

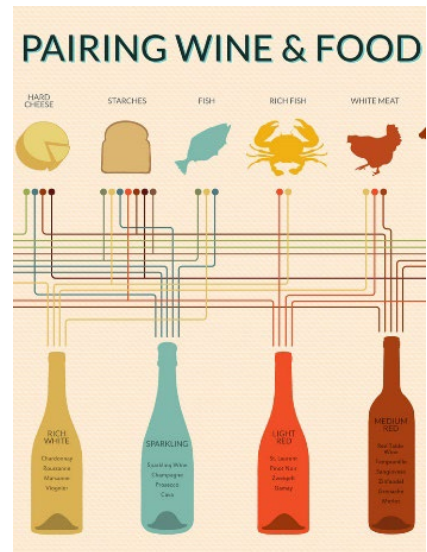
# HOW TO LEGALLY PAIR ALCOHOL WITH FOOD

## When it works and when it does not

Many people love pairing a particular food with a practically-made-for-each-other wine (or any alcoholic beverage) and experiencing a fine dining event. But for a DABS licensee, there is a right way and a wrong way to do alcohol and food pairings. They can be great if done right. However, these popular alcohol and food dining experiences can sometimes cross the line of an unlawful promotional scheme or even "Tied House" issues in their advertising.



*Internet Advertisement Examples (substitute these wine ads with any alcohol type):*



### WHEN IT WORKS:

#### A Culinary Delight of India and Its Wine Pairings

India may not exactly be synonymous with wine. However, Indian House Restaurant will be the scene of a unique wine pairing event: **"A Culinary Delight of India"**. The evening will include 7 food courses and 5 suggested wine pairings. The foods – spanning the north, south, east, and west of India are a wonderful cultural experience. This is an RSVP ticketed event for guests 21 and over. Tickets are \$80 per person for the dinner alone. Our featured wine pairings may be purchased separately from our exclusive menu for each food course. Other non-alcoholic beverages are also available. Tickets may be purchased [HERE](#).

### WHEN IT DOES NOT WORK:

#### A Culinary Delight of India and Its Wine Pairings

India may not exactly be synonymous with wine. However, Indian House Restaurant will be the scene of a unique wine pairing event: **"A Culinary Delight of India"**. The evening will include 7 food courses and 5 wine pairings. The foods – spanning the north, south, east, and west of India are a wonderful cultural experience. This is an RSVP ticketed event for guests 21 and over. Tickets are \$125 per person and can be purchased [HERE](#).

## 1. In the first example of "When it Works":

The dinner and wine pairing offers an educational and cultural experience that is legal because:

- Patrons are offered only *suggested or featured wine* pairings with their dining experience.
- It is not required that they purchase all the wine offerings in a bundled deal.
- Each patron may choose:
  - To buy only one or two servings etc. (or flights) of wine during the pairings event or
  - Order no wine at all
- Patrons also have other choices for non-alcoholic beverages and
- All beverages (including any wine flights) are separately priced and on the menu, as required by law. (32B-5-305) and (R82)-5-108 and
- All sales of alcohol will be conducted on the DABS licensed premises

**REMEMBER:** *Just because you CAN do something does not necessarily mean that you SHOULD.*

If your wine pairing dinner included five suggested "5 ounce" portions, a patron is very likely to become intoxicated.

Licensees are still required to monitor alcohol consumption to make certain that the patron does not become intoxicated. It is **ILLEGAL** to get someone intoxicated. Smaller portion wine flights might be a better choice.

## 2. In the second example of "When it does not Work":

In the second example of dinner and wine pairing we will see why it is NOT legal:

- Wine and food must be unlawfully purchased as a "packaged deal". A patron cannot choose to go to this dinner without also paying for the bundled wine prescribed, whether or not they choose to drink it – they are required to buy it. In 32B-4-708 (2), the statute clearly states that it's unlawful for a licensee to engage in an advertisement or promotional scheme *that requires the purchase or sale of an alcoholic beverage in order to participate in this promotion.*
- Also, in 32B-4-708, it is necessary to know whether or not an alcoholic beverage is priced at a discount, at less than the cost, or at a special price that encourages overconsumption or intoxication. Depending on the ounces provided in the promotional deal we just read about, it may cause intoxication in most individuals. A whole *huther* topic . . . in 32B-4-419, Utah law does not allow a licensee to let a person become intoxicated or an intoxicated person to consume alcohol on their premises.
- Furthermore, an advertisement in R82-1-104 is defined as any written or verbal statement, illustration, or depiction which is calculated to induce alcoholic beverage sales. However, advertisements may not overtly promote increased consumption of alcoholic products. In the situation we are discussing, a person may not normally order 5 wine servings, but may be induced to do so if it is bundled in a promotion.
- Another issue is the menu. In 32B-5-305 and accompanying rules R82-5-108 regarding menus, there must be an alcohol beverage menu *with prices* for each beverage. Not only are consumers entitled to know what the prices are, but a menu with prices is also necessary for DABS and law enforcement to ensure the licensee complies with a fixed price for each beverage.
- And lastly, 32B-5-306 (2) requires that an alcoholic beverage must be purchased on the DABS licensed premises at the time of service.

### 3. More "WHEN IT DOES NOT WORK" Advertising Samples:

#### Is an Industry Member Participating in the Promotion?

Next is another example of an unlawful promotional advertisement. The problems with this one are the same as with the first India example in bundling dinner and wine, but this advertisement may *also violate* Tied House laws. When this advertisement says "Teams up with GooseBill Vineyards" (see below) we have to know what "teams up" means:

#### Four-Course Wine Dinner at Tupica Restaurant

On Thursday, Tupica restaurant teams up with GooseBill Vineyards for a four-course wine dinner featuring a carefully curated menu created by our chef and paired with six distinctive GooseBill wines. One of the wines included will be a special Napa Valley Merlot rated the #1 last year. Tickets are \$180 per person for the dinner and six wine pairings, plus tax and gratuity. Seating is very limited. To reserve your spot, visit our website [HERE](#)

Tied House laws can be very complicated, but to simplify, all alcohol must be purchased from the DABS liquor store or package agency. Alcohol products can't be donated for these events, induce retailers to buy them exclusively or promise special prices, etc. Whether or not this particular advertisement was in violation, it would have to be further investigated. But be careful about these situations or you could be in violation of State and Federal laws. Contact your compliance specialist if there is any question.

#### But What if the Food and Alcohol Prices are Separated?

The Loco Cafe has a crazy-loco-awesome cocktail and dinner paring this Friday for Cinco De Mayo. The cost per person is \$55 for the food and \$45 for the optional cocktail pairings. Tickets may be purchased [HERE](#).

This advertisement would seem better because a person can buy the dinner package without the alcohol parings. However, it still has the same issues with pre-selling alcohol as do the other examples given previously. Bundled cocktails are still not going to work. The licensee must have the cocktails priced individually and menus that allow for individual sales of alcohol. Other beverage choices must be available and there is still advertising that may induce overconsumption.

### IN SUMMARY

- Alcohol must be purchased using your DABS license
- Alcohol must be purchased from the DABS liquor store or package agency
- An industry member may not coerce, induce, offer rebates, or give anything of value to advertise their products exclusively in whole or in part.
- A licensee must not *only* offer a specific industry member's alcoholic beverages
- Alcoholic beverages may not be discounted or bundled together for a certain price
- Each alcoholic beverage must be an optional purchase
- Each alcoholic beverage must be sold separately from a written menu
- Alcoholic beverages must be purchased at the time of service