

April 17, 1998

Joseph L. Amendola, Esquire
Suite 202
110 Regent Court
State College, PA 16801-7966

Dear Mr. Amendola:

ISSUE: This is in response to your letter of March 26, 1998 in which you request our opinion concerning whether your client, the B.P.O. Elks Lock Haven Lodge No. 182, qualifies for a special occasion permit. While the Lodge has a valid club liquor license (CC-4117), it covers only the premises located in Lock Haven. The Lodge wants to hold a summer picnic/gun raffle on the American Legion Picnic Grounds in Beech Creek. Lodge members would provide beer at the picnic to adult raffle ticket purchasers. No one would be admitted to the picnic without one of the pre-purchased \$20.00 tickets. The proceeds from the raffle and picnic will go to support the Lodge's charitable and benevolent programs. The American Legion Picnic Grounds is not licensed to sell or serve alcoholic beverages. Therefore, the Lodge would like to obtain a special occasion permit for this event.

OPINION: The Board is authorized to issue special occasion permits under section 408.4 of the Liquor Code [47 P.S. §4-408.4]. The fact that a club already holds a liquor license does not disqualify it from obtaining a special occasion permit for another location, as long as it falls within one of the categories of organizations in section 408.4(a). Among the organizations which qualify are fraternal benefit societies that are licensed to do business in Pennsylvania, and any affiliated lodge or subdivision of those fraternal benefit societies.

A fraternal benefit society is defined in section 102 of the Liquor Code as a society as defined in the act of December 14, 1992 (P.L. 835, No. 134), known as the "Fraternal Benefit Societies Code." [47 P.S. §1-102]. The Fraternal Benefit Societies Code defines a fraternal benefit society as:

[a]ny incorporated society, order or supreme lodge without capital stock, including one exempted under the provisions of section 616(a)(2) whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with or without ritualistic form of work, having a representative form of government and providing benefits in accordance with this act is hereby declared to be a fraternal benefit society.

40 P.S. §1142-103 (footnote omitted).

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Section 616(a)(2) exempts

[o]rders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the ladies' societies or ladies' auxiliaries to such orders, societies or associations.

40 P.S. §1142-616(a)(2).

Thus, a determination must be made as to whether the Lock Haven Elks Lodge No. 182 meets the definition set forth above, because only if it meets this definition and is licensed to do business in Pennsylvania, or is exempted by section 1142-616(a)(2), may it be granted a special occasion permit in accordance with section 408.4 of the Liquor Code. According to the Pennsylvania Department of Insurance, the Lock Haven Elks Lodge No. 182 is not licensed to do business in the Commonwealth, nor does it fit the exemption criteria of section 1142-616(a)(2). Therefore, your client does not qualify for a special occasion permit under the Liquor Code.

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,

FAITH S. DIEHL

Chief Counsel

c.c. Pennsylvania State Police
Bureau of Liquor Control Enforcement
D. C. Martin, Director, Bureau of Licensing

Refer to: (717) 783-9454
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LCB Advisory Opinion No. 98-109