

December 27, 2018

Francis X. O'Brien, Esquire  
411 Walnut Street  
Harrisburg, Pa 17101

**RE: Non-alcoholic Beverages**

Dear Mr. O'Brien:

ISSUE: This office is in receipt of your letter of December 20, 2018, wherein you inquire if a liquor licensee sells a malt or brewed beverage with an alcohol content of less than 0.5%, to a minor, would that be a sufficient basis for the issuance of a citation under the "other sufficient cause" provision of section 471 of the Liquor Code, 47 P.S. § 4-471.

OPINION: Section 6310.7 of the Crimes Code makes it a summary offense to intentionally or knowingly sell or furnish non-alcohol beverages to any person under 21 years of age. That section defines "nonalcoholic beverage" as any beverage intended to be marketed or sold as nonalcoholic beer, wine or liquor having some alcoholic content but not containing more than 0.5% alcohol by volume. That being said, please be advised that this office's authority to issue Advisory Opinions is set forth in section 211.1 of the Liquor Code, which provides that "Upon written request by a licensee, the board or its counsel shall issue a legal opinion regarding any subject matter relating to *this act* or any regulation promulgated pursuant to it. This legal opinion shall be binding on the enforcement bureau." 47 P.S. § 2-211.1 (emphasis added). Consequently, this office is only permitted to render legal opinions regarding the Liquor Code or the PLCB's Regulations.

Although Pennsylvania State Police, Bureau of Liquor Control Enforcement ("BLCE") enforces the Liquor Code as well as the Crimes Code, please note that the PLCB regulates only the Liquor Code. Further while BLCE may issue a citation under the auspices of section 471 of the Liquor Code, 47 P.S. § 4-471, for "other sufficient cause," whether violating section 6310.7 of the Crimes Code constitutes other sufficient cause is a determination to be made by the BLCE, not this office.

Therefore, you may wish to contact BLCE at (800) 932-0602.

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. 18-461