

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
VIRGINIA ALCOHOLIC BEVERAGE CONTROL COMMISSION  
RICHMOND

January 28, 1987

**CIRCULAR LETTER**  
**87—1**

**TO:** ALL MANUFACTURERS, BOTTLERS AND WHOLESALERS

**SUBJECT:** GIFTS AND CONTRIBUTIONS OF MONEY OR PROPERTY BY  
MANUFACTURERS, BOTTLERS OR WHOLESALERS OF  
ALCOHOLIC BEVERAGES TO EDUCATIONAL, CIVIC,  
CHARITABLE AND OTHER PHILANTHROPIC ORGANIZATIONS  
HOLDING RETAIL LICENSES ISSUED BY THE BOARD

**PURPOSE:** The purpose of this Circular letter is to provide clarification on the above subject.

**BACKGROUND:** Inquiry has been received by the Board as to whether Virginia's "tied-house" laws, specifically § 4-79 of the Code of Virginia, prohibit donations and gifts of money or property to educational, civic, charitable and other philanthropic organizations, including institutions of higher learning, that happen to hold retail licenses issued by the Board, or which own the premises on which the business of such licensed retail establishment is conducted.

Section § 4-79 of the Code is a penal statute and states, in part, that "(i)f any manufacturer, bottler or wholesaler of alcoholic beverages...either directly or indirectly shall...give to any person who holds any retail license,..or to the owner of the premises on which the business of any such person so licensed is conducted...any money...or property, with which the business of such retailer is or may be conducted, or for any other purpose, including a gift as an inducement or remuneration for other purchases of such beverages, he shall be guilty of a misdemeanor...."

**HELD:** Section § 4-79 is very broad, and its application extends to both direct and indirect gifts for any purpose. The number of statutory and regulatory exceptions to its provisions are relatively few in number. One exception, contained in VR 125-01-2, § 10, of the Board's Regulations, authorizes the sponsorship of certain public events (including athletic and charitable events) of short duration. However, the referenced regulation contains considerable limitations and guidelines, and it does not authorize direct gifts to such organizations. Further, there appears to be no specific legislative intent to exempt a selective group of licensees, specifically licensed charitable and philanthropic organizations (or the more selective sub-group of licensed institutions of higher learning) from the general scope of the basic statutory proscriptions.

There are a number of colleges and universities, as well as other non-profit organizations, including certain clubs and lodges that hold retail licenses. The various licensed restaurant establishments, campus pubs, etc., selling beer and/or wine for "on" or "on and off" premises consumption, being operated by some of these organizations are not unlike most purely commercial restaurants. They may be in direct competition with each other. With respect to colleges, the young adult market is a significant one, and establishments catering to this market, or other productive markets, no doubt provide some large volume accounts. Where retail

**CIRCULAR LETTER  
87—1**

outlets sell large quantities of alcoholic beverages to an important market, the potential for abusive or unlawful practices is not diminished merely because the establishment is operated by a charitable or non-profit organization.

The Board has given serious consideration to this matter, and is certainly mindful of the financial support, through gifts and donations, that our educational institutions and other charitable and philanthropic organizations require to carry on their needed work. However, the important purposes and rationale behind our tied-house laws are no less compelling. With the many incentives and pressures that exist in the marketplace today, such laws continue to protect against unfair competitive practices with respect to alcoholic beverages. Therefore, except as expressly authorized by statute or regulation, it is the Board's position that § 4-79 of the Code prohibits the direct or indirect giving of money or property to educational, non-profit or other charitable or philanthropic organizations that hold retail licenses, or operate licensed establishments on their premises, regardless of whether the gift of money or property is intended for charitable purposes and not as an unlawful inducement.

Because the majority of non-profit or charitable organizations do not hold retail licenses or operate licensed establishments on their premises, we encourage donations to such non-licensed organizations in Virginia. Further, with reference to licensed institutions of higher learning, the Board has determined that it will not take exception to gifts or donations made by a manufacturer, bottler or wholesaler (or any of its related trusts or foundations, including trusts or foundations which it may have established) to college foundations or trusts, including student scholarship funds or trusts, that regularly support such institutions of higher learning and their students, provided, however, that such foundation, scholarship or trust is independent from such licensed institution and, itself, is not under the direct or indirect control of a licensee of the Board. Although the benefits of such a gift may indirectly flow to such licensed institution of higher learning, the Board considers such a gift to be sufficiently remote so as not to be within the scope and intent of the statute

**INQUIRIES:** Inquiries concerning this Circular Letter should be addressed to Mr. Robert N. Swinson, Assistant Secretary to the Board, in writing or by phone at (804) 257—0617.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL  
  
Robert N. Swinson

**Assistant Secretary**