

July 19, 1999

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David Fuhrer  
President  
Frank B. Fuhrer Wholesale Co.  
3100 East Carson Street  
Pittsburgh, PA 15203-2129

Dear Mr. Fuhrer:

ISSUE: In your letter dated June 25, 1999 you asked whether an importing distributor may offer its licensed customers a 50 cent per case price reduction for 30 days on the condition that the purchaser agrees to match the decrease when selling the product to the consumer. You also asked whether such a promotion must be offered to all of the importing distributor's customers or whether it can be offered to those who agree to participate.

OPINION: As stated in the Pennsylvania Liquor Control Board's Advisory Notice No. 11 (Third Revision) dated March 30, 1999, a copy of which is enclosed, prices of malt beverages can be reduced and/or raised at any time. There are no limitations on such a promotion as proposed in the Liquor Code or the Board's Regulations. However, you should obtain advice on whether such a pricing program violates the federal antitrust laws or other state laws which may apply to your practices.

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

LCB Advisory Opinion No. 99-254