

May 4, 1999

Warren Schloesser
HAMILL & SCHLOESSER
922 Church Street
Honesdale, Pennsylvania 18431

Dear Mr. Schloesser:

ISSUE: In your April 16, 1999 letter to this office, you inquired whether there were any problems which have been created for an organization, such as a fraternal lodge which has a liquor license issued by the PLCB, with a policy of refusing to accept female members. You have been consulted by such an organization, and you are attempting to gather information with which to advise them.

OPINION: Under section 471 of the Liquor Code, violation of any of the laws of this Commonwealth relating to liquor, alcohol or malt or brewed beverages may be sufficient cause for the issuance of a citation against a liquor licensee. [47 P.S. Section 4-471(a)]. See also 47 P.S. Section 2-211. Additionally, the Human Relations Act [43 P.S. Section 965] prohibits discrimination on the basis of gender. The seminal case of **Commonwealth, Human Relations Commission v. Loyal Order of Moose, Lodge No. 107**, 448 Pa. 451, 294 A.2d 594 (1971), appeal dismissed, **Loyal Order of Moose, Lodge No. 107 v. Pennsylvania Human Relations Com.**, 409 U.S. 1052, 34 L Ed. 2d. 506 (1972) clarifies the distinction between clubs that are strictly private in nature, and thus not subject to the Human Relations Act, and those that provide public accommodations and, therefore, are prohibited from discriminating on the basis of gender. In the **Moose Lodge** case, the Court held that by opening its dining room facilities to organizations and non-guest members, the Moose Lodge had become the center of community activity subject to the Human Relations Act.

In the instant case, if the club for which you inquire provides 'public accommodation' as that term is defined by **Moose Lodge**, your client may not have a policy of refusing to accept female members. You may wish to contact the Human Relations Commission for additional guidance.

If there is any additional information you need, please feel free to contact this office.

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: Pennsylvania State Police-
Bureau of Liquor Control Enforcement

Refer to: (717) 783-9454
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LCB Advisory Opinion No. 99-148