

July 9, 2014

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

RE: Labatt Hockey Toque Pack-in Offer

Dear Ms. Fike:

ISSUE: This correspondence is in response to your letter of June 25, 2014, in which you request approval to conduct a winter in-pack promotion in Pennsylvania. The promotion will offer consumers a hockey toque bearing the logo of Labatt Blue with the purchase of 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) toque. The average wholesale value of each toque is one dollar and fifty-eight cents (\$1.58).

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)]. Advertising novelty giveaways may or may not be conditioned on the purchase of an alcoholic beverage.

Therefore, your proposed promotion, as described above, satisfies the exception for advertising novelties of nominal value and is acceptable for use in Pennsylvania.

Please note that under the 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 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.
- 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

LCB Advisory Opinion No. 14-406