

February 23, 2016

Matthew Haverstick, Esquire
One Liberty Place, 46th Floor
1650 Market Street
Philadelphia, PA 19103
VIA E-MAIL

Re: Credit Cards

Dear Mr. Haverstick:

ISSUE: This is in response to your letter of January 21, 2016, wherein you advise that your firm is counsel to the Commonwealth Licensed Beverage Association, which includes licensed distributors among its members. You seek an advisory opinion in response to two questions:

- 1) Can the holder of a distributor's license purchase, with a credit card, malt or brewed beverages from another entity licensed by the Pennsylvania Liquor Control Board ("Board")?
- 2) Does the Board have the discretion to permit payment by credit card for malt or brewed beverages purchased by a distributor from another entity licensed by the Board?

OPINION: In response to your first question, section 493(2) of the Liquor Code specifically prohibits any licensee from selling malt or brewed beverages on credit to another licensee. [47 P.S. § 4-493(2)]. However, hotel, restaurant, retail dispenser eating place, club and public service licensees, or importing distributors and distributors may sell malt or brewed beverages on credit to non-licensed customers. [Id.]. Section 9.95(b) of the Board's Regulations provides that "[s]ales of malt or brewed beverages by distributors or importing distributors shall be for cash, checks or drafts under section 493(2) of the Liquor Code." [40 Pa. Code § 9.95(b)]. Therefore, it is not permissible for a distributor to accept credit cards for beer purchases from a licensed establishment, since that form of payment is not listed as being acceptable in either the Liquor Code or the Board's Regulations.

Matthew Haverstick, Esquire

February 23, 2016

Page 2

With regard to your second question, the Board's discretion is exercised through its Regulations. Please note that on February 10, 2016, the Board voted in favor of a change to the Board's Regulations that would allow credit cards to be used as an acceptable form of payment by a licensed establishment for beer purchased from a distributor. It is anticipated that the proposed regulation will be published in the Pennsylvania Bulletin in late March of 2016.

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. 16-038