

May 12, 1999
Vivian F. Walmer
Buck Hotel
P.O. Box 748
Jonestown, PA 17038

RE: Great PA Bartender Challenge

Dear Ms. Walmer:

ISSUE: This office is in receipt of your April 10, 1999 letter in which you request approval for the Buck Hotel to participate in the Great PA Bartender Challenge to be held during the four weeks between July 10, 1999 and August 7, 1999, with the exception of 'Meet Your Favorite Race Driver' to be held on May 16, 1999. The proceeds from these events will be donated to the Central Pennsylvania Chapter of the National Multiple Sclerosis Society in the fight against MS. The events to be held include: 50/50 Drawing (not to exceed \$100.00), Match the Daily Number (\$100.00 in cash awarded weekly), Bake Sale, Sandwich Sale, Chicken Bar-B-Que, Carnival, Jimmy Buffet Nite, Sidewalk Sale, Candle Sale, Basket Bingo (merchandise only) and raffles (merchandise only).

OPINION: Unfortunately, your letter does not give sufficient detail of the events for which you request approval for this office to specifically approve each one. However, this letter will serve to provide you with broad explanations of what is and what is not permitted on licensed premises.

Generally, hotel liquor licensees may not hold or permit to be held on the licensed premises an event, tournament or contest; nor may the retail licensee advertise, offer, award or permit the award, on the licensed premises of trophies, prizes or premiums. [40 Pa. Code Section 5.32(e)]. However, there are exceptions to this general prohibition. With respect to the 50/50 Drawing, Match the Daily Number, Basket Bingo and raffles, section 5.32 of the Board's Regulations permits bona fide charitable organizations to officially sponsor and conduct events, tournaments and contests on restaurant licensed premises for the benefit of a bona fide charitable organization. [40 Pa. Code Section 5.32(e)(4)]. Charitable organizations, for the purpose of this section, are defined as entities that are qualified, approved by and registered with the Department of State and operated under 49 Pa. Code, Pt. I, subpart B. Furthermore, a charitable organization function must be operated in accordance with the Solicitation of Funds for Charitable Purposes Act [10 P.S. Sections 162.1-162.24] and, if applicable, the Local Options Small Games of Chance Act [10 P.S. Sections 311-327] and the Bingo Law [10 P.S. Sections 301-308.1].

Charitable organizations' functions must also comply with the following requirements. No unlawful gambling or lewd, immoral or improper entertainment may be associated directly or indirectly with the functions. No contest, event or tournament may involve the consumption of alcoholic beverages. The total value of all prizes for any contest, event or tournament cannot exceed \$500.00, unless permitted by one of the Acts referenced above. Provided the National Multiple Sclerosis Society meets the above requirements, it could conduct the proposed raffles and drawings on Buck Hotel's licensed premises. You may wish to contact the Small Games of Chance Board at (717) 787-8275 for further information regarding the requirements set forth by the Small Games of Chance Act.

Be advised that for an event to constitute unlawful gambling, the following three elements must be present: 1) consideration or paying to play; 2) an element of chance; and 3) a prize or reward. The 50/50 Drawing, Match the Daily Number, Basket Bingo, and raffles may constitute unlawful gambling as all three elements may be present. However, since illegal gambling is a Crimes Code provision, it is suggested that you contact your local law enforcement authority, the State Police, or your local district attorney for an interpretation as to whether these sales constitute unlawful gambling.

With regard to the Bake Sale, Sandwich Sale, Chicken Bar-B-Q, Sidewalk Sale, and Candle Sale, be advised that section 3.52(b) of the Board's Regulations prohibits licensees from having an inside passage to any business conducted by other persons except as approved by the Board. [40 Pa. Code Section 3.52(b)]. Having such sales on your licensed premises could be construed as conducting other businesses on your premises, which are prohibited without Board approval. However, section 3.52(b) of the Board's Regulations has been interpreted to permit one-time events which would not be considered other businesses on licensed premises. Therefore, if each of these events was a one-time event, with the proceeds being donated to charity, you would not be required to request specific Board approval to conduct them.

Without more detail, this office would be unable to provide you with an opinion regarding the Carnival or Jimmy Buffet Nite. Please keep in mind that, with respect to all of these events, if they do not occur on your licensed premises, they would not be restricted or prohibited in any manner by the Liquor Code nor the Board's Regulations. You would be encouraged, however, to contact your local municipal authorities to determine what their requirements might be for conducting these events off (i.e., in the parking lot) of your licensed premises.

Please do not hesitate to contact this office if you would like further information.

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: Bureau of Liquor Control Enforcement,
Pennsylvania State Police

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

LCB Advisory Opinion No. 99-155