

June 25, 1999
Richard A. Kovach, Esq.
KOVACH & KOVACH
1416 Clearview Drive
Corner of Terry Way & Route 981
Latrobe, PA 15650

Re: Licensees Employed by Others

Dear Mr. Kovach:

ISSUE: In your letter dated April 26, 1999, you inquired on behalf of your client, a woman who holds an interest in a restaurant liquor license, as to the ramifications of her proposed estate planning. According to your letter, the license is held by a corporation with the mother and her son each holding fifty percent of the corporate shares. The mother also owns the building and real estate on which the licensed premises is situated. The mother wishes to convey her interest in the real estate to a partnership consisting of her son, who currently has an interest in the restaurant liquor license, and her two other sons, who are hourly employees of Latrobe Brewing Company, holder of manufacturing license No. G-189. In addition, the mother wishes to convey her fifty percent interest in the corporation owning the liquor license to the two sons who are employed by Latrobe Brewing Company.

OPINION: Section 493(11) of the Liquor Code prohibits any officer, servant, agent or employe of a restaurant liquor licensee to be at the same time employed by any manufacturer licensee. [47 P.S. Section 4-493(11)]. Provided the two sons who are employes of Latrobe Brewing Company are not employed by the corporation holding the liquor license and are not officers or agents of the corporation, they would be permitted to own an interest as a shareholder in the restaurant liquor license and to concurrently be employed by the Latrobe Brewing Company.

With respect to the mother's conveyance of her interest in the real estate to the partnership comprised of her three sons, section 411(c) of the Liquor Code prohibits an officer, director, stockholder, agent or employe of a manufacturer from being interested, either directly or indirectly, in the ownership or leasehold of any property for which a restaurant liquor license is granted. [47 P.S. Section 411(c)]. In light of this section, a partnership which consisted of two partners employed by a manufacturer licensee, would not be permitted to hold any interest in the real estate upon which the licensed premises are located.

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

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Advisory Opinion No. 99-224