

November 23, 1999

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

Fiorelli Catering, Inc.  
1501 Main Street  
Peckville, PA 18452

Dear Sir or Madam:

ISSUE: This office is in receipt of your November 10, 1999 letter with which you enclose a brief description of the New Year's Eve Package you intend to feature this year. You inquire whether the enclosed package is in accordance with the PLCB Regulations. Your package consists of entertainment, a meal, a champagne toast at midnight, hors d'oeuvres and ten drinks per person between 8:30 p.m. and 2:00 a.m. on New Year's Eve, for a total price of \$75.00 per person.

OPINION: Section 13.102(a) of the Board's Regulations 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 midnight. [40 Pa. Code Section 13.102(a)]. As you may or may not be aware, section 13.102 of the Board's Regulations was amended March 21, 1998 to eliminate the meal package exception. Retail licensees are no longer permitted to offer an indefinite or unlimited amount of alcohol for a fixed price with a meal, unless a third party has arranged twenty-four hours in advance to hold a catered event on your licensed premises. Accordingly, the serving of alcoholic beverages with a meal package must now be limited and definite. A retail licensee may offer a certain amount of alcohol for a set price, provided the beverages offered are at least the normally set price. While there is no limit to the definite number of drinks you may offer, retail licensees cannot offer a set number of drinks for a fixed price as part of a package if other portions of the package are discounted. Otherwise, it could be considered an inducement to buy alcoholic beverages, which would be a violation of section 493(24) of the Liquor Code. [47 P.S. Section 4-493(24)].

The promotion like the one you proposed, in which individuals will be entitled to entertainment, food and a certain amount of alcoholic beverages, is permissible as long as there is no discounting of any of the food or beverage components in tabulating the final ticket price. Please note however, that licensees cannot sell, furnish or give or permit the sale, furnishing or giving of alcohol to a visibly intoxicated patron. [47 P.S. Section 4-493(1)].

Please do not hesitate to contact this office if you have further inquires.

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. 99-373