

July 5, 2016

Brian D. Mickey  
**VIA E-MAIL**

**RE: BYOB by Renters**

Dear Mr. Mickey:

ISSUE: This is in response to your e-mail of April 22, 2016, wherein you state that you have a licensed premises, providing the pertinent information of that license, and further state that you own a building separate from that address that you rent. The renters would like to offer a Bring Your Own Bottle (“BYOB”) service to their customers. You inquire if that practice is permissible and if so, would you be liable for any incidents on that premises.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Brian D. Mickey holds Restaurant Liquor License No. R-18108 (LID 44741) for use by it at 6640 Buchanan Trail E, Waynesboro, Pennsylvania.

OPINION: There is nothing in the Liquor Code or the PLCB’s Regulations that prohibits an unlicensed establishment from permitting customers or other persons to bring their own lawfully procured alcohol (the practice commonly referred to as “BYOB”) for consumption on the premises. The Liquor Code and the PLCB’s Regulations are silent on BYOB establishments. However, there are restrictions on BYOB events found in the Pennsylvania Crimes Code, and, frequently, in local ordinances, the interpretations of which are not within the jurisdiction of the PLCB.

In general, however, section 7327 of the Crimes Code prohibits the storage of alcohol for the purposes of consumption as well as the actual consumption of alcohol between the hours of 2:00 a.m. and 8:00 a.m. on business premises owned, operated, or controlled by any person who is not licensed under the Liquor Code. 18 Pa. C.S. § 7327. Sections 7328 and 7329 of the Crimes Code, 18 Pa. C.S. §§ 7328, 7329, regulate what are commonly referred to as bottle clubs. Further, the local municipality in which the unlicensed establishment is located may have laws banning BYOBs or laws concerning open containers of alcohol within the municipality. Therefore, you may want to contact your county District Attorney’s

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office, the local police department, or a private attorney to determine what other laws may apply to the operation of a BYOB establishment in your area.

Please feel free to examine the PLCB's Advisory Opinions concerning BYOBs by going to the PLCB's website at [www.lcb.state.pa.us](http://www.lcb.state.pa.us).

You may wish to consult a private attorney in regard to your liabilities for any violations related to the renters' BYOB service.

Should you have any other questions and/or issues related to the Liquor Code or the PLCB'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.

Sincerely,



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. 16-237