

June 17, 2014

Telephone: (717) 783-9454

FAX: (717) 787-8820

Chuck
Bison Beer, Inc.
13782 Route 19
Waterford, PA 16441-8208

RE: Retro-fitted School Bus

Dear Chuck:

ISSUE: This correspondence is in response to your e-mail dated May 21, 2014, in which you indicate that you are considering retro-fitting a small school bus to house kegs and taps on the exterior of the same, and then renting it to customers for use at their events. Accordingly, you ask whether there are any legal problems that would prevent you from carrying out this concept.

The Pennsylvania Liquor Control Board's ("Board") records indicate that Bison Beer, Inc. holds Distributor License No. D-3131 (LID 69202) for use at the premises located at 13782 Route 19, Waterford, Pennsylvania.

OPINION: Section 443(d) of the Liquor Code prohibits a distributor or importing distributor licensee from either directly or indirectly giving anything of value to any other licensee for equipping, fitting out or maintaining or conducting its business. [47 P.S. § 4-443(d)]. Section 13.51 of the Board's Regulations prohibits licensees of one class, such as distributors, from giving anything of value to licensees of a difference class, such as restaurant or hotel liquor licensees. [40 Pa. Code § 13.51]. Moreover, section 493(17) of the Liquor Code prohibits distributors and importing distributors from providing draft beer equipment and/or tapping devices to other licensees of the Board. [47 P.S. § 4-493(17)]. In addition, Board Advisory Notice No. 9 (5th Revision) prohibits distributors and importing distributors from selling, renting, or otherwise making available equipment, such as "tapping devices (including refrigerated trucks and trailers)," to other licensees of the Board.

Here, the retro-fitted school bus that you describe in your e-mail would be considered a tapping device analogous to a refrigerated truck or trailer. Therefore, Bison Beer, Inc. would be prohibited from renting the retro-fitted school bus to other licensees of the Board.

However, Board Advisory Notice No. 9 (5th Revision) does allow distributors and importing distributors to rent “tapping devices (including refrigerated trucks and trailers)” to the general public or special occasion permit holders. Thus, it would be permissible for Bison Beer, Inc. to rent the retro-fitted school bus to members of the general public or special occasion permit holders for use at their events.

Should you have any further questions or concerns regarding 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. 14-326