

November 18, 2015

Jennifer Kline
The Beer Shak
762 State Route 183
Schuylkill Haven, PA 17972
VIA E-MAIL

RE: Distributor Loyalty Rewards Program

Dear Ms. Kline:

ISSUE: This is in response to your e-mail dated October 19, 2015, wherein you ask whether your beer distributor business may conduct a “loyalty card program” in which participants will receive points that may be redeemed for various rewards. Customers may participate by providing a phone number or e-mail address and “checking in” each time they visit the business. Each check-in will earn points; points will not be earned through purchases. You indicate that points will be redeemable for the following: (1) the items identified “in section A or B of Advisory Notice #9,” (2) gift certificates for your business, (3) gift certificates for a non-licensed establishment, and (4) novelty items with a wholesale value of less than fifteen dollars (\$15.00). The program will only be available to adults of legal drinking age.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate The Beer Shak LLC holds Importing Distributor License No. ID-394 (LID 58427) for use at the premises located at 762 State Route 183, Schuylkill Haven, Pennsylvania.

OPINION: Subsection 493(24)(i) of the Liquor Code [47 P.S. § 4-493(24)(i)] prohibits any licensee, the Board, a manufacturer, or an employee or agent of a manufacturer from offering or giving anything of value as a premium to induce the purchase of liquor or malt or brewed beverages, except advertising novelties of nominal value, defined as items bearing advertising slogans with a value of fifteen dollars (\$15.00) or less. In the past, this office has advised that rewards programs in which points or rewards are earned for purchases of food and non-alcoholic beverages are not prohibited by subsection 493(24)(i). However, the giving of

rewards in exchange for purchases of alcohol would be considered an unlawful inducement, unless the rewards are limited to advertising novelties of nominal value.

Based on the description you provided, the proposed loyalty program would not require a purchase in order to earn rewards or points; rather, points would be earned simply by visiting the distributor premises and “checking in.” Therefore, the method in which points will be earned is not problematic under subsection 493(24)(i).

Regarding the proposed rewards that participants may acquire by redeeming points, as long as any gift cards awarded as a prize may be redeemed for non-alcoholic beverage items and/or exchanged for cash, the promotion would not violate the unlawful inducement provision in subsection 493(24)(i). The other proposed rewards, i.e., non-alcoholic products, gift certificates for non-licensed businesses, and novelty items, would be permissible.

Should you have any additional questions, do not hesitate to contact this office.

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,

RODRIGO J. DIAZ
EXECUTIVE DEPUTY CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Jerry W. Waters, Director, Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 15-473