

Alcohol and Gaming  
Commission of Ontario

# Advertising Guidelines

## Sale of Beer, Wine and Cider in Grocery Stores



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**Alcohol and Gaming Commission of Ontario**

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## INTRODUCTION

Under the *Liquor Control Act* (LCA), authorized grocers may sell beer, wine and cider in accordance with Ontario Regulation 232/16 and the Terms and Conditions of their Authorization. Together, this framework permits authorized grocery stores to advertise the sale of beer, wine and/or cider through specified criteria and in accordance with these guidelines.

These guidelines focus on specific concerns regarding advertising of beer, wine and/or cider, the availability of beer, wine and/or cider and the sale of beer, wine and/or cider, and provide interpretations of the various criteria set out in the regulations. The notes following each guideline assist in interpretation but are not exhaustive in their scope.

Grocery stores are not required to obtain prior approval of advertising from the Alcohol and Gaming Commission of Ontario (AGCO), but are responsible for ensuring that advertising carrying their business or brand name, or which they endorsed, falls within the parameters set out in the regulations, the Terms and Conditions of their Authorization, and these guidelines.

Advertising that is in violation of the *Liquor Licence Act* (LLA), LCA and their respective regulations, the Terms and Conditions of an Authorization or these guidelines may result in regulatory action, including warnings, monetary penalties, and revocation of Authorization, and/or the issuance of an order of cessation by the Registrar of Alcohol, Gaming and Racing ("Registrar").

Proposed advertising should be considered on the basis of any conveyed messages, express or implied. The guidelines apply to all aspects of the advertisement, including: grocery flyers and pamphlets, text, graphics, lyrics, scripts, videos, background music, voice inflection, etc.

Grocery stores are responsible for all advertising (including merchandise) bearing their identification, including corporate or brand identification that is displayed or distributed by any person. This includes all authorized advertising done on an authorized grocery store's behalf. The grocery store is not responsible where it has not authorized advertising and has been diligent in its efforts at stopping the advertising once it has become aware of it. The grocery store must demonstrate that it has exercised reasonable care and taken suitable precautions to ensure compliance.

Interpretations of the guidelines may be published from time to time.

## DEFINITIONS

**“Advertising” means any public notice, representation, or activity, including promotional and marketing activities, that is intended to attract attention to beer, wine and/or cider, the brand name of beer, wine or cider, the name of the premises where beer, wine and/or cider is available, or the name under which the holder of the authorization carries on business and “advertise” and “advertisement” have corresponding meanings.**

**“Beer” means any beverage containing alcohol in excess of the prescribed amount obtained by the fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water.**

**“Cider” means wine produced from apples or pears or from the concentrated juice of apples or pears, to which is added herbs, water, honey or sugar.**

**“Grocery Store” means a retail store that holds a Beer and Wine Authorization or a Beer and Cider Authorization. Among other requirements as set out in the applicable regulation:**

- (i) The store must sell a variety of each of the following food products: canned food, dry food, frozen food, fresh fruit, fresh vegetables, fresh meats, prepared meats, fish, poultry, dairy products, baked goods, and snack foods.
- (ii) No less than 10,000 square feet of the total retail floor space of a grocery store must be made up of food products.
- (iii) The grocery store must not primarily be identified to the public as a pharmacy.

**“Public Service Advertising” means any advertising carrying a strong message against irresponsible use of beer, wine or cider where the message does not contain any direct or indirect endorsement of beer, wine or cider, the brand name of a type of beer, wine or cider or of the consumption of beer, wine or cider.**

- (i) For the purpose of these guidelines, “advertising” refers to the act of making the company, brand, or product generally or publicly known. This will include categories previously known as public service advertising, corporate advertising, brand advertising, promotional activities, media buys, and general marketing practices.

- (ii) References to products, manufacturers, grocery stores, etc. in editorial material will not be viewed as advertising.

**“Registrar” means the Registrar of Alcohol, Gaming and Racing.**

**“Wine” means any beverage containing alcohol in excess of the prescribed amount obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples and other agricultural products containing sugar, and including honey and milk.**

## GUIDELINES FOR GROCERY STORES

The following directives form part of the *Advertising Guidelines: Sale of Beer, Wine and Cider in Grocery Stores* and include guidance in order to identify and prevent practices that may encourage the immoderate consumption of beer, wine or cider.

