

April 10, 2015

Tom

**RE: Employment of Minors**

Dear Tom:

ISSUE: This office is in receipt of your e-mail dated March 16, 2015, wherein you indicate that you own the Dutch Kitchen in Frackville, Pennsylvania, which is a family diner and sit-down restaurant. You explain that the Dutch Kitchen is open seven (7) days per week from 6:00 a.m. to 9:00 p.m. You state that you mainly serve food and have a license to serve alcohol, beer, wine, and cocktails. You indicated that you do not have a sit-down bar; therefore, alcoholic beverages are dispensed from a waitress station. You ask whether you may employ a fifteen (15)-year-old high school student as a hostess. You explain that the high school student's duties would include greeting customers, seating customers, handing out menus, setting tables, and clearing tables of all non-alcohol related items. You also ask if your fourteen (14)-year-old daughter may work at your restaurant.

Pennsylvania Liquor Control Board ("Board") records indicate that Dutch Kitchen Restaurant, Inc. holds Restaurant Liquor License No. R-17702 (LID 18859) for use by it at premises located at 433 South Lehigh Avenue, Frackville, Pennsylvania.

OPINION: The general rule in Pennsylvania is that minors under the age of twenty-one (21) are prohibited from frequenting retail licensed premises where alcoholic beverages are sold for on-premises consumption. [47 P.S. § 4-493(14)]. Further, section 493(13) of the Liquor Code generally makes it unlawful for any hotel, restaurant, or club liquor licensee, or any retail dispenser, to employ or to permit any minor under the age of eighteen (18) to serve any alcoholic beverages or to employ or permit any minor under the age of sixteen (16) to render any service whatsoever in the licensed premises. [47 P.S. § 4-493(13)]. However, minors between the ages of sixteen (16) and eighteen (18) may be employed in licensed premises to serve food, clear tables and perform other similar duties, not to include the dispensing or serving of alcoholic beverages. [Id.]. Moreover, there is a provision in the Board's Regulations that permits a seventeen (17)-year-old minor to be treated as though he or she is eighteen (18) years old for purposes of employment if he or she is a high school graduate, or if he or she has been declared to have attained his or her academic potential by the chief administrator of the school district where the minor resides. [40 Pa. Code § 5.14]. In that case, the licensee must

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have in its possession on the licensed premises, to be produced on demand, a certified copy of the diploma or certificate of graduation or a letter on the official stationery of the minor's school district and over the signature of the chief administrator of the school district, declaring that the minor has attained his or her academic potential. [Id.].

Considering the above, neither the fifteen (15)-year-old high school student nor your fourteen (14)-year-old daughter would be permitted to work in any capacity on the licensed premises.

Finally, since employment of minors is primarily regulated by the Department of Labor and Industry, you may wish to contact that agency as well. Its phone number is (717) 787-5279.

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. 15-155