

June 10, 2015

Cheryl Seddon
M & C Nittany Inn, Inc.
1290 Snyderstown Road
Howard, PA 16841-9119
VIA E-MAIL: seddonc@yahoo.com

Re: Licensee Purchase from Distributor

Dear Ms. Seddon:

ISSUE: This is in response to your e-mail of May 12, 2015, wherein you ask if it is legal to pay cash or use a credit card to pay for a beer delivery from a distributor prior to the delivery. You understand that when the delivery is made, a business check must be used to pay, but you are asking about pre-payment.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that you are the Board-approved Manager for M & C Nittany Inn, Inc., which holds Restaurant Liquor License No. R-17542 (LID 36394) for the premises at 1290 Snyderstown Road, Howard, Pennsylvania.

OPINION: Section 493(2) of the Liquor Code [47 P.S. § 4-493(2)] prohibits sales or purchases of liquor or malt or brewed beverages (“beer”) by licensees on credit; please note that it does not apply to sales of items other than beer. Therefore, even when paying prior to delivery, a licensee may not pay for the beer by way of credit card.

Section 493(2) also prohibits importing distributors or distributors who are delivering beer to other licensees from accepting cash as payment. To answer your question, you may prepay with cash for the beer, as long as the transfer of funds is made at the distributor’s premises at any time prior (i.e., the day of, the hour before, etc.) to the delivery of the beer. A licensee may not pay cash at a distributor location even prior to loading the beer in the distributor’s delivery vehicle, since that would not be prepayment, but payment by cash, which is impermissible under section 493(2) [47 P.S. § 4-493(2)].

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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.

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. 15-250