

September 19, 2016

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

RE: Labatt Flyers Golden Can Sweepstakes

Dear Ms. Holmes:

ISSUE: This correspondence is in response to your e-mail dated August 2, 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 Flyers Golden Can” sweepstakes promotion is scheduled to begin on October 1 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 of specially marked Labatt Blue and Labatt Blue Light, which may contain a “Golden Can” with “a unique [ten]-digit code.” If a consumer’s thirty-pack contains a Golden Can with the ten-digit code, he or she must go to www.labattus.com/flyers_goldencan and follow the instructions in order to claim his/her prize. If a consumer’s thirty-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 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 of beer.

Fifty entrants will be randomly selected to receive a signed Philadelphia Flyers jersey and a shadow box containing Labatt Blue and Labatt Blue Light commemorative cans. The approximate retail value of each prize is \$450.00 and does not include alcoholic beverages. The sweepstakes is only open to residents of

select states, including Pennsylvania, who are at least twenty-one years of age. 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 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).
- X 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. 16-339