July 31, 2013

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Jessica Fike
Licensing Assistant
North American Breweries
50 Fountain Plaza, Suite 900
Buffalo, NY 14202

RE: Labatt Blue Pittsburgh Penguins Hockey Toque Offer

Dear Ms. Fike:

ISSUE: This correspondence is in response to your e-mail and attached letter sent July 25, 2013, in which you request approval, on behalf of Labatt USA Operating Co. LLC, to conduct a winter in-pack promotion in Pennsylvania. Through the promotion, consumers can receive a Pittsburgh Penguins hockey toque bearing the logo of the Pittsburgh Penguins by purchasing specially-marked cartons containing twenty-eight (28) bottles (having a volume of eleven and one-half ounces (11.5 oz) each) of Labatt Blue or Labatt Blue Light. Each specially-marked carton will contain one (1) hockey toque. The average wholesale value of each hockey toque is one dollar and seventy-six cents ($1.76).

OPINION**:** Generally, the Liquor Code prohibits providing anything of value as an inducement to purchase alcohol. [47 P.S. § 4-493(24)]. However, there is an exception to this general prohibition which allows the offering of advertising novelties, such as matches, disposable lighters, bottle or can openers, t-shirts, caps, corkscrews, and pens and pamphlets, of nominal value. [Id.] The Board has defined advertising novelties of nominal value as items that have a wholesale cost of fifteen dollars ($15.00) or less and contain advertising material. [40 Pa. Code § 13.52; Board Advisory Notice No. 10 (6th Revision)]. Such advertising novelty giveaways may or may not be conditioned on the purchase of an alcoholic beverage.

This office has reviewed your proposed promotion, as described above, and determined that it satisfies the exception for advertising novelties of nominal value, as long as the Pittsburgh Penguins hockey toque being offered also contains advertising material for Labatt Blue or Labatt Blue Light.

Please be advised that, under the current three (3)-tier distribution system in Pennsylvania, only licensed manufacturers, importing distributors, and distributors are permitted to sell malt or brewed beverages in case quantities. [47 P.S. §§ 4-431, 4-440, 4-442]. A "case" is defined as a package prepared by the manufacturer for sale or distribution of twelve (12) or more original containers totaling two hundred sixty-four (264) or more fluid ounces of malt or brewed beverages, excepting those packages containing twenty-four (24) or more original containers each holding seven (7) fluid ounces or more. [47 P.S. § 1-102]. Therefore, since you are planning to offer the hockey toque in specially-marked cartons containing twenty-eight (28) bottles (having a volume of eleven and one half ounces (11.5 oz) each) of Labatt Blue or Labatt Blue Light, which meets the definition of a "case" under the Liquor Code, it is only permissible to conduct your proposed promotion in the Commonwealth in reference to the areas checked below:

___ retail licensed premises.

_X_ distributor licensed premises.

___ both retail and distributor licensed premises.

___ the Board's wine and spirit stores, subject to approval of the Bureau of Product Selection.

___ other – Internet, text messaging.

Please be advised that prior approval of malt or brewed beverages point-of-sale ("POS") material and prior approval of retail licensed premises POS material are no longer required. However, the requirement for prior approval of POS material intended for use in the Board's wine and spirits stores from the Bureau of Product Selection remains. The total cost of all POS advertising material relating to any one (1) brand of any one (1) manufacturer at any one (1) time may not exceed three hundred dollars ($300.00) on a retail licensed premises. [47 P.S. § 4-493(20)(i)].

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: Pennsylvania State Police, Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 13-351