

September 15, 2014

Telephone: (717) 783-9454

FAX: (717) 787-8820

Patricia Wandishin

**Re: Displaying a Bottle of Texas-made Beer**

Dear Ms. Wandishin:

ISSUE: This is in response to your letter received in this office on August 25, 2014, wherein you advise that your brother-in-law lives in Texas and brews his own beer. He has bottled a case of beer for you and your husband with the logo of your restaurant. You ask if you can place one (1) unopened bottle of beer on a shelf behind the bar for display purposes only.

Records of the Pennsylvania Liquor Control Board ("Board") provide that Theodora's Incorporated holds Restaurant Liquor License No. R-4705 (LID 69299) for the premises located at 668 North Hunter Highway, Drums, Pennsylvania.

OPINION: In order for you to display the bottle from your brother-in-law without risk of citation, the bottle would have to be empty or full of a non-alcoholic liquid, such as water. Otherwise, you could be cited by the Pennsylvania State Police, Bureau of Liquor Control Enforcement ("Bureau") for several reasons that are more fully explained below.

First, your brother-in-law's beer would have to have its brand registered in Pennsylvania. Section 445(a) of the Liquor Code provides that any beer delivered to a trade buyer, such as yourself, is subject to the brand registration requirements. Such registration shall consist of an application in the form and manner prescribed by the Board for the registration of the said brand or brands of malt beverages, together with an annual filing fee not to exceed seventy-five dollars (\$75) for each brand registration requested. [47 P.S. § 4-445(a)].

Second, the beer would have to be properly imported into Pennsylvania via the three (3)-tier distribution system. Pursuant to section 431(d) of the Liquor Code, all out-of-state manufacturers whose products are sold and delivered in Pennsylvania are required to give distribution rights for their products to importing

distributors (“IDs”), authorizing them to sell malt or brewed beverages (“beer”) in a specific geographic area within Pennsylvania. [47 P.S. § 4-431(b)]. ID licensees may then in turn sell the beer to distributors (“Ds”), setting forth the terms and conditions under which beer may be resold.

Third, you would have to acquire the beer from a distributor who has distribution rights for your geographic area. Otherwise, you may be subject to a suspension of your liquor license for at least thirty (30) days. [47 P.S. § 4-431(b)].

Finally, please note the Tax Reform Code of 1971 provides that it shall be unlawful “for any person to transport into the Commonwealth, taxable malt or brewed beverages in containers on which the tax is not paid or provisions for the payment of the tax are not made pursuant to the provisions of this article.” [72 P.S. § 9011]. Therefore, possession of beer for which taxes have not been paid could result in citations issued against you by the Pennsylvania Department of Revenue. You may obtain further guidance regarding this issue from its website at [www.revenue.state.pa.us](http://www.revenue.state.pa.us) or via telephone at (717) 783-9354.

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

Patricia Wandishin  
September 15, 2014  
Page 3

LCB Advisory Opinion No. 14-513