

March 6, 2014

Telephone: (717) 783-9454

FAX: (717) 787-8820

Robert Yonick

**Re: Small Games of Chance and Pools**

Dear Mr. Yonick:

ISSUE: This is in response to your e-mail sent on February 20, 2014, wherein you ask questions regarding Act 92 of 2013. You note that Act 92 makes changes to the Local Option Small Games of Chance Act (“SGOC”) [10 P.S. §§ 311-327] to include “pools” as an acceptable form of gambling. You have recently learned that the Pennsylvania State Police, Bureau of Liquor Control Enforcement (“Bureau”) has taken a position that it will continue to investigate, seize, and cite any licensee who participates in pools such as NASCAR, World Series and Super Bowl pools. You further advise that the Pennsylvania Department of Revenue (“Revenue”) has publicized that although pools are legal under the SGOC, pools using sporting events to determine a winner are illegal based on federal law.

You advise that, since there seems to be a difference of opinion between the legislative intent and the opinion of the Bureau, you are requesting a legal opinion from the Pennsylvania Liquor Control Board (“Board”). You advise that a Super Bowl or World Series pool is not determined by who wins or loses the game; rather, participants pay an entry fee and pick random blocks with associated numbers. You ask if these would be legal pools under the SGOC. You also advise that in a NASCAR pool, a participant is assigned a specific driver or car number. You ask if this would be a legal pool under the SGOC.

Records of the Board indicate that F.O.P Wyoming Valley Lodge 36 Home Association holds Catering Club Liquor License No. CC-3952 (LID 3554) for the premises at 200 East Division Street, Wilkes Barre, Pennsylvania.

OPINION: This office’s authority to issue Advisory Opinions is set forth in section 211.1 of the Liquor Code, which provides that “Upon written request by a licensee, the board or its counsel shall issue a legal opinion regarding any subject matter relating to *this act* or any regulation promulgated pursuant to it. This legal opinion shall be binding on the enforcement bureau.” [47 P.S. § 2-211.1 (emphasis

added)]. Because of this statute, this office is only permitted to render legal opinions regarding the Liquor Code or the Board's Regulations.

Although the Bureau enforces the Liquor Code as well as the SGOC, please note that the Board regulates only the Liquor Code, not the SGOC. The interpretation of the SGOC falls outside of the scope of the Board's authority.

Therefore, you may wish to contact the Bureau at (800) 932-0602, or your County Treasurer's Office, and/or Revenue's Miscellaneous Tax Division, at (717) 787-8275 with your questions about SGOC and pools.

Also, please note that Revenue has information for club licensees on its website: [http://www.revenue.state.pa.us/portal/server.pt/community/eligible\\_organizations\\_and\\_club\\_licensees/21623](http://www.revenue.state.pa.us/portal/server.pt/community/eligible_organizations_and_club_licensees/21623).

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.

Very truly yours,

FAITH S. DIEHL  
CHIEF COUNSEL

cc: Pennsylvania State Police,  
Bureau of Liquor Control Enforcement  
Jerry W. Waters, Director of Office of Regulatory Affairs  
Tisha Albert, Director, Bureau of Licensing  
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 14- 065