

August 6, 1998

Anthony P. Tino, Jr.

t/a Tony's Dist. Company

125 College Street

Ellwood City, PA 16117

Dear Mr. Tino:

ISSUE: In your letter, which was received by this office on July 20, 1998, you inquired as to whether you could place an ad for your distributorship in a menu flyer and placemat for a retail licensee.

OPINION: Section 13.51(a) of the Board's regulations prohibits any licensee from directly or indirectly contributing or accepting from another licensee of a different class anything of value including advertisements. [40 Pa. Code Section 13.51(a)]. Joint or cooperative advertising between different classes of licensees has been permitted in situations where each licensee pays for its respective share of the advertisement. So long as your distributorship is paying its respective share of an advertisement on the retail licensee's menu or placemat, such advertising would be permissible. However, it is suggested that you contact the Bureau of Alcohol, Tobacco and Firearms to determine whether such cooperative advertising would be permissible under federal law.

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: Bureau of Liquor Control Enforcement,

Pennsylvania State Police

Refer to: (717) 783-9454

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Advisory Opinion No. 98-258