

October 27, 2016

Greg Keasey  
**VIA E-MAIL**

**RE: Act 39 Sales of Liquor by Brewery Pub Licensees**

Dear Mr. Keasey:

ISSUE: This office is in receipt of your e-mail dated September 1, 2016, wherein you cite to an article that includes comments from a Pennsylvania attorney regarding various components of recently enacted legislation known as Act 39 of 2016 (“Act 39”). Your inquiry pertains specifically to a claim in the article that licensed Pennsylvania breweries that also have brewery pub licenses can now sell hard liquor produced by any distillery, including those not licensed by the Pennsylvania Liquor Control Board (“PLCB”). You ask if this is correct, and if licensed breweries and brewery pubs are now permitted to sell any distilled liquor, regardless of whether it was distilled in Kentucky or Pennsylvania.

Records of the PLCB indicate that Spring House Brewing Company holds Brewery License No. G-388 (LID 57658) and Brewery Pub License No. GP-388 (LID 70873) for the premises located at 209 Hazel Street, Lancaster, Pennsylvania. In addition, The Taproom Springhouse Brewing Company holds Brewery License No. G-422 (LID 64113) and Brewery Pub License No. GP-422 (LID 64114) for the premises located at 25 West King Street, Suite F, Lancaster, Pennsylvania.

OPINION: Following the enactment of Act 39, the pertinent section of the Liquor Code reads as follows: “The holder of a brewery license may sell at its brewery pub premises wines produced by the holder of a limited winery license or liquor produced by a licensed limited distillery or distillery...” 47 P.S. § 4-446(a)(2). Pennsylvania in fact issues both a limited distillery license and a distillery license. A brewery can only sell those products produced by entities holding one of those two licenses. Such products may be acquired from a limited distillery or distillery directly, or from the PLCB. To interpret the language of the statute as the article suggests – that breweries

can now sell liquor produced by any distillery – would render the reference to a licensed limited distillery superfluous, and would be inconsistent with how the legislation dealt with wine.

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, Office of Regulatory Affairs  
Tisha Albert, Director, Bureau of Licensing  
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 16-428