

October 1, 2015

Jenna Bell
Assistant Account Coordinator
Avid Marketing Group
100 Corporate Place, Suite 200
Rocky Hill, CT 06067
VIA E-MAIL: jbelle@avidinc.com

RE: The Kraken® Ceramic Holiday 2015 Sweepstakes

Dear Ms. Bell:

ISSUE: This correspondence is in response to your e-mail sent September 24, 2015, wherein you seek approval, on behalf of Proximo Spirits, Inc., to conduct “The Kraken® Ceramic Holiday 2015 Sweepstakes” promotion in Pennsylvania.

According to the “Official Rules” that you supplied with your e-mail, the sweepstakes is scheduled to begin on September 30, 2015, and runs until December 31, 2015. Interested individuals may enter the sweepstakes by visiting www.google.com and searching for the secret coordinates of the long-lost ceramic bottles of The Kraken® Black Spiced Rum, whereupon they will be directed to www.secretkrakensweeps.com to complete and submit an entry form. Alternatively, interested individuals can visit www.secretkrakensweeps.com directly to complete and submit an entry form. There is a limit of one (1) entry per person/household/e-mail address.

Twenty-five (25) grand prizes will be awarded for the sweepstakes. Each grand prize winner will receive one (1) Kraken umbrella. The approximate retail value of each grand prize is forty dollars (\$40.00).

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.

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)].

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 sweepstakes 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
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 15-425