

August 1, 2013

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The Boston Beer Company  
One Design Center Place, Suite 850  
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**RE: Angry Orchard® Take a Bite Out of Italy Sweepstakes**

Dear Ms. Shustack:

ISSUE: This correspondence is in response to your letter of July 24, 2013, in which you request approval to run a sweepstakes promotion in Pennsylvania.

According to the official rules you provided, the “Angry Orchard® Take a Bite Out of Italy Sweepstakes” promotion is scheduled to run from September 1, 2013, until November 30, 2013. Consumers may participate via text message or via e-mail to [officialrules@angryorchard.com](mailto:officialrules@angryorchard.com). All entrants will receive a coupon code for an Angry Orchard t-shirt with an approximate retail value of twelve dollars (\$12.00). One (1) grand prize winner will be randomly selected to receive a “Bike Tour of Italy” including round-trip airfare, hotel accommodations for five (5) nights, and ground transportation. Alcoholic beverages will not be part of the prize. The promotion is limited to legal residents of the United States twenty-one (21) years of age or older, and no purchase is necessary to enter.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board’s (“Board”) Regulations states that a manufacturer or licensee may sponsor sweepstakes promotions subject to the following conditions:

- i. No purchase is necessary to enter.
- ii. Entrants shall be twenty-one (21) years of age or older.

- iii. Retail licensed premises may only be involved as pick-up or drop-off points for entry forms and not for the conducting of drawings or the awarding of prizes.
- iv. Alcoholic beverages may not be part of the prize.

[40 Pa. Code § 5.32(h)].

In addition, the Liquor Code prohibits any licensee, manufacturer or other person from offering or giving to trade or consumer buyers any prize, premium, gift or other inducement to purchase alcohol. [47 P.S. § 4-493(24)(i)]. However, there is an exception to this general prohibition which allows the offering or giving of “advertising novelties 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 (6<sup>th</sup> Revision)]. [Id.]. Advertising novelties typically consist of items such as matches, disposable lighters, bottle or can openers, t-shirts, caps, corkscrews, pens, or pamphlets. [Id.].

This office has reviewed the promotion as described in the official rules and determined that it comports with applicable liquor laws and regulations, specifically section 493(24)(i) of the Liquor Code and section 5.32(h) of the Board’s Regulations [47 P.S. § 4-493(24)(i); 40 Pa. Code § 5.32(h)].

Therefore, it would be permissible to conduct this promotion in the Commonwealth in reference to the areas checked below:

- retail licensed premises.
- 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 retail licensed premises POS material is 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 Marketing Communications, Branding & Design 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. 13-356