

November 7, 2014

Brad Dubicki
Limerick Business Ventures LLC
202 West Ridge Pike
Limerick, PA 19468-1716
dubs7@yahoo.com

RE: Advertising Alcoholic Beverages

Dear Mr. Dubicki:

ISSUE: This correspondence is in response to your e-mail of October 29, 2014, wherein you inquire as to what advertisements relative to beer distributors and six (6)-pack shops are permitted to say. You indicate that you had difficulty finding this information on the Pennsylvania Liquor Control Board's ("Board") website.

The Board's records indicate that you are a member and manager of Limerick Business Ventures LLC, which holds Distributor License No. D-453 (LID 51177) for use at the premises located at 202 West Ridge Pike, Limerick, Pennsylvania.

OPINION: In Pennsylvania, the advertisement of alcoholic beverages is generally governed by section 498 of the Liquor Code [47 P.S. § 4-498]. Pursuant to section 498, manufacturers, wholesalers, retailers and shippers, whether from outside or inside the Commonwealth, and any licensees are permitted to advertise their products and prices in Pennsylvania. [47 P.S. § 4-498(a)]. Any advertisement of price may not contain: "[a]ny statement that is false, deceptive, or misleading;" "[a]ny statement that is disparaging of the products of a competitor;" or "[a]ny statement referring to monetary comparison between brands." [47 P.S. § 4-498(b)]. Prices that are advertised or displayed on licensed premises must be the prices that are in effect at the time of the advertisement or display. [47 P.S. § 4-498(c)].

Moreover, for all alcoholic beverage and malt beverage advertising, the following conditions apply:

1. The entity responsible for the advertisement must be clearly identified in the advertisement.
2. No licensee may distribute, by mail, personally or through servants, agents or employees, price lists, circulars or handbills off the license premises to the general public as a means of advertising liquor, wine or malt or brewed beverages.
3. No print advertisement of alcoholic beverages of any type shall be permitted within three hundred feet of any church, school or public playground. This prohibition shall not preclude any point of sale advertisement, menus or other print advertisement regarding alcoholic beverages inside the licensed premises.
4. The use in any advertisement of alcoholic beverages of any subject matter, language or slogan directed to minors to promote consumption of alcoholic beverages is prohibited. Nothing . . . shall be deemed to restrict or prohibit any advertisement of alcoholic beverages to those persons of legal drinking age.
5. No advertisement shall be permitted, either directly or indirectly, in any booklet, program book, yearbook, magazine, newspaper, periodical, brochure, circular or other similar publication published by, for or on behalf of any educational institution.
6. No advertisement that is obscene shall be permitted; and
7. Advertisement of alcoholic beverages and malt and brewed beverages shall not be inconsistent with the spirit of safety or safe driving programs.

[47 P.S. § 4-498(e)-(f)]. The term “advertisement” is defined as “any advertising of alcoholic beverages through the medium of radio broadcast, television broadcast, newspapers, periodicals or other publication, outdoor advertisement, any form of electronic transmission or any other printed or graphic matter, including booklets, flyers or cards, or on the product label or attachment itself.” [47 P.S. § 4-498(g)].

Additionally, please be advised that section 493(24)(i) of the Liquor Code prohibits licensees (including distributors) from offering or giving anything of value as a means to induce the purchase of malt or brewed beverages, or from offering or giving to consumers any prize, premium, gift or other inducement to purchase malt or brewed beverages, except advertising novelties of nominal value. [47 P.S. § 4-493(24)(i)]. 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 (6th Revision)]. Advertising novelty giveaways may or may not be conditioned on the purchase of an alcoholic beverage.

Finally, please be advised that the information discussed herein is also available on the Board's website, www.lcb.state.pa.us, by placing your cursor over "Legal," selecting the link for "Advisory Notices," and then selecting the links for "Advisory Notice No. 10 – Trade Practices" and "Advisory No. 15 – Advertising of Alcoholic Beverages in Pennsylvania" respectively.

Should you have any additional questions regarding this matter, the Liquor Code, or the Board's Regulations, please do not hesitate to again contact this office.

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

LCB Advisory Opinion No. 14-578