

July 28, 1999

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Betty Weldon, Field Director
Brand Development Group
220 White Plains Road
Tarrytown, NY 10591

Dear Ms. Weldon:

ISSUE: In your letter dated July 15, 1999, you inquired as to the legality of a taste test you would like to conduct July 30 through August 30, 1999 at Franklin Mills Mall. According to your letter, 65 respondents between the ages of twenty-one to forty-four would be provided two drinks to taste, each containing no more than two ounces of a 7.5 proof pre-mixed cocktail. Further, you indicated that United Distillers and Vintners Inc. will be responsible for shipping the test product to a licensed distributor in Pennsylvania and that all federal and state taxes will be paid for the product.

OPINION: Board Advisory Notice No. 10 (4th Revision) permits product tastings for market research on unlicensed premises provided they adhere to the following:

1. Products used must be legally procured and taxes paid.
2. No purchase requirement can be associated with the tasting.
3. No cooperative advertising may be associated with the tasting.
4. Wine and spirits manufacturers or their agents must be registered pursuant to the Board's regulations.
5. No more than one standard-sized alcoholic beverage of each product may be provided to each tasting participant.

So long as you comply with the tasting requirements in Advisory Notice No. 10, your tasting event will be permissible. Also, please be advised that any liquor must come into the state via the Board. Any importation questions you may have should be addressed to Joy Taljan with the Board's Bureau of Logistics. Her phone number is (717) 783-8237. I have enclosed a copy of Board Advisory Notice No. 10 for your review.

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
Joy Taljan

LCB Advisory Opinion No. 99-276