



October 2, 2020

Vincent LaBella
Area Manager Pennsylvania, Jägermeister

VIA E-MAIL

RE: Glassware Questions

Dear Mr. LaBella:

ISSUE: This is in response to your e-mail of February 27, 2020, in which you ask about providing consumers with glassware and provide certain scenarios that you would be interested in pursuing. The scenarios will be outlined along with the answers below.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Jägermeister holds Vendor Permit No. VP-349 and Sales Permit License SP-420 for the premises located at 10 Bank Street, Suite 900, White Plains, New York.

OPINION: From your e-mail you are aware that 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 \$15.00 or less. 47 P.S. § 4-493(24)(i); 40 Pa. Code § 13.52; Advisory Notice No. 10 (8th Edition).

With the first scenario you mention, either “buy a beer get a pint glass,” or “buy a vodka mule and get the mule mug,” could be considered an inducement to purchase alcohol. However, if the glassware costs less than \$15.00, is sold to the licensee “at not less than cost” 47 P.S. § 4-493(17), and passed to the consumer, this would be in compliance with the above referenced statutes, the PLCB’s Regulations, and Advisory Notice No. 10 (8th Edition). Furthermore, there is nothing in the Liquor Code, the PLCB’s Regulations, or Advisory Notice No. 10 (8th Edition) that dictates your presence on the licensee’s property for this type of promotion.

The second scenario you mention is that the glassware would be on “a menu of some sort” and that the licensee “would have enough of the glassware to supply anyone who asks for it.” With this scenario, there is nothing to indicate that providing the glassware is predicated on buying either your alcohol or any other brand/type of alcohol.

With regard to the sale of equipment by licensees of the PLCB, section 493(17) of the Liquor Code provides that it shall be unlawful:

For any licensee, or any officer, director, stockholder, servant, agent or employe of any licensee, to own any interest, directly or indirectly, in or be employed or engaged in any business which involves the manufacture or sale of any equipment, furnishings or fixtures to any hotel, restaurant or club licensees, or to any importing distributors, distributors or retail dispensers. Notwithstanding any other provision of this section or this act, licensees may sell glasses at not less than cost and to provide metal keg connectors and tap knobs to other licensees and to holders of special occasion permits.

47 P.S. § 4-493(17).

Therefore, you must sell the glasses to the licensee at no less than cost prior to the give-a-way.

You also mention a promotion wherein you would give the glassware to the consumers yourself. Please note that if you choose this scenario, the glassware must have a value of \$15.00 or less and must contain advertising material in order to be in compliance with 47 P.S. § 4-493(24)(i).

Thank you for your inquiry. Please accept our apology for the delayed response, which was caused by the public health emergency.

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

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BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Sincerely,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

RODRIGO J. DIAZ
CHIEF COUNSEL

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

LCB Advisory Opinion No. 20-223