

May 14, 2015

Joe Quagliaroli
Account Coordinator
Avid Marketing Group

RE: Four Loko LokoPalooza Sweepstakes

Dear Mr. Quagliaroli:

ISSUE: This correspondence is in response to your letter of May 8, 2015, in which you request approval, on behalf of Phusion Projects LLC, to conduct the “Four Loko LokoPalooza Sweepstakes” in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to begin on May 30, 2015, and runs until June 30, 2015. There are three (3) different segments to the sweepstakes, but only the national segment would be applicable to Pennsylvania. The national segment of the sweepstakes is open to legal residents of the United States or the District of Columbia who are twenty-one (21) years of age or older at the time of entry. No purchase is necessary to enter or win the sweepstakes.

Interested individuals may enter the national segment of the sweepstakes by texting “LOKOPALOOZA” to “839863.” Alternatively, interested individuals may enter the sweepstakes by visiting www.facebook.com/fourloko and following the instructions to complete and submit an entry. There is a limit of one (1) entry per person, regardless of the method of entry.

Two (2) grand prizes will be awarded for the national segment of the sweepstakes. The winners will be selected in a random drawing to be conducted on or about July 6, 2015. Each grand prize winner will receive a trip for (2) people to attend the Lollapalooza Music Festival in Chicago, Illinois, from July 31, 2015 to August 2, 2015. The trip includes the following: three (3)-day passes for the winner and one (1) guest to the music festival; round trip coach air transportation from the major airport nearest the winner’s home to Chicago, Illinois; hotel accommodations for three (3) days and two (2) nights; round trip ground transportation to/from the airport and hotel; and one (1) two hundred fifty dollar (\$250.00) Visa gift card for the winner. The approximate retail value of each grand prize is three thousand, three hundred ninety-nine dollars (\$3,399.00). The winners’ guests must be twenty-one (21) years of age or older.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board's ("Board") Regulations states that a manufacturer, a manufacturer's representative, or a 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 above and determined that it comports with applicable liquor laws and regulations, specifically section 493(24)(i) of the Liquor Code [47 P.S. § 4-493(24)(i)] and section 5.32(h) of the Board's Regulations [40 Pa. Code § 5.32(h)], as long as no alcoholic beverages are awarded as part of the grand prizes.

Please be advised that to the extent that any part of the trips being awarded as the grand prizes will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winners and/or their guests, this would be construed as awarding alcoholic beverages as part of the prizes and is not permitted.

Furthermore, please be advised that prior approval of malt or brewed beverages point-of-sale ("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 grand prizes, it is 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.
- the Board's wine and spirits stores, subject to approval of the Bureau of Product Selection (POS only).
- 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. 15- 217