



November 14, 2024

MARKETING PRACTICES ADVISORY – MPA066

Indemnifying or Providing Insurance for Retailers

To: Members of the Wholesale and Retail Tiers

Scope of the Advisory

This advisory addresses the practice of retailers requiring their distributors and/or wholesalers to indemnify the retailer or otherwise maintain insurance policies naming the retailer or the retail premises' property owner as the insured party.

General Rule

The Texas Alcoholic Beverage Code (Code) prohibits distributors and wholesalers from providing a thing of value to a retailer. See Tex. Alco. Bev. Code §§ 102.07(a)(2) and 102.15(a). If a distributor or wholesaler indemnifies a retailer against liability and loss, or purchases insurance where the retailer is named as an insured party, that distributor or wholesaler is providing an illegal thing of value to that retailer. The Commission may take enforcement action against a distributor, wholesaler, or retailer that engages in such an arrangement.

If presented with such an arrangement, the Commission would also consider whether the retailer controlled or managed the business or interests of a distributor or wholesaler, which is generally prohibited under section 102.01(h) of the Code.

Statement From TABC

This advisory is issued pursuant to Alcoholic Beverage Code § 5.57. It has been approved by Andrea Maceyra, Chief of Regulatory Affairs, and 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 TABC in writing at P.O. Box 13127, Austin, TX 78711; by email at advisories@tabc.texas.gov; or by phone at 512-206-3411.

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