

April 1, 2014

Telephone: (717) 783-9454

FAX: (717) 787-8820

Robin Harmick

RE: Mobile Food Vendor

Dear Mr. Harmick:

ISSUE: This office is in receipt of your e-mail dated February 12, 2014, wherein you indicate that your business, the DuBois Hitching Post, Inc. (“Hitching Post”), would like to permit a mobile food vendor to conduct his business on your property and in your parking lot. You explain that the vendor’s operation of his business is separate from that of the Hitching Post. You further explain that the vendor would operate his business in the spring, summer, and fall. You ask what your obligations and responsibilities are as a licensee.

Pennsylvania Liquor Control Board (“Board”) records indicate that the Hitching Post holds Restaurant Liquor License No. R-17553 (LID 25245) for premises located at 692 Liberty Boulevard, DuBois, Pennsylvania.

OPINION: Please be advised that section 3.52 of the Board’s Regulations precludes a licensee from operating or permitting another person to operate another business on licensed premises without Board approval. [40 Pa. Code § 3.52(c)]. A licensee may not permit other persons to operate another business on the licensed premises. [40 Pa. Code § 3.52(a)]. While the Board is permitted to approve a secondary business conducted by the licensee, no such approval may be given to third parties, such as the mobile food vendor in your scenario. However, there is nothing in the Liquor Code or the Board’s Regulations that would prohibit you from permitting the mobile food vendor to operate on the unlicensed areas of your property. Therefore, the mobile vendor would be permitted to operate in your parking lot, provided that the parking lot is not licensed.

If you have any additional questions, please do not hesitate to again contact this office.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR

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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. 14-108