

October 28, 1999

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Ms. Crystal L. Hartz
Sales & Marketing
WILSBACH DISTRIBUTORS, INC.
5500 Linglestown Road
P. O. Box 6148
Harrisburg, PA 17112

Dear Ms. Hartz:

ISSUE: This is in response to your letter of October 4, 1999 in which you seek our opinion regarding advertising between distributors and importing distributors and retail accounts. You are aware that an importing distributor can advertise on a highway digital message board the names of all its off-premise accounts, but you ask if you can advertise the names of your retail accounts that are doing promotions with your brands.

OPINION: Section 13.51(a) of the Board's Regulations [40 Pa. Code Section 13.51(a)] prohibits any licensee or group of licensees from directly or indirectly contributing to or accepting from another licensee of a different class anything of value, including advertising. Joint or cooperative advertising has been permitted, however, in situations where each licensee is paying for its respective share of the advertisement. Therefore, unless your retail accounts will be paying for their share of the advertisement on the message board, their inclusion in such would not 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

c.c. Pennsylvania State Police
Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 99-355