

January 4, 2019

Adam Reeder
VIA EMAIL

RE: Signage

Dear Mr. Reeder:

ISSUE: This office is in receipt of your e-mail correspondence of October 11, 2018, wherein you ask several questions regarding indoor and outdoor signage on a licensed premises. General guidance and answers to your specific questions are provided below.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Universal Projects, Inc. holds Importing Distributor License No. ID-720 (LID 23446) for the premises located at 100 Mifflin Drive, Wrightsville, Pennsylvania.

OPINION: As a threshold matter, since you are engaged in a significant commercial enterprise in a highly regulated area, you are strongly encouraged to seek private counsel experienced in Pennsylvania liquor law.

Section 498 of the Liquor Code states that all in-state and out-of-state manufacturers, wholesalers, retailers, shippers, and PLCB licensees are permitted to advertise their products and prices in Pennsylvania, subject to certain conditions. 47 P.S. § 4-498. An “advertisement” is defined as any advertising of alcoholic beverages by radio or television broadcast, newspapers, periodicals or other publications, outdoor advertisement, any form of electronic transmission, including the Internet or text messaging, or any other printed or graphic matter, including booklets, flyers or cards, or on the product label or attachment itself. 47 P.S. § 4-498(g).

Please note that only advertisements that reference alcoholic beverages, their availability, or their prices, are regulated by the Liquor Code. Any advertisements or message of a licensee that does not refer to alcoholic beverages, the availability of such, or the price of alcoholic beverages are not considered advertisements for

purposes of the Liquor Code and, therefore, are not subject to the conditions found therein.

All alcohol advertising is subject to the following conditions: (1) the entity responsible for the advertisement must be clearly identified on the advertisement; (2) the advertisement cannot be obscene; (3) the advertisement cannot be inconsistent with the spirit or safety or safe driving programs; and (4) the advertisement cannot be directed to minors. 47 P.S. § 4-498. Furthermore, no advertisement of price may contain any statement that is false, deceptive or misleading, any statement that is disparaging of the products of a competitor, or any statement referring to the monetary comparison between brands. 47 P.S. § 4-498(b). Prices that are advertised or displayed on the licensed premises must be those that are in effect at the time of the advertisement. 47 P.S. § 4-498(c).

1. Must the listing of the alcohol by volume (“ABV”) be on the sign?

The ABV does not have to be displayed on the sign.

2. Does the importing distributor name have to appear on the advertisement?

According to the Liquor Code, the entity responsible for the advertisement must be clearly identified in the advertisement. 47 P.S. § 4-498(e)(1). Additionally, manufacturers and importing distributors of malt or brewed beverages may include the names and addresses of all distributors and importing distributors to whom they sell in the locality covered by the advertising. 40 Pa. Code § 13.41. However, no discrimination may be shown to one distributor or importing distributor over another. Id. Where one distributor or importing distributor purchases the products from the manufacturer or importing distributor in the area covered by the advertisement, the names and addresses of all who purchase the product directly from the advertiser must be displayed or mentioned in equal prominence. Id. Where this is not done, none may be displayed or mentioned. Id.

3. Is there a limitation on the size of an indoor or outdoor sign?

Advertisements of alcoholic beverages placed inside a licensed premises are subject to a number of restrictions, one of which is size. 47 P.S. § 4-493(20)(i) (emphasis added). The maximum size for indoor sign advertising alcoholic beverages is 600 square inches if placed in a window or door display. Id. Please note that although this section of the Liquor Code refers to retail licensees, it has historically been

applied to distributors and importing distributors as well. If the advertisements are meant to be inside the premises, but not in a window or doorway, the size restriction does not apply. Additionally, 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).

Advertisements located outside of the importing distributorship are not subject to a size and cost restriction but cannot be placed within 300 feet of any church, school, or public playground. 47 P.S. § 4-498(e)(3).

For more information on restrictions on alcoholic beverage advertising in Pennsylvania it is recommended you review Advisory Notice No. 15 found on the PLCB public website <https://www.lcb.pa.gov/Legal/Pages/Advisory-Notices.aspx>. Additionally, you may want to review the sections in the Liquor Code and PLCB Regulations referenced above.

Please do not hesitate to contact this office should you have any additional questions.

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, Office of Regulatory Affairs
B.L. Peifer, Director, Bureau of Licensing

LCB Advisory Opinion No. 18-481