



TABC

Marketing Practices

What To Know About

Marketing Practices



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TABC wants your business to prosper. One part of your success is understanding how Texas law affects your business. We've designed this course to provide the basics of what you can and can't do with your business. This is a summary of your responsibilities and isn't meant to be an exhaustive list. Please see the [Alcoholic Beverage Code](#) (Code), [TABC Administrative Rules](#) (Rules) and our [Marketing Practices Advisories](#) for more details.



What Are Marketing Practices?

Marketing practices relate to the relationship between members of the upper tiers — manufacturers, wholesalers and distributors — and the retail tier in ways that influence business practices. When a member of the upper tier provides unfair or unlawful services, benefits and gifts to a retailer so they can obtain a better position in the marketplace, this is considered unfair competition or unlawful trade practices. Gifts, services and benefits are examples of areas that are regulated in marketing practices.



Examples of Marketing Practices

- Sweepstake promotions
- Product advertising
- Use of coupons and related material
- On/off premise promotions/samplings with retail accounts
- Sponsorship and charity events/temporary events
- Delivery and mobile apps
- Use of social media



What Is Outdoor Advertising?

Outdoor advertising means any sign bearing a word, mark, description, or other device that is used to advertise an alcoholic beverage.

Outdoor advertising does not include advertising that appears on the following:

- Radio or television
- Newspaper
- Magazine
- Literary publication etc.
- Internet, social media



What Is Illegal Outdoor Advertising?

You cannot advertise alcoholic beverage prices on any sign, billboard, marquee, or any display on or outside of the building that can be seen from the street.

Interior advertising signs displaying prices may not be seen from outside of the building.

Exception: There is an exception that you may display your regular size menu with pricing at the front entrance if you are a restaurant. This does not include chalk board displays.



What Is Considered Signage?

A sign is a thing whose primary purpose is the advertisement of:

- Brand
- Product
- Price thereof

Distributors and manufacturers authorized to sell to retailers may furnish, give or sell interior signs to retailers.

A sign furnished by a distributor or authorized member of the manufacturing tier may not bear the name, logo or trademark of a specific retailer.

Signage that is custom made for a specific retailer by an upper tier member is prohibited.

An upper tier member is prohibited from painting, improving or remodeling to a retailer's premise. These constitute a benefit to a retailer.



What Are On-Premise Promotions?

Legal on-premise promotions:

- Drink prices
 - Example: \$2 well drinks all day
- Happy hour
 - Example: Reduced drink prices between 4p and 7p
- One free alcoholic beverage for a birthday, anniversary or similar event.
 - The alcoholic beverage must be given without prior advertisement.

Illegal on-premise promotions:

- Offering an undetermined quantity of alcohol for a fixed price.
 - Example: Bottomless mimosas
- Offering reduced drink prices after 11:00 PM.
- Offering two or more drinks for a total price that is less than the total price of those drinks if sold individually.
 - Example: Two for the price of one



What Are Off-Premise Promotions?

Legal off-premise promotions:

- Drink prices
 - Example: Case of beer for \$25
- Quantity discounts
 - Example: Save 10% when you buy 6 or more bottles of wine.

Illegal off-premise promotions:

- Coupons for alcohol
- Requiring the purchase of alcoholic beverages to receive an alcoholic beverage item at a discount.
 - Example: Giving a free bag of ice with the purchase of an alcoholic beverage.



Limitations of Promotional Items For Malt Beverages

- Promotional items are things designed to promote a specific malt beverage product or brand.
- Are **SOLD** to the retailer by the distributor and authorized brewer.
- Designed for use by the consumer, either on or off the retailer's premise
- Promotional items must bear a manufacturer's logo, brand or product name.
- Promotional items may not be sold for less than the item manufacturer's regularly published wholesale price.
- Payment must be in cash, paid on or before delivery. Subject to Cash Law.

Examples of promotional items:

- Umbrellas
- Coasters
- Styrofoam coolers
- Singles Tubs
- Bar mats
- Condiment caddies
- Buckets and glassware



What Are Advertising Specialties (Liquor)?

Advertising specialties are things designed to advertise or promote a specific wine or distilled spirit product or brand.

- Manufacturers and wholesalers may furnish give “advertising specialties” to retailers.
- The total cost of the advertising specialties shall not exceed \$101.00 per brand, per retailer, per calendar year.
- Such items may have a utilitarian function in addition to product promotion.

Example(s) of advertising specialties:

- Branded container



What Is Bar Spending And Who Can Participate?

Employees of a manufacturer, wholesaler or distributor, may buy alcoholic beverages for consumers.

The alcoholic beverages purchased by the employee is for consumption on retailer's premises in presence of the purchaser.

Malt beverages, wine and spirits may be pre-arranged or pre-announced.



What Are Temporary Events?

An event held at a temporary location where alcoholic beverages are served or sold by the following:

- A retailer or winery that submits a File and Use (FUN) Notification form to TABC for small private events.
- A retailer or winery seeking TABC approval using a Temporary Event Approval (TEA) request form.
 - TEA event requests should be sent at least 10 days in advance or the permittee risks paying a late filing fee.
- A nonprofit entity who obtains a Nonprofit Entity Temporary Event Permit (NT).
 - For more information, see TABC's **Nonprofit Entity Temporary Event Permit course**.

See our [Temporary Event Authorization page](#) for more specific information about criteria for the File and Use Notification, Temporary Event Approval and Nonprofit Entity Temporary Event Permit and the steps for applying.



What Are Sponsorships or Gifts to Unlicensed Entities?

Manufacturers, wholesalers and distributors may donate money, alcoholic beverages or other things of value to unlicensed nonprofit entity.

Advertising of events sponsored by organizations receiving donations shall include promotion of the organization sponsor or cause in a manner at least equal to or greater than the advertising of the industry donor.

Distributors and manufacturers may furnish draft malt beverage dispensing equipment for use at temporary nonprofit events, provided that such equipment may not be given in exchange for an exclusive sales privilege.

Manufacturers, distributors and their employees and agents may not serve or dispense malt beverages at temporary events.



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Questions?

Please contact your local TABC office.

tabc.texas.gov/contact-us/