

January 28, 2011

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Ray Hillman  
Commander  
Harveys Lake American Legion Post 967

**RE: Catering Club License Question**

Dear Mr. Hillman:

ISSUE: This correspondence is in response to your January 9, 2011, e-mail in which you ask whether your catering club may rent a room within the club's hall to a private party, consisting of approximately sixty (60) people, and simply sell them the beer which they would serve themselves, or whether your club must provide a bartender for the private party's use. You note that the individual having the party is a member of your post. Pennsylvania Liquor Control Board ("Board") records indicate that Harveys Lake Post 967 holds Catering Club Liquor License No. CC-6167 (LID 2786) for premises located at R.R.3, Box 3009, Harveys Lake, Pennsylvania.

OPINION: It is assumed for the purpose of this response that the room you intend to allow the private party to occupy for its event is an area licensed by the Board. Be advised that the holder of a club or catering club license is not permitted to sell any alcohol or liquor, alcohol, or malt or brewed beverages (including beer) for consumption off of the licensed premises.

Initially, please note that the Liquor Code generally prohibits clubs from selling alcohol to individuals who are not members of the club, or who are not active members of another club that is chartered by the same state or national organization. [47 P.S. § 4-406(a)(1)]. An exception exists to this general rule for catering clubs. Patrons of a catering club can purchase alcoholic beverages from the club even if they are non-members, as long as they are part of a catered event.

A catered event is one involving the furnishing of liquor or malt or brewed beverages, or both, to be served with food prepared on the premises or brought onto the premises already prepared, for accommodation of groups of non-members who are using the facilities of the club by prior arrangement, made at least twenty-four (24) hours in advance of the time of the function, and which is paid for by non-members. [40 Pa. Code § 5.82(a)]. Records must be kept showing the date and time catering arrangements were made, the name of the person or the organization making the arrangements, and the approximate number of persons to be accommodated. [40 Pa. Code § 5.83(b)]. Non-members who are part of a lawful catered event can be sold and/or served alcoholic beverages. The club cannot, however, self-sponsor a catered event. A catered event is an event arranged by a third party.

If your licensed club rents its facility to a private party (which could be sponsored by a member of your club) for a bona fide catered event, the club could sell beer to the private party for service at the catered event. Be further advised that your club does not have to furnish a bartender for the catered event, but may instead allow the sponsor of the catered event to provide his or her own bartender for the service of alcoholic beverages purchased from the club by the private party.

Be further advised that section 5.81 of the Board's Regulations [40 Pa. Code § 5.81] requires a club licensee to adhere to the provisions of its constitutions and bylaws. Therefore, if your club's constitution or bylaws govern the procedures for such catered events, the club must comply, or risk citation by the Pennsylvania State Police, Bureau of Liquor Control Enforcement, for failure to adhere to the provisions of its constitution and bylaws.

Finally, it should be noted that licensees are strictly liable for violations of the Liquor Code and its attendant laws and regulations that occur on the licensed premises. [Pennsylvania Liquor Control Board v. TLK, Inc., 544 A.2d 931 (Pa. 1988)]. Licensees are specifically prohibited by Liquor Code section 493(1) [47 P.S. § 4-493(1)] from selling, furnishing and/or giving alcohol, and from permitting the sale, furnishing or giving of alcohol, to minors or visibly intoxicated persons. Therefore, a club is liable and may be subject to fines and/or license suspension or revocation when alcohol is sold, furnished or given to minors or visibly intoxicated persons on a club's licensed premises, regardless of whether the alcohol is served by the club's own bartenders or a third-party bartender or whether or not the club had knowledge of the incident.

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Should you have any further questions or concerns regarding this matter, please do not hesitate to contact this office.

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  
Jerry W. Waters, Director of Office of Regulatory Affairs  
Jane Melchior, Director, Bureau of Licensing  
Tisha Albert, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 11-004