

July 22, 2016

Charity Garner
Account Coordinator
Arrowhead Promotion & Fulfillment Co.
VIA E-MAIL

RE: UV Tailgate Text to Win Sweepstakes

Dear Ms. Garner:

ISSUE: This correspondence is in response to your e-mail dated July 12, 2016, in which you seek legal review, on behalf of Phillips Distilling Company, of a proposed sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “UV Tailgate Text to Win” sweepstakes promotion, there are two “waves” in which entrants may enter the sweepstakes. The first wave is scheduled to begin on September 1, 2016, and runs until November 30, 2016. The second wave is scheduled to begin on December 1, 2016, and runs until January 31, 2017. There are two methods of entry. For the first method of entry, entrants must text “UVPLAY” to 2458 and verify his or her age. For the second method of entry, entrants must print the required information and the words “UV TAILGATE Sweepstakes-Free Entry” on a 3” by 5” card and mail it to the designated P.O. Box. Entrants may enter the sweepstakes once every calendar week.

There are two waves of prizes. With regard to first wave prizes, one entrant will be randomly selected to receive the grand prize of a 4k television. Three entrants will be randomly selected to receive the first prize of two tickets to a “Regular Season 2016/2017 Game of Choice,” awarded as a StubHub gift card. Forty entrants will be randomly selected to receive the second prize of a UV Tailgate Cooler. One hundred entrants will be randomly selected to receive the third prize of either a t-shirt or a shot glass. The approximate retail value of all first wave prizes is \$4,300.00.

With regard to second wave prizes, one entrant will be randomly selected to receive the grand prize of a 4k television. Two entrants will be randomly selected to receive

the first prize of two tickets to a “Regular Season 2016/2017 Game of Choice,” awarded as a StubHub gift card. Thirty-five entrants will be randomly selected to receive the second prize of a UV Tailgate Cooler. One hundred entrants will be randomly selected to receive the third prize of either a t-shirt or a shot glass. The approximate retail value for all second wave prizes is \$3,650.00. 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, 47 P.S. § 4-493(24)(i), and section 5.32(h) of the PLCB’s Regulations, 40 Pa. Code § 5.32(h), so long as no alcoholic beverages are awarded as part of the grand prize.

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 brand of any one manufacturer at any one time may not exceed \$300.00 on a retail licensed premises. 47 P.S. § 4-493(20) (i).

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.

Sincerely,



RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Charles Mooney, Chief Operating Officer
Dale Horst, Director of Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Joseph Puhalla, Director, Bureau of Product Selection

LCB Advisory Opinion No. 16-260