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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91181755
Party	Plaintiff Franciscan Vineyards
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Submission	Plaintiff's Notice of Reliance
Filer's Name	Linda Kurth
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Signature	/Linda Kurth/
Date	06/01/2009
Attachments	4th Notice of Reliance.pdf ( 18 pages )(1155139 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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FRANCISCAN VINEYARDS, INC.,

Opposer,

v.

BEAUXKAT ENTERPRISES, LLC

Applicant.

---

Opposition No. 91181755

Mark: BLACK RAVEN BREWING  
COMPANY

Serial No. 77223446

Filed: January 8, 2008

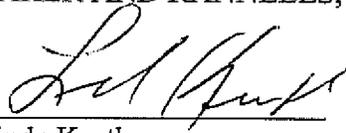
OPPOSER'S FOURTH NOTICE OF RELIANCE  
PURSUANT TO 37 CFR §2.122(e)

Please take notice that Opposer, Franciscan Vineyards, Inc. pursuant to 37 CFR §2.122(e) and T.B.M.P. § 707.08 is hereby noticing its reliance on the following relevant excerpt from the printed publication which is in general circulation among members of the public which is relevant to the issues in this proceeding. The excerpt attached hereto as Exhibit A is from *Fact Book 2005, Beverage Alcohol State Facts and Regulations*, Edited by the Adams Beverage Group, 2005, Pages: Cover, pgs. 14-27. The excerpt is relevant to the relatedness of the goods and the similarity of channels of trade through which goods of the parties are generally and customarily marketed, advertised, offered for sale and specifically that beer and wine are sold together in the same retail stores in most of the states in the United States.

Dated: June 1, 2009

BAKER AND RANNELLS, PA

By:

A handwritten signature in cursive script, appearing to read "Linda Kurth", written over a horizontal line.

Linda Kurth

Attorney for Opposer

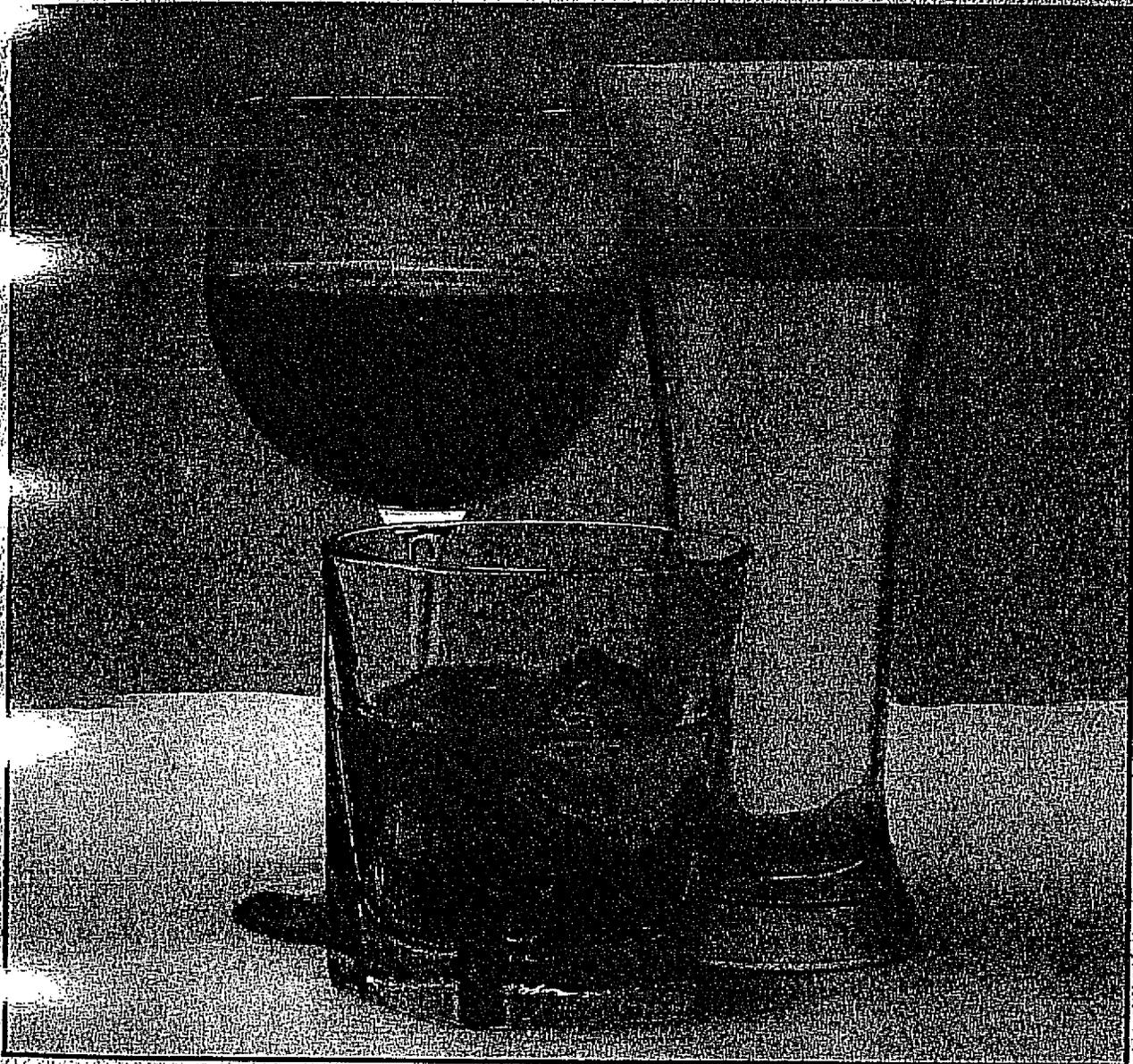
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## **EXHIBIT A**

