



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. Bert Ford, Administrator
Texas Liquor Control Board
Austin, Texas

Dear Sir:-

Opinion No. O-2024

Re: May the display beer sign, as described, be lawfully used in the manner requested?

We are in receipt of your letter of recent date pertaining to the use by a beer dealer of the display device, described below, to be loaned by the beer manufacturer. The description of the display device and the manner of its lending is stated to be as follows:

- "1. The cost of the display is \$3.25.
- "2. Its dimensions are 20" x 20½", with a height of 37-3/4".
- "3. It is constructed of metal with various advertising messages appearing thereon, and is a stand in which bottles and cases of beer may be displayed.
- "4. It will never become the property of the retail dealer and will not be permanently located in any one place of business.
- "5. It will be used only in stores which sell beer for consumption off the premises."

Article 667-24 (1) (c) of the Penal Code
(Section 24, Article III of the Texas Liquor Control

Hon. Bert Ford, Administrator, Page 2

Act), reads, in part:

"It shall be unlawful for any manufacturer or distributor directly or indirectly or through a subsidiary or affiliate, any agent or any employee, or by any officer, director, or firm member: * * * to furnish, give or lend any money or other thing of value, except signs, or to extend unusual credit terms, to any person engaged in selling brewery products for consumption on or off the premises where sold * * * "

We note from the copy of your administrative interpretations of various provisions of the Texas Liquor Control Act, that you have held:

"The following items have some utilitarian value, but when bearing prominently displayed, the advertisement of the business or brand name of any manufacturer or distributor of beer, are considered by the Board as advertising novelties and not as equipment; viz: Beer drinking glasses, table beer mats, cap removers, menu cards, paper napkins, ash trays, service trays. The following items when bearing prominently displayed the advertisement of the business or brand name of any manufacturer or distributor of beer, and when of a value not exceeding \$10. each, are considered by the Board to be signs permissible under the law, viz: Thermometers, barometers, calendars, clocks, menu or license frames, mirrors having a surface not exceeding 300 square inches, outside benches."

Clearly, the device under consideration is not a piece of equipment necessary in the operation of a retail beer business, or something ordinarily used in such business. Its outstanding purpose is to advertise, and to suggest a certain type of beer

Hon. Bert Ford, Administrator, Page 3

sale, the device itself being in no manner essential to the facilitation of such sale. It appears to be merely another method conceived by the manufacturer to advertise his product and encourage the sale thereof. It is our opinion that the device may be properly classified as an advertising sign and its use is not prohibited by the Texas Liquor Control Act.

Accordingly, you are advised that it is the opinion of this department, under the facts as stated above, that the display beer sign under consideration may legally be used in the manner described.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Zollie C. Steakley*
Zollie C. Steakley
Assistant

ZCS:ob

APPROVED MAR 15, 1940

George B. Mason
ATTORNEY GENERAL OF TEXAS

