

November 9, 1999

Telephone: 717-783-9454
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Susan Clare
Brown-Forman Corporation
850 Dixie Highway
P.O. Box 1080
Louisville, KY 40210

RE: Non-alcoholic Beverage Sampling/Tasting on Retail Licensed Premises

Dear Ms. Clare:

ISSUE: This is in response to your fax dated October 19, 1999 to this office in which you request an advisory opinion as to the legality of conducting a tasting/sampling of a non-alcoholic beverage (less than one-half of one percent alcohol by volume) on retail licensed premises.

OPINION: PLCB Advisory Notice No. 10 (5th Revision) ('Advisory 10'), a copy of which is enclosed, explains the guidelines under which manufacturers' representatives may conduct tastings and samplings on retail licensed premises. Generally, Advisory 10 involves the tasting and sampling of alcoholic beverages. Because the product being marketed is less than one-half of one percent alcohol by volume, the product does not fall within the Liquor Code's definition of alcohol or liquor. However, please note that the Pennsylvania Crimes Code prohibits the giving, providing or sale of 'non-alcoholic' beverages (i.e., defined as less than one-half of one percent alcohol by volume) to any person under the age of 21. [18 Pa. C.S. Section 6310.7].

Notwithstanding that the Board does not regulate the specific beverage described above, the Liquor Code and the Board's Regulations do regulate activity of manufacturers' representatives on retail licensed premises. Therefore, the activity you propose is permissible subject to compliance with Advisory 10. If after reviewing Advisory 10 you require additional information, please do not hesitate to contact this office again. The Board publishes its advisory notices on its web site at www.lcb.state.pa.us (click on 'Inside the PLCB' and then on 'Legal Issues').

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

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

LCB Advisory Opinion No. 99-361