

December 2, 1998

Representative David G. Argall

HOUSE OF REPRESENTATIVES

District Office

237 West Broad Street

Tamaqua, PA 18252-1818

Dear Representative Argall:

ISSUE: In your November 5, 1998 letter, you inquired on behalf of a constituent who holds a restaurant liquor license as to whether it is permissible for that constituent to run for the office of township supervisor in the township in which he resides.

OPINION: Section 401(a) of the Liquor Code prohibits individuals from having a direct or indirect interest in a restaurant or hotel liquor license if the individual holds, either by appointment or election, any public office which involves the duty to enforce any of the penal laws of the United States of America, the penal laws of the Commonwealth of Pennsylvania, or any penal ordinance or resolution of any political subdivision of this Commonwealth. [47 P.S. Section 4-401(a)].

Historically, this office determines this issue on a case-by-case basis by reviewing the specific powers and duties language of the borough or township code with respect to a particular elected position. It is unclear as to whether this particular position of township supervisor involves a duty to enforce any penal ordinance or resolution passed by the township. So long as the township supervisor's duties do not involve enforcing a penal ordinance or resolution, then your constituent could be a township supervisor and continue to hold his interest in a restaurant liquor license. We would be happy to provide a more specific answer if your constituent is willing to provide us with more details as to the type of license he or she holds and the duties involved in this position.

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

Refer to: (717) 783-9454

FAX: (717) 787-8820

LCB Advisory Opinion No. 98-386