

October 2, 2013

Telephone: (717) 783-9454

FAX: (717) 787-8820

Georgia Strunk
Neip's, Inc.
59 Crystal Street
East Stroudsburg, PA 18301

Re: Smoking Breaks

Dear Ms. Strunk:

ISSUE: Your e-mail of September 23, 2013 inquires whether there are any regulations regarding providing your bartenders a smoke break. You explain that sometimes there is only one (1) bartender on duty for seven (7) hours and you would like to know whether they are allowed to leave the bar area and take a smoke break, provided that they can see the entire bar area. You further inquire as to what the law is regarding leaving the bar area unattended.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that Neips, Inc. holds Hotel Liquor License No. H-1315 (LID 6255) for use by it at premises located at 59-63 Crystal Street, East Stroudsburg, Pennsylvania.

OPINION: Nothing in the Liquor Code or the Board's Regulations prohibits a licensee from leaving a bar area unattended, nor requires a licensee or employee to maintain either a physical presence in, or visual surveillance of, a bar area. Of course, there are many practical reasons why such presence and/or surveillance is generally in the licensee's interest; for example, a licensee can be held strictly liable if alcohol is furnished to either minors or visibly intoxicated persons. [47 P.S. § 4-493(1)].

As you may be aware, smoking is addressed generally by the Clean Indoor Air Act ("CIAA"). The CIAA is administered, interpreted and enforced by the Department of Health ("DOH"). For additional information, you may contact DOH by either logging on to its public website at www.health.state.pa.us or by calling its CIAA helpline at (717) 783-6600.

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
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 13-437