# FACT BOOK 2005



## BEVERAGE ALCOHOL STATE FACTS AND REGULATIONS



**ADAMS BEVERAGE GROUP**

# What's Sold Where

Open State	Liquor Stores	Drug Stores	Grocery Stores	Gas Stations	Mandatory Deposits/Beer
Alaska	123456	6	6	6	
Arizona*	123456	123456	123456	123456	
Arkansas	123456	356	356	356	
California*	123456	123456	123456	123456	Yes (4¢/8¢)
Colorado*	123456	123456	356	356	
Connecticut	123456	123456	356		Yes (5¢)
Delaware*	123456				Yes (5¢)
Dist. of Col.	123	23	23		
Florida	123456	23456	23456	23456	
Georgia	123456	23456	23456	23456	
Hawaii	123456	123456	123456	123456	
Illinois*	123456	123456	123456	123456	
Indiana	123456	123456	23456	23456	
Kansas*	123456	356	356	356	
Kentucky*	12345	12345	35	35	
Louisiana	123456	123456	123456	123456	
Maryland*	123456	123456	123456		
Massachusetts*	12345	12345	123456	12345	Yes (5¢)
Minnesota*	123456	3456	3456	3456	
Missouri	123456	123456	123456	123456	
Nebraska*	123456	123456	123456	123456	
Nevada*	123456	123456	123456	123456	
New Jersey*	123456	123456	123456	123456	
New Mexico	123	123	123	123	
New York*	12	3456	3456	346	Yes (5¢)
North Dakota*	12345		12345	12345	
Oklahoma*	1234	56	56	56	

\* See page 16 for restrictions on sales.

BY PACKAGE

1 Spirits 2 Wine 3 Beer 4 Wine Based Coolers 5 Malt Based Coolers 6 Non-Alcohol Beer

Open State	Liquor Stores	Drug Stores	Grocery Stores	Gas Stations	Mandatory Deposits/Beer
Rhode Island	123456	123456	6	6	
South Carolina*	12	2345	2345	2345	
South Dakota	123456	123456	123456	123456	
Tennessee*	12	33	333	333	
Texas*	123456	23456	23456	23456	
Wisconsin*	123456	123456	123456	123456	
Control State	Liquor Stores	Drug Stores	Grocery Stores	Gas Stations	
Alabama*	12345	2345	2345	2345	
Idaho	123456	23456	23456	23456	
Iowa*	12345	12345	12345	12345	Yes (5¢)
Maine	12	23456	23456	23456	Yes (5¢)
Michigan*	123456	123456	123456	123456	Yes (10¢)
Mississippi*	12	3456	3456	3456	
Montana	123	23456	23456	23456	
Montgomery County, MD*	12345		23456	23456	
New Hampshire*	12	23456	23456	23456	
North Carolina	12	23456	23456	23456	
Ohio*	123456	23456	23456	23456	
Oregon*	1	23456	23456	23456	Yes (5¢)
Pennsylvania*	124				
Utah*	1234	333	333	333	
Vermont*	1	23456	23456	23456	Yes (5¢)
Virginia*	12	23456	23456	23456	
Washington*	123456	23456	23456	23456	
West Virginia	123456	123456	123456	123456	
Wyoming*	123456	123456	123456	123456	

\* See page 16 for restrictions on sales.

# What's Sold Where

## RESTRICTIONS ON SALES

### ALABAMA

Packaged beverage alcohol may be sold in bars and taverns and other off-premise outlets (beer and wine), but not in restaurants.

### ARIZONA

Spirits, wine and beer may be sold by the drink or by the package in a bar, but only by the drink in a licensed restaurant with a bar license.

### CALIFORNIA

Cash redemption value for beer containers 24 ounces or less is 4¢. For beer containers over 24 ounces cash redemption value is 8¢.

### COLORADO

Liquor stores may not sell food, clothing souvenirs, etc. Tobacco and products directly related to liquor may be sold. Grocery stores and gas stations may sell 3.2% beer only. Bars' principal business must be liquor. Restaurants may sell souvenir items and tobacco.

### DELAWARE

Drugstores, supermarkets, and gas stations not permitted to sell beverage alcohol. Mandatory beer deposit applies to glass containers under 64 ounces.

### ILLINOIS

The state issues a retail license for both off- and on-premise establishments (by the package and by the drink, respectively). No state restrictions exist as to what can be sold where. Local restrictions may exist.

### IOWA

Non-alcohol beer, non-alcohol beverages and food not regulated by Iowa ABC.

### KANSAS

Grocery stores, drug stores, and gas stations may only sell 3.2% cereal malt beverages. They are regulated by local city or county ordinances.

