



THE HOSPITALITY LAW CONFERENCE: SERIES 2.0

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Tantalizing Trends in Trade Practices

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C^{HL}ONFERENCE SERIES 2.0**

Legal Summary

- “Trade Practices” include supplier support for signs, point-of-sale items, retailer and consumer advertising specialties, and other items inside a licensed retail premises.
- Whether supplier support is allowed for a particular item and in what amount is governed by federal and state laws and regulations.
- In California, Rule 106 of the California Code of Regulations addresses common trade practices among industry members.

No licensee shall, directly or indirectly, give any premium, gift, free goods, or other thing of value in connection with the sale, distribution, or sale and distribution of alcoholic beverages, and no retailer shall, directly or indirectly, receive any premium, gift, free goods or other thing of value from a supplier of alcoholic beverages, except as authorized by this rule or the Alcoholic Beverage Control Act.



Examples of Permissible Trade Practices

- Wine and Spirits suppliers may furnish retailers with interior signs, which may be illuminated or mechanized, but which have no secondary value.
- Suppliers may set up displays or promotional materials.
- Suppliers may provide newspaper cuts, mats or engraved blocks (or the modern equivalent) of their products for retailers to use in retailers' advertisements.



Examples of Prohibited Practices – These are “Pay to Play”

- Suppliers may set up displays or promotional materials but may not (themselves or through an affiliate) pay or credit the retailer for the privilege of placing such advertisements within the retail premises.
- Suppliers may not give free goods or treats to retailer employees for the purpose of soliciting help to promote the suppliers’ products.



The Digital World

- Apply the same rules as the traditional world.
- Use common sense when building social media pages and smartphone applications – retailer expenses may not be paid for by suppliers.
- Case example: *Retail Digital Network, LLC v. Prieto*, 861 F. 3d 839 (9th Cir. 2017)

