

January 28, 2019

Jeffrey Rinscheid
VIA E-MAIL

Re: Proof of Recycling

Dear Mr. Rinscheid:

ISSUE: This is in response to your e-mail dated August 13, 2018, wherein you advise that you are the owner of Taylor-Rinscheid Enterprises, LLC, doing business as the Bedford Hotel and Tavern. You note that section 491(5) of the Liquor Code requires a licensee to break any liquor or wine bottles unless the licensee participates in a municipal or voluntary recycling program. 47 P.S. § 4-491(5). Section 491(5) further provides that “The licensee shall provide proof in writing of the participation in a recycling program upon the demand of the Bureau of Liquor Control Enforcement of the Pennsylvania State Police. The proof of participation shall be provided in a manner as prescribed by the Pennsylvania Liquor Control Board.” Id.

You explain that the voluntary recycling yard that serves your community is, for the most part, unstaffed. You ask what records you would need to be able to supply to meet the requirement for “proof in writing.”

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Taylor Rinscheid Enterprises LLC holds Restaurant Liquor License No. R-9415 (LID 58312) for the premises at 224 East Pitt Street in Bedford, Pennsylvania.

OPINION: There is nothing in the Liquor Code or the PLCB’s Regulations that specifies what would constitute “proof in writing” of participation in a recycling program.

On January 16, 2019, the Board of the PLCB approved draft regulations that will be submitted to the regulatory review process. Because of the nature of the regulatory review process, it will take at least several months until the draft regulations are finalized and become law.

Until that time, this advisory opinion will advise you as to what the PLCB considers to be proof in writing of participation in a recycling program:

- The licensee must be able to provide written proof that the municipal or voluntary recycling program accepts the kind of materials (such as glass) that licensee recycles. This written proof may be a pamphlet or printed pages from the recycling program’s website or something similar.
- If the licensee pays for a municipal or private entity to pick up its recycling, the licensee must retain a copy of the receipts, bills or invoices paid by the licensee to the municipal or private entity as “proof in writing.”
- If the licensee voluntarily participates in a recycling program by taking recyclable materials to a drop off location, the licensee must maintain, for each calendar year, a statement in the following format and completed with details of its voluntary recycling:

PROOF OF RECYCLING

The form is to be completed and maintained as a record by a licensee that participates in a municipal or voluntary recycling program by taking recyclable materials to a drop off location:

Name and address of the licensee
What materials do you recycle?
How frequently are recyclables removed from the premises?
How are recyclables removed from the premises?
Where do you take the recyclables (Name and address of drop off location)?
Record below, for each delivery of recyclable materials, the following information:

These records shall be maintained as part of the licensee's operating records required to be kept for two years in accordance with section 493(12) of the Liquor Code (47 P.S. § 4-493(12)).

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 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

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