



TEXAS ALCOHOLIC BEVERAGE COMMISSION

Texans Helping Businesses & Protecting Communities

P.O. Box 13127
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MARKETING PRACTICES ADVISORY – MPA062

Outdoor Advertising Regulations

In 2019, the 86th Texas Legislature passed House Bill 1545, also known as the Sunset Bill. In addition to many other changes, the legislation eliminated several outdoor advertising restrictions and the prohibition on placing billboards within 200 feet of a retailer's location. This advisory provides updated guidance based on these statutory changes.

Advertising at a Licensed/Permitted Location That Is Visible Outdoors

This section of the advisory applies to advertisements of alcoholic beverages or businesses that manufacture, distribute or sell such beverages. Specifically, this addresses those advertisements that are displayed outside a building or structure where a license or permit is issued. This also includes an advertisement displayed inside a building within 5 feet of an exterior wall facing a street or highway, so that it is visible by a person of ordinary vision from outside the building.¹ This covers advertisements that are connected to the building of a licensed or permitted location and advertisements inside of a business that are visible to the public from the outside of the business, such as through a glass window.

Retailers may display any number of advertising signs at their premises, use any words or phrases of their choosing on these advertisements, use any font size, and include representations of alcoholic beverage brands or names on such outwardly visible advertisements on their premises.

However, the law does not allow retailers to feature alcoholic beverage prices on advertisements that are outwardly visible on their premises. TABC Rule 45.105 clarifies that pricing may not be utilized on any retailer signage visible to the public from outside of the retailer's premises with one exception. If a retailer holds a Food and Beverage Certificate (FB), they may advertise prices by displaying the business's menu on the outside of the location. Please note this restriction does not apply to a price tag, of normal size, affixed to an alcoholic beverage container.

¹ Tex. Alco. Bev. Code § 108.51



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Billboard Advertising

Billboards that advertise alcoholic beverages may be placed at any distance — including within 200 feet — from a retail location. However, certain statutory regulations regarding tier violations remain in effect.

Upper-tier members (manufacturers and distributors) are prohibited from advertising on billboards in a manner that promotes, directs traffic to, or is intended to benefit a specific retailer. Additionally, upper-tier members are prohibited from paying a retailer directly, or indirectly through an advertising company, to advertise alcoholic beverages on a billboard located on a retailer's property. Essentially, any lease monies paid by a billboard company to a retailer for a billboard in the retailer's parking lot cannot be sourced from upper-tier alcohol advertising. Therefore, the billboard company would have to use funds from non-alcohol advertising to pay for those leases. The agency retains the authority to review upper-tier funding to determine if there is a violation of this prohibition. Again, this only applies for billboards on retailer-owned properties and would only be reviewed if a complaint alleging a retailer was receiving money from an upper-tier member is being investigated. Billboard companies and upper-tier members do not need to submit funding information for pre-approval.

This advisory is issued pursuant to Alcoholic Beverage Code § 5.57. It represents the opinion of the staff of the Commission. We hope this opinion will assist you in your endeavors. If you would like additional information or have questions regarding this advisory, you may contact me in writing at P.O. Box 13127, Austin, TX 78711; by email to advisories@tabc.texas.gov; or by phone at 512-206-3411.

Sincerely,

Thomas Graham
Director of Excise Tax & Marketing Practices