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There has been some confusion as to whether recent statutory changes allowing samples to the general public on retail liquor store premises also allows tastings for retail liquor store employees on product provided by licensed distributors. The short answer is no. An overall look at the statutes and regulations involved can provide some clarity on this issue.

First of all, K.S.A. 41-709 allows a distributor to withdraw product from inventory to facilitate familiarization with new products or use at industry seminars in accordance with rules and regulations promulgated by the Director. With regard to this practice, the language of Section 6.91 of federal TTB regulations and K.A.R 14-14-6a demonstrates that the term "sample" is in reference to an actual bottle or package of alcohol provided by the industry member to a retailer for the purposes of conducting a sampling event for the public. Section 6.91 refers to container sizes that can be provided, indicating that it refers to the container *as a whole*, not an actual drink or taste out of that container. K.A.R 14-14-6a, subsection (b) states "any distributor may provide each licensee with one individual bottle or one individual can" and then goes on to say in the very next sentence that "the distributor shall provide *these* samples..." meaning the aforementioned one bottle or one can, as it relates to the "samples." Subsection (c) of that regulation then specifically states that "Licensees and distributors shall comply with all other laws pertaining to the possession *and consumption* of alcoholic liquor..."

With that in mind, there are specific statutes and regulations that address retailer consumption on-premises. K.S.A. 41-308d allows tastings/samples to be served on the premises to the general public. There is no mention of allowing store employees to consume samples on the licensed premises. Moreover, K.A.R 14-13-16(d) states that an owner or manager can taste wine to verify that it has not deteriorated or become unfit for consumption, but it does not allow anything else, nor does it allow any other employee to taste anything. Finally, K.A.R 14-13-13(h) and (i) then state that a retailer cannot have open containers on-premise or allow the on-premise consumption of alcohol, *except* during tasting events conducted pursuant to K.A.R 14-13-16 and 14-13-17.

As with most instances of statutory interpretation involving liquor laws, it is ABC's position that had the intention been to allow the retailer to actually taste the product directly on-premise at the time of its delivery, that would have been specified. These statutes and regulations, when viewed together, demonstrate that the preferred course of action involves a distributor delivering a bottle or container of alcohol for sampling to a retailer, preferably during an industry seminar held in accordance with the proper regulations. If the bottle is delivered directly to the retailer's premises, it would need to be actually opened and tasted at a different location, somewhere off the licensed premises. The only time open containers of alcohol may be present on a retailer's licensed premises is during a tasting event open to the general public.

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