

Matthew Hoffman
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Matthew Hoffmann
Berkshire Heights Fire Company
E: House Rules for Minors

Dear Mr. Hoffmann:

ISSUE: This office is in receipt of your e-mail, dated April 15, 2014, wherein you state that under the Frequently Asked Questions (FAQ's) regarding minors on licensed premises, the last paragraph recommends establishing house rules to place additional limits as to where minors may be present. You inquire if such rules can be applied to certain sections, specifically referencing the main bar and the rental section that is separated by a door.

Records maintained by the Pennsylvania Liquor Control Board ("Board") indicate that Berkshire Heights Fire Company holds Catering Club Liquor License No. CC-5472 (LID 2514) for premises located at 898 North Park Road, Wyomissing, Pennsylvania.

OPINION: As you are aware, 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.A. § 1991]. There are four (4) exceptions to the general rule that apply to clubs:

1. Minors with parents ("Parent exception")

If a minor is with one (1) 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 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.

Regardless of relationship, someone who is eighteen (18) years old may be properly supervised by anyone who is twenty-five (25) or older, as long as that person is directly responsible for the care and conduct of the minor while on the premises, and keeps the minor within his or her sight or hearing.

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.

Minors are not permitted on licensed premises unless they fall under one (1) of the above-listed exceptions. Be advised that it does not matter if a minor is age six (6), age eighteen (18) or age twenty (20); the same rules apply. It should also be noted that an establishment is permitted to make house rules that place additional limits as to when and where minors are allowed on the premises. (emphasis added)

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The aforementioned addendum permits, but does not require a licensee to adopt additional house rules barring minors on the licensed premises or restricting their presence in addition to the exceptions. As a club licensee, any additional rules must be in compliance with the constitution and bylaws of the club. [40 Pa. Code § 5-81]. There is nothing in the Liquor Code that prohibits the house rules from being delineated and applied in such a way as to be operative to one section of the premises and not to the other.

Should you have any additional questions, 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
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 14-184