

August 6, 1998

Mr. Norman Sunday

COOKIE M, INC.

t/a Bargain Beer

151 Southmont Boulevard

Johnstown, PA 15905

Dear Mr. Sunday:

ISSUE: This is in response to your faxed letter of July 8, 1998 in which you request our opinion on two issues concerning your beer distributorship. The first question regards an advertisement you wish to place in educational institutions' sports or school programs. The advertisement would contain the following information: 'Bargain Beer and Pop . . . 151 Southmont Blvd. . . 535-2386 . . . Our name says it all . . . Go [Team Name].' You ask if this advertisement would be permissible.

Your second question concerns a giveaway you would like to have to celebrate your first anniversary. The customer would fill out an entry slip and put it in a basket. Each day one name would be drawn at random and that person would be given an inexpensive prize of some sort. No purchase will be required to enter nor will there be a fee to enter. The entrants must be at least twenty-one years of age to enter. You ask if this giveaway would be permissible.

OPINION: Your advertisement as proposed would be permissible. Section 498(e)(5) of the Liquor Code [47 P.S. Section 4-498(e)(5)] prohibits malt beverage advertising, either directly or indirectly, in any booklet, program book, yearbook, magazine, newspaper, periodical, brochure, circular, or other similar publication published by, for or in behalf of any educational institution. An ad that mentions only the business name, address, telephone number and contains no specific reference to the sale or availability of alcohol does not violate this statute.

As to your second request regarding giveaways, such promotions are governed by section 493(24) of the Liquor Code. [47 P.S. Section 4-493(24)]. That section makes it unlawful for any licensee to offer or give to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages, except advertising novelties of nominal value. Advertising novelties are defined as items such as matches, disposable lighters, bottle or can openers, t-shirts, caps, corkscrews, pens, pamphlets and ash trays. They may be distributed with or without proof of purchase by any class of licensee to trade or consumer buyers and are limited to a wholesale cost of \$15.00 or less each. [LCB Advisory Notice No. 10 (4th Revision)]. Please note that alcoholic beverages are not permissible prizes. Since your promotion does not contain a purchase requirement, there is no real

inducement to purchase, and therefore, you would not be limited to advertising novelties, and you may give away nonalcoholic prizes of your choice.

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

c.c. Pennsylvania State Police

Bureau of Liquor Control Enforcement

Refer to: (717) 783-9454

FAX: (717) 787-8820

LCB Advisory Opinion No. 98-255