

July 22, 2014

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Mary A. Monahan  
Marketing Assistant  
Excelsior Wine & Spirits  
1111 Cedar Swamp Road  
Old Brookville, NY 11545

**RE: Legendary Halloween Costume Contest**

Dear Ms. Monahan:

ISSUE: This correspondence is in response to your letter dated July 15, 2014, in which you request legal review of a proposed contest promotion to be conducted in Pennsylvania, sponsored by Excelsior Wine and Spirits.

According to the official rules you provided, the “Casillero del Diablo ‘Legendary Halloween Costume’ Contest” promotion is scheduled to run from October 1 through November 9, 2014. Consumers may participate online via the promotional Facebook page. A panel of judges will select one (1) entrant to receive the grand prize of a Canon Rebel Digital SLR Camera or a camera of equivalent price. In addition, one (1) second prize winner will be selected to receive a “Demented Animated Fog Creature, a fog machine, and one bottle of fog machine fluid from Spirit Halloween.” The promotion is open only 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 proposed promotion and has determined that it comports with applicable liquor laws and regulations, specifically subsection 493(24) of the Liquor Code and section 5.32(h) of the Board's Regulations [47 P.S. § 4-493(24); 40 Pa. Code § 5.32(h)] and is acceptable for use in this Commonwealth.

Therefore, it would be permissible to conduct the 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 spirits stores, subject to approval of the Bureau of Product Management.
- 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 and Merchandising  
Michelle Bonsick, Director, Bureau of Marketing Communications,  
Branding & Design  
Pamela Bernd, Product Selection

LCB Advisory Opinion No. 14-433