

**INSTRUCTIONS TO OUT-OF-STATE
BEER VENDORS**

This handout provides instructions to out-of-state beer vendors for shipping beer into California. It covers the following subjects:

1. Certificate of Compliance
2. Out-of-State Beer Manufacturer's Certificate
3. Filing of Malt Beverage Price Schedules
4. Labeling and Brand Registration Requirements (for beer shipped into California)
5. Manner of Consignment
6. Filing of Names (for draught beer)
7. Wholesaler Territorial Limits
8. California Beverage Container Recycling and Litter Reduction Act

1. Certificate of Compliance

A Certificate of Compliance is required of all out-of-state vendors shipping beer into California. Section 23671 of the Business and Professions Code, hereafter referred to as B&P, requires the out-of-state vendor to hold a certificate of compliance issued by the Department prior to shipping any beer into California. In addition, section 23671 requires certificate of compliance holders to file a report with the California Department of Tax and Fee Administration, hereafter referred to as CDTFA, showing the quantity of beer shipped by the out-of-state vendor to each licensed importer in California.

Form ABC-410. Section 23671 B&P provides that an agreement (Form ABC-410) with the Department of Alcoholic Beverage Control (hereafter the Department) must be entered into by all out-of-state vendors shipping beer into the State of California. For purposes of this agreement, "vendor" means the company that appears as consignor (shipper) on the freight bill of lading. Form ABC-410 may be obtained from the Department website at www.abc.ca.gov.

Under the agreement, such out-of-state vendors agree to furnish monthly to the CDTFA, information on the quantities of beer shipped by them to California beer importers. Separate report forms are required for packaged beer and draught beer. A report must be filed even if no beer is shipped. The CDTFA will furnish you a supply of the report (Form CDTFA-1056) after the certificate of compliance is issued by the Department.

The Department will issue a numbered certificate of compliance to each out-of-state brewer, wholesaler, United States importer, or other vendor who executes an agreement.

An ABC-410 should be completed for each organization that will ship beer to licensed importers in California. The completed ABC-410 should be sent to:

Alcoholic Beverage Control
Attn: Price Posting Unit
3927 Lennane Drive, Suite 100
Sacramento, CA 95834

If you have branches for which you elect under (a) above to execute separate agreements, additional forms will be furnished upon request.

2. Out-of-State Beer Manufacturer's Certificate

An Out-of-State Beer Manufacturer's Certificate is required by breweries in the United States who do not also manufacture beer in California

Section 23357.1 B&P provides that an out-of-state beer manufacturer within the United States must hold an out-of-state beer manufacturer's certificate before California importers can bring the manufacturer's beer into the State. It does not apply to an out-of-state manufacturer who also manufactures beer in California. This certificate is in addition to any certificate(s) of compliance held by the manufacturer. Foreign breweries need not apply for this certificate. The application form (ABC-216) may be obtained from the Department website at www.abc.ca.gov.

Section 23357.2 B&P and Rule 132 of the California Code of Regulations set forth the conditions for obtaining an out-of-state beer manufacturer's certificate. The statute and rule may be found on the Department website under the "Law & Policy" tab.

3. Filing of Malt Beverage Price Schedules

Sections 23671 and 23357.2 B&P require that holders of certificates of compliance and/or Out-of-state beer manufacturer's certificates comply with Section 25000 B&P, filing of malt beverage price schedule.

Certificate holders should use Form ABC-701, Malt Beverage Price Schedule, to file schedules of selling prices. This form is not routinely furnished to filing licensees, but may be obtained under the "Licensing" tab on the Department website. One schedule for each county where you have a customer is sufficient.

This form must be filed with the ABC Headquarters Price Posting Unit.

Form ABC-701 INSTR contains instructions on how to complete Form ABC-701. The instructions may be obtained under the "Licensing" tab on the Department website.

4. Label and Brand Registration Requirements

The California ABC Act has a number of beer labeling and brand registration requirements for beer sold in the State. Section 25200 requires every beer manufacturer, before the first sale of a brand of beer in this State, to register the brand of beer with the Department. Form ABC-412, Beer Brand Registration, shall be filed with the Price Posting Unit. Form ABC-412 shall be used both for the initial registration process and for any subsequent brand registration submissions. Form ABC-412 INSTR contains instructions on how to complete Form ABC-412. Both forms may be obtained under the "Licensing" tab on the Department website.

The manufacturer of beer sold in this state shall be responsible for compliance with the labeling requirements as set forth in section 25200. In the case of beer manufactured pursuant to a joint venture or other collaborative agreement, only the actual manufacturer of the beer need comply.

Questions concerning beer brand registration procedures or labeling requirements should be directed to the Price Posting Unit at (916) 419-2571.

5. **Manner of Consignment**

Section 23661 B&P requires that alcoholic beverages brought into California from outside the State for use in this State may only be brought in by common carriers and only when the alcoholic beverages are consigned to a licensed importer.

Section 23661.5 B&P allows a person who manufactures or produces beer outside of California but within the United States, to transport such beer into California in a vehicle owned and operated by him or operated by him pursuant to a lease, the term of which is not less than 30 days, or by contract carrier. Delivery can be only to a licensee who is authorized to import beer. Delivery must be made at the premises of the licensee or to a licensed customs broker at the premises of a properly licensed public warehouse.

The out-of-state beer manufacturer or producer must conform to the laws of the United States and must obtain an interstate alcoholic beverage transporter's permit from the California Department of Tax and Fee Administration.

6. **Filing of Names for Draught Beer**

Section 25203 requires every manufacturer or bottler of beer whose beer is sold within this State to file with the Department the brand name or names under which he sells or labels his draught beer sold in this State. The name of the draught beer can be submitted on company letterhead and filed with the Price Posting Unit.

There is a provision of the Beer Shipper's Agreement for furnishing the required information at the time the agreement is signed by you. If you expect to ship draught beer to California, the brand name must be shown. If you do not have draught beer, or do not intend to sell it in California, enter the word "None".

7. **Wholesaler Territorial Limits**

Section 25000.5 B&P prohibits the filing of prices by a wholesaler for any brand unless the wholesaler has entered into a contract with the brewer of the brand, setting forth the territorial limits within which the wholesaler may sell that brand. The territorial limits may include the entire State of California if the brewer and wholesaler agree on this. More than one wholesaler may be designated to sell a brand of malt beverages within a territory. A copy of the required contract between the wholesaler and brewer must be filed with the Price Posting Unit by the wholesaler.

8. **California Beverage Container Recycling and Litter Reduction Act (Recycling Act)**

The Recycling Act is administered and enforced by the Department of Conservation, Division of Recycling and requires that malt beverage containers offered for sale in California have certain information indicating compliance with the Act. To obtain further information concerning message statement requirements, you can contact the Division of Recycling by phone at (916) 323-1835, via email at: reg.crvlabeling@calrecycle.ca.gov or send your correspondence to CalRecycle, 801 K Street, MS 17-03, Sacramento, CA 95814-3533, Attention: Program Certification & Registration Branch – Registration Unit. Non-compliance with the provisions of the Recycling Act may result in severe civil or criminal penalties.

Label requirements in the ABC Act do *not* consider the requirements of the Recycling Act.

You may wish to submit your malt beverage labels to the Division of Recycling to determine whether they also comply with their requirements.

Division of Recycling
Industry Services
801 K Street, MS 17-03
Sacramento, CA 95814-3533