

PACKAGE AGENCIES / 32A-3 - VIOLATION GRID

<u>Descriptions</u>	<u>Code Citation</u>	<u>Rule Citation</u>	<u>Degree</u>
A. <u>ADVERTISING</u>			
1. Improper advertising:			
a. that contains any statement, design, device, or representation that is false or misleading;	32A-12-401(4)	R81-1-17(6)(b), (7)	MOD, *b
b. that contains any statement, design, device, or representation that is obscene or indecent;	32A-12-401(4)	R81-1-17(6)(c), (7)	MOD, *b
c. that refers to, portrays, or implies illegal conduct, illegal activity, abusive or violent relationships or situation, or anti-social behavior;	32A-12-401(4)	R81-1-17(6)(d), (7)	MOD, *b
d. that encourages over-consumption or intoxication, promotes the intoxicating effects of alcohol, or overtly promotes increased consumption;	32A-12-401(4)	R81-1-17(6)(e),(7)	MOD, *b
e. that offers any unlawful discounting practice such as "happy hour", "two for the price of one", or "all you can drink for \$.....";	32A-12-401(4)	R81-1-17(6)(f), (7)	MOD, *b
f. that encourages or condones drunk driving;	32A-12-401(4)	R81-1-17(6)(g), (7)	MOD, *b
g. that depicts the act of drinking;	32A-12-401(4)	R81-1-17(6)(h), (7)	MOD, *b
h. that promotes or encourages the sale to or use of alcohol by minors;	32A-12-401(4)	R81-1-17(6)(i), (7)	MOD, *b
i. that is directed or appeal primarily to minors by:	32A-12-401(4)	R81-1-17(6)(j),(7)	MOD, *b
(1) using any symbol, language, music, gesture, cartoon character, or childhood figure such as Santa Clause;			
(2) employing any entertainment figure or group that appeals primarily to minors;			
(3) placing advertising in magazines, newspapers, television programs, radio programs, or other media where most of the audience is reasonably expected to be minors, or placing			

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advertising on the comic pages of magazines, newspapers, or other publications; (4) placing advertising in any school, college or university magazine, newspaper, program, television program, radio program, or other print media, or sponsoring any school, college or university activity; (5) using models or actors in the advertising that are or reasonably appear to be minors; (6) advertising at an event where most of the audience is reasonably expected to be minors; (7) using alcoholic beverage identification, including logos, trademarks, or names on clothing, toys, games or game equipment, or other materials intended for use by minors.			
j. that portrays use of alcohol by a person while that person is engaged in, or is immediately about to engage in, any activity that requires a high degree of alertness or physical coordination;	32A-12-401(4)	R81-1-17(6)(k), (7)	MOD, *b
k. that contains claims of representations that individuals can obtain social, professional, educational, athletic, or financial success or status or solve such problems as a result of consumption;	32A-12-401(4)	R81-1-17(6)(l), (7)	MOD, *b
l. that requires the purchase, sale, or consumption of an alcoholic beverage in order to participate in any promotion, program or other activity;	32A-12-401(4) 32A-12-606(2)	R81-1-17(6)(n), (7)	MOD, *b
m. that implies by use of appealing characters or life-enhancing images that consumption of the product will benefit the consumer's health, physical or sexual prowess, athletic ability, social welfare, or capacity to enjoy life's activities.	32A-12-401(4)	R81-1-17(6)(o), (7)	MOD, *b
2. Offering alcoholic beverages to the general public without charge.	32A-12-401(4) & (5)	R81-1-17(6)(m), (7)	MOD, *b

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3. Advertising on signs or billboards.	32A-1-105(7) 32A-12-401(2)(b)	R81-3-9(2)	MOD, *b
4. Display of liquor or price lists in windows or showcases visible to passersby.	32A-3-106(6) 32A-12-401(3)(b)	R81-3-9(3)	MOD, *b
5. Promotion of a particular brand or type of liquor (types 1, 2, & 3).	32A-12-401(4)	R81-3-9(1)	MOD, *b

