

May 4, 2016

Emily Cottrill
VIA E-MAIL

RE: Temporary Liquor License

Dear Ms. Cottrill:

ISSUE: This is in response to your April 18, 2016 e-mail to this office in which you state that your licensed establishment intends to host an event on May 21 and 22, 2016 in the parking lot of your premises. The event is for the National Pike Festival and you intend to sell alcohol. Your license is in safekeeping pending completion of construction of the premises. You note that the building will be closed and the activities to be held in the outdoor area will be roped off in order to contain access. You ask if there is a temporary permit that you can obtain to authorize your sale and service of alcohol at this event.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that LLSTARLLC is the holder of Restaurant Liquor License No. R-16900 (LID 70496) for use at the premises located at 3390 West Chestnut Street, Washington, Pennsylvania. The license is in safekeeping.

OPINION: There is no license or permit available under current laws and regulations that would enable a restaurant licensee in safekeeping to obtain temporary authority to sell and serve alcohol. It would be possible for an active restaurant licensee to apply for a temporary extension of premises to cover an area such as a parking lot; however, your license is not active and so this option is not available to you.

Please note that nothing in the Liquor Code or PLCB’s Regulations would preclude you from holding an event in your parking lot as long as you are not selling or serving alcohol. You are advised to consult with local authorities and also private counsel to determine if there are any other considerations that are not within the jurisdiction of the PLCB.

Alternatively, you may be interested in joining forces with an “eligible entity” that would qualify for a Special Occasion Permit (“SOP”), which could potentially allow that entity

to conduct an event involving the sale and service of alcohol on your property. Timing is likely to be problematic since your planned event is scheduled for May.

For your general information, pursuant to section 408.4 of the Liquor Code, the PLCB may issue SOPs to eligible entities. 47 P.S. § 4-408.4. Entities that qualify may obtain an SOP that would authorize them to sell liquor and/or malt or brewed beverages to persons twenty-one years of age or older who are not visibly intoxicated. 47 P.S. §§ 4-408.4, 4-493(1). SOPs are generally issued for a period of not more than six consecutive or non-consecutive days during a calendar year. 47 P.S. § 4-408(i). The SOP is to be used as a means of raising funds for the holder, but can be used in conjunction with activities or events involving other entities. 47 P.S. § 4-408.4(m). The holder of an SOP may sell alcoholic beverages during the hours of 7:00 a.m. until 2:00 a.m. the following day. 47 P.S. § 4-408.4(k).

Please note that the holder of an SOP is the only entity which can sell alcohol under the auspices of the SOP. Your restaurant would not be permitted to conduct sales, but the restaurant could provide the physical location, food and non-alcoholic beverages. The SOP holder would be responsible for lawfully obtaining any alcohol that it would sell and serve.

Finally, another alternative would be to permit the holder of a valid off-premises catering permit (“OPCP”) to cater the event at your outdoor location. Pursuant to section 406(f) of the Liquor Code, holders of restaurant licenses and hotel licenses may apply for and obtain an OPCS, which allows the permittee to hold a “catered function” off its licensed premises and on otherwise unlicensed premises. Sales of alcohol at such catered functions are permitted and can be by the glass, open bottle or other container, for consumption on the catered premises. 47 P.S. § 4-406(f); see also § 4-442(f).

A “catered function” is defined as “the furnishing of food prepared on the premises or brought onto the premises already prepared in conjunction with alcoholic beverages for the accommodation of a person or an identifiable group of people, not the general public, who made arrangements for the function at least thirty days in advance.” 47 P.S. §1-102. Please note that the thirty days requirement is waivable under certain circumstances with the payment of an additional fee.

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,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

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

PLCB Advisory Opinion No. 16-140