

January 14, 2015

Alex Barrett
Hewn Spirits LLC

RE: Direct Shipment by Limited Distillery

Dear Ms. Barrett:

ISSUE: This office is in receipt of your e-mail dated January 5, 2015 in which you asked for written confirmation of your understanding that a limited distillery licensed by the Pennsylvania Liquor Control Board (“Board”) may lawfully ship its products to its customers’ homes in Pennsylvania.

Board records indicate that Hewn Spirits LLC holds Limited Distillery License No. AL-3 (LID 66774) for use by it at 31 Appletree Lane, Pipersville, Pennsylvania.

OPINION: The Liquor Code authorizes the Board to issue a limited distillery license, allowing “the holder thereof to operate a distillery that shall not exceed production of one hundred thousand (100,000) gallons of distilled liquor per year. The holder of the license may manufacture and sell bottled liquors produced on the licensed premises to the board, to entities licensed by the board and to the public.” [47 P.S. § 5-505.4(b)(1)]. The Board’s Regulations provide that a limited distillery licensee may have product delivered to a buyer either through properly licensed vehicles or through the use of a licensed transporter-for-hire. [40 Pa. Code § 11.222].

Therefore, as a holder of a limited distillery license, you may lawfully ship your product to your customers’ homes in Pennsylvania either in your own vehicles or via a licensed transporter-for-hire. Please note that in either scenario you must ensure that the product is sold and delivered only to persons aged twenty-one (21) or older, and to persons who are not visibly intoxicated. [47 P.S. § 4-493(1)].

The Liquor Code provides that a liquor licensee that is permitted to deliver liquor may do so in its own vehicles bearing the licensee’s name, address and license number on each side of the vehicle in letters not smaller than two (2) inches in height. [47 P.S. § 4-491(12)].

If you decide to use the services of a transporter-for-hire, you may find such licensees on the Board's website at www.lcb.state.pa.us. From the "Licensees" link, scroll down to "Licensing Search." You will need to click on the "Start" button at the bottom of the disclaimer page. On the next screen, search for licenses with an "Active" status, and then search for Transporter-for-Hire Class A or Class C. These are the only types of licenses that can transport distilled spirits.

Please note that sales of your distilled spirits may only occur on the licensed premises or at a Board-approved additional location. The Liquor Code defines "sale" as "any transfer of liquor, alcohol or malt or brewed beverages for a consideration." [47 P.S. § 1-102]. Therefore, if a retail licensee places an order for product that you receive on the licensed premises, and you receive payment with the order, that is considered a sale, even though the buyer does not yet have receipt of the purchased product. This is the usual scenario with online sales using payment cards, as you suggested in your e-mail.

Should you have any additional questions, do not hesitate to contact this office.

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