

October 10, 2013

Telephone: (717) 783-9454

FAX: (717) 787-8820

Janis A. Carlow  
Assistant to Lou Giordano  
Vice President, Off Premise  
Lantern Division  
Southern Wine & Spirits  
1600 Northwest 163rd Street  
Miami, FL 33169

**RE: Svedka Bottle Top Tripod Promotion**

Dear Ms. Carlow:

ISSUE: This correspondence is in response to your e-mail sent September 16, 2013, which was forwarded to this office on September 23, 2013, wherein you request approval to conduct the Svedka Bottle Top Tripod promotion in Pennsylvania. Through the promotion, consumers who purchase a bottle of Svedka Vodka will receive a Svedka-branded Bottle Top Tripod (“Tripod”). The Tripod will be packaged and attached to a hangtag, which will be applied to bottles of Svedka Vodka. Each Tripod has an approximate wholesale cost of two dollars (\$2.00).

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.

Here, since the Tripod has a wholesale cost of two dollars (\$2.00) and contains advertising material, it would constitute an advertising novelty. As such, the giving away of the Tripod with the purchase of a bottle of Svedka Vodka would not amount to an unlawful inducement to purchase alcohol in violation of the Liquor Code. Accordingly, it would be 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.
- other - Internet, text messaging.

Please be advised that prior approval of malt or brewed beverages point-of-sale ("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 and Merchandising  
Michelle Bonsick, Director, Bureau of Marketing Communications,  
Branding & Design  
Pamela Bernd, Product Selection

LCB Advisory Opinion No. 13-449