



October 5, 2020

Curtis Benner
VIA E-MAIL

Re: Authority for Breweries to Self-Distribute

Dear Mr. Benner:

ISSUE: This is in response to your e-mail dated March 2, 2020, wherein you ask if a brewery needs to submit any special permits or fees in order to self-distribute kegs or cans of beer. Additionally, you ask if a brewery licensee can transport beer to a storage location owned by the brewery or transport the beer to another brewery or to a retail licensee.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Eclipse Craft Brewing, LLC holds Brewery License No. G-36107 (LID 89616) for the premises located at 249 Market Street, Sunbury, Pennsylvania.

OPINION: A brewery license entitles its holder to produce malt or brewed beverages and to transport, sell, and deliver those malt or brewed beverages. 47 P.S. § 4-431(a). A brewery may sell malt or brewed beverages produced and owned by the brewery to individuals for off-premises consumption in containers or packages of unlimited quantity and of any volume, and to licensees in quantities of not less than a case, or original containers containing 128 ounces or more. 47 P.S. §§ 4-431, 4-440.

Section 102 of the Liquor Code defines an “original container” as:

all bottles, casks, kegs or other suitable containers that have been securely capped, sealed or corked by the manufacturer of malt or brewed beverages at the place of manufacture, with the name and address of the manufacturer of the malt or brewed beverages contained or to be contained therein permanently affixed to the bottle, cask, keg or other container

47 P.S. § 1-102.

Therefore, the ability to self-distribute is inherent in the brewery license and you would not have to submit any additional forms or applications for that purpose. A brewery licensee is permitted to sell and self-distribute its own product directly to retail and all manufacturing licensees. Also, a brewery is permitted to transport its own product to its storage location.

Please note that in-state malt or brewed beverage manufacturers have the option to grant territorial distribution rights¹ and name a distributor or an importing distributor as the primary or original supplier of the product. When doing so, the manufacturer must also designate the specific geographical region for which the manufacturer is giving the rights. This would prohibit the distributor or importing distributor from selling or delivering the product to any licensee who is not located within the designated geographical area. 47 P.S. § 4-431(b). If an in-state manufacturer grants territorial rights on a county-by-county or multiple county basis pursuant to territorial agreements, it may still self-distribute in the geographical areas where there are no territorial agreements. However, if an in-state manufacturer decided to give territorial rights to a distributor or an importing distributor, it must then follow the three-tiered malt or brewed beverage distribution system in Pennsylvania within the designated areas in the territorial agreement.

A vehicle used by a licensee for the purpose of transporting malt or brewed beverages must identify the licensee's name and address, including the street name and license number, in letters no smaller than two inches in height. 47 P.S. § 4-492(9). This office has previously approved of the use of magnetic signs placed upon the sides of delivery vehicles containing the required information. Further, the driver of such vehicle would be covered by the licensee's privilege to deliver if there is some written evidence that the driver is an employee of the licensee. 40 Pa. Code § 9.28(a).

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**

¹ Please note that out-of-state manufacturers are required to give territorial distribution rights, whereas in-state manufacturers have the option to either grant these rights or to self-distribute.

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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,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

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. 20-246