

April 21, 2015

Vincent LaBella
Sidney Frank Importing Co., Inc.

Re: Using the Ibotta App Toward Jägermeister Rebates

Dear Mr. LaBella:

ISSUE: This is in response to your e-mail of March 13, 2015, wherein you ask about getting Ibotta approved for use in Pennsylvania. Ibotta is a mobile phone application (“app”) that purportedly offers its users rebates on products that they purchase. Sidney Frank Importing has partnered with Ibotta in an effort to put Jägermeister rebates in the hands of shoppers around the country.

According to the Ibotta website, a consumer who has the app on his or her phone may unlock cash rewards by completing simple tasks such as completing recipes, watching videos, and answering poll questions. Ibotta offers monthly “Teamwork bonuses” for Ibotta users who create a team by getting their friends to join. Ibotta also offers “Promo Codes,” which are special coupons, deals or codes that provide additional savings to the consumer, in addition to the Ibotta rebate, as well as bonuses which are described as extra cash back for the consumer who buys featured products, redeems items at specific retailers, or completes certain tasks. The consumer must submit receipts and other proofs of purchase to Ibotta to be credited with the rebate. The consumer may submit the cash rewards and rebate funds for redemption as gift certificates or cash.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Sidney Frank Importing Co., Inc., holds Sales Permit No. SP-420 (LID 22870) and Vendor Permit VP-349 (LID 22956) for the premises at Cedar Plaza, 20 Cedar Street, New Rochelle, New York.

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)]. Furthermore, section 493(24) provides that it shall be unlawful:

for any licensee, manufacturer or other person to offer or give to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages, except advertising novelties of nominal value which the board shall define. **This section shall not prevent any manufacturer or any agent of a manufacturer from offering and honoring coupons which offer monetary rebates on purchases of wines and spirits through State Liquor Stores ...** The board may redeem coupons offered by a manufacturer or an agent of a manufacturer **at the time of purchase.** Coupons offered by a manufacturer or an agent of a manufacturer shall not be redeemed without proof of purchase.

[47 P.S. § 4-493(24)(i) (emphasis added)]. Note that coupons for the purchase of wines and spirits may only be redeemed at the Board's stores, not retail establishments such as restaurants or hotels.

The Ibotta app is problematic because of the numerous inducements to earn rewards, which can be considered a "prize, premium, gift or other inducement" to purchase liquor. Moreover, even a rebate for Jägermeister offered by Ibotta would not qualify under the coupon exception, because it is not redeemed by the Board at the time of purchase. Therefore, the Ibotta rebates cannot be used in Pennsylvania toward the purchase of Jägermeister or any other alcohol.

Should you have any other questions and/or issues related to the Liquor Code or the Board's Regulations, please feel free to once again contact 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

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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
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 15-182