

December 19, 2014

Matthew Smith
Davis & Gilbert LLP
1740 Broadway
New York, NY 10019

E: Satisfaction Guarantee Offer

Dear Mr. Smith:

ISSUE: This correspondence is in response to your e-mail received December 2, 2014, wherein you inquire as to the legality in Pennsylvania of a “money-back guarantee” offer proposed by an undisclosed manufacturer, whom you represent. The program will offer a refund on the full purchase price of a yet-to-be-determined brand of alcoholic beverage in the event the consumer is not satisfied with the product. To receive a refund, the consumer must provide the manufacturer with an original proof of purchase as well as a narrative explaining the reason for the consumer’s dissatisfaction. The offer is limited to one (1) refund per household, and the purpose is not to offer a reward but instead “to offer purchasers the same assurances of quality they have come to expect in almost all other consumer-product categories.”

OPINION: Generally it is unlawful for any manufacturer or licensee to offer, pay, make, or allow any allowance or rebate, refund, or concession, whether in the form of money or otherwise, to induce directly the purchase of liquor or malt or brewed beverages. [47 P.S. § 4-493(22)]. However, this office has historically allowed an exception for a refund policy associated with a product satisfaction guarantee program. Prior approval is generally not required in such cases, and neither the Liquor Code nor the Pennsylvania Liquor Control Board’s Regulations impose any specific requirements regarding the method of refunding an item.

Therefore, a rebate up to the full purchase price (excepting taxes) is allowable and would not be considered an unlawful inducement.

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

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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. 14-625