**Except for public service advertising, a grocery store with a Beer and Wine Authorization or Beer and Cider Authorization may advertise or promote beer, wine and/or cider or the availability of beer, wine and/or cider only if the advertising:**

- (1) is consistent with the principle of depicting responsibility in use or sale of beer, wine and/or cider;**
  - (i) An advertisement cannot promote or depict excessive or prolonged consumption, excessive quantity of beer, wine and/or cider, or occasions of use or drinking situations which are likely to involve risk to those present. An example of excessive consumption, which cannot be implied, is consumption of more than three drinks on an occasion.
  
- (2) does not promote the general consumption of beer, wine or cider and is restricted to the promotion of brands or types of beer, wine or cider eligible to be sold;**
  - (i) Advertisements may not promote the merits of beer, wine or cider consumption.
  - (ii) Advertising produced by an individual grocery store or an organization representing a group of grocery stores is permitted, provided the advertising pertains to brands or types of beer, wine or cider and is consistent with all other advertising regulations.
  - (iii) Advertisements may not make claims, direct or implied, of healthful, nutritive, curative, dietetic, stimulative or sedative benefits of beer, wine or cider. However, factual attributes of beer, wine or cider which are commonly accepted by recognized authorities (such as the Centre for Addiction and Mental Health, Health Canada, or national or provincial medical associations) may be stated in the advertisement, provided the attributes relate to the particular brand or type of beer, wine or cider and do not promote the consumption of beer, wine or cider in general.

**(3) does not imply that consumption of beer, wine or cider is required in obtaining or enhancing:**

- a) social, professional or personal success,**
- b) athletic prowess,**
- c) sexual prowess, opportunity or appeal,**
- d) enjoyment of any activity,**
- e) fulfilment of any goal, or**
- f) resolution of social, physical or personal problems.**

- (i) Endorsement of a beer, wine or cider product by well-known personalities shall not directly or indirectly suggest that the consumption of any beer, wine or cider has contributed to the success of their particular endeavours.

**(4) does not appeal, either directly or indirectly, to persons under the legal drinking age, or is not placed in media that are targeted specifically at people under that age;**

- (i) No well-known personality may be used in beer, wine or cider advertising who may reasonably be expected to appeal, either directly or indirectly, to persons under the legal drinking age if the advertisement contains any direct or indirect endorsement of beer, wine or cider or the consumption of beer, wine or cider. This may include historical, political, religious and cultural figures, as well as celebrities and sports figures. (This would not apply to public service advertisements provided there is no direct or indirect endorsement or consumption of beer, wine or cider by the well-known personality.)

Portrayals of well-known personalities which would generally be prohibited due to the potential that the personality may appeal to persons under the legal drinking age may be used provided the use of the personality is incidental to the advertisement and the use of the personality does not make the advertisement appealing to persons under the legal drinking age.

- (ii) Children's songs, fictional characters etc., or the imitation thereof, may not be used in advertising.
- (iii) For the advertising of beer, wine or cider, the use of a medium that is targeted at persons under the legal drinking age is not permitted. For example, advertisements may not appear in magazines targeted



specifically at people under the legal drinking age. Advertisements may run in conjunction with movies in movie theatres or on videos which have a "Restricted to persons 18 or older" (R) rating and may not run in conjunction with movies which have a "Suitable for All" (G) rating. Subject to the Ontario Film Review Board guidelines, movies with "Parental Guidance Recommended" (PG), "Persons younger than 14 must be accompanied by an adult" (14A) and "Persons younger than 18 must be accompanied by an adult" (18A) ratings will have to be dealt with cautiously to ensure the movie itself is not targeted specifically at persons under the legal drinking age.

- (iv) Advertisements should not be placed within areas which are specifically targeted at persons under the legal drinking age if the advertisement directly or indirectly endorses beer, wine or cider or the consumption of beer, wine or cider. Statistics indicating that 51% of the audience is above the legal drinking age may not in themselves avoid the targeting restriction since a medium or venue may be targeted at persons under the legal drinking age and still have an audience which is predominantly above the legal drinking age. An example of this would be a children's concert which is attended by a large number of parents.
- (v) Songs which have a specific appeal to persons under the legal drinking age shall not be used for advertising beer, wine or cider.
- (vi) Notwithstanding this subsection, any advertising of an authorized grocery store, which does not refer to the availability of beer, wine or cider, may appeal to persons under the legal drinking age and may be placed in media targeted specifically at people under the legal drinking age. For example, a grocery store may wish to sponsor an event targeted at people under the legal drinking age. This may be done provided the references to the grocery store do not include any references to the availability of beer, wine or cider.

