

October 12, 2016

David Glicini  
Home Delivery Pizza  
**VIA E-MAIL**

**Re: Purchasing Beer Out of Region**

Dear Mr. Glicini:

ISSUE: This is in response to your e-mail of September 1, 2016, wherein you advise that you have a restaurant liquor license and are looking for new ways to bring customers in. You further advise that you understand the current limitations of territories assigned to distributors for the sale of beer. You ask, if you find a beer available in Pennsylvania that has Centre County as an unassigned territory, are you permitted to purchase the beer from a distributor (“D”) in Philadelphia and transport it to your restaurant for resale.

Records maintained by the Pennsylvania Liquor Control Board (“PLCB”) indicate that Home Delivery Pizza holds Restaurant Liquor License No. R-18414 (LID 52525) for premises located at 1796 Zion Road, Bellefonte, Pennsylvania.

OPINION: Provided the beer has been lawfully purchased by the D licensee in Philadelphia, that entity may sell the beer you have requested, as long as doing so does not violate any secondary territorial agreements.

As you appear to be aware, under the beer distribution system in Pennsylvania, out-of-state manufacturers whose products are sold and delivered in Pennsylvania are required to give distribution rights for their products to importing distributors (“IDs”) for a specific geographical area within Pennsylvania. 47 P.S. § 4-431(b). Written territorial franchise agreements between the out-of-state manufacturer and its ID regulate, among other things, the geographical area in which the ID may sell the manufacturer’s products. Id. IDs may then sell the products to IDs, Ds and other licensees within their appointed territories. Id. A D licensee must purchase all out-of-state products from an ID who has been appointed to the territory in which the D licensee is located. Id.

An ID may sell or deliver malt or brewed beverages anywhere within the Commonwealth of Pennsylvania, subject to its territorial agreement(s), which have been purchased from manufacturers or persons outside this Commonwealth, engaged in the legal sale of malt or brewed beverages or from manufacturers or IDs licensed in Pennsylvania. 47 P.S. § 4-431.

Distributors, on the other hand, may sell or deliver malt or brewed beverages anywhere within the Commonwealth of Pennsylvania when such beverages have been purchased from persons licensed in Pennsylvania as manufacturers or IDs. Id. Please be advised that a D licensee must be located within the assigned territory in order to accept the delivery of the malt or brewed beverage because acceptance outside of an assigned territory will result in suspension of the D's license for at least thirty days. Id. Further, please note that contractual obligations between the D and ID may prohibit the D's ability to sell outside of an assigned territory. A D may not engage in any transaction that violates the terms of its territorial franchise agreement. Thus, provided that the D you wish to purchase from is also located within the territory of an ID that has been given the rights to the beer you wish to purchase, the D licensee (not the ID) may lawfully sell that beer to you.

However, please note that your restaurant liquor license does not allow you to pick up beer from a D's location. The beer would have to be delivered by the D or by a transporter-for-hire.

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