

July 10, 2015

Nichole D. Shustack  
The Boston Beer Company  
One Design Center Place, Suite 850  
Boston, MA 02210  
**VIA E-MAIL:** [nichole.shustack@bostonbeer.com](mailto:nichole.shustack@bostonbeer.com)

**RE: Samuel Adams Jimmy Kimmel Sweepstakes**

Dear Ms. Shustack:

ISSUE: This correspondence is in response to your letter of July 6, 2015, in which you seek approval to conduct the “Samuel Adams Jimmy Kimmel Sweepstakes” promotion in Pennsylvania.

According to the “Official Rules” that you provided, the sweepstakes is scheduled to start on August 1, 2015, and ends on October 31, 2015. The sweepstakes is open only to legal residents of the United States who are at least twenty-one (21) years of age at the time of entry. No purchase is necessary to enter or win the sweepstakes.

Interested individuals may enter the sweepstakes via text messaging by texting an official entry code found in store on point of sale cardboard signs, packaging material, cooler stickers or other official entry code communication on sweepstakes related advertising materials at participating retailer locations to the short code “30364.” Alternatively, interested individuals may enter by sending an e-mail containing their name, complete mailing address, telephone number, e-mail address, date of birth, and the official entry code “OFEST” to [Official.Rules@samueladams.com](mailto:Official.Rules@samueladams.com). There is a limit of one (1) entry per person, regardless of the method of entry.

Ten (10) grand prizes will be awarded for the sweepstakes. The grand prize winners will be selected in a random drawing to be conducted on or about November 9, 2015. Each grand prize winner will receive a trip for the winner and one (1) guest to Los Angeles, California, to watch an episode of Jimmy Kimmel Live. The trip includes the following: roundtrip, coach class air transportation for the winner and one (1) guest from a major U.S. gateway airport nearest the winner’s residence to Los

Angeles, California; standard hotel accommodations (one (1) room, double occupancy) for two (2) days and one (1) night; tickets to the Jimmy Kimmel show for the winner and a guest; and spending money. The approximate retail value of each grand prize is one thousand dollars (\$1,000.00). The winners and their 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, manufacturer's representative, 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 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 grand prizes being awarded 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 (POS only).
- 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

LCB Advisory Opinion No. 15-288