

January 12, 2017

Mark Lorson  
Boom City Brewing Co.  
317 Pine Street  
Williamsport, PA 17701  
**VIA E-MAIL**

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

Dear Mr. Lorson:

ISSUE: This office is in receipt of your e-mail dated December 15, 2016, wherein you inquire whether Pennsylvania distilled spirits are allowed within the brewery pub premises based upon the “new law” that was passed in July. You further indicate that you will be organizing a “Pub Club” and you are requesting clarification on what is allowed within the membership.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Boom City Brewing Co., holds Brewery License No. G-651 (LID 73231) and Brewery Pub License No. GP-651 (LID 73233).

OPINION: It is assumed for purposes of this response that the “new law” to which you are referring to is Act 39 of 2016 (“Act 39”), which was signed into law by Governor Wolf on June 8, 2016. Act 39 amended section 446 of the Liquor Code to allow a Pennsylvania-licensed brewery to sell wine produced by a licensed limited winery or liquor produced by a licensed limited distillery or distillery for on-premises consumption. 47 P.S. § 4-446(a)(2).

Act 166 of 2016 (“Act 166”), which becomes effective on January 17, 2017, places a limit to the quantity of alcohol produced by another manufacturer that you may sell on the brewery premises. Effective January 17, 2016, section 446(a)(2) of the Liquor Code will provide that:

the combined sales of wine, malt or brewed beverages produced by another manufacturer and liquor may not, on a yearly basis, exceed fifty per centum (50%) of the on-premises sales of the brewery’s own malt

or brewed beverages for the preceding calendar year; however, if a brewery did not operate for an entire calendar year during the preceding year, then its combined sales of wine, malt or brewed beverages produced by another manufacturer and liquor may not, on a yearly basis, exceed fifty per centum (50%) of the on-premises sales of the brewery's own malt or brewed beverages for that year.

47 P.S. § 4-446(a)(2).

In reference to your second inquiry, it is assumed for purposes of this response that the term "Pub Club" refers to what is known as a mug club. Act 39 amended the Liquor Code to permit retail licensees and breweries to offer a mug club to their patrons. 47 P.S. § 4-493(24)(iii).

A "mug club" is defined as a group organized by a retail licensee or a brewery whose members are entitled to discounted malt or brewed beverages. Membership in the mug club must be by written application and the licensee must maintain a written list of active members as part of its records. 47 P.S. § 1-102. Members are also required to pay an annual fee, as well as a renewal fee as set by licensee. 47 P.S. § 1-102. Membership in the mug club entitles the member, at a minimum, to a mug, glass or similar container, and said container must be used when the member is served any discounted malt or brewed beverages. 47 P.S. § 1-102. However, no discounted malt or brewed beverages may be provided between 12:00 a.m. and 7:00 a.m. 47 P.S. § 1-102.

However, be advised that Act 166 of 2016, which goes into effect on January 17, 2017, amends the definition of a mug club to remove the requirement that every member of a mug club be provided a mug or similar container to be used when purchasing alcohol, and it makes the mug club annual fee and renewal fee optional at the discretion of the licensee. 47 P.S. § 1-102.

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**

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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  
Tisha Albert, Director of Office of Regulatory Affairs  
B.L. Peifer, Director, Bureau of Licensing  
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 16-571