

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.

**§ 6.43 [Amended]**

**Par. 12.** Section 6.43 is amended by removing the reference “§§ 6.88 and 6.89,” where it appears in the first sentence and replacing it with “§ 6.88.”

**§§ 6.46 and 6.47 [Removed and reserved]**

**Par. 13.** Sections 6.46 and 6.47 are removed and reserved.

**Par. 14.** Section 6.51 is revised to read as follows:

**§ 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.

**Par. 15.** Section 6.61 is revised to read as follows:

**§ 6.61 Guaranteeing loans.**

The act by an industry member of guaranteeing any loan or the repayment of any financial obligation of a retailer constitutes a means to induce within the meaning of the Act.

**Par. 16.** Section 6.65 is revised to read as follows:

**§ 6.65 General.**

Extension of credit by an industry member to a retailer for a period of time in excess of 30 days from the date of delivery constitutes a means to induce within the meaning of the Act.

**Par. 17.** The text of § 6.67 is added to read as follows:

**§ 6.67 Sales to retailer whose account is in arrears.**

An extension of credit (for product purchases) by an industry member to a retailer whose account is in arrears does not constitute a means to induce within

the meaning of the Act so long as such retailer pays in advance or on delivery an amount equal to or greater than the value of each order, regardless of the manner in which the industry member applies the payment in its records.

**Par. 18.** Section 6.71 is revised to read as follows:

**§ 6.71 Quota sales.**

The act by an industry member of requiring a retailer to take and dispose of any quota of distilled spirits, wine, or malt beverages constitutes a means to induce within the meaning of the Act.

**Par. 19.** Section 6.72 is revised to read as follows:

**§ 6.72 “Tie-in” sales.**

The act by an industry member of requiring that a retailer purchase one product (as defined in § 6.11) in order to obtain another constitutes a means to induce within the meaning of the Act. This includes the requirement to take a minimum quantity of a product in standard packaging in order to obtain the same product in some type of premium package, i.e., a distinctive decanter, or wooden or tin box. This also includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not precluded from selling two or more kinds or brands of products to a retailer at a special combination price, provided the retailer has the option of purchasing either product at the usual price, and the retailer is not required to purchase any product it does not want. See § 6.93 for combination packaging of products plus non-alcoholic items.

**Par. 20.** Section 6.81 is revised to read as follows:

**§ 6.81 General.**

(a) *Application.* Section 105(b)(3) of the Act enumerates means to induce that may be unlawful under the subsection, subject to such exceptions as are prescribed in regulations, having due regard for public health, the quantity and value of articles involved, established trade customs not contrary to the public interest, and the purposes of that section. This subpart implements section 105(b)(3) of the Act and identifies the practices that are exceptions to section 105(b)(3) of the Act. An industry member may furnish a retailer equipment, inside signs, supplies, services, or other things of value, under the conditions and within the limitations prescribed in this subpart.

(b) *Recordkeeping Requirements.*

(1) Industry members shall keep and maintain records on the permit or

brewery premises, for a three year period, of all items furnished to retailers under §§ 6.83, 6.88, 6.91, 6.96(a), and 6.100 and the commercial records required under § 6.101. Commercial records or invoices may be used to satisfy this recordkeeping requirement if all required information is shown. These records shall show:

- (i) The name and address of the retailer receiving the item;
- (ii) The date furnished;
- (iii) The item furnished;
- (iv) The industry member's cost of the item furnished (determined by the manufacturer's invoice price); and
- (v) Charges to the retailer for any item.

(2) Although no separate recordkeeping violation results, an industry member who fails to keep such records is not eligible for the exception claimed.

(Approved by the Office of Management and Budget under control number 1512-0392)

**§ 6.82 [Removed and Reserved]**

**Par. 21.** Section 6.82 is removed and reserved.

**Par. 22.** Section 6.83 is revised to read as follows:

**§ 6.83 Product displays.**

(a) *General.* The act by an industry member of giving or selling product displays to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act provided that the conditions prescribed in paragraph (c) of this section are met.

(b) *Definition.* “Product display” means any wine racks, bins, barrels, casks, shelving, or similar items the primary function of which is to hold and display consumer products.

(c) *Conditions and limitations.*

(1) The total value of all product displays given or sold by an industry member under paragraph (a) of this section may not exceed \$300 per brand at any one time in any one retail establishment. Industry members may not pool or combine dollar limitations in order to provide a retailer a product display valued in excess of \$300 per brand. The value of a product display is the actual cost to the industry member who initially purchased it. Transportation and installation costs are excluded.

(2) All product displays must bear conspicuous and substantial advertising matter on the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the product displays.

(3) The giving or selling of such product displays may be conditioned upon the purchase of the distilled