

February 22, 2016

Erica Roberts
Director of Sales & Catering
The Avalon Hotel & Conference Center
16 West 10th Street
Erie, PA 16501
VIA E-MAIL

Re: BYOB at a Hotel

Dear Ms. Roberts:

ISSUE: This correspondence is in response to your e-mail of January 12, 2016, in which you ask whether your licensed hotel and conference center may allow a client to bring his or her own liquor and beer to an event and whether you can “make them liable if anything [were] to happen to one of the guests under the influence.”

Records maintained by the Pennsylvania Liquor Control Board (“PLCB”) indicate that Errie Operating LLC is the holder of Hotel Liquor License No. H-6264 (LID 64787) for the premises located at 16 West 10th Street, Erie, Pennsylvania.

OPINION: There is nothing in the Liquor Code or the PLCB’s Regulations that prohibits an individual from bringing his or her own alcoholic beverages into any establishment, a practice commonly referred to as “BYOB,” regardless of whether the establishment possesses a liquor license. Nonetheless, a business is free to establish its own “house rule” disallowing patrons from bringing alcohol onto the premises. Establishments that do permit BYOB may, but need not, charge a corkage fee to handle any product brought onto the premises by patrons.

If you choose to allow BYOB at your establishment, please note that licensees remain strictly liable for any violations of the Liquor Code or the PLCB’s Regulations and must ensure that no alcohol is given to minors or visibly intoxicated persons on the licensed premises. [47 P.S. § 4-493(1)]. Also, any wine or spirits dispensed must be legally procured in the Commonwealth of Pennsylvania, i.e., from a wine and spirits store or a licensed limited winery or distillery. [47 P.S. § 4-491(2)]. Thus, it is advisable to require individuals who

bring their own alcohol to have the appropriate receipts from the purchase of such alcohol as evidence that it was lawfully acquired.

With regard to your second question pertaining to any potential civil liability arising from incidents at a BYOB event on your licensed premises, section 497 of the Liquor Code provides:

No licensee shall be liable to third persons on account of damages inflicted upon them off of the licensed premises by customers of the licensee unless the customer who inflicts the damages was sold, furnished or given liquor or malt or brewed beverages by the said licensee or his agent, servant or employe when the said customer was visibly intoxicated.

[47 P.S. § 4-497]. Aside from that, this office cannot express an opinion on matters of civil liability, and it is thus recommended that you contact a private attorney for advice.

If you have any further questions or concerns regarding the Liquor Code or the PLCB's Regulations, please do not hesitate to 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, Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 16-033