

February 17, 2016

Brady Liechty  
Bluestone Brewing Company, LLC  
18 Pitney Street  
Sayre, PA 18840-2720  
**VIA E-MAIL**

**Re: Brewery License Selling Through Retail Food License**

Dear Mr. Liechty:

ISSUE: This is in response to your e-mail dated January 6, 2016, wherein you advise that you have recently received temporary authority to operate as a brewery. At the time you wrote in, you had not yet received temporary authority to operate as a brewpub, although records of the Pennsylvania Liquor Control Board (“Board”) indicate that such authority was sent to you on January 7, 2016. You ask if you may sell your malt or brewed beverages (“beer”) for consumption on the premises that serves as your retail food establishment when your brewery license, but not your brewpub license, is in effect.

Records of the Board indicate that Bluestone Brewing Company, LLC, (“Bluestone”) holds Brewery License No. G-599 (LID 71752) and Brewery Pub License No. GP-599 (LID 71753) for the premises at 18 Pitney Street, Sayre, Pennsylvania. Bluestone also holds a limited winery license which is not germane to your question, as well as a brand registration application that is pending.

OPINION: As a result of a change in the Board’s Regulations effective May 30, 2015, a brewery license holder (“G”) is permitted to sell its own beer for on-premises consumption, even without an active brewery pub license. [40 Pa. Code § 3.93]. Previously, a G licensee had to obtain a brew pub license in order to serve beer for on premises consumption.

The G licensee must have seating for at least ten patrons, and must make food available for each patron. The food shall be, at a minimum, potato chips, pretzels and other similar foods. [40 Pa. Code § 3.93(c)(4)]. A G licensee is free to offer more food items than the minimum listed in the regulation. A G licensee may only serve beer for on-premises consumption between 10:00 a.m. and midnight.

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  
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. 16-021