



TEXAS ALCOHOLIC BEVERAGE COMMISSION

Texans Helping Businesses & Protecting Communities

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MARKETING PRACTICES ADVISORY – MPA064

Limits on Wine Festival Event Activities

To: Industry Members and Nonprofit Entities Seeking to Host a Wine Festival Event

This advisory provides guidance to industry members and a civic,¹ religious, political, or charitable organization “nonprofit entity” who qualifies under the Alcoholic Beverage Code (“Code”) § 109.58, seeking to structure, host, and/or sponsor a wine festival event.² This advisory outlines how a nonprofit entity may partner with a winery or a retailer, including the requirement to obtain a temporary authorization,³ to sell and serve alcoholic beverages at a location that is not already covered by a TABC license or permit. Most importantly, this advisory details the parameters for hosting wine festival events, including selling drink ticket vouchers, collecting funds, conducting drink sales, collecting drink vouchers and dividing proceeds, and setting the purchase price for alcoholic beverages.

Eligibility to Host a Wine Festival Event

Because alcoholic beverages may only be sold and served by a TABC license holder, a nonprofit entity that wishes to host the festival has two options:

- **Option 1: Partner with a retailer or authorized nonprofit** — Partner with a retailer who already holds a TABC permit or partner with a nonprofit entity that meets the requirements to obtain a temporary authorization from TABC. See MPA026, *Charitable, Religious or Civic Organizations Serving Alcoholic Beverages at Fundraising Events*, for additional guidance on partnering with a business in the retail tier. Please continue to review this advisory for operational guidance specific to wine festivals (alcohol sales, ticketing, etc.); or

¹ Some examples of civic organizations are local service clubs, veterans’ posts, fraternal societies and associations, municipalities, and chambers of commerce.

² This includes a civic or wine festival, farmers’ market, celebration, or similar event. See Code §§ 17.01 (before Sep. 1, 2021), 16.12 (after Sep. 1, 2021).

³ As used in this advisory, “temporary authorization” refers to the authority to engage in the sale and service of alcoholic beverages on a temporary basis at a location that is not covered by an existing TABC license or permit. This currently includes Temporary Wine and Beer Retailer’s Permits (Ch. 27, Sub. A), Special Three-Day Wine and Beer Permits (Ch. 27, Sub. B), Daily Temporary Mixed Beverage Permits (Ch. 30), Caterer’s Permits (Ch. 31), and Daily Temporary Private Club Permits (Ch. 33, Sub. B).

- **Option 2: Use a Winery Festival Permit (GF)** — Partner with participating wineries who obtain a Winery Festival Permit.⁴

Requirements to Host a Wine Festival Event Utilizing a Winery Festival Permit (GF)

Another option is for all participating wineries to obtain a Winery Festival Permit. In this scenario, the participating wineries may partner with a nonprofit entity. The participating wineries and the nonprofit entity may hire another entity (who is independent of the Winery Festival Permit holder) to manage the wine festival's operations and collect the initial fees consumers pay to attend the event.

Parameters for Option 1 and Option 2 Wine Festival Events

Selling Tickets and Drink Vouchers

Tickets sold prior to or for the event may include drink vouchers for up to two alcoholic beverages, and those tickets may be sold by the nonprofit entity who does not hold the TABC permit as described in the following section.

A nonprofit may not charge a service fee based on money collected from drink vouchers. If the service fee is a percentage of the ticket sales, the value of the drink vouchers must be subtracted before applying the percentage. As a best practice, TABC recommends that to ensure fees are collected and distributed properly, the nonprofit and the TABC permit holder should maintain a written contract describing the funds collected related to alcoholic beverage sales (e.g., vouchers) and, separately, other funds (e.g., admission to the festival or donations).

Collecting and Accepting of Funds or Donations

Although an unlicensed event host or organizer may collect funds or sell tickets for a wine festival event, there are limits on how these funds may be collected, retained, and distributed.

Proceeds collected from the sale of alcoholic beverages on behalf of a permit holder by an entity that does not hold a permit generally constitute a degree of control over the TABC permit holder. Accordingly, an unlicensed event host or organizer may not collect the proceeds and then pass the balance onto the permit holder after retaining the amount of its service fees.

However, specifically, when partnering with a nonprofit entity for a wine festival designed to promote the wine industry, the independent third party retailer may handle the initial acceptance of all funds from ticket sales and settle the balance with

⁴ After August 31, 2021, the current Winery Festival Permit will cease to exist and the privileges under the permit will merge with the privileges granted to all Winery Permit holders. Beginning September 1, 2021, the requirement under this option will be to partner with a Winery Permit holder for an event that complies with the requirements in newly adopted Code § 16.12.

all involved businesses after the event. TABC will not consider this as control over the license holder.

Conducting Drink Sales at the Event

During the event, each winery or retailer must be the entity that accepts payment directly from attendees for individual sales of alcoholic beverages. The participating winery is also responsible for reporting and remitting the appropriate taxes in accordance with the Texas Comptroller of Public Accounts and TABC requirements. In addition, the winery must verify consumers are 21 or older and not intoxicated. The payment of all applicable sales and alcoholic beverage taxes must be segregated from any ticket sales.

Collecting Drink Vouchers Dividing Proceeds

Drink vouchers must be collected by the winery when the wine sample is distributed to the consumer. At the end of the event, the winery must submit the total number of vouchers collected to the nonprofit. The nonprofit will then separate proceeds collected from the wine sample vouchers and dispense payment to the winery. Wineries may accept payment directly from the consumer for individual sales in addition to the samples purchased at the event.

Purchase Price of Alcohol Sold at a Wine Festival Event

TABC has received feedback from wineries who are concerned about the purchase price for individual alcoholic beverages sold at a wine festival event where the nonprofit is dictating or intends to dictate the price charged by the independent third party retailer or winery to consumers. TABC suggests putting full payment terms between partnering businesses in a written agreement prior to attending the event, but ultimately the alcohol sale and service must be controlled by the permitted winery.

Statement From TABC

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.



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