

October 26, 2016

Chuan-Ju Lin
VIA E-MAIL

RE: Alcohol Transfer Questions

Dear Sir or Madam:

ISSUE: This office is in receipt of your e-mail dated September 13, 2016, wherein you advise that your company has three theaters that sell liquor, beer and wine in Pennsylvania. You understand that, due to “U.S. state laws,” liquor, beer and wine cannot be transferred between stores in different states. You ask whether one of your licensed theaters in Pennsylvania can transfer liquor, beer, or wine to another one of your licensed theaters in Pennsylvania.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Movie Tavern Inc. holds Restaurant Liquor License No. R-1050 (LID 70431) for the premises located at Providence Town Center, 140 Market Street, Collegeville, Pennsylvania. In addition, Movie Tavern Theatres LLC holds Restaurant Liquor License No. R-15952 (LID 70457) for the premises located at 110 Bartlett Avenue, Exton, Pennsylvania. Finally, Movie Tavern Theatres LLC holds Restaurant Liquor License No. R-20937 for the premises located at 1844 Bethlehem Pike, Flourtown, Pennsylvania.

OPINION: Generally, retail licensees in Pennsylvania may not be involved in the delivery of alcohol, as a retail license does not authorize the holder to deliver alcohol. The Liquor Code authorizes retail licensees to sell alcohol only on the licensed portions of the premises. 47 P.S. §§ 1-102; 4-401(a); 4-492(3)-(4). Nevertheless, the PLCB will permit licensees, held by the same entity, to store wine and liquor at a central licensed location for dispersal to the other licensees, or transfer wine or liquor from the other licensees that are held by the same entity. Licensees are generally not permitted to deliver or transfer alcohol to a licensee that is held by a different entity.

Retail licensees are permitted only to purchase beer from PLCB-licensed in-state manufacturers, distributors or importing distributors. Please be advised that licensees are not permitted to transport the beer in a company-owned or personal vehicle. Section 492 of the Liquor Code sets forth the requirements for transporting malt or brewed beverages by a licensee. Specifically, other than an adult individual who has made a lawful purchase for his/her personal consumption, only the original manufacturer, a licensed distributor or a licensed transporter-for-hire may transport beer within Pennsylvania. 47 P.S. § 4-492(8); 40 Pa. Code §§ 9.1, 9.28(a). Therefore, the beer being sold at your premises must be transported by the original manufacturer, a licensed distributor or a licensed transporter-for-hire.

Additionally, please be advised that distributors may not sell or deliver a manufacturer's products to any person whose licensed premises is not located within the geographical area for which distributing rights have been given by the manufacturer. 47 P.S. § 4-431(b). A licensee that accepts the delivery of malt or brewed beverages from a distributor that does not have distributing rights for that geographical area, shall be subject to a suspension of its liquor license for at least thirty days. 47 P.S. § 4-431(b).

Although you indicate that your company has three licenses, only two of the licenses are held by the same legal entity, that being Movie Tavern Theatres LLC, which holds the licenses at the Exton and Flourtown locations specified above. Therefore, you can only transfer liquor and wine between those two locations. It would be necessary to maintain detailed records and receipts at both locations regarding any exchange or transfer of products.

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.

Chuan-Ju Lin
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Sincerely,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

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. 16-431