

November 16, 1998

Richard A. Vanevenhoven, President
Cassidy's Brew Zoo Beer & Beverage
3415 Pleasant Valley Shopping Center
Cage #17
Altoona, PA 16002-4321

Dear Mr. Vanevenhoven:

ISSUE: This office is in receipt of your November 4, 1998 letter in which you request an advisory opinion regarding a grand opening promotion you wish to hold at your importing distributor licensed premises. You would like to hold a fundraising activity, in conjunction with your grand opening celebration in two weeks, in which entrants would be requested (but not required) to pay a donation of \$1.00 for a chance to win a Rolling Rock Schwinn Cruiser bicycle with an approximate value of \$220.00. All proceeds from the drawing would go to the local chapter of the Humane Society. The Brew Zoo would purchase the bicycle for use in the drawing. In the alternative, you suggest you could donate the bicycle to the Humane Society which could then use its own representatives to conduct the drawing.

OPINION: There is nothing in the Liquor Code, nor the Board's Regulations which prohibits an importing distributor from conducting events, tournaments or contests on its licensed premises such as you describe. There may be an issue, however, depending upon how the bike is procured. A manufacturer may not give anything of value to a licensee. [47 P.S. Section 4-493(24) and 40 Pa. Code Section 13.51(a)]. Therefore, if the bike is donated by Rolling Rock to you for the contest, the prize would not be permissible. If, however, you purchase the bike, or if Rolling Rock donates it to the Humane Society, the prize would be permissible.

Be aware, however, that licensees are not permitted to allow unlawful gambling to be directly or indirectly associated with an activity on the licensed premises. Unlawful gambling consists of the following three elements: 1) consideration or paying to play; 2) an element of chance; and 3) a prize or reward. If payment of a donation is required in order to enter your drawing, this could constitute unlawful gambling. However, since gambling is a Crimes Code provision, you should contact your local police, the Pennsylvania State Police or the District Attorney's Office for your county for an official opinion.

Please do not hesitate to contact this office if you have any further 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.

Very truly yours,

FAITH S. DIEHL
CHIEF COUNSEL cc: Pennsylvania State Police-
Bureau of Liquor Control Enforcement

Refer to: (717) 783-9454
FAX: (717) 787-8820

LCB Advisory Opinion No. 98-374