



ADVISORY NOTICE NO. 14

EVENTS, TOURNAMENTS OR CONTESTS JULY 10, 1996

TO: All Retail and Wholesale Licensees and Manufacturers

Section 5.32 of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §5.32], which formerly prohibited events, tournaments, contests and the awarding of prizes on licensed premises, has been amended effective May 11, 1996. Hotels, restaurants, clubs, privately-owned public golf courses, privately-owned private golf courses, municipal golf courses, brew pubs, and malt beverage eating place retail dispensers may now conduct self-sponsored (paid for and carried out by the licensee) events, tournaments and contests. A copy of section 5.32 is included with this advisory notice.

The holding of events, tournaments and contests may often involve elements of gambling. The easing of restrictions on events, tournaments and contests does not permit any form of unlawful gambling. Inquiries concerning gambling laws should be addressed to state and local police or the District Attorney where the licensed premises is located. The following questions and answers should further your understanding of this regulatory change:

1. *Who other than the above licensees can sponsor events, tournaments and contests on licensed premises? Can distributors or manufacturers be sponsors at retail establishments?*

The regulation specifically restricts sponsorship to bona fide charitable organizations, governing bodies of certain sports (golf, skiing, tennis, bowling and pocket billiards), and the State Athletic Commission. Other classes of licenses and non-licensee sponsors are not included under the amended regulation. If any other entity desires to participate with the licensee in sponsoring events, tournaments or contests, it is strongly recommended that a request be submitted for the Board's review and for the issuance of a legal opinion pursuant to section 211.1 of the Liquor Code as to sponsorship permissibility. [47 P.S. §2-211.1]. It should be noted that distributors and importing distributors are not prohibited from holding events, tournaments or contests on their own premises.

2. *May distributors, importing distributors or manufacturers provide prizes to retail licensees to award in the retail licensees' self-sponsored events?*

No, because the prize must be paid for by the retail licensee to constitute self-sponsorship. Moreover, section 13.51(a) of the Board's regulations prohibits licensees from directly or indirectly contributing to or accepting from licensees of a different class anything of value by means of advertisement, contributions, purchase, sale of tickets, donations, or by any device, for any purpose. [40 Pa. Code §13.51(a)].

3. *Are drawings for prizes that are conducted by the retail licensee legal?*

Yes, but once again licensees are cautioned concerning unlawful gambling. Three elements are necessary to constitute gambling; they are: consideration, chance and reward. For example, playing cards for money is not permitted if players have to pay to compete. However, a self-sponsored (paid for and carried out by the licensee) drawing, where no consideration is paid by participants in order to enter would be permitted.

4. *Is it permissible for retail licensees to award prizes to video game contestants?*

Yes, provided it is a competitive endeavor between players who are not required to pay in order to compete. It should be noted that many video poker machines and all slot machines not classified as antiques are considered “gambling devices per se.” The mere possession of these devices constitutes a gambling violation. However, “games,” defined in section 5.30 of the regulations, are permitted on the premises, where payment is required to play, as long as players can only win free plays.

5. *What are the limits on the value of prizes?*

Golf, skiing, tennis, bowling, pocket billiards, as well as events sanctioned by the State Athletic Commission have no prize value restrictions. Moreover, those organizations that hold a bingo and/or small games of chance license/permit and are eligible to conduct events, tournaments and contests as set forth in this regulation are subject to the prize limitations of the Local Option Small Games of Chance Act [10 P.S. §§311-327] and/or the Bingo Law [10 P.S. §§301-308.1]. All other permitted sponsors have a \$500 limit for any event, tournament or contest and the total value of all prizes awarded in any seven-day period may not exceed \$5,000.

6. *Does the amended regulation affect retail licensees’ participation in manufacturers’ sweepstakes?*

No. Retail licensees may continue to permit their premises to be used as a drop-off and pick-up point for manufacturers’ sweepstakes, but not for conducting a drawing or the awarding of sweepstakes prizes.

