

April 21, 1999

Mary Lou Hogan, Executive Secretary  
MALT BEVERAGE DISTRIBUTORS'  
ASSOCIATION OF PENNSYLVANIA  
100 South Broad Street, Suite 1905  
Philadelphia, PA 19110-1023

Dear Ms. Hogan:

**ISSUE:** This is in response to your letter of February 19, 1999 in which you inquire, on behalf of the members of your association, whether distributor licensees may sell propane gas tanks to the general public and, if so, whether the propane gas tanks may bear manufacturer, distributor or importing distributor logos as promotional items. This is also responsive to your March 26, 1999 request to the Board for blanket approval for distributor licensees to sell propane gas tanks, charcoal, pre-paid phone cards, ice cream and transit tokens.

**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, lists the items which distributors and importing distributors may sell without Board approval. Propane gas tanks, charcoal, pre-paid phone cards, ice cream and transit tokens are not specifically included on the list. Therefore, distributor and importing distributor licensees that wish to sell such items must request the permission of the Board in order to do so.

On April 14, 1999, the Board declined to grant blanket approval for distributor licensees to sell propane gas tanks, charcoal, pre-paid phone cards, ice cream and transit tokens. Instead, the Board will continue to review each distributor's request to sell these items on a case-by-case basis. To date, the Board has approved requests by distributor licensees to sell propane-filled tanks for use in home grills on two occasions. The Board has granted a request to sell frozen candy bars and popsicles on one occasion, although not specifically ice cream. The Board has consistently denied requests by distributor licensees to sell pre-paid phone cards. To date, there have been no requests for Board approval for distributors to sell charcoal or transit tokens.

With regard to propane gas tanks bearing manufacturer, distributor or importing distributor logos as promotional items, be advised Board Advisory Notice No. 9 (Third Revision) provides that distributors may sell promotional items bearing manufacturer, distributor or importing distributor logos to the general public. Such promotional items approved by the Board consist of wearing

Mary Lou Hogan  
April 21, 1999  
Page Two

apparel, sporting equipment and serving and dispensing equipment such as cooler chests, beer mugs, beer pitchers and picnic rods and pumps. It would appear that propane gas tanks bearing logos would not qualify as promotional items which the Board would permit distributor licensees to sell to the general public.

Please do not hesitate to contact this office if you have any further questions. We encourage your individual distributors and importing distributors to seek approval from the Board to sell the propane gas tanks, charcoal, ice cream and transit tokens at their licensed premises.

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. 99-073