### KENTUCKY

Food must not exceed 10% of total sales in drug stores.

### MARYLAND

Bars and restaurants may sell beverage alcohol by the package with proper license.

### MASSACHUSETTS

Sale of non-alcohol beer, non-alcohol beverages, food and glassware may be regulated at the local level.

### MICHIGAN

Gas stations are not generally considered for a beverage alcohol sales license, however they may qualify under certain conditions.

### MINNESOTA

Bars and restaurants can sell liquor, wine, and beer off-premise with proper licensing.

### MISSISSIPPI

Wines and beer sold off-premise must not be above 5% alcohol content by weight.

### MONTGOMERY COUNTY, MD

Glassware permitted in liquor stores if the item is part of co-pack. Beer, wine, spirits and coolers may be sold by the package in bars/taverns, and restaurants with proper license. Permitted only in gas stations that held a beer and wine license prior to state law change prohibiting new license issuances to gas stations.

### NEBRASKA

Bars and restaurants can sell on- or off-premise with proper license.

### NEVADA

What's sold where is determined at the local level.

### NEW HAMPSHIRE

A gas station may sell packaged beverage alcohol if it has a convenience store. Beer and wine may be sold for off-premise consumption in drug stores, grocery stores and gas stations with proper license.

### NEW JERSEY

Restaurants and bars receive a plenary retail consumption license. This permits on-premise consumption and sale of package goods from a public barroom. No other mercantile business may be conducted on premises except restaurants, hotels, taverns or bowling alleys. A plenary retail distribution license permits off-premise sales. Other mercantile business conducted on premises is subject to municipal restrictions. Grocery stores may sell beverage alcohol if they obtain a Plenary Retail Distribution License.

### NEW YORK

Wine and liquor may be sold in drug stores for prescription purposes. A license permitting on-premise consumption of wine and beer also permits off-premise consumption of wine and beer.

### NORTH DAKOTA

Beverage alcohol may be sold in a grocery store or gas station in an area separate from the rest of the store.

### OHIO

By the package sales permitted in drug stores, grocery stores, gas stations restaurants and bars with proper license. State agencies may sell spirits only. Contract liquor agencies are private businesses that contract with the state to act as sales agents for spirits. All contract liquor agencies also have permits to sell beer, wine and low proof mixed beverages for carryout only.

### OKLAHOMA

Wine may be sold by the bottle in restaurant, hotels and motels but bottles must be opened and partially consumed on the premise. Restaurants, hotels and motels must have mixed beverage license.

### OREGON

Gas stations must maintain at least a \$5,000 grocery inventory. On-premise licensees can obtain off-premise sales licenses to sell packaged beer, wine, and hard cider under certain circumstances.

### PENNSYLVANIA

Beer must be sold in case lots by licensed distributors and breweries only. Restaurants, hotels or breweries may sell beer for off-premise consumption in packages containing 192 ounces or less.

### SOUTH CAROLINA

Glassware may be sold in liquor stores only if it packaged with beverage alcohol. Spirits in bottles or restaurants must be served in mini-bottles or not by pour. Beer and wine may be sold by the bottle in bars/taverns, but not in restaurants.

### TENNESSEE

Bars/taverns may sell beverage alcohol by the package, but restaurants may not. This is determined by local ordinance.

### TEXAS

Wines sold by the package in drug stores, grocery stores, gas stations, bars and restaurants must be either 14% or 17% or less alcohol by volume. Drug stores, grocery stores and gas stations may sell wine and beer with a wine or beer retailer permit only. Bars and restaurants may sell beverage alcohol with a mixed beverage permit and may serve alcohol with a private club permit.

### VERMONT

Beverage alcohol by the package permitted in drug stores, grocery stores and gas stations with proper license.

### VIRGINIA

Liquor stores may sell Virginia wines only.

### WASHINGTON

Beer and wine can be sold for off-premise consumption in drug stores, grocery stores, or gas stations if they maintain minimal grocery inventory of \$3,000 wholesale value.

### WISCONSIN

Bars may sell glassware if it is a minor part of the operation. Bars and restaurants must have the appropriate license for beverage alcohol and food.

### WYOMING

Drug, grocery stores and gas stations may sell beverage alcohol if they have a license and separate dispensing room.

# Promotions

Open State	Consumer Money-Off Coupons	Mail-In Consumer Refunds/Rebates	Premium Offers	Sweepstake Offers
Alaska	yes	yes	yes	yes
Arizona*	yes	yes	yes	yes
Arkansas*	no	yes	yes	yes
California*	yes	yes	yes	yes
Colorado *	yes	yes	yes	yes
Connecticut	no	yes	yes	yes
Delaware*	yes	yes	yes	yes
Dist. of Columbia*	no	n/a	yes	yes
Florida*	yes	yes	yes	yes
Georgia*	no	yes	yes	yes
Hawaii*	no	no	yes	yes
Illinois*	yes	yes	yes	yes
Indiana*	no	no	yes	yes
Kansas*	yes	yes	yes	yes
Kentucky*	no	yes	yes	yes
Louisiana*	no	yes	yes	yes
Maryland*	no	yes	yes	yes
Massachusetts*	no	yes	no	yes
Minnesota*	yes	yes	yes	yes
Missouri*	yes	yes	yes	yes
Nebraska	no	yes	yes	yes
Nevada*	yes	yes	yes	yes
New Jersey*	no	yes	yes	yes
New Mexico	yes	yes	yes	yes
New York*	yes	yes	yes	yes
North Dakota*	yes	yes	yes	yes
Oklahoma	no	yes	yes	yes
Rhode Island	no	yes	yes	yes
South Carolina*	yes	yes	yes	no
South Dakota*	no	yes	yes	yes

\* See page 19 for restrictions on promotions. n/a Not available.

