

ALCOHOL PROMOTIONS

Presented by Elizabeth A. DeConti, Esq.
Gray Robinson, P.A.

Promoting alcohol beverages today is a more competitive enterprise than ever before. Media channels are nearly unlimited – social media, internet/digital, television, traditional paper, and more. In addition to the almost overwhelming degree of choice of formats, operators with businesses in multiple jurisdictions need to contend with and reconcile all the multi-state statutes, regulations, and enforcement policies on advertising which may apply. Planning a promotion across multiple jurisdictional lines and multiple media can be challenging at best. So where to begin?

Broad Legal Issues

The most important first step in planning a large scale alcohol promotion is legal “issue spotting.” Here are some things to look for:

- Tied House Restrictions (Who is paying for this promotion? Are there cooperative advertising concerns?)
- Inducement/Temperance Concerns (Does the ad or campaign unduly encourage consumers to drink?)
- Minors (Does the advertisement speak to or solicit a legal age audience?)
- Content (Constitutional law notwithstanding, does the advertisement feature appropriate content?)

Common Promotion Types and Tips

Here are some common promotion types for on-premises establishments which we see repeatedly and some compliance tips for each:

- Happy Hour/Drink Discounts/”Bundle Deals”
 - Remember that state, county, and city laws/rules all may apply
 - Frequent prohibitions on 2 for 1, discounts limited to bar area only, and discounts for particular groups of people (e.g., “ladies’ night”)
 - Be aware of price discount prohibitions based on below cost sales of alcohol beverages
- Sweepstakes and Contests
 - Is it supplier sponsored or retailer sponsored? Many tied house issues related to sweepstakes flow from your answer.
 - No alcohol beverages as prizes
 - Good rules are key
- Tastings
 - Remember that state, county, and city laws/rules all may apply, and that one or more of these jurisdictions may require special licensing;
 - Quantity restrictions may apply
 - Be attentive to the role of unlicensed third parties

Social Media

The most important thing to remember with social media is that all the same rules and restrictions which apply to traditional media formats also apply to social media, notwithstanding the fact that social media appears to be without geographic borders. Common issues are:

- Age-Gating. Please do it.
- Safeguards against inappropriate sharing and forwarding
- Alternative offers for different jurisdictions
- Marketing a brand in a way which promotes responsible consumption and protecting that image through diligent consumer engagement