

April 22, 2016

Yolanda Cazessus  
Coupon Specialist  
Insight Resource Group  
**VIA E-MAIL**

**RE: Guarachi Wine Partners BBQ Sauce Instant Rebate**

Dear Ms. Cazessus:

ISSUE: This correspondence is in response to your e-mail of April 11, 2016, wherein you request legal review of an instant rebate coupon promotion to be offered to consumers in Pennsylvania by your client, Guarachi Wine Partners, in association with King Malbec wine.

Through the rebate promotion, consumers can save \$1.00 instantly on the purchase of any BBQ sauce. No wine purchase is necessary to receive the rebate. The rebate offer expires on December 31, 2016. The rebate offer is limited to adults who are twenty-one years of age or older, and there is a limit of one coupon per item purchased.

OPINION: Section 493(24)(i) of the Liquor Code generally prohibits licensees, manufacturers, and the Pennsylvania Liquor Control Board (“PLCB”), or any employee or agent of a licensee, manufacturer or the PLCB, from offering or giving anything of value or from soliciting or receiving anything of value as a premium or present to induce directly the purchase of liquor or malt or brewed beverages. 47 P.S. § 4-493(24)(i). Similarly, section 493(24)(i) generally prohibits licensees, manufacturers, and other persons from offering or giving to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages. Id. However, section 493(24)(i) includes an exception allowing manufacturers or their agents to offer monetary rebates on purchases of wine or spirits from the PLCB or purchases of malt or brewed beverages from importing distributors or distributors. Id.

Because the proposed instant rebate promotion makes it clear that no alcohol purchase is required to receive a rebate on the purchase of BBQ sauce, such promotion would not be subject to section 493(24)(i).

Please be advised that prior approval of malt or brewed beverages point-of-sale (“POS”) material and retail licensed premises POS material is no longer required. However, the requirement for prior approval of POS material intended for use in the PLCB’s Fine Wine & Good Spirits stores from the Bureau of Product Selection remains. The total cost of all POS advertising material relating to any one brand of any one manufacturer at any one time may not exceed \$300.00 on a retail licensed premises. 47 P.S. § 4-493(20)(i).

Therefore, it is permissible to conduct the proposed instant rebate promotion in the Commonwealth in reference to the areas checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.
- the PLCB’s Fine Wine and Good Spirits stores, subject to approval of the Bureau of Product Selection.
- other – Internet, text messaging.

Please keep in mind, however, that there are a very limited number of non-alcoholic beverage items that the PLCB is authorized to sell in its Fine Wine and Good Spirits stores, and BBQ sauce is not one of those items. Thus, consumers would need to redeem the rebate coupons with other retailers who are not licensed to sell wine for off-premises consumption.

Finally, please note that all advertisements of alcoholic beverages in Pennsylvania must comply with the requirements set forth in section 498 of the Liquor Code, 47 P.S. § 4-498.

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.

Sincerely,



RODRIGO J. DIAZ  
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement  
Dale Horst, Director, Marketing and Merchandising  
Stacy Kriedeman, Director, Marketing Communications  
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 16-135