

February 12, 2014

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Bob

RE: Volunteer Fire Company § 406(a)(1)

Dear Bob:

ISSUE: This is in response to your e-mail dated February 9, 2014, wherein you inquire about active volunteers patronizing a fire social club of another fire company. You question whether an active member of a fire social club patronizing a social club of another fire company can take his friend or significant other into the club under section 406(a)(1) of the Liquor Code. You additionally question whether the members of the visiting company are required to sign in as guests, if the fire social club has a guest sign in book, or if the visiting members can simply show their club membership cards.

Although you have neither indicated whether you are a licensee nor provided a licensee number for a social club, it is assumed that you are inquiring on behalf of the holder of a club or catering club license.

OPINION: Section 406 of the Liquor Code provides that “[n]o club licensee nor its officers, servants, agents or employees, other than one holding a catering club license, shall sell any liquor or malt or brewed beverages to any person except a member of the club.” [47 P.S. § 4-406(a)(1)]. Furthermore, section 406 provides “for the purpose of this paragraph, any person who is an active member of any volunteer firefighting company, association or group of this Commonwealth, whether incorporated or unincorporated, shall upon the approval of any club composed of volunteer firemen licensed under this act, have the same social rights and privileges as members of such licensed club. For the purposes of this paragraph, the term "active member" shall not include a social member.” [Id.]

With respect to your first question, nothing in the Liquor Code or the Board’s Regulations governs who may or may not sign in non-member guests of club licensees. However, because section 5.81 of the Board’s Regulations [40 Pa. Code § 5.81] requires club licensees to adhere to the provisions of their constitutions and bylaws, if the club’s constitution or bylaws designates who may or may not sign in non-member guests, the club must adhere to such restrictions.

Be advised, however, that non-members cannot purchase alcohol at a club. Section 406(a) of the Liquor Code provides that “[n]o club licensee nor its officers, servants, agents or employees, other than one holding a catering license, shall sell any liquor or malt or brewed beverages to any person except a member of the club.” [47 P.S. § 4-406(a)]. This prohibition on selling alcohol to non-members does not, however, preclude a club member from purchasing alcoholic beverages for non-member guests; nor does it preclude the non-member from being served alcohol purchased by a club member.

An exception exists to this general rule for catering club licensees. Patrons of a catering club can purchase alcoholic beverages from the club even if they are nonmembers, 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 on the premises already prepared, for the accommodation of groups of nonmembers 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 nonmembers. [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)]. Nonmembers who are part of a lawful catered event can be sold and/or served alcoholic beverages. The catered event must be conducted for a third party, and cannot be self-sponsored by the licensee, although the third party can be a member of the club.

With respect to your second question, nothing in the Liquor Code or the Board’s Regulations governs a club’s individual policies regarding whether visiting active members of another volunteer firefighting association are required to sign in or to simply show a membership card. However, as mentioned earlier, the Board’s Regulations require that the operations of a licensed club must conform to the club’s constitution and bylaws at all times. [40 Pa. Code § 5.81]. If a licensee’s constitution or bylaws pertain to the above practices, the licensee must adhere to such practices. Therefore, you may wish to review the club’s constitution and bylaws to ensure that the policy described above is consistent.

If you have any additional questions regarding the Liquor Code or the Board’s Regulations, please feel free to again contact this office.

Bob via EMAIL: bobcat208@aol.com

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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. 14-030