

November 22, 2010

POLICY MEMORANDUM 2003-3 (Revised)

Subject: Guidelines on Conducting Charitable Events/Fundraisers Involving Alcoholic Beverages

1. **Purpose:** The purpose of this memorandum is to provide guidance to charitable organizations and political committees wishing to host fundraising activities where complimentary alcoholic beverages will be served.
2. **Applicability:** Organizations granted charitable organization status under 26 U.S.C.A. Section 501(c) and political committees as defined by K.S.A. 25-4143.
3. **Discussion:** No temporary permit or license is required for fundraising activities conducted by a charitable organization or political committee where complimentary alcoholic beverages are served if the organization or committee complies with all requirements of this memorandum.
 - a. Statutory Authority.
 - K.S.A. 41-104 prohibits any person from manufacturing, blending, bottling, selling, bartering, transporting, delivering, furnishing or possessing any alcoholic liquor for beverage purposes except as specifically allowed by the Liquor Control Act, the Club and Drinking Establishment Act or the Cereal Malt Beverage Act.
 - However, K.S.A. 41-104 specifically provides: "nothing contained in this act shall prevent...(h) The serving of complimentary alcoholic liquor or cereal malt beverages at fund raising activities of charitable organizations as defined by K.S.A. 17-1760, and amendments thereto, and as qualified pursuant to 26 U.S.C.A. 501(c) and by committees formed pursuant to K.S.A. 25-4142 et seq., and amendments thereto. The serving of such alcoholic liquor at such fund raising activities shall not constitute a sale pursuant to [the Liquor Control Act, the Club and Drinking Establishment Act or the Cereal Malt Beverage Act.] Any such fund raising activity shall not be required to obtain a license or a temporary permit pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto."
 - K.S.A. 17-1760 provides: "Charitable organization" means any person who engages in the activity of soliciting funds or donations for, or purported to be for, any fraternal, benevolent, social, educational, alumni, historical, humane, public health or other charitable purpose.
 - The Campaign Finance Act, K.S.A. 25-4142, et seq., defines three types of political committees in K.S.A. 25-4143:
 - "Candidate committee" means a committee appointed by a candidate to receive contributions and make expenditures for the candidate.
 - "Party committee" means:
 - 1) The state committee of a political party regulated by article 3 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;
 - 2) the county central committee or the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;
 - 3) the bona fide national organization or committee of those political parties regulated by the Kansas Statutes Annotated;
 - 4) not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the senate;
 - 5) not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the house of representatives; or

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- 6) not more than one political committee per congressional district established by the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto, and designated as a congressional district party committee.
- "Political committee" means any combination of two or more individuals or any person other than an individual, a major purpose of which is to expressly advocate the nomination, election or defeat of a clearly identified candidate for state or local office or make contributions to or expenditures for the nomination, election or defeat of a clearly identified candidate for state or local office.
 - "Political committee" shall not include a candidate committee or a party committee.
- b. General requirements for a fundraising event as allowed by K.S.A. 41-104(h)
 - The sponsor of the event must be either a charitable organization or a political committee that meets the qualifications set forth above.
 - The event must take place under the direct supervision or management of the charitable organization or political committee.
 - The alcoholic beverages served at the event must be obtained from a legal source.
 - The alcoholic beverages served at the event must be complimentary. There cannot be any correlation between whether a person is served an alcoholic beverage or the number of beverages served to each person and the amount of their contribution.
 - "Complimentary" means "given free as an act of courtesy." In a fundraising setting, this means that there is no charge made to patrons specifically for the alcoholic liquor or cereal malt beverage and the patrons do not pay anything of value specifically to receive the alcoholic liquor or cereal malt beverage.
 - The sponsor of the event must comply with all applicable state and locals laws.
- c. Requirements for charitable organizations.
 - The sponsoring organization must meet the definition of a "charitable organization" as defined by K.S.A. 17-1760.
 - To be "qualified" as required by subsection (h) of K.S.A. 41-104, an organization must have applied for and have been granted status as a charitable organization in accordance with 26 U.S.C.A. Section 501(c).
 - An organization claiming this status should be able to produce a copy of the ruling letter issued to it by the Internal Revenue Service. The name of the organization on the letter should match the name of the organization sponsoring the fundraising event. Local organizations which are part of a national organization should have a copy of the tax exempt ruling issued by the IRS to the national organization which states that the ruling covers its local units.
- d. Requirements for political organizations.
 - A candidate committee may be appointed by any candidate for public office. A candidate for state office must report the name and address of the chairperson and treasurer of his or her committee to the Kansas Secretary of State no later than 10 days after appointment. The validity of these committees may be verified by contacting the Office of the Secretary of State in Topeka - phone 785-296-4219. A candidate for local office must report the name and address of the chairperson and treasurer of his or her committee to the county election officer in the county where the election is to be held no later than 10 days after appointment. The validity of these committees may be verified by contacting the county election officer.
 - Party committees and political committees must also register with the Kansas Secretary of State. The validity of these committees may be verified by contacting the Office of the Secretary of State in Topeka - phone 785-296-4219.

4. Additional Comments:

- a. Failure to comply with the applicable statutes, regulations and/or this policy memorandum, may result in action for violation of the liquor laws.

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- b. Alcoholic Beverage Control Enforcement Agents will verify compliance with the provisions of the applicable statutes, regulations and this policy memorandum.
- 5. **Clarification of Policy:** All clarification requests to this policy should be directed in writing to this office via mail, fax, or submitted to the agency's email at abc_mail@kdor.state.ks.us.
- 6. **Effective Date of this policy:** This policy is effective from the date of signature until further notice.

Original Signed and On File

Thomas W. Groneman

cc: Assistant Attorney General
Chief of Enforcement
Licensing Supervisor
Compliance Supervisor
Administration Supervisor
Enforcement Agents