

**TITLE 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION
CHAPTER 30. MANUFACTURERS, WHOLESALERS, BREWERS
NONRESIDENT SELLERS AND CLASS B WHOLESALERS**

NOTICE OF RULEMAKING INTENT

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Manufacturers and Wholesalers

Section 45:30-3-6. Wholesaler discrimination prohibited

Subchapter 5. Brewers, Nonresident Sellers and Class B Wholesalers

Section 45:30-5-6. Class B Wholesaler discrimination prohibited

SUMMARY:

The proposed permanent additions to Chapter 30, Subchapter 3 Section 45:30-3-6 and Subchapter 5, Section 45:30-5-6 are identical in scope and intent. They are designed to establish a method by which a Wholesaler or Class B Wholesaler may seek permission from the Director to refuse to sell alcoholic beverages to a Retail, Mixed Beverage, Caterer, Mixed Beverage/Caterer or Special Event licensee, either on a temporary or permanent basis, upon a showing, by credible evidence, that the actions of the licensee have created a dangerous or hostile work environment for the wholesaler, or its representatives, agents or employees. The proposed permanent additions also created a process by which the licensee may be heard before any permanent permission to refuse to sell is granted by the Director to a wholesaler and an appeal procedure by which the licensee may appeal the decision of the Director to the Commission as a whole.

AUTHORITY:

Oklahoma Alcoholic Beverage Control Act, 37 O.S. §502 et. seq.; and Alcoholic Beverage Laws Enforcement Commission; 37 O.S. §514(2).

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 5:00 p.m. on February 16, 2015, at the following address: Alcoholic Beverage Laws Enforcement Commission (ABLE Commission), 3812 N. Santa Fe, Suite 200, Oklahoma City, Oklahoma 73118 Attention: Kathy Sharp or to: Kathy Sharp at email mksharp@able.ok.gov.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on February 20, 2015, in the Second Floor Conference Room of the ABLE Commission, 3812 N. Santa Fe, Oklahoma City, Oklahoma. Anyone wishing to speak must sign in at the door by 8:45 a.m. on the day of the hearing.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The ABLE Commission requests that business entities affected by these proposed rules provide the ABLE Commission, within the comment period, in dollar amounts if possible, the increase in the level of direct services, revenue loss, or other costs expected to be incurred by costs, such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, and/or professional services, the business entity anticipates due to compliance with the proposed rules. Business entities may submit this information in writing to Kathy Sharp at the above address, before the close of business on February 16, 2015.

RULE IMPACT STATEMENT

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared and may be obtained from the ABLE Commission at the above address beginning on January 15, 2015.

CONTACT PERSON:

Kathy Sharp

Alcoholic Beverage Laws Enforcement Commission

3812 N. Santa Fe

Suite 200

Oklahoma City, Oklahoma 73118

(405) 521-3484

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TITLE 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION RULES

RULE IMPACT STATEMENT

[75 O.S. §303(D)(2)]

A. A brief description of the purpose of the proposed rule amendments:

The proposed rule amendments by the Alcoholic Beverage Laws Enforcement Commission to Chapter 30, Subchapter 3, Section 45:30-3-6 and Subchapter 5, Section 45:30-5-6, for which a Notice of Rulemaking Intent has been submitted for publication, were drafted to establish a method by which a specific Wholesaler or a Class B Wholesaler could seek permission from the Director to refuse to sell alcoholic beverages to a Retail, Mixed Beverage, Caterer, Mixed Beverage/Caterer or Special Event licensee, either on a temporary or permanent basis, upon a showing, by credible evidence, that the action(s) of the licensee has created a dangerous or hostile work environment for the wholesaler, or its employees, agents or representative. The proposed permanent amendments to the rules also creates a process by which a licensee may be heard before any permanent or temporary permission to refuse to sell is granted by the Director and an appeal process by which a licensee may appeal the decision of the Director to the Commission as a whole.

