

December 16, 2015

Jenna Bell
Assistant Marketing Coordinator
Avid Marketing Group
VIA E-MAIL

RE: Four Loko 2016 Spring Escape Sweepstakes

Dear Ms. Bell:

ISSUE: This correspondence is in response to your e-mail of December 4, 2015, in which you request legal review of a proposed sweepstakes promotion to be conducted in Pennsylvania by your client, Phusion Projects, LLC.

According to the official rules you provided, the “Four Loko 2016 Spring Escape Sweepstakes” promotion is scheduled to run from December 10, 2015, through February 12, 2016. Consumers may participate via text message or online via Facebook. Three entrants will be randomly selected to each receive a grand prize trip for the winner and up to three guests to Panama Beach, Florida, including airfare, lodging, ground transportation, and a Visa gift card valued at \$750.00. No purchase is necessary to enter, and the promotion is open only to adults of legal drinking age.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board’s (“Board”) Regulations states that a manufacturer 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 has determined that it comports with applicable liquor laws and regulations, specifically subsection 493(24) of the Liquor Code [47 P.S. § 4-493(24)] and section 5.32(h) of the Board's Regulations [40 Pa. Code § 5.32(h)].

Therefore, 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.
- the Board's wine and spirits stores, subject to approval of the Bureau of Product Management.
- 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,

RODRIGO J. DIAZ
EXECUTIVE DEPUTY CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Dale Horst, Director, Marketing and Merchandising

LCB Advisory Opinion No. 15-497