

September 23, 2016

Tom Trella
VIA E-MAIL

RE: Rules Regarding Live Entertainment

Dear Mr. Trella:

ISSUE: This office is in receipt of your e-mail dated August 23, 2016, wherein you ask for the rules concerning live entertainment inside your facility or on the licensed patio.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Smoke Rings Cigar Bar, Inc., holds Restaurant Liquor License No. R-5777 (LID 72360) for the premises located at 1008 North Vine Street, Hazleton, Pennsylvania. PLCB records further reflect that an amusement permit has been approved for your licensed premises.

OPINION: An amusement permit authorizes dancing, theatricals, floor shows, and motion picture exhibitions in licensed premises or places operated in connection therewith. 47 P.S. § 4-493(10); 40 Pa. Code § 5.31. Such activity may only occur during the hours when the sale of liquor or malt or brewed beverages is permitted, unless the licensee holds an extended hours food license, which allows the amusement permit to be used while the establishment is open and between 11:00 a.m. Sunday and 2:00 a.m. the following Monday, regardless of whether the licensee possesses a Sunday sales permit. Id.

Please be advised that section 493(34) of the Liquor Code provides that a licensee may not use or permit to be used inside or outside of the premises a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, can be heard beyond the licensee's property line. 47 P.S. § 4-493(34). If any music is amplified, it could be the source of a potential citation. This is true even if the amplified music is not located directly on the licensed premises. See Pennsylvania State Police, Bureau of Liquor Control Enforcement v. Goodfellas, Inc., 850 A.2d 868 (Pa. Cmwlth. 2004). The Liquor Code provides local municipalities with a mechanism for applying to the PLCB for an exemption from this provision of the Liquor Code (concerning amplified music). 47 P.S. § 4-493.1(b).

Live entertainment, or any other type of noise or sound, could also result in a citation for disorderly operations, or may violate local noise ordinances if any are in place, or

in more extreme cases, violate Crimes Code provisions dealing with disorderly conduct. You should contact your local authorities for further guidance on local noise ordinances and law enforcement officials for further guidance on Crimes Code violations. There is also a prohibition in the Liquor Code against the use of pyrotechnics within a building on the licensed premises. 47 P.S. § 4-493(30).

If the PLCB's Bureau of Licensing determines that a licensee has abused the privilege of having its license and/or its ancillary amusement permit, it may object to the renewal of the license and/or the permit pursuant to its authority under sections 470 and 478 of the Liquor Code. 47 P.S. §§ 4-470, 4-478.

You may also wish to contact the Pennsylvania State Police, your local police, and/or the District Attorney's office in your county, to determine whether there are any local ordinances or provisions of the Crimes Code that would specifically prohibit or restrict the entertainment you intend to provide.

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.

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

LCB Advisory Opinion No. 16-388