# Promotions

Open State	Consumer Money-Off Coupons	Mail-In Consumer Refunds/Rebates	Premium Offers	Sweepstake Offers
Tennessee*	no	yes	yes	yes
Texas*	no	no	yes	yes
Wisconsin	yes	yes	yes	yes
Control State	Consumer Money-Off Coupons	Mail-In Consumer Refunds/Rebates	Premium Offers	Sweepstake Offers
Alabama*	no	no	yes	yes
Idaho	no	yes	yes	yes
Iowa*	yes	yes	yes	yes
Maine*	no	yes	yes	yes
Montgomery County, MD*	yes	yes	yes	yes
Michigan*	no	yes	yes	yes
Mississippi*	no	no	yes	yes
Montana	yes	yes	yes	yes
New Hampshire*	yes	yes	yes	yes
North Carolina*	no	yes	yes	yes
Ohio*	no	yes	yes	yes
Oregon*	no	yes	yes	yes
Pennsylvania*	no	yes	yes	yes
Utah	no	no	no	yes
Vermont*	no	yes	yes	yes
Virginia*	yes	yes	yes	yes
Washington*	no	yes	yes	yes
West Virginia*	yes	yes	yes	yes
Wyoming*	yes	yes	yes	yes

\* See page 19 for restrictions on promotions.

## \* RESTRICTIONS ON PROMOTIONS

### ALABAMA

Premium offers or sweepstakes may be sold with or without beverage alcohol purchases.

### ARIZONA

Sweepstakes programs permitted provided that no purchase is required to enter.

### ARKANSAS

Sweepstakes programs and premium offers may not require or imply proof of purchase. Mail-in consumer refunds permitted for spirits and wine only. Restrictions apply for all promotions.

### CALIFORNIA

Sweepstakes programs, money-off consumer coupons and premium offers may not require proof of purchase. The value of refunds or rebates may not be equal to or in excess of the purchase price of the product. Sweepstakes prizes limited to 25 cents items for beer, \$1.00 for wine, and \$5.00 for distilled spirits.

### COLORADO

Premium offers and coupons may not be redeemed through the retailer. Sweepstakes do not require proof of purchase.

### DELAWARE

Sweepstakes programs may not require proof of purchase. Money-off consumer coupons permitted for wine and spirits only.

### DISTRICT OF COLUMBIA

Sweepstakes programs and premium offers may not require purchase. Sweepstakes programs must be a national offer.

### FLORIDA

Sweepstakes programs may not require purchase. Sweepstakes programs must be approved by the Division of Licensing Bureau of Games. Premium offers may be used only in point of sale advertising. Money-off consumer coupons may be used for wine, spirits and beer. Coupons may not specify a certain retailer and value must be stated on the coupon. Wholesalers may not provide beer coupons to vendors, but may deliver manufacturer coupons.

### GEORGIA

Sweepstakes programs and premium offers (spirits) may not require proof of purchase.

### HAWAII

Items furnished must not induce the retailer to purchase the product. Sweepstakes programs do not require purchase.

### ILLINOIS

Proof of purchase necessary for consumer coupons and rebates.

### INDIANA

Sweepstakes programs and premium offers may not require purchase.

### IOWA

Sweepstakes programs may not require purchase.

### KANSAS

Sweepstakes programs do not require purchase. Money-off in-house consumer coupons permitted at outlets that sell 3.2% beer only.

### KENTUCKY

Mail-in consumer refunds permitted for wine and spirits only by manufacturer.

### LOUISIANA

Sweepstakes programs may not require purchase. Premium offers cannot exceed \$50 per year per outlet.

### MAINE

Sweepstakes programs and coupons may not require purchase.

### MARYLAND

Sweepstakes programs, premium offers and mail-in consumer refunds require prior approval. Sweepstakes programs may not require purchase. Proof of purchase required for consumer refunds.

### MASSACHUSETTS

Sweepstakes programs may not require proof of purchase.

### MONTGOMERY COUNTY, MD

Sweepstakes programs permitted in private licensed outlets only. Consumer refunds must stay in licensed premises, no external advertising permitted. Permitted only in gas stations that held a beer and wine license prior to state law change prohibiting new license issuances to gas stations.

### MICHIGAN

Premium offers may be used as point of sale display but may not be given to any retailer. Prior commission approval required for sweepstakes and premium offers.

### MINNESOTA

Sweepstakes programs may not require purchase. Manufacturer-coupons not allowed. Restrictions may apply for premium offers.

### MISSISSIPPI

Sweepstakes programs and premium offers may not require purchase. Winners must be 21 years of age or older. Money-off coupons for non-alcohol beverage products allowed.

