

In the Matter of a Petition for a  
Declaratory Ruling by the  
Connecticut Beer Wholesalers  
Association, Inc.

Docket No. 09-659

DECLARATORY RULING


Pursuant to Conn. Gen. Stat. Section 4-176 and Section 21a-1-10 of the Regulations of Connecticut State Agencies, I am issuing this Declaratory Ruling in response to a Petition for Declaratory Ruling filed on behalf of the Connecticut Beer Wholesalers Association, Inc. The Petition seeks a ruling concerning the applicability of the Liquor Control Act and its regulations, particularly Section 30-6-A32a of the Regulations of Connecticut State Agencies.

I have conducted a thorough review of the specified facts and circumstances together with the applicable laws and regulations, particularly Sections 30-6-A32a and 30-6-A40(c) of the Regulations of Connecticut State Agencies. Based upon the foregoing, I hereby rule as follows:

Brand owners, manufacturers, out-of-state shippers, wholesalers or salespeople for any such entity are permitted to perform the following for their retail customers, for their products only:

- 1) Shelf rotation and moving of all perishable products from storage to front displays or beer walls within a retail premises to protect the quality of the products. This shall not include the stocking or cleaning of shelves and other similar services on shelves in the sales area, or any other area;
- 2) inspection, moving and if necessary, the removal of perishable products to preserve the quality of the products, provided that comparable consideration is given for the removal of the products, in the form of credit or replacement;
- 3) removal of products that cannot be sold due to the condition or age of the products, containers or packaging, provided that comparable consideration is given for the removal of the products, in the form of credit or replacement.

6/17/9  
Date

  
Jerry Farrell, Jr.  
Commissioner

James K. Robertson, Esq.  
David S. Hardy, Esq.  
Carmody & Torrance LLP  
50 Leavonworth St.  
Waterbury, CT 06721

RE: Petition for a Declaratory Ruling by the Connecticut Beer  
Wholesalers Association, Inc.

Dear Messrs. Robertson and Hardy:

Enclosed is the Declaratory Ruling I issued in response to the June 15, 2009  
Petition filed by the Connecticut Beer Wholesalers Association, Inc. If you have further  
questions or comments, please do not hesitate to contact me.

Very truly yours,

Jerry Farrell, Jr.  
Commissioner

Enclosure  
cc: John J. Suchy

CARMODY & TORRANCE LLP

Attorneys at Law

David S. Hardy  
Partner

195 Church Street  
Post Office Box 1950  
New Haven, Connecticut  
06509-1950

Telephone: 203 777-5501  
Facsimile: 203 784-3199  
www.carmodylaw.com

Direct: 203-784-3119  
dhardy@carmodylaw.com

June 15, 2009

RECEIVED

JUN 15 2009

VIA HAND DELIVERY

Mr. Jerry Farrell, Jr.  
Commissioner  
Department of Consumer Protection  
165 Capitol Avenue  
Hartford, CT 06106

DEPT OF CONSUMER PROTECTION  
OFFICE OF THE COMMISSIONER

**Re: Petition for Declaratory Ruling by Connecticut Beer Wholesalers  
Association, Inc.**

Dear Commissioner Farrell:

I enclose for your consideration a Petition for Declaratory Ruling filed on behalf of the Connecticut Beer Wholesalers Association, Inc. If you or other members of the Department should require additional information pertaining to this matter, please do not hesitate to contact me.

Respectfully Submitted,



David S. Hardy

DSH/dk  
Enclosure

cc: John J. Suchy

{N0825859}

WATERBURY

NEW HAVEN

SOUTHBURY

STATE OF CONNECTICUT  
DEPARTMENT OF CONSUMER PROTECTION

OFFICE OF THE COMMISSIONER

PETITION OF THE CONNECTICUT BEER  
WHOLESALERS ASSOCIATION, INC. FOR A  
DECLARATORY RULING CONCERNING WHETHER  
CERTAIN ACTIVITIES UNDERTAKEN TO PRESERVE  
THE QUALITY OF ALCOHOLIC BEVERAGES ARE  
PERMITTED UNDER THE DEPARTMENT OF  
CONSUMER PROTECTION'S LIQUOR CONTROL  
REGULATIONS

June 15, 2009

**I. INTRODUCTION**

The Connecticut Beer Wholesalers Association, Inc. seeks a declaratory ruling that certain activities undertaken to preserve the quality of alcoholic beverages sold by its members are permitted under the Department of Consumer Protections' Liquor Control Regulations, including without limitation, Regs. Conn. State Agencies § 30-6-A32a.

**II. STATEMENT OF PETITION**

Pursuant to Section 4-176 of the Connecticut General Statutes and Section 21a-1-10 of the Regulations of Connecticut State Agencies, the Petitioner hereby petitions the Commissioner to make the following declaratory ruling:

A declaration that brand owners, manufacturers, out of state shippers, wholesalers or salespeople for any such entity may perform the following for their retail customers, for their products only, under the Connecticut Liquor Control Regulations, including without limitation, Regs. Conn. State Agencies § 30-6-A32a:

(1) Shelf rotation and moving of all perishable products from storage to front displays or beer walls within a retail premises is permitted to protect the quality of the products, but does not include the stocking or cleaning of shelves and other similar services on shelves in the sales area or any other area.

(2) The inspection, moving and, if necessary, the removal of perishable products to preserve the quality of the products is permitted, provided that comparable consideration in the form of credit or replacement is given for the removal of the products.

(3) The removal of products that cannot be sold due to the condition or age of the products, containers or packaging is permitted, provided that comparable consideration in the form of credit or replacement is given for the removal of the products.

### **III. THE PETITIONER**

The name, title, address and telephone number of the persons to whom correspondence or communications should be addressed with regard to this Petition are as follows:

James K. Robertson  
Carmody & Torrance LLP  
50 Leavenworth St.  
Waterbury, CT 06721  
(203) 573-1200

David S. Hardy  
Carmody & Torrance LLP  
195 Church Street  
P.O. Box 1950  
New Haven, CT 06509  
(203) 777-5501

Attorneys for the Petitioner

The Petitioner's legal name, address and telephone number is as follows:

Connecticut Beer Wholesalers Association, Inc.  
287 Capital Avenue  
Hartford, CT 06106  
(860) 560-0000

**IV. FACTS AND DISCUSSION**


The Petitioner is an association of distributors and wholesalers of beer doing business in the State of Connecticut pursuant to permits issued by the Department of Consumer Protection's Liquor Control Commission. The Connecticut Beer Wholesalers Association, Inc. respectfully submits that certain activities undertaken to preserve product quality specified above are permitted under Connecticut's Liquor Control Regulations, further the Department's fundamental goal of protecting consumers and are not otherwise prohibited by law. To avoid doubt concerning the legality of such conduct, the Connecticut Beer Wholesalers Association, Inc. has filed this Petition to formally elicit the position of the Commissioner concerning these activities.

**V. CONCLUSION**

The Petitioner respectfully requests that the Commissioner grant its Petition for the reasons set forth herein.

Respectfully submitted,

THE PETITIONER

By   
\_\_\_\_\_  
JAMES K. ROBERTSON, JR.  
DAVID S. HARDY  
For Carmody & Torrance  
*Its Attorneys*