7. *Is it permissible to conduct a “Wet T-Shirt contest” on licensed premises?*

Yes, however, particular attention should be paid to the Board’s regulation prohibiting lewd, immoral or improper conduct by the licensee, its servants, agents, employees, patrons or event, contest or tournament participants. [40 Pa. Code §5.32(f)(1)].

8. *Are chugging or drinking contests allowed?*

No. The Board’s regulations prohibit an event, contest or tournament which involves the consumption of alcoholic beverages by an event, tournament or contest participant. [40 Pa. Code §5.32(f)(3)]. In addition, it is illegal to award alcoholic beverages as a prize.

9. *May a charge for admission to an event, tournament or contest be assessed?*

Yes. A cover charge is permitted unless it is for admission to an event involving chance and reward. In addition, the price of a ticket or evidence of admission to an event, tournament or contest may not include a charge for alcoholic beverages, or entitle the holder thereof to receive an alcoholic beverage. Furthermore, a ticket purchased in order to gain admission to an event, tournament or contest may not be used in a drawing for door prizes.

10. Does the regulatory change involve any additional record keeping for participating licensees?

Yes. Licensees must maintain an itemized list of all prizes awarded, their value, and the name and address of the recipient on the licensed premises for a period of two years from the date of the event. [40 Pa. Code §5.32(f)(9)].

Sincerely,

A handwritten signature in black ink that reads "John D.W. Reiley". The signature is written in a cursive style with a large initial 'J' and 'R'.

JOHN D.W. REILEY
Secretary to the Board

**TITLE 40 PENNSYLVANIA CODE
(Pennsylvania Liquor Control Board Regulations)**

Sec. 5.30. Definitions.

Event/tournament/contest — A competitive endeavor involving skill, speed, strength or endurance. The term includes a competitive endeavor involving physical attributes of contestants.

Game — A device, such as a pinball, shuffleboard, bowling or video machine which provides the player with amusement and no other form of award excepting free plays.

Sec. 5.31. Amusement permit.

Sec. 5.32. Restrictions/exceptions.

- a. A licensee may not use or permit to be used inside or outside of the licensed premises a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, can be heard on the outside of the licensed premises.
- b. A licensee may not maintain on the licensed premises a platform or stage level with or elevated above the floor and used by musicians or entertainers, if the platform or stage or the entertainment produced thereon can be seen from outside the licensed premises.
- c. A licensee may not permit an employe, servant, agent, event/ tournament/contest participant or a person engaged directly or indirectly as an entertainer in the licensed establishment or a room or place connected therewith, to be in contact or associate with the patrons in the establishment, room or place for a lewd, immoral, improper or unlawful purpose. A copy of this restriction shall be constantly and conspicuously displayed on the wall of the dressing room used by the entertainers, as well as in a conspicuous location visible to employes, servants, agents and event/tournament/contest participants.
- d. A licensee may not directly or indirectly employ a minor person under 18 years of age as an entertainer in the licensed establishment, or in a room or place connected therewith, nor may a licensee permit in the establishment, room or place, a minor person under 18 years of age to act as an entertainer.
- e. A hotel, restaurant, club, privately-owned public golf course, privately-owned private golf course, municipal golf course, brew pub or malt beverage eating place licensee may not hold or permit to be held, on the licensed premises an event, tournament or contest; nor advertise, offer, award or permit the award on the licensed premises of trophies, prizes or premiums, for any purpose except as follows:
 1. A hotel, restaurant, club or malt beverage eating place licensee may permit to be held within the licensed premises an event sanctioned by the State Athletic Commission under 5 Pa.C.S. Part I Subparts A and B (relating to general provisions; and boxing) or under 5 Pa.C.S. Part I, Subpart C (relating to the Wrestling Act). Only malt or brewed beverages, as generally permitted by the class of license involved, may be sold, served or delivered on that portion of the licensed premises where the event is held, and not sooner than 1 hour before, and not later than 1 hour after the event. Service of malt or brewed beverages at

these events will be conducted only with the prior written approval of the State Athletic Commission filed with the Board. Drinks shall be dispensed in that portion of the licensed premises where the event is conducted only in paper or plastic cups.