### MISSOURI

Sweepstakes programs do not require purchase and may not require entry fee. Premium offers do not require purchase. Mail-in consumer refunds or rebates permitted for spirits only.

### NEVADA

Pre-approval required for all promotions.

### NEW HAMPSHIRE

Money-off coupons are permitted provided that no redemptions are made in state stores. Sweepstakes may not require proof of purchase. Must be legal drinking age to enter sweepstakes.

### NEW JERSEY

Sweepstakes programs and premium offers may not require purchase. Beverage alcohol may not be given as a prize.

### NEW YORK

Individual retailer-published consumer coupons permitted.

### NORTH CAROLINA

Sweepstakes programs and premium offers permitted in county stores only. Sweepstakes programs and premium offers may not require purchase. Prizes may not be awarded on retail premises. Mail-in refunds or rebates permitted for spirits only.

### NORTH DAKOTA

Sweepstakes do not require proof of purchase. No instant redeemables.

### OHIO

Sweepstakes programs and premium offers may not require purchase.

### OREGON

Consumer refunds for spirits only. Premium offers and sweepstakes do not require purchase.

### PENNSYLVANIA

Sweepstakes programs, premium offers and mail-in refunds or rebates require prior approval.

### SOUTH CAROLINA

Money-off consumer coupons permitted for beer and wine only. Mail-in refunds limited to \$10.00

### SOUTH DAKOTA

Sweepstakes programs and premium offers cannot induce the sale of beverage alcohol. Mail-in refunds limited to \$10.00.

### TENNESSEE

Sweepstakes and premium offers can be conducted at point of sale or through newspapers and magazines.

### TEXAS

Premium offers for beer items must cost less than \$1.00. Sweepstakes programs may not require purchase and must be offered in 30 or more states.

### VERMONT

Sweepstakes must indicate no purchase required. All premium offers and mail-in refunds or rebates require prior approval from the LCB.

### VIRGINIA

Sweepstakes programs and premium offers may not require purchase. Must be legal drinking age to enter sweepstakes. Money-off coupons permitted in non-state stores only for beer and wine.

### WASHINGTON

Sweepstakes programs may not require purchase per retailer.

### WEST VIRGINIA

Money-off coupons permitted for wine and spirits only.

### WYOMING

Liquor Division approval required for all promotions.

# Merchandising

Open State	Floor Displays	Display Racks	Motion Displays	Audio Displays	Shelf Talkers	Co-Packs (with bev al)
Alaska	yes	yes	yes	yes	yes	yes
Arizona*	yes	yes	yes	yes	yes	yes
Arkansas*	yes	yes	yes	yes	yes	yes
California*	yes	yes	yes	yes	yes	yes
Colorado*	yes	yes	yes	yes	yes	yes
Connecticut*	yes	yes	yes	yes	yes	yes
Delaware	yes	yes	yes	yes	yes	yes
Dist. of Col.	yes	yes	yes	yes	yes	yes
Florida	yes	yes	yes	yes	yes	yes
Georgia*	yes	yes	yes	yes	yes	yes
Hawaii*	yes	yes	yes	yes	yes	yes
Illinois*	yes	yes	yes	yes	yes	yes
Indiana*	yes	yes	yes	yes	yes	yes
Kansas*	yes	yes	yes	yes	yes	yes
Kentucky*	yes	yes	yes	yes	yes	no
Louisiana*	yes	yes	yes	yes	yes	yes
Maryland*	yes	yes	yes	yes	yes	yes
Massachusetts*	yes	yes	yes	no	yes	yes
Minnesota*	yes	yes	yes	yes	yes	yes
Missouri	yes	yes	yes	yes	yes	yes
Nebraska	yes	yes	yes	yes	yes	yes
Nevada*	yes	yes	yes	yes	yes	yes
New Jersey*	yes	yes	yes	yes	yes	yes
New Mexico*	yes	yes	yes	yes	yes	yes
New York*	yes	yes	yes	yes	yes	yes
North Dakota*	yes	yes	yes	yes	yes	yes
Oklahoma*	yes	yes	yes	yes	yes	yes

# Merchandising

Open State	Floor Displays	Display Racks	Motion Displays	Audio Displays	Shelf Talkers	Co-Packs (with bev al)
Rhode Island*	yes	yes	yes	yes	yes	yes
South Carolina*	yes	yes	no	no	no	yes
South Dakota*	yes	yes	yes	yes	yes	yes
Tennessee*	yes	yes	yes	yes	yes	yes
Texas*	yes	yes	yes	yes	yes	yes
Wisconsin*	yes	yes	yes	yes	yes	yes
Control State	Floor Displays	Display Racks	Motion Displays	Audio Displays	Shelf Talkers	Co-Packs (with bev al)
Alabama	yes	yes	yes	yes	yes	yes
Idaho	yes	yes	yes	yes	yes	no
Iowa*	yes	yes	yes	yes	yes	yes
Maine*	yes	yes	yes	yes	yes	yes
Montgomery* County, MD	yes	yes	yes	yes	yes	yes
Michigan*	yes	yes	yes	yes	yes	yes
Mississippi*	yes	yes	yes	yes	yes	yes
Montana	yes	yes	yes	yes	yes	yes
New Hampshire*	yes	yes	yes	yes	yes	yes
North Carolina*	yes	yes	yes	yes	yes	yes
Ohio*	yes	yes	yes	no	yes	yes
Oregon*	yes	yes	yes	yes	yes	no
Pennsylvania	yes	yes	yes	yes	yes	yes
Utah*	yes	yes	no	no	yes	no
Vermont	yes	yes	yes	yes	yes	yes
Virginia	yes	yes	yes	yes	yes	yes
Washington	yes	yes	yes	yes	yes	yes
West Virginia*	yes	yes	yes	yes	yes	yes
Wyoming	yes	yes	yes	yes	yes	yes



