

May 6, 2014

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Nicole Elling
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RE: Twisted Tailgating Contest

Dear Ms. Elling:

ISSUE: This correspondence is in response to your e-mail and letter dated April 23, 2014, wherein you request approval to run a contest promotion in Pennsylvania.

According to the official rules you provided, the “Twisted Tailgating Contest” promotion is scheduled to run from July 1 through October 31, 2014. Consumers may participate by submitting an original photograph online via Facebook or Instagram and following the instructions to complete entry. A panel of judges will select four (4) entrants to each receive the grand prize of two (2) tickets to a regular season professional football game of the winner’s choice, two (2) team tailgate chairs, a team cooler, a team pop-up tent, and a portable tailgate grill. The promotion is limited to legal U.S. residents 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 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)], assuming 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 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
Dale Horst, Interim Director of Marketing
Pamela Bernd, Bureau of Product Selection
Michelle Bonsick, Bureau of Marketing Communications,
Branding & Design

LCB Advisory Opinion No. 14-191