

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

## § 6.35

(b) By acquiring any interest in the real or personal property owned, occupied, or used by the retailer in the conduct of his business;

(c) By furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services or other thing of value, subject to the exceptions contained in subpart D;

(d) By paying or crediting the retailer for any advertising, display, or distribution service;

(e) By guaranteeing any loan or the repayment of any financial obligation of the retailer;

(f) By extending to the retailer credit for a period in excess of the credit period usual and customary to the industry for the particular class of transactions as prescribed in § 6.65; or

(g) By requiring the retailer to take and dispose of a certain quota of any such products.

### INTEREST IN RETAIL LICENSE

#### § 6.25 General.

The act by an industry member of acquiring or holding any interest in any license (State, county or municipal) with respect to the premises of a retailer constitutes a means to induce within the meaning of the Act.

[T.D. ATF-364, 60 FR 20421, Apr. 26, 1995]

#### § 6.26 Indirect interest.

Industry member interest in retail licenses includes any interest acquired by corporate officials, partners, employees or other representatives of the industry member. Any interest in a retail license acquired by a separate corporation in which the industry member or its officials, hold ownership or are otherwise affiliated, is an interest in a retail license.

#### § 6.27 Proprietary interest.

(a) *Complete ownership.* Outright ownership of a retail business by an industry member is not an interest which may result in a violation of section 105(b)(1) of the Act.

(b) *Partial ownership.* Less than complete ownership of a retail business by an industry member constitutes an in-

terest in a retail license within the meaning of the Act.

[T.D. ATF-74, 45 FR 63251, Sept. 23, 1980, as amended by T.D. ATF-364, 60 FR 20421, Apr. 26, 1995]

### INTEREST IN RETAIL PROPERTY

#### § 6.31 General.

The act by an industry member of acquiring an interest in real or personal property owned, occupied, or used by the retailer in the conduct of business constitutes a means to induce within the meaning of the Act.

[T.D. ATF-364, 60 FR 20421, Apr. 26, 1995]

#### § 6.32 Indirect interest.

Industry member interest in retail property includes any interest acquired by corporate officials, partners, employees or other representatives of the industry member. Any interest in retail property acquired by a separate corporation in which the industry member or its officials, hold ownership or are otherwise affiliated, is an interest in retail property.

#### § 6.33 Proprietary interest.

(a) *Complete ownership.* Outright ownership of a retail business by an industry member is not an interest that may result in a violation of section 105(b)(2) of the Act.

(b) *Partial ownership.* Less than complete ownership of a retail business by an industry member constitutes an interest in retail property within the meaning of the Act.

[T.D. ATF-74, 45 FR 63251, Sept. 23, 1980, as amended by T.D. ATF-364, 60 FR 20421, Apr. 26, 1995]

#### § 6.34 Mortgages.

The acquisition of a mortgage on a retailer's real or personal property by an industry member constitutes an interest in the retailer's property within the meaning of the Act.

#### § 6.35 Renting display space.

The renting of display space by an industry member at a retail establishment constitutes an interest in the retailer's property within the meaning of the Act.

## § 6.41

### FURNISHING THINGS OF VALUE

#### § 6.41 General.

Subject to the exceptions listed in subpart D, the act by an industry member of furnishing, giving, renting, lending, or selling any equipment, fixtures, signs, supplies, money, services, or other things of value to a retailer constitutes a means to induce within the meaning of the Act.

[T.D. ATF-364, 60 FR 20421, Apr. 26, 1995]

#### § 6.42 Indirect inducement through third party arrangements.

(a) *General.* The furnishing, giving, renting, lending, or selling of equipment, fixtures, signs, supplies, money, services, or other thing of value by an industry member to a third party, where the benefits resulting from such things of value flow to individual retailers, is the indirect furnishing of a thing of value within the meaning of the Act. Indirect furnishing of a thing of value includes, but is not limited to, making payments for advertising to a retailer association or a display company where the resulting benefits flow to individual retailers.

(b) *Exceptions.* An indirect inducement will not arise where the thing of value was furnished to a retailer by the third party without the knowledge or intent of the industry member, or the industry member did not reasonably foresee that the thing of value would have been furnished to a retailer. Things which may lawfully be furnished, given, rented, lent, or sold by industry members to retailers under subpart D may also be furnished directly by a third party to a retailer.

[T.D. ATF-364, 60 FR 20421, Apr. 26, 1995]

#### § 6.43 Sale of equipment.

A transaction in which equipment is sold to a retailer by an industry member, except as provided in § 6.88, is the selling of equipment in within the meaning of the Act regardless of how sold. Further, the negotiation by an industry member of a special price to a retailer for equipment from an equipment company is the furnishing of a

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thing of value within the meaning of the Act.

[T.D. ATF-74, 45 FR 63251, Sept. 23, 1980, as amended by T.D. ATF-364, 60 FR 20422, Apr. 26, 1995]

#### § 6.44 Free warehousing.

The furnishing of free warehousing by delaying delivery of distilled spirits, wine, or malt beverages beyond the time that payment for the product is received, or if a retailer is purchasing on credit, delaying final delivery of products beyond the close of the period of time for which credit is lawfully extended, is the furnishing of a service or thing of value within the meaning of the Act.

#### § 6.45 Assistance in acquiring license.

Any assistance (financial, legal, administrative or influential) given the retailer by an industry member in the retailer's acquisition of the retailer's license is the furnishing of a service or thing of value within the meaning of the Act.

#### §§ 6.46-6.47 [Reserved]

### PAYING FOR ADVERTISING, DISPLAY OR DISTRIBUTION SERVICE

#### § 6.51 General.

The act by an industry member of paying or crediting a retailer for any advertising, display, or distribution service constitutes a means to induce within the meaning of the Act, whether or not the advertising, display, or distribution service received by the industry member in these instances is commensurate with the amount paid therefor. This includes payments or credits to retailers that are merely reimbursements, in full or in part, for such services purchased by a retailer from a third party.

[T.D. ATF-364, 60 FR 20422, Apr. 26, 1995]

#### § 6.52 Cooperative advertising.

An arrangement in which an industry member participates with a retailer in paying for an advertisement placed by the retailer constitutes paying the retailer for advertising within the meaning of the Act.