

July 22, 2015

Adrienne Houck

VIA E-MAIL: adriennehouck@comcast.net

RE: Gambling Machine

Dear Ms. Houck:

ISSUE: This is in response to your e-mail of July 13, 2015, wherein you state that you are a member of a local firehouse that has a strip ticket gambling machine. You inquire if there is any law prohibiting a trustee of the firehouse from playing, specifically referencing a trustee who is active in the register and games, and in your opinion, has inside knowledge of the remaining winning tickets in the machine. For the purpose of this response, it is assumed that the fire company is a licensed entity.

OPINION: As a threshold matter, please be advised that, as per section 5.32(e) of the Board's Regulations, retail licensees, including clubs, may hold, or permit to be held, on their licensed premises an event, tournament or contest, but only under certain conditions. [40 Pa. Code § 5.32(e)]. One (1) of the conditions is that no unlawful gambling may be directly or indirectly associated with the 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(f)(2)]. 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).

However, if the fire company holds a small games of chance ("SGOC") permit, it may conduct certain gambling activities on the premises. Please be advised that the Board does not regulate the SGOC Act [10 P.S. §§ 311-327] and as such, the interpretation of this law falls outside of the scope of the Board's authority. To determine what activities are allowable and how they are to be conducted pursuant to a small games of chance permit, you are advised to contact the Department of Revenue, Miscellaneous Tax Division at (717) 787-8275. In addition, please note that the Pennsylvania Department of Revenue publishes a "Small Games of

Chance Overview” that may be helpful to you. This overview can be obtained through the Department of Revenue’s website located at <http://www.revenue.state.pa.us/SGOC>.

Finally, section 5.81 of the Board’s Regulations requires that a licensed club adhere to the provisions of its constitution and bylaws. [40 Pa. Code § 5.81].

Should you have any other questions and/or issues related to the Liquor Code or the Board’s Regulations, please feel free to once again 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 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. 15-312