

March 18, 2014

Telephone: (717) 783-9454

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Trish Kauffman

RE: Pool Tournament

Dear Ms. Kauffman:

ISSUE: This office received your e-mail dated February 25, 2014, wherein you indicate that you would like to have a pool tournament at your bar. You explain that participants would pay five to ten dollars (\$5.00-\$10.00) to enter the tournament, and the top three (3) participants would receive a percentage of the money. You ask if this is permissible. You further indicate that you have participated in a pool league where the licensee provides one (1) free drink to the participants; however, you state that you will not be offering a free drink to participants of your self-sponsored tournament.

OPINION: Section 5.32 of the Board's Regulations generally prohibits retail licensees from holding or permitting to be held events, tournaments, or contests on their licensed premises. [40 Pa. Code § 5.32(d)]. However, one (1) of several exceptions permits retail licenses to conduct self-sponsored (i.e., paid for and carried out by the licensee) events, tournaments, and contests on their licensed premises, provided they comply with certain conditions. [40 Pa. Code § 5.32(d)(5)].

Events, tournaments and contests are defined as "a competitive endeavor involving skill, speed, strength or endurance. The term includes a competitive endeavor involving physical attributes of contestants." [40 Pa. Code § 5.30]. Events, tournaments, and contests that are sponsored by the licensee are subject to the following rules. The event, tournament, or contest may not involve the consumption of alcoholic beverages. [40 Pa. Code § 5.32(e)(3)]. There may be no

unlawful gambling associated with the event, tournament, or contest. [40 Pa. Code § 5.32(e)(2)]. The price of a ticket or admission to an event, tournament, or contest may not include a charge or assessment for alcoholic beverages or entitle the attendee to receive alcoholic beverages on the licensed premises. [40 Pa. Code § 5.32(e)(4)]. In addition, the value of all prizes awarded may not exceed one thousand dollars (\$1,000.00), and the maximum weekly prize limit in a seven (7)-day period is twenty-five thousand dollars (\$25,000.00). [40 Pa. Code § 5.32(e)(7)]. Please note that these limits are not only applicable to cash prizes, but include the fair market value of any non-cash prizes. There are exceptions to prize limitations for entities operating under the Small Games of Chance Act. [10 P.S. §§ 311-327]. Additionally, licensees must maintain records of the prizes and winners on the licensed premises for at least six (6) months, and must maintain the records on or off the licensed premises for two (2) years following the event, tournament, or contest. [40 Pa. Code § 5.32(9); 47 P.S. § 4-493(12)].

One of the conditions mentioned above is that no unlawful gambling may be directly or indirectly associated with any event, tournament, contest or activity on the licensed premises. If there is unlawful gambling, the licensee will be held strictly liable for such activity and could be cited for violation of the Liquor Code and the Board's Regulations. [40 Pa. Code § 5.32(e)(2)]. Because unlawful gambling is a violation of the Pennsylvania Crimes Code, this office cannot provide you with a legal opinion as to whether the tournament that you described would constitute unlawful gambling. However, it should be noted that unlawful gambling consists of the following elements: (1) consideration or a fee or charge to play; (2) an element of chance; and (3) a prize or reward. Pennsylvania Liquor Control Bd. v. PPC Circus Bar, Inc., 96 Pa. Cmwlth. 115, 506 A.2d 521 (1986). You should contact the local police, the Pennsylvania State Police, or the County District Attorney's Office for an official opinion regarding whether your proposed tournament would constitute unlawful gambling.

Should you have any additional questions, do not hesitate to contact this office.

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

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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. 14-087