

December 28, 1998

Paul Spangler

Catering Sales Manager

ASRA Management, Inc.

Holiday Inn - Philadelphia Northeast

3499 Street Road

Bensalem, PA 19020

Dear Mr. Spangler:

ISSUE: In your letter dated December 18, 1998, you inquired on behalf of a hotel licensee as to the legality of offering a drink card with a preset limit for drinks as part of a New Year's Eve promotion. It is assumed that for one price, consumers would receive a food buffet, entertainment, the drink card, a midnight champagne toast and a continental breakfast.

OPINION: Since the New Year's Eve promotion does not appear to be a catered event, i.e. an event arranged 24 hours in advance for a third party, but is instead sponsored by the hotel licensee, the promotion would not fall under the exception which permits an unlimited or indefinite amount of alcoholic beverages to be sold for a set price (open bar).

It is the opinion of this office that offering a drink card for a definite amount of alcoholic beverages is not permissible unless beverages that could be obtained with the card are all the same price and are not discounted. Further, if the drink card is offered as part of a package which discounts other items offered by the hotel licensee such as entertainment, food or lodging, this could be construed as a direct inducement to purchase alcoholic beverages which is a violation of section 493(24) of the Liquor Code.

Please be advised that hotel licensees are permitted in the same business day to have a daily drink special and to discount the prices of alcoholic beverages for two consecutive hours provided no discounting occurs after midnight (12:00 a.m.). With respect to the midnight champagne toast, this is permissible since it is a definite amount of alcohol and since either the price of the champagne is included in the package cost or the hotel licensee is offering it free of charge. Board Advisory Notice No. 10 (4th Revision) permits hotel licensees to offer one standard-sized alcoholic beverage to each of its patron per visit.

While the proposed drink card is not allowed, you may be able to reconfigure the package within the parameters set forth in section 13.102 of the Board's regulations. I have enclosed a copy of Board Advisory Notice No. 16 which discusses section 13.102 for your review.

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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

Enclosure

cc: Bureau of Liquor Control Enforcement,

Pennsylvania State Police

Refer to: (717) 783-9454

FAX: (717) 787-8820

Advisory Opinion No. 98-417