

November 18, 2013

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

Thomas Sheridan  
**Re: Beer To Go**

Dear Mr. Sheridan:

ISSUE: This office is in receipt of your e-mail dated October 1, 2013, in which you state you are the owner of Do Good Brewing Company. You ask if it is permissible to sell bottles of beer at a farmers market in Philadelphia. You state that you would not be selling the beer in glasses or small bottles that would be opened immediately by the buyer.

Pennsylvania Liquor Control Board (“Board”) records indicate that Do Good Brewing Company holds Brewery License No. G-505 (LID 68413) for the premises located at 3245 Amber Street, Unit 5-8-1, Philadelphia, Pennsylvania.

OPINION: A licensed brewery may sell its malt or brewed beverages in any container or package of any volume to individuals for off-premises consumption. [47 P.S. § 4-440]. A brewery may sell its malt or brewed beverages for on-premises consumption only in compliance with section 446(a)(1). That section requires a brewery that wishes to sell beer for on-premises consumption to acquire a brewery pub license. Pursuant to section 446(a)(1), a licensed brewery pub may sell any malt or brewed beverages produced by the brewery, as well as wine produced by a licensed limited winery, to individuals for consumption on the licensed premises in any container or package of any volume. [47 P.S. § 4-446(a)].

Unlike farmers market permits<sup>1</sup>, which allow limited wineries to sell their products at farmers markets, there is no equivalent permit or provision in the liquor laws which allow breweries to sell beer at farmers markets. Therefore, sales by breweries at farmers markets are not permitted. However, please be advised that you may donate or sell beer to a holder of a Special Occasion Permit (“SOP”) issued by the Board, and the SOP holder may sell the beer at the farmers market. Only certain eligible entities, as defined in section 102 of the Liquor Code [47 P.S. § 1-102], may apply for a SOP.

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<sup>1</sup> 47 P.S. § 5-505.2(a)(4.1)

Also, only the holder of an SOP would be authorized to sell liquor and/or malt or brewed beverages to persons of legal age who are not visibly intoxicated on any day for which the permit is issued, and in any municipality in which the electorate has approved the sale of liquor and/or malt or brewed beverages. [47 P.S. § 4-408.4]. This includes sales of any type of alcohol for consumption off the licensed premises. [Id.].

Please do not hesitate to contact this office should you have additional questions.

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. 13-487