



John T. Steen, Jr.
Chairman-San Antonio

Gail Madden
Member-Dallas

José Cuevas, Jr.
Member - Midland

Alan Steen
Administrator

2nd Amendment September 20, 2007 [delivery vehicles of a Local Distributor {LP}]
1st Amendment July 26, 2006 [mobile advertising via Electric Sign]
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MARKETING PRACTICES BULLETIN – MPB016
Advertising Product on Delivery Vehicles

To: Alcoholic Beverage Industry

We have been petitioned to provide a staff opinion on the legality of upper tier members of the liquor industry to brand their service, equipment and/or delivery vehicles analogous to members of the beer industry. [Note: Pursuant to §23.01 (2), a Local Distributor ["LP"] is authorized to sell alcoholic beverages to certain retailers for resale; and in accordance with §23.04, the LP holding a local cartage permit is authorized to deliver alcoholic beverages to a retailer. Therefore the language contained in this bulletin shall also apply to a Local Distributor's Permittee where applicable and in accordance with authorized activities as promulgated in § 23.01 – §23.06 of the Alcoholic Beverage Code.]

Staff have consulted on this issue and opine that such activity is permissible in accordance with 16 TAC Section 45.112(d), {promulgated by authority of Section 108.03 of the Alcoholic Beverage Code}, which states that advertising of alcoholic beverages on the equipment, service or delivery vehicles of a member of the manufacturing or wholesale tiers shall be limited to the brand names or insignia of the alcoholic beverages sold or represented, firm names and addresses of the owners of the vehicles or equipment and such slogans as have been approved by the Administrator.

Further, nothing shall preclude an upper tier member from using a branded delivery vehicle, which displays advertisement of distilled spirits, to deliver beer or wine in an area whereby the sale of distilled spirits is prohibited. The branded delivery vehicle does not represent a billboard or electric sign and therefore would not violate prohibitions of outdoor advertisement appearing in dry areas as promulgated by Section 108.56 of the Alcoholic Beverage Code. Be mindful that branded vehicles, owned/operated by upper tier members, parked at a retail account for an extended period of time may violate statutory provisions which prohibit upper tier members from providing something of benefit to a retailer.

Of importance here is to note that the language in this bulletin shall not be construed to imply authority for Third Party Mobile Marketers to brand the outside of a vehicle for the purpose of alcoholic beverage advertisement. However, mobile advertising which meets the statutory definition of an electric sign as stated in section 108.51 (3) of the Alcoholic Beverage Code is legal. Nevertheless, Section 108.51(1) of the Alcoholic Beverage Code prohibits all other forms of mobile advertising by a Third Party Marketer. Further, mobile advertising which meets the definition of an electric sign may not appear within 200 feet of a retail account nor may be maintained or driven through an area or zone where the sale of alcoholic beverages is prohibited.

Texas Alcoholic Beverage Commission

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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. Please feel free to contact us at any time should other questions arise. We will monitor these events and make necessary regulatory changes as applicable. 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, by phone at 512-206-3411 or by facsimile at 512-206-3203.

Kind Regards,



Dexter K. Jones
Director of Marketing Practices

CC: Alan Steen, Administrator
Jeannene Fox, Assistant Administrator
Executive Management
Regional Personnel