

February 23, 2015

Danielle Notarmuzi
Skene Law Firm, P.C.
2614 Route 516
Old Bridge, NJ 08857

RE: Public Venue Concessionaire

Dear Ms. Notarmuzi:

ISSUE: This office is in receipt of your email of February 2, 2015, wherein you advise that your law firm represents a concessionaire licensed to sell alcohol at a sports facility. It is assumed by “sports facility” you are describing a “public venue” license.

You state that your firm’s client occasionally uses volunteers from non-profits to assist in serving food or beverages. You inquire if the donation the non-profit group receives can be wholly or partially based on the revenue received from the sale of alcoholic beverages and, if so, whether there is a percentage limit.

OPINION: There is nothing in the Liquor Code or the Pennsylvania Liquor Control Board’s Regulations that precludes a licensee from donating a percentage of the proceeds it receives from the sale of alcohol to a charity, so long as that entity does not have an unlawful pecuniary interest in the liquor license as a result. The Liquor Code prohibits anyone other than the licensee from having a pecuniary interest in the licensed business. [47 P.S. § 4-404]. Section 1.1 of the Board’s Regulations defines a pecuniary interest as follows:

Pecuniary interest – an interest that sounds in the attributes of proprietorship. There is a rebuttable presumption of a pecuniary interest where a person receives ten percent (10%) or more of the proceeds of the licensed business or where control is exercised by:

- (a) Employing a majority of the employees of the licensee;
- (b) Independently making day-to-day decisions about the operation of the business; or
- (c) Having final authority to decide how the licensed business is conducted.

[40 Pa. Code § 1.1].

So long as an unlawful pecuniary interest is not granted to a charity as a result of this donation, a contribution based on the percentage of overall sales would be permissible.

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. 15-047