

December 31, 2018

Alexandra Rafferty
Account Executive
Avid Marketing Group
100 Corporate Place, Suite 200
Rocky Hill, CT 06067
VIA E-MAIL

RE: Dogfish Head Bevy of Goodness

Dear Ms. Rafferty:

ISSUE: This correspondence is in response to your e-mail dated December 4, 2018, wherein you request approval, on behalf of Dogfish Head Craft Brewery, LLC, to conduct a digital rebate promotion in Pennsylvania.

According to the rebate information you provided, the promotion offers consumers a \$5.00 digital rebate on the purchase of any prepared food totaling \$10.00 or more.

To participate in the promotion, consumers must make a qualifying purchase of any prepared foods, cheese, deli foods, meat/butcher foods, seafood, or produce, totaling \$10.00 or more. There are three ways to redeem the offer. To redeem the offer via text message, consumers must submit a redemption request by texting "DOGFISH" to shortcode 55755. It appears that consumers will then be sent a link to a website wherein consumers must take a photo of their receipt and submit it through the website. To redeem the offer by mail, consumers are required to submit the required information, along with the receipt, to the designated address. Finally, consumers can redeem the offer by visiting www.dogfishbevyofgoodness.com to complete the redemption process. Once the purchase is verified, the \$5.00 rebate will be sent via PayPal or be mailed to mail-in participants to the address designated. The terms and conditions state that no alcohol purchase is necessary to redeem the rebate, and the offer is limited to one per household, name, or address. The promotion is only available to consumers in select states, including Pennsylvania, who are at least twenty-one years of age at the time of purchase. The rebate promotion is valid from January 1, 2019 until December 31, 2019.

OPINION: Section 493(24)(i) of the Liquor Code generally prohibits licensees from offering anything of value to induce the purchase of alcoholic beverages. 47 P.S. § 4-493(24)(i). Although section 493(24)(i) provides an exception for manufacturers and agents of manufacturers to offer monetary rebates on purchases of wine and spirits through the Pennsylvania Liquor Control Board's ("PLCB") Fine Wine & Good Spirits stores or purchases of malt or brewed beverages through distributors and importing distributors, there is no exception allowing coupons offering discounts on non-alcoholic products. Therefore, if a promotion requires a consumer to purchase alcohol in order to receive a discount on a non-alcoholic product, it would be an unlawful inducement under section 493(24)(i). However, if no purchase is required to obtain the coupon, then such a promotion is not subject to the Liquor Code's inducement prohibition.

In this case, the promotion makes clear to consumers that, in Pennsylvania, no alcohol purchase is necessary to obtain or access the coupon. Therefore, the promotion would not be prohibited under the Liquor Code because section 493(24)(i) would not apply.

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

LCB Advisory Opinion No. 18-463