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State of Louisiana  
DEPARTMENT OF JUSTICE  
P.O. BOX 94005  
BATON ROUGE  
70804-9005

June 25, 2009  
OPINION 09-0135

Honorable Jeffery J. Arnold  
State Representative  
District 102  
3520 Gen. DeGaulle Drive  
Suite 3071  
New Orleans, LA 70114

55-C INTOXICATING LIQUORS - POWER TO CONTROL &  
VALIDITY OF REGULATION

La. R.S. 26:287(A)(12)

State law prohibits a beer wholesaler from offering price discounts to retail dealers based upon the volume of beer purchased by the retailer or volume of sales made by the retailer to the public.

Dear Representative Arnold:

You have asked this office to advise whether a wholesale dealer of beverages of low alcoholic content (beer) may give a price discount to a retailer based upon the volume of beer purchased or sold by that retailer. Our research reflects a statutory ban upon such price discounts under La. R.S. 26:287(A)(12) providing:

A. In addition to any other causes enumerated in this Chapter, the commissioner may suspend or revoke any permit for any of the following causes:

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(12) If any wholesaler participates in any marketing or catalog program offering prizes or credits or anything of value to a retail dealer based on volume of purchases from the wholesale dealer or volume of sales to the public. Nothing in this Paragraph shall be construed to prohibit those marketing or catalog programs sponsored by breweries through retail dealers offering prizes or credits or anything of value to the public nor those price promotional sales conducted as a business incentive.

La. R.S. 26:287(A)(12) authorizes the Commissioner of the Office of Alcohol and Tobacco Control to revoke a beer wholesaler's permit where such wholesaler offers "anything of value to a retail dealer based on volume of purchases from the wholesale dealer or volume of sales to the public." The banning of such price discounts has been held to be a valid exercise of the police power of the state to regulate the sale of alcoholic beverages (which include beverages of low alcoholic content, e.g., beer). See *Manuel vs. State Office of Alcohol and*

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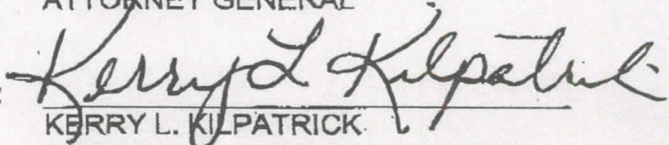
*Tobacco Control*, 2007-1620 (La. App. 3 Cir. 4/30/08), 982 So.2d 316, writ denied, 2008-1061 (La. 8/29/08) 989 So.2d 107.

We hope the foregoing is helpful to you. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,

JAMES D. "BUDDY" CALDWELL  
ATTORNEY GENERAL

BY:

  
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KLK:arg

cc: Mr. Murphy J. Painter, Commissioner  
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