

July 1, 2014

Telephone: (717) 783-9454

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Linda Small, Manager/Steward
American Legion Home Association
201 Carlisle Street
Hanover, PA 17331

**RE: Placement of ATM, Automated Charge Card Unit, and Outside Sales
of Energy Services on Licensed Premises**

Dear Ms. Small:

ISSUE: This is in response to your letter received by our office on June 13, 2014, in which you request permission to place an automated teller machine (“ATM”) on your licensed premises, as well as permission for a PNC Bank Automated Charge Card Unit Machine. Additionally, you inquired whether it is permissible for an outside solicitor to sell “energy saving program[s]” to your members in order to provide energy discounts to members of the club.

Pennsylvania Liquor Control Board (“Board”) records indicate that you are the Manager/Steward of the American Legion Home Association, located at 201 Carlisle Street Hanover, Pennsylvania, which holds Catering Club Liquor License No. CC- 4436 (LID 3673).

OPINION: Section 3.52 of the Board’s Regulations prohibits a licensee from operating or permitting other persons to operate another business on the licensed premises. [40 Pa. Code § 3.52(a), (c)]. In addition, the licensed premises cannot have an inside passage or communication to or with any other business conducted by the licensee or other persons except as approved by the Board. [40 Pa. Code § 3.52(b)].

Traditionally, however, the Board has granted licensees’ requests to place ATMs on their licensed premises. Further, at its public meeting of June 25, 2014 the Board voted to allow all licensees to place ATMs on their licensed premises without first having to ask the Board’s permission. Therefore, your request to place an ATM on your premises is granted.

In regard to your request for a PNC Bank Automated Charge Card Unit Machine, it is assumed you are referring to permission to place and use a credit card swipe machine to

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complete transactions for alcoholic beverages. There is nothing in the Liquor Code or the Board's Regulations that requires, nor prohibits, the use of a PNC Automated Charge Card Unit Machine to handle permissible electronic funds transfers. Section 493(2) of the Liquor Code prohibits licensees from selling or offering to sell alcoholic beverages for credit, other than the exceptions listed therein. [47 P.S. § 4-493(2)]. One (1) of the exceptions permits retail licensees to sell alcoholic beverages to non-trade consumers and accept for payment credit cards issued by banking institutions or issued in accordance with the Board's Regulations. It may be inferred that the Board's permission for retail licensee to accept credit card payments allows for the use of a device to process said payment. Therefore, you may lawfully place and use a PNC Bank Automated Charge Card Unit Machine on your premises.

In regard to your inquiry as to whether it is permissible for an outside solicitor to sell "energy saving program[s]" to your members in order to provide energy discounts to members of the club, section 3.52(a) of the Board's Regulations provides that a licensee may not permit another entity to conduct business on the licensed premises. [40 Pa. Code § 3.52(a)]. Therefore, it is unlawful for an outside solicitor to sell "energy saving program[s]" at the licensed premises to your members for any reason.

Should you have any other further questions or concerns regarding this matter, please 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. 14-392