

April 1, 2015

Justin Yahner

RE: New 12 Pack Law

Dear Mr. Yahner:

ISSUE: Your e-mail of March 9, 2015 inquires, “How are the laws going to be interpreted for R license 6 pack / or “c” stores?”

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Geez Guy, LLC holds Restaurant Liquor License No. R-16389 (LID 60388) for use by it at premises located at 719 West High Street, Ebensburg, Pennsylvania.

OPINION: It is presumed that your inquiry refers to Advisory Opinion 15-077, issued by this office on March 6, 2015. As you appear to be aware, in that advisory opinion, this office determined that licensed distributors and importing distributors are authorized to sell and deliver malt or brewed beverages in original containers, as prepared for the market by the manufacturer, containing one hundred twenty-eight (128) ounces or more. It is not clear what is meant by your specific question regarding how this is going to be “interpreted” for “R license 6 pack / or “c” stores.” The advisory opinion in question refers only to the privileges attendant to distributor and importing distributor licenses, and does not directly implicate any other class of license. However, it should be noted that the Liquor Code does not provide for a “6 pack” or “c” store (presumably meaning convenience store) license. The Liquor Code defines “restaurant,” in relevant part, 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 square feet, equipped with tables and chairs, including bar seats, accommodating at least thirty persons at one time.

[47 P.S. § 1-102].

The primary purpose of a retail liquor license is to sell alcohol for consumption on the premises, with the privilege of selling beer for takeout being secondary to such purpose. Malt Beverage Distributors Association v. PLCB, 974 A.2d 1144 (Pa. 2009). Retail licensees are limited to selling one hundred ninety-two (192) fluid ounces of malt or brewed beverages per sale for off-premises consumption. [47 P.S. § 4-407].

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. 15-138