

March 26, 1998

Mr. Russell J. Zellner  
PLEASANT CORNER TAVERN  
11 Mahoning Drive West  
Lehighton, PA 18235

Dear Mr. Zellner:

ISSUE: This is in response to your letter of February 23, 1998 to the Office of the Administrative Law Judge, which was forwarded to our office for response on March 11, 1998. You are the holder of restaurant liquor license R-12077 and have posed two questions concerning purchases with your wholesale purchase card. Your first question is whether you must use your card for purchases in just the Jim Thorpe Store, or whether you may also use it in the Lehighton Store. Your letter infers that you were not permitted to do so, and thus you also request information regarding a refund for overpayment because you were charged the regular price. Your second question is when you call your order in to a state store, whether you can give the product name for the liquor you want, or must you give the code number.

OPINION: Regarding your first question, you may use your wholesale liquor purchase permit card in any of our wine and spirit shoppes. One of the two cards you are issued each year must be deposited with your "home" store. Your "home" store is where you intend to do the bulk of your purchasing. Your second card is kept in your possession in order to purchase at a discount in any store. Thus, if the Jim Thorpe store is your home store, you must keep one of your cards on file in that store, showing any authorized buying agents' signatures, and you may use your other card at the Lehighton store, or any other one for that matter.

If you use your card at a store other than your home store, the following rules apply: 1) the retail value of your purchase must be \$50.00 or more; 2) you must produce your card, your signature (or that of your authorized buyer) on the invoice must match that on the card, and you must show proper identification; and 3) your home store must be contacted to check that the same signatures are also on the card filed at the home store, that your privileges have not been suspended, and that you have check purchasing privileges. If the signatures do not match, or the card is not up to date, the discount sale may be refused. If your home store is closed at the time you try to purchase at another store, the other store may sell the merchandise to you at wholesale, but it cannot accept a check from you unless it contacts the POS Help Desk to verify that you have checking privileges. After you use your card for purchases at a store other than your home store, your name will be added to the Licensee Master File maintained by each store.

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If an overcharge occurs in a store other than your home store, you must make any necessary adjustments in that particular store. The stores have fairly strict policies concerning returned merchandise and you should check with the store manager or assistant manager to see if you qualify for either a return or refund.

Regarding your second question, you may give the product name for the item you want when calling in your order, but the code number is preferred because it expedites filling your order and prevents mistakes in size and number.

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.

Very truly yours,

FAITH S. DIEHL  
Chief Counsel

c.c. Pennsylvania State Police  
Bureau of Liquor Control Enforcement  
J. D. W. Reiley

Refer to: (717) 783-9454  
FAX: (717) 787-8820

LCB Advisory Opinion No. 98-081