

May 13, 1999
Nicholas J. Bergman
BUCHMAN & O'BRIEN
10 East 40th Street
New York, NY 10016

Dear Mr. Bergman:

ISSUE: In your letter dated April 20, 1999, you ask how the Liquor Code's advertising rules apply to flyers placed in theatre playbills and sales agents of manufacturers.

OPINION: Under the Board's Regulations, an agent of a manufacturer promoting the manufacturer's liquor products would be considered a licensee of the Board. [40 Pa. Code Section 13.71]. The provisions of section 498 of the Code would apply to such vendors' advertisements. Therefore, it would not be permissible for a flyer to be included in a theatre playbill off of the licensed premises to advertise beverages sold by a retail licensee. Manufacturers' agents are also prohibited from contributing advertisements to retail licensees. [40 Pa. Code Section 13.51(a)].

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. 99-168