

BULLETIN



Comptroller of the Treasury ● Alcohol and Tobacco Tax Unit ● Goldstein Treasury Building ● P.O. Box 2999
Annapolis, Maryland 21404-2999 ● Telephone: 410-974-3314

No. AB-22

August 3, 1998

TO: Licensed Beer Wholesalers and Non-Resident Dealers

SUBJECT: Beer Depletion Allowances - New Law and Requirement

The 1998 Maryland General Assembly enacted, effective October 1, 1998, House Bill 1263 dealing with depletion allowances. This bill added Subsection "B" to Section 12-102 of Article 2B of the Annotated Code of Maryland which provides: "*A supplier, non-resident dealer, or wholesaler may not make a discount, rebate, or depletion allowance that is offered on a product dependent on the pricing policy or practice of the licensee who is invoiced for the product.*"

The significant effect of this new law is that a malt beverage supplier may not require, as a condition of a wholesaler's participation in a depletion allowance program, the wholesaler to share in the cost of the program by offering a certain price reduction to retailers or other similar conditions. If a depletion allowance is offered, a supplier may suggest, but may not require directly or indirectly, that the wholesaler share in the cost of the program. If a supplier offers a depletion allowance to one Maryland wholesaler, then all Maryland wholesalers must be afforded the opportunity to participate regardless of their price to retailers or other considerations.

On May 15, 1997, this office issued Administrative Release No. AB-10 on the subject of beer discounts and depletion allowances. With respect to depletion allowances, this administrative release specifically permitted suppliers to require that wholesalers share in the cost of the program as a condition of participation. As a result of House Bill 1263, this particular provision of the administrative release will no longer be applicable as of October 1, 1998. Licensees should be guided by this bulletin which explains the new law.

All other provisions of Administrative Release AB-10 not inconsistent with the new law remain in effect and are considered the administrative interpretation of this office.

Any current or planned depletion allowance program must be in conformance with the new law and this bulletin on or before October 1, 1998. Questions pertaining to this bulletin should be directed to Assistant Director Aaron L. Stansbury at 410-974-3319.

Charles W. Ehart, DPA
Director

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