



October 2, 2020

Tracy Wilson  
Member  
Devil's Eye Brewing Co., LLC  
**VIA E-MAIL**

**RE: Another Business on Licensed Premises**

Dear Ms. Wilson:

ISSUE: This office is in receipt of your email dated February 26, 2020, in which you inquire whether a licensee may permit another business to use the licensed premises.

Records of the Pennsylvania Liquor Control Board ("PLCB") indicate that Devil's Eye Brewing Co., LLC holds Brewery License No. G-40181 (LID 95161) and Brewery Pub License No. GP-40182 (LID 95162) for the premises located at 9 North U.S. Route 15, Dillsburg, Pennsylvania.

OPINION: Initially, because you are involved in a highly regulated industry, it is recommended that you consult private counsel experienced in Pennsylvania liquor law. Further, note that it is the Pennsylvania State Police, Bureau of Liquor Control Enforcement ("BLCE"), and not the PLCB, that is authorized to enforce the Liquor Code.

Section 3.52(a) of the PLCB's Regulations prohibits all licensees, including manufacturers, from permitting another person or entity to operate another business on the licensed premises. 40 Pa. Code § 3.52(a). This office has consistently opined that a one-time event or occasional sales by a non-profit organization would not rise to the level of operating another business for purposes of section 3.52(a). However, if a non-profit organization is routinely holding events or engaging in sales on a particular licensed premises, this may subject the licensee to possible citation. Therefore, it would be permissible for a non-profit organization to sell its products on your licensed premises, as long as it is done occasionally and not routinely. By contrast, licensees are prohibited from permitting another for-profit business to operate on the licensed premises under any circumstances. The fitness class you describe, which requires the

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purchase of a ticket in order to participate, is neither a one-time event nor is it being conducted by a non-profit organization. Therefore, the fitness class constitutes the impermissible operation of another business on the licensed premises.

In addition, please note that while the PLCB has no authority under section 3.52(a) to grant permission for licensees to allow other businesses to regularly operate on their licensed premises, the PLCB does have the discretion to approve other businesses conducted by the licensee on the licensed premises as well as interior connections between licensed and unlicensed businesses pursuant to section 3.52(b)-(c) of its Regulations. 40 Pa. Code §§ 3.52(b)-(c). To obtain approval for another business to be conducted by the licensee on its licensed premises or for interior connections between licensed and unlicensed businesses, licensees must submit a request to the PLCB's Bureau of Licensing using PLCB+, which is accessible at <https://plcbplus.pa.gov/pub/Login.aspx>.

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

LCB Advisory Opinion No. 20-244