

May 6, 1999

Daniel E. Tanczos
TANCZOS BEVERAGES, INC.
2330-40 Jacksonville Road
Bethlehem, PA 18017

Dear Mr. Tanczos:

ISSUE: This office is in receipt of your March 25, 1999 correspondence in which you inquire whether it is permissible for a distributor licensee to offer iced tea, hot tea and/or coffee and snacks such as pre-packaged cupcakes, etc., for sale to the general public. You also inquire whether it is permissible for a distributor licensee to 'de-license' a portion of the interior of its premises for the purposes of sampling malt or brewed beverages thereon.

OPINION: Section 492(12) of the Liquor Code prohibits any licensed 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. [47 P.S. Section 4-492(12)]. PLCB Advisory Notice No. 9 (Third Revision) lists the items which distributors and importing distributors may sell without Board approval. Iced tea, hot tea and/or coffee are soft drinks which distributors and importing distributors are permitted to sell. Pre-packaged cupcakes (i.e., Tastykakes) are not specifically included in the list. As the Board considers individual requests from distributor and importing distributor licensees on a case-by-case basis, this office has submitted your request to sell pre-packaged cupcakes to the Board for approval.

With regard to your 'de-licensing' question, be advised that PLCB Advisory Notice No. 10 (Fourth Revision) sets forth the circumstances under which samplings and tastings of malt or brewed beverages may take place on licensed or unlicensed premises. Because distributor or importing distributor licensees may not permit samples to be opened or consumed on their licensed premises, it would be necessary for a distributor or an importing distributor licensee to conduct tastings only on unlicensed portions of the premises, although unopened samples may be distributed on the licensed premises. Therefore, if you were to 'de-license' an area of your licensed premises, the tastings would be permitted to take place in the unlicensed areas, provided that customers open the samples and consume them while at all times remaining off of the licensed premises.

I have enclosed Advisory Notices No. 9 (Third Revision) and 10 (Fourth Revision) for your review. 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. 99-143