

October 19, 1999 Telephone: 717-783-9454
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Steve C. Nicholas, Esquire

NICHOLAS & FOREMAN, P.C.

4409 North Front Street

Harrisburg, PA 17110-1709

Dear Mr. Nicholas:

ISSUE: This is in response to your letter of September 2, 1999, in which you seek an advisory opinion on behalf of one of your clients. You ask whether a licensee may prohibit its patrons from entering the premises at 1:30 a.m., even though patrons who entered prior to that time are still on the premises. The licensee wishes to prohibit persons from entering the premises after 1:30 a.m., the time of 'last call,' in order to reduce the risk of having to deal with individuals, generally not regular customers, who have been drinking elsewhere and are looking to purchase more alcoholic beverages. The licensee tends to have more problems with persons who enter after 1:30 a.m.

OPINION: The days and hours in which retail licensed establishments may sell alcoholic beverages are set by statutes enacted by the Legislature of the Commonwealth. As long as the licensee is not open for sales on prohibited days or during prohibited hours, it may conduct its operations in the manner you indicated. Care should be taken, however, to not bar persons in such a manner that could be considered discriminatory.

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. 99-347