

July 20, 2015

Ryan Richards

VIA E-MAIL: ryan@roypitz.com

Re: Brewery Adding a Limited Distillery License

Dear Mr. Richards:

ISSUE: This is in response to your e-mails of June 24 and 30, 2015, wherein you ask several questions about what you would be permitted to sell at your brewery should you also acquire a limited distillery license. You would like to manufacture spirits at the same location as your brewery. You ask if the same company can hold both a brewery license and a distillery license. You ask if the brewing and distilling operations may occur at the same time, at the same location. You ask if you should apply for a limited distillery license, and what fees are associated with keeping the license. Finally, you ask if you would be permitted to sell your spirits at your brewpub, either for consumption on or off the brewpub premises, or to other brewpubs and storage facilities owned and operated by your corporation.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Roy Pitz Brewing Company, LLC, which holds Brewery License No. G-399 (LID 59308) and Brewery Pub License No. GP-399 (LID 67258) for the premises at 140 North Third Street, Chambersburg, Pennsylvania.

OPINION: Section 505.4 of the Liquor Code provides that the Board may issue a limited distillery license to an entity that will produce not more than one hundred thousand (100,000) gallons of distilled liquor per year. [47 P.S. § 5-505.4(b)(1)]. The Liquor Code prohibits a person from holding more than one (1) class of license [47 P.S. § 4-438(c)], but a brewery license and a limited distillery license are both manufacturing licenses and are of the same class. Therefore, your company could hold both a brewery license and a limited distillery license.

The Board’s Bureau of Licensing (“Licensing”) will not typically dual-license a location, absent specific statutory authority. Thus, only one (1) license may be in effect at one (1) time at any particular portion or location.

That being said, the Board has, in the past, entered into a Conditional Licensing Agreement (“CLA”) with a licensee that wishes to place two (2) manufacturing licenses at the same location, but only if the same entity holds both manufacturing licenses. Such

an arrangement would require the consent of both Licensing and the Board; a decision on whether such an arrangement is acceptable is not a decision made by this office. Thus, this office cannot provide any further guidance other than suggesting that if you wish to pursue this matter, you should submit an application to Licensing.

The application fee for a limited distillery license is seven hundred dollars (\$700.00) and a renewal fee of thirty dollars (\$30.00). The license fee for a limited distillery is one thousand, five hundred dollars (\$1,500.00). The application form for a limited distillery license is PLCB Form 1350, Application for License Manufacture, Storage or Transportation. Forms are available on the Board's website at www.lcb.state.pa.us. Click on the link labeled "Licensees" and then "Forms."

With regard to sales, please note that the only alcohol a brewery is permitted to sell is its own beer. A brewery pub may sell its own beer or wine manufactured by a Pennsylvania-licensed limited winery. Under no circumstances does the Liquor Code permit either a brewery or brewery pub to sell any distilled spirits, regardless of manufacturer.

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. 15-307