B. Classes of persons most likely affected by the rule amendments, including who will bear costs and costs impacts received from private and public entities:

Persons most likely to be affected by the proposed rule amendments are a licensee against whom/which a Wholesaler or Class Be Wholesaler has submitted a written request, in writing and signed under oath, seeking permission to refuse to sell to a particular licensee based on an assertion that credible evidence exists that the licensee has created a dangerous or hostile work environment for the wholesaler, or its employees, agents or representatives. A particular licensee may incur costs in objecting to a request from a wholesaler for permission to refuse to sell. However, any request would be from a specific wholesaler and any permission, if granted by the Director, would apply solely to the specific wholesaler making the request. The Commission does not any anticipate costs impact received from public or private entities.

C. Classes of persons who will benefit from the rule amendments:

The classes of persons who will benefit most from the proposed rule amendments are employees, agents or representatives of a specific Wholesaler or Class B Wholesaler if there is a showing that those individuals have been subjected to a dangerous or hostile work environment as the amendments create a mechanism for seeking permission to refuse to sell to a particular licensee creating the dangerous or hostile work environment. If permission is granted to a particular wholesaler to refuse to sell to a particular licensee, the individuals affiliated with the wholesaler will no longer be subjected to the objectionable conduct creating the dangerous or hostile work environment.

D. Probable economic impact of the rule amendment upon affected classes of persons or political subdivisions, including fees changes and, whenever possible, a justification for each change:

There are no new fees or fee changes included in the proposed rule amendment. As to possible affected licensees, there is no anticipated economic impact as any permission granted by

the Director to a wholesaler to refuse to sell to a particular licensee will be limited solely to the wholesaler making the request and the licensee will have other options to acquire product.

- E. Probable costs and benefits, to this or any other agency, of the implementation and enforcement of the rule amendment, the source of revenue to implement and enforce the rule, and the anticipated effect on state revenues, including projected net loss or gain if it can be projected:**

No costs or monetary benefits are anticipated at this time.

- F. Economic impact on political subdivisions or their cooperation required in implementing or enforcing the rule amendments:**

No impact is anticipated.

- G. Measures taken by the agency to minimize compliance costs. Availability of a less costly or non regulatory method or less intrusive method for achieving the purpose of the rule amendments:**

The agency does not anticipate compliance costs.

- H. Effect of the rule amendment on public health, safety and environment, and, if designed to do so, explain the risk to public health, safety or environment the rule is designed to reduce and to what extent the risk will be reduced:**

The rule amendments will not impact general public health, safety or the environment. The rule amendments will promote the safety of individual employees, agents and/or representatives of a particular wholesaler if permission is granted by the Director to allow a specific wholesaler to refuse to sell to a particular licensee based on the presentation of credible evidence that the licensee has created a dangerous or hostile work environment for the employees, agents or representatives of the wholesaler seeking permission to refuse to sell.

- I. Detrimental effect on the public health, safety and environment if the rule is not implemented:**

See subsection H above.

- J. Adverse impact rule amendment have on small business:**

No adverse impact on small business is anticipated.

- K. Date rule impact statement prepared:**

January 15, 2015

45:30-3-6. Wholesaler discrimination prohibited

(a) Every licensed Wholesaler before selling or offering to sell any alcoholic beverages to any Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, shall file with the Director a written statement sworn to by him, or in case of a corporation, one of its principal officers, in which he shall agree that he will sell any of the brands or kinds of alcoholic beverages distributed by him to any Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer, or Special Event licensee, and that all such sales will be made to all such Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer, or Special Event licensees in this State at the same current price and without discrimination, and that the price lists showing the current prices will be filed by him in the office of the Director as often as may be necessary or required by the Director, but at least once every three (3) months.

(b) The said price listing filed by the licensee Wholesaler with the Director shall be the cash price per case for each size of original package of each particular brand or kind of alcoholic beverage sold or offered for sale by such Wholesaler, and shall contain such other information as the Director shall require.

