

August 18, 2016

Ember Holmes
Law Clerk
North American Breweries
50 Fountain Plaza, Suite 900
Buffalo, NY 14202
VIA E-MAIL

RE: Labatt Penguins Golden Can Sweepstakes

Dear Ms. Holmes:

ISSUE: This correspondence is in response to your e-mail dated August 9, 2016, in which you seek legal review of a proposed sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Labatt Penguins Golden Can” sweepstakes promotion is scheduled to begin on October 1, 2016, and runs until March 31, 2017. There are two methods in which consumers may enter the sweepstakes. With regard to the first method, consumers may purchase a thirty-pack or twelve-pack of specially marked Labatt Blue and Labatt Blue Light, which may contain a “Golden Can” with “a unique [ten]-digit code.” If the thirty-pack or twelve-pack contains a Golden Can with the ten-digit code, the winner must go to www.labattus.com/penguins_goldencan and follow the instructions in order to claim his/her prize. If the thirty-pack or twelve-pack does not contain a Golden Can with a code, the consumer is not eligible to claim a prize. In accordance with the second method of entry, consumers may enter the sweepstakes without the purchase of a thirty-pack or twelve-pack by printing all the required information on a piece of 3” by 5” paper and sending it to the designated P.O. Box. The odds of winning without making a purchase are at least as good as the odds of winning by purchasing a thirty-pack or twelve-pack of beer.

Fifty entrants will win a signed Pittsburgh Penguins jersey and a shadow box containing Labatt Blue and Labatt Blue Light commemorative cans. No alcoholic beverages will be given. The approximate retail value of each prize is \$450.00. The sweepstakes is only open to residents of select states, including Pennsylvania, who are at least twenty-one years of age.

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).

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

Ember Holmes
August 18, 2016
Page 3

BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL
BOARD.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rodrigo J. Diaz".

RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 16-308