can assist California businesses with online sales and marketing. Appelsmith responded to businesses by asking members of the alcoholic beverage industry to form a working group to evaluate the “Third Party Provider” issues and offer suggestions to the ABC. Those suggestions were taken into account as ABC developed new guidelines.

The ABC’s new Industry Advisory clarifies that advertisers and other “Third Party Providers” generally do not need a state license so long as a licensed California business controls the selection, pricing and sales transactions. The advisory clarifies that Internet advertising is akin to print, radio and television advertising, which are not considered “sales,” and therefore do not require a state alcoholic beverage license.

Peter Granoff of Ferry Plaza Wine Merchant praised the new guidelines, saying “clarity on the ‘Third Party Provider’ issue is much needed because companies are trying to grow successful businesses. This is a positive move that will help them with that effort.” The clarified guidance provides direction for both large and small businesses, including hundreds of family owned wineries.

“Small wineries will embrace the opportunity to expand their sales and brand awareness through the marketing power and reach of the web,” said Paul Kronenberg, President of Family Winemakers of California. “This is a positive action by the ABC because the struggle has always been to reach consumers. Virtual stores on the Internet will improve consumer choice and bolster the economic viability of small producers.”

The new ABC Industry Advisory explains when “Third Party Providers” do not need to obtain an alcoholic beverage license. The Advisory also helps businesses by:

- Defining that licensees working with a “Third Party Provider” are ultimately responsible for any activities undertaken by a provider on the licensee’s behalf,
- Clarifying that California licensees ultimately control all sales transactions involving “Third Party Providers,”
- Explaining how licensees can compensate “Third Party Providers,”

Two representatives of an industry working group said this is an excellent example of the Department working directly with industry to develop new guidance that clarifies complicated rules to benefit businesses.

“Today’s guidance removes much uncertainty from an area of growing importance to the wine industry,” said co-chairs of the industry working group Mort Siegel of Siegel, Moses and Schonstadt and James M. Seff of Pillsbury, Winthrop Shaw and Pittman. “The results of this endeavor will help licensees reach new consumers on the internet, often at attractive prices, and provide greater consumer selection, all of which are especially important in today’s challenging economy. The laws that govern wine sales were written in the 20th century and do not always comfortably accommodate 21st century technology and business practices. We also believe this guidance helps strengthen California’s position as a leader in both wine and technology and, by providing additional clarity, might also boost compliance with laws pertaining to the sale and advertisement of wine.”

The complete Industry Advisory is available at www.abc.ca.gov. ABC is a Department of the Business, Transportation and Housing Agency.