B. AUDIT

1. Change of location without department approval.	32A-3-102(2)(e) 32A-3-103(7)	R81-3-2	MOD
2. Falsification/tampering of records.	32A-12-303,-304		GR, *b,*d,
3. Failure to maintain minimum of \$12,000 gross profit to the state.		R81-3-12(3)	*f
4. Inaccurate record keeping as specified in package agency agreement.	32A-3-106(1)		MOD, *f
5. Failure to maintain bond as specified.	32A-3-102(2)(d) 32A-3-103(7) 32A-3-105	R81-3-3	*e, *f
6. Failure to maintain general liability insurance.	32A-3-102(2)(f) 32A-3-103 (7)		*f
7. Refusing entry to authorized persons to audit, inspect, or review premises or records.	32A-3-102(2)(g) 32A-12-305 32A-13-109		GR, *b
8. Failure to maintain an inventory of at least 50 code numbers of representative products of at least \$5,000 value. (Type 1, 2, 3)		R81-3-13-(3)	*f
9. Change of package agent without department approval.	32A-3-101(1) 32A-3-103(5)(f), (g) 32A-1-105(33)	R81-3-4	*f, *g,

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10. Failure to devote at least 100 sq. ft. of retail selling space to liquor sales (types 2 & 3).		R81-3-13(2)	*f
11. Failure to maintain reasonable accessibility to the general public (types 1 & 2).		R81-3-13(4)	*f
12. Designated operator neither the agent nor an agency employee.	32A-3-103(5)(b), (g)		*f, *g
13. Changing the designated operator without DABC approval.	32A-3-103(5)(f), (g)		*f, *g
14. Failure to maintain daily consignment logs (types 2 & 3).		R81-3-17(2)(d)(i)	*f

C. AGENT/OPERATOR

1. After the day the package agency contract is granted, an agent, partner, managing agent, manager, officer, director, 20% stockholder, 20% LLC member, or employee in a supervisory or managerial capacity is <u>found to have been convicted</u> of any of the following offenses <u>prior</u> to the package agency being granted: <ul style="list-style-type: none"> a. a felony; b. a violation concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; or c. a crime of moral turpitude. d. driving under the influence of alcohol, any drug, or the combination of the two – twice within 5 years. 	32A-3-103(2)(a) 32A-3-103(7)	R81-1-16	*f
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2. After the day the package agency contract is granted, an agent, partner, managing agent, manager, officer, director, 20% stockholder, 20% LLC member, or employee in a supervisory or managerial capacity <u>is convicted of</u> : a. a felony; b. a violation concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; c. a crime of moral turpitude; or d. driving under the influence of alcohol, any drug, or the combination of the two for a second time within 5 years.	32A-3-103(2)(b) 32A-3-103(7)	R81-1-16	*f
3. After the day the package agency contract is granted, an agent, partner, managing agent, manager, officer, director, 20% stockholder, 20% LLC member, or employee in a supervisory or managerial capacity <u>is arrested for</u> : a. a felony; b. a violation concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; c. a crime of moral turpitude; or d. driving under the influence of alcohol, any drug, or the combination of the two for a second time within 5 years.	32A-3-103(3) 32A-3-103(7)	R81-1-16	*f
4. Attempted sale, transfer, reassignment, etc. of package agency.	32A-3-106(16)	R81-3-4	*f
5. Violation of conditions of agency agreement, or violates any provisions of this title.	32A-3-106(1)(c)		*f
6. Package agent no longer possesses the qualifications required by this title.	32A-3-103(7)		*f

D. CERTIFICATE

1. Disposition of certificate for value.	32A-3-106(17)		*g
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2. Certificate not posted in conspicuous place in agency.	32A-3-106(11)		MIN

E. EMPLOYEE:

1. Minor employed to handle liquor.	32A-3-103(6)(a)(ii) 32A-12-201(7)		SER, *h
2. Supervisor or manager convicted of (or arrested for) designated offense.	32A-3-103(2),(3), (7)		*f

