

April 28, 1999

Patrick M. McHugh, Esquire
Suite 214 The 8040 Roosevelt Building
8040 Roosevelt Boulevard
Philadelphia, PA 19152

Dear Mr. McHugh:

ISSUE: In your letter dated April 16, 1999, you ask whether an importing distributor may lease trucks from an independent trucking company for use at its licensed business where the truck owner would also on occasion use its trucks to haul other freight.

OPINION: Under the Liquor Code, an importing distributor may deliver or transport malt or brewed beverages only in vehicles which have the licensee's name, address and license number in at least four-inch letters painted or affixed on each side of the vehicle. [47 P.S. Section 4-492(9)]. It is prohibited for an importing distributor to transport malt or brewed beverages in a vehicle in which another commodity is being transported at the same time unless approved by the Board. [47 P.S. Section 4-492(11)]. Finally, importing distributors may not engage in any other business except distributing malt or brewed beverages unless they obtain approval by the Board. [47 P.S. Section 4-492(12)]. Therefore, under these provisions, it is permissible for the truck owner to utilize its trucks at times to haul nonalcoholic beverage freight, when the importing distributor is not using the trucks, as long as this is in compliance with the Liquor Code.

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
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LCB Advisory Opinion No. 99-142