

Jack F. Raineault
Director, Beverage Alcohol Law
Diageo North America, Inc.
801 Main Avenue
Norwalk, CT 06851
VIA E-MAIL: jack.raineault@diageo.com

RE: Crown Royal Loyalty Program

Dear Mr. Raineault:

ISSUE: This correspondence is in response to your e-mail sent October 16, 2013, wherein you ask whether it is permissible to offer, in Pennsylvania, a loyalty program through which adult consumers would be awarded branded merchandise based on the number of Crown Royal whisky bottle caps that they mail in. As an example, you explain that: if a consumer mails in five (5) bottle caps, he or she would receive a branded golf shirt; if a consumer mails in ten (10) bottle caps, he or she would receive a branded dress shirt; and if a consumer mails in twenty (20) bottle caps, he or she would receive a branded leather jacket.

OPINION: Pursuant to section 493(24)(i) of the Liquor Code, it is generally unlawful for:

any license . . . , or the board or any manufacturer, or any employe or agent of a manufacturer, licensee or of the board, to offer to give anything of value or to solicit or receive anything of value as a premium for the return of caps, stoppers, corks, stamps or labels taken from any bottle, case, barrel or package containing liquor or malt brewed beverage, or to offer or give or solicit or receive anything of value as a premium or present to induce directly the purchase of liquor or malt or brewed beverage, or for any licensee, manufacturer or other person to offer or give to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages

[47 P.S. Section 4-493(24)(i)]. However, section 493(24)(i) contains an exception for "advertising novelties of nominal value which the board shall define." [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 Section 13.52; Board Advisory Notice No. 10 (6th Revision)].

Therefore, the loyalty program that you are proposing would only be permissible if the items being awarded to consumers constitute "advertising novelties of nominal value." In other words, the items must have a wholesale cost of fifteen dollars (\$15.00) or less and contain advertising material.

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. 13-479