

Kathy Sharp

From: Lynne Omlie <LOmlie@distilledspirits.org>
Sent: Sunday, January 07, 2018 12:42 PM
To: Kathy Sharp
Cc: Keith Burt; Dale Szyndrowski
Subject: Oklahoma ABLE Commission/Proposed Implementing Rules Regarding State Question 792/Distilled Spirits Council Comment
Attachments: Distilled Sprits Council Comment Responding to the ABLE Commission's Implementing Rules Regarding State Question 792.pdf
Importance: High

Dear Ms. Sharp:

Hope all is well with you and our best wishes for a wonderful 2018. Please find attached a copy of our comment responding to the ABLE Commission's notices of proposed rulemaking referenced above.

If you have any questions regarding our draft submission, please do not hesitate to call. My direct dial number is 202-682-8824 and many thanks for all.

With the kindest regards,

Lynne



Lynne J. Omlie
Senior Vice President, General Counsel
and Corporate Secretary
Distilled Spirits Council
(202) 682-8824





January 7, 2018

Ms. Kathy Sharp
Oklahoma Alcoholic Beverage Laws Enforcement Commission
3812 N. Santa Fe Avenue, Suite 200
Oklahoma City, Oklahoma 73118

Re: **Oklahoma ABLE Commission/Notices of Proposed Rulemaking/OAR Dockets #17-718 to #17-724 (Okla. Reg. Volume 35, Number 5 at pp. 85-98 (Nov. 15, 2017))**

Dear Ms. Sharp:

On behalf of the Distilled Spirits Council, a national trade association representing producers and marketers of distilled spirits and importers of wines sold in the United States, we welcome the opportunity to provide our views regarding the ABLE Commission's proposed rules implementing State Question 792 and the ancillary legislation enacted in 2016 and 2017.

We note that the option to utilize a single wine and spirits wholesaler, which is contingent upon not using another distributor in the State, may be a detriment to other wholesalers operating regionally and to new entrants. Nevertheless, we applaud the ability to choose a wholesaler as a market opportunity to better serve Oklahoma consumers.

Given that the Commission's rules are not reviewed frequently, we offer up a few builds to the proposed rules so that the ABLE Commission's regulatory scheme embraces today's consumer demands and marketplace realities, and provides equity among all sectors of the beverage alcohol community.

In that regard, we suggest adding provisions that specifically allow industry members to identify retailers carrying their products in their advertisements and websites, as well as to advertise industry member promotions conducted at retail premises with identifying retailer information, such as a photograph of that premise.

To ensure that the ABLE Commission's rules are in sync with technological developments utilized in the modern marketplace, industry members also should be permitted to identify retailers in social media advertising and to share, repost or otherwise forward a retailer's social media post. In addition to a physical address, an industry member obviously should be allowed to include the retailer's website address, QR code and/or any point of contact via other digital means of communication or otherwise. These builds are consistent with the rules of other states.

Factual information about the availability of an industry member's products and activities would enhance competition, benefit the consumer and pose no tied-house issues. These proposed revisions serve and benefit the Oklahoma consumer by providing and facilitating more choices in the State's marketplace to the benefit of all stakeholders.

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We support the ABLE Commission's proposal to retain the current wholesaler private label rule and urge that the Commission also equally address retailer private labels. In that regard, the ABLE Commission prohibits the use of private labels by wholesalers unless approved by the Commission upon application (§ 45:40-5-4).

To that end, we urge that the Commission address retailer private labels to ensure that consumer transparency, fairness and a level playing field are at the forefront of any rule regarding retailer private labels. As you know, suppliers have no "in-store" voice and such a rule will effectuate the statutory goals of the Commission.

Thank you for the opportunity to share our views regarding this rulemaking initiative and we would be pleased to provide you with suggested language to effectuate the proposed builds referenced above.

As always, if you have any questions about our comment and/or otherwise, please do not hesitate to call. We stand ready to assist you in this important regulatory endeavor.

With best regards,

A handwritten signature in black ink, appearing to read "Dale Szyndrowski". The signature is written in a cursive style with a large initial "D".

Dale Szyndrowski
Vice President/Central Region

LJO:bca

cc: The Honorable A. Keith Burt
Director
Oklahoma ABLE Commission