

Mug Club Benefits

Mug clubs are an essential promotional tool for many Pennsylvania licensees. Mug clubs reward and recognize loyal patrons and offer benefits that are unavailable to non club members. Mug clubs typically require a patron to pay a yearly fee to join the club, and in return, the member receives various benefits. These may typically include receiving a mug designated for a member's personal use, discounts, merchandise, reward points, and a variety of other benefits. Licensees have operated mug clubs for many years with great success, but in ways that may not be permissible under the Code and which could lead to Code violations. To ensure compliance with the Code, every licensee should consider the following points and consult with an attorney when designing and implementing mug club benefits.

Higher Volume of Beer in Club Mugs.

A defining feature of many mug clubs is offering membership mug refills at the same price as a beer in a standard glass. Providing this benefit may be a Code violation. Member mugs typically are larger than a licensee's standard glasses. Under the Code, licensees may not sell or serve an increased volume of liquor, wine, or malt or brewed beverages without a corresponding and proportionate increase in the price for the drink. If the amount of beer in a club mug is greater than in a licensee's standard glass then the price for the larger amount of beer in a club mug must increase. To avoid a potential Code violation, it is necessary for a licensee to set the price for a larger mug refill above the price for a beer in the smaller standard glass.

Novelties.

Many mug clubs provide free items or gifts to their members. Generally the Code prohibits providing anything of value as an inducement to purchase alcohol. However, an exception allows manufacturers and licensees to provide consumers with advertising novelties of nominal value, which bear advertising matter to consumers. Thus, providing novelty items with a wholesale cost of \$15 or less as part of mug club benefits is generally permissible under the Code.

Food Discounts.

Discounts on food and/or accruing points which can be used for food purchases are other typical benefits of many mug clubs. Food discounts are permissible as long as receiving the food discount does not require the purchase of an alcoholic beverage. Licensees should limit any discounts, reward cards, free meals, or other similar mug club rewards as applicable only to nonalcoholic items and should allow benefits to accrue only through the purchase of nonalcoholic items. Applying membership discounts to the purchase of alcohol is an impermissible discount. Furthermore, accruing membership benefits from the purchase of alcohol is an inducement to purchase alcohol and is therefore impermissible. Membership discounts and accrued benefits must be implemented in ways that do not reward the purchase of alcohol and do not provide an impermissible discount on alcohol.

Bar Spending / Free Drinks.

Given the above limitations, licensees need to consider alternative methods to provide benefits to their mug club members in order to ensure this important promotional tool is still enticing to consumers. One such alternative may be through permissible bar spending on a free drink for a member. Manufacturers and retail licensees may give an alcoholic beverage to a consumer in a retail premises provided that the giving of the alcoholic beverage is not contingent upon the purchase of any other alcoholic beverage. Bar spending or free drinks must be limited to one alcoholic beverage per patron in any such offering. Through bar spending, a licensee could provide a mug club member with a complimentary beer on different occasions. For instance, bar spending could be used to provide a mug club member with a new seasonal beer when the new beer is tapped. This could be done for mug club members throughout the year and be highlighted as a mug club membership benefit.

Licensees should consider these and other areas when designing and implementing their mug club membership benefits. An important promotional tool, mug clubs can be a source of Code violations if club benefits are not implemented correctly. For more information about mug club rules in Pennsylvania, please contact Ted Zeller at tzeller@nmmlaw.com.