

March 23, 2015

Jenna Bell  
Assistant Account Coordinator  
Avid Marketing Group  
100 Corporate Place, Suite 200  
Rocky Hill, CT 06067

**RE: Mail-in Rebate Offer**

Dear Ms. Bell:

ISSUE: This correspondence is in response to your e-mail sent March 10, 2015, in which you seek legal review of a mail-in rebate promotion to be conducted in Pennsylvania by your client, Heineken, with the use of both tear pad and sticker point-of-sale (“POS”) materials.

According to the sample POS materials that you provided, the promotion offers consumers a rebate of up to twenty-five dollars (\$25.00) by mail on the purchase of seventy-five dollars (\$75.00) worth of groceries and two (2) twelve (12)-packs (equivalent or larger) of Heineken<sup>®</sup>, Heineken<sup>®</sup> Light, Dos Equis<sup>®</sup> Lager Especial, Dos Equis<sup>®</sup> Ambar, the Beers of Mexico Variety Pack, or Amstel<sup>®</sup> Light. However, the rules set forth on the reverse side of the POS materials state that no beer purchase is required to receive a rebate in Pennsylvania.

OPINION: Section 493(24)(i) of the Liquor Code generally prohibits licensees, manufacturers, and the Board, or any employee or agent of a licensee, manufacturer or the Board, from offering or giving anything of value or from 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)]. Similarly, section 493(24)(i) generally prohibits licensees, manufacturers, and other persons from offering or giving to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages. [Id.] However, as you already appear to be aware, section 493(24)(i) includes an exception that allows manufacturers or agents of manufacturers to “offer[] and honor[] coupons which offer monetary rebates on purchases of . . . malt or brewed beverages through distributors and importing distributors in accordance with conditions or regulations established by the board.” [Id.].

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This office has reviewed the proposed mail-in rebate promotion as described above and determined that such promotion would not be subject to section 493(24)(i) of the Liquor Code because it does not require the purchase of any alcohol product in Pennsylvania, but, rather, only involves the purchase of food products.

Therefore, it would be permissible to conduct the proposed promotion in Pennsylvania, subject to any other applicable provisions of the Liquor Code or the Board's Regulations, such as those governing the advertisement of alcoholic beverages, as well as any laws of the Commonwealth that are outside the purview of this office.

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. 15-094