

May 13, 2015

Jason Kowerski
Assistant General Manager
Federal Taphouse Lancaster

RE: Growler Sales

Dear Mr. Kowerski:

ISSUE: This correspondence is in response to your e-mail sent April 27, 2015, wherein you raise several questions regarding the sale of beer in growlers by restaurant liquor licensees. You first ask whether a restaurant liquor licensee is permitted to fill a growler with any type of beer, even when the growler presented by a customer to be filled bears the label for a different type of beer. As an example, you ask whether it would be permissible for your restaurant liquor licensed establishment to fill a growler with Spring House Beer, when the growler presented by the customer bears a label from Troegs. You also ask whether there is any label or sticker that your restaurant liquor licensed establishment must affix to a growler, once it has been filled with beer.

The Pennsylvania Liquor Control Board's ("Board") records reflect that 201 North Queen Street Associates, LLC, t/a Federal Taphouse, holds Restaurant Liquor License No. R-10050 (LID 66508) for use at the premises located at 201 North Queen Street, Lancaster, Pennsylvania.

OPINION: As you already appear to be aware, holders of restaurant liquor licenses may sell beer for off-premises consumption if limited to one hundred ninety-two (192) fluid ounces in a single sale. [47 P.S. § 4-407(a)]. Further, a restaurant liquor licensee may sell such beer in either open or closed containers, as long as the municipality in which the licensee is located does not have an ordinance restricting open containers in public places. [Id.].

With respect to your first question, there is nothing in the Liquor Code or the Board's Regulations that would prohibit a restaurant liquor licensee from filling a growler which bears a label for a particular type or brand of beer with a different type or brand of beer. Thus, in the example you offered, where the customer presents a growler

bearing a Troegs label, it would be permissible under Pennsylvania law for your establishment to fill that growler with any type of beer, including Spring House Beer.

As to your second question, there is also nothing in the Liquor Code or the Board's Regulations that would require a restaurant liquor licensee to affix any sort of label or sticker to a growler once it has been filled.

With that being said, however, your establishment would still be responsible for maintaining accurate records that reflect what type of beer is actually being sold in any transaction in order to comply with the requirements of section 493(12) of the Liquor Code [47 P.S. § 4-393(12)] and to resolve any possible inquiries that may arise from the Board or the Pennsylvania State Police, Bureau of Liquor Control Enforcement as a result of its activities.

Lastly, if you have not already done so, you may also wish to check the Alcohol, Tobacco, Tax and Trade Bureau's ("TTB") website at www.ttb.gov to make sure that there are no federal laws that would prohibit or restrict the filling of growlers under the circumstances that you raise in your e-mail.

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. 15-215