



ILLINOIS LIQUOR CONTROL COMMISSION

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Illinois Liquor Control Commission Statement on Rule Proposal for Coupons/Rebates

The Illinois Liquor Control Act (“Act”) expressly prohibits a licensed alcoholic liquor manufacturer, importer, non-resident dealer, or distributor (collectively, “Industry Members”) from providing anything “of value” to a licensed retailer of alcoholic liquor (“Retailer”) unless the Act or Illinois Liquor Control Commission Rules (“Rules”) expressly authorize such “of value” transfers. 235 ILCS 5/6-5. In light of the “of value” prohibitions in the Act, Industry Members that provide consumer coupons or rebate reimbursements to Retailers for a consumer price discount require express authorization by the Act or Rules for the coupon or reimbursement to be compliant. No current provision of the Act or Rules expressly authorizes an Industry Member to provide coupons or price discount reimbursements to Retailers.

In consideration of the current law related to the use of Industry Member funded alcoholic liquor coupons and rebates, the Illinois Liquor Control Commission is proposing an Administrative Rule to authorize the limited use of Industry Member funded coupons and rebates that will provide both large and small Illinois retail businesses with reasonable and equitable coupon and rebate funding without creating Industry Member tied houses which threaten a competitive alcohol beverage marketplace. A summary of the features of the proposed Administrative Rule are as follows:

- Authorization of the use of Industry Member coupons in retailer publications, newspapers, and other traditional print media outlets.
- Authorization of digital couponing through the use of phone apps and text messaging.
- Authorization of cross-merchandise coupons to allow the consumer to receive discounts on non-alcoholic products.
- Ensuring transparency in couponing practices by requiring the face of the coupon to include a statement that the coupon can be redeemed by all participating retailers.
- Ensuring small retail outlets receive their fair share and proportionate number of coupon and rebate opportunities.
- Promoting responsible consumption by prohibiting coupons that “give away” alcoholic liquor.
- Eliminating coupon and discount reimbursement practices that favor large retailers over small retailers.

The Commission will propose an administrative rule through the rulemaking procedures established by the Illinois Administrative Procedure Act which include review by the Illinois

General Assembly's Joint Committee on Administrative Rules ("JCAR"). As part of the rulemaking process, the Commission will consider comments and proposed amendments to the proposed rule from all interested parties after the completion of the First Notice period. At the conclusion of the Second Notice period, the Commission will be prepared to answer questions about the rule from members of JCAR.

At the conclusion of the rulemaking process, whether or not the proposed rule is approved for publication, the Commission will educate licensees on legal coupon/rebate practices and will actively enforce the Act and Rules on the subject of coupons and rebates.

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NOTICE OF PROPOSED AMENDMENT

18) Consumer Coupons and Discounts

A) Coupons; Defined – A coupon for alcoholic liquor is a paper or digital price discount offered by an industry member to a consumer either directly or indirectly through redemption by a retailer. For purposes of this Section, a coupon is not a paper or digital price discount offered solely by the retailer to a consumer.

B) Coupons; Types and conditions

i) Direct to Consumer Coupons – Direct to Consumer Coupons are Coupons offered by an industry member directly to a consumer without redemption through a retailer (e.g. mail-in coupons). Subject to retailer approval, industry members may offer or make available Direct to Consumer Coupons to consumers from any location including within or adjacent to the licensed retail premises and at or near the product discounted. Subject to conditions, Direct to Consumer Coupons are solely authorized as follows:

- Free standing inserts from a publication;
- In-ad Direct to Consumer Coupons from a publication;
- Cross-product Direct to Consumer Coupons if the discount applies to a non-alcoholic product which is not a retailer branded or private label product;
- On-product or product display Direct to Consumer Coupons including but not limited to neck hangers and shelf tags;
- Retailer register printed Direct to Consumer Coupons;
- Consumer printed Direct to Consumer Coupons;
- Digital/online Direct to Consumer Coupons transmitted directly or indirectly through a non-retailer third-party processor to the consumer (e.g. phone app, text message);

