

December 30, 2015

Dave Swanson
VIA E-MAIL

RE: Temporary Membership

Dear Mr. Swanson:

ISSUE: Your e-mail of December 9, 2015 states that your club offers annual memberships. You inquire whether you may allow and use temporary memberships for periods less than a year; for example, a month or two days.

Pennsylvania Liquor Control Board (“Board”) records indicate that Kane Veterans Home Association holds Catering Club Liquor License No. CC-5587 (LID 2557) for use by it at premises located at 95 Wetmore Avenue, Kane, Pennsylvania.

OPINION: Neither the Liquor Code nor the Board’s Regulations specifically provide for “temporary” club memberships. The requirements for membership in a club are governed by the club’s constitution and/or bylaws, to which each club must adhere. [40 Pa. Code § 5.81]. There is no limitation in the Liquor Code or the Board’s Regulations relative to the number or classes of membership maintained by the club. However, section 102 of the Liquor Code [47 P.S. § 1-102] requires that members be admitted only after submission of an application, investigation of the application and a vote on the application. The club must also charge and collect dues from its membership. [Id.]. Temporary memberships would be permissible as long as the club followed the requirements of section 102 for the admission of members and complied with its constitution and bylaws. However, temporary members cannot purchase alcohol until after the application has been submitted, investigated and voted on by the membership, a process that this office has previously opined cannot be done in one day. [See Advisory Opinion 2012-134; 2010-81; 2008-247].

“Club” is defined as “any reputable group of individuals associated together not for profit for legitimate purposes of mutual benefit, entertainment, fellowship or

lawful convenience, having some primary interest and activity to which the sale of liquor or malt or brewed beverages shall be only secondary.” [47 P.S. § 1-102]. As such, should temporary membership be offered, the burden of proving that the club meets the requirements of section 102 is upon the club should its activities be questioned.

Note the following which may also be relevant to your inquiry:

Any person who is an active member of another club which is chartered by the same state or national organization shall have the same rights and privileges as members of the particular club. Further, any club licensee which is either an incorporated unit of a national veterans' organization or an affiliated organization as defined in section 461.1 shall be permitted to sell liquor or malt or brewed beverages to any active member of another unit which is chartered by the same national veterans' organization or to any member of a nationally chartered auxiliary associated with the same national veterans' organization. [47 P.S. § 4-406(a)(1)].

A catering club licensee may sell alcohol to groups of non-members at catered events held on the licensed premises. [47 P.S. § 4-401(b)]. Catered events are those involving the furnishing of liquor or malt or brewed beverages, or both, to be served with food prepared on the premises, or brought onto the premises already prepared, for the accommodation of groups of non-members who are using the facilities at the club by prior arrangement made at least twenty-four hours in advance of the time of the function and which are paid for by the non-members. [40 Pa. Code § 5.83]. Please note that a licensee may not self-sponsor a catered event. The catered event must be conducted by a third party, although the third party can be a member of the club.

During a catered event, non-members may purchase alcoholic beverages and consume them anywhere on the licensed premises. However, after the catered event has ended, non-members are no longer permitted to purchase alcoholic beverages, although members may purchase alcoholic drinks for non-members. Records must be kept showing the date and time catering arrangements were made, the name of the person or the organization making the arrangements, and the approximate number of persons to be accommodated. [40 Pa. Code § 5.83(b)].

Please do not hesitate to contact this office should you have additional questions.

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,

RODRIGO J. DIAZ
EXECUTIVE DEPUTY 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. 15-515