

May 15, 2014

Telephone: (717) 783-9454

FAX: (717) 787-8820

Edward Kelly

RE: Sale of Malt or Brewed Beverages

Dear Mr. Kelly:

ISSUE: This office received your e-mail dated April 29, 2014, wherein you indicate that you hold a brewery (“G”) license. You explain that you also hold a restaurant (“R”) liquor license at the same premises as the G license. You indicate that you intend to open a new restaurant at a different location where you wish to sell the beer produced by your brewery. You ask if you may directly sell the beer produced at your brewery to your new restaurant or if you are required to sell the beer through a licensed distributor. You also ask for more information regarding brewpub (“GP”) licenses.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Jedd Enterprises, Inc. holds both Restaurant Liquor License No. R-13210 (LID 65536) and Brewery License No. G-446 (LID 65537) for the premises located at 11191 Highline Drive, Meadville, Pennsylvania.

OPINION: Initially, please note that a G license is considered a manufacturing license for purposes of the Liquor Code, and an R license is considered a retail license for purposes of the Liquor Code. When a manufacturer obtains a retail license for the same location, thereby having a “couplet” at that location, the manufacturer may no longer self-distribute. Section 446(a)(4) provides:

each holder of a brewery license who receives a hotel liquor license, a restaurant liquor license or a malt or brewed beverages retail license to operate a brewery pub shall not sell directly to any person licensed by this act, except if any malt or brewed beverage is to be distributed in this Commonwealth it shall be only through specific importing distributors who shall have first been given distributing rights for such products in designated geographical areas through the distribution

system required for out-of-state manufacturers under section 431(b)....

[47 P.S. § 4-446(a)(4)]. If the G licensee operates a brewery pub pursuant to a GP license, rather than a restaurant, hotel or retail dispenser license, the G licensee is limited to selling the malt or brewed beverages it manufactures, but may continue to self-distribute. However, you would be about to sell to the R licensee that is located at your G location.

Since you have a “couplet” at your G location, you may not sell beer directly to your new R establishment. You would be required to sell your beer through a licensed distributor or importing distributor.

Regarding your request for more information about a GP license, pursuant to section 3.92 of the Board’s Regulations, the Board is authorized to issue a GP license to the holder of a G license. [40 Pa. Code § 3.92]. The holder of a GP license shall have all the rights and be subject to the same conditions and qualifications as those imposed on holders of a malt and brewed beverage retail dispenser (“E”) license, except as set forth in section 3.92. [Id.]. The GP license may be issued to premises immediately adjacent to, but separate and distinct from, the brewery premises. [Id.]. Sales of alcoholic beverages at the GP premises are limited to sales of malt or brewed beverages produced at and owned by the G adjacent to it or a G which is under common control with the GP. [Id.]. A GP licensee may also sell, for on-premises consumption, wine manufactured by the holder of a Pennsylvania limited winery license. [Id.].

The application packet for a GP license is available from the Board’s Bureau of Licensing at 717-783-8250 or on the Board’s website at www.lcb.state.pa.us. Click on “Licensees,” then “Applications and Forms,” and then choose “Application Packet for New Retail Liquor or Retail Dispenser License and Permits.”

Finally, please feel free to examine the Board’s Advisory Opinions concerning GP licenses by going to the Board’s website at www.lcb.state.pa.us, clicking on “Legal,” and then “Legal Advisory Search,” and typing in the words “brew pub” to access information concerning this issue.

If you have any further questions about the Liquor Code or the Board’s Regulations, 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 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. 14-220