

September 21, 2016

Diane C. Howland
VIA E-MAIL

Re: Act 39 and Catering Club Questions

Dear Ms. Howland:

ISSUE: This is in response to your e-mail dated August 10, 2016, wherein you ask questions about Act 39 of 2016 and its impact on catering clubs. You ask whether a catering club may now sell alcohol to non-club members if the club sanctions the event, the event is scheduled more than twenty-four hours in advance, and non-club members are listed on a roster. You interpret “roster” to mean a ticket sales roster. You also ask if, in relation to the license surcharge, a catering club is considered to be an Article IV licensee. Finally, you ask if a catering club licensee can have a mug club.

Records of the Pennsylvania Liquor Control Board (“PLCB”) show that Richard L. Hershey Memorial Home Association holds Catering Club Liquor License No. CC-6263 (LID 51605) for the premises at 1571 South Main Street in Chambersburg, Pennsylvania.

OPINION: The specific language in Act 39 is as follows:

(h) Notwithstanding any other provision of law or regulation, a **catering club** licensee may cater a self-sponsored event no more than twelve occasions during its licensed term with no more than one event in any calendar month.

(i) Notwithstanding any other provision of law or regulation, a **club** that sanctions or sponsors an event between participants of its bona fide membership and the participants from any licensed entity may sell alcohol to those nonmembers provided the following:

(1) The event is scheduled more than twenty-four hours in advance; and

(2) The nonmember participants are listed on a roster or registration list provided by a league, organization or licensed entity prior to the beginning of the event.

47 P.S. §§ 4-406(h), (i) (emphasis added).

Note that subsection (h) concerns catering clubs, but subsection (i) only uses the word “club.” Even before Act 39, catering clubs were permitted to serve alcohol to non-members, as long as it was at a catered event that was arranged by someone other than the licensee, at least twenty-four hours before the catered event. 40 Pa. Code § 5.83(a). Records must be kept showing the date and time the catering arrangements were made, the name of the person or organization making the arrangements, and the number of persons to be accommodated. 40 Pa. Code § 5.83(b).

With Act 39, through the addition of subsection (h), catering clubs may now self-sponsor a catered event, up to twelve events during the licensing term – which is two years – and not more than one event per month.

As to your second question, catering clubs are considered to be Article IV licensees, since the section of the Liquor Code that authorizes the issuance of such a license is found in Article IV of the Liquor Code. Therefore, catering clubs are subject to the license surcharge required by Act 39.

“Mug clubs” are defined, in pertinent part, as a group organized by a retail licensee or a brewery whose members are entitled to discounted malt or brewed beverages. The term “retail licensee” includes catering clubs, 40 Pa. Code § 1.1, therefore a catering club may have a mug club.

Should you have any other questions and/or issues related to the Liquor Code or the PLCB’s Regulations, please feel free to once again 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.

Sincerely,



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

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