

November 4, 2016

Mary Lou Hogan, Esquire  
**VIA E-MAIL**

**RE: RAMP Requirement for Manager of Importing Distributor**

Dear Ms. Hogan:

ISSUE: Your e-mail of October 26, 2016 states that you represent an unspecified importing distributor whose Board-approved manager, for over twenty years, is a shareholder of the corporate entity that holds the license. As manager, his duties are primarily administrative and only indirectly involve supervising the sales personnel who sell malt and brewed beverages to other licensees, as well as indirectly supervising the clerks who sell those same products to the general public. Another corporate employee's primary responsibility is to directly supervise those individuals who sell to other licensees and the general public.

You inquire:

- (a) Does the Board-approved manager of a distributor licensee meet the definition of "alcohol service personnel" in the Liquor Code and is (s)he required to complete seller/server training?
- (b) Must (s)he be an "employee" of the corporate entity to fall within the definition of "alcohol service personnel"?
- (c) Does the corporate employee of a distributor licensee who directly supervises these sales personnel and clerks fall within the definition of "alcohol service personnel" and must (s)he complete seller/server training?
- (d) Do all employees of a distributor licensee whose primary responsibility is to sell products to other licensees meet the definition of "alcohol service personnel"?

- (e) Do all employees of a distributor licensee whose primary responsibility is to sell products to the general public meet the definition of “alcohol service personnel”?

OPINION: Please be advised that on June 8, 2016, Governor Wolf signed into law Act 39, of 2016 (“Act 39”) making various changes to the Liquor Code. The changes made by Act 39 became effective on August 8, 2016. One such change is that all alcohol service personnel must complete RAMP server/seller training within six months of being hired by a licensee, unless the personnel had successfully completed the training prior to being hired. Owner/manager training and server/seller training are distinct. If a particular manager was not subject to the mandatory owner/manager training of Act 113, he or she may nonetheless be subject to the server/seller training requirement of Act 39, if he or she is considered “alcohol service personnel,” as that term is defined in section 102 of the Liquor Code:

“**Alcohol service personnel**” shall mean any employee of a licensee such as a bartender, waiter or, in the case of a distributor or importing distributor, a salesperson whose primary responsibility includes the resale, furnishing or serving of liquor or malt or brewed beverages. It shall also mean any employee, such as a doorperson, whose primary responsibility is to ascertain the age of individuals who are attempting to enter the licensed premises.

47 P.S. § 1-102.

In response to your specific questions:

- (a) As indicated above, “alcohol service personnel” is defined, in the case of a distributor or importing distributor, as a salesperson whose primary responsibility includes the resale, furnishing or serving of malt or brewed beverages. An employee who does not have as his or her primary responsibility the resale, furnishing or serving of malt or brewed beverages does not meet the definition of “alcohol service personnel.” An employee whose duties are primarily administrative and only indirectly involve supervising the sales personnel who sell malt and brewed beverages to other licensees, as well as indirectly supervising the clerks who sell those same products to the general public, would not meet the definition of “alcohol service personnel,” and would not be required to complete seller/server training.

- (b) As indicated above, “alcohol service personnel” shall mean any employee of a licensee, as further described in the definition in the Liquor Code.
- (c) As indicated above, “alcohol service personnel” is defined, in the case of a distributor or importing distributor, as a salesperson whose primary responsibility includes the resale, furnishing or serving of malt or brewed beverages. An employee who does not have as his or her primary responsibility the resale, furnishing or serving of malt or brewed beverages does not meet the definition of “alcohol service personnel.” An employee who directly supervises sales personnel and clerks, but does not himself or herself have a primary responsibility which includes the resale, furnishing or serving of malt or brewed beverages, would not meet the definition of “alcohol service personnel,” and would not be required to complete seller/server training.
- (d) As indicated above, “alcohol service personnel” is defined, in the case of a distributor or importing distributor, as a salesperson whose primary responsibility includes the resale, furnishing or serving of malt or brewed beverages. An employee whose primary responsibility is to sell products to other licensees would meet the definition of “alcohol service personnel,” assuming that the “products” referred to would include malt or brewed beverages.
- (e) As indicated above, “alcohol service personnel” is defined, in the case of a distributor or importing distributor, as a salesperson whose primary responsibility includes the resale, furnishing or serving of malt or brewed beverages. All employees whose primary responsibility is to sell products to the general public would meet the definition of “alcohol service personnel,” assuming that the “products” referred to would include malt or brewed beverages.

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.**

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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,

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

LCB Advisory Opinion No. 16-445