

January 8, 2015

Linda Ricciardi
The Wine Merchant

RE: IRC for Smoking Loon

Dear Ms. Ricciardi:

ISSUE: This correspondence is in response to your email dated December 23, 2014, in which you seek, a legal review of a proposed promotion to be conducted in Pennsylvania.

According to the promotional point-of-sale material, an instant rebate coupon (IRC) of one dollar (\$1.00) will be valid on the purchase of one (1) bottle of Smoking Loon wine (750 ml) until March 31, 2015. This coupon can be used on all the varietals of the product. You must be a legal resident of Pennsylvania and be twenty-one (21) years of age or older to receive the rebate.

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 if the product including, but no 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)).

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)] 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.
- 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. 14-649