

August 19, 2014

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Gregg Stavinski

**RE: Question**

Dear Mr. Stavinski:

ISSUE: This is in response to your e-mail sent July 29, 2014, wherein you ask if a small bar can get a citation because of the patrons speaking loudly, where a neighbor complained that he/she heard profanity. You also inquire if, as a bar owner, you must pay for beer purchased from a distributor with a check, rather than cash. You further advise that your average purchase is six (6) cases of beer per week.

Although you did not provide specific information regarding your license status with the Pennsylvania Liquor Control Board ("Board"), based upon the form of your questions and for purposes of this response, it will be assumed that you are a current Board-approved retail liquor licensee.

OPINION: As you might be aware, citations under the Liquor Code are issued by the Pennsylvania State Police, Bureau of Liquor Control Enforcement ("Bureau"), and not the Board. The Bureau is charged with the duty of enforcing the Liquor Code and the Board's Regulations. The Board acts as an appellate body if a licensee or the Bureau appeals from an adverse ruling on a citation matter. Because of its role as an appellate body in citation cases, the Board is precluded from commenting on any pending citation or violation. Therefore, the following information is provided pursuant to your request for general guidance going forward, rather than as it may relate to the facts alleged in any pending citation[s] for past conduct.

For your general information, section 493(34) of the Liquor Code provides that a licensee may not use or permit to be used inside or outside of the premises a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, can be heard beyond the licensee's property line. [47 P.S. § 4-493(34)].

If the noise or sound in question does not come from a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, can be heard on the outside of the licensed premises, the sound would not violate section 4-493(34) of the Liquor Code. However, be advised that the sound could result in a citation for disorderly operations, or may violate local noise ordinances if any are in place, or in more extreme cases, violate the Crimes Code provisions dealing with disorderly conduct. You should contact your local authorities for further guidance on local noise ordinances and law enforcement officials for further guidance on Crimes Code violations.

As to your second question, Act 39 of 2005 amended section 493(2) of the Liquor Code to prohibit distributors from accepting cash from retail licensees (hotels, restaurants, clubs, eating place retail dispensers) at the time the beer is delivered to the retail licensee. The purpose of this change was to protect the employees of distributors from the risks associated with carrying large amounts of cash.

Distributors and importing distributors CAN accept the following as payment for malt or brewed beverages if the buyer is licensed by the Board:

- A check or certified check if the payor of the check is the licensed entity purchasing the malt or brewed beverages and the payee of the check is the distributor or importing distributor selling the malt or brewed beverages.
- Cashier's check.
- Money Order.
- Debit Card.
- Electronic Transfer of Funds.
- Prepayment in cash so long as it occurs prior to delivery.

Distributors and importing distributors CANNOT accept the following as payment for malt or brewed beverages if the buyer is licensed by the Board:

- Cash on delivery.
- Credit Cards.
- A check or certified check if the payor is someone other than the licensed entity purchasing the malt or brewed beverages or if the payee is

- someone other than the distributor or importing distributor selling the malt or brewed beverages.
- On credit.

Please do not hesitate to contact this office if you have any additional questions.

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

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