

February 12, 2015

Michelle Slaybaugh

**Via Email:** [mshaybaugh0585@outlook.com](mailto:mshaybaugh0585@outlook.com)

**RE:** Extended Hours Food Permit

Dear Ms. Slaybaugh:

**ISSUE:** This office is in receipt of your email of January 13, 2015, wherein you advise that your establishment wants to break the world record for consecutive dart shooting. You advise that in order to break the record individuals would need to remain at your club during the hours of 3:30 a.m. to 7:00 a.m. You indicate that no alcohol will be sold or consumed during these hours. Additionally, you advise that you have a banquet room and can place a sliding barrier between the room and the bar.

Pennsylvania Liquor Control Board (“Board”) records indicate that Fraternal Order of Eagles Gettysburg Aerie No. 1562 holds Catering Club Liquor License No. CC-3710 (LID 1722) for use by it at premises located at 61 North Fifth Street, Gettysburg, Pennsylvania. Board records also indicate that Michelle C. Slaybaugh is the Board-approved manager for the license.

**OPINION:** Organizations which hold club liquor licenses may be open for the sale of liquor and malt or brewed beverages daily from 7:00 a.m. until 3:00 a.m. the following day. [47 P.S. § 4-406(a)]. No club licensee may sell liquor or malt or brewed beverages between the hours of 3:00 a.m. and 7:00 a.m. on any day. [47 P.S. § 4-406(a)(4); 4-492(7)]. Patrons are required to leave that part of the premises habitually used for the serving of liquor or malt or brewed beverages not later than one-half (½) hour after the time the licensee is required to cease serving alcohol. [47 P.S. § 4-499(a)].

The Board may issue to a club an extended hours food permit (“EHF”), which would allow a club to remain open during those hours it would normally be closed, i.e., 3:00 a.m. until 7:00 a.m., for six (6) days *during the term of its license*. [47 P.S. § 4-499(b.1)(emphasis added)]. Thus, patrons must vacate a club’s premises by 3:30 a.m., unless it is one (1) of the six (6) days for which a club may hold an EHF.

Note that the EHF allows a club to sell only food and non-alcoholic beverages. [Id.]. No alcohol sales of any kind may occur during those extended hours. Patrons shall not be permitted to have any previously served alcoholic beverages in their possession, nor shall

they be permitted to remove any previously served alcoholic beverages from that part of the premises. [47 P.S. § 4-499(b.1)].

You will need an EHF even though you do not plan to sell alcohol after 3:00 a.m. since the licensed premises must be vacated by 3:30 a.m. without said permit.

As for your request for a sliding barrier, please be advised that section 499(b.1) requires that all patrons "...shall be required to leave that part of the premises habitually used for the serving of liquor or malt or brewed beverages to guests or patrons..." However, upon consultation with the Board's Bureau of Licensing, the proposed sliding barrier would be permissible so long as it completely separates the bar area from the dart playing area.

You may obtain an application for the EHF online at [www.lcb.state.pa.us](http://www.lcb.state.pa.us), by clicking on "Licensees," then "Applications/Forms," then "Forms" and finally selecting PLCB Form 318, "Application for Sunday Sales/Amusement Permit/Extended Hours Food License." For additional information, you may contact the Board's Bureau of Licensing at (717) 783-8250.

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

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