

October 27, 1999

Telephone: 717-783-9454
FAX: 717-787-8820

Steven L. Breit, Esquire
29 East King St., Suite 218
Lancaster, PA 17602

Dear Mr. Breit:

ISSUE: In your letter dated October 12, 1999, you ask about the effects of a pending driving under the influence of alcohol and/or controlled substance offense and possible ARD disposition of the charges against the manager of a licensed establishment.

OPINION: Under section 493(14) of the Liquor Code, retail licensees may not permit a 'known criminal' to frequent the licensed establishment. [47 P.S. Section 4-493(14)]. Furthermore, retail licensees may not employ such person at their businesses under the Board's Regulations. [40 Pa. Code Section 5.21]. A manager is required to be a reputable individual and if previously approved, the Board may rescind the approval of appointment of manager at any time for sufficient cause. [40 Pa. Code Section 5.23].

It is recommended that the disposition of the DUI charges be provided to the Bureau of Licensing upon the case's conclusion, at which time the manager's qualifications would be reviewed and the licensee would be notified of any problem with the manager's continued employment.

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. 99-353