

March 20, 2014

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Tim Riefel

RE: Barrel Aged Cocktails

Dear Mr. Riefel:

ISSUE: This office is in receipt of your e-mail dated January 27, 2014, wherein you ask about the legal status of creating barrel aged cocktails. You state that you have heard differing opinions and would like a concrete answer before deciding whether or not to start a barrel aged cocktail menu.

Records maintained by the Pennsylvania Liquor Control Board ("Board") indicate that you are the general manager for The Phyrst, Inc. holder of Restaurant Liquor License No. R-19796 (LID 20533) for premises located at 111 & 111 ½ Beaver Avenue, State College, Pennsylvania.

OPINION: For purposes of this response, barrel-aged cocktails are pre-mixed drinks, placed in barrels for a period of time, often a few weeks. The technique's purported purpose is to change the cocktail's character and flavor, mellowing the mix in the same way that wines and distilled spirits are aged.

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 cocktails as part of the aging process. Please also note that with respect to the pre-mixing of alcoholic beverages, it should be remembered that section 491(4) of the Liquor Code [47 P.S. §4-491(4)] prohibits the use of decanters of alcoholic beverages by licensees, except for wines.

However, it is permissible for cocktails to be combined or prepared in another container, such as a barrel or decanter, temporarily stored, and then served by the glass. In other words, it is permissible to premix a cocktail and keep it in a barrel, but the Liquor Code prohibits creating the mixture within, or returning the mixture to, the original liquor bottle or keeping the aged cocktails overnight.

Please note that holders of limited distillery licenses are allowed to produce not more than one hundred thousand (100,000) gallons of distilled liquor per year. [47 P.S. § 5-505.4]. Limited distilleries can manufacture and sell bottled liquor produced on the licensed premises to the Board, to licensees, and to the public between 9:00 a.m. and 11:00 p.m., operate and maintain up to two (2) Board-approved, additional satellite locations, apply for and hold a restaurant, hotel, or eating place retail dispenser license to sell alcoholic beverages for on-premises consumption at the licensed distillery premises, sell food and liquor for consumption on or off the licensed premises, and offer on-premises tastings. [*Id.*]. Such a license would enable you to create, store and sell barrel-aged cocktails. The forms necessary to apply for a limited distillery license can be obtained from the Board's public website www.lcb.state.pa.us, under the section "Licensees – Applications and Forms."

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. 14-096