



# TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

*service ★ courtesy ★ integrity ★ accountability*

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February 2<sup>nd</sup>, 2010

MARKETING PRACTICES BULLETIN – MPB036  
***Product Displays & Enhancement Items***

To: Alcoholic Beverage Industry

The Texas Alcoholic Beverage Commission has received inquiries regarding in-store alcoholic beverage displays provided by upper-tier members. Per §45.109 T.A.C. 16 of the Texas Alcoholic Beverage Administrative Rules, members of the wholesale tier and those authorized to sell to retailers may, “with the permission of the retailer, organize and construct displays of alcoholic beverages they sell.” For some time, it has been the policy of this commission to allow authorized upper-tier members to provide retailers with “display enhancement/enhancer items,” including televisions, grills, etc., provided these items are used for the sole purpose of product promotion. However, “enhancer items” may only be provided to the retailer on a temporary basis of not more than 30 days. It has never been this commission’s intent to allow upper-tier members to leave display enhancer items on a retail premises or allow the retailer to keep these items.

The Texas Alcoholic Beverage Code in §102.07 and §102.15 prohibits upper-tier members from furnishing, lending, renting, or selling anything of value to a retailer, including but not limited to items used in the construction of product displays. Upper-tier members who provide these items to retailers should ensure that these items are not given or left on the retail premises. If we find that display items are left with the retailer in any capacity beyond the temporary 30-day limit, we will pursue appropriate administrative action against all parties involved, including but not limited to the retailer, wholesaler and manufacturer.

This opinion is of the staff of the Commission, and it should be noted that any permittee/licensee may pursue a different opinion through administrative proceedings with the State Office of Administrative Hearings. The commission will continue to monitor this issue and make necessary regulatory changes as statutorily applicable. We hope this opinion will assist you in your endeavors. If you would like additional information or have questions regarding this bulletin, you may contact me in writing at P.O. Box 13127, Austin, TX 78711, by email at [marketing.practices@tabc.state.tx.us](mailto:marketing.practices@tabc.state.tx.us), by phone at 512-206-3411 or by facsimile at 512-206-3349.

Sincerely,

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