

October 17, 2014

Stephen Shepardson

**Re: Cross-Promotional Coupon Question**

Dear Mr. Shepardson:

ISSUE: This is in response to your e-mail sent on September 5, 2014, wherein you advise that Pernod Ricard, importer and supplier of Jameson Whiskey, is considering running a promotion in Pennsylvania. The promotion would be a manufacturer's coupon, either instantly redeemable or mail in, by which a consumer would save two dollars (\$2.00) on any beer purchase with the purchase of a seven hundred fifty (750) ml or larger bottle of Jameson Whiskey. You ask about the legality of this promotion.

OPINION: Initially, please note that 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)]. This section does include an exception permitting the use of coupons; however, the section speaks to coupons offered by a manufacturer. This office has always interpreted this section of the law as permitting a manufacturer to offer a coupon towards the purchase of its own product, not any other manufacturer's product. Also, a coupon requiring the purchase of one (1) alcoholic beverage to receive a discount on another alcoholic beverage would be an unlawful inducement.

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Moreover, as a practical matter, the scenario you have proposed would not work in Pennsylvania, since purchases of whiskey and beer for off-premises consumption are made at different locations. In Pennsylvania, purchases of whiskey are generally made through Pennsylvania Liquor Control Board wine and spirits stores. Purchases of beer are made from importing distributors, distributors, or from retail licensees that may sell beer for off-premises consumption. There is no single entity in Pennsylvania where a consumer could simultaneously purchase Jameson whiskey and beer, for off-premises consumption, in the same sales transaction. Therefore, the coupon you have proposed would not be legally permissible or practicable in Pennsylvania.

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  
Dale Horst, Director of Marketing and Merchandising  
Michelle Bonsick, Director, Bureau of Marketing Communications,  
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LCB Advisory Opinion No. 14-546