(c) A licensed Wholesaler shall be deemed to have discriminated among Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensees if he shall, either directly or indirectly or by any agent or employee:

(1) Offer to sell, or sell, alcoholic beverages to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee at a price less than the listed current price which he has filed with the Director;

(2) Make, or offer to make, any secret rebate to or enter into any transaction with a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee which would result in, or having as its purpose, the purchase of any such alcoholic beverages by a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee at a price less than the current price which he has filed with the Director;

(3) Refuse to sell to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee in less than case lots or any brand or kind or container size, or combination thereof, of any alcoholic beverages without express authority granted by the Director or the Commission for good cause;

(4) Refuse to sell any brand or kind of alcoholic beverages to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee for cash at the listed current price in any particular order provided by the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee without express authority granted by the Director or the Commission for good cause; PROVIDED, that each such Wholesaler in making and transmitting to the Oklahoma Tax Commission their monthly report, in reporting sales on all wines sold in less than case lots, shall convert units sold to the nearest full case.

(5) Refuse to sell any brand or kind of alcoholic beverage to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee unless the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee shall purchase or agree to purchase alcoholic beverages of another kind, quantity or brand in addition to, or partially in lieu of the brand or kind of alcoholic beverages specifically ordered by the Retail, Mixed

Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee;

(6) Fail to fill and ship orders of Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee for alcoholic beverages in the sequence and order in which such purchase orders from the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee are received by him without the express authority granted by the Director or the Commission for good cause; PROVIDED, that this paragraph shall not apply where the Wholesaler is operating under a rationing plan approved by the Director;

(7) Accept payment for merchandise from one Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee and refuse the same method of payment from another Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, without authority from the Director or the Commission

(d) A licensed Wholesaler shall not be deemed to have discriminated among Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee under the following circumstances:

(1) A licensed Wholesaler requests permission, in writing and signed under oath by a person authorized to represent the Wholesaler, from the Director of the ABLE Commission to refuse to sell alcoholic beverages to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee when the Wholesaler can substantiate, by credible evidence, that the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee has created a dangerous or hostile work environment for the licensed Wholesaler, its agents, its representatives, or its employees. Evidence of a dangerous or hostile work environment includes, but is not limited to, one or more of the following:

a. any physical abuse;

b. repeated verbal abuse

c. excessive and repeated profanity;

c. harassment due to race, gender, age, national origin, religion, sexual orientation or other protected status recognized by state or federal law;

d. threats of harm to any agent or representative of the Wholesaler; or

e. malicious or unfair business practices; or

(2) The request shall contain at least the following information verified under oath:

a. the name and ABLE license number of the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee;

b. the date(s) on which a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee created a dangerous or hostile work environment for the Wholesaler;

c. details of the actions and/or behaviors which created the dangerous or hostile work environment;

d. the name(s) and addresses of the person(s) who created the dangerous or hostile work environment; and

e. the names and addresses of persons possessing relevant information to support the events.

(3) Upon receipt of a request to refuse to sell alcoholic beverages from a Wholesaler, the Director may, upon a finding that there exists an eminent threat of physical violence or undue

emotional or psychological harm to an agent or representative of the Wholesaler, grant the Wholesaler temporary permission to refuse to sell to the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee. In all other cases, the complaint shall be addressed through the process set forth below.

(4) Upon receipt of any verified complaint, whether or not the Wholesaler has been granted temporary permission to refuse to sell to the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, the Director shall promptly notify the named Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee in writing, by certified mail, of the complaint. The notice shall contain the name and ABLE license number of the Wholesaler and the specific allegations against the licensee as stated in writing by the Wholesaler. A copy of the verified complaint shall be included as an exhibit to the notice.

(5) Said licensee may request an administrative hearing on the matter within fifteen (15) days of receipt of the complaint. If a hearing is requested, both the Wholesaler and the named licensee may appear and present evidence or testimony, including witnesses, as to why the request should or should not be granted. If a request for a hearing is not made within fifteen (15) days of receipt of the complaint, the Director may grant or deny the request. In those instances where temporary permission has been given to the Wholesaler to refuse to sell, the Director shall indicate whether the temporary permission is revoked or made a permanent permission. The Director's decision shall be put in writing and sent by certified mail to the named parties. Failure by the party to which notice has been given to request a hearing will constitute a failure to exhaust administrative remedies and the Director's decision may not be further appealed.

