

December 16, 2015

David Franke
Brown-Foreman
VIA E-MAIL

RE: Mixology Contest

Dear Mr. Franke:

ISSUE: This is in response to your e-mail of November 24, 2015, wherein you inquire if it is permissible for a liquor supplier to conduct a bartender cocktail mixology contest in a licensee account, which is presumed to be a premises with a retail liquor license. You cite an example of a competition among bartenders throughout the state in making the best Manhattan. You also inquire if it would make a difference if the premises was closed to the public.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Brown-Foreman Corporation holds Sales Permit SP-481 (LID 22901) and Vendor’s Permit VP-509 (LID 23036) for use by it at 850 Dixie Highway, Louisville, Kentucky.

OPINION: Section 5.32 of the Board's Regulations [40 Pa. Code § 5.32] generally permits retail licensees to hold self-sponsored events, tournaments or contests on their licensed premises. Events, tournaments and contests are defined as “a competitive endeavor involving skill, speed, strength or endurance. The term includes a competitive endeavor involving physical attributes of contestants.” [40 Pa. Code § 5.30]. Such events, tournaments, and contests are subject to the following rules: (1) there can be no unlawful gambling directly or indirectly associated with the event, tournament, or contest; (2) there can be no consumption of alcohol by participants as part of the event, tournament, or contest; (3) the price of admission, if any, cannot include a charge for or entitle the participant to receive an alcoholic beverage. [40 Pa. Code § 5.32(e)].

“Self-sponsored” means paid for and carried out by the licensee. It would not be permissible for a third party to conduct such events, tournaments or contests. Accordingly, it is not permissible for your corporation to conduct a mixology contest on the licensed premises of another licensee, regardless of whether it was closed to the public during the event.

Further, please be advised that section 13.51(a) of the Board's Regulations prohibits a licensee from contributing to or accepting, directly or indirectly, from another licensee of a different class, anything of value by means of advertisements, contributions, purchase, sale of tickets, donations or by any device, for any purpose. [40 Pa. Code § 13.51(a)]. Section 493(24)(i) of the Liquor Code allows manufacturers and licensees to provide advertising novelties of nominal value, which bear advertising matter, to other licensees and consumers with or without a purchase. [47 P.S. § 4-493(24)(i)]. 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)]. It is not a permissible practice for manufacturers to give prizes to the employees of retail licensees beyond that of advertising novelties.

Should you have any other questions and/or issues related to the Liquor Code or the Board's Regulations, please feel free to once again contact this office.

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
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 15-498