

March 26, 2014

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The Boston Beer Company
One Design Center Place, Suite 850
Boston, MA 02210

RE: Samuel Adams Declare Your Independence Sweepstakes

Dear Ms. Shustack:

ISSUE: This correspondence is in response to your letter of March 20, 2014, in which you request approval to conduct the Samuel Adams Declare Your Independence Sweepstakes in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on May 1, 2014, and runs until July 31, 2014. Interested individuals may enter the sweepstakes by texting an official entry code found in store on point-of-sale (“POS”) cardboard signs, packaging material, cooler stickers or other official entry code communication on sweepstakes-related advertising materials at participating retailer locations to “30364” using a wireless, SMS-capable phone, or by e-mailing an official entry code to Official.Rules@samueladams.com during the sweepstakes period. There is a limit of one (1) entry per person, regardless of the method of entry.

One (1) grand prize and four (4) first prizes will be awarded for the sweepstakes. The winners will be selected in a random drawing, to be conducted on or about August 4, 2014, from among all eligible entries received during the sweepstakes period. The grand prize winner will receive a trailer having an approximate retail value of up to sixty thousand dollars (\$60,000.00). Each first prize winner will receive a JetBlue travel certificate having an approximate retail value of two hundred ninety-nine dollars (\$299.00).

The sweepstakes is open only to legal residents of the United States who are at least twenty-one (21) years of age at the time of entry. No purchase is necessary to enter or win the sweepstakes.

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)].

This office has reviewed the proposed sweepstakes 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)], and is permissible for use in the Commonwealth as long as no alcoholic beverages are awarded as part of the prizes.

Although your letter indicates that "[u]nder no circumstances will an alcohol product be awarded as a prize," there does not appear to be any language to that effect set forth in the "Official Rules" that were provided.

Please be advised that prior approval of malt or brewed beverages 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 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)].

Therefore, as long as no alcoholic beverages are awarded as part of the prizes, it would be permissible to conduct the proposed sweepstakes promotion in the Commonwealth in reference to the areas checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises (POS only).
- the Board's wine and spirit stores, subject to approval of the Bureau of Product Selection.
- other – Internet, text messaging.

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. 14-103