

January 21, 2015

Dennis  
Draai Laag Brewing Company

**RE: Brewery License Inquiry**

Dear Dennis:

ISSUE: This office is in receipt of your email of December 22, 2014, wherein you advise that you currently operate a brewery (“G license”) and a brewery pub license (“GP license”) and that you have run out of room at your current facility. You advise that you have licensed warehouse space from the Pennsylvania Liquor Control Board (“Board”) where you currently cover your inventory. You advise that your business has run out of room at that location as well.

Your e-mail states that there is available retail space within the same warehouse, and you desire to move all manufacturing into that location. You wish to maintain the ability to sell the products manufactured at your new facility in your current GP location. In short, you wish to manufacture your beer at the new location, transport it to the GP location and sell it at retail from the GP premises. You inquire whether this is permitted.

Board records indicate that Draai Laag Brewing Company, LLC holds Brewery License No. G-448 (LID 65550) and Brewery Pub License No. GP-448 (LID 67424) for use by it at premises located at 501 East Ohio Street, Millvale, Pittsburgh, Pennsylvania.

OPINION: The scenario you propose would not be permissible. Generally, a brewery may sell malt or brewed beverages produced and owned by the brewery to individuals for off-premises consumption in containers or packages of unlimited quantity and of any volume, and to licensees in quantities of not less than a case or original containers containing one hundred twenty-eight (128) ounces or more. [47 P.S. §§ 4-431, 4-440]. A brewery may sell its product for on-premises consumption only in compliance with section 446(a)(1) of the Liquor Code. [47

P.S. § 4-446(a)(1)]. A brewery pub license allows the holder of a brewery license to operate a restaurant or brew pub within or immediately adjacent to the brewery premises. [47 P.S. § 4-446]. It allows sales for on-premises consumption of the beer produced and owned by the brewery, and sales for off-premises consumption of its

products. Thus, in order to maintain your brewery pub licensure, you must maintain your current brewery license at its current location.

That being said, section 3.92(d) of the Pennsylvania Liquor Control Board's ("Board") Regulations [40 Pa. Code §3.92(d)], states: "Sales of alcoholic beverages at the brewery pub premises shall be limited to sales of malt or brewed beverages produced at and owned by the brewery adjacent to it or a brewery which is under common control with the brewery pub." Section 3.92 was revised in 2011 to specifically allow for the scenario you described above. The Board recognized that the growth of "craft" brewing of beer in Pennsylvania had reached a point where certain breweries could no longer supply the demand for their beer at their brewery pubs from the capacity of the adjacent brewery. Thus, if your company filed for a new brewery license for use at your new proposed location, it could then transport the beer from the new G license for sale at retail at your existing G and GP location.

Please be advised that the ownership structure of the new G license must be identical to the existing structure of your company, as "common control" has been interpreted as having the same meaning as common ownership.

**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  
Frank Miller, Bureau of Licensing

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