

July 22, 2016

Janis Carlow
Assistant to Mike Guldin
Vice President, Off Premise
Lantern Division
Southern Wine & Spirits
VIA E-MAIL

RE: Beam-Suntory Sauza® Summer Pitcher Merchandise Offer

Dear Ms. Carlow:

ISSUE: This correspondence is in response to your e-mail of June 29, 2016, in which you seek legal review of a mail-in merchandise offer to be conducted in Pennsylvania.

Through the promotion, consumers who purchase one 750ml or larger bottle of any Sauza® Tequila may either go to www.inmaroffers.com/sauza to complete the online form and submit the required proof of purchase, or may complete a printable order form and submit with the required proof of purchase to the designated mailing address in order to receive a Sauza® Pitcher. The promotion is scheduled to run from July 15 through September 15, 2016, and is only open to individuals who are at least twenty-one 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, there is an exception to this general prohibition which allows the offering or giving of “advertising novelties of nominal value.” Id. “Advertising novelties of nominal value” is defined as items that have a wholesale cost of \$15.00 or less and contain advertising material. 47 P.S. § 4-493(24)(i); 40 Pa. Code § 13.52; Board Advisory Notice No. 10. Advertising novelties typically consist of items such as matches, disposable lighters, bottle or can openers, t-shirts, caps, corkscrews, pens, or pamphlets. Advertising novelty giveaways may or may not be conditioned on the purchase of an alcoholic beverage. Id.

This office has reviewed the proposed rebate offer and has determined that it comports with applicable liquor laws and regulations, specifically subsection 493(24)(i) of the Liquor Code. 47 P.S. § 4-493(24)(i). Please note that although there is a purchase requirement, based on the information you provided, the promotion could also fall under the aforementioned exception for advertising novelties of nominal value so long as the pitchers have a wholesale cost of \$15.00 or less and bears advertising material.

Therefore, it would be permissible to conduct the promotion in Pennsylvania in reference to the areas 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.

Please be advised that prior approval of malt or brewed beverages POS material and prior approval of retail licensed premises POS material are no longer required. However, the requirement for prior approval of POS material intended for use in the Board's wine and 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).

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
Charles Mooney, Chief Operating Officer
Dale Horst, Director of Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection