

January 23, 2014

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Ryan T. Kasprzyk
Hilton Garden Inn
2000 Garden View Lane
Cranberry Township, PA 16066

RE: Serving Alcohol in Plastic Cups

Dear Mr. Kasprzyk:

ISSUE: This is in response to your e-mail of December 17, 2013, wherein you seek clarification as to serving alcohol in plastic cups upon the request of guests. Specifically, you ask if such a practice would be construed as selling liquor to go. You believe that you are not licensed to sell liquor to go. You also request a reference source as to rules and regulations.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that the Hilton Garden Inn holds Hotel Liquor License No. H-6313 (LID 66255) for premises located at 2000 Garden View Lane, Cranberry Township, Pennsylvania.

OPINION: Generally, the holder of a hotel liquor license is authorized to sell liquor and malt or brewed beverages by the glass, open bottle or other container, and in any mixture, for consumption only in that part of the hotel habitually used for the serving of food to guests or patrons, and to guests in their private rooms in the hotel. [47 P.S. § 4-406(a)(1)]. The hotel liquor licensee may allow persons to transport liquor or malt or brewed beverages from the licensed portion of the premises to the unlicensed portion of the premises, so long as the liquor or malt or brewed beverages remain on the hotel property. [47 P.S. § 4-406(e)]. There is nothing that prohibits a patron from purchasing an alcoholic beverage on the licensed premises and transporting it to another area, such as a hospitality room, as long as the alcoholic beverages remain on the hotel property. However, the hotel may establish house rules forbidding this if it so desires.

Additionally, section 407 of the Pennsylvania Liquor Code states that hotel liquor licensees may sell malt or brewed beverages for consumption off the licensed premises in quantities of not more than

one hundred ninety-two (192) fluid ounces in a single sale to one (1) person. [47 P.S. § 4-407]. Under this provision, it would be permissible to sell draft beer in seven hundred fifty (750) ml containers for off-premises consumption if limited to one hundred ninety-two (192) fluid ounces in a single sale (750 ml is approximately twenty-five (25) ounces). Act 11 of 2011 clarified that retail licensees may sell beer-to-go in either open or closed containers, as long as the municipality in which they are located does not have an ordinance restricting open containers in public places. [47 P.S. §§ 4-407(a), 4-431(c)]. The establishment would not be permitted to sell alcohol to go off the property in any container.

Accordingly, your hotel liquor license permits the sale of alcohol for consumption on hotel property. Nothing in the Liquor Code prohibits the use of plastic cups; the practice *per se* is not construed as a sale of liquor to go. However, the licensee is subject to liability if a patron leaves the property with alcohol served in a plastic cup.

The Liquor Code and Board Regulations, as well as other legal resources, are available online at www.lcb.state.pa.us. Put your cursor over the link for “Legal” and then choose from the drop-down menu that appears.

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

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