

May 5, 2016

Lauren Jobmann
Account Coordinator
Avid Marketing Group
100 Corporate Place, Suite 200
Rocky Hill, CT 06067
VIA E-MAIL

RE: Four Loko 2016 After Party Sweepstakes

Dear Ms. Jobmann:

ISSUE: This correspondence is in response to your e-mail of April 25, 2016, in which you seek legal review, on behalf of Phusion Projects, LLC, of a proposed sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Four Loko 2016 After Party Sweepstakes” promotion is scheduled to run from May 1 through June 30, 2016. There will be two “segments” of entrants, of which only the national segment will include Pennsylvania residents. Interested individuals may enter the sweepstakes by text message, by mail, or by submitting an entry online through the Facebook platform. Five entrants from the national segment will be randomly selected to each receive the grand prize package consisting of passes for two to a music festival in Chicago, Illinois, roundtrip airfare, lodging for three nights, ground transportation, and a \$250.00 Visa gift card. The approximate retail value of each prize package is \$3,399.00. Alcoholic beverages will not be part of the prizes. The promotion is open only to adults of legal drinking age, and no purchase is necessary to enter.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board’s (“PLCB”) 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 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 sweepstakes promotion and determined that it comports with applicable liquor laws and regulations, specifically section 493(24)(i) of the Liquor Code and section 5.32(h) of the Board's Regulations. 47 P.S. § 4-493(24)(i); 40 Pa. Code § 5.32(h).

Therefore, it would be permissible to conduct the sweepstakes in the Commonwealth in reference to the areas checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.
- the PLCB's wine and spirit 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,



RODRIGO J. DIAZ
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