

October 19, 2015

Travis Angle  
**VIA E-MAIL**

**RE: Availability of Bitters**

Dear Mr. Angle:

ISSUE: This office is in receipt of your e-mail of September 23, 2015, wherein you ask about the legality of an unidentified licensed establishment purchasing bitters from an out-of-state supplier or on the internet. You note that some bitters are sold in Pennsylvania grocery stores and that angostura bitters are available at Fine Wine and Good Spirits stores; however, you are interested in using other varieties or even homemade bitters.

OPINION: Section 207(b) of the Liquor Code [47 P.S. § 2-207(b)] authorizes the Pennsylvania Liquor Control Board (“Board”) to control the manufacture, possession, sale, consumption, importation, use, storage, transportation and delivery of all alcohol. As a general rule, it is unlawful for anyone in Pennsylvania to possess alcohol not acquired from a Pennsylvania wine and spirits store, a sacramental wine dealer, a licensed limited winery, a distillery or a licensed limited distillery. [47 P.S. § 4-491(2)]. Similarly, it is unlawful for any person to import alcohol into Pennsylvania except as permitted within the Liquor Code and the Board’s Regulations. [47 P.S. § 4-491(8), (11)].

“Alcohol” is defined in the Liquor Code to mean:

ethyl alcohol of any degree of proof originally produced by the distillation of any fermented liquid, whether rectified or diluted, with or without water, whatever may be the origin thereof, and shall include synthetic ethyl alcohol, but shall not mean or include ethyl alcohol, whether or not diluted, that has been denatured or otherwise rendered unfit for beverage purposes.

[47 P.S. § 1-102].

Likewise, the Liquor Code defines “liquor” as follows:

. . . any alcoholic, spirituous, vinous, fermented or other alcohol beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic, including all drinks or drinkable liquids, preparations or mixtures, and reused, recovered or redistilled denatured alcohol usable or taxable for beverage purposes which contain more than one half of one percent [ $\frac{1}{2}\%$ ] of alcohol by volume, except pure ethyl alcohol and malt or brewed beverages.

[47 P.S. § 1-102].

Therefore, bitters containing one half of one percent [ $\frac{1}{2}\%$ ] of alcohol by volume or more may only be purchased from the Board, or from distilleries or limited distilleries holding valid Pennsylvania licenses. Grocery stores are currently able to lawfully sell only bitters having less than one half of one percent [ $\frac{1}{2}\%$ ] of alcohol by volume.

Products not listed for regular sale through the Board’s wine and spirits stores may be acquired by residents of the Commonwealth (including licensees of the Board) via special liquor order (“SLO”). [47 P.S. § 3-305]. SLOs may be placed at any of the Board’s wine and spirits stores, or via the Bureau of Product Selection at (717) 783-7601. SLOs must be shipped to a Board-operated store and may be either for personal use or for resale in a licensed establishment.

Finally, there is no provision in the Liquor Code or Board’s Regulations that authorizes the manufacture of spirits in Pennsylvania by any individual or entity that does not hold a valid distillery or limited distillery license. Therefore, you may not purchase or use “homemade” bitters having an alcohol content of one half of one percent [ $\frac{1}{2}\%$ ] or more. It is also recommended that you consult with the Department of Health regarding any restrictions on the commercial use of “homemade” beverage products, regardless of the alcohol content.

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

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