

**32B-11-608 Operational requirements for local industry representative license.**

- (1)
  - (a) A local industry representative licensee, staff of the local industry representative licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the state, shall comply with this title and rules of the commission.
  - (b) If a person knowingly violates Subsection (1)(a):
    - (i) the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
      - (A) a local industry representative licensee;
      - (B) individual staff of a local industry representative licensee; or
      - (C) both a local industry representative licensee and staff of the local industry representative licensee; and
    - (ii) if the conditions of Subsection (1)(c) are met, the commission may order:
      - (A) the removal of the manufacturer's, supplier's, or importer's products from the department's sales list; and
      - (B) a suspension of the department's purchase of those products for a period determined by the commission.
  - (c) Subsection (1)(b)(ii) applies if the manufacturer, supplier, or importer:
    - (i) directly commits the violation; or
    - (ii) solicits, requests, commands, encourages, or intentionally aides another to engage in the violation.
- (2) A local industry representative licensee shall display its license in the local industry representative licensee's principal place of business.
- (3)
  - (a) A local industry representative licensee shall maintain on file with the department a current accounts list of the names and addresses of the manufacturers, suppliers, and importers the local industry representative licensee represents.
  - (b) A local industry representative licensee shall notify the department in writing of a change to its accounts list within 14 days from the date the local industry representative licensee:
    - (i) acquires the account of a manufacturer, supplier, or importer; or
    - (ii) loses the account of a manufacturer, supplier, or importer.
- (4)
  - (a) A local industry representative licensee shall make and maintain the records the department requires for at least three years.
  - (b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (4).
- (5) Staff of a local industry representative licensee may not be:
  - (a) a retail licensee that sells, offers for sale, or furnishes liquor;
  - (b) staff of a retail licensee that sells, offers for sale, or furnishes liquor; or
  - (c) a minor.
- (6)
  - (a) A local representative licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not.
  - (b) A local industry representative license has no monetary value for any type of disposition.
- (7) A local industry representative licensee, staff of the local industry representative licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the state:
  - (a) only to the extent authorized by Chapter 4, Criminal Offenses and Procedure Act, may:

- (i) assist the department in:
    - (A) ordering, shipping, and delivering merchandise;
    - (B) providing new product notification;
    - (C) obtaining listing and delisting information;
    - (D) receiving price quotations;
    - (E) providing product sales analysis;
    - (F) conducting shelf management; and
    - (G) conducting educational seminars; and
  - (ii) to acquire new listings:
    - (A) solicit orders from the department; and
    - (B) submit to the department price lists and samples of the products of the manufacturer, supplier, or importer;
  - (b) may not sell liquor within the state except to:
    - (i) the department; and
    - (ii) a military installation;
  - (c) may not ship or transport, or cause to be shipped or transported, liquor into this state or from one place to another within this state;
  - (d) may not sell or furnish any liquor to any person within this state other than to:
    - (i) the department; or
    - (ii) a military installation;
  - (e) except as otherwise provided, may not advertise a product the local industry representative licensee represents in violation of this title or any other federal or state law;
  - (f) shall comply with the trade practices provided in Chapter 4, Part 7, Trade Practices Act; and
  - (g) may only provide a sample of a product of the manufacturer, supplier, or importer for tasting and sampling purposes as provided in Section 32B-4-705 by the department.
- (8) A local industry representative licensee may, to become educated as to the quality and characteristics of a liquor that the licensee represents, taste and analyze an industry representative sample under the conditions listed in this Subsection (8).
- (a) A local industry representative licensee may not receive more than two industry representative samples of a particular type, vintage, and production lot of a particular branded product within a consecutive 120-day period.
  - (b)
    - (i) An industry representative sample of liquor may not exceed one liter.
    - (ii) Notwithstanding Subsection (8)(b)(i), an industry representative sample of the following may not exceed 1.5 liters unless that exact product is only commercially packaged in a larger size, not to exceed 5 liters:
      - (A) wine;
      - (B) heavy beer; or
      - (C) a flavored malt beverage.
  - (c) An industry representative sample may only be of a product not presently listed on the department's sales list.
  - (d)
    - (i) An industry representative sample shall be shipped:
      - (A) prepaid by the manufacturer, supplier, or importer;
      - (B) by common carrier and not via United States mail; and
      - (C) directly to the department's central administrative warehouse office.
    - (ii) An industry representative sample may not be shipped to any other location within the state.

- (e) An industry representative sample shall be accompanied by a letter from the manufacturer, supplier, or importer:
  - (i) clearly identifying the product as an "industry representative sample"; and
  - (ii) clearly stating:
    - (A) the FOB case price of the product; and
    - (B) the name of the local industry representative for whom it is intended.
- (f) The department shall assess a reasonable handling, labeling, and storage fee for each industry representative sample received.
- (g) The department shall affix to a container a label clearly identifying the product as an "industry representative sample."
- (h) The department shall:
  - (i) account for and record each industry representative sample received;
  - (ii) account for the industry representative sample's disposition; and
  - (iii) maintain a record of the industry representative sample and its disposition for a two-year period.
- (i) An industry representative sample may not leave the premises of the department's central administrative warehouse office.
- (j) A local industry representative licensee's and a local industry representative licensee's staff may, at regularly scheduled days and times established by the department, taste and analyze one or more industry representative samples on the premises of the department's central administrative warehouse office.
- (k) The department shall destroy the unused contents of an opened product remaining after a product is sampled under controlled and audited conditions established by the department.
- (l) An industry representative sample that is not tasted within 30 days of receipt by the department shall be disposed of at the discretion of the department in one of the following ways:
  - (i) the contents destroyed under controlled and audited conditions established by the department; or
  - (ii) added to the inventory of the department for sale to the public.

Amended by Chapter 307, 2011 General Session

Amended by Chapter 334, 2011 General Session