

November 30, 2004

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Natalie Peck
Pine Crest Inn
5167 Lincoln Highway
Harrisonville, PA 17228
turally@pa.net

RE: Daylight Savings Time

Dear Ms. Peck:

ISSUE: This is in response to your e-mail of November 2, 2004, to this office, in which you ask about how turning the clocks back one (1) hour on Sunday, October 31, 2004, affects a restaurant licensee. You are the manager of Pine Crest Inn, holder of Restaurant Liquor License No. R-18054.

OPINION: At one time, section 406(a)(5) of the Liquor Code read:

Any hotel, restaurant, club or public service liquor licensee may, by giving notice to the board, advance by one hour the hours herein prescribed as those during which liquor and malt or brewed beverages may be sold during such part of the year when daylight saving time is being observed generally in the municipality in which the place of business of such licensee is located. Any licensee who elects to operate his place of business in accordance with daylight saving time shall post a conspicuous notice in his place of business that he is operating in accordance with daylight saving time.

[47 P.S. § 4-406(a)(5)(deleted)]. In 1996, this section was deleted by Act 49, and there is no longer any mention of daylight savings time switches in the Liquor Code. Therefore, on October 31, a restaurant licensee could have turned back the time one (1) hour at 2:00 a.m., making it then 1:00 a.m., and the licensee could have continued to sell/serve alcoholic beverages for another hour. However, the licensee itself can choose to stop serving earlier than the legal time allowed.

This office is unable to confirm or deny whether it is true that the previous time to set clocks back at midnight was changed to 2:00 a.m. because of the bars. Former section 406(a)(5), quoted above, was in effect, in the same or similar versions, from 1957 until 1996, and it never

referred to a particular time of day. Prior to Act 99 of 1957, there was no mention of daylight savings time in the Liquor Code.

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

cc: Pennsylvania State Police,
Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 04-575