August 11, 2015

Jessica Fike
Regulatory Compliance Specialist
North American Breweries
50 Fountain Plaza, Suite 900
Buffalo, NY 14202
VIA E-MAIL: jfike@nabreweries.com

RE: Labatt Pittsburgh Penguins Beanie Hat Offer

Dear Ms. Fike:

ISSUE: This correspondence is in response to your e-mail and letter of August 4, 2015, in which you request approval to conduct a Winter/Spring in-pack promotion in Pennsylvania. The promotion will offer consumers a beanie hat bearing the logo of the Pittsburgh Penguins and advertising for Labatt with the purchase of specially-marked cartons containing twenty-eight (28) bottles (having a volume of eleven and one half ounces (11.5oz) each) of Labatt Blue or Labatt Blue Light. Each specially-marked carton will contain one (1) beanie hat. The average wholesale value of each beanie hat is one dollar and ninety-nine cents ($1.99).

OPINION**:** Generally, the Liquor Code prohibits providing anything of value as an inducement to purchase alcohol. [47 P.S. § 4-493(24)]. However, there is an exception to this general prohibition which allows the offering of advertising novelties, such as matches, disposable lighters, bottle or can openers, t-shirts, caps, corkscrews, and pens and pamphlets, of nominal value. [Id.] The Board has defined advertising novelties of nominal value as items that have a wholesale cost of fifteen dollars ($15.00) or less and contain advertising material. [40 Pa. Code § 13.52; Board Advisory Notice No. 10 (6th Revision)]. Advertising novelty giveaways may or may not be conditioned on the purchase of an alcoholic beverage. Here, your proposed promotion, as described above, satisfies the exception for advertising novelties of nominal value and is acceptable for use in Pennsylvania.

Please note, however, that under the three (3)-tier distribution system in Pennsylvania, only licensed manufacturers, importing distributors, and distributors are permitted to sell malt or brewed beverages in case quantities. [47 P.S. §§ 4-431, 4-440, 4-442]. A "case" is defined as a package prepared by the manufacturer for sale or distribution of twelve (12) or more original containers totaling two hundred sixty-four (264) or more

fluid ounces of malt or brewed beverages, excepting those packages containing twenty-four (24) or more original containers each holding seven (7) fluid ounces or more. [47 P.S. § 1-102]. Therefore, since you are planning to offer the beanie hat in specially-marked cartons containing twenty-eight (28) bottles (having a volume of eleven and one half ounces (11.5oz) each) of Labatt Blue or Labatt Blue Light, which meets the definition of a "case" under the Liquor Code, it is only permissible to conduct your proposed promotion in the Commonwealth in reference to the areas checked below:

___ retail licensed premises.

_X_ 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

LCB Advisory Opinion No. 15-336