

November 18, 1998

Ms. Carolyn E. Hill, Staff Assistant
Office of Representative William J. Coyne
U.S. HOUSE OF REPRESENTATIVES
Federal Building, Room 2009
1000 Liberty Avenue
Pittsburgh, PA 15222

Dear Ms. Hill:

ISSUE: In your October 29, 1998 fax to this office, you inquired on behalf of a constituent who holds a distributor's license as to whether it is permissible for an importing distributor to sell beer to club, hotel and restaurant licensees at a price lower than what it is selling to its distributor licensees.

OPINION: As pointed out, the Liquor Code requires that all beer imported into Pennsylvania be imported by an importing distributor who has the territorial right to sell the beer in that geographic territory. [47 P.S. Section 4-431]. Additionally, the Liquor Code prohibits any licensee from buying beer from someone who does not have the right to sell beer in that geographic territory. As a distributor, therefore, your constituent must buy his beer from the importing distributor in whose territory his licensed premises is located.

It is also true, however, that an importing distributor may sell beer to retail licensees at a lower price than it sells beer to distributors in its area. The only provisions in the Liquor Code that deal with price decreases are located in section 447 of the Liquor Code which mandates that any price decreases remain in effect for 120 days. [47 P.S. Section 4-447]. This section does not prevent an importing distributor from selling beer to retail licensees at a lower price than it is selling to distributors.

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. 98-376