

August 26, 2015

Donna Young
Distributor Network Administrator–Regulatory Affairs Specialist
Vermont Hard Cider Company, LLC
1321 Exchange Street
Middlebury, VT 05753

RE: Magners® Irish Cider 80th Anniversary Photo Contest

Dear Ms. Young:

ISSUE: This correspondence is in response to your e-mail sent August 19, 2015, wherein you seek approval to conduct the “Magners® Irish Cider 80th Anniversary Photo Contest” promotion in Pennsylvania.

According to the “Official Rules” that you supplied with your e-mail, the contest is scheduled to begin on September 21, 2015, and runs until October 31, 2015. The contest is open only to permanent, legal residents of the United States or the District of Columbia who are at least twenty-one (21) years of age and who have access to the Internet at all times during the contest period. No purchase is necessary to enter or win the contest.

Interested individuals may enter the contest by taking a photo of Magners Irish Cider in a place where they plan to celebrate the 80th Anniversary and then posting their photo via the entry form found at www.usa.magners.com. There is no limit as to the number of entries that may be submitted, as long as each photo is unique.

Thirty-five (35) grand prizes will be awarded for the sweepstakes. The grand prize winners will be selected by the sponsor on or about November 2, 2015, based on the following judging criteria: creativity; originality; and capturing the spirit of the Magners 80th Anniversary. Each grand prize winner will receive the following: one (1) limited edition Magners t-shirt; one (1) limited edition leather can koozie; one (1) limited edition V Rod bottle opener; and one (1) custom Magners pint glass. The approximate retail value of each grand prize is fifty dollars (\$50.00).

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 promotion and determined that it does not comport 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 currently proposed. Although the "Official Rules" that you provided state that no purchase is necessary to enter or win the contest, the requirement to take a photo of Magners Irish Cider in a place where the entrant plans to celebrate the 80th Anniversary seems to imply that a purchase is, in fact, required to participate. Therefore, it would not be permissible to conduct this promotion in Pennsylvania as currently proposed.

However, if the "Official Rules" were modified to make the inclusion of Magners Irish Cider in the photo optional or to otherwise clarify how entrants may participate without purchasing Magners Irish Cider, then 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 (point-of-sale ("POS") only).
- the Board's wine and spirit stores, subject to approval of the Bureau of Product Selection.
- other – Internet, text messaging.

Finally, please be advised that prior approval of malt or brewed beverages 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)].

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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. 15-371