



Colonel G. Jerry Russell
Director

Idaho State Police

Service since 1939



C.L. "Butch" Otter
Governor

July 18, 2011

**To: Distributors/Wholesalers
Retail beer and wine licensees**

Re: Extension of credit – Idaho Codes 23-1031 and 23-1326

This letter is written to provide guidance for retail beer and wine licensees, beer and wine licensed distributors/wholesalers, to comply with changes to the extension of credit statutes under Idaho Code 23-1031 and Idaho Code 23-1326. Senate Bill 1187 amended existing law regarding electronic funds transfers for payment to distributors/wholesalers for purchases of beer and wine by licensed retailers. The statement of purpose for Senate Bill 1187 is to provide a five-day grace period for transactions utilizing electronic funds transfers. This legislation provides that such five-day grace period is not a violation of the cash law nor an unlawful extension or acceptance of credit, **provided that an electronic funds transfer is initiated and completed as promptly as is reasonably practical**, and in no event later than five business days following delivery of beer and wine products. Senate Bill 1187, which amended Idaho Codes 23-1031 and 23-1326, was signed into law by Governor Otter on April 08, 2011 and became effective on July 01, 2011.

The pertinent changes are in Idaho Codes 23-1031 paragraph (3) and 23-1326 paragraph (3), and states: "(3) The acceptance and use of an electronic funds transfer shall not be deemed an extension or acceptance of credit pursuant to this section, provided such transfer is initiated and completed as promptly as is reasonably practical, and in no event completed later than five (5) business days following delivery of such beer. Any attempt by a licensed retailer to delay payment of an electronic funds transfer pursuant to this section for any period of time beyond the time set forth in this subsection, shall be deemed an acceptance of credit by the licensed retailer."

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The following guidelines are provided by the Idaho State Police Alcohol Beverage Control Bureau to provide assistance in maintaining compliance with these new law changes. Under Idaho Code 23-1031 (Beer) "Extension of Credit", and Idaho Code 23-1326 (Wine) "Credit Sales to Retailers Prohibited". No sale or delivery of beer or wine shall be made to any licensed retailer, except:

- For cash paid at the time of or prior to delivery.
- First party check paid at the time of or prior to delivery.
- Debit card paid at the time of or prior to delivery.
- By electronic funds transfer (EFT) (which also includes an Automatic Clearing House (ACH) transactions) provided such transfer is initiated and completed as promptly as is reasonably practical, and in no event completed later than five (5) business days following delivery.

Since subsection (3) of Idaho Codes 23-1031 and 23-1326 requires that an EFT be initiated and completed as promptly as is reasonably practical, ABC expects all EFT payments to be processed as quickly as is suitable under the circumstances, without delay and with reasonable speed. ABC recognizes that not all transactions or business practices are the same and that the speed of individual transactions may vary. Initiation and completion of these transactions should not be intentionally or unreasonably delayed. If an EFT transaction can be initiated and completed sooner than the fifth business day, it should be initiated and completed sooner than the fifth business day. Any delay beyond five business days is without question a violation. If a complaint is filed with ABC for potential violations of Idaho Codes 23-1031 or 23-1326 during the five day period, ABC will make a determination if the EFT was initiated and completed as soon as was reasonably practical.

If you have any questions, please do not hesitate to contact our office.

Sincerely,



Lt. Robert Clements, Bureau Chief

Alcohol Beverage Control Bureau

C: Cheryl Meade, Deputy AG

Jeremy Pisca, Idaho Beer and Wine Distributors Association

Pam Eaton, Idaho Retailers Association

Suzanne Budge, Idaho Petroleum and Convenience Store Marketing Association

Roy Eiguren, Northwest Grocers Association