

July 12, 2016

Mitchell A. Maurer
VIA E-MAIL

RE: Beer at Club Picnic

Dear Mr. Maurer:

ISSUE: Your e-mail of May 27, 2016 states that your organization is having its picnic at another VFW location with a separate picnic ground. Because you believe that you cannot give away free beer, you inquire whether you should charge on the ticket the amount for every cup of beer. You further inquire whether you may give tickets at the gate for a set price and instruct guests to put one ticket in a bowl for every cup of beer they tap. Finally, you inquire whether your servers must tap the beer for the guests, and whether the beer may be listed on the picnic ticket.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Manheim V.F.W. Home Association holds Catering Club Liquor License No. CC-4794 (LID 3742) for use by it at premises located at 149 South Charlotte Street, Manheim, Pennsylvania.

OPINION: A license or permit is required to sell alcoholic beverages in Pennsylvania. A club licensee may sell alcohol to members for consumption **on the licensed premises**, and may sell alcohol to groups of non-members at catered events held **on the licensed premises**. 47 P.S. §§ 4-401(b), 4-406. There is no authority for a catering club licensee to sell alcohol off its licensed premises.

“Sale” or “sell” is defined as any transfer of alcohol for a consideration. 47 P.S. § 1-102. This includes a fee, cover charge, or ticket which is necessary in order to obtain access to alcohol. Therefore, if the provision of alcoholic beverages is conditioned upon the payment of a fee such as an admission charge, this could be considered a sale as defined by the Liquor Code.

No license or permit is needed to charge a fee to attendees of an event if such fee specifically excludes the provision of alcohol. However, there cannot be any payment or purchase required or associated with the offer of alcohol; otherwise, the

offeror could be charged with selling alcohol without a license in violation of section 491(1) of the Liquor Code. 47 P.S. § 4-491(1). To avoid such a charge, the alcohol must truly be free; it cannot be predicated upon the purchase of a meal, an admission ticket, donation or payment of any other fee, or offered only as part of a larger package of services for which payment is received. Should any person, not a minor or visibly intoxicated, request alcohol without paying the fee or cover charge for items such as food and entertainment, he or she must be granted access to the alcohol on the same terms as persons who have paid a fee or cover charge. Tips or donations could be accepted if made voluntarily, but may not be required.

A veterans organization is among the eligible entities to obtain a Special Occasion Permit (“SOP”). The holder of an SOP is authorized to sell liquor, including wine, and/or malt or brewed beverages to persons of legal age on any day for which the permit is issued, and in any municipality in which the electorate has approved the sale of liquor and/or malt or brewed beverages. 47 P.S. § 4-408.4. This includes sales of any type of alcohol for consumption off the licensed premises. SOPs are generally issued for a period of not more than six consecutive or non-consecutive days during a calendar year. The SOP may be used for special events at which the permittee is raising funds for itself. The holder of an SOP may sell alcoholic beverages during the hours of 7:00 a.m. until 2:00 a.m. of the following day. An SOP may only be used for six days each year; legislation recently signed by the Governor increases this to six nonconsecutive or ten consecutive days, effective August 8, 2016.

Nothing in the Liquor Code or the PLCB’s Regulations requires that servers must tap the beer for guests, nor prohibits listing beer on the picnic ticket or other printed material. See 47 P.S. § 4-498, generally regulating the advertising of alcoholic beverages.

Finally, note that club licensees, including catering club licensees, must adhere to their constitution and bylaws. 40 Pa. Code § 5.81.

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.

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THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE
SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA
LIQUOR CONTROL BOARD.

Sincerely,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

RODRIGO J. DIAZ
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. 16-232