

March 31, 2014

Telephone: (717) 783-9454

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Paul S. Reese
Classic Pizza
Larksville, Pennsylvania

Re: Restaurant Seating Requirements

Dear Mr. Reese:

ISSUE: This is in response to your e-mail sent on February 9, 2014, wherein you ask questions about seating in your restaurant. You note that business slows down or stops about one and a half (1½) hours before closing time. You ask when you may begin closing down for the evening by stacking the chairs to start cleaning the dining room, even though your business is technically still open. You ask if the chairs can be placed on top of the tables, upside down, so that they are available for patrons to take down and sit on. You further advise that you have five (5) booths, and each booth can accommodate six (6) people, but you ask how many people can sit in a booth, because you have heard that only four (4) patrons are permitted per booth.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate Paul S. Reese, trading as Classic Pizza, holds Restaurant Liquor License No. R-3352 (LID 52963) for the premises at 550 East Main Street, Larksville, Pennsylvania.

OPINION: Section 102 of the Liquor Code, in pertinent part, defines a restaurant as follows:

a reputable place operated by responsible persons of good reputation and habitually and principally used for the purpose of providing food for the public, the place to have an area within a building of not less than four hundred square feet, equipped with tables and chairs, including bar seats, accommodating **at least thirty persons at one time**.

[47 P.S. § 1-102 (emphasis added)].

With regard to the number of people who may sit in a booth, the Board’s Regulations provide that an eating space is “at least 18 inches wide by 12 inches deep, which is suitable for a service setting of plate, utensils and drink.” [40 Pa. Code § 3.1].

Therefore, your booth may seat as many patrons as there are eating places within that booth.

If your five (5) booths are large enough to provide for six (6) eating places per booth, then your booths alone are sufficient to meet the requirement of providing seating for thirty (30) persons at one (1) time. If the booths are not large enough for thirty (30) eating places, then you need to keep as many chairs and tables on the floor while you are still open for business so as to provide seating for thirty (30).

The Liquor Code and the Board's Regulations have no provisions regarding when a licensee may begin clean-up procedures. Since the Pennsylvania Department of Agriculture has general oversight over the preparation and sale of food, you may want to contact that agency for its input. You can reach it at 1-866-366-3723 or on the Internet at www.agriculture.state.pa.us.

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. 14-110