

June 21, 2016

Francis X. O'Brien, Esquire
411 Walnut Street
Harrisburg, PA 17101

RE: Original Container Inquiry

Dear Mr. O'Brien:

ISSUE: This office is in receipt of your letter of May 20, 2016, wherein you pose, on behalf of your unnamed client, a question inquiring if an importing distributor may sell a certain package configuration. You state that your client wishes to sell a package containing six, twenty-three and one-half ounce mason jars containing, presumably, a malt or brewed beverage.

OPINION: Please be advised that section 431(b) of the Pennsylvania Liquor Code authorizes the holder of a distributor license to sell or deliver malt or brewed beverages within the Commonwealth of Pennsylvania "in quantities of not less than a case or original containers containing 128 ounces or more which may be sold separately as prepared for the market by the manufacturer at the place of manufacture." 47 P.S. § 4-431(b). Further, a "case" is defined in the Liquor Code as a package prepared by the manufacturer for sale or distribution of twelve or more original containers totaling 264 or more fluid ounces of malt or brewed beverages, excepting those packages containing twenty-four or more original containers each holding seven fluid ounces or more. 47 P.S. § 1-102.

As to your specific inquiry, six containers of twenty-three and one-half ounces of malt or brewed beverages would equate to 141 total ounces. Thus, so long as the package is "prepared for the market by the manufacturer at the place of manufacture" as a single package, it may be sold by your client.

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, appearing to read "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

LCB Advisory Opinion No. 16-230