

August 28, 2013

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Dahlia Folkes  
Government Relations Manager  
Winebow, Inc.  
75 Chestnut Ridge Road  
Montvale, NJ 07645

**RE: Fat Bastard Breast Cancer Awareness Pin Promotion**

Dear Ms. Folkes:

ISSUE: This correspondence is in response to your e-mail and attached letter of August 21, 2013, wherein you request approval, on behalf of Winebow, Inc., to conduct a promotion in Pennsylvania. Through the promotion, a breast cancer awareness pin will be attached to Fat Bastard point-of-sale (“POS”) bottle neckers and given away to consumers who purchase Fat Bastard wines.

OPINION: Generally, the Liquor Code prohibits providing anything of value as an inducement to purchase alcohol. [47 P.S. § 4-493(24)]. However, there is an exception to this general prohibition which allows manufacturers and licensees to provide advertising novelties of nominal value to other licensees and consumers. [Id.]. The Board has defined advertising novelties of nominal value as items that have a wholesale cost of fifteen dollars (\$15.00) or less and contain advertising material. [40 Pa. Code § 13.52; Board Advisory Notice No. 10 (6<sup>th</sup> Revision)]. Such advertising novelty giveaways may be conditioned on the purchase of an alcoholic beverage.

Therefore, so long as the breast cancer awareness pin that will be attached to the POS bottle neckers has a wholesale cost of fifteen dollars (\$15.00) or less and contains advertising material, it is permissible to conduct the proposed promotion in Pennsylvania in reference to the areas checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.
- the Board's wine and spirit stores, subject to approval of the Bureau of Product Selection (POS only).
- other - Internet, text messaging.

Please be advised that prior approval of malt or brewed beverages POS material and prior approval of retail licensed premises POS material are no longer required. However, the requirement for prior approval of POS material intended for use in the Board's wine and spirits stores from the Bureau of Product Selection remains. The total cost of all POS advertising material relating to any one (1) brand of any one (1) manufacturer at any one (1) time may not exceed three hundred dollars (\$300.00) on a retail licensed premises. [47 P.S. § 4-493(20)(i)].

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Very truly yours,

FAITH S. DIEHL  
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement  
James Short, Director of Marketing  
Timothy Fringer, Bureau of Product Selection  
Michelle Bonsick, Bureau of Marketing Communications, Branding  
& Design

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