

April 16, 1999
Samuel A. Falcone, Jr.
SAPORITO & SAPORITO
Suite 202
Four Hundred Ninety North Main St.
Pittston, PA 18640

RE: Annual Cover Charge

Dear Mr. Falcone:

ISSUE: This office is in receipt of your letter dated March 16, 1999 in which you request on behalf of your client, a retail liquor licensee, whether he may designate a portion of his licensed establishment (a separate room) for use by members who pay a separate annual cover charge. The designated area of his establishment will only be accessible to those patrons who pay the annual cover charge and receive a membership card. All other operations of the designated area of the establishment will remain the same, including hours of operation.

OPINION: There is nothing in the Liquor Code or the Board's regulations which regulates cover charges at retail licensed establishments. Keep in mind, however, a licensee is subject to citation for violation of the laws of the Commonwealth, which include the Human Relations Act. Therefore, a licensee cannot unlawfully discriminate against certain classes that are protected under the Act. In addition, be advised that section 102 of the Liquor Code requires restaurants to provide food for the public in an area within a building of not less than 400 square feet equipped with tables and chairs accommodating at least 30 persons at a time. [47 P.S. Section 1-102]. As long as your client maintains the required the area to the public, he does not unlawfully discriminate against certain individuals when distributing memberships, and he does not violate other applicable laws, your client's proposals would be permissible.

Please do not hesitate to contact this office if you have any further 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.

Very truly yours,

FAITH S. DIEHL
CHIEF COUNSEL

cc: Bureau of Liquor Control Enforcement,
Pennsylvania State Police

Refer to: (717) 783-9454
Fax: (717) 787-8820

Advisory Opinion No. 99- 131