

July 2, 2015

Stephen M. Macelhaney
VIA E-MAIL: mac05@frontiernet.net

RE: Beer Growler Sales and Refills

Dear Mr. Macelhaney:

ISSUE: This office is in receipt of your e-mail, dated June 9, 2015, wherein you indicate that you own a hotel in Pennsylvania. You explain that you are considering selling growlers personalized with the hotel name. You ask whether customers would be able use these growlers to purchase a refill. You further ask what you can and cannot do with regard to the growlers.

Records maintained by the Pennsylvania Liquor Control Board ("Board") indicate that Stephen M. Macelhaney holds Hotel Liquor License No. H-2743 (LID 65216) for use at the premises located at 2148 Route 87 Highway, Hillsgrove, Pennsylvania.

OPINION: Initially, be advised that section 13.52 of the Board's Regulations provides that licensees of any class may sell promotional items advertising their own business only, such as tee shirts, mugs, caps and other similar items, to the general public. [40 Pa. Code § 13.52(f)]. Therefore, as the holder of a hotel liquor license, no additional permission is required for you to sell growlers with your logo printed on them, which advertise your business.

Further, as you should be aware, holders of retail licenses other than clubs may sell malt or brewed beverages for off-premises consumption, in sealed or unsealed containers, when sold in quantities of not more than one hundred ninety-two (192) fluid ounces in a single sale to one (1) person. [47 P.S. § 4-407(a)]. Therefore, you may sell draft beer in growlers for off-premises consumption if limited to one hundred ninety-two (192) fluid ounces in a single sale.

However, please note that while the Liquor Code allows beer to be taken off of the licensed premises in an unsealed container, local municipalities may have ordinances which prohibit open containers of alcoholic beverages within the

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boundaries of that municipality. As this office cannot advise you as to the open container laws in your municipality, it is suggested that you contact your local municipality or local police department to determine if your municipality has any applicable open container ordinances.

Additionally, be advised that section 493(24)(i) of the Pennsylvania Liquor Code prohibits the offering of a thing of value to induce the purchase of alcohol (e.g., buy a growler refill and receive a ten percent (10%) discount). Thus, it is not permissible to offer discounts on the purchase of growler refills that differ from the set price for such beer. However, it would be permissible for your hotel to offer a quantity of beer at a set price which results in a lower cost than the price of smaller quantities of such beer, so long as the pricing reflects an economy of scale and is not tied to another purchase.

Should you have any additional questions, do not hesitate to 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. 15-275