

March 6, 2015

David Romine
Alcoholic Beverage Specialist
Kalik Lewin
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RE: Humboldt Brewing Company T-Shirt Trade-in Offer

Dear Mr. Romine:

ISSUE: This correspondence is in response to your e-mail sent February 18, 2015, wherein you request approval on behalf of Humboldt Brewing Company to run a t-shirt trade-in offer in Pennsylvania.

According to the materials that you submitted, interested individuals can obtain a Humboldt Brewing Company hemp t-shirt by trading in an item of their choosing. In order to obtain the t-shirt, interested individuals are required to complete the promotion form available at www.humboldtbrewingco.com/tradeus and mail it, along with their item being traded, to the address designated on the form. The item being traded must fit in a package no larger than eighteen (18) inches by eleven (11) inches and must have a minimum value of six dollars and ninety-five cents (\$6.95). The trade-in offer begins on April 1, 2015, and runs until June 25, 2015.

OPINION: Generally, the Liquor Code prohibits any licensee, manufacturer or other person from offering or giving to trade or consumer buyers any prize, premium, gift or other inducement to purchase alcohol. [47 P.S. § 4-493(24)(i)]. However, there is an exception to this general prohibition which allows the offering or giving of “advertising novelties of nominal value.” [Id.]. The Pennsylvania Liquor Control Board (“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. [47 P.S. § 4-493(24)(i); 40 Pa. Code § 13.52; Board Advisory Notice No. 10 (6th Revision)]. Advertising novelties typically consist of items such as matches,

disposable lighters, bottle or can openers, t-shirts, caps, corkscrews, pens, or pamphlets. [Id.]. Advertising novelty giveaways may or may not be conditioned on the purchase of an alcoholic beverage. [Id.].

Nevertheless, since the promotion in question does not involve the sale of alcoholic beverages and seems to essentially amount to the sale of a branded item in exchange for consideration other than money, this promotion would not be subject to section 493(24)(i) of the Liquor Code. Moreover, section 13.52 of the Board's Regulations specifically authorizes the sale of promotional items advertising one's own business, such as t-shirts, mugs, caps, and other items, to the general public. Therefore, it would be permissible for Humboldt Brewing Company to offer the proposed t-shirt trade-in offer through its website in Pennsylvania.

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. 15-076