

January 5, 1999

Honorable Gerald J. LaValle
SENATE OF PENNSYLVANIA
239 Brighton Avenue
Rochester, PA 15074

Dear Senator LaValle:

ISSUE: In your December 2, 1998 letter to the Pennsylvania Liquor Control Board, you inquired whether it would be permissible for two of your constituents, Richard and Deborah Boggs, Jr., to work at each other's licensed premises. Mr. Boggs owns Rick's Place, the holder of restaurant liquor license No. R-18476. Mrs. Boggs owns Darlington Beer Distributor, the holder of distributor liquor license No. D-3721. The Boggs had written to you because it was their understanding that the Board could waive the prohibition against dual employment of license holders.

OPINION: Section 493(11) of the Liquor Code, which was amended this year by Act 86, prohibits a distributor from being employed at the same time, directly or indirectly, by a restaurant licensee. It likewise prohibits a restaurant licensee from being employed by a distributor. The prohibition applies to any individual who either has an ownership interest in the license in question or who receives compensation for his or her work on behalf of the licensee. Unfortunately, this section does not give the Board any discretion to waive the prohibitions set forth in section 493(11). Therefore, it would not be permissible for Mr. and Mrs. Boggs to be employed at each other's establishments.

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

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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
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c.c. Pennsylvania State Police
Bureau of Liquor Control Enforcement
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