

August 12, 2015

Dana Ward
Manager, Marketing & Compliance
Pernod Ricard USA

RE: Kahlua Snowboard Offer

Dear Ms. Ward:

ISSUE: This correspondence is in response to your e-mail received in our office on August 3, 2015, in which you request legal review of a proposed consumer offer to be conducted in Pennsylvania.

According to your summary of the terms, the promotion will offer consumers the opportunity to purchase a Kahlua[®] branded snowboard. To receive the snowboard, consumers must mail to a specified address a completed offer form along with a check for one hundred eighty-eight dollars (\$188.00). The offer will be advertised via tear pads in retail establishments and will run from September 1 through December 31, 2015. No purchase of alcohol is required, and the offer is only open to adults over twenty-one (21) years of age.

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, section 13.52 of the Board's Regulations specifically authorizes licensees of any class to sell promotional items advertising the licensee's business, such as t-shirts, mugs, caps, and other items, to the general public. [40 Pa. Code § 13.52(f)].

Since the proposed snowboard offer does not involve the sale of alcoholic beverages and appears to simply amount to the sale of a branded promotional item, it would not be subject to section 493(24)(i) of the Liquor Code. Therefore, it would be permissible to conduct the proposed offer in Pennsylvania.

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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

LCB Advisory Opinion No. 15-340