

April 3, 2014

Telephone: (717) 783-9454

FAX: (717) 787-8820

Robert Perry  
Tattooed Mom  
530 South Street  
Philadelphia, PA 19147

**RE: Foreign Driver's License with Photo**

Dear Mr. Perry:

ISSUE: This correspondence is in response to your e-mail sent March 24, 2014, wherein you ask whether a foreign driver's license with a photo is an acceptable form of identification under the Liquor Code.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that you are the sole officer of Rock of Ages, Inc., which holds Restaurant Liquor License No. R-3271 (LID 39903) for use at the premises located at 530 South Street, Philadelphia, Pennsylvania.

OPINION: Please be advised that there is nothing in the Liquor Code or the Board's Regulations that automatically requires patrons to possess and present valid identification while on premises licensed by the Board. However, section 493 of the Liquor Code makes licensees of the Board strictly liable for allowing minors (persons under twenty-one (21) years of age) to frequent their licensed premises, and for serving or furnishing alcohol to minors on their licensed premises. [47 P.S. § 4-493(1), (14)]. Thus, it is generally considered to be in the best interests of licensees to require patrons to provide identification when their age is in question so as to avoid violations of section 493.

To that end, section 495 of the Liquor Code specifically authorizes licensees and their servants, agents, or employees to *request* that patrons desiring to purchase alcohol present identification. [47 P.S. § 4-495(b)]. Moreover, section 495 also establishes a means by which licensees and employees of licensees can affirmatively defend against charges regarding service to minors in both civil and criminal proceedings. Specifically, subsections (e) and (f) of section 495 provide that no penalty shall be imposed against a licensee or a licensee's employee for serving alcohol to a minor if it is established to the satisfaction of an administrative

law judge that the minor was required to produce one (1) of the forms of identification listed in subsection (a); the minor completed and signed a declaration of age card or a photograph, photocopy, or other visual or video presentation was made; and these documents were relied upon in good faith. [47 P.S. § 4-495(e)-(f)].

Subsection (g) of section 495 provides that no penalty shall be imposed on a licensee or a licensee's employee for a citation for sales to minors if it is established to the satisfaction of an administrative law judge that: the minor was required to produce one (1) of the forms of identification set forth in subsection (a); the identification was scanned by a transaction scan device and was found to be valid; and the result was relied upon in good faith. [47 P.S. § 4-495(g)]. A "transaction scan device" is defined as a device capable of deciphering, in an electronically readable format, the information encoded on the magnetic strip or bar code of an identification card. [Id.]

Subsection (a) of section 495 of the Liquor Code lists the acceptable forms of identification for purposes of establishing the affirmative defenses set forth in subsections (e), (f), and (g) as follows: (1) a valid photo driver's license or identification card issued by the Department of Transportation or by any other state; (2) a valid United States Armed Forces identification card; or (3) a valid passport or travel visa issued by the United States or a foreign country that contains the holder's photograph. [47 P.S. § 4-495(a)]

Because a foreign driver's license with photo is not specifically listed in section 495(a), it *would not* be an acceptable form of identification for purposes of establishing an affirmative defense to a charge for service to minors; the only acceptable forms of identification for such purposes issued by a foreign country would be a valid passport or travel visa containing the holder's photograph.

Please feel free to again contact this office if you have any further questions regarding this matter, the Liquor Code, or the Board's Regulations.

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. 14-127