

August 3, 1999

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

Karen K. Manders  
Associate General Counsel  
ANHEUSER-BUSCH COMPANIES  
Executive Offices  
One Busch Place  
St. Louis, MO 63118-1852

Dear Ms. Manders:

ISSUE: In your letter dated July 15, 1999, you ask whether a territorial agreement between a manufacturer (out-of-state) and a Pennsylvania importing distributor which states that nothing in the agreement 'shall prevent a wholesaler from selling products to another duly authorized Anheuser-Busch wholesaler for the purpose of eliminating product shortages or inventory imbalances' satisfies the provision of section 431(b) of the Liquor Code regarding the authority for such sales.

OPINION: Under section 431(b) of the Pennsylvania Liquor Code, as you state, it is provided that an out-of-state manufacturer can authorize one importing distributor holding distributing rights for a specific area for the manufacturer's products to sell such products to another importing distributor holding distribution rights for another geographical area as long as the authority is in writing and a copy is given to each importing distributor. [47 P.S. Section 4-431(b)]. The language contained in the agreement which you have provided would satisfy this requirement as long as this has been entered into by each of the importing distributors involved in making sales to each other.

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. 99-280