

September 17, 2015

Richard C. Lobach, Jr.
Eagles Mere Inn

VIA E-MAIL: eaglesmereinnmanager@gmail.com

RE: Storing Alcohol on Licensed Premises

Dear Mr. Lobach:

ISSUE: This is in response to your e-mail dated August 27, 2015, wherein you state that you are the manager of an establishment with a pending liquor license application. You reference a 1999 Advisory Opinion (#99-134) that explained the restrictions on storage of alcohol by an eating place retail dispenser licensee, and you ask if the bases of that Advisory Opinion are unchanged.

More specifically, you note in that Advisory Opinion that the Liquor Code prohibits the storage of liquor and wine for usage in cooking unless the alcohol has been rendered non-potable, such as by the addition of salt. You also note that the Advisory Opinion states that the licensee should not take possession of a customer's own wine or liquor that is brought into the establishment as a "bring your own bottle" product ("BYOB").

Records of the Pennsylvania Liquor Control Board ("Board") indicate a pending transfer application of Sour Mash LLC for Hotel Liquor License No. H-4450 (LID 71847) for use at the premises located at 29 Mary Avenue, Eagles Mere, Pennsylvania. You are the candidate for Board-approved manager of this establishment.

OPINION: The Advisory Opinion that you reference is specific to an inquiry regarding statutory limitations placed on an eating place retail dispenser licensee. [47 P.S. § 4-492(13)]. These same limitations are not imposed on a hotel liquor licensee. In fact, sections 401(a) and 403(a) of the Liquor Code [47 P.S. §§ 4-401(a), 4-403(a)] grant authority to hotel liquor licensees to store alcoholic beverages on the licensed premises. Note, however, that such storage must be in areas designated as part of the licensed premises. [See also 47 P.S. § 5-501; 18 Pa. C.S. § 7327]. Thus, as long as the area you wish to use for storage purposes has

been specifically identified, reported to the Board's Bureau of Licensing ("Licensing"), and approved by Licensing as a storage area for alcohol, you may use it. Once approved, wine, liquor, and beer may be stored in the same room, with or without other inventory.

Thus, in response to your first question, there is nothing in the Liquor Code or Board's Regulations that would limit a hotel licensee from storing and using potable liquor and/or wine, lawfully procured, in the kitchen.

Additionally, there is nothing in the Liquor Code which precludes a hotel licensee from temporarily storing alcohol that belongs to another individual or entity. Note that "temporary" means not overnight. While there are provisions in the Crimes Code pertaining to when storage of alcohol may occur on unlicensed premises, those provisions do not apply to licensed premises.

Thus, in response to your second question, it would be permissible for BYOB products of your patrons to be stored on a temporary basis at your licensed premises so long as the storage is of a temporary duration and there is no fee collected by you for this service. If the storage would be overnight or longer, then you would need to obtain a bailee-for-hire license from the Board. [47 P.S. §§ 4-410, 5-501, 5-505.1]. Please contact Licensing at (717) 783-8250 if you have any questions about obtaining a bailee-for-hire license.

These arrangements are a matter of contract law between the licensee and the patron and are not regulated by the Board. Please note that if you wish to charge patrons for storage of these bottles, regardless of the duration of the storage, you would be required to obtain a bailee-for-hire license from the Board.

Regarding BYOB, please note generally that there is nothing in the Liquor Code or the Board's Regulations that prohibits individuals from bringing their own alcohol into any establishment, whether or not the establishment possesses a license issued by the Board. Some local municipalities may have ordinances banning BYOBs or laws concerning BYOBs or open containers of alcohol; therefore, you may wish to contact your local municipality regarding the same.

Also, it is advisable for individuals that do bring alcohol on the premises to have the appropriate receipts from the purchase of such alcohol as evidence that the alcohol was lawfully acquired. Possession of unlawfully acquired alcohol is a

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violation of the Liquor Code and Licensees can be cited for any violation that occurs on the licensed premises.

Finally, please be advised that, even when BYOB activities are occurring, your establishment remains responsible for ensuring that alcohol is not furnished or given to minors or visibly intoxicated persons, and failure to do so may result in a citation for violating section 493(1) of the Liquor Code. [47 P.S. § 4-493(1)].

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. 15-406