

October 25, 2011

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Rae Speelman

**RE: Minor Sitting at a Bar**

Dear Ms. Speelman:

ISSUE: This correspondence is in response to your e-mail inquiry, dated October 15, 2011, in which you inquire whether you are correct in not allowing a three (3)-year-old child to sit at the bar with the child's parent, who is a member of the club. You further ask advice on what the ramifications would be if you allow the member to sit at the bar with his minor child. You indicate that you are the manager of a private country club, but you do not provide information regarding the establishment. Presumably, based upon the context of your letter, the establishment holds a valid catering club liquor, club liquor, or club malt beverage license.

OPINION: The general rule in Pennsylvania is that minors may not be present in an establishment licensed to sell alcoholic beverages. Pennsylvania law defines a minor as a "person under the age of 21 years". [1 Pa. C.S. § 1991]. There are four (4) exceptions to the general rule which apply to private clubs, as follows:

1. Minors with parents ("Parent exception")

If a minor is with one or both of the minor's parents, then the minor is permitted to be on the premises. The minor and parent(s) can sit anywhere on the premises, including the bar area, and alcoholic beverages can be served to the parent(s) or to any other adult with the minor.

2. Minors with legal guardians ("Guardian exception")

If a minor is with a legal guardian, then the minor is permitted to be on the premises. The minor and the legal guardian can sit anywhere on the premises,

including the bar area, and alcoholic beverages can be served to the guardian or to any other adult with the minor.

3. Minors under proper supervision (“Proper supervision exception”)

If a minor is present under proper supervision, then the minor is permitted to be on the premises. Section 102 of the Liquor Code defines proper supervision as someone who is at least twenty-five (25) years of age, who is directly responsible for the care and conduct of the minor while on the premises, and who keeps the minor within his or her sight or hearing. Proper supervisors are generally unpaid volunteers. However, licensees or their employees are allowed to act as proper supervisors as long as they are not performing any other employment-related duties at the same time. [47 P.S. § 1-102].

If a minor is in the premises under proper supervision, the minor can sit anywhere on the premises, including the bar area, and alcoholic beverages can be served to any adults with the minor.

Proper supervisors can only supervise a limited number of minors. In Philadelphia, that number is five (5). In the rest of Pennsylvania, the number is twenty (20), i.e., one (1) proper supervisor can supervise up to twenty (20) minors. Notwithstanding the above limitations, if the minors are on the premises as part of a school-endorsed function, each proper supervisor can supervise up to fifty (50) minors.

4. Minors attending a social gathering (“Social gathering exception”)

If a minor is attending a social gathering, then the minor is permitted to be on the premises. A social gathering is an event marketed to or catering to minors, in whole or in part, for which at least forty-eight (48) hours advance notice has been given to the Pennsylvania State Police, Bureau of Liquor Control Enforcement (“Bureau”). No alcohol can be served to anyone, even adults, at a social gathering and all alcohol must be removed from or secured by lock and key at the licensed premises.

Nevertheless, please also note that section 5.81 of the Board’s Regulations requires a club licensee to adhere to the provisions of its constitution and/or bylaws. [40 Pa. Code § 5.81]. If a particular club has provisions in its constitution and/or bylaws placing additional restrictions on the activities of minors, it must follow those provisions.

Thus, with regard to your specific questions, unless your club has provisions in its constitution and/or bylaws placing additional restrictions on the activities of minors, a minor may sit at the bar to the extent indicated above. You have not indicated that your club has any such restrictions and, therefore, in the specific scenario in which a minor child is sitting at the bar with his or her father, there are no legal ramifications because the activity is lawful.

Please do not hesitate to again contact this office if you have further questions.

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  
Tisha Albert, Director, Bureau of Licensing

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