

July 7, 2015

Leigh Huckabee  
Commercial Marketing Manager  
North American Spirit & Wine Broker  
Division of Southern Wine & Spirits  
207 Overlook Drive Suite #10  
Sewickley, PA 15143  
VIA E-MAIL: [LeighHuckabee@southerwine.com](mailto:LeighHuckabee@southerwine.com)

**RE: PA Ibotta Coupons**

Dear Ms. Huckabee:

ISSUE: This correspondence is in response to your e-mail sent June 8, 2015, in which you request approval to use Ibotta coupons relative to certain spirits products in Pennsylvania.

According to the Ibotta website, <https://ibotta.com/>, a consumer who joins Ibotta and downloads the Ibotta app on his or her phone or tablet device may unlock cash rewards by completing simple tasks such as using 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 electronically submit receipts and other proofs of purchase to Ibotta using the app to be credited with the rebate. The consumer may submit the cash rewards and rebate funds for redemption as cash or as gift certificates to other retailers.

The screenshots from the Ibotta app that you included with your e-mail appear to require consumers to use a recipe and watch a video in order to receive rebates on the purchase of certain spirits products totaling either two dollars (\$2.00) or four (\$4.00) dollars. The rebate coupons are available only to persons of legal purchase age. Cash register receipts must be dated within one (1) week of the purchase date. The manufacturers reserve the right to request additional information/identification

prior to honoring rebate requests and to reject non-conforming rebate requests. Based on the other paperwork that you supplied, these rebates do not have a set expiration date, but rather will expire when the budget for the same is exhausted.

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 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, section 493(24)(i) includes an exception, which provides :

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 or purchase of malt or brewed beverages through distributors and importing distributors in accordance with conditions or regulations established by the board. 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.

[Id.].

This office has traditionally interpreted this section to allow manufacturers or their agents to offer both mail-in and instant monetary rebate coupons relative to purchases of wine and spirits products through the Board's Fine Wine & Good Spirits Stores, as long as certain conditions are satisfied.

Specifically, this office has opined that rebate coupons for wine or spirits must contain the following: (1) an expiration date of the offer; (2) the rebate value; (3) provision for the name and address of the individual redeeming the coupon; (4) the identity of the manufacturer or manufacturer's agent; (5) a description of the product including, but not limited to, the brand name and size; and (6) a warning statement that the purchase of the product and the rebate offer is restricted to persons who are twenty-one (21) years of age or older. Additionally, all wine or

spirits mail-in rebate offers must also require submission of proof of purchase in the form of a sales slip or cash register receipt.

Here, while the Ibotta coupons that you submitted bear many similarities to traditional mail-in rebate or instate rebate coupons, there are several significant differences. For starters, unlike traditional mail-in or instant rebate coupons, which are simply made available to anyone purchasing the underlying products, the Ibotta coupons that you submitted for review appear to essentially be discounts offered as rewards for completing activities that extend beyond the mere purchase of the underlying product. Moreover, unlike traditional mail-in or instant rebate coupons, the Ibotta coupons that you submitted do not have a set expiration date but rather are simply described as expiring when an undefined budget is exhausted, which leaves open the possibility that these coupons will expire after only a very short time or will remain open indefinitely. Further, unlike traditional mail-in rebate coupons, which are mailed directly to the manufacturer or their representative after the time of purchase, or instate rebate coupons, which are redeemed at the time of purchase with the retailer who then seeks reimbursement from the manufacturer at a later time, it appears that the Ibotta coupons are to be redeemed with Ibotta, a third party, solely through the use of its app, and it is not entirely clear when or how manufacturers become involved in the rebate process. Finally, and perhaps most importantly, unlike traditional mail-in or instate rebate coupons, it appears that the Ibotta coupons that you submitted for review offer something of value to consumers that goes beyond a simple monetary rebate on the underlying products purchased; that is, according to Ibotta's website, they offer consumers the ability to obtain further discounts or additional cash back beyond the rebate amounts themselves and can essentially be redeemed for gift certificates to other retailers instead of cash.

Considering the foregoing, this office is unable to conclude that the Ibotta coupons that you submitted fall within the parameters of the exception to section 493(24)(i) allowing manufacturers or their representatives to offer coupons offering *monetary* rebates on purchases of wine or spirits from the Board's Fine Wine & Good Spirits Stores. As a result, the Ibotta coupons would be considered an unlawful inducement to purchase alcohol in violation of section 493(24)(i) and are not permitted in Pennsylvania.

If you have any additional questions or concerns regarding this matter, the Liquor Code, or the Board's Regulations, please do not hesitate to again contact this office.

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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  
Joseph Puhalla, Director, Bureau of Product Selection  
Adam Krakovitz, Bureau of Product Selection

LCB Advisory Opinion No. 15-278