

December 13, 2018

Jon Northup  
**VIA E-MAIL**

**RE: Minor Employee**

Dear Mr. Northup:

ISSUE: This office is in receipt of your e-mail dated October 15, 2018, wherein you ask if a sixteen-year-old may work at your licensed premises for the purpose of bussing tables. You acknowledge that minor employees are not permitted to dispense or serve alcohol, but you specifically inquire whether a minor employee would be permitted to clear empty beer glasses from the table. You further ask if minor employees are permitted to sit at a table inside the licensed premises and have a shift meal after their shifts are over.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Saint Boniface Craft Brewing Company holds Brewery License No. G-420 (LID 63866), Brew Pub License No. GP-420 (LID 68057), and Brewery Storage License No. GS-35797 for the premises located at 1701 West Main Street, Ephrata, Pennsylvania.

OPINION: Section 4-493(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 to serve any alcoholic beverages or to employ or permit any minor under the age of sixteen to render any service whatsoever in the licensed premises. 47 P.S. § 4-493(13). Please note that under PLCB Regulation 3.92, 40 Pa. Code § 3.92, brewpub licenses are treated like eating place licenses, and the restrictions on minors at retail premises set forth above would apply. That being said, minors between the ages of sixteen and eighteen may be employed in a licensed premises to serve food, clear tables and perform other similar duties, not to include the dispensing or serving of alcoholic beverages. Id. Also, a ski resort, golf course, or amusement park licensee may employ minors who are fourteen or fifteen years of age to perform duties in rooms or areas of the licensed premises in which alcohol is not being concurrently dispensed, served, or stored in an unsecured manner. Id. Based upon this section, it is the responsibility of the

licensee to employ persons who are at least eighteen years of age to serve alcoholic beverages.

Therefore, considering the above, you would be permitted to employ sixteen and seventeen-year-old minors to serve food, clear tables and perform other similar duties. Furthermore, although not specifically defined in the Liquor Code, logic dictates that ‘clearing tables’ would include clearing empty or partially-consumed beer glasses. However, these minor employees cannot dispense or serve alcoholic beverages.

Once the minor employee’s shift ends, however, he/she becomes subject to the general rules on minors frequenting a licensed premises. 47 P.S. § 1-102, 4-493(14). Therefore, if his/her shift ends or he/she is not otherwise at the premises relative to his/her employment, he/she would no longer be permitted on the licensed premises unless he/she would fall under one of the exceptions set forth below.

Section 493(14) of the Liquor Code, 47 P.S. § 4-493(14), contains five exceptions to the general rule prohibiting minors under the age of twenty-one from frequenting retail licensed premises, which are as follows:

1. Minors with parents (“Parent exception”)

If a minor is with one or both of the minor’s parents, then the minor is permitted to be on the premises. The minor and parent(s) can sit anywhere on the premises, including the bar area, and alcoholic beverages can be served to the parent(s) or to any other adult with the minor.

2. Minors with legal guardians (“Guardian exception”)

If a minor is with a legal guardian, then the minor is permitted to be on the premises. The minor and the legal guardian can sit anywhere on the premises, including the bar area, and alcoholic beverages can be served to the guardian or to any other adult with the minor.

3. Minors under proper supervision (“Proper supervision exception”)

If a minor is under proper supervision, then the minor is permitted to be on the premises. Section 102 of the Liquor Code defines proper supervision as someone who is at least twenty-five years of age, who is directly responsible for the care and conduct of the minor while on the premises, and who keeps the minor within his or her sight or hearing. Proper supervisors are generally unpaid volunteers. However, licensees or their employees are allowed to act as proper supervisors as long as they

are not performing any other employment-related duties at the same time. 47 P.S. § 1-102.

If a minor is on the premises under proper supervision, the minor can sit anywhere on the premises, including the bar area, and alcoholic beverages can be served to any adults with the minor.

Proper supervisors can only supervise a limited number of minors. In Philadelphia, that number is five. In the rest of Pennsylvania, the number is twenty, i.e., one proper supervisor can supervise up to twenty minors. Notwithstanding the above limitations, if the minors are on the premises as part of a school-endorsed function, each proper supervisor can supervise up to fifty minors.

4. Minors attending a social gathering (“Social gathering exception”)

If a minor is attending a social gathering, then the minor is permitted to be on the premises. A social gathering is an event marketed to or catering to minors, in whole or in part, for which at least forty-eight hours advanced notice has been given to the Bureau of Liquor Control Enforcement (“BLCE”). No alcohol can be served to anyone, even adults, at a social gathering and all alcohol must be removed from or secured by lock and key at the licensed premises.

5. Minors at food-oriented establishments (“Pizza Hut exception”)

If a restaurant, hotel, or retail dispenser licensed premises has gross sales of food and non-alcoholic beverages equal to fifty percent or more of its combined gross sales of both food and alcoholic beverages, then minors are permitted on the premises. The presence of a parent, legal guardian, or proper supervisor is not necessary.

Minors present under the Pizza Hut exception are not permitted to sit in the bar section of the premises. Further, no alcoholic beverages can be served to any adult at the table or booth where the minor is seated (unless the minor is also there with a parent, legal guardian, or proper supervisor), without risk of citation by the BLCE for having minors frequent the premises. Please note that this exception does not apply to clubs. 47 P.S. § 4-493(14).

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.

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,

A handwritten signature in cursive script, appearing to read "Rodrigo J. Diaz".

RODRIGO J. DIAZ  
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement  
Tisha Albert, Director, Office of Regulatory Affairs  
B.L. Peifer, Director, Bureau of Licensing

LCB Advisory Opinion No. 18-442