

November 20, 2013

Telephone: (717) 783-9454

Facsimile: (717) 787-8820

Curtis M. Killinger
Erin Vangorder
Valley Hotel Management
RE: Beer Coasters

Dear Mr. Killinger and Ms. Vangorder:

ISSUE: This office is in receipt of your e-mail dated October 29, 2013, wherein you request a clarification as to the laws regarding items with beer logos, specifically coasters, and enticement. You were informed by a representative that beer logos on coasters are illegal and considered to be enticement to purchase alcohol.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Valley Hotel, Inc. holds Hotel Liquor License No. H-2620 (LID 43289) for premises located at 240-246 Main Street, Mill Hall, Pennsylvania.

OPINION: The general rule, found in section 493(24)(i) of the Liquor Code, is that a licensee or manufacturer cannot give anything of value to another licensee as an inducement to purchase alcohol:

It shall be unlawful] for any licensee under the provisions of this article, 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 or 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, except advertising novelties of nominal value which the board shall define.

[47 P.S. § 4-493(24)(i)].

However, section 493(24)(i) of the Liquor Code allows manufacturers and licensees to provide advertising novelties of nominal value, which bear advertising matter, to other licensees and consumers with or without a purchase. [47 P.S. § 4-493(24)]. “Nominal value” currently is interpreted as fifteen dollars (\$15.00) each, wholesale cost, or less. [Board Advisory Notice No. 10 (6th Revision)]. “Advertising novelties” has been defined in the Board’s Regulations as matches, disposable lighters, bottle or can openers, caps, tee shirts, recipe pamphlets, pens, corkscrews and ashtrays, which bear advertising matter. [40 Pa. Code § 13.52(a)].

Further, be advised that it is unlawful for any licensee to provide equipment or fixtures to other classes of licensees. [47 P.S. § 4-493(17)]. Section 13.52(c) of the Board’s Regulations provides:

Advertising novelties provided by manufacturers or any class of licensee may not be used as equipment by any hotel, restaurant, club, retail dispenser, importing distributor or distributor licensee. Notwithstanding any other provisions of this section, licensees may sell glasses at not less than cost and provide metal keg connectors and tap knobs to other licensees and to holders of special occasion permits. Manufacturers or importers may furnish, give, rent, loan or sell wine lists or menus to retail licensees. The wine lists/menus may involve cooperative endeavors related to cost sharing and advertisement between manufacturers/importers and retail licensees. Wine lists/menus for on-premises use may contain preprinted prices.

[40 Pa. Code § 13.52(c)].

Whether an item constitutes equipment, or is truly an advertising novelty, is determined on a case-by-case basis. In the past, this office has determined that shelving, glassware, buckets, coasters, and wristbands constitute equipment.

In light of the aforementioned, coasters with logos are not *per se* illegal. However, they have been/are regarded as equipment and cannot be sold or provided by another licensee. It would only be permissible for a retail licensee to acquire the

coasters from a third party who is not a supplier of alcohol or otherwise licensed by the Board.

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
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 13-496