



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LIQUOR CONTROL COMMISSION

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In the matter of programs for marketing spirits)
in special or promotional packaging with)
nonalcoholic carbonated beverages)
_____)

At the September 13, 2011 meeting of the Michigan Liquor Control Commission in Lansing, Michigan.

PRESENT: Andrew J. Deloney, Chairman
Teri L. Quimby, Commissioner
Donald B. Weatherspoon, Commissioner

ADMINISTRATIVE ORDER

The Michigan Liquor Control Commission (Commission) has before it the matter of whether or not a program for marketing spirits in special or promotional packaging with nonalcoholic carbonated beverages comply with the Liquor Control Code. Specifically, several vendors of spirits have requested approval of promotional packaging commonly referred to as a “value added package” that would allow certain spirits to be packaged and sold with carbonated nonalcoholic beverages in a single package.

MCL 436.2029 (1) of the Liquor Control Code of 1998 (Code), provides that:

- (1) The Commission, may issue an order to allow the conduct by a manufacturer of a preapproved program for marketing spirits by inclusion of nonalcoholic carbonated beverages to be packaged with spirits.

The Commission has reviewed the applicable statutes and initiated laws, namely the Code, the Commission’s administrative rules, and the Michigan Beverage Containers Initiated Law 1 of 1976 (Bottle Act) MCL 445.571, et seq. The Commission concludes that a program for marketing spirits in special or promotional packaging with nonalcoholic carbonated

beverages is permissible and is approved through a Commission Order.

THEREFORE, IT IS ORDERED that:

- (1) The vendor of spirits shall purchase any nonalcoholic carbonated beverage in a returnable container from a nonalcoholic beverage manufacturer or distributor located within the state of Michigan which shall clearly indicate the refund value of the container and the name of this state.
- (2) The vendor of spirits shall pay to the nonalcoholic beverage manufacturer or distributor located within the state of Michigan the purchase price of the nonalcoholic carbonated beverage and a deposit of at least 10 cents per returnable container, as that term is defined under the Bottle Act, MCL 445.571 et seq.
- (3) The vendor of spirits shall maintain, for a period of four years, records of verification of payment for all nonalcoholic carbonated beverages in refundable containers purchased from the nonalcoholic beverage manufacturer or distributor located within the state of Michigan and verification of payment of the required deposit of at least 10 cents for all of the nonalcoholic carbonated beverage containers purchased and used in the value added package.
- (4) Upon written approval by the Commission, a vendor of spirits shall be permitted to place a nonalcoholic carbonated beverage in a returnable container in a value added package that also contains a bottle of spirits. The retailer assumes the responsibility of completing the returnable/redemption cycle with their carbonated beverage distributor and consumer.

- (5) Consistent with MCL 436.2029(1) of the Code, the Commission shall set the minimum retail price of the bottle of spirits contained in the value added package. As defined by the Bottle Act, neither the Commission, nor the Authorized Distribution Agent (ADA), is a distributor purchasing, selling, or manufacturing the carbonated nonalcoholic beverage. The Vendor of Spirits is solely responsible for buying the carbonated nonalcoholic beverage from the respective manufacturer. The Vendor of Spirits will furnish to the Commission the already purchased carbonated nonalcoholic beverage packaged with the bottle of spirits in the value added package.
- (6) The nonalcoholic beverage manufacturer or distributor located within the state of Michigan shall be considered to have originated the required deposit on the returnable container in the value added package and shall be solely responsible for filing the report required by the Michigan department of treasury under MCL 445.573a.

MICHIGAN LIQUOR CONTROL COMMISSION

Andrew J. Deloney, Chairman

Teri L. Quimby, Commissioner

Donald B. Weatherspoon, Commissioner

By its action of September 13, 2011