# Product Tastings

Open State	Off-Premise	On-Premise	Supplier Sponsored	Wholesale Sponsors
Alaska*		1 2 3	5 6	
Arizona*	2	1 2 3	4 5 6 8	7 9
Arkansas*	1 3	3	4 5 6	7 8
California*		1 2	4 5 6	7 8
Colorado*	1 2 3	1 2 3	5 6	7
Connecticut*	1 2 3	1 2 3	5 6	7 8
Delaware	1 2 3	1 2 3	5 6	
District of Columbia	1 2 3			
Florida*	1 2 3	1 2 3	4 5 6	7 8
Georgia*		2	5 6	8
Hawaii*	1 2 3	1 2 3	4 5 6 8	7 9
Illinois*	1 2 3	1 2 3	4 5 6	7
Indiana*	1 2 3	1 2 3	4 5 6	
Kansas*		2 3	5 6 8	7 9
Kentucky*	1 2 3	1 2 3	4 5 6 8	7
Louisiana*	1 2 3	1 2 3	8	9
Maryland*	1 2 3	1 2 3	5 6 8	7 9
Massachusetts*	1 2 3	1 2 3		
Minnesota*	1 2 3	1 2 3		
Missouri	1 2 3	1 2 3	4 5 6	7 8
Nebraska*	1 2 3	1 2 3	4 5 6	7
Nevada*	N/A	N/A	N/A	N/A
New Jersey	2	1 2 3	5 6	8
New Mexico	1 2 3	1 2 3	5	N/A
New York*	1 2	2	5	7
North Dakota	N/A	1 2 3	N/A	7 8
Oklahoma*		1 2 3	5 6	8
Rhode Island	2	1 2 3	4 5 6	
South Carolina	1 2 3	2 3	5 6	
South Dakota*	1 2 3	1 2 3	5 6	8
Tennessee		1 2		
Texas*	1 2 3	1 2 3	4 5 6 8	N/A
Wisconsin*	2	1 2 3	5 6 8	9

**1** Spirits      **2** Wine      **3** Beer      **4** Distillery      **5** Winery  
**6** Brewery      **7** Wholesaler Premises      **8** Other Locations      N/A = Not available

Control State	Off-Premise	On-Premise	Supplier Sponsored	Wholesaler Sponsored
Alabama		1 2 3		7 8
Idaho		1 2 3	4 5 6	
Iowa*	1 2 3	1 2 3	2 3 4 5 6 8	2 3 5 6 7 8
Maine*	2 3	1	5 6	1 7
Montgomery County, MD*	2 3	1 2 3	4 5 6 8	7 8
Michigan*		1 2 3	4 5 6 8	8
Mississippi		1 2	1 2	
Montana		1 2 3	5 6	
New Hampshire*	1 2 3	1 2 3	5 6	7 8
North Carolina*	2	2 3	5 6 8	7 8
Ohio*	2 3	1 2 3	5 6 8	7 8
Oregon*	1 2 3	1 2 3	4 5 6 8	
Pennsylvania*	1 2 3	1 2 3	4 5 6 7 8	4 5 6 7 8
Utah			5 6	
Vermont*	2	1 2 3	5 6	8
Virginia*	2 3	1 2 3	5 6 8	
Washington	2 3	1 2 3	5 6 8	7 8
West Virginia*	2	1 2 3	4 5 6	7 8
Wyoming	1 2 3	1 2 3	4 5 6 8	7 8

## \*Restrictions

### ALASKA

Must sell drinks to tasters.

### ARIZONA

Off-premise spirits tastings restricted to a sample of 1/2 ounce, are limited to 3 hours and must be conducted in the beverage alcohol section of the store.

### ARKANSAS

Supplier sponsored tastings must be held in authorized tasting rooms. Wholesaler sponsored tastings permitted with prior approval. Wine and spirits samples cannot exceed 12 ounces. Samples must be limited to 2 per person. On- and off-premise beer tastings for Arkansas native beer only.

### CALIFORNIA

On-premise outlets may give limited free samples of wine or spirits. Restrictions apply. Wholesalers may sponsor tastings for retail licensees and their employees under specific conditions. Restrictions apply for on-premise supplier sponsored tastings.

### COLORADO

On-premise tastings must be conducted by retail licensee and product must be purchased from a licensed wholesaler. Supplier/manufacture representative may be present to assist. Limited wineries may have up to five remote tasting locations. Wineries may have up to one remote location.

### CONNECTICUT

Off-premise tastings limited to new products. Wine limited to one ounce per patron. Wholesaler sponsored permitted for industry members.

