

September 11, 2015

Ryan M. Martin, Esquire
Winston & Strawn LLP
35 W. Wacker Drive
Chicago, IL 60601-9703

RE: Burnett's Vodka Promotion

Dear Mr. Martin:

ISSUE: This correspondence is in response to your e-mail sent August 25, 2015, wherein you seek approval, on behalf of Heaven Hill Distilleries, to conduct the “Burnett’s Vodka Tailgate Champs Photo Contest” in Pennsylvania.

According to the “Official Rules” that you provided, the contest is scheduled to begin on September 15, 2015, and runs until October 29, 2015. Interested individuals may enter the contest by sharing a photo showing how they are having fun tailgating on Instagram with the hashtags #TailgateChamps and #Contest. Interested individuals must be a follower of Burnett’s Vodka Instagram account to enter. There is no limit as to the number of entries each entrant may submit, as long as each entry is unique.

All eligible entries will be judged by a qualified panel of judges based on the following criteria: conveying the #TailgateChamps theme—fifty percent (50%); quality of photo arrangement/visual appeal—thirty percent (30%); and originality—twenty percent (20%). The one (1) entry with the highest total score will be declared the grand prize winner. The fifteen (15) entries with the next highest total scores will be declared the first prize winners.

The grand prize winner will receive a one thousand dollar (\$1,000.00) Visa® pre-paid gift card. Each first prize winner will receive a one hundred dollar (\$100.00) Visa® pre-paid gift card.

The contest is open only to legal residents of the fifty (50) United States or the District of Columbia who are twenty-one (21) years of age or older. No purchase is necessary to enter or win the contest.

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 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)].

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 promotion in the Commonwealth in reference to the areas checked below:

- retail licensed premises.
 distributor licensed premises.
 both retail and distributor licensed premises.

- X the Board's wine and spirits stores, subject to approval of the Bureau of Product Selection (POS only).
- X 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

LCB Advisory Opinion No. 15-393