

June 10, 2015

Sam Cummings, Jr.
VIA E-MAIL: cjspirits@gmail.com

RE: Limited Distillery Sales

Dear Mr. Cummings:

ISSUE: This is in response to your e-mail of April 29, 2015, wherein you seek clarification of on- and off-premises sales. You state that you are aware that a limited distillery must conduct sales on premises and is able to take orders over the phone or on a website where payment is made via a credit card and delivery is made thereafter. You inquire if it is permissible for a salesperson to meet with a licensee, obtain an order, and scan the card of the licensee into a mobile card scanner that directly deposits the funds into the distillery's bank account. The alcohol delivery would occur at a later date. You inquire if there is any difference if the card is read over the phone or scanned on a mobile device at the business. You further state that the transfer of liquor does not take place until after the payment is processed and reference section 102 of the Liquor Code defining sales. [47 P.S. § 1-102].

Pennsylvania Liquor Control Board ("Board") records indicate that CJ Spirits LLC holds Limited Distillery License No. AL-11 (LID 68103) for premises located at 120 Willow Run Drive, Kane, Pennsylvania.

OPINION: Section 505.4(b)(1) of the Liquor Code authorizes a licensed limited distillery to manufacture and sell on its licensed premises its distilled spirits to the Board, to other licensees of the Board, and to the general public. [47 P.S. § 5-505.4(b)(1)]. Furthermore, a licensed limited distillery may sell its bottled products at up to two (2) additional Board-approved locations, either alone or in conjunction with other licensed limited distilleries. [47 P.S. § 5-505.4(b)(2)(i)].

There is currently no provision in the Liquor Code or Board's Regulations that would allow a licensed limited distillery to sell its products from any location other than a licensed location. Please note that the taking of orders and acceptance of payment

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constitutes a “sale” of alcohol under the Liquor Code. [47 P.S. § 102]. There is, however, nothing that precludes a limited distillery licensee from simply taking orders for its products off-site, for subsequent payment to be made at the licensed premises, with delivery of the alcohol to the customers following such payment.

Accordingly, the use of a mobile scan device at a location other than that of your limited distillery and its Board-approved locations would constitute an unlawful sale.

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, Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 15-252