

June 17, 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: Canadian Mist “Summer Grill” Contest**

Dear Ms. Fenstermaker:

ISSUE: This correspondence is in response to your e-mail sent June 10, 2015, wherein you request approval to conduct the Canadian Mist “Summer Grill” Contest in Pennsylvania.

According to the “Official Rules” that you provided, the contest was scheduled to begin on June 1, 2015, and runs until August 31, 2015. Interested individuals may enter the contest by visiting [www.canadianmist.com](http://www.canadianmist.com), completing the onscreen entry form, and uploading an original grilling or barbeque photo. There is a limit of one (1) entry per person.

All eligible entries will be judged based on the quality and appetite appeal of the photo. One (1) grand prize will be awarded for the sweepstakes. The grand prize winner will receive a backyard barbeque for the winner and ten (10) guests at a location of the sponsor’s choice and a grill. The approximate retail value of the grand prize package is five thousand dollars (\$5,000.00).

The contest is open only to legal residents of the United States who are at least twenty-one (21) years of age. 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-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, 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 prize.

Please be advised that to the extent that any part of the grand prize being awarded involves taste testing, sampling, or the provision of alcohol at no additional cost to the grand prize winner and/or his or her guests, this would be construed as awarding alcohol as part of the prize and is not permitted.

Moreover, please be advised that section 13.51(a) of the Board's Regulations provides as follows:

Except as provided herein and in § 13.52 (relating to advertising novelties), no in-State or out-of-State manufacturer, licensee or group of licensees, their servants, agents or employees, may directly or indirectly, in person, individually or through a trade organization, contribute to or accept from another licensee or group of licensees of a different class, their servants, agents or employees or a trade organization of licensees of a different class, anything of value by means of advertisements, contributions, purchase, sale of tickets, donations or by any device, for any purpose.

[40 Pa. Code § 13.51(a)]. Based on this provision, the sponsor would not be permitted to secure any element of the grand prize from a retail license of the Board for free or at a discounted price; rather, the sponsor would need to pay fair market value for the same.

Additionally, 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 alcoholic beverages are not awarded as any part of the grand prize and proper steps are taken to avoid violating section 13.51(a) of the Board's Regulations, it is permissible to conduct the 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 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  
Dale Horst, Director of Marketing and Merchandising  
Joseph Puhalla, Director, Bureau of Product Selection