

February 3, 2012

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Aaron K. Zeamer, Esquire
Russell, Krafft, & Gruber, LLP
Hempfield Center, Suite 300
930 Red Rose Court
Lancaster, PA 17601

RE: Home Brew Club Hosting

Dear Mr. Zeamer:

ISSUE: This office is in receipt of your letter of January 6, 2012, wherein you indicate that you represent The Fridge, LLC, holder of Restaurant Liquor License No. R-15977 (LID 64979). You state that a “Home Brew” club (“the club”) wants to hold an event at your client’s premises. The club wishes to bring in their member’s own home-brewed beer for tasting by and among the members of the club. You advise that this beer would neither be offered to the regular patrons of the restaurant nor be sold by your client. Additionally, you state that your client would not be charging the club a fee for use of the premises.

You indicate that you believe the Liquor Code does not prohibit or prevent an establishment from having patrons bring in their own alcoholic beverages so long as those beverages are legally procured. Further, you believe that a licensee is responsible for service of the alcohol brought into the licensed premises. You also believe that the club members would be exempt from requiring a manufacturer’s license as they produce less than two hundred (200) gallons of malt or brewed beverage per calendar year. You advise that the club members would not offer any of their products for sale at your client’s establishment. Finally, you inquire if your client is permitted under the Liquor Code to host such events, or what accommodations must be made in order to comply with the Liquor Code.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that The Fridge, LLC, holds Restaurant Liquor License No. R-15977 (LID 64979) for use at its premises at 534 North Mulberry Street, Lancaster, Pennsylvania.

OPINION: You are correct that there are no provisions in the Liquor Code or the Board’s Regulations that prohibit an individual from bringing his or her own alcohol into any establishment, whether or not the establishment possesses a license issued by the Board. An establishment is, therefore, free to allow or disallow patrons from bringing their own alcohol onto its premises. The alcohol dispensed, however, must be legally procured in the Commonwealth of Pennsylvania.

Please be advised that restaurant licensees are not permitted to furnish, serve or allow people to consume any alcoholic beverages during hours they may not legally sell alcoholic beverages. Commonwealth v. Mignogna, 548 A.2d 689 (Pa. Cmwlt. 1988), [47 P.S. § 4-493(16)]. Please further note that a licensee will still be held strictly liable for any violations of the Liquor Code or the Board’s Regulations (including providing alcohol to minors or persons who are visibly intoxicated) that occur on its premises, regardless of whether they involve alcohol provided by the licensee or brought onto the premises by a customer.

You correctly point out that section 492(1) of the Liquor Code permits a person to produce up to two hundred (200) gallons per calendar year of malt or brewed beverages without a license, as long as such beverages are not produced for sale. Even though the beverages cannot be sold or offered for sale, they can be used at organized affairs, exhibitions, competitions, contests, tastings, or judgments. [47 P.S. § 4-492(1)].

Please be advised that section 492 of the Liquor Code still requires that beer be brewed in the Commonwealth of Pennsylvania. [47 P.S. § 4-492]. Members of the club would not be permitted to bring malt or brewed beverages that were brewed in another state, e.g. the State of Maryland.

Thus, provided your client follows the scenario outlined in your letter, there are no local ordinances prohibiting the same, and the beer is not sold or offered for sale, your client would be permitted to host the club at the licensed premises.

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

cc: Pennsylvania State Police,
Bureau of Liquor Control Enforcement
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 12-023