

December 7, 1998

Mr. David B. Fornicola

Sales Manager

W. R. HICKEY BEER DISTRIBUTOR, INC.

1321 East College Avenue

State College, PA 16801

Dear Mr. Fornicola:

ISSUE: This is in response to your faxed letter of November 4, 1998, and subsequent telephone conversation, in which you ask two questions regarding a promotion at your importing distributorship. Both versions of the promotion involve the giving of brand-identified glassware, which you would purchase prior to the promotion. Each glass has an approximate value of seventy-five cents to one dollar. You or other distributor employees would give the glasses away as a consumer novelty, with no purchase necessary and no service of alcohol, at the doorways of your retail accounts. In one version, the glasses would be given to every consumer twenty-one years of age or older as he or she enters the premises, until your supply runs out. In the other version, the glasses would be given away through the use of a raffle, with all consumers twenty-one years of age or older having an equal chance to win. You ask if either of these promotions would be permissible.

OPINION: Either version of your promotion would be acceptable, provided that there is no purchase requirement, no payment to enter the raffle, and the glasses are distributed by you or other employees of the distributorship. However, glassware cannot be given to retailers, only consumers, so you would not be permitted to give the glassware to your retail accounts for them to distribute by whatever method they choose. Also be advised that a promotion involving a 'contest' would not be permissible if conducted by the retailer.

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. 98-394