

February 23, 2015

Tami Beggs
RE: Raffle

Dear Ms. Beggs:

ISSUE: This is in response to your e-mail inquiry of January 30, 2015, in which you state that you are a co-owner of a licensed establishment. You further state that a patron would like to have an event at your establishment where he/she would like to sell purses and conduct a raffle with door prizes. You ask whether these activities are permissible under the Liquor Code.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that Fitzies Inc. holds Restaurant Liquor License No. R-16782 (LID 59545) for use by it at the premises located at 143 Village Road, Listie, Pennsylvania.

OPINION: Please be advised that section 3.52(a) of the Board's Regulations prohibits a licensee from permitting other persons to operate another business on the licensed premises. [40 Pa. Code § 3.52(a)]. However, this office has held that a one (1)-time event upon a particular licensed premise does not rise to this level of "another business." Therefore, if the event you propose is a one (1)-time event, it would be permissible for you to host an event where the patron could sell purses.

Please be further advised that 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. 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)].

Events, tournaments and contests on retail licensed premises 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; the value of all prizes awarded may not exceed five hundred dollars (\$500.00); and the total value of all prizes awarded in a seven (7)-day period may not exceed five thousand dollars (\$5,000.00). Finally, licensees must maintain records of the prizes and winners on the licensed premises for two (2) years following the event, tournament or contest. [40 Pa. Code § 5.32(e); Board Advisory Notice No. 10 (6th Rev.)].

One (1) 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 a specific event 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). Some gambling activities, while unlawful generally, are considered to be lawful if conducted by an entity that holds a small games of chance permit. You should contact your county treasurer or the Pennsylvania Department of Revenue, Miscellaneous Tax Division, at (717) 787-8275, to determine what activities are permissible with such a permit.

With respect to your question regarding a raffle, it would be advisable to consult with local police authorities; the Pennsylvania State Police, Bureau of Liquor Control Enforcement; or the office of District Attorney for the county in which these activities may occur to determine if it might be considered unlawful gambling.

Please do not hesitate to contact this office if you have any additional questions.

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. 15-057