

December 16, 2013

Telephone: (717) 783-9454

Fax: (717) 787-8820

George Wolf, Post Commander  
Hamburg American Legion

**RE: Liquor with Added Ingredients**

Dear Mr. Wolf:

ISSUE: This office is in receipt of your e-mail dated November 15, 2013, wherein you seek information as to the legality of making and selling a drink at the post social quarters. The drink is composed of 151 proof Everclear alcohol purchased from a Pennsylvania Fine Wine and Spirits Store and mixed with apple juice, apple cider and cinnamon sticks.

Pennsylvania Liquor Control Board's ("Board") records indicate that Behler Hein Post of the American Legion Home Association holds Club Liquor License No. C-1447 (LID 955) for premises located at 650 Franklin Street, Hamburg, Pennsylvania.

OPINION: Since the alcohol that you use in making your drink is legally procured, the addition of juices and other ingredients is an acceptable practice.

Please note that if you intend to pre-make the drink or to do so in large quantities, section 491(10) of the Liquor Code makes it unlawful for licensees to fortify, adulterate, or contaminate any liquor, except as permitted by the Board's Regulations, or to refill wholly or in part, with any liquid or substance whatsoever, any liquor bottle or other liquor container. [47 P.S. § 4-491(10)]. Therefore, a licensee could not refill liquor bottles with infused/mixed spirits.

However, it is permissible for infused/mixed spirits to be combined or prepared in glass containers or jars, such as a decanter or infusion jar, temporarily stored, and then served by the glass. It is also permissible to premix a cocktail and keep it in an infusion jar, but the Liquor Code prohibits creating an infusion within the original liquor bottle or storing the infusion overnight.

George Wolf, Post Commander

December 16, 2013

Page 2

Please note that section 5.81 of the Board's Regulations requires clubs to adhere to provisions of their constitution and bylaws. [40 Pa. Code § 5.81]. Therefore, if the club's constitution and/or bylaws include any provisions that apply to your proposal, you must adhere to them.

Please note that this office is unable to provide you with legal advice as to other issues regarding whether there are any applicable Health Code provisions associated with the process. You may want to contact a private attorney or your local health agency with reference to these matters.

Please do not hesitate to contact this office if 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. 13-521