

# Bulletin

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**AB-55**

**September 28, 2007**

**To:** All Wholesalers, Manufacturers, Nonresident Dealers, Nonresident Wineries and County Dispensaries that sell Wine and Distilled Spirits

**Subject:** Price Postings and Quantity Discounts

On September 27, 2007, the Honorable William D. Quarles, Jr., acting on behalf of the U.S. District Court for the District of Maryland, Northern Division, in the case of TFWS, Inc. v. Comptroller of Maryland, found in favor of the plaintiff. The court determined that the state statute authorizing price postings on wines and distilled spirits and related regulation were a per se violation of the Sherman Act and unlawful, notwithstanding the state's authority to regulate alcoholic beverages under the 21<sup>st</sup> Amendment. The Court found that the statute and related regulation placing a ban on volume discounts were also a per se violation of the Sherman Act and unlawful. The court entered an injunction prohibiting the Comptroller from enforcing both the price posting and ban on volume discounts.

The effect of the ruling was to render the price posting requirements and the prohibition on quantity discounts from wholesaler to retailer for wines and distilled spirits both unenforceable. Therefore, the current price filing data has been removed from our website and no further price filings need to be submitted.

The Comptroller and the Attorney General are reviewing the decision and are considering the next step. You are reminded that the price discrimination statute remains and other provisions not related to the decision in this case remain enforceable under section 12-102 and other sections of Article 2B of the Annotated Code of Maryland and under the regulations in COMAR. More detailed information will be published on the website in the near future.

Should you have any questions regarding this matter, please contact Dan Adams, Assistant Director at 410-260-7319.

Thad Russell  
Director