

May 6, 2015

Alva C. Mather, Esquire
VIA E-MAIL AMather@griesinglaw.com

Re: Transporter-for-Hire License

Dear Attorney Mather:

ISSUE: This is in response to your e-mail of April 7, 2015, wherein you request information on behalf of your client, a Pennsylvania brewer who holds a “G” license. Currently the licensee self-distributes its beer, but has been approached by other brewers requesting that it distribute or transport their products. You understand that a G licensee is not able to obtain an importing distributor (“ID”) or distributor (“D”) license, but inquire if a transporter license would enable your client to distribute the products of other Pennsylvania breweries.

OPINION: Your understanding that a manufacturer may not obtain an importing distributor (“ID”) or distributor (“D”) license is correct. The Liquor Code imposes strict and rigid interlocking business prohibitions, specifically, under section 443 of the Liquor Code, stating that no manufacturer may have an interest in a distributor license. [47 P.S. §§ 443].

However, the Liquor Code and the Board Regulations are silent as to any prohibition of a manufacturer licensee obtaining a transporter-for-hire license for the purpose of transporting the products of other Pennsylvania breweries. As you know, section 501 of the Liquor Code requires a license in order to transport for hire any alcoholic beverages within Pennsylvania. [47 P.S. § 5-501]. 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].

Should your client opt to apply for a transporter-for-hire license and acquire the license for the purpose of transporting malt or brewed beverages of other Pennsylvania breweries, please note that there are record keeping obligations as to invoices and bills of lading. Section 512 of the Liquor Code requires the licensee to keep daily permanent records of the names and addresses of the persons from whom the malt or brewed beverages were received and to whom they are delivered [47 P.S. § 5-512]; section 9.21 of the Board's Regulations requires the transporter-for-hire licensee to maintain documentation of the consignee and consignor in each vehicle. [40 Pa. Code § 9.21].

Should you have any other questions and/or issues related to the Liquor Code or the Board's Regulations, please feel free to once again 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.

Should you have any other questions and/or issues related to the Liquor Code or the Board's Regulations, please feel free to once again contact this office.

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. 15-201