

March 20, 2014

Telephone: (717) 783-9454

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Dale Hensel
210 Donnell Road
Lower Burrell, PA 15068

Re: Small Games of Chance

Dear Mr. Hensel:

ISSUE: This is in response to your letter received on March 3, 2014, wherein you ask several questions about games of chance: regarding electronic games of chance, what is considered a game of chance and what is considered at game of skill. You further ask what type of game is permitted and what is not. You also ask who enforces the laws, as you have received documentation that the Pennsylvania Liquor Control Board (“Board”) is “in charge” of liquor violations, but not gaming violations. Finally, you advise that when your post rents out its banquet hall, your post absorbs the usage fees, plus janitorial, set up and clean up fees, and on occasion, donates the hall to other charitable organizations at no charge. You ask if these amounts can be credited as part of the seventy percent (70%) charitable donations received from the games of chance.

Records of the Board indicate that New Kensington Post 92 Canteen Home Association Incorporate holds Catering Club Liquor License No. CC-4742 (LID 60540) for the premises at 1601 Wildlife Lodge Road, Lower Burrell, 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 Pennsylvania State Police, Bureau of Liquor Control Enforcement (“Bureau”) enforces the Liquor Code as well as the Local Option Small Games of Chance Act (“SGOC”), please note that the Board is authorized to interpret 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 the Pennsylvania Department of Revenue’s Miscellaneous Tax Division, at (717) 787-8275 with your questions about SGOC.

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.

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. 14-072