

April 2, 2015

Jess Orzechowski

E: Tablets

Dear Ms. Orzechowski:

ISSUE: Your correspondence of March 3, 2015 states that you have a client who currently holds a restaurant liquor license and wants to provide electronic tablets (e.g., iPads) at tables for their customers to play games on. The customers would pay to play the games and the fee would be added to their checks at the end of the meal. You inquire whether this is permissible; specifically, you inquire whether an amusement permit would be required.

OPINION: An amusement permit authorizes dancing, theatricals, floor shows and motion picture exhibitions in licensed premises or places operated in connection therewith. [47 P.S. § 4-493(10); 40 Pa. Code § 5.31]. Use of electronic tablets as described in your correspondence would not require an amusement permit.

However, section 3.52(c) of the Board's Regulations prohibits a licensee from operating another business on the licensed premises without Board approval. [40 Pa. Code § 3.52(c)]. Should you wish to seek Board approval for this activity, you may submit a request to the Bureau of Licensing ("Licensing"), describing the activity in question in detail. Licensing will then forward your proposal to the Board for its consideration.

Note that no unlawful gambling may be conducted on licensed premises. [40 Pa. Code § 5.32]. 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 activity 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).

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

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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. 15-139