

December 28, 2018

Adam E. Laver, Esq.  
BlankRome  
One Logan Square  
130 North 18<sup>th</sup> Street  
Philadelphia, PA 19103  
**VIA EMAIL**

**RE: Transfer of Liquor Inventory**

Dear Mr. Laver:

ISSUE: This is in response to your inquiry dated October 18, 2018, wherein you indicate that your unidentified client is in the process of selling its assets at one of its licensed hotel locations and would like to transfer its liquor inventory to another of its licensed locations in Philadelphia County. It is your belief, based on Advisory Opinion No. 11-158, that this would be permissible. However, you seek confirmation as to the permissibility of this proposed inventory transfer and guidance on how the transfer must be accomplished. It will be presumed for purposes of this response that the same legal entity holds both referenced licenses.

OPINION: Please be advised that licensees who discontinue their business may typically only sell their remaining liquor (wine and spirits products) inventory to the purchaser of the license in a transfer, to the PLCB, or to the Pennsylvania-licensed manufacturers from whom the products were originally purchased. 40 Pa. Code § 9.111(a). Similarly, licensees who discontinue their business may generally only sell their remaining inventory of malt or brewed beverages to the purchaser of the license in a transfer or to the distributor, importing distributor, or manufacturer from whom the products were originally purchased. 40 Pa. Code § 9.111(b). However, as you seem to be aware, this office has previously opined that there is nothing that would preclude an entity that owns more than one retail liquor license, such as your client, from transferring its remaining liquor inventory from the premises that is closing to another one of its licensed premises.

Keep in mind that section 493(12) of the Liquor Code requires licensees to maintain certain business records covering the alcoholic beverages that they acquire and sell. 47 P.S. § 4-493(12). Therefore, it is recommended that your client maintain clear records detailing what inventory is being transferred between locations.

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As far as physically transporting the inventory between locations, your client, as a retail liquor licensee, would be permitted to transport its own liquor (wine and spirits products) using its own vehicles. Alternatively, if your client plans to use the services of another business to transport its liquor (wine and spirits products), that business would need to hold a valid Class A or Class C transporter-for-hire license. However, since retail licensees are not permitted to transport malt or brewed beverages in their own vehicles, your client would be required to use the services of a business holding a valid Class A or Class B transporter-for-hire license to transport any malt or brewed beverages.

Finally, please note that section 431(b) of the Liquor Code prohibits licensees holding multiple licenses or having multiple locations from selling malt or brewed beverages at a location that is outside of the designated geographical area assigned to the importing distributor and/or distributor from whom such products were purchased. 47 P.S. § 4-431(b). Accordingly, your client should be mindful of this, if it plans to transfer any malt or brewed beverages inventory between its licensed locations.

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, Office of Regulatory Affairs  
B.L. Peifer, Director, Bureau of Licensing

LCB Advisory Opinion No. 18-474