

June 21, 1999

Karen K. Manders
Associate General Counsel
ANHEUSER-BUSCH COMPANIES, INC.
One Busch Place
St. Louis, MO 63118-1852

RE: Packaging Beer with Glassware for Consumer Buyers

Dear Ms. Manders:

ISSUE: This is a response to your letter dated June 3, 1999 to this office in which you request an opinion as to the legality of producing a special, limited edition 1.375 liter (46.5 oz.) bottle of Budweiser beer. The bottle will be designed with special graphics and will be packaged in a special gift box containing unique glassware. The cost of the glassware does not exceed \$15.00 and will be included in the cost of the entire package. Wholesalers will receive the gift box already assembled. It will be packaged for sale to Pennsylvania wholesalers in a case containing at least 12 gift boxes.

OPINION: Section 493(24) of the Liquor Code [47 P.S. Section 4-493(24)] prohibits a manufacturer from offering or giving to trade or consumer buyers any prize, premium, gift or other inducement to purchase malt or brewed beverages, except advertising novelties with a wholesale cost of \$15.00 or less. PLCB Advisory Notice No. 10 (Fourth Revision) restricts advertising novelties to those items that are not considered equipment, pursuant to section 493(17). [47 P.S. Section 4-493(17)]. Glassware has been interpreted by this office to be equipment as between wholesalers and retailers and an advertising novelty as between a manufacturer and wholesaler, and a licensee and consumer buyer. Therefore, packaging the special, limited edition bottle of Budweiser beer with the glassware is permitted: 1) so long as the packages are marketed and ultimately sold by distributors and importing distributors to consumer buyers only; and 2) the glassware has a wholesale value of \$15.00 or less; and 3) consumers purchase in case quantities with each case consisting of at least 12 containers totaling 288 fluid ounces or more of beer. [47 P.S. Section 1-102].

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. 99-222