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- Direct to Consumer Coupons that consumers return (via mail/email) directly or indirectly through a non-retailer third-party processor to an industry member (Mail-in coupons).
- ii) Retailer Redemption Coupons – Retailer Redemption Coupons are Coupons a consumer may present to the retailer for an instant price discount at the retailer point of sale and for which the retailer is reimbursed by the industry member for the face value of the Coupon. Such coupons are also known as Instant Redeemable Coupons or “IRCs” and are solely authorized as follows:
- Free standing inserts from a retailer or non-retailer publication;
 - In-ad Retailer Redemption Coupons from a retailer or non-retailer publication;
 - Cross-product Retailer Redemption Coupons if the discount applies to a non-alcoholic product which is not a retailer branded or private label product;
 - Retailer register printed Retailer Redemption Coupons;
 - Consumer printed Retailer Redemption Coupons;
 - Digital/online Retailer Redemption Coupons transmitted directly to the consumer.
- iii) Product Adjacent Retailer Redemption Coupons; Prohibited - An industry member shall not offer or place Retailer Redemption Coupons at the retailer licensed location on the alcoholic liquor product, product shelf, product display or on any physical location near or adjacent to the product. A retailer shall not place or permit the placement of Retailer Redemption Coupons at the retailer licensed location on the alcoholic liquor product, product shelf, product display or on any physical location near or adjacent to the product.
- iv) Coupons, conditions
- Retailer Redemption Coupons shall be reimbursed to the retailer only with substantiation through documentation that there has been a

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purchase of product to warrant the reimbursement. All records of reimbursements, including any supporting documentation and proof of reimbursement, shall be maintained by the retail licensee for a period of three years.

- Industry members shall not reimburse a retailer for more than the face value of all Coupons redeemed.
- Retailer Redemption Coupons shall be redeemable at all participating retailer locations and shall include a statement on the face of the Retailer Redemption Coupon substantially similar to the following statement: “This coupon shall be redeemable at all participating retailers.”
- Coupons regulated in this Section shall not identify the name or brand of the retailer.
- Industry members offering coupons to be placed at the retailer licensed location for Direct to Consumer Coupons shall distribute such coupons to a retailer in direct proportion to the number of coupon-related products sold by the retailer and shall offer such coupons to all retailers.
- Coupons shall abide by 11 Ill. Admin. Code 100.280. Coupons shall not result in alcoholic liquor giveaways nor shall Coupons use the words “free” or “complimentary” on the face of the coupon.
- Coupons that require the purchase of one alcoholic liquor product to obtain a full or partial discount on a separate alcoholic liquor product are prohibited.
- Coupons subject to this Section shall not be redeemable for retailer branded or retailer private label products or be retailer specific in any manner.
- Coupons must contain an expiration date and cannot be redeemed by the retailer beyond the expiration date.
- Coupons shall state on the face of the coupon that coupon use is for persons aged 21 and over.

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- Coupons offered at a retailer licensed premises shall be presumed to be funded by industry members unless otherwise demonstrated.
 - Coupon programs are voluntary. An industry member shall not compel a retailer to accept a Coupon nor shall a retailer demand an industry member to offer a Coupon.
 - Coupons may be fulfilled through an unlicensed third-party fulfillment agent acting on behalf of the industry member offering the Coupons. Any act or omission of a third-party fulfillment agent related to Coupons is the act or omission of the industry member.
 - No Coupon or non-Coupon discount shall be offered as part of a retailer loyalty or awards program (This does not apply to discounts funded solely by the retailer).
- C) Scan Discount, prohibited – A Scan Discount is a non-Coupon product discount incorporated into the advertised price of the product by agreement between an industry member and a retailer for a specified promotional period. Such Scan Discounts are also known as “scan backs.” An industry member shall not reimburse a retailer for a Scan Discount and shall not provide anything else “of value” to a retailer unless expressly authorized by the Illinois Liquor Control Act or Illinois Liquor Control Commission Rules under any circumstances.