

January 15, 2015

Carolyn Krammes

RE: R License Transfer

Dear Ms. Krammes:

ISSUE: This office received your e-mail dated December 17, 2014, wherein you indicate that you hold a restaurant (“R”) license in safekeeping and have an interested party who would like to purchase it. You seek verification that the interested party would be able to use the license for a convenience store for six (6) pack carryout sales rather than full restaurant use. Records of the Pennsylvania Liquor Control Board (“Board”) indicate that New Venture Enterprises LLC holds Restaurant Liquor License No. R-6311 (LID 60040) in safekeeping.

OPINION: Initially, please note that the Liquor Code defines “restaurant” as “a reputable place operated by responsible persons of good reputation and habitually and principally used for the purpose of providing food for the public, the place to have an area within a building of not less than four hundred (400) square feet, equipped with tables and chairs, including bar seats, accommodating at least thirty persons at one time. [47 P.S. § 1-102]. An “R” license must operate in compliance with the aforementioned definition. There is no exchange or conversion of an “R” license by which a convenience store would be legally permitted to conduct sales of six-packs of beer. The Pennsylvania Supreme Court, in Malt Beverages. Distributors. Ass'n v. Pa. Liquor Control Bd., 601 Pa. 449; 974 A.2d 1144 (2009), specifically ruled against allowing a retail dispenser to sell malt/brewed beverages for take-out purposes affording the benefits of a distributor license without imposing the accompanying restrictions.

However, such a proposed sale/use may be permissible if the buyer/applicant qualifies for an “R” license and can also obtain Board approval for an interior connection to conduct its business.

If you have any further questions about the Liquor Code or the Board’s Regulations, please do not hesitate to again contact this office.

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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. 14-657