

October 3, 2016

Patty Voight
Marketing Coordinator
Breakthru Beverage Group
VIA E-MAIL

RE: Chateau La Paws Sweepstakes

Dear Ms. Voight:

ISSUE: This correspondence is in response to your e-mail of September 23, 2016, in which you request legal review of a proposed promotion to be conducted in Pennsylvania.

In accordance with the sweepstakes description you provided, consumers may enter the sweepstake by visiting the Chateau La Paws Facebook page and post a “creative dog costume.” Two entrants will be randomly selected to receive a \$250.00 gift card to a pet store of their choice. The promotion is open only to Pennsylvania residents who are of legal drinking age and all entries must be received by October 30, 2016.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board’s (“PLCB”) Regulations states that a manufacturer 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 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 PLCB's Regulations, 47 P.S. § 4-493(24)(i); 40 Pa. Code § 5.32(h), so long as no purchase is necessary to enter the sweepstakes and the retail licensed premises is not used for the conducting of drawings or the awarding of prizes.

The sweepstakes description indicates the prize winner will be "selected in a random drawing;" however, it is unclear as to whom will conduct the drawing and where the drawing will take place. In accordance with section 5.32(h)(iii) of the PLCB's Regulations, please be advised that a retail licensed premises may only be involved as pick-up or drop-off points for entry forms. Drawings or the awarding of prizes at such retail licensed premises, including the PLCB's Fine Wine and Good Spirits stores, is not permissible. 40 Pa. Code § 5.32(h)(iii).

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 retail licensed premises. 47 P.S. § 4-493(20)(i).

Therefore, it would be permissible to conduct the promotion in the Commonwealth, so long as a PLCB Fine Wine & Good Spirits store is not used for the conducting of drawings or the awarding of prizes, 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,

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. 16-392