

April 3, 2014

Telephone: (717) 783-9454

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Joseph Birch

Re: Serving Sizes for Beer With High ABV

Dear Mr. Birch:

ISSUE: Your e-mail of February 15, 2014 states that you have seen a significant increase in the demand for craft beers at your establishment, which presumably holds a liquor or eating place malt beverage license. Some of these beers are in excess of ten percent (10%) alcohol by volume (“ABV”). You inquire whether there is a limit to the serving size of a beer once it exceeds a certain ABV.

It is assumed for purposes of this response that you are inquiring on behalf of a licensee.

OPINION: Generally, retail liquor licensees are permitted to sell and serve malt or brewed beverages by the bottle, glass or other container for consumption on the licensed premises. [47 P.S. § 4-406]. Nothing in the Liquor Code or the Board’s Regulations sets a limit on the serving size of a malt or brewed beverage, including beer, once it exceeds a certain ABV.

However with regard to the serving size, please keep in mind that it is unlawful to sell, furnish or give any liquor or malt or brewed beverages, or to permit any liquor or malt or brewed beverages to be sold, furnished or given, to any person visibly intoxicated. [47 P.S. § 4-493(1)].

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

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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. 14-125