

May 3, 2016

Midland Legion Club  
**VIA E-MAIL**

**RE: Customers Bringing In Alcohol**

Dear Sir/Madam:

ISSUE: This office is in receipt of your e-mail dated April 5, 2016, wherein you ask, when a customer brings alcohol into your club without the club's knowledge, consumes the alcohol, then leaves the club, is the club responsible for that person?

Records of the Pennsylvania Liquor Control Board ("PLCB") indicate that Midland Legion Club holds Catering Club Liquor License No. CC-4597 (LID 3705) for the premises located at 800 Midland Avenue, Midland, Pennsylvania.

OPINION: Please be advised that there is nothing in the Liquor Code or PLCB's Regulations that prohibits individuals from bringing their own alcohol into any establishment ("BYOB"). However, section 493(1) of the Liquor Code specifically prohibits any individual from furnishing or giving alcohol to minors or visibly intoxicated persons and imposes strict liability on licensees for violations of this section or any other Liquor Code or provision of the PLCB's Regulations occurring on the licensed premises. 47 P.S. § 4-493(1); Pennsylvania Liquor Control Board v. TLK, Inc., 544 A.2d 931 (Pa. 1988). Thus, if outside alcohol is provided to a minor or visibly intoxicated person, your establishment could be subject to citation under the Liquor Code. Furthermore, a licensee can be liable for illegal activity occurring on its premises if the licensee knew or should have known of the activity. TLK at 933.

Similarly, section 6308 of the Pennsylvania Crimes Code prohibits any minor (under the age of twenty-one) from attempting to purchase, purchasing, consuming, possessing or knowingly and intentionally transporting any liquor or malt or brewed beverages (18 Pa. C.S.A. § 6308), and section 6310.1 of the Crimes Code prohibits a person from selling or furnishing alcoholic beverages to a minor (18 Pa. C.S.A. § 6310.1).

Therefore, care should be taken to ensure that no alcohol is made available to any minor or visibly intoxicated person on your premises.

In addition to the above, the municipality in which your club is located may have ordinances regulating BYOB at establishments within the municipality. It is advisable for you to check with your municipal authorities to determine if such laws exist.

With regard to any potential civil liability arising from instances of BYOB 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.

Finally, section 5.81 of the PLCB's Regulations requires a club licensee to adhere to the provisions of its constitution and/or bylaws. 40 Pa. Code § 5.81. Thus, if your constitution and/or bylaws address patrons bringing their own alcohol onto the premises, you must follow your constitution and/or bylaws. If you fail to do so, your club may be subject to citation by the Pennsylvania State Police Bureau of Liquor Control Enforcement.

Please do not hesitate to contact this office should you have additional questions.

**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.**

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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, Office of Regulatory Affairs  
Tisha Albert, Director, Bureau of Licensing  
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 16-155