April 24, 2017

Debra Farabaugh
VIA E-MAIL

RE: Malt or Brewed Beverages Reporting

Dear Ms. Farabaugh:

ISSUE: This correspondence is in response to your e-mail dated March 24, 2017, wherein you inquire about the new malt or brewed beverages reporting requirements that were added by Act 166 of 2016 ("Act 166"). Your specific questions will be addressed, in turn, below.

OPINION: As you appear to be aware, Act 166 amended section 445 of the Liquor Code to include new malt or brewed beverages reporting requirements. Section 445 provides, in pertinent part as follows:

Any person selling malt or brewed beverages at wholesale, and any person selling at retail malt or brewed beverages that were not sold at wholesale, shall report to the Pennsylvania Liquor Control Board the volume of such packaged and draft malt or brewed beverages sold. The report, in the form and manner determined by the board, shall be made for each calendar month no later than sixty days after the end of each calendar month and shall show product volumes, broken down by brewer. All volumes shall be reported in thirty-one-gallon barrel equivalents, regardless of package size. The board shall, within fourteen days of the receipt of the report, place the reports on the Internet in a manner accessible to the general public. The board shall maintain the reports on the Internet in a manner accessible to the general public for a period of at least two years and shall archive the reports for a period of at least ten years.

47 P.S. § 4-445(c). In light of this amendment, you raise the following questions.

Question: Do the reporting requirements apply to beer distributors?

Answer: Yes. The reporting requirements apply to importing distributor ("ID") licensees and distributor ("D") licensees as follows.
ID licensees must report any sales of malt or brewed beverages made at wholesale (i.e., sales to any other licensees or permittees). ID licensees must also report any sales of malt or brewed beverages made at retail (i.e., direct sales to non-licensed consumers), if the products sold were imported from outside Pennsylvania and were not previously sold at wholesale in Pennsylvania. However, ID licensees are not required to report sales of malt or brewed beverages made at retail in instances where the products sold were obtained at wholesale from another importing distributor licensee or an in-state manufacturer.

D licensees must report any sales of malt or brewed beverages made at wholesale (i.e., sales to any other licensees or permittees). However, D licensees do not need to report sales of malt or brewed beverages made at retail (i.e., direct sales to non-licensed consumers) because such products were previously sold at wholesale in Pennsylvania.

**Question:** Where or how do the reports get submitted?

**Answer:** Any licensees required to submit malt or brewed beverages sales reports to the Pennsylvania Liquor Control Board (“PLCB”) must do so using the online regulatory system, PLCB+.

**Question:** In what volumes must sales be reported? Is it permissible to report by the bottle?

**Answer:** Sales must be reported in thirty-one-gallon barrel equivalents, regardless of package size. Therefore, if sales are made in containers or packages measured in ounces, such as bottles, the volumes would need to be converted to thirty-one-gallon barrel equivalents for purposes of reporting.

There are various tools available on the Internet that may assist licensees in making liquid volume conversion calculations. Licensees choosing to use such tools should be careful to comply with the terms of use for any such tools and should take appropriate steps to ensure the accuracy of the same.

Certain conversion information may also be found within the federal regulations governing federal taxes on alcoholic beverages, specifically 27 C.F.R. §§ 25.156 – 25.158, which are accessible through the Alcohol and Tobacco Tax and Trade Bureau website.
**Question:** Do the reports required under Act 166 replace the current reports that must be filed?

**Answer:** It is assumed that you are referring to reports that must be filed with the Department of Revenue for tax purposes. The reports required under Act 166 do not replace any reports that must be filed with the Department of Revenue for tax purposes. Licensees who are required to file reports with the Department of Revenue for tax purposes must continue doing so.

Please be advised that the PLCB has recently added Malt or Brewed Beverages Reporting FAQs to its website, which you may also find helpful.

Thank you for your inquiry. Should you have any additional questions regarding this matter, the Liquor Code, or the PLCB’s Regulations, please do not hesitate to 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
    Tisha Albert, Director of Office of Regulatory Affairs
    B.L. Peifer, Director, Bureau of Licensing

LCB Advisory Opinion No. 17-156