

September 8, 1999

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

Richard C. Frank
General Manager
Fat Tuesday-Philadelphia
431 South Street
Philadelphia, PA 19147 VIA FAX

Dear Mr. Frank:

ISSUE: In your August 24, 1999 fax to this office, you inquire whether it would be permissible for Fat Tuesday of Philadelphia, holder of liquor license TR-3540, to engage in a football promotion. The promotion would consist of allowing customers to pick the winners of football games. The customer with the most correct answers could win items, such as team jerseys, footballs, autographed memorabilia, etc. At the end of the season, you plan to offer a grand prize, such as a television set. The promotion will run for 16 weeks beginning September 12. There would be no purchase necessary in order to play.

OPINION: Generally speaking, licensees may conduct self-sponsored events, tournaments or contests so long as they follow the guidelines set forth in section 5.32 of the Boards regulations. [40 Pa. Code Section 5.32]. Those regulations allow contests so long as no lewd, immoral or improper conduct occurs on the licensed premises. In addition, there may be no unlawful gambling associated with the activity and no contest that involves the consumption of alcohol. The total prizes for any event, tournament or contest may not exceed \$500.00. Licensee may conduct more than one contest at a time; however, the total value of all prizes awarded in any seven-day period may not exceed \$5,000.00. Licensees must maintain on the licensed premises records indicating the date of the event, an itemized list of all prizes for each event including each prize, its value and the name and address of the recipient. Such records must be kept for two years.

One of the prerequisites for establishing that unlawful gambling has occurred is that there would be evidence of consideration, i.e. evidence that participants must pay to participate. Since you are not requiring payment to enter this contest, it would appear that your contest does not involve unlawful gambling. You should contact the appropriate law enforcement officials in your area to confirm that they do not perceive your contest as unlawful gambling. Therefore, so long as the total value of all the prizes in your contest do not exceed \$500.00 it would be permissible.

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. 99-307