

February 8, 1999

Ms. Ethel Baker, Treasurer
HASTINGS VOL. FIRE CO. NO. 1
211 Fifth Avenue
P. O. Box 427
Hastings, PA 16646-0427

Dear Ms. Baker:

ISSUE: This is in response to your letter of January 9, 1999 to this office, in which you request our opinion concerning special occasion permit events for the Hastings Volunteer Fire Co. No. 1, holder of Club Liquor License C-3461. One event in which you are interested is a four-hour "Gun Smoker Event," which involves the sale of a raffle ticket for gun prizes or cash and the price of the ticket also includes dinner and beverage (soda or beer). No other alcoholic beverages would be sold during the event. A guest can attend this event for a special price that only includes the dinner and beverage. You ask if this event is permissible with a special occasion permit, if a special occasion permit is necessary, and if it would be better if patrons would be given a specific number of beverage tickets so that they would have to redeem a ticket for a twelve-ounce glass of beer/soda.

In addition, you are interested in summer festivals during which you would have a two-hour mug special. Patrons would purchase a twelve-ounce commemorative mug for a fixed price and from 8:00 p.m. to 10:00 p.m., they could get the mug refilled at no additional charge. You ask if this is permissible under a special occasion permit.

OPINION: Special occasion permits are governed by section 408.4 of the Liquor Code [47 P.S. §4-408.4]. As a volunteer fire company, you are one of the entities that is permitted to apply for a special occasion permit, which is good for a period of not more than six consecutive or nonconsecutive days. A special occasion permit allows you to sell liquor and/or malt or brewed beverages to any person twenty-one or older on any day for which the permit is issued. This ability to sell alcoholic beverages is more important for those special occasion permit holders or "permittees" who, unlike you, do not already possess a liquor license. In your situation, the special occasion permit is generally obtained to allow you to sell alcoholic beverages at special events, conducted for fundraising purposes, held off the licensed premises, where you would normally not be allowed to sell alcohol. Although it is unusual, a volunteer fire company that is currently licensed by the Board may also obtain a special occasion permit to be used on the licensed premises itself, for a special fundraising event. Such a scenario would allow nonmembers of your organization to purchase alcoholic beverages, which is generally precluded by the liquor laws governing clubs.

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On those days for which you obtain a special occasion permit, the general provisions of the Liquor Code and the Board's Regulations under which your club normally operates would not apply. You are bound, however, under section 408.4(d.1) to sales of alcoholic beverages only during the hours applicable to hotel and restaurant licensees (7:00 a.m. to 2:00 a.m. the next day except Sunday which is 11:00 a.m. to 2:00 a.m. Monday). You are also bound by provisions of other statutes, such as the Crimes Code, which would mean that you cannot sell alcoholic beverages to a minor, or provide unlawful gambling at your event. Because you mention a raffle in connection with the "Gun Smoker Event," you might want to be familiar with what constitutes unlawful gambling, which is the confluence of three things: entry fee or fee to play, an element of chance, and an award or prize. Should these three elements be present at your event, you risk citation by the Pennsylvania State Police, Bureau of Liquor Control Enforcement for gambling. Any questions you may have concerning whether your event constitutes gambling can be addressed to the Bureau of Liquor Control Enforcement, your local police, or your county's district attorney's office.

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. 99-042