

July 12, 2016

Coty M. Edwards, Still Master
Hidden Still Spirits
VIA E-MAIL

RE: New Brewery Requirements

Dear Mr. Edwards:

ISSUE: This is in response to your e-mail dated May 26, 2016, wherein you indicate that your distillery, Hidden Still Spirits, which is located in Lebanon, Pennsylvania, is considering obtaining a brewery (“G”) license. You explain that the brewing will occur at the distillery premises. You ask for information regarding the requirements for obtaining a G license and whether having an established distillery and restaurant will affect this. Additionally, you note that you believe that you no longer need a brewery pub (“GP”) license, but ask if there are any additional types of licenses or bonds that you will need to obtain.

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

OPINION: Initially, be advised that section 438(c) of the Liquor Code generally prohibits the possession of more than one class of license. You wish to possess both a limited distillery (“AL”) license and a G license, which are both manufacturing licenses. There is nothing in the Liquor Code or the PLCB’s Regulations that prohibits an entity from holding multiple licenses, provided such licenses are of the same class. 47 P.S. § 4-438(c). Therefore, you may hold multiple manufacturing licenses.

However, be aware that the PLCB’s Bureau of Licensing (“Licensing”) will not typically dual-license a location, absent specific statutory authority. Thus, only one license may be in effect at one time at any location.

The application for a G license is available through the PLCB's website at www.lcb.state.pa.us. Click on "Licensees," then "Resources for Licensees," then "PLCB+," and follow the directions therein.

Regarding your belief that you no longer need a GP license, be advised that as a result of a change in the PLCB's Regulations effective May 30, 2015, a G license holder is permitted to sell its own beer for on-premises consumption, even without an active GP license. 40 Pa. Code § 3.93. To sell its beer for on-premises consumption without a GP license, the G licensee must have seating for at least ten patrons and must make food available for each patron. The food shall be, at a minimum, potato chips, pretzels, and other similar foods. 40 Pa. Code § 3.93(c)(4). A G licensee is free to offer more food items than the minimum listed in the regulation. A G licensee may only serve beer for on-premises consumption between 10:00 a.m. and midnight. Provided that you meet the above requirements, you would be permitted to sell your beer for on-premises consumption without obtaining a GP license.

However, be advised that if you wish to serve wine or liquor in addition to beer, you will need to obtain a GP license (which permits the sale, for on-premises consumption, of wine manufactured by the holder of a limited winery license, in addition to the beer produced by the GP's brewery) or a retail license, such as a restaurant liquor or hotel liquor license (which permit the sale, for on-premises consumption, of all kinds of beer as well as wine and liquor). Unlike G licensees, holders of GP licenses can also apply for Off-Premises Catering Permits, and GP licensees are permitted to sell beer and wine daily between 7:00 a.m. and 2:00 a.m. the following day, except Sundays, unless a Sunday Sales Permit is held.

Please be further advised that Act 39 of 2016 ("the Act"), which goes into effect on August 8, 2016, permits G licensees with a GP license to also sell liquor produced by a limited distillery for on-premises consumption. 47 P.S. § 4-446(a)(2). The Act also permits holders of AL licenses to sell wine and malt or brewed beverages for on-premises consumption, provided that the wine and malt or brewed beverages are produced by licensed limited wineries and licensed breweries.

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.

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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. 16-249