



Advisory Opinion 21-02: Acceptable Payment Methods to Wholesalers

I. Background

The following question was posed to the Indiana Alcohol and Tobacco Commission:

1. Whether and to what extent Indiana wholesalers may prohibit the use of U.S. Dollars and require other payment methods when making sales to retailers and dealers?

II. Analysis & Conclusion

Indiana Code 7.1-5-10-12(a) provides that “it is unlawful for a permittee to sell, offer to sell, purchase or receive, and alcoholic beverage for anything other than cash. . . .” Section 12 uses the term “cash” as a reference to instantaneous payment and further provides that the sale of alcoholic beverages on credit is a violation if not done in accordance with the statute. Through Nonrule Policy ATC-016, the Commission has determined “cash means and includes electronic fund transfers (EFT),” thereby broadly interpreting the meaning of “cash” to include other types of instantaneous payment forms.

Indiana Code 7.1-5-5-7 prohibits discrimination in sales between permittees “by granting a price, discount, allowance, or service change which is not available to all purchasers at the same time.” It is the Commission’s position that this statute would require wholesalers who do not accept physical cash to treat all retailers and dealers similarly, i.e. a wholesaler could not reject physical cash as a payment from one permittee and accept it from another.

905 IAC 1-31-2, which affects IC 7.1-5-5-7, provides that “[a]ll price, discount or allowance schedules shall be in writing, shall state the beginning and ending dates of the offer and shall set forth any other conditions or limitations.” It is the position of the Commission that placing certain conditions and limitations on the sale of alcohol – such as a policy on how payment is made – would not violate IC 7.1-5-5-7 so long as such conditions and limitations are applied to all retailers and dealers.

There is nothing in Title 7.1 that expressly prohibits the practice of wholesalers prohibiting physical cash payments so long as permit holders comply with IC 7.1-5-5-7 and 905 IAC 1-32-1, wholesalers can implement policy prohibiting the use of physical cash when transacting business. The policy needs to be uniformly applied to all retailers and dealers in order to comply with the law.