(6) If a hearing is requested and the request to refuse to sell alcoholic beverages is granted after the hearing and after notice is given to the licensee, the aggrieved licensee may request an appeal to the full Commission on the record, and such hearing will be conducted in the same manner as all other administrative hearings before the Commission pursuant to 37 O. S. Sections 530, 530.1 and 531.

(7) If a Wholesaler is granted permanent permission to refuse to sell to a specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, that permanent permission to refuse to sell shall remain in effect for at least one year and, thereafter, will remain in effect indefinitely unless either the licensee requests, in writing, a reconsideration of the decision after the expiration of one year, and the request is granted by the Director following an evidentiary hearing on the merits with notice to the Wholesaler, or unless the Director revokes his decision, in writing, for good cause.

(8) If a request for refusal to sell is denied, the Director shall put the denial in writing and shall send a copy by certified mail to all named parties. Upon receipt of the denial in writing by the Wholesaler, any temporary permission to refuse to sell originally granted by the Director shall expire and become null and void, and the Wholesaler shall be required to resume selling to the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee.

(9) A Wholesaler may not refuse to sell alcoholic beverages to any Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee unless and until the Director grants the request under any of the conditions set forth above either on a temporary or permanent basis. A permanent grant of the request will be made by the Director, in writing, which shall be sent by certified mail to all named parties.

45:30-5-6. Class B Wholesaler discrimination prohibited

(a) Every licensed Class B Wholesaler before selling or offering to sell any beer or brewed product to any Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, shall file with the Director a written statement sworn to by him, in which he shall agree that he will sell any of the brands or kinds of beer or brewed product, distributed by him to any Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer, or Special Event licensee, and that all such sales will be made to all such Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer, or Special Event licensee in this State at the same current price and without discrimination, and that the price lists showing the current prices will be filed by him in the office of the Director as often as may be necessary or required by the Director.

(b) The price listings filed by the licensed Class B Wholesaler with the Director shall be the cash price per case for each size of original package of each particular brand or kind of beer or brewed product sold or offered for sale by such Class B Wholesaler, and shall contain such other information as the Director shall require.

(c) A licensed Class B Wholesaler shall be deemed to have discriminated among Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensees if he shall, either directly or indirectly or by any agent or employee:

(1) Offer to sell, or sell, beer or brewed products to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee at a price less than the listed current price which he has filed with the Director;

(2) Make, or offer to make, any secret rebate to or enter into any transaction with a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee which would result in, or having as its purpose, the purchase of any beer or brewed products by a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee at a price less than the current price which he has filed with the Director;

(3) Refuse to sell any brand or kind of beer or brewed product to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee without express authority granted by the Director or the Commission for good cause;

(4) Refuse to sell any brand or kind of beer or brewed product to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee unless the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee shall purchase or agree to purchase alcoholic beverages of another kind, quantity or brand in addition to, or partially in lieu of the brand or kind of beer or brewed product specifically ordered by the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee without express authority granted by the Director or the Commission for good cause;

(5) Fail to fill and ship orders of Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee who have submitted written purchase orders for beer and brewed products in sequence and order in which such written purchase orders from the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee are received by him, PROVIDED, that this paragraph shall not apply where the Wholesaler is operating under a rationing plan approved by the Director without express authority granted by the Director or the

Commission for good cause;

(6) Accept payment for merchandise from one Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee and refuse the same method of payment from another Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, without authority from the Director or the Commission.

