

July 21, 2015

Nancy P.A. Williams
Davis Wright Tremaine LLP
1201 Third Avenue, Suite 2200
Seattle, WA 98101
VIA E-MAIL: nancywilliams@dwt.com

RE: PBR Wrapping Paper Giveaway

Dear Ms. Williams:

ISSUE: This correspondence is in response to your e-mail of July 9, 2015, in which you request legal review of a proposed manufacturer giveaway promotion to be conducted in Pennsylvania by Pabst Brewing Co.

According to the official rules you provided, the promotion will offer consumers who purchase a twelve (12)-pack or larger of Pabst Blue Ribbon beer a free roll of branded wrapping paper; however, the rules state that residents of Pennsylvania need not purchase any alcohol to receive the free wrapping paper. Rather, to participate they must simply mail the offer card to the specified address. The promotion is open only to adults of legal drinking age, and it will run from November 1 through December 31, 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.].

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Accordingly, assuming the branded wrapping paper would qualify as an advertising novelty by having a wholesale cost of fifteen dollars (\$15.00) or less, it would be permissible to run the proposed promotional offer 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
Dale Horst, Director, Marketing and Merchandising
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-310