

January 11, 2019

Alexandra Rafferty
Account Executive
Avid Marketing Group
100 Corporate Place, Suite 200
Rocky Hill, CT 06067
VIA E-MAIL

RE: Jägermeister Holiday Sweepstakes

Dear Ms. Rafferty:

ISSUE: This correspondence is in response to your e-mail dated December 6, 2018, wherein you request legal review of a proposed promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Jägermeister Holiday Sweepstakes” promotion was scheduled to begin on December 7, 2018 and ended on January 1, 2019. To enter the promotion, interested individuals had to follow the @JagermeisterUSA official Instagram page and share an original photo in a non-private post on the individual’s Instagram page with the hashtag #PerfektToast to receive an entry. Alternatively, interested individuals could also follow the same steps and enter using Facebook or Twitter. Entrants were limited to one entry per person, per Instagram account per day.

Thirty winners were randomly selected to each receive a Jägermeister Ugly Sweater and prize package of other wearables. The total approximate retail value of all prizes was \$3,000.00. No purchase was necessary to enter, and the sweepstakes was open only to adults who are at least twenty-one years of age at the time of entry. The official rules state that alcohol was not to be included in any 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 sweepstakes promotion and determined that it comported with applicable liquor laws and regulations, specifically section 5.32(h) of the PLCB's Regulations, 40 Pa. Code § 5.32(h).

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, it was 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

Alexandra Rafferty

January 11, 2019

Page 3

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. 18-490