

June 10, 2015

Nate Willing

VIA E-MAIL: nate@chiquesrockbrewing.com

RE: Brewery Pub Food and Size Requirements

Dear Mr. Willing:

ISSUE: This office is in receipt of your e-mail dated May 18, 2015, wherein you indicate that you currently hold a brewery (“G”) licensee and that you are considering the addition of a brewery pub (“GP”) license. You state that you are unclear regarding the size and food requirements for the holder of a GP license.

Records maintained by the Pennsylvania Liquor Control Board (“Board”) indicate that Chiques Rock Brewing holds Brewery License No. G-559 (LID 70384) for premises located at 113-117 West Market Street, Marietta, Pennsylvania.

OPINION: Your correspondence poses a series of questions. These questions shall be addressed in the order presented.

- (1) What is the minimum number of seats (for a GP license)?

Thirty (30). The holder of a brewery pub license shall have all the rights and be subject to the same conditions and qualifications as those imposed on holders of a malt and brewed beverage retail dispenser license, except as set forth in section 3.92. [40 Pa. Code § 3.92].

Therefore, the GP must have a total area of not less than three hundred (300) square feet available to the public in one (1) or more rooms and must be equipped with tables and chairs, including bar seats, sufficient to accommodate thirty (30) persons at one (1) time. [47 P.S. § 1-102].

- (2) Does the food you offer for sale have to be prepared on-site.

Yes. An eating place is defined by the Liquor Code as “a premise where food is regularly and customarily prepared and sold.... [47 P.S. § 1-102]. Therefore, the on-site preparation and sale of food is required.

- (3) Can the food be offered from an adjacent restaurant that is delivered to the GP?

While food prepared at the adjacent restaurant may be delivered to patrons of the GP, such food would not satisfy the requirement listed above. In order to meet the definition of an eating place, food must be prepared on premises.

Please note, on May 30, 2015, a new Regulation became effective that allows a brewery (that does not hold a brewery pub, restaurant liquor, eating place retail dispenser or hotel license) to sell malt or brewed beverages for on-premises consumption under the following conditions:

- (1) Consumption may occur only between 10:00 a.m. and midnight;
- (2) The only alcohol that may be consumed on the licensed premises are the malt or brewed beverages produced on the licensed premises and owned by the brewery;
- (3) The brewery must have at least ten (10) seats on the licensed premises for use by patrons while they are consuming alcohol; and
- (4) The brewery must make food available to each patron who is consuming alcohol on the licensed premises, while that person is consuming alcohol. Such food shall, at a minimum, consist of potato chips, pretzels, and other similar foods. Such food may be prepared by the brewery or by a third party.

[40 Pa. Code § 3.93]

While the new Regulation allows G license holders to serve beer for consumption on the licensed premises, it does not nullify the brewery pub license. There are three (3) distinctions between the two (2) licenses:

- (1) G license holders may only serve from 10:00 a.m. to midnight; GP license holders may generally serve from 7:00 a.m. to 2:00 a.m.
- (2) The only alcohol a G may serve is the malt or brewed beverages it has produced; GPs may serve the malt or brewed beverages it has produced and wine produced at any Pennsylvania-licensed limited winery.
- (3) G license holders may not obtain off-premises catering permits; GP holders may obtain these permits.

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

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