

February 18, 2015

Shawn Hoover  
Super Sub & Six Pak  
85 McCracken Run Road  
DuBois, PA 15801

**RE: Transportation of Beer**

Dear Mr. Hoover:

ISSUE: This office is in receipt of your e-mail dated January 9, 2015 wherein you indicate that you have attempted to research the law regarding transporter-for-hire licenses. You state that the information you have reviewed is contradictory. Therefore, you ask for clarification regarding whether a retail licensee, such as yourself, may hold a transporter-for-hire license and if so, whether you may use that license to transport beer that you have purchased from a beer distributor to your establishment or to deliver beer to customers at their homes.

Pennsylvania Liquor Control Board (“Board”) records indicate that Shawn M. & Kara A. Hoover, t/a Super Sub & Six Pak, hold Restaurant Liquor License No. R-1787 (LID 66389) for use by it at premises located at 85 McCracken Run Road, Dubois, Pennsylvania.

OPINION: As you know, a restaurant license does not authorize the licensee to deliver alcohol. Section 501 of the Liquor Code requires a license issued by the Board in order to transport-for-hire any alcoholic beverages within the Commonwealth. [47 P.S. § 5-501]. Therefore, if a restaurant licensee wants to deliver alcohol for off-premises consumption, it must also acquire a transporter-for-hire license. There is nothing in the Liquor Code that prohibits a restaurant licensee from applying for or holding a transporter-for-hire license. However, be advised that it is the Board’s Bureau of Licensing (“Licensing”) initially, and the three (3)-member Board ultimately, that decides whether to grant a particular license application.

There are three (3) types of transporter-for-hire licenses issued by the Board. The transporter-for-hire Class A license authorizes the holder to engage in the commercial transportation of liquor, malt or brewed beverages or alcohol to or from points located in the Commonwealth. A transporter-for-hire Class B license allows the holder to engage in the commercial transportation of malt or brewed beverages only to or from points located in the Commonwealth. A transporter-for-hire Class C license is a fleet license that authorizes the holder to engage in the commercial transportation of liquor parcels within the Commonwealth. [40 Pa. Code § 9.11].

Please note that the transporter-for-hire licensee may only transport alcohol that it does not own, such as alcohol that a customer has purchased. Therefore, if you obtained a transporter-for-hire license, you would not be permitted to transport alcohol that you purchased from a beer distributor to your licensed retail establishment, unless the transporter-for-hire license was held by a separate corporation.

However, if you obtained a transporter-for-hire license, you would be permitted to transport beer to a customer's home provided that the sale was completed on the licensed premises before the delivery occurs. [47 P.S. §§ 1-102; 4-401(a); 4-492(2)-(4)]. It would not be permissible for the customer to pay the delivery person, for that would clearly be a sale occurring off of the licensed premises. Customers may tip the delivery person if they so choose, since tipping is optional and is not considered the off-premises sale of alcohol.

Finally, be advised that a transporter-for-hire may not transport both malt or brewed beverages and a commodity that is hawked or peddled in the same vehicle at the same time. [40 Pa. Code § 9.92(b)]. This office has interpreted "hawked or peddled" to mean the attempt to sell a product from the delivery vehicle; a simple example is an ice cream truck that follows a route, enticing patrons to purchase treats directly from the truck. In your scenario, assuming that you do obtain a transporter-for-hire license, you may not at the same time use that vehicle as a "food truck," as that term is currently used.

Please do not hesitate to contact this office should you have additional questions.

**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. 15-031