

October 8, 1999

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Bryan Welty
Director of Sales
Holiday Inn Pittsburgh South
164 Fort Couch Road
Pittsburgh, PA 15241-1090

RE: New Year's Eve Package

Dear Mr. Welty:

ISSUE: This is in response to your letter dated September 9, 1999 to this office in which you request an opinion as to the legality of a New Year's Eve Package. The package would include a hotel room, dinner, a champagne toast, a cash bar from 7:30 p.m. until 9:30 p.m., and a limited open bar from 9:30 p.m. until 1:30 a.m. In light of section 13.102(a)(3) of the Board's regulations, [40 Pa. Code Section 13.102(a)(3)], which prohibits an unlimited and indefinite amount of alcohol for one price, you propose a limited open bar that would include eight to ten drinks per person over a four-hour period.

OPINION: Section 13.102(a) of the Board's regulations, [40 Pa. Code Section 13.102(a)], allows retail licensees to discount all alcoholic beverages for a consecutive period of time not to exceed two hours in a business day so long as the discounting ceases no later than 12:00 a.m. (midnight). Section 13.102(a)(3) of the Board's regulations, [40 Pa. Code Section 13.102(a)(3)], prohibits the sale or serving, or both, of an unlimited or indefinite amount of liquor, or wine or malt or brewed beverages for a set price. As 'eight to ten drinks' is not a definite amount, the package as proposed is not permissible. The package may be modified to comply with section 13.102(a)(3) by offering either eight drinks per patron or ten drinks per patron and limiting the drinks to that amount. Please be aware, however, that section 493(24) of the Liquor Code prohibits the giving of anything of value to induce directly the purchase of alcohol. Therefore, it would not be permissible to discount the individual prices of the items comprising the New Year's Eve package. If the promotion can be modified to comport with applicable laws, it may be resubmitted for approval.

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. 99-333