

September 15, 2016

Melissa Bova
Vice President of Government Affairs
Pennsylvania Restaurant & Lodging Association
100 State Street
Harrisburg, PA 17101
VIA E-MAIL

RE: Wine Expanded Permits

Dear Ms. Bova:

ISSUE: This is in response to your e-mail of August 31, 2016, wherein you request clarification, on behalf of the licensed members of the Pennsylvania Restaurant & Lodging Association (“PRLA”), regarding wine expanded permits (“WEP”). You refer to a licensed restaurant that is not connected to another business by an interior connection, and has its entire premises licensed. Since the entire premises is licensed, the sale of beer-to-go occurs at any of the licensed restaurant’s cash registers.

You ask if it is permissible for the sale of wine-to-go by WEP holders to be at any register on the licensed premises and whether “servers [are] able to continue to go about their normal work without one being designated to stay by a single ‘wine’ register.”

OPINION: Act 39 of 2016 (“Act 39”) states that a WEP holder’s sales of wine-to-go must occur at a cash register that is specifically designated and identified for the sale of wine-to-go. 47 P.S. § 4-415(a)(8), (9). This designated cash register must be staffed at all times by a cashier who is at least eighteen years old and this cashier must be RAMP-certified. Id. Also, Act 39 requires a WEP holder to use a transaction scan device to check the identification of a patron who is purchasing wine-to-go and appears to be under thirty-five years old. Id.

As to your first question, the Pennsylvania Liquor Control Board’s (“PLCB”) Bureau of Licensing allows licensees to self-designate which cash register(s) may be used for sales of wine-to-go. There is no limit to how many cash registers a licensee designates as available for use for wine-to-go purchases, so long as each of the cash registers is located on the licensed portion of the premises.

As to your second question, the intent of Act 39 is to prevent self-checkout of wine-to-go. Therefore, a cashier does not have to physically be stationed at the designated wine-to-go cash register at all times, as long as he/she is physically present within the licensed area and so long as the cashier consummates the actual sale. There is nothing that would prohibit the cashier from performing other tasks, such as cleaning or stocking shelves, within the licensed area when there are no patrons within the vicinity of the designated wine-to-go cash register.

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

PLCB Advisory Opinion No. 16-361