

November 10, 1999

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

Howard Gillick
H.P.G. MUGS, INC.
211 South Main Street
Doylestown, PA 18901-4812

Dear Mr. Gillick:

ISSUE: This office is in receipt of your October 22, 1999 facsimile transmittal in which you inquire whether you, as a restaurant liquor licensee, would be permitted to install and use on your licensed premises a machine which chills and dispenses liqueur. According to your letter, the machine holds three bottles which are stored upside down above the machine. There is a tap in the front of the machine which dispenses the liqueur. The liqueur is drawn from the bottles through cooling tubes attached to the tap. At no time would the liqueur be mixed with any other liquid; nor would the liqueur be stored in anything other than its original container.

OPINION: Section 491(4) of the Liquor Code [47 P.S. Section 4-491(4)] prohibits the use of decanters of alcoholic beverages by licensees, except for wine. Additionally, section 491(10) prohibits the refilling of any bottles or containers which contain liquor with any liquid or substance whatsoever. [47 P.S. Section 4-491(10)]. This office, however, has historically approved the use of glass containers to store liquor so long as the actual drinks are dispensed in other glass containers. Therefore, it would be permissible for Mugs on Main Street to utilize the cooling/dispensing machine as proposed.

Be aware, however, that section 493(17) of the Liquor Code prohibits any licensee from owning any interest, directly or indirectly, or being employed or engaged in any business which involves the manufacture or sale of any equipment, furnishings or fixtures to retail licensees [47 P.S. Section 4-493(17)].

This provision requires you to obtain the cooling/dispensing machine from an unlicensed third party, and not from licensed vendors, manufacturers, or other licensees of the Board.

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.

Please do not hesitate to contact this office if you have any additional questions.

Very truly yours,

FAITH S. DIEHL
Chief Counsel

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

LCB Advisory Opinion No. 99-360