

October 21, 2014

Todd Stevenson

**RE: Community Benefit at “R” Licensed Establishment**

Dear Mr. Stevenson:

ISSUE: This office is in receipt of your e-mail dated September 15, 2014 in which you inquire whether a restaurant liquor licensee may host a fundraiser to benefit a local fire department. You indicate that you will charge an admission fee, facilitate “friendly games,” and donate all proceeds toward the charitable cause.

Records maintained by the Pennsylvania Liquor Control Board (“Board”) indicate that Top Hat Tavern, Inc. holds Restaurant Liquor License No. R-13855 (LID 16391) for the premises located at 202 Church Street, Sunbury, Pennsylvania.

OPINION: There is nothing in the Liquor Code that would prevent a retail liquor licensee from hosting a public fundraiser and charging an entrance fee to the fundraiser. Further, that fee may be donated to a chosen charity at the licensee’s discretion. Regarding the proposed “friendly games,” such as “yard games and relay games” that you plan to conduct during the fundraiser, the Board’s regulations offer guidance as to their permissibility.

Section 5.32 of the Board's Regulations [40 Pa. Code § 5.32] permits retail licensees to hold self-sponsored events, tournaments or contests on their licensed premises. 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: there may be no unlawful gambling directly or indirectly associated with the event, tournament, or contest; there may be no consumption of alcohol by participants as part of the event, tournament, or contest; the price of admission may not include a charge for or entitle the participant to receive an alcoholic beverage. [40 Pa. Code § 5.32(e)]. The total value of prizes

for any given event, tournament or contest may not exceed one thousand dollars (\$1,000.00). The total value of all prizes awarded in any seven (7)-day period may not exceed twenty-five thousand dollars (\$25,000.00). [40 Pa. Code § 5.32(f)(7)]. Please note that these limits are not only applicable to cash prizes, but include the fair market value of any non-cash prizes, such as those you propose. Licensees shall maintain on the licensed premises for two (2) years, from the date of the event, an itemized list of all prizes for each event, tournament, contest indicating each prize, its value and the name and address of the recipient. [40 Pa. Code § 5.32(e)(9)].

Self-sponsored means paid for and carried out by the licensee. It would not be permissible for a third party to conduct such events, tournaments or contests. However, retail licensees may permit events on the licensed premises sponsored by groups constituting a league, or events for the benefit of, and officially sponsored by, bona fide charitable organizations that are qualified, approved by and registered with the Department of State and operated under 49 Pa. Code Part I, Subpart B (relating to charitable organizations). [40 Pa. Code §§ 5.32(d)(3)-(4)(i)]. A charitable organization event must be operated in accordance with the Solicitation of Funds for Charitable Purposes Act [10 P.S. §§ 162.1-162.24] and, if applicable, the Local Option Small Games of Chance Act [10 P.S. §§ 311-327] and the Bingo Law [10 P.S. §§ 308-308.1]. [40 Pa. Code § 5.32(d)(4)(ii)].

Finally, licensees are strictly liable for violations of the Liquor Code and its attendant laws and regulations that occur on the licensed premises. [Pennsylvania Liquor Control Board v. TLK, Inc., 544 A.2d 931 (Pa. 1988)]. Licensees are specifically prohibited by Liquor Code section 493(1) [47 P.S. § 4-493(1)] from selling, furnishing and/or giving alcohol, and from permitting the sale, furnishing or giving of alcohol, to minors or visibly intoxicated persons. Therefore, a licensee is liable and may be subject to fines and/or license suspension or revocation when alcohol is sold, furnished or given to minors or visibly intoxicated persons on the licensed premises, regardless of whether the alcohol is served by the licensee's own bartenders, or a third-party bartender, or whether or not the licensee had knowledge of the incident.

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

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR

Todd Stevenson  
October 21, 2014  
Page 3

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. 14-550