

August 19, 2014

Telephone: (717) 783-9454

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Rebekah Lenig
Irish Pot of Gold Beer Distributor
911 West Arch Street
Coal Township, PA 17866

Re: Prepayment for Beer Deliveries

Dear Ms. Lenig:

ISSUE: This is in response to your letter received in this office on August 4, 2014, wherein you ask if a retail licensee may pay in advance for future deliveries of beer. For example, a retail licensee would deposit a certain sum of money with your distributorship, to establish a credit on its account. As deliveries of beer are made to that retail licensee, the amount of credit on the licensee's account would be reduced. If the retail licensee ever placed an order for beer that exceeded the amount of credit on its account, the retail licensee would have to deposit sufficient money into its account – enough to pay for the beer – before the distributorship would deliver the beer. You ask for advice as to the legality of this type of payment arrangement.

Records of the Pennsylvania Liquor Control Board ("Board") provide that Irish Pot of Gold Beer Distributor, LLC, holds Importing Distributor License No. ID-750 (LID 61670) for the premises located at 911 West Arch Street, Coal Township, Pennsylvania.

Section 493(2) of the Liquor Code was amended to provide that distributors could no longer accept cash from retail licensees (hotels, restaurants, clubs, eating place retail dispensers) at the time the beer was delivered to the retail licensee. The purpose of this change was to protect the employees of distributors from the risks of carrying large amounts of cash.

Distributors and importing distributors may 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.

Therefore, under the Liquor Code, a retail licensee is permitted to pay a distributor in advance for its deliveries of beer. Please note, however, that a distributor may allow or disallow this business practice as it sees fit.

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

Rebekah Lenig
August 19, 2014
Page 3

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- 475