

June 11, 2015

Dayna Maloy

VIA E-MAIL: hairdayna@gmail.com

RE: Decanters

Dear Ms. Maloy:

ISSUE: This office is in receipt of your e-mail dated May 7, 2015, wherein you ask if a restaurant licensee may store and serve liquor from a decanter. You explain that you have some beautiful high-end scotch decanters that you would like to use; however, you are concerned that use of such decanters may be prohibited by the Liquor Code.

OPINION: Section 491(10) of the Liquor Code makes it unlawful for licensees to fortify, adulterate, or contaminate any liquor, except as permitted by the Pennsylvania Liquor Control Board's ("Board") Regulations, or to refill wholly or in part, with any liquid or substance whatsoever, any liquor bottle or other liquor container. [47 P.S. § 4-491(10)]. Therefore, a licensee could not refill liquor bottles with the infused spirits.

However, it is permissible for infused spirits to be combined or prepared in glass containers or jars, such as a decanter or infusion jar, temporarily stored, and then served by the glass. In other words, it is permissible to premix a cocktail and keep it in an infusion jar, but the Liquor Code prohibits creating an infusion within the original liquor bottle or keeping the infusion overnight.

Further, be advised that section 491(4) of the Liquor Code prohibits the use of decanters of alcoholic beverages by licensees, except for wines. [47 P.S. § 4-491(4)]. However, section 11.101 of the Board's Regulations [40 Pa. Code § 11.101] permits retail liquor licensees such as yourself to dispense wine from decanters or similar receptacles including receptacles forming a part of a dispensing system. Additionally, please note that Board licensees must meet sanitary requirements. [47 P.S. § 4-437(a)]. Therefore, you may wish to contact the Pennsylvania Department of Agriculture on its public website at <http://www.agriculture.state.pa.us>.

Please do not hesitate to contact this office should you have additional questions.

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. 15-254