

February 22, 2016

Brian Trumbo
Community Fire Company of Landingville
VIA E-MAIL

RE: Catering Club Selling Bottles of Liquor

Dear Mr. Trumbo:

ISSUE: This office is in receipt of your e-mail of January 25, 2016, wherein you ask whether a catering club may lawfully sell bottles of liquor to patrons of a catered event for on-premises consumption. If so, and if the entire bottle is not consumed during the event, you ask what you are required to do with the remaining contents. Finally, you ask if there are any pricing requirements in this scenario.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Community Fire Company of Landingville is the holder of Catering Club License No. CC-6121 (LID 4185) for use at the premises located at 1 Firehouse Road, Landingville, Pennsylvania. Gloria Ebling is the PLCB-approved manager/steward.

OPINION: In response to your first question, there is nothing in the Liquor Code that limits the quantity of liquor that a licensee may sell in a single purchase for consumption on the licensed premises. Accordingly, a catering club licensee may sell whole bottles, regardless of size, to patrons.

In response to your second question, be advised that while patrons of a licensed restaurant can remove re-corked, partially consumed bottles of wine under certain circumstances [47 P.S. § 4-406(e) (emphasis added)], there is no legal provision permitting the removal of partially consumed bottles of spirits from licensed premises. However, there is nothing in the Liquor Code that requires destruction of partially consumed bottles of liquor that have been paid for by patrons.

Further, there is nothing in the Liquor Code which precludes a licensee from temporarily storing alcohol that belongs to another person or entity. While there are provisions in the Crimes Code pertaining to when storage of alcohol may occur on unlicensed premises, those provisions do not apply to licensed premises. Therefore, it would be permissible for the liquor in question to be stored on a temporary basis at your licensed premises so long as the storage is of a temporary duration and there is no fee collected by you for this service. These arrangements are a matter of contract law between the licensee and the patron and are not

regulated by the PLCB. You are encouraged to seek private counsel if you have questions concerning such arrangements.

It is important to understand that, if you wish to charge patrons for storage of these bottles and/or to store patrons' bottles more long-term, you would be required to obtain a bailee-for-hire license from the PLCB. Please contact the PLCB's Bureau of Licensing at (717)783-8250 if you have any questions obtaining a bailee-for-hire license. Information may also be found on the PLCB's website at www.lcb.state.pa.us.

In response to your third question, you may sell liquor by the whole bottle using a calculation of the "per shot" price times the number of shots contained in the bottle or you may use a set list price for the bottle. Such a set list price for a bottle would have to be a regular retail price and not an advertised discount price or it would be considered as one of the two daily discounts permissible to licensees under the Regulations. [See Advisory Notice No. 16: Discount Pricing Practices on the PLCB's website for more information on daily drink specials and happy hour specials.]

Finally, please recall a licensee may still be held strictly liable for any violations of the Liquor Code or the PLCB's Regulations (including providing alcohol to minors or persons who are visibly intoxicated) that occur on licensed premises, even after a bottle is sold to a patron.

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.

Sincerely,

**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. 16-031