

July 21, 1999

Telephone: 717-783-9454
FAX: 717-787-8820

James V. McGough
1107 12th Street, Suite 504
P.O. Box 633
Altoona, PA 16601-0633

RE: Bavarian Aid Society License #CC-954

Dear Mr. McGough:

ISSUE: This office is in receipt of your letter dated July 9, 1999 in which you inquire whether the operation of small games of chance by non profit organizations which lease the second floor of your client's catering club facility for the purpose of conducting bingo games for the benefit of their respective organizations would violate the Liquor Code or the Board's regulations. The Bavarian Aid Society already holds a small games of chance license. You noted that the lease for the banquet/meeting room prohibits the non profit organizations from having any alcoholic beverages on the property, and that there is a separate outside entrance for the banquet/meeting room.

OPINION: Initially, be advised that the Pennsylvania Liquor Control Board does not regulate or issue small games of chance licenses. Rather, they are handled by the Department of Revenue, Small Games of Chance Division. You may wish to speak with Anita Kresge of that Division at (717) 787-8275. She is the individual who handles the small games of chance applications.

In addition, the Local Option Small Games of Chance Act can be found in Title 10 of the Pennsylvania Statutes at sections 311-327. [10 P.S. Sections 311-327]. The regulations pertaining to small games of chance can be found in Chapter 901 of Title 61 of the Pennsylvania Code. [61 Pa. Code Sections 901.01, et seq.].

Section 320(d)(7) of the Small Games of Chance Act provides:

No licensed eligible organization shall permit its premises to be used for small games of chance by another licensed eligible organization at the same time that it is conducting small games of chance on the premises. When a licensed eligible organization is permitting another licensed eligible organization to use its premises for purposes of small games of chance, it must cease the operation of its own small games of chance during the period that the other licensed eligible organization is conducting its games on the premises.

[10 P.S. Section 320(d)(7)].

The Act further states that an eligible organization may conduct small games of chance 'at a location off its premises when such games are part of an annual carnival, fair, picnic or banquet held or participated in by that eligible organization on a historical basis.' [10 P.S. Section 320(b.2)]. The eligible organization, however, must notify the District Attorney or county licensing authority in writing of the location, date and time of such events. Finally, section 3.52 of the Board's regulations provides that a liquor licensee who wishes to share its licensed premises with another entity, or that wishes to have an interior connection with another entity, must first secure approval from the Liquor Control Board. [40 Pa. Code Section 3.52].

Therefore, eligible organizations should not be operating from a Board-licensed establishment or using the licensed establishment as its premises to conduct games of chance unless it is the only small games of chance licensee in operation on the premises at the time, and unless the Board-licensed establishment has obtained approval from the Board pursuant to section 3.52 of the Board's regulations.

Please be advised that Board regulation 5.32(e)(4) provides that a catering club liquor licensee may permit the conduct of tournaments and contests on licensed premises for the benefit of and officially sponsored by a bona fide charitable organization. [40 Pa. Code Section 5.32(e)(4)]. A charitable organization for the purpose of this section is defined as one qualified, approved by and registered with the Department of State and operating under 49 Pa. Code, Part 1, Subpart B. If the charitable organization meeting this definition is also the holder of a small games of chance license, it would be permitted to conduct the activities allowed under the Local Option Small Games of Chance Act on the catering club licensed premises pursuant to the requirements of the Act. However, according to the Act, it would appear that this could only be done on an annual basis with the permission of the District Attorney or the county licensing authority. If such permission were obtained, it would be permissible for an eligible organization holding a small games of chance license, if it is also considered a charitable organization under the Board's regulations, to conduct small games of chance on catering club licensed premises.

Since the Board does not ordinarily interpret the Local Option Small Games of Chance Act, you may wish to contact Miss Kresge, your District Attorney's office or the County Treasurer for their assistance in this matter.

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

LCB Advisory Opinion No. 99-264