

June 4, 1999  
Ms. Diane Goldstein  
President  
LIBERTY BELL BEVERAGES, INC.  
1438 Chestnut Street  
Emmaus, PA 18049

Dear Ms. Goldstein:

ISSUE: This is in response to your letter of May 18, 1999 in which you, an importing distributor licensee, request a legal opinion regarding the sale of certain beer at a retail price that is actually under the wholesale acquisition price. You enclosed a sample sales advertisement listing Coors Light 12 oz. cans, 24-pack case for \$8.99 (regular price \$11.99), limit of one per customer/family. Your cost is \$9.30 per case. The sale would run for a limited time and would involve no coupons.

OPINION: There is nothing in the Pennsylvania Liquor Code or the Board's Regulations which prohibits a distributor or importing distributor from selling malt or brewed beverages to the public below its cost. Section 447 of the Liquor Code [47 P.S. Section 4-447] and sections 11.201-11.205 of the Board's Regulations [40 Pa. Code Sections 11.201-11.205], all of which concern price reductions/increases within 120 days, are no longer in effect due to a recent federal court decision. Please keep in mind, however, that the Liquor Code prohibits offering a rebate or something of value to induce purchases of malt or brewed beverages. [47 P.S. Sections 4-493(22); 4-493(24)]. You may also wish to contact the Bureau of Alcohol, Tobacco & Firearms to see if selling beer below cost is a violation of federal regulations or antitrust laws.

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. 99-211