F. OPERATIONS

1. Seasonal package agency operating during unauthorized months.	32A-3-101(2)(c) 32A-12-201(7), -202		MOD, *b
2. Unauthorized multiple locations (hotels).	32A-3-101(2)(d)		MOD, *b
3. Employing a minor to handle liquor.	32A-3-103(6)(ii) 32A-12-201(7)		SER, *b
4. Operating before entering into package agency agreement with DABC.	32A-3-106(1)(a)		SER
5. Allowing consumption of package agency premises.	32A-3-106(7)		SER
6. Not meeting minimum hours of day/week operation requirements (types 2 & 3).		R81-3-13(1)(a, b)	MOD
7. Changing hours of operation without prior department approval.		R81-3-13(1)(d)	MOD
8. Unauthorized closure - more than 72 hours without department approval.	32A-3-106(13)(a)		*g
9. Unauthorized closure - more than 90 days without commission approval.	32A-3-106(13)(c)(iii)		*g
10. Failure to reopen and resume operation by approved date.	32A-3-106(13)(f)		*g

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11. Certificate not prominently posted.	32A-3-106(11)		MIN
12. Warning sign not prominently posted.	32A-3-106(12)	R81-3-7	MIN
13. Not following procedures for returning or exchanging liquor to DABC.		R81-3-6	*f
14. Type 5 package agency delivering product directly to licensees.		R81-3-14(2)(d)	
15. Minor on package agency premises not accompanied by parent, legal guardian, or spouse.		R81-3-6	SER
16. Payment for consignment not received within 30 days of due date (types 2 & 3).		R81-3-17(2)(b)(v)	*f
17. Bad checks tendered to the department.	32A-1-113(5)	R81-1-3(6) R81-3-17(2)(b)(iv) (type 2 & 3)	*e, *g

G. SALES

1. Selling liquor not provided by DABC.	32A-3-106(2)(a) 32A-12-201(7)		GR, *b
2. Selling an unsealed container, opening a package on premise.	32A-3-106(4)		SER, *b
3. Improperly marked and labeled packages.	32A-3-106(5) 32A-12-201(7), -218	R81-1-3(1), (2)	SER, *b
4. Adulterated liquor.	32A-12-201(7), -219		GR, *b
5. Allowing consumption on package agency premises.	32A-3-106(7)		SER, *b
6. Not selling at prices fixed by commission.	32A-3-106(8) 32A-12-201(7)		GR, *b

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7. Sale, deliver, furnish A/B to: a. minor b. intoxicated person c. any known habitual drunkard d. any known interdicted person	32A-3-106(9)(a) 32A-12-201(7), -203 32A-3-106(9)(b) 32A-12-201(7), -204, -216 32A-3-106(9)(c) 32A-12-201(7) 32A-3-106(9)(d) 32A-12-201(7), -205		SER, *b GR, *b GR, *b GR, *b
8. Sale by minor.	32A-3-103(6)(ii) 32A-12-201(7)		SER, *b
9. Illegal days/hours of sales.	32A-3-106(10) 32A-12-201,-202	R81-3-13	MOD, *b
10. Sale from unauthorized, undesignated area.	32A-3-102(2)(e) 32A-3-106(14) 32A-12-201(7)		MOD, *b
11. Type 4 package agency selling to general public without Type 1 privileges.		R81-3-1	MOD, *b
12. Type 5 package agency selling products produced by other manufacturers.		R81-3-14(2)(a)	MOD
13. Type 4 package agency selling mini bottles to the general public.	32A-12-201(7)		MOD

H. STORAGE

1. Storage in unauthorized, undesignated area.	32A-3-106(14) 32A-3-102(2)(e)		MOD
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I.	<u>OTHER</u>	<u>Descriptions</u>	<u>Code Citation</u>	<u>Rule Citation</u>	<u>Degree</u>
		1. Tendering bad checks to the department.	32A-1-113(5)	R81-1-3(6) R81-3-17(2)(b)(iv) <i>(type 2 & 3)</i>	*e, *g
		3. Drinking or allowing consumption of liquor while in transit.	32A-3-107(2)		SER
		4. Unlawful importations.	32A-12-201(1) &(7), -214		GR, *h

J. TRADE PRACTICES

See violation grid - Industry Trade Practices.

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