

Wizard's Spell Falls Foul

Have you ever felt the urge to embellish a job ad to make sure you get the best candidates?

Well don't. In the Federal Court of Australia the Australian Competition and Consumer Commission (ACCC) has given you very good reasons why you should NOT do so. The ACCC brought an action for breach of s.52 of the Trade Practices Act (Act) against Wizard Home Loans who it alleged had fallen foul of s.52 of the Act when it advertised the remuneration Mobile Lending Managers would receive.

The ad represented that such workers would be employees when in fact they were independent contractors. Worse still, the ad gave an inflated estimate of what people would earn and didn't say that it was on a commission only basis.

The ACCC argued that such advertisements were misleading and deceptive. The case against Wizard ended when the company gave undertakings that future advertising for Mobile Lending Managers would be consistent with the actual level of average commissions being earned by other Mobile Lending Managers, the sales prices in the Manager's area, and the number of other Managers working in that area. The Court ordered that Wizard pay compensation to a Mobile Lending Manager who was misled about the level of commission he could earn. The Court also made a Declaration that Wizard had breached s.52 of the Act and ordered that it pay the ACCC's costs of the proceedings.

The ACCC's chairman stated that "Companies should exercise real care when discussing potential remuneration given the importance that element may have to persons in terms of career changes and choices." The case is a timely reminder that when placing advertisements for any positions you should avoid misrepresentations about any aspect of the job to potential candidates, especially the money a candidate could earn.

If you require further information contact the Macpherson+Kelley employment law team on 03 9794 2684.

Employment

Tin Chen, new Master Grocers Board Member will regularly include information for our Chinese retailers. This valuable service will greatly improve communications between many retailers where English is their second language.



食品商业总会 (MGAV, 下称总商会) 的一部分很重要的工作是从各方面协助会员们在经营商店的过程中遵守政府制定的法律法规及按其要求而运作。

目前与经营食品有关的主要法律法规有: 1) 职业性劳工健康与安全法 (Occupational Health and Safety); 2) 劳工法 (Employment); 3) 食品卫生法 (Food Safety); 4) 酒类经营管理法 (Liquor Act); 如果没有按照这些法律法规的要求办事或违反了将会受到很严厉的制裁, 这将包括行政上的或经济上的, 甚至关禁。比如因雇主的责任而导致劳工严重的受伤或死亡者。希望大家高度重视。

本期就着中对酒类经营管理法加以强调。下面是此法的要点和主要要求:

- 1) 不得在执照规定的营业时间外销售酒类;
- 2) 必须在酒店显眼的地方张贴 Intoxication 和 No Proof No Purchase 两张警告单;
- 3) 不得卖酒给小于18岁的或已经醉酒的人士(后类人经常被忽视), 否则最高罚款将有可能超过\$6000 元。重犯者还有可能被吊销执照。
- 4) 如果明知其他人替不足年龄或已醉酒人士买酒的话, 必须同样给予拒绝。
- 5) 对于怀疑不足年龄的人士应检查其年龄证件, 这些证件包括维省驾照证 (Driver License), 维省学车证 (Learner Permit), 澳洲护照 (Australian Passport), Keypass 证和其他年龄证件如其他国家的护照。
- 6) 除了商店的职员外, 不满18岁的人士不得独自在酒店里逗留, 除非有监护人陪同。
- 7) 店主(持酒牌人)必须保证在任何酒店营业时间里, 有受过RSA (Reasonable Service of Alcohol) 正规培训过的职员(包括店主)在店里负责管酒。也就是说如果你的店是家庭式的带有酒牌的店, 那么至少得有二至三人持有RSA培训证。如果丈夫不在店里而妻子在管店, 那么妻子必须有培训证。如果夫妻同时外出, 那么那段时间店里一定要有持证的人负责管酒。以此类推。同时这些持证人都必须每年补修一次 (update)。

随着对酒牌数量控制的开放, 政府也相应地在加强对持牌销售这方面的管理和监督。警察也正在加强随机抽检。没有达标者将会受到现场的罚款或书面的警告, 不改进者同样有可能被吊销执照。

总商会不定期地在 Malvern 总部举办RSA培训班, 并配有中文或越文翻译。培训班每次二至三个小时, 每人仅收很低的四十四元 (含GST) 。希望没有达到要求的会员尽快安排人去培训。

我希望和大家交朋友, 共同建立一个经商网络。请来电97725098 或 0403100097和我联系。

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