

March 9, 1999

Richard F. Start  
DAMIAN & AMATO  
Three Gateway Center  
15<sup>th</sup> Floor North Wing  
Pittsburgh, PA 15222

**RE: Penn Beverage, Inc.  
License No. ID-813**

Dear Mr. Start:

**ISSUE:** This is in response to your February 10, 1999 inquiry to this office regarding whether your client, an importing distributor licensee, would be permitted to provide use of a beer/draft wagon to licensees of the Board for use off of their licensed premises.

**OPINION:** Sections 411(e), 443(d), 443(f) and 493(17) of the Liquor Code prohibit an importing distributor from either directly or indirectly giving anything of value or the equivalent thereof to any restaurant licensee, his servant, agent or employee, for equipping, fitting out, or maintaining and conducting the restaurant. [47 P.S. §§4-411(e), 4-443(d), 4-443(f) and 4-493(17)]. A beer/draft wagon such as the one you describe in your letter is considered equipment. Thus, your client cannot provide it to a licensed restaurant. Even though it would be a loan, it would still be a gift or something of value for that restaurant. For your information, items such as draft beer equipment or tapping devices generally must be obtained by licensees from commercial sources and not Board-licensed wholesalers or manufacturers.

Additionally, be advised that retail licensees are not permitted to sell alcohol outside their licensed premises, even if on the same property as the licensed premises, unless they qualify for, and hold, a special occasion permit pursuant to Liquor Code section 408.4. [47 P.S. §4-408.4].

I have enclosed copies of Liquor Code sections 411(3), 443(d), 443(f), 493(17) and 408.4 for your review.

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

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SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR  
CONTROL BOARD.

Very truly yours,

FAITH S. DIEHL  
CHIEF COUNSEL

Enclosures

cc: Pennsylvania State Police-  
Bureau of Liquor Control Enforcement

Refer to: (717) 783-9454  
FAX: (717) 787-8820

LCB Advisory Opinion No. 99-075