

January 24, 2019

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

RE: Jägermeister NHL® 2019 Sweepstakes

Dear Ms. Rafferty:

ISSUE: This office is in receipt of your e-mail dated January 4, 2019, wherein you request legal review of a sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Jägermeister NHL® 2019 Sweepstakes” promotion was scheduled to begin on January 1 and runs until April 30, 2019. To participate in the sweepstakes, interested individuals may enter by texting “HOCKEY1,” “HOCKEY2,” “HOCKEY3,” or “HOCKEY4” to short code 55755 and verifying their date of birth, name, and e-mail and answering five trivia questions. The official rules state that the number of questions answered correctly does not determine entry into the sweepstakes. Alternatively, interested individuals may enter by mailing a 3” x 5” card with the entrant’s name, address, date of birth, telephone number, and the words “Jägermeister T1 Sweepstakes- MJ743778W” to the address provided. Entrants are limited to one entry per person.

Four grand prize winners will be randomly selected on April 1, 2019, to receive a trip for two to the Stanley Cup® Final, to include: roundtrip airfare, hotel accommodations for two nights, round trip transportation from the hotel to the game, and a \$500.00 gift card. An additional four grand prize winners will be chosen on May 1, 2019, to receive a trip for two to the 2019 NHL Awards™, to include: roundtrip airfare, hotel accommodations for two nights, roundtrip travel from the hotel to the awards, and a \$500.00 gift card. The approximate total retail value of all the prizes is \$20,000.00. No purchase is necessary to enter the sweepstakes, and the sweepstakes is only open to adults who are at least twenty-one years of age at the time of entry. The guest that may

accompany a grand prize winner must also be twenty-one years of age or older. The official rules state that alcohol will not 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 comports with applicable liquor laws and regulations, specifically section 5.32(h) of the PLCB's Regulations, 40 Pa. Code § 5.32(h), as long as alcohol is not part of any prize.

While the official rules indicate that alcohol is not part of the grand prizes, please be advised to the extent that any part of the trip being awarded as the grand prize will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winner and/or his/her guest(s), this would be construed as awarding alcoholic beverages as part of the prize and is not permitted.

Further, 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 included in the prizes, 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,



RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Dale Horst, Director of Marketing and Merchandising
Stacy Kriedeman, Director, Marketing Communications
Thomas Bowman, Director, Bureau of Product Selection

LCB Advisory Opinion No. 19-002