

June 1, 2015

Jessica Fenstermaker
Administrative Assistant for Marketing & Retail Sales
Capital Wine & Spirits LLC
129 Hartman Road
North Wales, PA 19454

RE: Viniq Text to Win (Revised) Sweepstakes

Dear Ms. Fenstermaker:

ISSUE: This correspondence is in response to your e-mail received May 19, 2015, in which you request legal review of a proposed sweepstakes promotion to be conducted in Pennsylvania. You indicate that the rules have been revised since this office previously reviewed the proposed sweepstakes.

According to the revised rules you provided, the “E. & J. Gallo ‘Viniq Text to Win’ Sweepstakes” promotion is scheduled to run from July 27 through August 23, 2015. Consumers may participate via text message or mail. Four (4) entrants will be randomly selected to each receive the grand prize of a set of Beats headphones. The promotion is open only to Pennsylvania residents of legal drinking age, 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 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)].

Therefore, it would be permissible to conduct this 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
Dale Horst, Director of Marketing and Merchandising
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-238