

State of Louisiana
Office of Alcohol and Tobacco Control

John Bel Edwards
Governor



Juana Marine-Lombard
Commissioner

ADVISORY NOTICE

March 2017

Clarification on Activities permitted on a Brewery's Premises

Dear Breweries,

The Louisiana Office of Alcohol and Tobacco Control ("ATC") received a request to clarify the type of activities permitted under a manufacturer's (brewery) license and the activities at its facility. The question posed to the ATC relates to the types of activities allowed in or about the facility and what are the parameters by which a brewery can promote the activities occurring on its licensed premises. This advisory opinion is based on specific information and concerns conveyed to this date.

ONSITE ACTIVITIES

I. Entertainment

It is the position of the ATC that a brewery may conduct any activities within the confines of its facility as long as the activity does not violate state and/or local laws or regulations. Patios and porches or any other outside areas that are under the brewery's roofline shall also be deemed a permissible area to sell beer if such activities are also permissible under local ordinance. Furthermore, any other activities occurring within the facility must be incidental to the brewery's purpose. The brewery may allow live entertainment within the structural premises. Other entertainment such as bingo (if permitted by charitable gaming), yoga or trivia night is permitted if these activities are not the primary purpose of the brewery. If the brewery is offering live entertainment, a cover charge is permissible for admission.

II. Food Sales On Premises

A brewery may allow food sales on the premises. However, the food sales shall not become the primary purpose of the facility. If a brewery has a restaurant or kitchen operating on the premises/under the roofline, the restaurant's food sales and marketing shall be incidental to the beer sales. Thus, sales from the restaurant/kitchen within the brewery's premises shall not exceed 25% (twenty five percent) of all beer sales. Breweries are permitted to allow food trucks on their premises. Breweries may also allow other third party providers access to the facilities to provide food offers, such as boiled crawfish, barbeques or other food. However, the food trucks, restaurant owners and/or third party providers may not hold any interest, whether directly or indirectly, in any alcoholic beverage permit(s) in Louisiana. In short, any arrangement between the brewery and an alcohol retail dealer such as restaurants, caterers, or bars is prohibited even if the licensed retailer is only providing non-alcoholic services.

LSA R.S. 26:241(10) states that only the products brewed at the facility are allowed to be sold or served to the public. As such, all other beers, wines and/or spirits not brewed at the facility are prohibited on or about the licensed premises, including but not limited to during private events.

III. Private Events

A brewery may hold private events including fundraisers. The private event organizer may contract with a caterer for food service. Additionally, a brewery may hold events for non-profit entities, however the non-profit must be a 501c (3), (6) or (8). All net proceeds resulting from these events must go directly to the non-profit entity.

A brewery must be in exclusive control of the premises at all times. A brewery shall not offer and shall not allow any third party to possess, serve, sell, offer for sale, or consume other alcoholic beverages on its premises.

MARKETING & SALES OF ALCOHOLIC BEVERAGES

Louisiana tied house laws promote a fair playing field for all alcohol industry members by prohibiting certain activities that would influence unlawful inducement and unfair business practices. For this reason, LAC 55:IX.317(C)(2) prohibits any arrangement between alcoholic beverage industry members and/or retailers to exclusively market or promote other specific alcoholic retail members to the exclusion of others. More so, tied house laws generally prohibit breweries from giving “anything of value” to retailers, including free advertisement through such medians like Facebook.

Conversely, breweries may promote or market other non-alcoholic entities and their involvement with the brewery so long as such non-alcoholic entities do not hold, whether directly or indirectly, any interest in any alcoholic beverage permit(s) in the state of Louisiana. For example, a brewery may post social media advertisement on sites including Facebook and Instagram that include the name of the live band, name of the food truck, or any other non-alcoholic retailer. This does not mean that marketing of non-alcoholic entities as the primary purpose of the facility is permitted. A brewery may also advertise its participation or sponsorship of the event on social media provided that the event is conducted by the non-profit or for the benefit of the non-profit event.

It is a prohibition for a brewery to exclusively advertise via social media for a specific permitted alcohol retail dealer or to advertise events, other than samplings or trade calls, occurring at other permitted establishments. Breweries may advertise via social media any sampling events, but such posting shall not list or post any retail pricing. At a sampling, a retail dealer shall not provide the brewery anything of value and the brewery shall not incur any cost. For instance, a brewery may not provide swag gifts. Likewise, a licensed retail dealer may not offer specials that are directly related to the event.

Please direct any questions or requests for additional information to ATC Chief Legal Counsel, Ernest Legier at 504-568-7032.

Sincerely,

Juana Lombard, Commissioner
Louisiana Office of Alcohol & Tobacco Control