### FLORIDA

Supplier and wholesaler sponsored tastings for beer may not be held at licensed off-premise locations.

### GEORGIA

Consumer wine tastings require prior approval. Wholesaler sponsored tastings permitted at industry trade shows only with prior approval.

Continued on page 26

# Product Tastings *Continued from page 25*

## HAWAII

Customers can only receive one, 3 ounce sample of beer and wine, and one, 1 ounce sample of spirits per person for off- and on-premise tastings. All product tastings must have prior approval from the Liquor Commission.

## ILLINOIS

Off-premise tastings must have prior approval from the Liquor Commission.

## INDIANA

Off-premise tastings permitted in Package Liquor Stores. Restrictions apply. On-premise tastings limited to 1 ounce of wine, 1/2 ounce of cordials, 0.4 ounces of spirits and 0.6 ounces of beer.

## IOWA

Beer and wine tastings may be conducted on unlicensed premises. Spirits tastings must be conducted on licensed premises.

## KANSAS

Supplier sponsored tastings permitted in counties where liquor by the drink is approved.

## KENTUCKY

Off-premise wine and spirits tastings are limited to quantities of 4-6 ounces per patron per day. Samples must be free of charge. Supplier sponsored tastings at off-premise establishments must be held for educational purposes or new product introductions only. Guests must be limited to retail licensees and their employees. Distillers and vintners may participate in private parties or fund raisers conducted by bona fide charitable organizations.

## LOUISIANA

Off- and on-premise tasting must be limited to no more than 2 samplings per month per product per premises, and require prior approval from the Commissioner.

## MAINE

On-premise spirits tastings with permission of Department of Public Safety. Wholesaler sponsored wine tastings must have Bureau approval. Supplier sponsored tastings may be held in an approved hospitality room.

## MARYLAND

Product tastings at retail establishments must be conducted by retail licensee, supplier and wholesaler participation prohibited subject to local statutes. Suppliers and wholesalers can sponsor

tastings for retail licensees or charitable/bona fide organizations.

## MASSACHUSETTS

Licensee may conduct tastings only for products they lawfully sell. Serving size is limited to 1 ounce for wine, 2 ounces for beer and .25 ounces for spirits. Manufacturers and wholesalers may provide free product and labor with restrictions.

## MONTGOMERY COUNTY, MD

For wholesaler sponsored tastings held at a non-licensed premise product must be purchased from a host facility. On/off-premise license required for off-premise outlet tastings.

## MICHIGAN

Salesperson may purchase one drink per customer for tastings at on-premise establishments for spirits and wine. Salesperson may purchase one drink for one customer at on-premise establishments for beer. Trade tastings permitted at on-premise establishments. Beverage alcohol must be sold by wholesaler to host retailer for supplier and wholesaler sponsored tastings.

## MINNESOTA

Product tastings at retail establishments must be conducted by retail licensee. Supplier tastings require prior approval from the LCD.

## NEBRASKA

Samples for off-premise tastings must be unopened. Wholesaler sponsored tastings must be held for licensees only.

## NEVADA

Law is silent on product tastings.

## NEW HAMPSHIRE

Product tastings may be held at licensed establishments with notification to the Commission. Supplier and wholesaler sponsored tastings may be held in an approved hospitality room.

## NEW YORK

Retail licensees must have a special tastings permit in order to sponsor tastings. All retail sponsored tastings require prior approval. Supplier sponsored tastings must be for New York State labeled wines only. Wholesalers may sponsor tastings for wine only.

## NORTH CAROLINA

Supplier and wholesaler sponsored tast-

ings must have commission approval.

## OHIO

Tastings permitted at on- and off-premise establishments with proper permit for charge. Wholesaler and supplier sponsored tastings permitted by invitation only.

## OKLAHOMA

Samples must be purchased for on-premise product tastings. Supplier or wholesaler sponsored tastings, if close to the public, by invitation only. Oklahoma wineries permitted to give samples at festivals and trade shows.

## OREGON

Gas stations with an off-premise license cannot allow tastings.

## PENNSYLVANIA

Off-premise tastings require LC approval. On-premise tastings limited to maximum of 2 consecutive hours with maximum of 4 products. Serving size limited to 1 ounce per product for wine and .25 ounces per product for spirit. Food, such as cheese and crackers, must be provided by sponsor during event.

## SOUTH DAKOTA

Beer sample no larger than 3 oz., wine sample no larger than 50 ml, spirits sample no larger than 25 ml at off-premise outlets. Samples limited to 1 per day.

## TEXAS

Off-premise spirits, wine, and beer tastings permitted in package stores that hold a tastings permit. Wineries permitted to hold tastings at other locations with restrictions.

## VERMONT

All tastings require prior LCB approval. Wholesaler sponsored tastings permitted at retail licensed premises.

## VIRGINIA

Tastings permitted at off-premise outlet with gourmet shop license.

## WEST VIRGINIA

Consumer wine tasting allowed on-premise with special wine tasting license

## WISCONSIN

On-premise tastings must be sponsored by retailers only. Supplier and wholesaler sponsored tastings may be held private non-licensed locations, restricted to invited guests only and samples cannot be sold. Off-premise wine to

# Advertising Guidelines

## Federal Guidelines Regarding Beverage Alcohol Advertising

### Mandatory Statements

Distilled spirits, wine and beer advertisements shall state the name and address of the permittee responsible for its publication or broadcast. Street number and name may be omitted in the address.

