

January 8, 2015

Carlie Speelman
Associate Regulatory
Affairs Administrator
Trincherro Family Estates

RE: Tres Agaves Sip or Mix \$5 Rebate

Dear Ms. Speelman:

ISSUE: This correspondence is in response to your e-mail dated December 15, 2014, in which you seek, on behalf of Trincherro Family Estates, a legal review of a proposed rebate promotion to be conducted in Pennsylvania.

According to the promotion, the “Tres Agaves Sip or Mix \$5 Rebate” was scheduled to run through December 31, 2014. Consumers must have purchased the product by December 31, 2014 and mailed the rebate form along with the original receipt with the purchase circled by January 31, 2015 to receive the five dollar (\$5.00) rebate.

OPINION: As an initial matter, please be advised that section 493(24)(i) of the Liquor Code [47 P.S. 4-493(24)(i)] generally prohibits licensees, the Pennsylvania Liquor Control Board (“Board”), and manufacturers, or any employee or agent of a manufacturer, licensee, or the Board 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. Section 493(24)(i) also generally prohibits licensees, manufacturers, and other persons from offering or giving to trade consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages.

However, a manufacturer or agent of a manufacturer may offer and honor coupons which offer monetary rebates on purchases of wines and spirits through State Liquor Stores or purchases of malt or brewed beverages through distributors and importing distributors. (47 P.S. § 4-493(24) (i)]. Proof of purchase is required for redemption.

This office has reviewed the proposed promotion and has determined that it comports with applicable liquor laws and regulations, specifically subsection 493(24) (i) of the Liquor Code [47 P.S. § 4-493(24) (i)].

Therefore, it would be permissible to conduct this promotion in the Commonwealth in reference to the areas checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.
- 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. 14-647