

July 21, 2016

Chenoa Lindsay
Sinner or Saint Speakeasy, LLC
1324 West Third Street
Williamsport, PA 17701-7801
VIA E-MAIL

RE: Brewery License Inquiry

Dear Ms. Lindsay:

ISSUE: This correspondence is in response to your e-mail dated June 16, 2016, wherein you express an interest in acquiring a brewery license. You inquire whether, with a brewery license, a licensee must only sell beer brewed on the licensed premises or if it may sell Pennsylvania beers as well.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Sinner or Saint, LLC, holds Restaurant Liquor License No. R-8961 (LID 71998) for the premises located at 1324 West Third Street, Williamsport, Pennsylvania.

OPINION: Please be advised that the Liquor Code generally prohibits a person from simultaneously holding an interest in both a retail license, such as a restaurant liquor (“R”) license, and a manufacturing license, such as a brewery (“G”) license due to the interlocking business prohibition. 47 P.S. §§ 4-411(d), 4-443. The Liquor Code’s provisions on interlocking business practices generally prohibit licensees of one class from providing money or other things of value to equip or otherwise help the operation of a licensee of a different class. 47 P.S. §§ 4-411; 4-443. Further, a person is prohibited from possessing more than one class of license. 47 P.S. § 4-438(c). However, there is an exception to the interlocking business prohibition that allows a holder of a retail license to also hold a manufacturing license, and operate as a “couplet,” which is an entity that has both a manufacturer’s license and a restaurant license for use at the same location. 47 P.S. §§ 4-411, 4-438(c). Neither the Liquor Code nor the PLCB’s Regulations provide interpretation of the term “same location.” However, as long as both buildings are on the same deeded property and the same entity owns the entire property, a retail license and a manufacturing license located on that same property could be considered a couplet.

In reference to your inquiry regarding the sale of beer, it is unclear as to what you mean by “can I only sell the beer that I brew with that license.” The holder of a restaurant liquor license may sell, for on-premises consumption, liquor, wine, and malt or brewed beverages (“beer”). The

beer may be produced at the licensed brewery or another place of manufacture. 47 P.S. § 4-446(a)(4).

When a restaurant obtains a brewery license on the same property, as in a couplet scenario, unlimited sales of malt or brewed beverages are permissible for off-premises consumption at the licensed brewery portion of the property, but sales for off-premises consumption are restricted to 192 ounces in a single sale on the restaurant portion of the property and the brewery must produce at least 250 barrels of malt or brewed beverage per year. 47 P.S. §§ 4-440, 4-446(a). Further, when a restaurant obtains a brewery license, the brewery may no longer self distribute or sell directly to other licensees, and must sell such product produced by the brewery through specific importing distributors who will have distributing rights for such products through a distribution system. 47 P.S. § 4-446(a).

Please be aware that pursuant to Act 39 of 2016, which will be effective as of August 8, 2016, many aspects of the Liquor Code will change, including changes regarding breweries and brewery licenses. A summary of these changes are currently posted on the PLCB's website.

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.

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