**(5) does not associate consumption of beer, wine or cider with driving a motorized vehicle, or with any activity that requires care and skill or has elements of danger;**

- (i) Persons should not be depicted with beer, wine or cider prior to, in anticipation of, or while engaging in any activities which involve care and skill or elements of physical danger. (An activity includes work,

sports, recreation, crafts, and hobbies.) Some examples of activities which involve care and skill or elements of physical danger are:

skiing	swimming	hockey	child care	hunting
football	baseball	working	volleyball	racing
studying	boating	carving	surfing	etc.

- (ii) Consumption should not be associated with the performance of any aspect of any activity, which calls for a high degree of skill if imitation by the unskilled or underage could be considered dangerous.
- (iii) The depiction of an activity which involves care and skill or elements of physical danger must clearly establish that the individuals shown with beer, wine or cider are merely spectators or have completed that activity for the day and are then depicted with the product.
- (iv) Vehicles involved in races, competitions, contests, exhibitions, or public displays may be used as a medium for beer, wine or cider advertising; however, graphics of the product (i.e. bottles, cans, glasses, etc.) and specific references to alcohol content (% alcohol / volume) are not permitted.

**(6) does not depict motorized vehicles in motion in advertising showing consumption of beer, wine or cider, unless the motorized vehicle is a form of public transportation;**

- (i) Persons should not be depicted with beer, wine or cider prior to, in anticipation of, or while operating a motorized vehicle. There cannot be any indication, direct or implied, that an individual who has been depicted with beer, wine or cider will then be operating a motorized vehicle.
- (ii) Motorized vehicles should not be shown in motion in an advertisement, which includes a consumption scenario unless the vehicle is a form of public transportation. Parked vehicles, or vehicles such as buses, trains, planes, taxicabs, licensed boats, etc., in motion, may appear in advertisements with consumption scenarios.
- (iii) Motorized vehicles involved in races, competitions, contests, exhibitions, or public displays may be used as a medium for beer, wine or cider advertising, however, graphics of the product (i.e. bottles, cans, glasses, etc.) and specific references to alcohol content (% alcohol / volume) are not permitted.

**(7) does not suggest any illegal sale, illegal purchase, illegal gift, illegal handling or illegal consumption of beer, wine or cider.**

- (i) An advertisement may not depict a grocery store gifting any patron with beer, wine or cider, or an individual gifting a person under the legal drinking age with beer, wine or cider.
- (ii) The illegal handling of beer, wine or cider may not be depicted. For example smuggling beer, wine or cider across a border may not be depicted.
- (iii) The consumption of beer, wine or cider may not be depicted or implied in settings where this would not be legal in Ontario such as public beaches, public parks, private boats without sleeping accommodations, etc.
- (iv) Beer, wine and/or cider may be depicted in a setting where consumption is not permitted provided it is clearly a beauty shot with no evidence of people or of previous or imminent consumption.

**(8) May not advertise or promote the use of points for the payment of beer, wine or cider (including exchange, conversion or redemption of).**

- (i) Advertisements and promotions may reference benefits issued on the purchase of beer, wine or cider pursuant to an in-store loyalty/reward program (i.e. loyalty/rewards points may be received for the purchase of beer, wine and cider).
- (ii) Loyalty/rewards points may not be redeemed toward the purchase of beer, wine or cider. References to the redemption of loyalty/reward points toward the purchase of beer, wine and/or cider may not be made.
- (iii) Loyalty and rewards programs must be applied equally to all beer, wine and cider products. Promotions involving extra loyalty points or rewards for a particular brand are not permitted.

**(9) May not advertise or promote free or discounted merchandise contingent on the purchase of beer, wine and/or cider.**

# GUIDELINES FOR WINERIES OPERATING WINE BOUTIQUES IN GROCERY STORES

Wineries operating wine boutiques in grocery stores should refer to Sections 1 and 2 of the *Guidelines for Liquor Sales Licensees and Manufacturers* in the *AGCO Liquor Advertising Guidelines: Liquor Sales Licensees and Manufacturers* (3099B).

Except for public service advertising, a winery authorized to sell wine in a wine boutique at a grocery store may advertise or promote wine or the availability of wine only if the advertising adheres to these directives.