

January 6, 2015

Genevieve Collins
Coupon Specialist
Insight Resource Group
3 Altarinda Road, Suite 301
Orinda, California 94563

RE: Hess Select Rebate/IRC Promotions

Dear Ms. Collins:

ISSUE: This correspondence is in response to your email dated December 11, 2014 in which you seek, on behalf of Hess Collection Winery, a legal review of several proposed promotions to be conducted in Pennsylvania.

According to the sample point of sales material you provided, the promotions are scheduled to run March 1, 2105 through either May 31, 2015 or June 30, 2015. The following are the proposed mail in rebates available through Hess Collection Winery: save three dollars (\$3.00) by mail on one (1) bottle of Hess Select Treo (750ml), save three dollars (\$3.00) by mail on a bottle of Hess Select Sauvignon Blanc (750ml), and save five dollars (\$5.00) by mail on any Hess Select wine 750ml.

The following are the proposed instant rebate promotions: save two dollars (\$2.00) on Hess Select Treo (750ml), save two dollars (\$2.00) on a bottle of Sauvignon Blanc (750 ml) and save one dollar (\$1.00) on any Hess Select wine (750ml).

Additionally, there is a satisfaction guaranteed or money back promotion on any Hess Select Wine offer, which runs from March 1 through May 31, 2015.

The last series of promotions include cross promotion of alcoholic beverages and food items: save five dollars (\$5.00) on any meat or seafood with the purchase of two (2) bottles of Hess Select or Hess Collection wines, save five dollars (\$5.00) by mail on any meat or seafood with a two (2) bottle purchase of Hess Collect or Hess Collection, save five dollars (\$5.00) by mail on any meat or seafood courtesy of Hess Select and the Hess Collection Wines. However, the offer terms state that Pennsylvania is excluded from this promotion.

OPINION: Generally, licensees, the Board, and manufacturers, or any employee or agent of a manufacturer, licensee, or the Board, are prohibited from offering to give anything of value, or soliciting or receiving anything of value, as a premium or present to induce directly the purchase of liquor or malt or brewed beverages. (47 P.S. § 4-493(24)(i)). Licensees, manufacturers, and other persons are also generally prohibited from offering or giving to trade buyers or to consumer buyers a prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages. (Id.) There are limited exceptions to this section.

A manufacturer or agent of a manufacturer may offer and honor coupons which offer monetary following rebates on purchases of wines and spirits through state liquor stores. Both mail-in and instant rebate coupons are permitted. Coupons must contain the following: initiation and expiration of the coupon; the rebate value; provision for the name and address of the person redeeming the coupon; the identity of the product including, but not limited to, the brand name and size; and a warning statement that the purchase of the product, and the rebate offer are restricted to persons twenty-one (21) years of age or old. (Advisory Notice No. 10 (6th Revision)).

Regarding the satisfaction guaranteed promotion, generally, it is unlawful for any 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. 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 Board's Regulations impose any specific requirements regarding the method of refunding an item.

As for the cross promotions combining alcoholic beverages with food items, since the "official rules" section does not list Pennsylvania as one of the state's where the promotion is valid, there is no need to address the legality of those offers.

This office has reviewed the remaining proposed promotions and has determined that they comport with applicable liquor laws and regulations, specifically subsection 493(24)(i) of the Liquor Code [47 P.S. § 4-493(24)(i)] and section 5.32(h) of the Board's Regulations [40 Pa. Code § 5.32(h)].

Therefore, it is permissible to conduct the promotions as explained above in the Commonwealth in reference to the areas checked below:

- _____ retail licensed premises.
- _____ distributor licensed premises.
- _____ both retail and distributor licensed premises.
- X the Board's wine and spirits stores, subject to approval of the Bureau of Product Management.
- _____ other – Internet, text messaging.

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
Pamela Bernd, Product Selection

LCB Advisory Opinion No. 14-644