

September 21, 2015

Kaleb Livingston
Government Compliance Specialist
Bell's Brewery, Inc.
8690 Krum Avenue
Galesburg, MI 49053
VIA E-MAIL: govt-compliance@bellsbeer.com

RE: Customer Refunds

Dear Mr. Livingston:

ISSUE: This correspondence is in response to your e-mail of August 21, 2015, wherein you request legal review of a satisfaction guarantee program to be offered to customers in Pennsylvania. Specifically, you ask whether Bell's Brewery may offer consumers a cash refund on beer, purchased from a retailer or distributor, that is outdated or spoiled or that the customer did not enjoy. You also ask whether the refund may be provided in the form of a coupon good for a replacement six (6)-pack, bottle, or case.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that Bell's Brewery, Inc., holds Brand Registration No. BC-474 (LID 62580), with a registered address of 8938 Krum Avenue, Galesburg, Michigan.

OPINION: Generally it is 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. [47 P.S. § 4-493(22)]. However, this office has historically allowed an exception for a refund policy associated with a product satisfaction guarantee program. Prior approval from the 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. Therefore, a rebate of up to the full purchase price (excepting taxes) is allowable and would not be considered an unlawful inducement.

Please note, however, that if the refund were to be given in the form of a rebate coupon good for a replacement product, only mail-in rebates are permitted in Pennsylvania for purchases of malt or brewed beverages, and such rebates may only be redeemed at distributor or importing distributor premises. Distributors and importing distributors must sell by the case or original containers as prepared for market by the manufacturer containing one hundred twenty-eight (128) ounces or more. [47 P.S. § 4-441]. Thus, a coupon redeemable for a replacement beer product would only be permissible as a mail-in rebate on a purchase made at a distributor or importing distributor premises, i.e. over one hundred twenty-eight (128) ounces.

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
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-408