

August 18, 2016

Ryan M. Martin, Esquire
Winston & Strawn, LLP
35 W. Wacker Drive
Chicago, IL 60601-9703
VIA E-MAIL

RE: Burnett's Vodka Ultimate Tailgate Sweepstakes

Dear Mr. Martin:

ISSUE: This correspondence is in response to your e-mail dated August 5, 2016, in which you seek legal review, on behalf of Heaven Hill Brands, of a proposed sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the "Burnett's Vodka Ultimate Tailgate" sweepstakes promotion is scheduled to begin on August 30 and runs until October 31, 2016. To enter the sweepstakes, consumers must visit www.morefuntour.com to complete the online entry form to receive one entry into the weekly drawing and one entry into the grand prize drawing.

Each week, for a period of nine weeks, five entrants will be randomly selected to receive a "Burnett's Vodka branded prize pack," which includes a hat, a t-shirt, a sunglass strap, a keychain, and ten shot cups. On the last week of the sweepstakes, one entrant will be randomly selected to receive the grand prize of a \$10,000.00 check for use towards hosting an "Ultimate Tailgate." The approximate retail value of all prizes is \$12,250.00. The sweepstakes 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.

Furthermore, 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 PLCB's Fine Wine and Good 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, subject to the limitations set forth above, 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 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.

Ryan M. Martin
August 18, 2016
Page 3

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,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

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. 16-309