(d) A Class B Wholesaler shall not be deemed to have discriminated among Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee under the following circumstances:

(1) A Class B Wholesaler requests permission, in writing and signed under oath by a person authorized to represent the Class B Wholesaler, from the Director of the ABLE Commission to refuse to sell alcoholic beverages to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee when the Class B Wholesaler can substantiate, by credible evidence, that the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee has created a dangerous or hostile work environment for the Class B Wholesaler, its agents, its representatives, or its employees. Evidence of a dangerous or hostile work environment includes, but is not limited to, one or more of the following:

a. any physical abuse;

b. repeated verbal abuse

c. excessive and repeated profanity;

c. harassment due to race, gender, age, national origin, religion, sexual orientation or other protected status recognized by state or federal law;

d. threats of harm to any agent or representative of the Wholesaler; or

e. malicious or unfair business practices; or

(2) The request shall contain at least the following information verified under oath:

a. the name and ABLE license number of the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee;

b. the date(s) on which a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee created a dangerous or hostile work environment for the Class B Wholesaler;

c. details of the actions and/or behaviors which created the dangerous or hostile work environment;

d. the name(s) and addresses of the person(s) who created the dangerous or hostile work environment; and

e. the names and addresses of persons possessing relevant information to support the events.

(3) Upon receipt of a request to refuse to sell alcoholic beverages from a Class B Wholesaler, the Director may, upon a finding that there exists an eminent threat of physical violence or undue emotional or psychological harm to an agent or representative of the Class B Wholesaler, grant the Class B Wholesaler temporary permission to refuse to sell to the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee. In all other cases, the complaint shall be addressed through the process set forth below.

(4) Upon receipt of any verified complaint, whether or not the Class B Wholesaler has been granted temporary permission to refuse to sell to the specific Retail, Mixed Beverage, Beer and

Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, the Director shall promptly notify the named Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee in writing, by certified mail, of the complaint. The notice shall contain the name and ABL license number of the Class B Wholesaler and the specific allegations against the licensee as stated in writing by the Class B Wholesaler. A copy of the verified complaint shall be included as an exhibit to the notice.

(5) Said licensee may request an administrative hearing on the matter within fifteen (15) days of receipt of the complaint. If a hearing is requested, both the Class B Wholesaler and the named licensee may appear and present evidence or testimony, including witnesses, as to why the request should or should not be granted. If a request for a hearing is not made within fifteen (15) days of receipt of the complaint, the Director may grant or deny the request. In those instances where temporary permission has been given to the Class B Wholesaler to refuse to sell, the Director shall indicate whether the temporary permission is revoked or made a permanent permission. The Director's decision shall be put in writing and sent by certified mail to the named parties. Failure by the party to which notice has been given to request a hearing will constitute a failure to exhaust administrative remedies and the Director's decision may not be further appealed.

(6) If a hearing is requested and the request to refuse to sell alcoholic beverages is granted after the hearing and after notice is given to the licensee, the aggrieved licensee may request an appeal to the full Commission on the record, and such hearing will be conducted in the same manner as all other administrative hearings before the Commission pursuant to 37 O. S. Sections 530, 530.1 and 531.

(7) If a Class B Wholesaler is granted permanent permission to refuse to sell to a specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, that permanent permission to refuse to sell shall remain in effect for at least one year and, thereafter, will remain in effect indefinitely unless either the licensee requests, in writing, a reconsideration of the decision after the expiration of one year, and the request is granted by the Director following an evidentiary hearing on the merits with notice to the Class B Wholesaler, or unless the Director revokes his decision, in writing, for good cause.

(8) If a request for refusal to sell is denied, the Director shall put the denial in writing and shall send a copy by certified mail to all named parties. upon receipt of the denial in writing by the Class B Wholesaler, any temporary permission to refuse to sell originally granted by the Director shall expire and become null and void, and the Wholesaler shall be required to resume selling to the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee.

(9) A Class B Wholesaler may not refuse to sell alcoholic beverages to any Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee unless and until the Director grants the request under any of the conditions set forth above either on a temporary or permanent basis. A permanent grant of the request will be made by the Director, in writing, which shall be sent by certified mail to all named parties.