Class and type designation and alcohol content shall be stated by proof, percentage by volume may be used for cordials and liqueurs, cocktails, highballs, bitters and other specialties for distilled spirits.

Class, type and distinctive designation required for wine.

Class required for beer.

Exception for spirits, wine and beer: If an advertisement refers to a line or all of the products of one company, whether by company name or by brand name common to all products in the line, the only mandatory information is the name and address of the responsible advertiser.

### Restrictions

An advertisement of distilled spirits, wine or malt beverages shall not contain: any statement that is false or untrue; any statement that is disparaging of a competitor's product; any statement, design, device or representation which is obscene or indecent; any statement, design, device, or representation of or relating to analyses, standards or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer; any statement, design, device or representation of or relating to any guarantee, irrespective of falsity, which the Director finds to be likely to mislead the consumer (money-back guarantees are not prohibited); any statement that distilled spirits, wine or malt beverages are brewed, labeled, produced, packed, distilled, blended, made, bottled, or sold under or in accordance with any municipal, state, Federal, or foreign authorization, law, or regulation; any statements that contains the words "bond," "bonded," "bottled in bond," "aged in bond," or phrases containing these or synonymous terms, unless such words or phrases

appear, on the label of the product, and are stated in the advertisement in the manner and form in which they are permitted to appear on the label; any statement concerning a brand or lot of wine or distilled spirits that is inconsistent with any statement on the labeling thereof; any label depicted on a bottle in an advertisement shall be a reproduction of an approved label; any statement, design, representation, pictorial representation, or device representing that the use of distilled spirits has curative or therapeutic effects; any false statement regarding place of origin, or flags, seals, coats of arms, crests and other insignia. Subliminal or similar techniques are prohibited. Comparative advertising shall not be disparaging of a competitor's product. Taste test results may be used in advertisements comparing competitors' products unless they are disparaging, deceptive, or likely to mislead the consumer. A statement shall appear in the advertisement providing the name and address of the testing administrator.

### Distilled Spirits

The word "pure" may not be used unless: it refers to a particular ingredient used in the production of the product, and is a truthful representation about the ingredient or; it is part of the bona fide name of a permittee or retailer from whom the product is bottled, or it is part of the bona fide name of the permittee who bottled the product.

The words "double distilled" or "triple distilled" shall not be permitted in advertisement of distilled spirits produced by the redistillation method when a second or third distillation step is a necessary distillation process for the production of the product.

Distilled spirits advertisements shall not contain any statement, design, or device directly or by implication concerning age or maturity of any brand or lot of distilled spirits unless a statement of age appears on the label of the advertised product. An advertisement for any whiskey or brandy (except immature brandies) which is not required to bear a statement of age on the label or an advertisement for any rum or tequila, which have been aged for not less than 4 years may, however, contain

inconspicuous, general representation as to age, maturity or other similar representations even though a specific age statement does not appear on the label of the advertised product and in the advertisement itself.

### Wine

Any word in the brand name or class and type designation which is the name of a distilled spirits product or which simulates, imitates, or creates the impression that the wine so labeled is, or is similar to, any product customarily made with a distilled spirits base is prohibited.

Wine advertisements shall not contain any statement of age or representation relative to age (including words or devices in any brand name or marquee), except for vintage wine.

### Malt Beverages

No product containing less than one-half of 1 percent of alcohol by volume shall be designated in any advertisement as beer, lager beer, lager, ale, porter, stout, or by any other class or type designation commonly applied to fermented malt beverages containing one-half of 1 percent or more of alcohol by volume.

No product other than a malt beverage fermented at comparatively high temperature, possessing the characteristics generally attributed to ale, porter, or stout and produced without the use of coloring or flavoring materials (other than those recognized in standard brewing practices) shall be designated in any advertisement by any of these class designations.

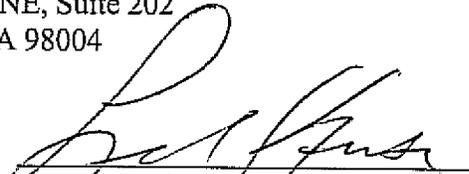
Malt beverage advertisements shall not contain the words strong, full strength, extra strength, high test, high proof, full alcohol strength, or any other statement of alcohol content, or any statement of the percentage and quantity of the original extract, or any numerals, letters, characters, or figures, or similar words or statements of alcohol content, except where required by state law.

*Source: Laws and Regulations Under the Federal Alcohol Administration Act, TTB.*

**CERTIFICATE OF SERVICE**

I hereby certify a copy of OPPOSER'S FOURTH NOTICE OF RELIANCE in re: Franciscan Vineyards, Inc. v. Beauxkat Enterprises, LLC., Opp. No. 91181755 was served on counsel for Applicant, this 1<sup>st</sup> day of June, 2009 by sending same via First Class Mail, postage prepaid, to:

Justin D. Park  
Romero Park & Wiggins P.S.  
155-108<sup>th</sup> Avenue NE, Suite 202  
Bellevue, WA 98004



Linda Kufth