

December 11, 2018

Kelsey McCoy
Marketing Coordinator
Breakthru Beverage PA
129 Hartman Road
North Wales, PA 19454
VIA E-MAIL

RE: The 2019 NHL® Stadium Series Sweepstakes

Dear Ms. McCoy:

ISSUE: This correspondence is in response to your e-mail dated November 19, 2018, wherein you request legal review of a proposed promotion to be conducted in Pennsylvania. You sent a follow-up e-mail on November 28, 2018, that included images for the sweepstakes.

According to the official rules you provided, the “The 2019 NHL® Stadium Series Sweepstakes” promotion was scheduled to begin on December 1, 2018 and runs until January 31, 2019. To participate in the sweepstakes, interested individuals must text the word “STADIUM” to shortcode 73876. Interested individuals must then verify his/her age in order to enter the sweepstakes. Alternatively, interested individuals may send an e-mail with the keyword “STADIUM” in the subject line and include in the body of the e-mail, the entrant’s name, address, telephone number, and date of birth to the e-mail address provided. Entrants are limited to one entry per person.

Ten winners will be randomly selected to receive two tickets to the NHL® Stadium Series in Philadelphia, Pennsylvania on February 23, 2019. The approximate total retail value of all prizes is \$3,000.00. No purchase is necessary to enter, and the sweepstakes is open only to adults who are at least twenty-one years of age at the time of entry. The official rules state that alcohol will not be included in the prize.

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 proposed 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), and is acceptable for use in this Commonwealth, so long as no alcoholic beverages are awarded as part of the prize.

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 & 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, as long as alcohol is not part of any prize, 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 Fine Wine & Good Spirits 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
Dale Horst, Director, Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Thomas Bowman, Director, Bureau of Product Selection

LCB Advisory Opinion No. 18-438