

December 2, 1999

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

Lawrence Nicolais
Green Ridge Club
1645 Wyoming Avenue
Scranton, PA 18509

Dear Mr. Nicolais:

ISSUE: This office is in receipt of your letter dated November 5, 1999 and a letter you received from the Pennsylvania State Police, Bureau of Liquor Control Enforcement, dated November 2, 1999, in which you were warned that the advertisement for your New Year's Eve party package may violate section 13.102 of the Board's Regulations. [40 Pa. Code Section 13.102]. According to the November 2, 1999 letter from Sergeant Steve, he provided you with a copy of the Board's Advisory Notice #16, Advisory Opinion #99-333 and the address for this office in order to obtain an advisory opinion to clarify this matter.

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. As you are aware, section 13.102 of the Board's Regulations was amended March 21, 1998 to eliminate the meal-package exception which allowed the sale or serving of a unlimited or indefinite amount of alcohol for a fixed price with a meal. Thus, 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 24 hours in advance to hold a catered event on a licensee's licensed premises.

Accordingly, unless third parties contract with you to hold an event on your licensed premises at least 24 hours in advance, any meal package you offer must contain a limited and definite amount of alcohol. Please note that a catered event is more than simply making dinner reservations 24 hours in advance. If the 'six-hour top shelf bar' in your package is an open bar, it is not limited or definite, and it would not be permissible. It is permissible, however, for a you to offer a set amount of alcoholic beverages for a set price provided that the beverages offered are at least at 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 fixed price as part of the 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 you have advertised, in which individuals would be entitled to hors d'oeuvres, dinner, dancing, champagne toast at midnight, continental breakfast and an open bar in which individuals would be entitled to an unlimited amount of alcoholic beverages would not be permissible. If, however, you offered a limited and definite amount of alcoholic beverages, at least at their normally set prices, without discounting other portions of the package, your package would be permissible.

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

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. 99-379