

March 10, 2014

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Meredith Grelli

Re: Limited Distillery Storage Location

ISSUE: This is in response to your e-mail sent on March 6, 2014, wherein you ask for clarification on the privileges surrounding limited distilleries. You advise that your production facility is located at 2401 Smallman Street, Pittsburgh, Pennsylvania. You are also opening a barrel warehouse at 1055 Spring Garden Avenue, Pittsburgh, Pennsylvania, just across the Allegheny River.

You note that section 505.4(b)(1) of the Liquor Code [47 P.S. 5-505.4(b)(1)] provides that limited distilleries may sell bottled liquors produced on the licensed premises to the public during certain hours. You advise that the barrel warehouse is an “extension” of your licensed premises, and ask if you are permitted to conduct the retail activities permitted under the laws and regulations governing limited distilleries, such as offering samples, selling alcohol by the glass, and selling bottles. You ask if you would be required to apply for a retail location that is not part of the licensed premises under section 505.4(b)(2)(i) of the Liquor Code [47 P.S. 5-505.4(b)(2)(i)].

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Pittsburgh Distilling Company, LLC holds Limited Distillery License No. AL-167 (LID 65226) for the premises at 2401 Smallman Street, Pittsburgh, Pennsylvania.

OPINION: In order to allow sales and service of alcoholic beverages beyond an existing licensed premises, a licensee must apply for an extension of its licensed premises to cover any additional area. Section 7.21(b)(2) of the Board’s Regulations permits a licensee to extend its license to immediate, abutting, adjacent, and contiguous vacant land. [40 Pa. Code § 7.21(b)(2)].

Board records indicate that the licensed premises is located solely at 2401 Smallman Street. While you advise that the Spring Garden location is an “extension” of the licensed premises, under the Board’s Regulations that location cannot serve as an extension since it does not reside on “immediate, abutting, adjacent, and contiguous vacant land.” [Id.]. Therefore,

please be advised that the Spring Garden location is an unlicensed location, as it is not covered by your limited distillery license.

Please note that establishments not licensed by the Board are subject to local ordinances and the provisions of the Pennsylvania Crimes Code. Section 7327 of the Crimes Code provides that "A person commits a summary offense if he stores or permits storage by others of liquor or malt or brewed beverages for the purpose of consumption between the hours of 2 a.m. and 8 a.m. on business premises owned, operated, leased or controlled by such person which are not licensed" under the Liquor Code. [18 Pa.C.S.A. § 7327]. You may also wish to contact the local municipal government or county District Attorney regarding any further restrictions and/or penalties that may exist.

In order for the Spring Garden location to be covered by your limited distillery license, you would need to apply for an additional Board-approved location. If the location is approved by the Board, you would then be permitted to offer samples and sell alcohol by the glass or bottle. Attached for your convenience please find an Application for Additional Board-Approved Location.

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. 14-066