

February 4, 2016

Joseph Lee  
Director of Inflight Training, Standards & Compliance  
Allegiant Travel Company  
1201 N. Town Center Drive  
Las Vegas, NV 89144  
**VIA E-MAIL**

**RE: Liquor Storage and Procurement Questions**

Dear Mr. Lee:

ISSUE: This is in response to your e-mail inquiry of December 3, 2015, submitted on behalf of Allegiant Air LLC (“Allegiant”), which currently holds a public service liquor license. You advise that, beginning in December, Allegiant will be storing and distributing alcohol onto its aircraft at Pittsburgh International Airport. You ask for information concerning the purchase and procurement of alcohol in Pennsylvania for this endeavor.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Allegiant holds Public Service Liquor (“P”) License No. P-152 (LID 67386).

OPINION: Section 408 of the Liquor Code [47 P.S. § 4-408(a)] provides for the establishment of public service liquor licenses to airline companies to permit service of liquor and/or malt or brewed beverages while planes are en route, including boarded planes while still on the ground and planes traveling through the air space within the boundaries of the Commonwealth of Pennsylvania. If an airline plans to begin service to a new city/airport within the Commonwealth of Pennsylvania, which includes the sale and/or storage of alcohol, it would be necessary for the airline to submit an application to effectuate this change in the airline’s operation. To document such a change in operation, please forward a letter to the Board’s Bureau of Licensing, P.O. Box 8940, Harrisburg, PA 17105-8940.

Please note that Board records do not reflect any documentation having been submitted by Allegiant regarding its operations at Pittsburgh International Airport.

Therefore, Allegiant is advised to provide the documentation explained above prior to commencing sales of alcohol on its aircraft at Pittsburgh International Airport.

Section 491(2) of the Liquor Code generally prohibits any person from possessing or transporting any liquor or alcohol within Pennsylvania unless it has been purchased from the Board's wine and spirits stores or from a licensed limited winery. [47 P.S. § 4-491(2)]. As a general matter, in Pennsylvania, only the Board, a sacramental wine licensee, licensed direct shipper, or an importer licensee may import liquor or wine into the state. [47 P.S. § 4-491(11)]. However, section 491(11) is not construed to prohibit public service liquor licensees, such as Allegiant, from purchasing and selling liquor purchased outside the Commonwealth, provided that said liquor is sold to passengers while en route within the Commonwealth. [47 P.S. § 4-491(11)]. Any liquor or alcohol purchased by Allegiant in Pennsylvania must be procured and sold in conformity with the above.

The distribution of malt or brewed beverages within Pennsylvania is governed primarily by section 431 of the Liquor Code. [47 P.S. § 4-431]. Pursuant to section 431(b) of the Liquor Code, out-of-state manufacturers whose products are sold and delivered in Pennsylvania are required to give distribution rights for their products to importing distributor ("ID") licensees for a specific geographical area within Pennsylvania. [47 P.S. § 4-431(b)]. Those IDs may then sell the products themselves, or sell the products to distributor ("D") licensees and other licensees, such as restaurant liquor licensees, hotel liquor licensees, or eating place malt beverage licensees, but only within their appointed territories. [*Id.*]. Therefore, any malt or brewed beverage from an out-of-state manufacturer must be procured by Allegiant through a licensed D or ID, in conformity with the above. Please be advised that a licensee who accepts the delivery of malt or brewed beverages from a distributor that does not have distributing rights for that geographical area can be subject to citation by the Pennsylvania State Police, Bureau of Liquor Control Enforcement. [47 P.S. § 4-431(b)].

With regard to in-state licensed manufacturers of malt or brewed beverages, such manufacturers may choose to function as their own primary distributor or name a D or ID as the primary or original supplier of their product. [47 P.S. § 4-431(b)]. Thus, Allegiant may be able to obtain malt or brewed beverages from in-state licensed manufacturers either directly or through a D or ID, if the manufacturer has chosen to use a distributorship for its products. A listing of licensed D and ID

licensees can be found on the Board's website in the searchable "Licensing Search" database, or you may call Licensing ("Licensing") at 717-783-8250 for information. The online database can be reached by going to [www.lcb.state.pa.us](http://www.lcb.state.pa.us), clicking on "Licensees," then "Licensing Search," selecting "Active Licenses" from the License Status menu then selecting Distributor or Importing Distributor as the License Type, and entering the pertinent search criteria for the location.

Finally, although not mentioned in your correspondence, and while not stated in the statute, the storage of alcohol is deemed a privilege inherent in a public service liquor license and, therefore, would require no additional licensing. However, it is necessary that any area planned to be used for storage purposes be specifically identified and reported to Licensing.

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  
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement  
Jerry W. Waters, Director, Office of Regulatory Affairs  
Tisha Albert, Director, Bureau of Licensing  
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

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