

October 3, 2016

Patty Voight  
Marketing Coordinator  
Breakthru Beverage Group  
**VIA E-MAIL**

**RE: Bird Dog Whi-Ski Sweepstakes**

Dear Ms. Voight:

ISSUE: This correspondence is in response to your e-mail of September 21, 2016, in which you request legal review of a proposed promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Bird Dog Whi-Ski” sweepstakes promotion is scheduled to begin on January 2, and run until January 29, 2017. To enter the sweepstakes, the consumer must go to [www.birddogwhisky.com](http://www.birddogwhisky.com) and fill out the required sweepstakes information.

Each week, for a period of four weeks, one entrant will be randomly selected “by the Pennsylvania Liquor Control Board” to receive “RAMP Skis” and a “PA Ski Day Pass.” The approximate retail value of each grand prize is \$600.00. The promotion is only open to Pennsylvania residents who are of legal drinking age. No purchase is necessary to enter the sweepstakes.

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 would comport 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 the PLCB and its Fine Wine & Good Spirits stores are not used for the conducting of drawings or the awarding of prizes.**

The sweepstakes description indicates the prize drawing will be conducted "by the Pennsylvania Liquor Control Board." Please be advised that a retail licensed premises may only be involved as pick-up or drop-off points for entry forms and not for conducting drawings or the awarding of prizes by anyone, including the PLCB and its employees. Therefore, drawings or the awarding of prizes at such retail licensed premises, including the PLCB's Fine Wine and Good Spirits stores, are not permissible. 40 Pa. Code § 5.32(h)(iii); Advisory Notice No. 10 (6<sup>th</sup> Revision).

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 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 promotion in the Commonwealth, so long as the drawing is not conducted by the PLCB, 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. 16-393