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95070
NO.
STATE OF NEBRASKA
OFFICIAL
SEP 13 1995
DEPT. OF JUSTICE

DATE: September 12, 1995
SUBJECT: Retail Sales of Liquor by Telephone
REQUESTED BY: Forrest Chapman, Executive Director
Nebraska Liquor Control Commission
WRITTEN BY: Don Stenberg, Attorney General
Laurie Smith Camp, Deputy Attorney General

You have asked whether holders of retail liquor licenses may sell liquor by telephone, accepting credit card numbers or personal checks, and then use common carriers to deliver the liquor to the purchaser.

We conclude that such sales would violate the Commission's rule which prohibits the delivery of liquor by a retail licensee to a customer.

Nebraska's Liquor Control Act does not specifically prohibit retail sales of alcohol by telephone. The Liquor Commission's Rule 6.019.01P, however, provides:

No retail licensee, with the exception of a holder of a special designated permit or a caterer's permit when used in conjunction with a special designated permit, may deliver to a retail customer It is the responsibility of the customer to transport any alcoholic beverages purchased from the retailer.

NAC 237 LCC 6.019.01P [Emphasis added].

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This rule helps to ensure that Nebraska retail licensees do not sell liquor to minors or others who would be ineligible to purchase.

It is acknowledged that Neb. Rev. Stat. § 53-194.03 allows Nebraskans to cause limited quantities of liquor to be transported into the state for their personal use:

(1) It shall be unlawful for any person to transport, import, bring, ship, or cause to be transported, imported, brought, or shipped into the State of Nebraska for the personal use of the possessor, his or her family, or guests a quantity of alcoholic liquor in excess of nine liters in any one calendar month.

Neb. Rev. Stat. § 53-194.03 (Cum.Supp. 1994).

Holders of Nebraska retail liquor licenses may contend that this statute gives an advantage to out-of-state dealers who can sell and deliver limited quantities of liquor to customers in Nebraska.

If it is the intention of the Nebraska Liquor Control Commission to place Nebraska liquor retailers on an equal footing with out-of-state dealers with respect to such promotions as wine-of-the-month clubs and beer-of-the-months clubs, the Commission would need to amend its Rule 6.019.01P accordingly.

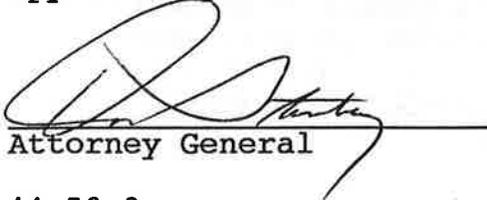
Sincerely yours,

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Approved By:



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