2. A hotel, restaurant, club or malt beverage eating place licensee may hold or permit to be held within the licensed premises or in a bowling alley immediately adjacent thereto as provided in sections 406(a)(1) and 442(b) of the Liquor Code (47 P. S. Secs. 4-406(a)(1) and 4-442(b)), a bowling tournament or bowling contest. Liquor and malt or brewed beverages, as generally permitted by the class of license involved, may be served, sold or delivered at the bowling tournament or bowling contest by the licensee.
 3. A hotel, restaurant, club, privately-owned public golf course, privately-owned private golf course, municipal golf course, brew pub or malt beverage eating place licensee may permit the conduct of events on the licensed premises by groups constituting a league. Liquor and malt or brewed beverages, as generally permitted by the class of license involved, may be sold, served or delivered at the events on the licensed premises.
 4. Hotel, restaurant, club, privately-owned public golf course, privately-owned private golf course, municipal golf course, brew pub or malt beverage eating place licensees may permit the conduct of tournaments and contests on the licensed premises for the benefit of, and officially sponsored by, bona fide charitable organizations.
 - (i) A charitable organization for the purposes of this section is defined as one qualified, approved by and registered with the Department of State and operated under 49 Pa. Code Part I, Subpart B (relating to charitable organizations).
 - (ii) Charitable organization functions shall be operated in accordance with the Solicitation of Funds For Charitable Purposes Act (10 P. S. Secs. 162.1—162.24) and, if applicable, the Local Option Small Games of Chance Act (10 P. S. Secs. 311—327), and the Bingo Law (10 P. S. Secs. 301—308.1).
 5. Hotel, restaurant, club, privately-owned public golf course, privately-owned private golf course, municipal golf course, brew pub and malt beverage eating place licensees may conduct self-sponsored tournaments, events or contests on their own licensed premises so long as the activities are in conformance with the applicable provisions of this subchapter.
- f. For an activity conducted under this subchapter, the following apply:
1. There may not be lewd, immoral or improper conduct by the licensee, its servants, agents, employees, patrons or event, contest or tournament participants.
 2. There may not be unlawful gambling directly or indirectly associated with an activity on the licensed premises. A licensee will be held strictly liable for unlawful gambling on the licensed premises.

3. There may not be an event, contest or tournament which involves the consumption of alcoholic beverages by an event, tournament or contest participant.
 4. The price of a ticket or evidence of admission to an event, tournament or contest may not include a charge or assessment for alcoholic beverages or entitle the holder thereof to receive an alcoholic beverage anywhere on the licensed premises except for alcoholic beverages included in a meal package offering as provided for in Chapter 13 (relating to promotion).
 5. A licensee or sponsoring charity may advertise an event, tournament or contest.
 6. Hotel, restaurant, club, privately owned public golf course, privately- owned private golf course, municipal golf course, brew pub and malt beverage eating place licensees, as well as governing bodies of professional golf, skiing, tennis, bowling, pocket billiards and nonlicensee sponsors as provided in subsection (e) may award prizes to contestants or participants of events, tournaments or contests.
 7. The total value of all prizes for any given event, tournament or contest may not exceed \$500. The total value of all prizes awarded in any seven day period may not exceed \$5,000.
 8. Golf, skiing, tennis, pocket billiards or bowling events, tournaments, contests and events sanctioned by the State Athletic Commission are exempted from the prize value restrictions in this section.
 9. Licensees shall maintain on the licensed premises for two years, from the date of the event, an itemized list of all prizes for each event, tournament, contest indicating each prize, its value and the name and address of the recipient.
- g. The restrictions in this section may apply not only to the licensee, but to partners, officers, directors, servants, agents and employes of a licensee.