

**3 VAC 5-20-10. Advertising; generally; cooperative advertising; federal laws; cider; restrictions.**

A. All alcoholic beverage advertising is permitted in this Commonwealth except that which is prohibited or otherwise limited or restricted by regulation of the board and such advertising shall not be blatant or obtrusive. Any editorial or other reading matter in any periodical, publication or newspaper for the publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by or for the benefits of any permittee or licensee does not constitute advertising.

B. There shall be no cooperative advertising as between a producer, manufacturer, bottler, importer or wholesaler and a retailer of alcoholic beverages, except as may be authorized by regulation pursuant to §4.1-216 of the Code of Virginia. The term "cooperative advertising" shall mean the payment or credit, directly or indirectly, by any manufacturer, bottler, importer or wholesaler whether licensed in this Commonwealth or not to a retailer for all or any portion of advertising done by the retailer.

C. Advertising of cider, as defined in §4.1-213 of the Code of Virginia, shall conform with the requirements for advertising beer.

D. The board may issue a permit authorizing a variance from any of its advertising regulations for good cause shown.

E. No advertising shall contain any statement, symbol, depiction or reference that:

1. Would tend to induce minors to drink, or would tend to induce persons to consume to excess;
2. Is lewd, obscene or indecent or is suggestive of any illegal activity;
3. Incorporates the use of any present or former athlete or athletic team or implies that the product enhances athletic prowess; except that, persons granted a wine and beer license may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol, Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic beverage so advertised enhances athletic prowess.
4. Is false or misleading in any material respect, or implies that the product has a curative or therapeutic effect, or is disparaging of a competitor's product;
5. Implies or indicates, directly or indirectly, that the product is government endorsed by the use of flags, seals or other insignia or otherwise;
6. Makes any reference to the intoxicating effect of any alcoholic beverages;
7. Constitutes or contains a contest or sweepstakes where a purchase is required for participation; or

8. Constitutes or contains an offer to pay or provide anything of value conditioned on the purchase of alcoholic beverages, except for refund coupons and combination packaging for wine. Any such combination packaging shall be limited to packaging provided by the manufacturer that is designed to be delivered intact to the consumer.

F. The board shall not regulate advertising of nonalcoholic beer or nonalcoholic wine so long as (i) a reasonable person by common observation would conclude that the advertising clearly does not represent any advertisement for alcoholic beverages and (ii) the advertising prominently states that the product is nonalcoholic.

### **3 VAC 5-20-60. Advertising; novelties and specialties.**

Distribution of novelty and specialty items, including wearing apparel, bearing alcoholic beverage advertising, shall be subject to the following limitations and conditions:

1. Items not in excess of ~~\$5.00~~ \$10.00 in wholesale value may be given away;
2. Manufacturers, importers, bottlers, brokers, wholesalers or their representatives may give items not in excess of ~~\$5.00~~ \$10.00 in wholesale value, limited to one item per retailer, and one item per employee, per visit, which may not be displayed on the licensed premises. Neither manufacturers, importers, bottlers, brokers, wholesalers or their representatives may give such items to patrons on the premises of retail licensees; however, such items bearing moderation and responsible drinking messages may be displayed by the licensee and his employees on the licensed premises and given to patrons on such premises as long as any references to any alcoholic beverage

manufacturer or its brands are subordinate in type size and quantity of text to such moderation message.

3. Items in excess of ~~\$5.00~~ \$10.00 in wholesale value may be donated by distilleries, wineries and breweries only to participants or entrants in connection with the sponsorship of conservation and environmental programs, professional, semi-professional or amateur athletic and sporting events subject to the limitations of 3 VAC 5-20-100, and for events of a charitable or cultural nature;

4. Items may be sold by mail upon request or over-the-counter at retail establishments customarily engaged in the sale of novelties and specialties, provided they are sold at the reasonable open market price in the localities where sold;

5. Wearing apparel shall be in adult sizes;

6. Point-of-sale order blanks, relating to novelty and specialty items, may be provided by beer and wine wholesalers to retail licensees for use on their premises, if done for all retail licensees equally and after obtaining the consent, which may be a continuing consent, of each retailer or his representative. Wholesale licensees in the Commonwealth may not put order blanks on the package. Wholesalers may not be involved in the redemption process.