

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(New Administrative Regulation)

804 KAR 1:102. General advertising practices.

RELATES TO: KRS 244.130, 244.500, 244.590

STATUTORY AUTHORITY: KRS 241.060, 244.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 244.130 authorizes the Department of Alcoholic Beverage Control to regulate the advertising of alcoholic beverages. This administrative regulation establishes standards for advertising in a manner consistent with modern marketing practices.

Section 1. Definition. "Social media" means all forms of electronic communication through which users create online communities to share information, ideas, personal messages, and other content.

Section 2.

- (1) A licensee may use outdoor advertising.
- (2) If outdoor advertising is used by a manufacturer, producer, brewer, winery, distributor, or wholesaler, it shall not:
 - (a) Include a retail licensee's name or business designation (DBA); or
 - (b) Refer to a retail licensee in any other way.

Section 3. A licensee may advertise in material directed to the home or business of a consumer if the advertising material is in conformity with KRS 244.130 and this administrative regulation.

Section 4.

- (1) Except as provided by subsections (2) and (3) of this section, advertising novelties may be used.
- (2) A licensee shall not require the purchase or consumption of an alcoholic beverage as a condition for the sale, gift, or reduction in price of an advertising novelty.
- (3) Except as provided by KRS 244.590(2)(a), a malt beverage distributor shall not sell, give away, or furnish advertising novelties, in any manner to a retail licensee.

Section 5. A licensee may advertise by means of radio and television.

Section 6. A licensee may advertise by means of the Internet and social media.

Section 7.

- (1) A licensee may sponsor or cosponsor athletic leagues, tournaments, contests, and charitable events if the consumption or purchase of alcoholic beverages is not a requirement for participation.
- (2) A licensee sponsoring or cosponsoring an event described in subsection (1) of this section upon a retail licensed premises shall not require the retail licensee to purchase, sell, or distribute the products of the sponsoring licensee as a condition for participation in or in connection with the event.

Section 8. A licensee shall not use the terms "free", "complimentary", or any other terms, which imply or suggest giveaways in the advertising of alcoholic beverages.

Section 9. A licensee shall not advertise a product, service, or activity if the licensee is prohibited by statute or administrative regulation from selling, providing, or conducting it.

Section 10. This administrative regulation shall not be interpreted to relate to direct shipping.

ALLYSON C TAYLOR, Commissioner
RAY PERRY, Secretary

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 14, 2022 at 3:48 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 a.m. EST on June 27, 2022 at 500 Mero Street, Room 127CW, Frankfort, Kentucky 40601. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. Individuals interested in being heard at this hearing shall notify this agency of their intention to attend and comment in writing at least five workdays prior to the hearing. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. If you do not wish to be heard at the public hearing, you may submit written comments on the administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. Written comments shall be accepted through 11:59 p.m. on June 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Joshua Newton, General Counsel, Department of Alcoholic Beverage Control, 500 Mero Street, 2 NE #226, Frankfort, Kentucky 40601, phone (502) 782-0770, fax (502) 564-4850, email Joshua.Newton@ky.gov.