

October 21, 2015

Michelle Grove  
Rooster's Bottle Shop  
685 Pleasant View Boulevard  
Bellefonte, PA 16823  
**VIA E-MAIL**

**Re: Selling Employee's BBQ**

Dear Ms. Grove:

ISSUE: This is in response to your e-mail dated September 24, 2015, wherein you advise that you are thinking about hiring a man as a member of your staff who has been "selling prepared food (bbq) under his own brand name." You state that you would be featuring his food in your shop, but that you would not be purchasing his food at retail and reselling it. In a subsequent e-mail, you explain that his food would be on the menu and his brand name would be on your signage, but that the customers would be purchasing the food from your restaurant. He would be paid to work for you, preparing the food with your ingredients. In order to feature his food in your shop and use his business name, you ask if you have to purchase his business.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that you are the Board-approved Manager of 685 Pleasant View Joint Venture, trading as Rooster's Bottle Shop, which holds Restaurant Liquor License No. R-9600 (LID 59804) for the premises at 685 Pleasant View Boulevard, Bellefonte, Pennsylvania.

OPINION: This office can only advise you on the provisions of the Liquor Code and the Board's Regulations. For an answer to your specific question about whether you would have to purchase the business in question, you should seek advice from a private attorney.

Section 3.52 of the Board's Regulations provides:

- (a) A licensee may not permit other persons to operate another business on the licensed premises....

\* \* \* \* \*

(c) A licensee may not conduct another business on the licensed premises without Board approval.

[40 Pa. Code § 3.52]. You propose that the person in question would be your employee, using your ingredients to make food that customers would purchase from you. This type of arrangement would not conflict with the Liquor Code or the Board's Regulations as long as this person does not have an ownership interest in a liquor license of a different class. For example, if this person holds a distillery license and uses his spirits in the food he makes, this could be considered a violation of the law against interlocking business interests. If this person does have an ownership interest in any type of liquor license, you should contact this office for further information.

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,

RODRIGO J. DIAZ  
EXECUTIVE DEPUTY 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. 15-449