

August 5, 2014

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Linda Ricciardi  
The Wine Merchant, Ltd.

**RE: Promotional Giveaway at Wine Tasting**

Dear Ms. Ricciardi:

ISSUE: This correspondence is in response to your e-mail of July 25, 2014, in which you inquire whether a vendor may offer a bike and coolers to consumers as prizes in a giveaway. Consumers will participate in the promotion by attending a tasting event and completing a raffle ticket which will serve as an entry form. At the end of the event, a winner will be randomly selected.

OPINION: Section 493(24)(i) of the Liquor Code provides, in pertinent part, that it shall be unlawful for:

any licensee under the provisions of this article, or the board or any manufacturer, or any employee or agent of a manufacturer, licensee or of the board . . . 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. § 493(24)(i)]. However, section 5.32(h) of the Pennsylvania Liquor Control Board's ("Board") Regulations states that a manufacturer or licensee may sponsor sweepstakes promotions subject to the following conditions:

- i. No purchase is necessary to enter.
- ii. Entrants shall be twenty-one (21) years of age or older.
- iii. Retail licensed premises may only be involved as pick-up or drop-off points for entry forms and not for the conducting of drawings or the awarding of prizes.
- iv. Alcoholic beverages may not be part of the prize.

[40 Pa. Code § 5.32(h)]. The Board's Regulations define the term "sweepstakes" as "[a] chance promotion in which tickets or game pieces are distributed and the winner or winners are selected in a random drawing." [40 Pa. Code § 5.30]. Promotions which meet the definition of "sweepstakes" set forth in section 5.30 and which are conducted in accordance with the requirements of section 5.32(h) of the Board's Regulations are not considered unlawful inducements to purchase liquor or malt or brewed beverages.

Therefore, your proposed promotion could qualify as a sweepstakes promotion as long as it is conducted in accordance with the above conditions, specifically subsection 493(24) of the Liquor Code [47 P.S. § 4-493(24)] and section 5.32(h) of the Board's Regulations [40 Pa. Code § 5.32(h)]. Assuming those provisions are followed, it would be permissible to conduct the promotion in the Commonwealth.

Please note that if the tasting event is being held at a retail licensed premises, it may only be involved in the sweepstakes as a pick-up or drop-off point for entry forms; both the drawing of the winner and the awarding of prizes must occur off the licensed premises.

**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  
John Metzger, Executive Director  
Dale Horst, Interim Director of Marketing and Merchandising  
Michelle Bonsick, Director, Bureau of Marketing Communications,  
Branding & Design  
Pamela Bernd, Product Selection

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