

**185—16.1 (123) Definitions.**

“*Brand*” means each alcoholic liquor, wine, beer, or high alcoholic content beer packaged and sold under a separate name, class, type, or kind designation (wine appellation of origin, wine vintage date, alcoholic liquor age, percentage of alcohol, etc.).

“*Cost adjustment factor.*” The division shall annually adjust the dollar limitations in rule 185—16.2(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.83. The division shall annually adjust the dollar limitations in rule 185—16.3(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.85. The division shall annually adjust the dollar limitations in rule 185—16.16(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.100. The dollar limitations for the rules listed herein for calendar year 1992 are as follows:

1. Rule 185—16.2(123) Product displays: \$160.
2. Rule 185—16.3(123) Retailer advertising utensils: \$78.
3. Rule 185—16.16(123) Participation in retail association activities: \$160.

“*Equipment*” includes, but is not limited to, mechanized and nonmechanized refrigeration units and devices used in the storage, dispensing, and cooling of alcoholic liquor, wine and beer, tap boxes, “party wagons,” dispensing systems, and shelving. Equipment does not include tapping accessories (including faucets, rods, vents, taps, hoses, washers, couplings, gas gauges, vent tongues, shanks, check valves and “picnic” pumps) which are used in dispensing wine or beer from kegs or bulk packaging.

“*Exclusion,*” in whole or in part, of a competitor’s products includes, but is not limited to, any, some or all of the following factors:

1. Position and location of alcoholic beverages products sold during special event.
2. Alcoholic beverages products sold prior to allegation of violation in retail establishment.
3. Industry member and retailer objective intent.
4. Industry member and retailer connection with charitable or civic sponsor of special event.
5. Alcoholic beverages products sold during the event.
6. Sales price and discounts on alcoholic beverages products sold during the event.
7. Any other special considerations or preferential treatment offered by the industry member and accepted by the retailer which were not similarly offered to all retailers in the same market.

“*Fixtures*” includes, but is not limited to, bar sinks, bars, light fixtures, and indoor or outdoor signs used to identify the retail establishment.

“*Furnishings*” includes, but is not limited to, money, services, chairs, tables, lamps, pictures, remodeling costs, bar sinks, menus, carpeting, bar stools, display cabinets and curios, linens, linen services, china and silver or stainless steel eating and other utensils, decorations, and sound systems used by a retailer. (Durable and disposable glassware is addressed in rule 185—16.5(123).)

“*Furnishings, fixtures and equipment*” does not include the items identified in rule 185—16.2(123), subrule 16.3(5), rule 185—16.4(123), rule 185—16.5(123), rule 185—16.6(123), rule 185—16.7(123), subrule 16.13(5), or subrule 16.13(6).

*“Industry member”* means an alcoholic beverages manufacturer, including a distiller, vintner or brewer, bottler, importer, wholesaler, jobber, representative, broker, agent, officer, director, shareholder, partner or employee of each of the above.

*“Product”* means alcoholic liquor, wine, beer, or high alcoholic content beer as defined in Iowa Code chapter 123.

*“Retailer”* means the holder of an alcoholic beverages license or permit, agents, officers, directors, shareholders, partners, and employees who sell alcoholic liquor, wine or beer to consumers for consumption on or off the premises of the licensee or permittee.

*“Sampling”* means the practice of industry members giving product to a retailer for the purpose of market research, education, promotion of the product, or determination of the flavor of the product.

*“Tasting”* means the presentation and serving of a product by industry members or retailers to consumers for the purpose of market research, education, promotion of the product, or determination of the flavor of the product.

*“Trade spending”* means the practice of industry members promoting their brand by purchasing alcoholic beverages for consumers where alcoholic beverages are sold and served for on-premises consumption.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 2254C, IAB 11/25/15, effective 12/30/15]