

INTOXICATING LIQUOR:
NONINTOXICATING BEER:
ADVERTISING:

There is no legal prohibition against a manufacturer making and leasing to any store licensed to sell intoxicating liquor or nonintoxicating beer, a metal beverage cooler containing a metal superstructure upon which will be colored pictures of the products contained in the cooler, such as milk, soft drinks, intoxicating liquor or nonintoxicating beer, from which the customer may help himself, such intoxicating liquor or nonintoxicating beer not to be consumed on the premises.



January 5, 1955

Honorable James Webbe
Senator, Fourth District
2345 Lafayette Avenue
St. Louis 1, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"I would like to inquire whether the following setup is in violation of any law of the state of Missouri, and more particularly the liquor law.

"Would it be legal for a manufacturer to make and then lease to any store licensed to sell beer and/or hard liquor, a metal beverage cooler such as is pictured on the attached advertisement, to which will be added a metal superstructure upon which there will be colored pictures of the products contained on the cooler, such as milk, soft drinks, beer, or any product which the store renting the cooler wants to put in it.

"Customers may serve themselves to the packaged beer, which, of course, would not be consumed on the premises."

Since you do not so state, we assume that no distiller, wholesaler, brewer, or any other of the classes of persons enumerated in Section (a) of Regulation No. 4 of the Rules and Regulations of the Department of Liquor Control, has any financial interest in the establishment which would manufacture these metal beverage coolers, so that there would be no possibility of any violation of Regulation No. 4, which prohibits any person or persons so associated, as set forth above, from having any financial interest in any retail establishment selling intoxicating liquor or nonintoxicating beer,

We wish to point out also that we have, for the purposes of this opinion, assumed that the rental cost of the cooler is to be

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paid entirely by the retail licensee and that no part thereof is to be supplied directly or indirectly by any distiller, wholesaler or brewer. If this assumption is not correct then Section 311.070, RSMo 1949, and the prohibition contained therein might be involved.

We have examined Section (f) of Regulation No. 15 of the Rules and Regulations of the Department of Liquor Control, which section sets forth the kinds of advertising of intoxicating liquor and non-intoxicating beer, which are prohibited. That section reads:

"The term 'advertisement' as used herein includes any advertisement through the medium of radio, motion pictures, public address systems, newspapers or other publications or any sign or outdoor billboard or other printed or graphic matter.

"No advertising of intoxicating liquor shall contain:

- "(1) Any statement that is false or misleading in any manner.
- "(2) Any statement, design, device or representation which is obscene or indecent.
- "(3) Any statement concerning a brand of intoxicating liquor that is inconsistent with any statement on the labeling thereof.
- "(4) Any statement describing spirituous liquor to be beneficial and healthful.
- "(5) Any statement offering any coupon, premium, prize or rebate as an inducement to purchase intoxicating liquor.

"No licensee shall advertise for sale any brand of intoxicating liquor or nonintoxicating beer unless he or she has the particular brand of liquor or beer advertised in his or her licensed premises for sale.

"No licensee shall allow any sign owned by him and advertising his product to be placed or allowed to remain in or upon any building used as a dance hall, place of entertainment or restaurant, unless such building has an occupant holding a license issued by the Supervisor of Liquor Control.

"No licensee shall use any loud speaker or public address system other than regular radio advertisement, to advertise intoxicating liquors or malt beverages."

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We do not believe that your proposed plan of operation is violative of the above.

We direct attention to Section (f) of Regulation No. 12 of the Rules and Regulations of the Department of Liquor Control, which reads:

"Window Displays.- No intoxicating liquor licensee shall display in any street window or show window any intoxicating liquor in any package, or in any bottle commonly used for intoxicating liquor or in any container bearing the manufacturer's label or brand of intoxicating liquor; nor shall any display of intoxicating liquor be arranged within such close proximity of such street window or show window as to be viewed from any sidewalk or street.

"No licensee shall display or allow to be displayed upon the windows or within the premises covered by this license where it may be visible from the exterior, any signs or markings which advertise the price of alcoholic beverages, or the size of containers, glasses or mugs in which such alcoholic beverages are offered for sale."

We assume that the display which is contemplated will be made with due reference to the above, and if it is, it will not be violative of Section (f) supra.

Your plan is clearly not violative of Section (k) of Regulation No. 13 of the Rules and Regulations of the Department of Liquor Control, which reads:

"Moving signs prohibited.- No retail licensee shall allow or cause any sign or advertisement pertaining to intoxicating liquor or malt beverages to be carried or transported upon any sidewalk or street of any municipality or upon any highway of the State."

We are unable to find any other statutes, rules or regulations applicable to your proposed plan, and since, as we stated above, we do not find any statutes or rules and regulations which might be applicable to be prohibitive, it is our belief that your plan of operation is entirely legitimate.

CONCLUSION

It is the opinion of this department that there is no legal prohibition against a manufacturer making and leasing to any store

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licensed to sell intoxicating liquor or nonintoxicating beer, a metal beverage cooler containing a metal superstructure upon which there will be colored pictures of the products contained in the cooler, such as milk, soft drinks, intoxicating liquor or nonintoxicating beer, from which the customer may help himself, such intoxicating liquor or nonintoxicating beer not to be consumed on the premises.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General