

February 26, 1999

Robert F. Layding, Owner
McKAY BEER DISTRIBUTING
R.D. #6 Rt. 31 West
Somerset, PA 15501

Dear Mr. Layding:

ISSUE: This office is in receipt of your February 11, 1999 request for an advisory opinion regarding whether McKay Beer Distributing, an importing distributor, is permitted to sell coffee and tea products in one pound and three pound cans, juices and other flavored drinks in powdered form.

OPINION: Section 492(12) of the Liquor Code prohibits any distributor or importing distributor or its servants, agents or employees from engaging in any other business whatsoever except the business of distributing malt or brewed beverages, unless it has the approval of the Board. Pennsylvania Liquor Control Board Advisory Notice No. 9 (Third Revision), dated July 18, 1995, a copy of which is attached, lists the items which distributors and importing distributors may sell without Board approval. Importing distributors may engage in the sale of juices. One and three pound cans of coffee and tea and flavored drinks in a powdered form are not specifically included on the list. Therefore, distributor and importing distributor licensees that wish to sell coffee and tea in cans and flavored drinks in powdered form must request permission of the Board in order to do so.

In lieu of making a second request for permission from the Board to sell coffee, tea and flavored drink mixes, a request for Board approval for you to sell those items on your licensed premises will be submitted to the Board for consideration at its next regularly scheduled meeting.

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. 98-58