

MONEYS' WORTH WITH RESPECT TO ADVERTISING

Moneys' Worth Laws and Rules

The tied-house law provides that no manufacturer, importer, distributor, or authorized representative (MDI) may "advance moneys or moneys' worth" to a licensed person. The tied-house law also prohibits any licensed person from receiving moneys' worth. RCW 66.28.010.

Several tied-house exceptions have been enacted relating to advertising:

- Brochures/links. In-state wineries and retailers may produce, jointly or with wine industry associations, brochures and materials promoting tourism. Wineries (and breweries) and retailers may provide information about and link to each other on their websites. RCW 66.28.010 (1)(g).
- Sports/entertainment advertising. MDIs may enter arrangements with sports/entertainment facility licensees or affiliated businesses for brand advertising and promotion of events. RCW 66.24.570; RCW 66.28.010(1)(j).
- Special occasion advertising. MDIs may provide advertising (and pouring) of beer or wine at tasting or judging events. RCW 66.28.010(3).
- Point of sale materials. MDIs may provide point of sale materials and brand signs to retailers. RCW 66.28.010 (2). Point of sale materials are further addressed by rule:
 - Display cards, table tents, matches, calendars, and other point of sale materials may be displayed at the point of sale. The materials must have no value to the retailer except as brand advertisement and remain the property of the MDI.
 - Giant inflatables are allowed. The display must be moved if local officials object or the board finds the display contrary to the public interest.
 - Animal mascots and costumed individuals representing manufacturers are allowed. A costumed individual's activity is limited to socializing with customers and the individual may not conduct any activity that an employee would otherwise do.

A MDI must give all retailers an equal opportunity for giant inflatables, animal mascots, and costumed individuals and may not provide novelty items to customers in conjunction with these activities.

Brand signs and point of sale materials which have value to the retailer beyond their value as brand advertisement, such as signs which provide illumination for cash registers and pool tables, are prohibited. WAC 314-52-113.

The board has adopted other rules relating to moneys' worth and advertising:

Novelty items. MDIs may not *give* novelty items to retailers. Novelty items are lighters, pencils, coasters, napkins, wearing apparel, mugs, glasses, and similar items on which the logo, liquor brand

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name, or brand name of a manufacturer has been imprinted. A MDI may, however, *sell* these items to a retailer. WAC 314-52-080.

Sporting arena brochures. MDIs may not provide brochures for use at sporting arenas which have a retailer. A MDI may, however, purchase advertising in brochures. WAC 314-52-085.

Premiums and prizes. MDI advertisements may offer a premium or prize upon completion of any coupon, contest, or competitive event, but the premium or prize may not be redeemed through a retailer. WAC 314-52-040.

Services to retailers and other moneys' worth. MDIs may not provide retailers with any gifts, treats, free liquor, or services of any nature. WAC 314-12-140 (3). (Some exceptions.)

Joint advertising/information. The board distinguishes between "advertising" and "information." Generally, a retailer's name may not appear in MDI advertising but may be provided in information. A retailer may include the brand name of beer and wine in its advertising so long as no moneys' worth is offered. WAC 314-52-090; July 11, 2001 policy.

Selected Other Laws, Rules, and Policies Relating to Advertising

General. A law grants the board authority to adopt rules as to the kind, character, and location of advertising of liquor. RCW 66.08.060 (3). Rules adopted under this law prohibit certain advertising, including:

- Any statement, picture, or illustration implying that liquor enhances athletic prowess. WAC 314-52-015 (8).
- Any depiction of a child, any depiction of objects, such as toys, suggestive of the presence of a child, or any other depiction designed to be appealing to children. WAC 314-52-015 (9).
- Any liquor advertising in any publication connected with any elementary or secondary school, with some exceptions. WAC 314-52-030.

The board also prohibits sound truck advertising and outdoor advertising in proximity to schools, churches, or playfields used primarily by minors, when the administrative body of the entity objects or when the board finds placement would be contrary to the public interest. WAC 314-52-070.

Pricing and gifts of beer and wine. A law gives the board authority to prescribe the "conditions, accommodations and qualifications" for obtaining licenses to sell beer and wine and regulate "the sale of beer and wine thereunder." RCW 66.08.030(2)(r). Several rules address the retail selling price. Liquor may not be advertised or sold by retailers at less than acquisition cost. An exception allows retailers to provide a free drink under limited circumstances, such as on a customer's birthday or to compensate for unsatisfactory products or services. WAC 314-11-085; WAC 314-13-040. A retailer may not offer "two for one" drinks for on premises consumption. WAC 314-52-110.

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With some exceptions, a MDI may not give away any beer or wine to consumers (or any other person.) RCW 66.28.040.

College campuses. A law prohibits MDIs as well as retailers from conducting promotional activities for liquor on the campus of any college or university or engaging in activities that facilitate or promote the consumption of liquor by the students. RCW 66.28.160.

Brief History (selected changes)

- 1935 Law passes adding "moneys' worth" to the tied-house law.
- 1963 Board adopts rules allowing advertisement of premiums and prizes, prohibiting MDI provision of novelty items, and prohibiting joint advertising.
- 1976 Law passes creating tied-house exception to allow point of sale materials and brand signs; board adopts rule implementing the law.
- 1982 Law passes creating tied-house exception to allow MDI to provide advertising of wine at a tasting or judging event.
- 1982 Board adopts rule prohibiting MDIs from providing brochures at sporting arenas.
- 1986 Board adopts rule allowing giant inflatables, animal mascots, and costumed individuals.
- 1994 Law passes creating tied-house exception to allow MDI to provide advertising of beer at a tasting or judging event.
- 2001 Board adopts policy distinguishing "advertising" and "information."
- 2006 Law passes creating tied-house exception to allow domestic wineries and retailers to jointly produce brochures and materials promoting tourism.
- 2007 Laws pass creating tied-house exceptions to: 1) add wine industry associations to brochures exception; 2) allow internet links; and 3) allow brand advertising arrangements between MDIs and sports/entertainment facilities.

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