

September 30, 1999

Telephone: 717-783-9454
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Nancy Kaefer
Secretary
Bo-Nan, Ltd.
t/a Bo's Place
211 Oak Street
Irwin, PA 15642

Dear Ms. Kaefer:

ISSUE: This office is in receipt of your letter dated September 14, 1999 in which you inquire whether you, as a hotel licensee, would be permitted to provide beer and/or liquor to be sold off-premises at a dance hall which does not have a liquor license. You also inquire whether you would be permitted to partition the kitchen area of your licensed premises in order to create a small, coin-operated laundromat to service the laundry needs of your hotel customers.

OPINION: With regard to your first inquiry, be advised that you are not permitted to provide beer and/or liquor to be sold at an off-premises location. Section 401 of the Liquor Code permits a hotel licensee to 'purchase liquor from a Pennsylvania Liquor Store and to keep on the premises such liquor and, subject to the provisions of this Act and the Regulations made thereunder, to sell the same and also malt or brewed beverages' to guests or patrons for consumption on the hotel premises. [47 P.S. Section 4-401(a)]. That same provision permits hotel licensees to 'sell malt or brewed beverages for consumption off the premises where sold in quantities of not more than 192 fluid ounces in a single sale to one person.' Id. According to these provisions, you are only permitted to sell liquor or malt or brewed beverages from your licensed premises and, in the case of liquor, for consumption on the premises. While malt or brewed beverages may be sold by you to others for consumption off the premises, you may not sell more than 192 fluid ounces in a single sale to one person. Your proposal is, likewise, prohibited by section 404 of the Liquor Code, which provides that only the applicant for a liquor license is permitted to have a pecuniary interest in it, and other persons may not be, in any manner, pecuniarily interested in the liquor license during the continuance of license. [47 P.S.

Section 4-404]. Therefore, your friend will not be permitted to sell alcohol under your license at his location. In order for your friend to legally sell liquor and/or malt or brewed beverages on the dance hall premises, he must qualify for and obtain a liquor license. Once he is granted a liquor license, he must obtain his liquor through the Pennsylvania Wine and Spirit Shoppes, and his malt or brewed beverages from licensed importing distributors or distributors.

With regard to your second inquiry, please be advised that, with Board approval, you may be permitted to partition your kitchen in order to install a coin-operated laundromat for use by your hotel customers. Section 3.52(c) of the Board's Regulations prohibits licensees from conducting other businesses on their licensed premises without Board approval. [40 Pa. Code Section 3.52(c)]. Because it is the opinion of this office that installing a coin-operated laundromat on your licensed premises would constitute 'another business', you are encouraged to submit the details to this office for submission to the Board for review. As there is no Liquor Code requirement that your kitchen be a particular size, it is not likely that partitioning your current kitchen would place your license in jeopardy, as long as you continue to maintain a kitchen apart from the public dining room in which food is regularly prepared for the public. [47 P.S. Section 1-102].

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

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

LCB Advisory Opinion No. 99-327