



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL

M ARK PARKINSON, GOVERNOR

POLICY MEMORANDUM 2001 – 2 (Revised 5-1-09)

Subject: Use of Electronic Fund Transfers as Payment for Alcoholic Liquor or Cereal Malt Beverages

1. Purpose: The purpose of this memorandum is to provide clarification of the statutes and regulations as they pertain to what uses of electronic fund transfers are lawful as payment for alcoholic liquor or cereal malt beverages.

2. Applicability: All Cereal Malt Beverage (CMB) retailers, Retail Liquor Stores, Drinking Establishments, Clubs, Caterers, Hotels (collectively referred to herein as “retailers”); Distributors of alcoholic liquor and cereal malt beverages; and all service providers of electronic fund transfers who provide service to CMB or liquor licensees.

3. Discussion: Kansas law prohibits any purchase or sale of alcoholic liquor on credit. EFTs may be utilized by retailers and distributors to allow delivery of alcoholic liquor or CMB without immediate payment by cash, credit card, or check.

The following rules shall apply electronic fund transfers (EFT) utilized as payment for the purchase or sale of alcoholic liquor or cereal malt beverages in the State of Kansas:

- a. EFTs shall be regarded as paperless checks and shall be treated as checks under the State’s statutes and regulations.
- b. The processing of insufficient funds (NSF) under an EFT payment system shall be treated in the same manner as a paper check.
- c. The EFT must be initiated by the Distributor no later one (1) banking business day after the date of delivery of product to the retailer, and it must be for the exact amount invoiced.
- d. The retailer shall pay the distributor with an irrevocable payment order for the exact amount invoiced no later than one (1) banking business day after the initiation of the EFT by the distributor.
- e. The agreement to use EFT as a form of payment must be voluntary and mutual. There shall be no discrimination for non-participation in an EFT program by either party. Nor shall there be any gifts, discounts, rebates or other services or benefits provided for participation in an EFT program.
- f. A distributor that agrees to accept EFT payments must make the payment option available to all retailers.
- g. The distributor may require a credit check on any retailer requesting EFT payments. The distributor shall treat all retailers equally and shall not impose different levels of acceptable creditworthiness on different retailers, regardless of the retailer’s purchasing volume or historical buying patterns.
- h. Distributors and retailers shall bear their individual respective costs for conducting EFT payments – as determined by the EFT service provider – including, but not limited to, transaction fees, software, hardware, maintenance fees, insurance and bonds.

POLICY MEMORANDUM 2001-1 (Revised 5-1-09)

Subject: Use of Electronic Fund Transfers as Payment for Alcoholic Liquor or Cereal Malt Beverages

- i. Prior to initiating EFT payments from any retailer, a distributor shall enter into a written agreement with the retailer, specifying the terms and conditions for EFT payments for alcoholic liquor or cereal malt beverages. Either party may terminate this agreement with thirty (30) days written notice to the other party. The agreement must be available for inspection upon request by an agent or employee of the ABC.
- j. The distributor shall generate an invoice on or before the point of delivery, and shall specify that the payment is by EFT. Signature of each invoice by an authorized employee of the retailer shall be required at the time of delivery, and shall constitute acknowledgement and approval of the delivery quantity, dollar amount, and EFT transaction.
- k. Each party shall maintain accurate records of all transactions and EFT agreements/payments pursuant to ABC regulations, and such records are subject to inspection by the ABC Director, the Secretary of Revenue and/or the Director of Taxation, or any authorized agents/employees thereof.
- l. EFT payment to a distributor making delivery to multiple locations of a chain retailer on the same business day may be transmitted to the distributor as a single EFT. Each party shall maintain store-by-store, line-by-line, fully detailed records in order to trace each delivery invoice to the EFT.
- m. No manufacturer, distributor, or retailer shall directly or indirectly have any ownership or beneficial interest in any program, organization or association providing EFT services to the State's licensees.
- n. It is recognized that EFT is a form of exchanging electronic information, and is in part a form of electronic data interchange. This exchange of electronic information shall be limited to that information necessary for the delivery and payment of an alcoholic beverage invoice. It shall not be construed to permit the providing of data services including, but not limited to, sales summaries or comparisons of competitive product sales.

4. Additional Comments

- a. Any violation of this policy memorandum may result in administrative action being taken against the licensee for discrimination and/or employing an unfair trade practice and the licensee may be subject to fines, suspensions and other penalties, up to and including revocation of the license.
- b. Alcoholic Beverage Control Agents will verify compliance with the provisions of the applicable statutes, regulations and this policy memorandum.

5. Clarification of Policy: All requests for clarification of this policy should be directed *in writing* to this office via mail, fax, or email.

6. Effective date of this Policy: This policy is effective from May 1, 2009 until further notice.

Original Signed and On File

Thomas W. Groneman

cc: Assistant Attorney General
Chief of Enforcement
Licensing Supervisor
Enforcement Agents