

October 26, 2016

James S. Kopchak  
American Legion Post #242  
**VIA E-MAIL :**

**RE: Small Games of Chance**

Dear Mr. Kopchak:

ISSUE: This correspondence is in response to your e-mail dated October 5, 2016, wherein you inquire as to the legality of “In Use” markers to hold a section of a game on pull tab machines, which dispense instant win tickets. You further indicate that you spoke with a Pennsylvania State Police, Bureau of Liquor Control Enforcement (“BLCE”), Officer who indicated that the use of “In Use” markers is not a Liquor Code violation.

OPINION: Please be advised that the Pennsylvania Liquor Control Board (“PLCB”) does not regulate the Local Option Small Games of Chance (“SGOC”) Act, and the interpretation of laws regarding the SGOC Act falls outside the PLCB’s scope of authority. 10 P.S. §§ 311-327. Accordingly, the PLCB is unable to address your question as to the legality of “In Use” markers, insofar as it falls under the authority of the SGOC Act.

It is recommended that you contact your County Treasurer’s Office and/or the Department of Revenue, Miscellaneous Tax Division, at (717) 787-8275 with any questions about small games of chance. 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>.

Further, the PLCB’s Regulations requires a club licensee to adhere to the provisions of its constitution and/or bylaws. 40 Pa. Code § 5.81. Thus, if the club’s constitution and/or bylaws address tournaments, the club must follow those provisions. Failure to do so may subject the club to a citation by the BLCE.

Please do not hesitate to contact this office should you have 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.

Sincerely,



RODRIGO J. DIAZ  
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

PLCB Advisory Opinion No. 16-434