

April 9, 2014

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E: Four Loko Summer of Music Sweepstakes

Dear Ms. Carruth:

ISSUE: This correspondence is in response to your e-mail of April 2, 2013, in which you request approval on behalf of Phusion Projects, LLC, to conduct a sweepstakes promotion in Pennsylvania.

According to the official rules you provided, the “Four Loko Summer of Music Sweepstakes” promotion is scheduled to run from May 1 through July 4, 2014. Consumers may participate online at the promotional Facebook page or via text message. A third party will randomly selected three (3) entrants to each receive a prize. The first prize winner will receive four (4) tickets to Rock the South in Cullman, Alabama, and hotel accommodations for two (2) nights. The second prize winner will receive four (4) tickets to the Forecastle Festival in Louisville, Kentucky, and hotel accommodations for one (1) night. The third prize winner will receive four (4) tickets to the Summer Sweet Music and Camping Festival in Somerset, Wisconsin, and one (1) parking space in the VIP camping ground near the festival. The promotion is open only to legal residents of the United States who are 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)].

This office has reviewed the proposed promotion and has determined that it comports with applicable liquor laws and regulations, specifically subsection 493(24) of the Liquor Code [47 P.S. § 4-493(24)] and section 5.32(h) of the Board's Regulations [40 Pa. Code § 5.32(h)], and is acceptable for use in this Commonwealth, as long as alcoholic beverages are not included in any prize.

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

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.
- the Board's wine and spirits 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. 14-130