



## **Advisory Opinion 19-06: Patio Umbrellas**

### **I. Background**

The following question was posed to the Alcohol and Tobacco Commission:

1. Are patio umbrellas considered illegal exterior wholesale advertising?

### **II. Analysis & Conclusion**

IC 7.1-5-2-4 states, “it is unlawful for a manufacturer of alcoholic beverages or other permittee authorized to sell and deliver alcoholic beverages to give, supply, furnish, or grant to the holder of a retailer’s or dealer’s permit a sign, poster, or advertisement for use, intended to be used, outside of or on the exterior of the licensed premises or on a building situated on the licensed premises or in connection with them, or on premises adjacent to the licensed premises.”

Additionally, there is a limitation on brand name advertising near certain premises outlined in IC 7.1-5-2-7, “a primary source of supply, wholesaler, or salesman of alcoholic beverages, or the agent or representative of a primary source of supply, wholesaler, or salesman of alcoholic beverages may not directly or indirectly place, display or maintain or cause to be placed, displayed, or maintained a sign advertising alcoholic beverages by brand name within two hundred (200) feet of a premises having a retailer or dealer permit to sell alcoholic beverages.”

It is the position of the Indiana Alcohol and Tobacco Commission that a patio umbrella with the brand name of an alcoholic beverage is considered an advertisement of alcoholic beverages.

Because it is considered an advertisement, it is illegal under IC 7.1-5-2-4 for a manufacturer to give, supply, furnish, or grant a patio umbrella to the holder of a retailer’s or dealer’s permit. It is also illegal under IC 7.1-5-2-7 for a primary source of supply, wholesaler or salesman of alcoholic to directly or indirectly place an advertisement of alcoholic beverages by brand name within two hundred feet of a retailer or dealer’s premises.

We do not believe it is a violation of either of the two statutes cited above for a retailer or dealer permittee to purchase a branded umbrella for fair market value from a manufacturer, wholesaler, primary source, salesman or any of their agents. By purchasing the umbrella, manufacturers, wholesalers, primary sources of supply, salesman or any of their agents would not be giving the umbrellas away, either directly or indirectly, which is a violation.



DISCLAIMER: Opinions expressed in this advisory opinion are fact-sensitive and based on the 2019 Indiana Code. Every advisory opinion is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the Commission or the public.