

May 20, 1999
Ann M. Paschal
Manager, Regulatory Affairs
JIM BEAM BRANDS CO.
510 Lake Cook Road
Deerfield, IL 60015-4964

RE: Windsor Relief Pitcher - Sweepstakes/Contest/Pitching Clinic

Dear Ms. Paschal:

ISSUE: This is a response to your letter to this office dated April 22, 1999 and follow-up conversation with this office requesting an opinion about the legality of Jim Beam Brands Co. sponsoring a promotion that involves a consumer sweepstakes, a contest at a minor-league baseball stadium (Multi-purpose Stadium Authority of Lackawanna County) and a pitching clinic to be conducted prior to the contest. Your letter states that this promotion will be advertised through print media in statewide publications.

OPINION: This office has reviewed the proposed consumer sweepstakes/contest materials and determined that they comport with applicable liquor laws and regulations, specifically section 493(24) of the Liquor Code. [47 P.S. Section 4-493(24)]. Generally, section 5.32 of the Board's regulations [40 Pa. Code Section 5.32] prohibits manufacturers from conducting a contest, event or tournament on retail licensed premises. The Board's records indicate that the Multi-purpose Stadium Authority of Lackawanna County is a Board licensee. However, the playing surface of the stadium is unlicensed. Moreover, the contest and pitching clinic are being conducted on the unlicensed playing surface of the stadium for the benefit of the sweepstakes winners and not for the benefit of the licensee. Therefore, it is permissible for Jim Beam Brands Co. to conduct the contest and pitching clinic on the unlicensed playing surface at the stadium, subject to section 13.51 of the Board's regulations. [40 Pa. Code Section 13.51].

Section 13.51 prohibits an out-of-state manufacturer from contributing to or accepting from another licensee of a different class, anything of value by means of advertisement, contribution, purchase, sale of tickets, donations or by any device, for any purpose. Additionally, joint advertising between a liquor manufacturer and retailer of distilled spirits is prohibited by section 13.14 of the Board's regulations. [40 Pa. Code Section 13.14].

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
Robert P. Kaskiel

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Advisory Opinion No. 99-175