

September 12, 2016

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

Re: Schematic Diagram

Dear Mr. O'Brien:

ISSUE: Your letter of July 5, 2016 on behalf of an unidentified licensee inquires whether it would be permissible for a licensee to give a schematic diagram to a retailer, with a specific breakdown of what categories of products (e.g., premium, imports, crafts) are recommended for each door of a twelve-door cooler. You note that TTB regulations permit this under federal law.

It is presumed that your letter is a follow-up to your February 4, 2016 inquiry and this office's response of April 5, 2016, and that the licensee to whom you refer is a distributor licensee, while the retailer holds a restaurant liquor license, eating place malt beverage license, or similar retail license.

OPINION: Section 443(f) of the Liquor Code prohibits distributors/importing distributors and retail dispensers from receiving any credit, loans, money or the equivalent thereof from any other licensee for equipping, fitting out, maintaining and conducting an establishment or business operating under the distributor's/importing distributor's or retail dispenser's license. 47 P.S. § 4-443(f).

While this is a close question, this office has previously held that providing something like a schematic diagram with a specific breakdown of what categories of products (e.g., premium, imports, crafts) are recommended for each door of a twelve-door cooler, falls within the category of "fitting out, maintaining and conducting" the business operations and therefore would also be prohibited under the provisions of section 443(f).

In addition, section 13.51 of the PLCB's Regulations prohibits a licensee of one class from providing a license of another class anything of value. 40 Pa. Code § 13.51. Providing a schematic diagram with a specific breakdown of what categories of products (e.g.,

premium, imports, crafts) are recommended for each door of a 12- door cooler, would be prohibited under that section.

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. 16-338