

July 5, 2016

David E. Stein
Hidden Still, Inc.
VIA E-MAIL

RE: Barrel Swap between Manufacturers

Dear Mr. Stein:

ISSUE: This office is in receipt of your e-mail of June 6, 2016, wherein you state your company provided an empty whiskey barrel to a local brewery. When the brewery is finished with the barrel, your company would like to then use the barrel to age your product. You inquire if this is permissible.

Pennsylvania Liquor Control Board (“PLCB”) records indicate that Hidden Still, Inc., holds Limited Distillery License No. AL-42 (LID 71037) for use by it at premises located at 435 Willow Street, Lebanon, Pennsylvania.

OPINION: A limited distillery license allows the holder to produce not more than 100,000 gallons of distilled liquor per year. 47 P.S. § 5-505.4. It is a manufacturing license. Likewise, a brewery license is also a manufacturing license.

As you appear to be aware, section 13.51 of the PLCB’s Regulations prohibits a licensee of one class, such as a manufacturer, from providing anything of value to licensees of another class, such as a restaurant liquor licensee. 40 Pa. Code § 13.51. However, in the scenario you have presented here, the barrel in question would be given from one manufacturer to another manufacturer. This would not run afoul of section 13.51 of the PLCB’s Regulations because this transfer would be providing a thing of value to another licensee of the same class, not another class.

Likewise, while section 493(24)(i) of the Liquor Code prohibits a licensee, including a manufacturer, from offering things of value as an inducement to the purchase of alcohol, 47 P.S. § 4-493(24)(i), that section would not prohibit the transfer of a barrel between licensees of the same class.

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. 16-238