

August 19, 1999

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Michelle M. Rabe
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Anheuser-Busch Companies
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Dear Ms. Rabe:

ISSUE: In your fax dated August 2, 1999, you ask whether a table tent advertising beer and pizza may be used by retail licensees as point-of-sale material. The table tent costs \$6.50, states the name of the retailer and offers a pizza, salad and beverage for one price.

OPINION: Section 493(20)(i) allows manufacturer-provided point-of-sale material on licensed premises as long as the cost of such advertising does not exceed \$300.00 per brand at one time. [47 P.S. Section 4-493(20)(i)]. Although the point-of-sale material falls under the dollar cost limitations of the Liquor Code, the offer of a meal combination including beer or wine may pose a problem for the retailer under some circumstances.

If the combination offered includes a discount of food or nonalcoholic beverages, such reductions would be an inducement to purchase alcoholic beverages and a violation of section 493(24) of the Liquor Code. [47 P.S. Section 4-493(24)]. In addition, if the alcoholic beverage component of the combination is a discount from the regular price, then such a discount would need to comply with the Board's 'happy hour' regulation set forth in section 13.102, which limits a discount of alcoholic beverages to a two-hour period in a business day and such offering must end by midnight. [40 Pa. Code Section 13.102]. Since we do not have sufficient information to provide an opinion on the combination offer itself, the point-of-sale material is approved subject to the permissibility of the underlying offer.

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
R. Kaskiel, Special Investigations

LCB Advisory Opinion No. 99-300