

December 15, 2015

Bree Vargeson
VIA E-MAIL

RE: Renting Space Within a Beer Distributor

Dear Ms. Vargeson:

ISSUE: Your e-mail of November 18, 2015 states that your family owns a beer distributor in Elkland, Pennsylvania. The business is located in a large warehouse. You inquire whether you could rent out space for other businesses to sell antiques, crafts, flowers, Christmas trees, pumpkins and other items, in areas closed off from the area where your business sells beer.

Although you have not provided sufficient information to identify the distributor in question, it is assumed for purposes of this response that you are inquiring on behalf of a licensed distributor or importing distributor.

OPINION: A licensee may not permit other persons to operate another business on the licensed premises. [40 Pa. Code § 3.52(a)]. A licensee may not have an inside passage or communication to or with any other business conducted by the licensee or other persons except as approved by the Board. [40 Pa. Code § 3.52(b)]. Where the Board has approved the operation of another business which has an inside passage or communication to or with the licensed premises, storage and sales of liquor and malt or brewed beverages shall be confined strictly to the premises covered by the license. [40 Pa. Code § 3.53]. Where the Board has approved the operation of another business which has an inside passage or communication to or with the licensed premises, the extent of the licensed area shall be clearly indicated by a permanent partition at least four (4) feet in height. [40 Pa. Code § 3.54]. The Board is not permitted to approve an interior connection that is greater than ten (10) feet wide between a licensed business and another business. [47 P.S. § 4-468(e)]. Therefore, your business may not permit another business to operate on the licensed portion of its warehouse. Your business would need Board approval in order to have an interior connection between the licensed portion of the warehouse and any other business(es). Typically, the Board requires each business

to have an additional entrance before it approves an interior connection between them.

Finally, note that it is generally prohibited for any distributor or importing distributor, without the approval of the Board, and then only in accordance with Board regulations, to engage in any other business whatsoever, other than certain limited activities specified in the statute. [47 P.S. § 4-492(12)].

Should you wish to pursue this matter, you may send a request to the Board's Bureau of Licensing.

You may wish to consult private counsel experienced in Pennsylvania liquor law to assist you with this undertaking.

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. 15-494