

January 30, 2017

Morgan Stefan  
**VIA E-MAIL**

**RE: Mug Club Questions**

Dear Ms. Stefan:

ISSUE: This correspondence is in response to your e-mail dated January 19, 2017, wherein you indicate that you are the bar manager for Cigars International, which is in the beginning stages of forming a mug club. You further indicate that you would like to use a “point system” for mug club members in which the member would accrue points with every purchase and/or visit that they could eventually “cash in.” You inquire, under the “new laws,” can a member receive points for alcoholic purchases and if so, can the member cash them in for the purchase of alcohol. It is assumed for purposes of this response that the “new laws” to which you are referring are Act 39 of 2016 (“Act 39”), which became effective on August 8, 2016, and Act 166 of 2016, which became effective on January 17, 2017.

Pennsylvania Liquor Control Board (“PLCB”) records indicate that CI Hamburg Superstore Lounge, LLC holds Restaurant Liquor License No. R-17891 (LID 66993) for the premises located at 1635 Mountain Road, Hamburg, Pennsylvania.

OPINION: It is generally unlawful to give anything of value to induce the purchase of alcoholic beverages. 47 P.S. § 4-493(24). However, as you seem to be aware, Act 39 amended the Liquor Code to permit retail licensees and breweries to offer a mug club to their patrons and made mug clubs an exception to the prohibition on unlawful inducements. 47 P.S. § 4-493(24)(iii).

Act 39 originally defined a “mug club” as a group organized by a retail licensee or a brewery whose members are entitled to discounted malt or brewed beverages. Membership in the mug club shall be by written application and the licensee must maintain a written list of active members as part of its records. Members shall pay an annual fee, as well as a renewal fee as set by licensee. Membership shall, at a minimum, entitle the member to a mug, glass or similar container, and said container must be used when the member is served any discounted malt or brewed beverages. No discounted malt or brewed beverages may be provided between 12:00 a.m. and 7:00 a.m. 47 P.S. § 1-102.

Act 166 subsequently amended the definition of a mug club to remove the requirement that every member of a mug club be provided a mug or similar container to be used when purchasing alcohol, and made the mug club annual fee and renewal fee optional at the discretion of the licensee. 47 P.S. § 1-102.

Mug clubs are an exception to the prohibition on inducements. 47 P.S. § 4-493(24)(iii). Section 493(24)(i) of the Liquor Code prohibits any licensee of the PLCB, 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 or less. 47 P.S. § 4-493(24)(i). In the past, this office has advised that rewards programs in which points or rewards are given in exchange for purchases of alcohol would be considered an unlawful inducement, unless the rewards are limited to advertising novelties of nominal value. However, since mug clubs are exempt from the prohibition set forth in section 493(24)(i), your proposed mug club could be tied to a “point system” program as described in your e-mail.

Thank you for your inquiry. If you have any further questions or concerns regarding this matter, the Liquor Code, or the PLCB’s Regulations, please do not hesitate to again 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.**

Sincerely,



RODRIGO J. DIAZ  
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement  
Tisha Albert, Director of Regulatory Affairs  
B.L. Peifer, Director, Bureau of Licensing  
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

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