

June 7, 1999  
Cristopher C. Hoel  
SCHNADER HARRISON SEGAL & LEWIS  
Suite 2700  
Fifth Avenue Place  
125<sup>th</sup> Fifth Avenue  
Pittsburgh, Pennsylvania 15222-3010

**RE: Coors Brewing Company 1999 Summer Promotion Incentive Program**

Dear Mr. Hoel:

**ISSUE:** In your letter dated May 21, 1999, as previously discussed with this office, you ask whether a malt beverage manufacturer may conduct a comprehensive promotion consisting of a number of consumer sweepstakes and other offers along with a series of distributor incentive programs in Pennsylvania. The value of the consumer sweepstakes, novelty items and rebates for all the programs combined in 1999 is approximately \$1,115,000.00. The distributor incentive program would provide all Pennsylvania distributors a chance to enter regional sweepstakes within the state if they participate in the consumer programs and meet the display requirements. The total prizes to be given to distributors is \$257,000.00.

**OPINION:** Manufacturers proposing incentive programs are required to follow the guidelines set forth in Advisory Notice #1. The guidelines state that approval will not be granted to any point-of-sale incentive program providing a gift or prize to every licensed participant or where the incentive to participate is substantial. In this promotion, there are numerous random drawings throughout Pennsylvania broken up into six regions involving twenty-five total prizes or \$257,000.00. Therefore, the incentive to participate for any individual licensee is not substantial as, if they qualify, they can enter to win one of between 2 and 10 prizes, depending on the region.

Advisory Notice No. 1 also requires that point-of-sale incentive programs running simultaneously with the distributor incentive programs must be aimed primarily at consumers. In this case, the total of the various manufacturer sweepstakes, novelty and rebate programs directed to consumers, far outweighs the amount for prizes given away to distributors by approximately four to one. Therefore, this comprehensive promotion is directed primarily at consumers.

Finally, point-of-sale incentive programs involving a payment to licensees based on the number of cases displayed will not be approved. The distributor incentive program requires the distributor to display a certain number of Coors products with the appropriate point-of-sale materials to obtain an

entry into the sweepstakes each week that it runs. As the incentive to participate is not substantial and the distributor only obtains an entry in a random drawing involving a number of distributors in each region, this does not constitute payment to the licensee for display of the manufacturer's products. The incentive program as proposed is therefore approved subject to approval of all the individual elements of the consumer sweepstakes by the Board.

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.

Very truly yours,

FAITH S. DIEHL  
CHIEF COUNSEL

cc: Bureau of Liquor Control Enforcement,  
Pennsylvania State Police

Refer to: (717) 783-9454  
FAX: (717) 787-8820

LCB Advisory Opinion No. 99-213