

June 2, 2015

Jessica Fenstermaker  
Administrative Assistant for Marketing & Retail Sales  
Capital Wine & Spirits LLC  
129 Hartman Road  
North Wales, PA 19454  
**VIA E-MAIL:** [jessica\\_fenstermaker@charmer-sunbelt.com](mailto:jessica_fenstermaker@charmer-sunbelt.com)

**RE: Jack Daniel's Birthday Sweepstakes**

Dear Ms. Fenstermaker:

ISSUE: This correspondence is in response to your e-mail sent May 26, 2015, in which you request approval to conduct the "Jack Daniel's Birthday Sweepstakes" in Pennsylvania.

According to the information you provided, the sweepstakes is scheduled to run from August 24, 2015 through September 27, 2015. Interested individuals may enter the sweepstakes via the Internet by visiting [www.JDbirthdayPA.com](http://www.JDbirthdayPA.com). There is a limit of one (1) entry per household.

A total of twenty (20) prizes will be awarded for the sweepstakes. Each prize winner will receive one (1) Jack Daniel's logoed item. The prizes available include the following: dart board; hard roller suitcase; Beats headphones; premium camping chair; ukulele; cooler; corn hole game; neon sign; and propane grill.

The sweepstakes is open only to Pennsylvania residents who are twenty-one (21) years of age or older. No purchase is necessary to enter or win.

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-of 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)].

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, 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

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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. 15-239