

September 1, 2015

Capricia Borrero
Coupon Specialist
Insight Resource Group

RE: Hess Select Promotions

Dear Ms. Borrero:

ISSUE: This correspondence is in response to your e-mail of August 24, 2015, wherein you request legal review of three (3) promotions to be conducted in Pennsylvania by your client, The Hess Collection.

According to the sample coupons you provided, the first promotion offers consumers an instant rebate of one dollar (\$1.00) on the purchase of a 750ml bottle of any Hess Select wine. The second promotion offers consumers a mail-in rebate of five dollars (\$5.00) on the purchase of two (2) 750ml bottles of any Hess Select wine. To receive the rebate by mail, consumers must mail in the rebate coupon along with a cash register receipt and the UPC code of the relevant items. The third promotion offers consumers a satisfaction guarantee in that if a consumer is in any manner dissatisfied with the contents of any 750ml bottle of Hess Select wine, the consumer may receive a refund of the purchase price in the same manner as in the mail-in rebate promotion. The offers are valid from October 1 through December 31, 2015, and are limited to adults of legal drinking age.

OPINION: This office has reviewed the proposed promotions and has determined that they comport with applicable liquor laws and regulations, specifically subsection 493(24)(i) of the Liquor Code [47 P.S. § 4-493(24)(i)].

With respect to the third promotion, while it is generally unlawful for any manufacturer or licensee to offer, pay, make, or allow any allowance or rebate, refund, or concession, whether in the form of money or otherwise, to induce directly the purchase of liquor or malt or brewed beverages in Pennsylvania [47 P.S. § 4-493(22)], this office has historically allowed an exception for a refund policy associated with a product satisfaction guarantee program. Prior approval from the Pennsylvania Liquor Control Board (“Board”) is generally not required in such cases, and neither the Liquor Code nor the Board’s Regulations impose any specific requirements regarding the method of refunding an item. A rebate up to the full purchase price (excepting taxes) is allowable and would not be considered an unlawful inducement.

Therefore, it would be permissible to conduct the promotions in the Commonwealth in reference to the area checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.
- the Board's wine and spirits stores, subject to approval of the Bureau of Product Selection.
- other – Internet, text messaging.

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. 15-383